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Exempt Action: Final Regulation Agency Background Document

Agency name	Board for Contractors
Virginia Administrative Code (VAC) Chapter citation(s)	18 VAC 50-22
VAC Chapter title(s)	Board for Contractors Regulations
Action title	Prohibited Act Amendment: Chapter 685
Final agency action date	June 23, 2020
Date this document prepared	July 15, 2020

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Board for Contractors seeks to amend its regulations to add a standard of conduct that would prohibit the misclassification of an employee.

A prohibited act will be added to 18 VAC 50-22-260 B that will make it a violation of the regulations for a licensed contractor to inappropriately classify a worker as an employee or independent contractor. The addition of this prohibited act meets the mandate set forth in Chapter 685 of the 2020 Acts of the General Assembly.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or

board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Chapter 685 of the 2020 Acts of the General Assembly directs the Board for Contractors to require a licensed contractor to appropriately classify all workers as employees or independent contractors, as provided by law and to provide that any contractor who is found to have intentionally misclassified any worker is subject to sanction by the Board.

The mandate will be accomplished by adding a prohibited act to 18 VAC 50-22-260 B of the Board for Contractors Regulations with provisions identical to that listed in the new legislation.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On June 23, 2020, the Board for Contractors adopted as final, exempt regulations that add the required prohibited act to 18 VAC 50-22-260 B of the Board for Contractors Regulations.