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Fast-Track Regulation Agency Background Document

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| Agency name | Commonwealth Transportation Board |
| Virginia Administrative Code (VAC) Chapter citation(s) | 24 VAC30-160 |
| VAC Chapter title(s) | Rules and Regulations to Comply with the Setoff Debt Collection Act |
| Action title | Repeal |
| Date this document prepared | 3/29/2021 |

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 (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Setoff Debt Collection Act (§ 58.1-520 et seq. of the Code of Virginia) allows state agencies to collect against delinquent debts through setoff of tax return funds if those state agencies follow the procedures and notice requirements of that Act. Section 33.2-1229 of the Code of Virginia authorizes the Commissioner of Highways to use the Setoff Debt Collection Act to collect certain civil penalties set out in § 33.2-1229. The Commonwealth Transportation Board (CTB) promulgated the Rules and Regulations to comply with the Setoff Debt Collection Act (24VAC30-160) in 1984, and the regulation has not been amended since. However, all of the substantive portions that affect citizens are duplicative of provisions in the Setoff Debt Collection Act. Keeping the current administrative sections would be inefficient, confusing and duplicative. Therefore, the CTB is repealing this regulation.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

VDOT – Virginia Department of Transportation
CTB - Commonwealth Transportation Board

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Commonwealth Transportation Board voted on July 17, 2019 to repeal the Rules and Regulations to comply with the Setoff Debt Collection Act (24VAC30-160) upon completion of a periodic review of that regulation.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

As required by Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

The decision to repeal the regulation was made after a periodic review, pursuant to Code of Virginia § 2.2-4007.1 and Executive Order 14 (2018). All of the substantive portions of the regulation that affect citizens are duplicative of provisions in the Setoff Debt Collection Act.

Legal Basis

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

Section 33.2-210 of the *Code of Virginia* authorizes the CTB to develop regulations relating to traffic and the use of systems of state highways. The CTB promulgated the Rules and

Regulations to comply with the Setoff Debt Collection Act (24VAC30-160) to comply with the Setoff Debt Collection Act.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

This regulation is being repealed because it is inefficient, confusing and duplicative of statutory procedures.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

The current action will repeal 24 VAC 30-160.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The repeal will not substantively affect the public or VDOT, because the regulation is duplicative of substantive provisions in the Setoff Debt Collection Act. There are no disadvantages to the public or the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

No other agency, locality, or entity is particularly affected by this change.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

This change is not likely to have an economic impact on the Commonwealth Transportation Board, the Virginia Department of Transportation, or any other state agency, locality, or other entity.

Impact on State Agencies

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| For your agency: projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources | |
| For other state agencies: projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures. | |
| For all agencies: Benefits the regulatory change is designed to produce. | |

Impact on Localities

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| Projected costs, savings, fees or revenues resulting from the regulatory change. | |
| Benefits the regulatory change is designed to produce. | |

Impact on Other Entities

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| Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect. | |
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| <p>Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that:</p> <ul style="list-style-type: none"> a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million. | |
| <p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to:</p> <ul style="list-style-type: none"> a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements. | |
| <p>Benefits the regulatory change is designed to produce.</p> | |

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

No viable alternatives to the regulatory change were considered.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

No viable alternatives to the regulatory change were considered.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

As required by § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Commonwealth Transportation Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email to Jo Anne Maxwell, 804-786-1830, joanne.maxwell@vdot.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

| Current chapter-section number | New chapter-section number, if applicable | Current requirements in VAC | Change, intent, rationale, and likely impact of new requirements |
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| 24 VAC 30-160 | | Under the Setoff Debt Collection Act (§ 58.1-520 et seq. of the Code of Virginia), state agencies may collect against delinquent debts through setoff of tax return funds if those state agencies follow the procedures and notice requirements of that Act. If a debtor believes a | The regulation is being repealed in its entirety. The repeal should have no effect on the public or the agency, because the procedures for adjudicating appeals of claims are set forth in the Setoff Debt Collection Act. The regulation is therefore unnecessary. |

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| | | claim against his return funds is invalid, he may appeal the claim. The current regulation specifies the procedures for VDOT in adjudicating the appeal of the claim. These procedures follow the procedural requirements set forth in the Setoff Debt Collection Act. | |
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If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

| New chapter-section number | New requirements | Other regulations and law that apply | Intent and likely impact of new requirements |
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If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.

If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.

Table 3: Changes to the Emergency Regulation

| Emergency chapter-section number | New chapter-section number, if applicable | Current <u>emergency</u> requirement | Change, intent, rationale, and likely impact of new or changed requirements since emergency stage |
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