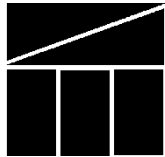


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes¹ Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget Economic Impact Analysis

24 VAC 30-160 Rules and Regulations to Comply with the Setoff Debt Collection Act
Department of Transportation
Town Hall Action/Stage: 5340 / 8697
November 14, 2019

Summary of the Proposed Amendments to Regulation

The Commonwealth Transportation Board (Board) proposes to repeal 24 VAC 30-160 *Rules and Regulations to Comply with the Setoff Debt Collection Act*.

Background

The Virginia Debt Collection Act, § 2.2-4800, et seq., states that “Each state agency and institution shall take all appropriate and cost-effective actions to aggressively collect its accounts receivable.”² The Setoff Debt Collection Act, § 58.1-520, et seq., establishes a method by which state agencies pursue collection via the withholding of state or local income tax refunds; section § 58.1-525 of the Setoff Debt Collection Act provides for the impacted party to have the opportunity to give written notice of intent to contest the validity of the claim. Section § 58.1-526 states that:

If a claimant agency ... receives written application of the debtor's intention to contest at a hearing the claim upon which the intended setoff is based, it shall grant a hearing according to procedures established by that agency under its operating statutes to determine whether the claim is valid. Additionally, it shall be

¹ 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.

² See § 2.2-4806 specifically: <https://law.lis.virginia.gov/vacode/title2.2/chapter48/section2.2-4806/>

determined at the hearing whether the claimed sum asserted as due and owing is correct, and if not, an adjustment to the claim shall be made.

Unlike most agencies, in 1984 the Department of Transportation (VDOT) promulgated a regulation pertaining to its rules and procedures in relation to setoff debt collection, 24 VAC 30-160 *Rules and Regulations to Comply with the Setoff Debt Collection Act*. Most of the regulation concerns hearings when the impacted party contests VDOT's claim. All parts of the regulation that are not duplicative of the Act concern such hearings. VDOT has a manual that covers debt setoff hearing procedures. The agency has indicated that it would send a copy of the manual to the debtor as an attachment to the acknowledgment letter that is sent when a written application of the debtor's intention to contest a claim is received.

In 2017, VDOT collected \$371,929.62 against delinquent debts through setoff of tax return funds. In 2018, the agency collected \$113,320.37. Through October 21, VDOT has collected \$169,773.04 for the current year.³

Estimated Benefits and Costs

To the degree that regulations confer broader protections to the regulated community, and provide greater transparency than internal policies and procedures, then the proposed repeal of the regulation has the potential to impact the public. However, in this instance, other than hearings all rules and procedures concerning setoff debt collection are set forth within statutes. Specifics concerning hearings are covered in the manual that would be provided to affected individuals and entities.

Businesses and Other Entities Affected

The proposal affects individuals and entities who in VDOT's understanding owe debt to VDOT. The proposal does not substantively produce cost.

Localities⁴ Affected⁵

The proposal does not disproportionately affect particular localities. The proposal does not introduce costs for local governments.

³ Source: VDOT

⁴ "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.

⁵ § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Projected Impact on Employment

The proposal is unlikely to affect total employment.

Effects on the Use and Value of Private Property

The proposal does not substantively affect the use and value of private property or real estate development costs.

Adverse Effect on Small Businesses⁶:

The proposed amendment does not adversely affect small businesses.

Legal Mandates

General: The Department of Planning and Budget 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 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report 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.

Adverse impacts: 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 within the 45-day period.

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.

⁶ 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.”