



Proposed Regulation Agency Background Document

Agency name	Real Estate Appraiser Board
Virginia Administrative Code (VAC) citation	18 VAC130-30
Regulation title	Appraisal Management Company Regulations
Action title	Initial Appraisal Management Company Regulations
Date this document prepared	June 3, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

The new regulation establishes definitions, qualifications, fees, and standards of practice and conduct for appraisal management companies. The new regulation is required to implement Chapter 405 of the Acts of the 2012 General Assembly, which resulted from HB 210. The goal of the regulation is to establish qualifications, fees, and standards of practice and conduct for the licensure and regulation of appraisal management companies in Virginia pursuant to HB 210.

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.

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.

Title 12, Chapter 34A, Section 3353 (Appraisal Management Company Minimum Requirements) of the United States Code requires that appraisal management companies “register with and be subject to supervision by a State appraiser certifying and licensing agency in each state in which such company operates.”

The second and third enactments of Chapter 405 of the Acts of the 2012 General Assembly state: “That the Real Estate Appraiser Board shall promulgate regulations to implement the provisions of this act to be effective July 1, 2014. That the provisions of this act shall become effective on July 1, 2012, except that § 54.1-2021.1 of this act shall become effective July 1, 2014.”

§ 54.1-2021.1 of the Code of Virginia states: “Beginning July 1, 2014, the Board may issue a license to do business as an appraisal management company in the Commonwealth to any applicant who has submitted a complete application...”

§ 54.1-201.A.1 of the Code of Virginia states: “The powers and duties of regulatory boards shall be as follows: to establish the qualifications of applicants for certification or licensure by any such board, provided that all qualifications shall be necessary to ensure either competence or integrity to engage in such profession or occupation.”

§ 54.1-201.A.5 of the Code of Virginia states: “The powers and duties of regulatory boards shall be as follows: to promulgate regulations in accordance with the Administrative Process Act necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board....”

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203) was signed into law on July 21, 2010, and requires that appraisal management companies “register with and be subject to supervision by a State appraiser certifying and licensing agency in each state in which such company operates.” To comply with this requirement, the General Assembly enacted Chapter 405 of the Acts of the 2012 General Assembly, which states in Section 54.1-2021.1 of the Code of Virginia: “Beginning July 1, 2014, the Board may issue a license to do business as an appraisal management company in the Commonwealth to any applicant who has submitted a complete application....” The proposed regulations complement the law enacted in Chapter 405 of the Acts of the 2012 Assembly and provide minimum burdens on the regulants while still protecting the public.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the “Detail of changes” section.)

General: Defines the terms used throughout the regulations.

Entry: States the application procedures; provides qualifications for licensure of appraisal management companies, including responsible person and controlling person information, bond and letter of credit requirements, and past criminal conviction and disciplinary action information.

Fees: Lists all fees, including application fees, federal registry fees, renewal fees and reinstatement fees.

Renewal/Reinstatement: Establishes requirements for renewal and/or reinstatement of license, including qualifications, procedures and fees; status of license during period prior to reinstatement; and board discretion to deny renewal or reinstatement.

Standards of Practice: Describes grounds for disciplinary action, license maintenance requirements, and prohibited acts.

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.

The *Code of Virginia* establishes the Board as the state agency that oversees the licensure and regulation of appraisal management companies providing services in Virginia. The Board's primary mission is to protect the citizens of the Commonwealth by prescribing requirements for minimal competencies; by prescribing standards of conduct and practice; and by imposing penalties for not complying with the regulations. The proposed regulations provide clarification and guidance to licensees so they can better serve the public and comply with industry standards.

The proposed regulations pose no disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale 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.

No requirements exceed applicable federal requirements.

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.

No localities have been identified that will be particularly affected by the proposed changes.

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 board/agency 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 may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email or fax to Christine Martine, Executive Director, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA, 23233, reappraisers@dpor.virginia.gov, phone (804) 367-8552, fax (866) 826-8863. 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 date of the public comment period.

A public hearing will be held after this regulatory stage is published in the *Virginia Register of Regulations* 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 (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). 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 requirements creates the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.	See information below.
Projected cost of the new regulations or changes to existing regulations on localities.	
Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations.	
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses	

<p>affected. Small business means 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.</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. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. 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>Beneficial impact the regulation is designed to produce.</p>	

The Board is adding a program to regulate Appraisal Management Companies (AMCs). Virginia is required to regulate AMCs by the Dodd-Frank Act. The proposed new regulations include the licensing requirements for companies that administer networks of independent contract appraisers, receive requests for appraisals from clients, and receive a fee paid by the client for the appraisals. The program is required as a result of the Acts of the 2012 General Assembly. Approximately 150 AMCs will apply and become licensed.

All costs incurred in support of board activities and regulatory operations are paid by the Department and funded through fees paid by applicants and licensees. All boards within the Department of Professional and Occupational Regulation must operate within the Code provisions of the Callahan Act (54.1-113), and the general provisions of 54.1-201. Each regulatory program's revenues must be adequate to support both its direct costs and a proportional share of agency operating costs. The department allocates costs to its regulatory programs based on consistent, equitable, and cost-effective methodologies. The board has no other source of income.

Fiscal Impact:

	FY 2014	FY 2015	FY2016	FY2017
Fund	NGF (0900)	NGF (0900)	NGF (0900)	NGF (0900)
Program/Service Area	560 46	560 46	560 46	560 46

Impact of Regulatory Changes:				
One-Time Costs	7,300	0	0	0
Ongoing Costs	6,793	34,359	34,359	34,359
Total Fiscal Impact	14,093	34,359	34,359	34,359
FTE	0.00	0.00	0.00	0.00

Description of Costs:

One-Time: Costs include \$7,000 for furniture and equipment needed to support one wage position and \$300 in postage and related costs for mailing notifications to appraisal management companies.

Ongoing: Costs include \$6,055 in FY2014 and \$24,221 in years thereafter for salary and benefits for one wage Band 3 position to process the applications for initial licensure and renewals; provide statuses of applications and other requested information; respond to telephone inquiries and e-mails about the program; and prepare written correspondence with applicants, licensees, and the public. Beginning in FY2015, costs also include \$9,400 in other operating costs such as telephone, employee development, computer operating support, postage, printing, and supplies. Annual costs of one board member added to the Real Estate Appraisers Board total \$738.

Cost to Localities: No costs to localities are expected.

Description of Individuals, Businesses, or Other Entities Impacted: Any person or entity acting as an Appraisal management company that administers a network of independent contract appraisers, receives requests for appraisals from clients, receives a fee paid by the client for the appraisals, and enters into an agreement with one or more independent appraisers in its network to perform the appraisals contained in the request.

Estimated Number of Regulators: There are expected to be approximately 150 appraisal management companies that will be required to be licensed.

Projected Cost to Regulators: The cost to Applicants for the Appraisal Management Company License is the initial application fee of \$490 plus a \$50 National Registry fee for each appraiser working for or contracting with the company. Biennial Renewal Fees are \$300 plus a \$50 National Registry fee for each appraiser working for or contracting with the company. Annual costs are \$150 per company, excluding the registry fees.

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.

Title 12, Chapter 34A, Section 3353 (Appraisal Management Company Minimum Requirements) of the United States Code requires that appraisal management companies “register with and be subject to supervision by a State appraiser certifying and licensing agency in each state in which such company operates.” § 54.1-2021.1 of the Code of Virginia states: “Beginning July 1, 2014, the Board may issue a license to do business as an appraisal management company in the Commonwealth to any applicant who has submitted a complete application....” Federal and state laws require the establishment of the regulation. Therefore, no viable alternatives to the proposed regulatory action exist.

Regulatory flexibility analysis

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.

The Board considers that the regulatory methods implemented were promulgated to accomplish the applicable law while minimizing the adverse impact on individuals and businesses and ensuring the health, safety and welfare of the public is protected.

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 were received during the public comment period.

Family impact

Please assess the impact of the proposed 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.

The proposed changes are not expected to have an impact on families.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. 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 list separately (1) all differences between the **pre-emergency** regulation and this proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulation(s), use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
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If a new regulation is being promulgated, use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
10	This section provides the definitions of various terms used in the regulations.	§ 54.1-2020	Explanation of various terms used in regulation.
20	This section sets out the procedures for completion and submission of applications.	None	The intent of the section is to explain a complete versus incomplete application; the Board's process for requesting additional information; and the timeframe for completing an application.
30	This section provides the qualifications for licensure.	§§ 54.1-2020, 54.1-2021.1, and 54.1-204	The intent of the section is to provide the requirements for licensure of appraisal management companies.
40	This section provides information whereby the Board may deny an application for licensure and the provision to appeal the Board's decision.	§ 54.1-204; Chapter 40 of Title 2.2	The intent is to provide information concerning denial of an application and the appeal procedures.
50	This section provides the general fee requirements, including that fees are nonrefundable and shall not be prorated. In addition, it provides that the date fees are received determines whether or not the fees are on time.	None	The intent is to provide general information on receipt of fees by the Department.
60	The schedule of fees is provided in this section, including the types of fees, amount of fees and when the specified fee is due.	§ 54.1-201.4	The intent is to clearly provide all fees that are payable and when they are due.
70	This section contains the general provisions related to renewal, including that licenses expire two years from the last day of the month in which the license was issued.	None	The intent is to provide that licenses are valid for two years and fees are required to renew and to clarify the expiration date.
80	This section details the provisions related to expiration and renewal of a license.	18VAC130-30-20 et seq, 18VAC130-30.30G, 18VAC130-30-60, and 18VAC130-30-120 et seq.	The intent is to provide the requirements for renewing a license issued by the Board.
90	This section provides the requirements for reinstatement.	18VAC130-30-60 and 18VAC130-30-80A, Chapter 1 of Title	The intent is to provide the provisions for reinstating a license when renewal

	Reinstatement is required when the requirements for renewal of a license are not completed within 30 days of the license expiration date. The license may be reinstated up to one year following the expiration date. After that time, the license may not be reinstated and the regulant must apply as a new applicant and meet all current entry requirements in effect at that time.	54.1	requirements are not completed within required timeframes, as well as the time whereby reinstatement is no longer possible. Further, it provides the consequences for acting as an appraisal management company with a license which has not been reinstated.
100	This section provides for the status of a license prior to the reinstatement of the license. A regulant who applies for reinstatement of a license shall be subject to all of the laws and regulations as if the regulant had been continuously licensed and remains under the Board's authority during the entire period.	None	The intent is to provide notice to regulants that failure to renew in a timely manner does not relieve them of the obligation for compliance with the Board's requirements and emphasizes that the Board still has authority over a regulant during this time period and may discipline a regulant for violating a regulation or statute during this period.
110	This section provides the circumstances in which renewal or reinstatement of a license may be denied including any of the reasons that initial licensure may be denied, failure to meet the terms of an agreement for licensure, failure to satisfy sanctions, or failure to fully pay any monetary penalty or costs imposed by the Board.	None	The intent is to provide the provisions whereby the Board may deny renewal or reinstatement of a license.
120	This section provides the possible sanctions that may be imposed in the event that a regulant is found in violation of the Board's regulations or statutes or any relevant portion of the Uniform Standards of Professional Appraisal Practice.	Chapters 20.1 and 20.2 of Title 54.1.	The intent is to provide the regulant and public with the Board's authority as to the imposition of sanctions for violating the Board's regulations.
130	This section provides the requirements for maintaining a license as an appraisal management company. These provisions include prohibition of assigning or transferring a	18VAC 130-30-30 and § 54.1-2021.1	The intent is to provide the regulant with the requirements, including applicable timeframes, for maintaining an appraisal management company license.

	license; requirement to report, in writing, all changes of address to the Board within 30 days; requirement to notify the Board of any change in the qualifications for licensure within 30 days of the change; and the requirement to notify the Board of the cancellation, amendment, expiration, or any other change of any bond or letter of credit within five days of the change.		
140	This section requires that regulants who change the business entity must obtain a new license as licenses are not transferable from one entity to another. The dissolution or alteration of a business entity causes the license to become void and must be returned to the Board within 30 days of the change. Such changes include: cessation of the business or the voluntary termination of a sole proprietorship or partnership; death of a sole proprietor; formation, reformation, or dissolution of a general partnership, limited partnership, corporation, limited liability company, association, or any other business entity recognized under the laws of the Commonwealth; or the suspension or termination of the corporation's existence by the State Corporation Commission. The regulation further requires that the new license must be obtained when the new firm is formed and before engaging in any activity regulated by the regulations of the Board or by Chapter 20.2 of Title 54.1.	None	The intent of the regulation is to clarify that licenses are issued to entities and may not be transferred from one entity to another.
150	This section requires that	§ 54.1-204	The intent of the regulation is to

	<p>regulants notify the Board of any adverse action, including: any disciplinary action taken by another jurisdiction, board, or administrative body of competent jurisdiction; any voluntary surrendering of a license, certificate, or registration done in connection with a disciplinary action in another jurisdiction; or any conviction, finding of guilt, or plea of guilty of any felony or misdemeanor in any jurisdiction. The section requires that the Board be notified within 30 days of the action and specifies the documentation which must be submitted relating to the action.</p>		<p>provide the actions which the Board must be notified of in order to ensure the regulant meets the standards of conduct and practice for licensure.</p>
<p>160</p>	<p>This section details the acts which regulants are prohibited from engaging in and the violations from which disciplinary action may result. The prohibited acts include the following: violating, inducing another to violate, or cooperating with others in violating any of the provisions of any of the regulations of the Board or statutes applicable to the Board; allowing the appraisal management company license to be used by another; obtaining or attempting to obtain a license by false or fraudulent representation, or maintaining, renewing, or reinstating a license by false or fraudulent representation; a regulant having been convicted, found guilty, or disciplined in any jurisdiction of any offense or violation enumerated in 18VAC130-30-150 of the regulation; failing to inform the board in writing within 30 days that the regulant was convicted, found guilty, or disciplined in</p>	<p>Chapter 20.2 of Title 54.1, § 54.1-111, § 54.1-2021.1, 18VAC130-30-30G, 18VAC130-30-130, 18VAC130-30-140, 18VAC130-30-150 and § 54.1-2022 A-D</p>	<p>The intent of the regulation is to provide information on specific acts which are prohibited by the Board and which may result in disciplinary action if a regulant is to be found in violation.</p>

	<p>any jurisdiction of any offense or violation enumerated in 18VAC130-30-150 of the regulation; failing to report a change as required by 18VAC130-30-130 or 18VAC130-30-140; engaging in dishonest or fraudulent conduct; failing to satisfy any judgments or restitution orders entered by a court or arbiter of competent jurisdiction; engaging in acts enumerated in § 54.1-2022 A-D; failing to safeguard the interests of the public; advertising in a name other than which the appraisal management company is licensed; failing to maintain the bond or letter of credit as required; failing to have a system in place to review the work of all appraisers that may perform appraisal services for the appraisal management company; failing to maintain detailed records; failing to have a system in place ensure compliance with § 129E of the Truth in Lending Act; and failing to include the regulant's Virginia license number on all contracts, agreements, letters of engagement or other documentation entered with an independent appraiser for the performance of appraisal services.</p>		
170	<p>This section requires that regulants respond to inquiries by the board or any of its agents regarding any complaint filed with the Department within 10 days of the request; that the regulant produce any documents requested by the board or any of its agents within 10 days, unless extended by the board upon a showing of extenuating circumstances prohibiting</p>	None	<p>The intent is to notify regulants they are required to respond to any inquiries or requests for records made by the Board or its agents within specified timeframes.</p>

	delivery within 10 days; the regulant may not provide a false, misleading, or incomplete response to the board or its agents seeking information in the investigation of a complaint filed with the board; and the regulant must respond to any inquiry by the board or its agents, other than requested by the previous subsections, within 21 days.		
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