



# Virginia Department of Planning and Budget **Economic Impact Analysis**

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**18 VAC 25-21 Regulations of the Virginia Auctioneers Board**  
**Department of Professional and Occupational Regulation**  
**Town Hall Action/Stage: 5659 / 9707**  
October 28, 2022

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB’s best estimate of these economic impacts.<sup>1</sup>

## **Summary of the Proposed Amendments to Regulation**

The Auctioneers Board (Board) proposes to raise fees for auctioneers and auctioneer firms so that projected revenues are sufficient to cover projected expenditures.

## **Background**

Section 54.1-603 of the Code of Virginia (Code) provides for licensure requirements for auctioneers and auctioneer firms. In general, Virginia Code § 54.1-201 A.4 imposes a duty on professional boards to “levy and collect fees for certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportional share of the expenses of the Department of Professional and Occupational Regulation (DPOR)...” In addition, Virginia Code § 54.1-113, known as the Callahan Act, newly requires DPOR boards to distribute excess revenue to current regulants and reduce the fees when “unspent and unencumbered revenue exceeds \$100,000 or 20 percent of the total

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<sup>1</sup> Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

expenses allocated to the regulatory board for the past biennium, whichever is greater.”<sup>2</sup> The Callahan Act previously required DPOR boards, as well as those administered by the Department of Health Professions, to adjust fees in situations in which “expenses allocated to [the board] for the past biennium...[are] more than ten percent greater or less than money collected on behalf of the board.”

Lastly the Appropriation Act was amended in 2019 to require DPOR to hold funds in reserve to “offset the anticipated, future costs of restructuring its organization, including additional staffing needs and the replacement or upgrade of the Department’s information technology systems requirements.” The most recent version of this language appears in Item 369 of the 2022 Appropriation Act.<sup>3</sup>

DPOR reports that the Board last increased fees in 1995, and that expenditures exceeded revenues by \$28,175 in the 2020-2022 biennium. The agency projects that expenditures would exceed revenues by greater amounts in future biennia without fee increases.

The agency estimates that the proposed fee increases would increase the Board’s revenues by approximately \$58,000 biennially.<sup>4</sup> The proposed fee increases with their percentage changes are listed in the table below.

<b>FEE TYPE</b>	<b>CURRENT FEE</b>	<b>NEW FEE</b>	<b>DOLLAR CHANGE</b>	<b>PERCENTAGE CHANGE</b>
Individual auctioneer license	\$25	\$60	\$35	140%
Auctioneer firm license	\$55	\$90	\$35	64%
Renewal for individual auctioneer's license	\$55	\$95	\$40	73%
Renewal for firm or corporation license	\$115	\$65	\$50	77%

<sup>2</sup> See <https://law.lis.virginia.gov/vacode/title54.1/chapter1/section54.1-113/> for the full requirements of the Act. The new requirements regarding unspent revenue took effect on July 1, 2022; these changes were made by Chapters 517 and 697 of the 2019 *Acts of Assembly*.

<sup>3</sup> See <https://budget.lis.virginia.gov/item/2022/2/HB30/Chapter/1/369/>. Under Item 4-13.00 of the Appropriation Act, “the provisions of this act shall prevail over any conflicting provision of any other law, without regard to whether such other law is enacted before or after this act.” Consequently, if a situation were to arise where the Appropriation Act conflicted with the new provisions of the Callahan Act, the language in the Appropriation Act would apply.

<sup>4</sup> Agency Background Document (ABD), page 6. See [https://townhall.virginia.gov/l/GetFile.cfm?File=5\5659\9707\AgencyStatement\\_DPOR\\_9707\\_v2.pdf](https://townhall.virginia.gov/l/GetFile.cfm?File=5\5659\9707\AgencyStatement_DPOR_9707_v2.pdf).

Late renewal for an individual auctioneer's license	\$80	\$130	\$50	63%
Late renewal for an auction firm or corporate license	\$90	\$150	\$60	67%
Reinstatement of the individual auctioneer's license	\$105	\$155	\$50	48%
Reinstatement of the firm or corporate license	\$115	\$205	\$90	78%

### Estimated Benefits and Costs

DPOR reports that the Board had a balance of \$102,421 at the end of the 2020-2022 biennium. If fees remain unchanged, the agency projects that the Board's end of biennium balance would be in deficit for 2026-2028. In contrast, DPOR projections indicate that the fee increases would bring in an additional \$58,000 biennially, and the new fees would become effective in the 2024-2026 biennium. With the proposed fees, the agency projects that the biennium ending balance in 2026-2028 would no longer be in deficit. These balances would be well under the amount that would trigger the new Callahan Act requirements to reduce fees or redistribute revenues to regulators. The projected end of biennium balances under the current fee structure, and with the new fee structure, are listed in the table below.

BIENNIUM	CURRENT FEE STRUCTURE	PROPOSED FEE STRUCTURE
2022-24	\$54,628	\$54,628
2024-26	\$2,489	\$55,694
2026-28	\$ -51,370	\$55,666

The proposed changes would increase fees for auctioneers and auctioneer firms. Thus, individuals and businesses that are currently licensed, as well as individuals and businesses who seek licensure in the future, would incur additional costs. As detailed above, individuals and businesses would face fees that would be 48 to 140 percent higher than current fees.

To the extent that the licensure of auctioneers and auctioneer firms is not possible without sufficient revenue, and that this licensure improves the welfare of the public, the proposed fee increases would benefit licensees and consumers of their services.

## **Businesses and Other Entities Affected**

The proposed fee increases affect the 1,010 auctioneers and 235 auctioneer firms licensed in the Commonwealth, as well as future applicants for such licensees.<sup>5</sup>

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>6</sup> An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. The proposed fee increases would increase costs for auctioneers and their firms. Thus, an adverse impact is indicated.

### **Small Businesses<sup>7</sup> Affected:<sup>8</sup>**

#### Types and Estimated Number of Small Businesses Affected

Either all or most of the licensed 235 auctioneer firms would qualify as small businesses and be affected.<sup>9</sup>

#### Costs and Other Effects

The proposed amendments increase costs for auctioneers and auctioneer firms by the amounts described in the table shown earlier in this report.

#### Alternative Method that Minimizes Adverse Impact

If the Board has information on the size of the firm or business entity at the time of license application and renewal, they could charge different fees accordingly. This

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<sup>5</sup> Data source: DPOR

<sup>6</sup> Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

<sup>7</sup> Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

<sup>8</sup> If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

<sup>9</sup> Source: DPOR

scenario may minimize adverse impact on small businesses, but larger businesses would have to pay higher fees to make up the difference, so that the Board still receives adequate revenues. On the whole, the Board cannot increase its revenues without increasing fees.

### **Localities<sup>10</sup> Affected<sup>11</sup>**

There are more than ten licensed auctioneers in each of the following localities: Abingdon, Chesapeake, Edington, Richmond, Roanoke, and Virginia Beach. There are multiple licensed auctioneer firms in the following localities: Chesapeake, Danville, Lynchburg, Norfolk, Richmond, Roanoke, Salem, Suffolk, and Virginia Beach. The proposed amendments do not substantively affect costs for local governments.

### **Projected Impact on Employment**

Unless there are some auctioneers or auctioneer firms who do very little business, the proposed fee increases are unlikely to be enough to substantively affect employment.

### **Effects on the Use and Value of Private Property**

The proposed fee increases moderately increase costs for auctioneer firms, and thus would have a small negative impact on their value. The proposed amendments do not affect real estate development costs.

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<sup>10</sup> “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>11</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.