




# COMMONWEALTH of VIRGINIA

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**TO:** MARGARET SCHULTZE, Commissioner  
Virginia Department of Social Services

**FROM:** ERIC J. REYNOLDS   
Assistant Attorney General

**DATE:** July 19, 2017

**SUBJECT:** Regulation Review - 22 VAC40-160-10 (Fee Requirements for Licensure Applications)

I am in receipt of the proposed regulations regarding fee requirements for licensure applications. You have asked the Office of the Attorney General to review and determine if the State Board of the Virginia Department of Social Services has the statutory authority to promulgate the proposed regulation and if the proposed regulation comports with applicable state and federal law.

The regulation is being amended to update the references to the Virginia Code and to remove the reference to the amount of the fee charged for checks returned for insufficient funds.

It is my opinion that the State Board of DSS has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act ("APA") and has not exceeded that authority.

It is my view that this regulation is exempt from the procedures of Article 2 of the APA pursuant to Virginia Code § 2.2-4006(A).

If you have any questions or need additional information about these regulations, please contact me at (804) 786-3450.

cc: Kim F. Piner, Esquire  
Attachment

**DEPARTMENT OF SOCIAL SERVICES**

**CH160 Fee Requirements for Licensure Applications**

**22VAC40-160-10. Fees.**

By act of the General Assembly and effective February 1, 1984, the Department of Social Services is authorized to charge fees for processing applications for licenses (~~§§ 63.1-174.01 and 63.1-196.5~~ § 63.2-1700 of the Code of Virginia).

Such fees are to be used for the development and delivery of training for operators and staff of facilities or agencies for adults or children subject to licensure solely by the Department of Social Services.

Each license and renewal of it may be issued for a period of up to three successive years. The required fee for each licensed facility or agency will be based upon its licensed capacity and the length of the total licensure period. However, the fee will be collected annually and licensees will be billed each year by the Department of Social Services for the appropriate portion of the fee. (Example: A facility with a capacity of 55 participants is issued a license for a period of 24 months. The fee for that facility for the two-year period would be \$210. The facility will be charged \$105 at the beginning of the licensure period and billed again for \$105 at the beginning of the second year of licensure.) No fee will be charged directly following the issuance of a conditional license.

Some programs such as, but not limited to, parks and recreation programs and summer camps, which operate for less than four months in a 12-month period, will pay a reduced fee as indicated in the fee schedule below (short-term programs).

Applicants shall use the following schedule of fees to determine the correct fee to pay for processing all applications.

Schedule of Fees			
Capacity	1 year	2 years	3 years
1-12	\$14	\$28	\$42
13-25	\$35	\$70	\$105
26-50	\$70	\$140	\$210
51-75	\$105	\$210	\$315
76-200	\$140	\$280	\$420
201 & up	\$200	\$400	\$600
Short-term Programs			
1-50	\$25	\$50	\$75
51 & up	\$50	\$110	\$150
Flat Fees			
Family Day Care Systems	\$70	\$140	\$210
Child Placing Agencies	\$70	\$140	\$210

The fee shall be paid by personal check, money order, or certified check, made payable to "Treasurer of Virginia."

A fee that is incorrect in amount or is made payable other than to the Treasurer of Virginia will be returned to the applicant. Otherwise, no fee will be returned or refunded for any reason.

Failure to submit the appropriate fee within the time frame specified by the Department of Social Services may result in negative action against a facility's or agency's license.

A \$15 fee will be charged for checks which must be returned to the applicant because of insufficient funds.