



Final Regulation Agency Background Document

Agency name	Real Estate Appraiser Board
Virginia Administrative Code (VAC) citation	18 VAC 130-20
Regulation title	Real Estate Appraiser Board Regulations
Action title	Fee Adjustment
Date this document prepared	April 10, 2014

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The regulations are being amended to adjust licensing fees for regulants of the Real Estate Appraiser Board (Board). The Board must establish fees adequate to support the costs of the Board's operations and a proportionate share of the Department of Professional and Occupational Regulation's (Department) operations. By the close of the next biennium, fees will not provide adequate revenue for those costs.

Statement of final agency action

Please 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 or board taking the action, and (3) the title of the regulation.

On February 25, 2014, the Real Estate Appraiser Board reviewed and adopted the "Real Estate Appraiser Board" final regulations.

Legal basis

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

The proposed regulatory action is mandated by the following sections of the Code of Virginia. To comply with these statutes, the Board evaluates its current and projected financial position, and determines the type of fees and amounts to be established for each fee that will provide revenue sufficient to cover its expenses.

§ 54.1-113 (Callahan Act) Regulatory boards to adjust fees – Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or § 54.1-2505 shows expenses allocated to it for the past biennium to be more than ten percent greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

§ 54.1-201.4 describes each regulatory board’s power and duty to “levy and collect fees for the certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the Department...”

§ 54.1-304.3 describes the power and duty of the Director to “collect and account for all fees prescribed to be paid into each board and account for and deposit the moneys so collected into a special fund from which the expenses of the Board, regulatory boards, and the Department shall be paid...”

§ 54.1-308 provides for compensation of the Director, employees, and board members to be paid out of the total funds collected. This section also requires the Director to maintain a separate account for each board showing moneys collected on its behalf and expenses allocated to the board.

§ 54.1-2013 provides the Real Estate Appraiser Board with the power and duty to “levy and collect fees for the certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the Department...”

These Code sections require the Department to:

- pay expenses of each board and the Department from revenues collected;
- establish fees adequate to provide sufficient revenue to pay expenses;
- account for the revenues collected and expenses charged to each board; and
- revise fees as necessary to ensure that revenue is sufficient but not excessive to cover all expenses.

To comply with these requirements, the Department:

- Accounts for the revenue collected for each board distinctly;
- Accounts for direct board expenses for each board, and allocates a proportionate share of agency operating expenses to each board;
- Reviews the actual and projected financial position of each board biennially to determine whether revenues are adequate, but not excessive, to cover reasonable and authorized expenses for upcoming operating cycles; and

- Recommends adjustments to fees to respond to changes and projections in revenue trends and operating expenses. If projected revenue collections are expected to be more than sufficient to cover expenses for upcoming operating cycles, decreases in fees are recommended. If projected revenue collections are expected to be inadequate to cover operating expenses for upcoming operating cycles, increases in fees are recommended.

Fee adjustments are mandatory in accordance with these Code sections. The Board exercises discretion on how the fees are adjusted by determining the amount of adjustment for each type of fee. The Board makes its determination based on the adequacy of the fees to provide sufficient revenue for upcoming operating cycles.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The intent of the proposed change in the regulations is to adjust licensing fees for regulants of the Real Estate Appraiser Board (Board). The Board must establish fees adequate to support the costs of the Board's operations and a proportionate share of the Department of Professional and Occupational Regulation's (Department) operations. By the close of the next biennium, fees will not provide adequate revenue for those costs.

The Department receives no general fund money but, instead, is funded almost entirely from revenue collected for license applications, renewal fees and other licensing fees. The Department is self-supporting and must collect adequate revenue to support its mandated and approved activities and operations. Fees must be established at amounts which will provide that revenue. Fee revenue collected on behalf of the various boards funds the Department's authorized special revenue appropriation.

The Board has no other source of revenue from which to fund its operations.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The existing regulations are being amended to adjust the fees related to obtaining and maintaining licensure, registration, certification or approval as an appraiser, appraiser trainee, appraisal business, appraisal instructor and appraisal course.

18VAC130-20-90. Application and Registration Fees.

- 1) The registration fee for an appraisal business is adjusted from \$100 to \$160.
- 2) The application fee for an appraiser license is adjusted from \$230 to \$290.
- 3) The application fee for a temporary appraiser license is adjusted from \$45 to \$75.
- 4) The application fee for an appraiser trainee license is adjusted from \$105 to \$155.
- 5) The application fee to upgrade an appraiser license is adjusted from \$65 to \$130.
- 6) The application fee for an appraisal instructor certification is adjusted from \$135 to \$150.

18VAC130-20-130. Fees for Renewal and Reinstatement.

- 1) The renewal fee for an appraisal business is adjusted from \$60 to \$120.
- 2) The renewal fee for an appraiser license is adjusted from \$150 to \$205.
- 3) The renewal fee for an appraiser trainee license is adjusted from \$70 to \$125.
- 4) The renewal fee for an appraisal instructor certification is adjusted from \$125 to \$150.
- 5) The reinstatement fee for an appraisal business is adjusted from \$100 to \$280.
- 6) The reinstatement fee for an appraiser license is adjusted from \$210 to \$385.
- 7) The reinstatement fee for an appraiser trainee license is adjusted from \$130 to \$250.
- 8) The reinstatement fee for an appraisal instructor certification is adjusted from \$230 to \$300.

18VAC130-20-240. Course Approval Fees.

- 1) The approval fee for an appraisal course is adjusted from \$135 to \$150.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 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 indicate.*

The *Code of Virginia* establishes the Board as the state agency that oversees licensure of appraisers providing services in Virginia. The Board’s primary mission is to protect the citizens of the Commonwealth by prescribing requirements for minimal competencies; by prescribing standards of conduct and practice; and by imposing penalties for not complying with the regulations. Further, the *Code of Virginia* requires the Department to comply with the Callahan Act. The proposed fee adjustments will ensure that the Board has sufficient revenues to fund its operating expenses.

There are no disadvantages to the public or the Commonwealth in raising the Board’s fees as proposed.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
18 VAC 130-20-90	N/A	The application fee for the appraiser license and the appraiser trainee license increased by \$9.	In a separate fast-track regulatory action (“Amend regulation to comply with USPAP price adjustment”), the Board’s Regulations were amended and went into effect on January 1, 2013, to comply with the \$9 per copy price increase from \$21 to \$30 charged to the

			Board by The Appraisal Foundation for the “Uniform Standards of Professional Appraisal Practice” (USPAP), which is provided by the Board to all its appraiser licensees.
18 VAC 130-20-130	N/A	The renewal and reinstatement fees for the appraiser license and the appraiser trainee license increased by \$9.	In a separate fast-track regulatory action (“Amend regulation to comply with USPAP price adjustment”), the Board’s Regulations were amended and went into effect on January 1, 2013, to comply with the \$9 per copy price increase from \$21 to \$30 charged to the Board by The Appraisal Foundation for the “Uniform Standards of Professional Appraisal Practice” (USPAP), which is provided by the Board to all its appraiser licensees.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
Fitzhugh Odom, Jr.	The fee increases are excessive. He suggests gradual fee increases in the future.	The proposed fee adjustment establishes fees adequate to support the costs of the Board’s operations and a proportionate share of DPOR operations.

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
18VAC130-	N/A	Registration fee for an	Registration fee for an appraisal business

<p>20-90</p>		<p>appraisal business is \$100.</p> <p>Application fee for an appraiser license is \$230.</p> <p>Application fee for a temporary appraiser license is \$45.</p> <p>Application fee for an appraiser trainee license is \$105.</p> <p>Application fee to upgrade an appraiser license is \$65.</p> <p>Application fee for an appraisal instructor certification is \$135.</p>	<p>is adjusted to \$160 to comply with the Callahan Act.</p> <p>Application fee for an appraiser license is adjusted to \$290 to comply with the Callahan Act.</p> <p>Application fee for a temporary appraiser license is adjusted to \$75 to comply with the Callahan Act.</p> <p>Application fee for an appraiser trainee license is adjusted to \$155 to comply with the Callahan Act.</p> <p>Application fee to upgrade an appraiser license is adjusted to \$130 to comply with the Callahan Act.</p> <p>Application fee for an appraisal instructor certification is adjusted to \$150 to comply with the Callahan Act.</p>
<p>18VAC130-20-130</p>	<p>N/A</p>	<p>Renewal fee for an appraisal business is \$60.</p> <p>Renewal fee for an appraiser license is \$150.</p> <p>Renewal fee for an appraiser trainee license is \$70.</p> <p>Renewal fee for an appraisal instructor certification is \$125.</p> <p>Reinstatement fee for an appraisal business registration is \$100.</p> <p>Reinstatement fee for an appraiser license is \$210.</p> <p>Reinstatement fee for an appraiser trainee license is \$130.</p> <p>Reinstatement fee for an appraisal instructor certification is \$230.</p>	<p>Renewal fee for an appraisal business registration is adjusted to \$120 to comply with the Callahan Act.</p> <p>Renewal fee for an appraiser license is adjusted to \$205 to comply with the Callahan Act.</p> <p>Renewal fee for an appraiser trainee license is adjusted to \$125 to comply with the Callahan Act.</p> <p>Renewal fee for an appraisal instructor certification is adjusted to \$150 to comply with the Callahan Act.</p> <p>Reinstatement fee for an appraisal business registration is adjusted to \$280 to comply with the Callahan Act.</p> <p>Reinstatement fee for an appraiser license is adjusted to \$385 to comply with the Callahan Act.</p> <p>Reinstatement fee for an appraiser trainee license is adjusted to \$250 to comply with the Callahan Act.</p> <p>Reinstatement fee for an appraisal instructor certification is adjusted to \$300 to comply with the Callahan Act.</p>

18VAC130-20-240	N/A	Approval fee for an appraisal course is \$135.	Approval fee for an appraisal course is adjusted to \$150 to comply with the Callahan Act
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