

ATTACHMENT PURPOSE OF REGULATION

ITEM 2

SUMMARY

The following changes are all of the substantive changes to the Manufactured Housing Licensing and Transaction Recovery Fund Regulations (13 VAC 6-20-10 et seq.) being proposed by the Board:

1. Part I General, 13 VAC 6-20-10. Definitions.

To amend the definition of "Code" to comport with regulatory actions taken by the Board of Housing and Community Development to separate the Industrialized Building and Manufactured Home Safety Regulations into two regulations.

2. 13 VAC 6-20-50. License required; annual renewal.

To amend the regulation to allow the board to require a dealer's representative to pass an examination before issuance of a license.

3. 13 VAC 6-20-60. Application for licensing; renewal.

To amend the regulation to add a recent financial statement to the list of items required for an original dealer's license.

4. 13 VAC 6-20-80. Dealer responsibility for inspections; other items.

To amend the definition of "Code" to comport with regulatory actions taken by the Board of Housing and Community Development to separate the Industrialized Building and Manufactured Home Safety Regulations into two regulations.

5. 13 VAC 6-20-90. License required; annual renewal.

To amend the regulation to allow the board to require a broker's representative to pass an examination before issuance of a license.

6. 13 VAC 6-20-100. Application for licensing; renewal.

To amend the regulation to add a recent financial statement to the list of items required for an original broker's license.

7. 13 VAC 6-20-120. Broker responsibility for inspections; other items.

To amend the regulation to comport with regulatory actions taken by the Board of Housing and Community Development to separate the Industrialized Building and Manufactured Home Safety Regulations into two regulations.

8. 13 VAC 6-20-130. License required; annual renewal.

To amend the regulation to allow the board to require a salesperson to pass an examination before issuance of a license, to set a minimum age for a salesperson and to establish disclosure requirements for certain actions by salespersons and to establish a probationary license.

9. Article 5 Special Licenses, 13 VAC 6-20-160. Special license; applications; fees.

To amend the regulation to establish a temporary license.

13 VAC 6-20-10 et seq. Manufactured Housing Licensing and Transaction
Recovery Fund Regulations

10. Article 6 Violations and Hearings, 13 VAC 6-20-180. Penalties; notice to regulant.

To amend the regulation by changing assessments to monetary penalties.

11. 13 VAC 6-20-200. Fee schedules.

To amend the regulation to add temporary licenses and provide a remedy for bad checks.

12. Part III Dealer or Manufacturer Sales Agreements, 13 VAC 6-20-210. Filing of dealer or manufacturer sales agreements; contents.

To amend the regulation by clarifying that the regulation does not require that dealer/manufacturer sales agreements are used, but if used they must comply with the regulation.

13. 13 VAC 6-20-220. Coercion of dealer by manufacturer prohibited.

To amend the regulation by deleting certain prohibited actions by a manufacturer.

14. 13 VAC 6-20-250. Operation of dealership by manufacturer.

To amend the regulation by deleting 13 VAC 6-20-250, Operation of dealership by manufacturer.

15. Part V Warranty, Service and Alterations, 13 VAC 6-20-320. Duration of warranties.

To amend the regulation by changing regulants to dealers and to better define the parameters of warranties required to be provided by manufacturers.

16. 13 VAC 6-20-350. Warranty service; time limits; rejection of claim.

To amend the regulation to comport with regulatory actions taken by the Board of Housing and Community Development to separate the Industrialized Building and Manufactured Home Safety Regulations into two regulations.

17. Part VI Miscellaneous Provisions, 13 VAC 6-20-400. Limitation on damages retained by dealer; disclosure to buyer.

To amend the regulation by better defining the “time of the sale” and “accepting or taking delivery of a manufactured home by a buyer” regarding disclosure of damages that may be assessed by a dealer.

18. Part VII Transaction Recovery Fund, 13 VAC 6-20-420. Recovery fund established; assessments.

To amend the regulation by clarifying that interest earned by the recovery fund may be used to pay claimant's damages awarded by the board.

19. 13 VAC 6-20-430. Filing claims; investigations; conference or hearing on claim.

To amend the regulation by removing all attorneys' fees from the amount of damages awarded by the board.

ITEM 2 (cont.)**BASIS**

The statutory authority for the Board to promulgate regulations, regarding "manufactured housing licensing and transaction recovery fund", is found in the General Assembly's mandate to the Board in § 36-85.18 of the Code of Virginia, which directs the Board to promulgate regulations for the licensing of regulants, establishment of a recovery fund, the levying and collection of fees, the resolution of complaints and the making of case decisions.

PURPOSE

The rationale for the amended provisions of the regulation is as follows:

1. To allow the board to require passing an examination before issuance of a license.
2. To add a recent financial statement to the list of items required for an original dealer's license.
3. To add a recent financial statement to the list of items required for an original broker's license.
4. To set a minimum age for a salesperson and to establish disclosure requirements for certain actions by salespersons and to establish a probationary license.
5. To establish a temporary license.
6. To provide a remedy for bad checks.
7. To clarify that the regulation does not require that dealer/manufacturer sales agreements are used, but if used they must comply with the regulation.
8. To delete certain prohibited actions by a manufacturer.
9. To delete 13 VAC 6-20-250, Operation of dealership by manufacturer.
10. To better define the parameters of warranties required to be provided by manufacturers.
11. To better defining the "time of the sale" and "accepting or taking delivery of a manufactured home by a buyer" regarding disclosure of damages that may be assessed by a dealer.
12. To clarifying that interest earned by the recovery f fund may be used to pay claimant's damages awarded by the board.
13. To remove all attorneys' fees from the amount of damages awarded by the board.

SUBSTANCE

The key provisions of the regulation that changes the current status of law are as follows:

- To allow the board require passing an examination before issuance of a license.
- To add a recent financial statement to the list of items required for an original dealer's license.
- To add a recent financial statement to the list of items required for an original broker's license.
- To set a minimum age for a salesperson and to establish disclosure requirements for certain actions by salespersons and to establish a probationary license.
- To establish a temporary license.
- To provide a remedy for bad checks.
- To clarify that the regulation does not require that dealer/manufacturer sales agreements are used, but if used they must comply with the regulation.
- To delete certain prohibited actions by a manufacturer.
- To delete 13 VAC 6-20-250, Operation of dealership by manufacturer.
- To better define the parameters of warranties required to be provided by manufacturers.
- To better defining the “time of the sale” and “accepting or taking delivery of a manufactured home by a buyer” regarding disclosure of damages that may be assessed by a dealer.
- To clarifying that interest earned by the recovery f fund may be used to pay claimant's damages awarded by the board.
- To remove all attorneys' fees from the amount of damages awarded by the board.

ISSUES

The primary advantage for the public of implementing the new regulation will be the removal of unnecessary regulatory provisions, which should be less burdensome and intrusive. The agency sees no disadvantages for the public.

AGENCY’S RESPONSE TO THE DEPARTMENT OF PLANNING AND
BUDGET’S ECONOMIC IMPACT ANALYSIS

The Department of Housing and Community Development concurs with the economic impact analysis prepared by the Department of Planning and Budget.

ITEM 3

The statutory authority for the Board to promulgate regulations, regarding "manufactured housing licensing and transaction recovery fund", is found in the General Assembly's mandate to the Board in § 36-85.18 of the Code of Virginia, which directs the Board to promulgate regulations for the licensing of regulants, establishment of a recovery fund, the levying and collection of fees, the resolution of complaints and the making of case decisions.

COPY OF THE CODE OF VIRGINIA CITATION

§ 36-85.18 Powers and duties of Manufactured Housing Board

The Virginia Manufactured Housing Board shall have the following powers and duties:

1. To issue licenses to manufacturers, dealers, brokers, and salespersons;
2. To require that an adequate recovery fund be established for all regulants;
3. To receive and resolve complaints from buyers of manufactured homes and from persons in the manufactured housing industry;
4. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) as are necessary to carry out the provisions of this chapter;
5. To make case decisions in accordance with the Administrative Process Act as are necessary to carry out the provisions of this chapter; and
6. To levy and collect fees that are sufficient to cover the expenses for the administration of this chapter by the Board and the Department. Such fees may be levied and collected on a per unit sold basis, a percentage basis, an annual per dealer basis, or a combination thereof.

ITEM 4

ATTORNEY GENERAL'S STATEMENT

ITEM 5

SUMMARY OF PUBLIC COMMENT

During the public comment phase leading to the Board's adoption of these proposed regulations, the agency received no public comment on this regulatory action.

ITEM 6

CHANGES

The specific reason for the proposed amendments is to provide greater clarity and to put before the public proposed changes submitted to the VMHB.

ITEM 7

REASONING

The agency has concluded that the contemplated regulation is considered essential for the efficient and economical performance of the important governmental function of protecting the health, safety and welfare of citizens of the Commonwealth.

ITEM 8

PROCESS

During the entire regulatory process of adopting the final regulations for the Manufactured Housing Licensing and Transaction Recovery Fund Regulations, the Board will consider all less burdensome and less intrusive alternatives suggested or recommended by any public comments received in response to these proposed regulations which achieve the essential purpose of the mandate.

ITEM 9

CLARITY STATEMENT

The agency has determined through examination of this regulation that it is clearly written and easily understandable by the entities affected.

ITEM 10

REVIEW SCHEDULE

The agency will initiate a review and re-evaluation of the Manufactured Housing Licensing and Transaction Recovery Fund Regulations to determine if they should be continued, amended, or terminated, such initiation will begin no later than three years after the proposed regulation is effective.

ITEM 11

ANTICIPATED REGULATORY IMPACT

The anticipated regulatory impact is as follows:

1. The projected cost increase to the state to implement and enforce the proposed regulation is zero.
2. The projected cost of the regulation on localities is zero.
3. The entities that are likely to be affected by the regulation are those manufacturing, selling and buying manufactured homes in Virginia.
4. The agency's best estimate of the number of such entities that will be affected is unknown.