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Proposed Regulation Agency Background Document

Agency name	Common Interest Community Board
Virginia Administrative Code (VAC) citation(s)	18 VAC 48-50
Regulation title(s)	Common Interest Community Manager Regulations
Action title	Amendment to Training Program Provisions
Date this document prepared	July 19, 2016

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

This is a revision to the existing regulations to amend language pertaining to the qualifications of common interest community and fair housing training program training that is utilized to renew certificates issued by the board. The proposed regulation amends 18 VAC 48-50-253 and 18 VAC 48-50-255 to only require certain training for individuals renewing certifications, as is current practice, and clarify training course content as updates to Virginia laws and regulations directly related to common interest communities.

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.

No acronyms or technical terms were identified that were not defined in the “Definitions” 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.

The promulgating entity is the Virginia Common Interest Community Board.

Section 54.1-201 (E) states in part that regulatory boards shall promulgate regulations in accordance with the Administrative Process Act necessary to assure continued competence, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board.

The imperative form of the verb “shall” is used, making the board’s authority to regulate mandatory rather than discretionary.

Section 54.1-2349 (A) (7) states in part that the board shall establish an education-based certification program for persons who are involved in the business or activity of providing management services to common interest communities, and authorizes the board to approve training courses and instructors.

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.

The General Assembly determined that an education-based certification program for persons who are involved in the business or activity of providing management services for compensation to common interest communities was essential to protect the health, safety, and welfare of the citizens of Virginia. The Board’s current regulations require both applicants for initial licensure and renewal to complete a minimum of two contact hours in common interest community law and regulation in addition to fair housing training. The two contact hour programs are only applicable for *renewal* of certificates for principal or supervisory employees, and not a prerequisite to initial certification. The proposed amendment to the language provides much-needed clarification.

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.

The proposed regulation amends 18 VAC 48-50-253 and 18 VAC 48-50-255 by removing “applicants” from the requirement of completing a two-hour common interest community law and regulation training

and a two-hour fair housing training program as a prerequisite for initial certification. In addition, the proposed amendment clarifies the topic areas and course of study regarding the two contact hours pertaining to common interest community law and regulation.

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 primary advantage to the public and the certificate holders of the Board is that the revisions will improve clarity of the regulations as it pertains to the training program course content required to renew a certification, and ensure that certificate-holders are aware of regulatory and legislative changes related to common interest communities and fair housing. There are no identified disadvantages to the public with the proposed language change as it does not change any of the current requirements/practices. The advantage to the Commonwealth is that the change ensures clarity and consistency when reviewing training programs for approval. There are no identified disadvantages.

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.

There are no components to the proposal that are more restrictive than 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 impact on localities has been identified as resulting from the proposed regulation.

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 Common Interest Community 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 Trisha L. Henshaw, Executive Director, Common Interest Community Board, 9960 Mayland Drive, Suite 400, Richmond, Virginia 23233, fax to (866) 490-2723, or email to cic@dpor.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.

<p>Projected cost to the state to implement and enforce the proposed regulation, including:</p> <p>a) fund source / fund detail; and</p> <p>b) a delineation of one-time versus on-going expenditures</p>	<p>There are no projected costs to the state to implement and enforce the specifics of this proposed regulatory action.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>There are no projected costs to localities.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>The certificate holders who are responsible for the management services of a common interest community or who have supervisory responsibilities of employees providing management services may be affected by the regulation change.</p>
<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:</p> <p>a) is independently owned and operated and;</p> <p>b) employs fewer than 500 full-time</p>	<p>There are approximately 307 Certificate holders who are principals or supervisory employees of licensed common interest community managers. Only individuals are required to obtain training and none of the certificate holders are considered small businesses.</p>

<p>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 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>No new costs will result from the change to the regulations. Certificate holders are already completing training courses as part of the renewal process.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The amendment provides clarification to the CIC Manager training requirements. The current regulation includes initial applicants for the training requirements when it was intended to only apply to those renewing their certification.</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.

No other viable alternatives have been identified.

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.

The Board considered the most cost-efficient and least burdensome method for amending the regulations in conjunction with applicable law and the Board’s purpose to protect the health, safety, and welfare of the public. Thus the amendment was limited to only those changes necessary to ensure the certificate-holders of the Board understand the regulatory requirements as they relate to the coursework required for certificate renewal.

Periodic review and small business impact review report of findings

If you are using this form to report the result of a periodic review/small business impact review that was announced during the NOIRA stage, please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

This regulatory amendment is not related to a periodic/small business impact review.

Public comment

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

No public comments were 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.

No impact on families in Virginia has been identified as resulting from the proposed amendment to the regulation.

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
48-50-253		Requires initial applicants for certification to complete a two-hour training program on common interest community law and regulation. In addition, the regulation outlines certain topic area as they pertain to the common interest community training program.	The proposed change will strike the term “applicants” from this section and strike the terms “community management and creation, governance, administration, and operations of associations.” The change will clarify the two contact hours shall encompass updates to Virginia laws and regulations directly related to common interest communities, and such contact hours are only required for <i>renewal</i> of a certificate, not initial certification..
48-50-255		Requires initial applicants for certification to complete a two-hour training program on fair housing.	The proposed change will strike the term “applicants” from this section. The proposed change will add, “and any updates, all as...” The change will clarify the two contact hours shall encompass updates to fair housing laws and regulations directly related to common interest communities, and such contact hours are only required for <i>renewal</i> of a certificate, not initial certification.