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Notice of Intended Regulatory Action (NOIRA) 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	February 13, 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*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

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 homes constructed in a factory for subsequent installation on property in Virginia's cities, counties or towns. The intent and goal of this action is to update and clarify this Regulation.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The agency is the Manufactured Housing Board. The legal authority for amendments to the Regulation is found in Section 36-85.18 of the Code of Virginia. That section 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.

Purpose

Please describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.

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-of-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, when and what disclosures must be given to buyers, and define and implement a substantial identity of interest to restrict repeated violations. The Board will receive suggestions and review other requirements and/or restrictions in the Regulations to address any perceived problems and improve the Regulations for consumers and regulants.

Substance

Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

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 needless biographical information of individuals applying for Dealer, Sales Person and Brokers 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. Eliminate that the dealer ensure that appliances and fixtures are “Operable”, as a dealer may not always have the proper electrical or gas connections for a home.

Add to the list of prohibited conduct by regulants. Add specific items to be included on a sales contract which have been vague in the current Regulations, such as 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 damages may be retained by the dealer. Provide a statement to consumer notifying them of the dispute resolution program.

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.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency’s contact if you’re interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to, ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and, the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://townhall.virginia.gov>), or by mail, email, or fax to

Kyle Flanders
600 E. Main St.
Suite 300
Richmond, VA 23219
Phone: 804-786-6761
Fax: 804-371-7090
Email: kyle.flanders@dhcd.virginia.gov

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 day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action. Notice of the hearing may be found on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov). Both oral and written comments may be submitted at that time.