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Proposed Regulation Agency Background Document

Agency name	Virginia Manufactured Housing Board
Virginia Administrative Code (VAC) citation(s)	13 VAC 6-20
Regulation title(s)	Virginia Manufactured Housing Licensing and Transaction Recovery Fund Regulations
Action title	Updating and clarifying the Virginia Manufactured Housing Licensing and Transaction Recovery Fund Regulations
Date this document prepared	September 25, 2017

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*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The subject matter is the Manufactured Housing Licensing and Transaction Recovery Fund Regulations (Regulations), a regulation administered by the Department of Housing and Community Development's State Building Codes Office, which serves as the administrator for the manufactured home program. Manufactured homes are constructed in a factory for subsequent installation on property in Virginia's cities, counties and towns. The intent and goal of this action is to update and clarify this Regulation. The Board proposes under this regulation action to review issues related to licensing requirements for the manufactured housing industry members that will provide better protection to consumers without imposing unnecessary regulatory burdens on the licensees. The amended Regulations will better define the parameters for warranties on the homes, and what disclosures must be given to buyers.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.

“HUD” means the United States Department of Housing and Urban Development

“MVDB” means the Virginia Motor Vehicle Dealer Board

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.

The legal authority for amendments to the Regulation is found in Section 36-85-18 of the Code of Virginia. Section 36-85.18 directs the Board to promulgate regulations for the licensing of manufactured home manufacturers, dealers, brokers and salespersons; the establishment and administration of a recovery fund; the resolution of complaints; making case decisions in accordance with the Administrative Process Act; and the levying and collection of fees sufficient to cover the expenses for the administration of this program by the Board and Department. The agency is the Manufactured Housing Board (Board).

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Administration and enforcement of the Regulations by the Virginia Manufactured Housing Board (Board) and Department has resulted in the recognition of sections in need of clarity and of out date and unnecessary restrictions in sections that need to be deleted. The Board proposes under this regulatory action to review issues related to licensing requirements for the manufactured housing industry members that will provide better protection to consumers without imposing unnecessary regulatory burdens on the licensees. The amended Regulations will better define the parameters for warranties on homes and when and what disclosures must be given to buyers.

Substance

Please 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.

Add a definition for “Date of Delivery” to better clarify the warranty period for a manufactured home. This definition was taken from the body of the existing Regulations and added to the definition section for easy reference.

Eliminate unnecessary biographical information of individuals applying for Dealer, Sales Person and Broker licenses such as weight, height, eye color and sex.

Update the designation of a referenced agency. Delete the title of "Virginia Department of Motor Vehicles" and replace it with "Virginia Motor Vehicle Dealer Board".

Replace the non-defined term "Noncompliance" with the defined term "Defect".

Eliminate the requirement for a dealer to inspect "furniture" supplied with a home.

Add to the list of prohibited conduct by regulants. Add specific items to be included on a sales contract which are vague in the current Regulations; this includes the total cost of the contract; specify if the home is new or used; specify the nominal house size. Provide a statement to the consumer that the dealer may retain damages. Provide a statement to consumers notifying them of the dispute resolution program.

Issues

Please identify the issues associated with the proposed regulatory action, 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, please indicate.

The proposed revisions to these Regulations provide enhanced consumer protection by adding three additional items to the list of prohibited conduct by regulants. The revisions add specific items to be included on a sales contract, which lack clarity in the current Regulations. These items include the total cost of the contract; specify if the home is new or used; and specify the nominal house size. The revisions assist in protecting consumers by requiring manufacturers to provide statements to the consumer indicating that the dealer may retain damages and notifying them of the dispute resolution program.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include 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 statement to that effect.

The proposed revisions to the Regulations are not applicable to federal requirements, which do not regulate contract issues involving the sale of manufactured homes in states that act as State Administrative Agencies on behalf of HUD.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

This is a statewide uniform regulation that does not adversely affect specific localities.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the Manufactured Housing Board is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is 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) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail, email or fax to:

Kyle Flanders
 600 E. Main St., Suite 300
 Richmond, VA 23219
 804-786-6761
 804-671-7090
 Kyle.flanders@dhcd.virginia.gov

Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage 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.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures	Not applicable
Projected cost of the new regulations or changes to existing regulations on localities.	Not applicable
Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.	Not applicable

<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: 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>	<p>Not applicable</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>Not applicable</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>Consumer protection</p>

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.

There are no other viable alternatives to amending the Regulations.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please 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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.

There are no viable alternatives. Section 36-85-18 empowers the Board to adopt regulations and the proposed changes eliminate certain regulatory requirements while adding a few minimal requirements intended to protect consumers. Board members representing manufactured housing manufacturers, dealers, and the public support the changes to the regulations.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

No comments received.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Not applicable.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.

For changes to existing regulation(s), please use the following chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
13VAC6-20-10		None.	Add definition of “Date of delivery”. This definition clarifies the warranty period for a manufactured home. This definition was taken from the body of the existing Regulations and added to the definition section for easy reference.
13VAC6-20-30		Biographical information of applicant required.	Eliminate unnecessary biographical information of individuals applying for a Manufacturers license, i.e. weight and height.
13VAC6-20-50(E)		Agency name change.	Update the current designation of “Virginia Motor Vehicle Dealer Board”

13VAC-6-20-60	Biographical information of applicant required.	from the old designation "Virginia Department of Motor Vehicles." Eliminate unnecessary biographical information of individuals applying for a Dealer's license, i.e. weight and height.
13VAC6-20-60(C)	Agency name change.	Update the current designation of "Virginia Motor Vehicle Dealer Board" from the old designation "Virginia Department of Motor Vehicles."
13VAC6-20-80(A)	Undefined term used.	Replace the non-defined term "Noncompliance" with the defined term "Defect."
13VAC6-20-80(B)	Dealer required to inspect furniture.	Eliminate the requirement for a dealer to inspect "furniture" in a home.
13VAC6-20-90(E)	Agency name change.	Update the current designation of "Virginia Motor Vehicle Dealer Board" from the old designation "Virginia Department of Motor Vehicles"
13VAC6-20-100	Biographical information of applicant required.	Eliminate unnecessary biographical information of individuals applying for a Broker's license, i.e. weight and height.
13VAC6-20-100(C)	Agency name change.	Update the current designation of "Virginia Motor Vehicle Dealer Board" from the old designation "Virginia Department of Motor Vehicles"
13VAC6-20-170(A)(23)	None.	Add to the list of prohibited conduct by regulants. The dealer must include specific information on the sales contract which are vague in the current Regulations; this includes the total cost of the contract; specify if the home is new or used; specify the nominal size of the home, etc. This information helps the consumer understand exactly what they are purchasing.
13VAC-6-20-170(A)(24)	None.	Add to the list of prohibited conduct by the regulants. The dealer must provide a statement to the consumer that the dealer may by law retain damages if they do not

<p>13VAC6-20-170(A)(25)</p>		<p>None.</p>	<p>accept delivery of the home. Add to the list of prohibited conduct by the regulants. The dealer must provide dispute resolution information to the buyer. This will assist the buyer to resolve any disputes that may occur.</p>
<p>13VAC6-20-170(B)</p>		<p>Agency name change.</p>	<p>Update the current designation of "Virginia Motor Vehicle Dealer Board" from the old designation "Virginia Department of Motor Vehicles"</p>
<p>13VAC6-20-320</p>		<p>The definition of a term has been relocated from the body of the Regulation to the definitions section.</p>	<p>Delete the definition of "Date of Delivery" from this section that address warranties. The term "Date of Delivery" has been moved to the definitions section of the Regulations for easy reference.</p>