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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) citation(s)	18 VAC 48-60
Regulation title(s)	Common Interest Community Management Information Fund Regulations
Action title	General Review 2018
Date this document prepared	May 31, 2018

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

Chapter 29 (§ 55-528 et seq.) of Title 55 of the Code of Virginia establishes the Common Interest Community Information Management Fund (“the Fund”), which is to be used in the discretion of the Common Interest Community Board (“the Board”) to “promote the improvement and more efficient operation of common interest communities through research and education.”

Virginia law requires condominium, real estate cooperative, and property owners’ associations to register with the Board after the developer/declarant control period has ended. The Fund is financed by registration fees paid by associations; licensed community association managers also pay into the Fund.

The Fund regulations—which outline registration, renewal, and annual reporting requirements for associations—have not undergone cumulative review since their transfer from the Real Estate Board to the Common Interest Community Board upon its creation in 2008. A thorough general review is warranted

to ensure that the regulations complement current Virginia law and reflect up-to-date administrative procedures and policies.

The planned regulatory action is a general regulatory review of the Fund regulations. The goals of the planned regulatory action are to review the existing regulations and propose any revisions the Board determines to be necessary and appropriate. The Board may propose other changes it identifies as necessary during the regulatory review process.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should 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's overall regulatory authority.

The agency is the Common Interest Community Board. Chapter 29 of Title 55 of the Code of Virginia enumerates the legal authority for the Board to administer the provisions of the Fund. Specifically:

Section 55-530(A) provides:

The Board shall administer the provisions of this chapter pursuant to the powers conferred by § 54.1-2349 and this chapter.

Section 55-530(l) provides:

The Board may prescribe regulations which shall be adopted, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) to accomplish the purpose of this chapter.

Purpose

Please describe 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, please explain any potential issues that may need to be addressed as the regulation is developed.

Before 2008, when the legislature transferred regulatory authority from the Real Estate Board to the nascent Common Interest Community Board, the last time Fund regulations underwent a thorough and complete review was in 2003.

In the intervening years, many areas of common interest community law have changed, and a comprehensive regulatory review is necessary to ensure the Fund's requirements complement existing statutes, impose minimal burdens on associations while still protecting the public, and reflect current agency policies and procedures.

The regulations will also be reviewed to ensure they achieve their intended objectives in the most efficient, cost-effective manner, and are clearly written and understandable. The Board may propose other changes it identifies as necessary during the regulatory review process.

Substance

Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

The Board is proposing to perform a general review of the existing regulations. At a minimum, Board Regulation 18 VAC 48-60-20 will be considered because existing language allowing an SCC Annual Report in lieu of a Board-designated form does not provide all necessary information. During review of the regulations, other changes may be identified as necessary to ensure consistency with current practices and legal requirements, improve clarity, and to make any amendments necessary to better protect the health, safety, and welfare of citizens of the Commonwealth.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Although no alternatives have been identified at this time, the Board may make changes to the regulatory action under consideration if alternative proposals are identified during the regulatory review process, and after consideration of any submissions during the public comment period.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including 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. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including: (1) ideas to be considered in the development of this proposal, (2) the costs and benefits of the alternatives stated in this background document or other alternatives, and (3) the 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) the probable effect of the regulation on affected small businesses; and (3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

A panel will be appointed by mid-July 2018. The agency's contact if you are interested on serving on the panel is: Trisha Henshaw, Executive Director, Common Interest Community Board.

Anyone wishing to submit comments may do so by one of the following methods:

- Via the **REGULATORY TOWN HALL website** at <http://townhall.virginia.gov/>

OR send to the attention of:

Trisha Henshaw, Executive Director
Common Interest Community Board

By E-MAIL to:

CIC@dpor.virginia.gov

By FAX to:

(866) 350-5354

By U.S. Mail to:

9960 Mayland Drive, Suite 400
Richmond, VA 23233

Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.