



Virginia  
Regulatory  
Town Hall

## Proposed Regulation Agency Background Document

<b>Agency Name:</b>	18
<b>VAC Chapter Number:</b>	135
<b>Regulation Title:</b>	Common Interest Community Management Information Fund Rules and Regulations
<b>Action Title:</b>	Promulgating
<b>Date:</b>	March 6, 2002

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

### Summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The proposal will implement the provisions of the Common Interest Community Management Information Fund (§§ 55-528 *et seq.*) of the *Code of Virginia*. The Act requires the payment of a fee into the Fund by Condominium, Cooperative, and Property Owners' Associations to be used to promote the improvement and more efficient operation of common interest communities through research and education.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.*

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The Board's authority to promulgate regulations for the administration of the Common Interest Community Management Information Fund may be found in § 55-530(C) of the *Code of Virginia* which provides the Real Estate Board with authority to prescribe regulations to accomplish the purposes of the statute.

## Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

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The Common Interest Community Management Information Fund (the Fund) was created by Acts of the 1993 General Assembly (chapter 958) and assigned to the Real Estate Board for administration and support. The fund was established to be used by the Board to "promote the improvement and more efficient operation of common interest communities through research and education." The 2001 General Assembly (chapter 816) amended the statutes to include the establishment of the Community Association Liaison who is responsible for the administration of "the requirements of this chapter [Chapter 29 of Title 55] and serves as an information resource on issues relating to the governance, administration and operation of common interest communities, including the laws and regulations relating thereto." These regulations will be the first set in place for the administration of the fund; there are no existing regulations to amend.

Implementing the requirement for an annual report filing fee is essential to protect the health, safety and welfare of citizens in two areas. First, moneys are used to educate association board members and residents to ensure that appropriate disclosures are made in accordance with statute when the property is sold. It is crucial that potential buyers understand the nature of the association and how being a member of the association impacts on their rights. Second, the moneys are used to maintain a database of information on association officers and contact points which is distributed to residents upon request.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.*

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Current estimates indicate that as many as one in seven individuals living in Virginia resides in a common interest community. A large number of those living in these communities are often not aware of the requirements of the various statutes involved in the day to day operation of the community. This includes the Condominium Act (§ 55-79.39 et seq. of the Code of Virginia), the Virginia Real Estate Cooperative Act (§ 55-424 et seq. of the Code of Virginia), and the Property Owners' Association Act (§ 55-508 et seq. of the Code of Virginia).

These regulations are necessary to implement the Acts of the 1993 General Assembly and administer the Common Interest Community Management Information Fund, as well as provide for the implementation of the Community Associations Liaison, mandated by the 2001 General Assembly. Both the Fund and the Liaison are mandated to protect the public health, safety, and welfare of the citizens of the Commonwealth by improving and enhancing the efficient operation of common interest communities through research and especially education.

## Issues

*Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 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 include a sentence to that effect.*

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The advantages to the public and the Commonwealth are that the regulations will permit compliance with the statutory intent to promote the improvement and more efficient operation of common interest communities through education and research. No disadvantages have been identified.

## Fiscal Impact

*Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.*

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It is not anticipated that the proposed regulatory changes will have a fiscal impact on individuals, businesses, localities or other entities beyond the \$25.00 annual filing fee required by each association. There are approximately 3,500 associations currently registered with the Board. These associations range from memberships of several thousand to less than 20. The cost of implementation is limited to the printing and distribution of the final regulations which will be paid for from moneys in the Fund with no added burden to agency resources.

### Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.*

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18 VAC 135-60-10. Purpose.

This section sets forth the purpose of the regulations in accordance with §§ 55-529 et seq. of the *Code of Virginia*.

18 VAC 135-60-20. Annual Report by association.

This section requires that a report be filed annually, on a form prescribed by the Board or a copy of the State Corporation Commission form and requires that a fee accompany this report.

18 VAC 135-60-30. Annual report by condominium association.

18 VAC 135-60-40. Annual report by cooperative association.

18 VAC 135-60-50. Annual report by property owners' association.

These sections specify each type of association as specified in § 55-529 of the *Code of Virginia*.

18 VAC 135-60-60. Filing fee.

This section prescribes the amount of the fee (\$25.00) as authorized by § 55-530 of the *Code of Virginia*.

### Alternatives

*Please describe the specific 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.*

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This is the initial regulation promulgation activity for the administration of the Common Interest Community Management Information Fund since the expiration of Emergency Regulations and no alternatives have been identified to evaluate. The Department of Professional and Occupational Regulation and the Real Estate Board will weigh all information coming into its possession with the objective of developing regulations which intrude as little as possible into the

conduct of commerce by the regulated community and have the smallest possible adverse impact on the public.

**Public Comment**

*Please summarize all public comment received during the NOIRA comment period and provide the agency response.*

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No public comment was received during the NOIRA comment period.

**Clarity of the Regulation**

*Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.*

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The agency believes the regulations are clearly written and easily understandable by the individuals and entities affected.

**Periodic Review**

*Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.*

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The Real Estate Board will enter into the regulatory review process three years following the date of the final regulations in accordance with Executive Order No. 25. The review will be conducted to determine if the regulations should be continued, amended, or terminated, including a description of specific and measurable goals the regulations are intended to achieve.

**Family Impact Statement**

*Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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.*

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It is anticipated that the proposed regulatory changes will have no impact on families.