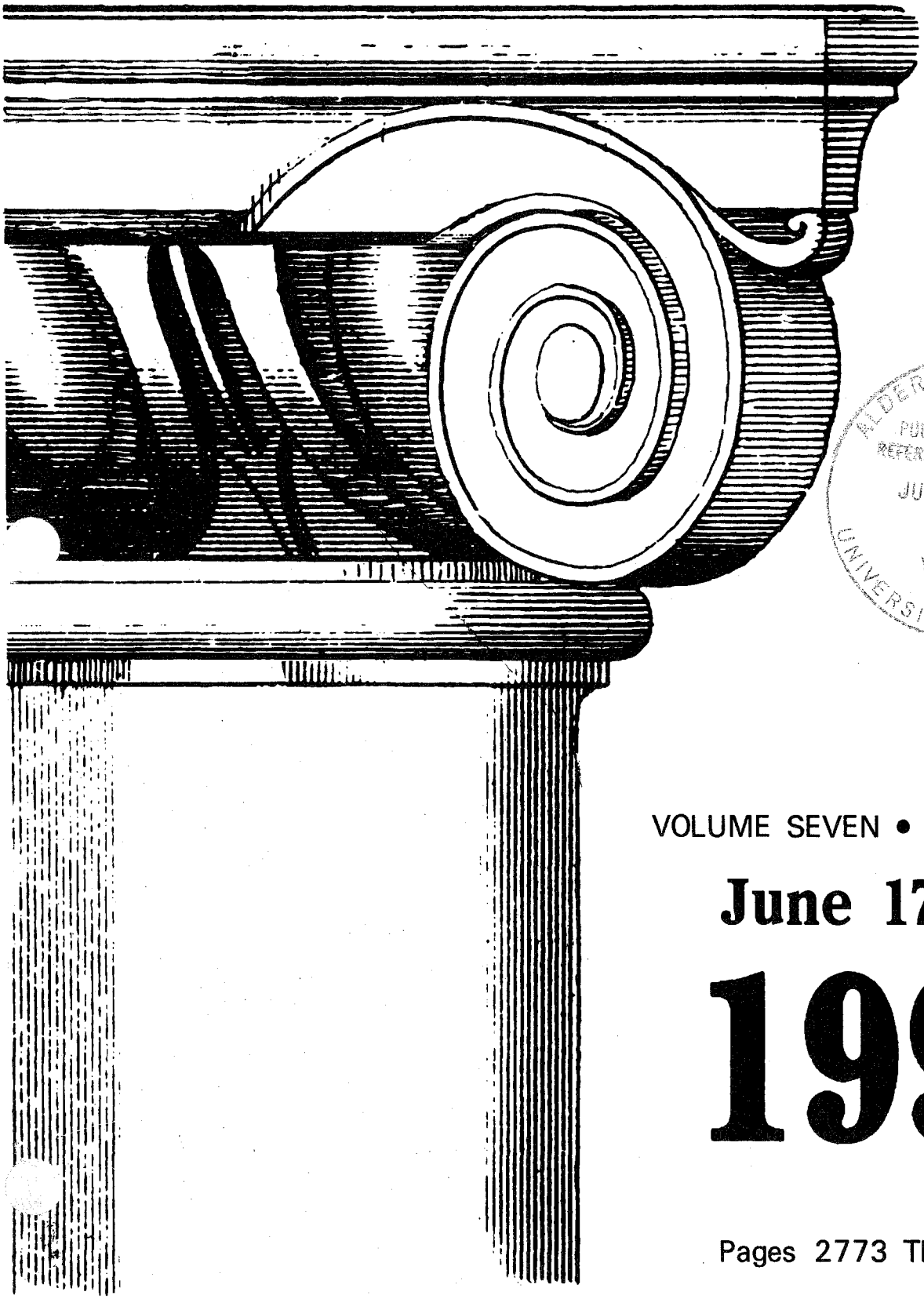
THE VIRGINIA REGISTER

OF REGULATIONS



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VIRGINIA REGISTER

The *Virginia Register* is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative.

The *Virginia Register* has several functions. The full text of all regulations, both as proposed and as finally adopted or changed by amendment are required by law to be published in the *Virginia Register of Regulations.*

In addition, the *Virginia Register* is a source of other information about state government, including all Emergency Regulations issued by the Governor, and Executive Orders, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of all public hearings and open meetings of state agencies.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the Virginia Register a notice of proposed action; a basis, purpose, impact and summary statement; a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations.

Under the provisions of the Administrative Process Act, the Registrar has the right to publish a summary, rather than the full text, of a regulation which is considered to be too lengthy. In such case, the full text of the regulation will be available for public inspection at the office of the Registrar and at the office of the promulgating agency.

Following publication of the proposal in the *Virginia Register,* sixty days must elapse before the agency may take action on the proposal.

During this time, the Governor and the General Assembly will view the proposed regulations. The Governor will transmit his mments on the regulations to the Registrar and the agency and such comments will be published in the *Virginia Register.*

Upon receipt of the Governor's comment on a proposed regulation, the agency (i) may adopt the proposed regulation, if the Governor has no objection to the regulation; (ii) may modify and adopt the proposed regulation after considering and incorporating the Governor's suggestions, or (iii) may adopt the regulation without changes despite the Governor's recommendations for change.

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the *Virginia Registrar* and the promulgating agency. The objection will be published in the *Virginia Register.* Within twenty-one days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative Committee, and the Governor

When final action is taken, the promulgating agency must again publish the text of the regulation, as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register.*

The Governor will review the final regulation during this time and if he objects, forward his objection to the Registrar and the agency. His objection will be published in the *Virginia Register.* If the Governor finds that changes made to the proposed regulation are substantial, he may suspend the regulatory process for thirty days and require the agency to solicit additional public comment on the substantial changes.

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless thdrawn, becomes effective on the date specified, which shall be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

Proposed action on regulations may be withdrawn by the promulgating agency at any time before final action is taken.

EMERGENCY REGULATIONS

If an agency determines that an emergency situation exists, it then requests the Governor to issue an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited in time and cannot exceed a twelve-months duration. The emergency regulations will be published as quickly as possible in the *Virginia Register.*

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The Virginia Register is cited by volume, issue, page number, and date. **I:3 VA.R. 75-77 November 12, 1984** refers to Volume 1, Issue 3, pages 75 through 77 of the Virginia Register issued on November 12, 1984.

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VIRGINIA REGISTER OF REGULATIONS

PUBLICATION DEADLINES AND SCHEDULES

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Oct. 17	Nov. 5
Oct. 31	Nov. 19
Nov. 14	Dec. 3
Nov. 28	Dec. 17
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Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text. Language which has been stricken indicates proposed text for deletion.

DEPARTMENT OF HEALTH (STATE BOARD OF)

REGISTRAR'S NOTICE: Due to its length, the proposed regulation entitled "Rules and Regulations for the Licensure of Hospitals in Virginia" (VR 355-33-500) filed by the Department of Health is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Department of Health.

Title of Regulation: **VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia.**

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Public Hearing Date: July 10, 1991 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The State Board of Health proposes to amend existing regulations governing obstetric and newborn services provided for in § 301.0 of the Rules and Regulations for the Licensure of Hospitals in Virginia with new regulations governing these hospital services. In addition, amendments to §§ 613.0, 614.0, and 618.0 of the general inpatient hospital licensure regulations that specify the physical design, construction and equipment criteria that hospitals must meet to physically house these services are also being proposed.

The proposed regulations specify the types of administrative management and clinical support services required of all licensed general and special hospitals that provide obstetric and newborn services, establish the requirements for the medical direction, physician coverage and nurse staffing of these services, delineate the types of written policies and procedures that each hospital must adopt for the management of the services, and designate the physical design criteria and equipment requirements for the obstetric and newborn service units. The types of policies and procedures required of hospitals to maintain effective infection control in the units are also specified.

The existing hospital regulations have not been revised since 1982. Since that time, the management of maternal and newborn care has changed considerably. The amended regulations effectively address the changes in maternal and obstetric and neonatal care that all licensed hospitals, with obstetric and newborn services, are expected to provide to their patients.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **VR 460-04-8.12. Home and Community Based Services for Individuals with Mental Retardation.**

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted until August 16, 1991.
(See Calendar of Events section for additional information)

Summary:

The purpose of this proposal is to promulgate permanent regulations for the provision of home and community-based services for persons with mental retardation to supersede the temporary emergency regulation which became effective on December 20, 1990.

Virginia has received approval from the Health Care Financing Administration (HCFA) for two waivers under § 1915(c) of the Social Security Act. These waivers allow Virginia to provide home and community-based services to mentally retarded and developmentally disabled individuals who require the level of care provided in nursing facilities (NF) for mentally retarded individuals, the cost of which would be reimbursed under the State Plan for Medical Assistance.

DMHMRSAS has identified 1,770 persons who either currently reside in intermediate care facilities for mentally retarded persons or in the community receiving state-funded community services, or are expected to require such services over the three-year period of the requested waiver. In addition, a waiver has been requested to provide community-based services to approximately 200 persons currently residing in NFs who have been identified through an annual resident review process, mandated by the Omnibus Reconciliation Act of 1987, as requiring care in intermediate care facilities for the mentally retarded (ICF/MR). These individuals, in the absence of a community-based care waiver alternative, would be transferred to an ICF/MR facility.

The services to be provided by these waivers are residential support, day support, habilitation, and therapeutic consultation services. All individuals served through these waivers must also receive case management services as a supportive service which enables the efficient and effective delivery of waiver services. Case management services are not included in the waiver but will be reimbursed as State Plan optional targeted case management services.

All Medicaid eligible individuals must be assessed according to a standardized assessment instrument and determined to meet the criteria for nursing facilities for mentally retarded persons (ICF/MR level of care criteria, VR 460-04-8.2) prior to development of a plan of care for waiver services.

Case managers employed by the community services boards are responsible for completing assessments and developing plans of care for those individuals found to meet ICF/MR criteria. The case manager may then recommend approval of the plan of care for waiver services to a care coordinator employed by DMHMRSAS. The care coordinator must give authorization for waiver services prior to implementation of waiver services and DMAS reimbursement.

DMAS is the single state authority responsible for supervision of the administration of the waiver services. DMAS will contract with those providers of services which meet all licensing and certification criteria required in these regulations and which are willing to adhere to DMAS' policies and procedures. Both DMHMRSAS and DMAS are responsible for periodically reevaluating all individuals authorized for waiver services to assure they continue to meet the ICF/MR criteria and that the community services are sufficient to promote their continued health and well-being.

The service definitions, provider requirements and qualifications, and utilization review requirements included in this emergency regulation were developed by a task force of DMAS, DMHMRSAS, and local community services board representatives.

The proposed regulations are identical to the emergency regulations which they are intended to replace.

This initiative is required by Chapter 972 of the Acts of Assembly and is funded in the current appropriations. Home and community-based care services are expected to be a cost-effective alternative to NF care for persons with mental retardation. In addition, cost savings to the Commonwealth will be generated by obtaining federal match for state funds transferred from DMHMRSAS to DMAS for Medicaid waiver reimbursement for services previously reimbursed through general funds.

VR 460-04-8.12. Home and Community Based Services fo Individuals with Mental Retardation.

§ 1. Definitions.

"Care coordinators" means persons employed by the Department of Mental Health, Mental Retardation and Substance Abuse Services to perform utilization review, recommendation of preauthorization for service type and intensity, and review of individual level of care criteria.

"Case management" means the assessment, planning, linking and monitoring for individuals referred for mental retardation community-based care waiver services which ensures the development, coordination, implementation, monitoring, and modification of the individual service plan and linkage of the individual with appropriate community resources and supports, coordination of service providers, and monitoring of quality of care.

"Case managers" means individuals possessing a combination of mental retardation work experience and relevant education which indicates that the individual possesses the knowledge, skills and abilities, as established by DMHMRSAS, necessary to perform case management services.

"Community based care waiver services" or "waiver services" means the range of community support services approved by the Health Care Financing Administration pursuant to § 1915(c) of the Social Security Act to b offered to mentally retarded and developmentally disable individuals who would otherwise require the level of care provided in a nursing facility for the mentally retarded.

"Community services board" or "CSB" means the public organization authorized by the Code of Virginia to provide services to individuals with mental illness or retardation, operating autonomously but in partnership with the DMHMRSAS.

"Consumer Service Plan" or "CSP" means that document addressing the needs of the recipient of home and community-based care mental retardation services, in all life areas. The Individual Service Plans developed by service providers are to be incorporated in the CSP by the case manager. Factors to be considered when this plan is developed may include, but are not limited to, the recipient's age, primary disability, and level of functioning.

"DMAS" means the Department of Medical Assistance Services.

"DMHMRSAS" means the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"DRS" means the Department of Rehabilitative Services.

"DSS" means the Department of Social Services.

"Day support" means training in intellectual, sensor

motor, and affective social development including awareness skills, sensory stimulation, use of appropriate behaviors and social skills, learning and problem solving, communication and self-care, physical development, and transportation to and from training sites, services and support activities.

"Developmental disability" means a severe, chronic disability that (i) is attributable to a mental or physical impairment (attributable to mental retardation, cerebral palsy, epilepsy, autism, or neurological impairment or related conditions) or combination of mental and physical impairments; (ii) is manifested before that individual attains the age of 22; (iii) is likely to continue indefinitely; (iv) results in substantial functional limitations in three or more of the following major areas: self-care, language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency; and (v) results in the individual's need for special care, treatment or services that are individually planned and coordinated, and that are of lifelong or extended duration.

"Developmental risk" means the presence before, during or after an individual's birth of conditions typically identified as related to the occurrence of a developmental disability and for which no specific developmental disability is identifiable through diagnostic and evaluative criteria.

"Habilitation" means prevocational and supported employment for mentally retarded individuals who have been discharged from a Medicaid certified nursing facility or nursing facility for the mentally retarded, aimed at preparing an individual for paid or unpaid employment.

"HCFA" means the Health Care Financing Administration as that unit of the federal Department of Health and Human Services which administers the Medicare and Medicaid programs.

"Individual Service Plan" or "ISP" means the service plan developed by the individual service provider related solely to the specific tasks required of that service provider. ISPs help to comprise the overall Consumer Service Plan of care for the individual. The ISP is defined in DMHMRSAS licensing regulations VR 470-02-09.

"Inventory for client and agency planning" or "ICAP" means the assesment instrument used by case managers and care coordinators to record the mentally retarded individual's needs and document that the individual meets the ICF/MR level of care.

"Mental retardation" means the diagnostic classification of substantial subaverage general intellectual functioning which originates during the development period and is associated with impairment in adaptive behavior.

"Prevocational services" means services aimed at preparing an individual for paid or unpaid employment. The services do not include activities that are specifically job or task oriented but focus on goals such as attention span and motor skills. Compensation, if provided, would be for persons whose productivity is less than 50% of the minimum wage.

"Related conditions" means those conditions defined in 42 CFR 435.1009 as severe, chronic disabilities attributable to cerebral palsy or epilepsy or other conditions found to be closely related to mental retardation due to the impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation, which requires treatment or services similar to those required for these persons. A related condition must manifest itself before the person reaches age 22, be likely to continue indefinitely and result in substantial functional limitations in three or more areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction and capacity for independent living.

"Residential support services" means support provided in the mentally retarded individual's home or in a licensed residence which includes training, assistance, and supervision in enabling the individual to maintain or improve his health, assistance in performing individual care tasks, training in activities of daily living, training and use of community resources, and adapting behavior to community and home-like environments. Reimbursement for residential support shall not include the cost of room and board.

"Therapeutic consultation" means consultation provided by members of psychology, social work, behavioral analysis, speech therapy, occupational therapy or physical therapy disciplines to assist the individual, parents/family members, residential support and day support providers in implementing an individual service plan.

"State Plan for Medical Assistance" or "Plan" means the regulations identifying the covered groups, covered services and their limitations, and provider reimbursement methodologies as provided for under Title XIX of the Social Security Act.

§ 2. General coverage and requirements for home and community-based care services.

A. Waiver service populations.

Home and community-based services shall be available through two waiver services programs. The services, eligibility determination, authorization process and provider requirements set forth in these regulations apply equally to both waiver programs. DMAS shall assign individuals to a waiver program based on the individual's diagnosis or condition.

1. Coverage shall be provided under a waiver program specifically for the following individuals currently residing in nursing facilities who have been determined to require the level of care provided in an intermediate care facility for the mentally retarded:

a. Individuals with mental retardation.

b. Individuals with related conditions.

2. Coverage shall be provided under a separate waiver program for the following individuals who have been determined to require the level of care provided in an intermediate care facility for the mentally retarded:

a. Individuals with mental retardation.

b. Individuals under the age of six at developmental risk who have been determined to require the level of care provided in an intermediate care facility for the mentally retarded. At age six, these individuals must be determined to be mentally retarded to continue to receive home and community-based care services.

B. Covered services.

1. Covered services shall include: residential support, habilitation, day support and therapeutic consultation.

2. These services shall be clinically appropriate and necessary to maintain these individuals in the community. Federal waiver requirements provide that the average per capita fiscal year expenditure under the waiver must not exceed the average per capita expenditures for the level of care provided in an intermediate care facility for the mentally retarded under the State Plan that would have been made had the waiver not been granted.

C. Patient eligibility requirements.

1. Virginia shall apply the financial eligibility criteria contained in the State Plan for the categorically needy and the medically needy. Virginia has elected to cover the optional categorically needy group under 42 CFR 435.211, 435.231 and 435.217. The income level used for 435.211, 435.231 and 435.217 is 300% of the current Supplemental Security Income payment standard for one person.

2. Under this waiver, the coverage groups authorized under § 1902(a)(10)(A)(ii)(VI) of the Social Security Act will be considered as if they were institutionalized for the purpose of applying institutional deeming rules. All recipients under the waiver must meet the financial and nonfinancial Medicaid eligibility criteria and be Medicaid eligible in an institution. The deeming rules are applied to waiver eligible individuals as if the individual were residing in an institution or would require that level of care.

3. Virginia shall reduce its payment for home and community-based services provided to an individual who is eligible for Medicaid services under 42 CFR 435.217 by that amount of the individual's total income (including amounts disregarded in determining eligibility) that remains after allowable deductions for personal maintenance needs, deductions for other dependents, and medical needs have been made, according to the guidelines in 42 CFR 435.735 and § 1915(c)(3) of the Social Security Act as amended by the Consolidated Omnibus Budget Reconciliation Act of 1986. DMAS will reduce its payment for home and community-based waiver services by the amount that remains after deducting the following amounts in the following order from the individual's income:

a. For individuals to whom § 1924(d) applies, Virginia intends to waive the requirement for comparability pursuant to § 1902(a)(10)(B) to allow for the following:

(1) An amount for the maintenance needs of the individual which is equal to the categorically needy income standard for a noninstitutionalized individual unless the individual is a working patient. Those individuals involved in a planned habilitation program carried out as a supported employment or prevocational or vocational training shall be allowed to retain an additional amount not to exceed the first $75 of gross earnings each month and up to 50% of any additional gross earnings up to a maximum personal needs allowance of $575 per month (149% of the SSI payment level for a family of one with no income).

(2) For an individual with only a spouse at home, the community spousal income allowance determined in accordance with § 1924(d) of the Social Security Act, the same as that applied for the institutionalized patient.

(3) For an individual with a family at home, an additional amount for the maintenance needs of the family determined in accordance with § 1924(d) of the Social Security Act, the same as that applied for the institutionalized patient.

(4) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including Medicare and other health insurance premiums, deductibles, or coinsurance charges and necessary medical or remedial care recognized under state law but covered under the Plan.

b. For all other individuals:

(1) An amount for the maintenance needs of the individual which is equal to the categorically needy income standard for a noninstitutionalized individual unless the individual is a working patient. Those individuals involved in a planned habilitation program carried out as a supported employment or prevocational or vocational training will be allowed to retain an additional amount not to exceed the first $75 of gross earnings each month and up to

50% of any additional gross earnings up to a maximum personal needs allowance of $575 per month (149% of the SSI payment level for a family of one with no income).

(2) For an individual with a family at home, an additional amount for the maintenance needs of the family which shall be equal to the medically needy income standard for a family of the same size.

(3) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including Medicare and other health insurance premiums, deductibles, or coinsurance charges and necessary medical or remedial care recognized under state law but covered under the state Medical Assistance Plan.

D. Assessment and authorization of home and community-based care services.

1. The individual's need for home and community-based care services shall be determined by the CSB case manager after completion of a comprehensive assessment of the individual's needs and available support. The case manager shall complete the Inventory for Client and Agency Planning (ICAP), determine whether the individual meets the intermediate care facility for the mentally retarded (ICF/MR) criteria and develop the Consumer Service Plan (CSP) with input from the recipient, family members, service providers and any other individuals involved in the individual's maintenance in the community.

2. An essential part of the case manager's assessment process shall be determining the level of care required by applying the existing DMAS ICF/MR criteria (VR 460-04-8.2).

3. The case manager shall gather relevant medical, social, and psychological data and identify all services received by the individual. Medical examinations shall be completed no earlier than 60 days prior to beginning waiver services. Social assessments must have been completed within one year of beginning waiver services. Psychological evaluations or reviews must be completed within a year prior to the start of waiver services. In no case shall a psychological review be based on a full psychological evaluation that precedes admission to waiver services by more than three years.

4. The case manager shall explore alternative settings to provide the care needed by the individual. Based on the individual's preference, or preference of parents for minors or guardian or authorized representative for adults, and the assessment of needs, a plan of care shall be developed for the individual. For the case manager to make a recommendation for waiver services, community-based care services must be determined to be an appropriate service alternative to delay, avoid, or exit from nursing facility placement.

5. Community-based care waiver services may be recommended by the case manager only if:

a. The individual is Medicaid eligible as determined by the local office of the Department of Social Services,

b. The individual is either mentally retarded as defined in § 37.1-1 of the Code of Virginia, has a related condition or is a child under the age of six at developmental risk who would, in the absence of waiver services, require the level of care provided in an ICF/MR facility, the cost of which would be reimbursed under the Plan,

c. The individual requesting waiver services shall not receive such services while an inpatient of a nursing facility or hospital.

6. The case manager must submit the results of the comprehensive assessment and a recommendation to the care coordinator for final determination of ICF/MR level of care and authorization for community-based care services. DMHMRSAS authorization must be obtained prior to referral for service initiation and Medicaid reimbursement for waiver services. DMHMRSAS will communicate in writing to the case manager whether the recommended service plan has been approved or denied and, if approved, the amounts and type of services authorized.

7. All Consumer Service Plans are subject to approval by DMAS. DMAS is the single state authority responsible for the supervision of the administration of the community-based care waiver. DMAS has contracted with DMHMRSAS for recommendation of preauthorization of waiver services and utilization review of those services.

§ 3. General conditions and requirements for all home and community-based care participating providers.

A. General requirements.

Providers approved for participation shall, at a minimum, perform the following:

1. Immediately notify DMAS in writing of any change in the information which the provider previously submitted to DMAS.

2. Assure freedom of choice to recipients in seeking medical care from any institution, pharmacy, practitioner, or other provider qualified to perform the services required and participating in the Medicaid Program at the time the service was performed.

3. Assure the recipient's freedom to refuse medical care and treatment.

4. Accept referrals for services only when staff is available to initiate services.

5. Provide services and supplies to recipients in full compliance with Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the grounds of race, color, religion, or national origin and of Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of a handicap.

6. Provide services and supplies to recipients in the same quality and mode of delivery as provided to the general public.

7. Charge DMAS for the provision of services and supplies to recipients in amounts not to exceed the provider's usual and customary charges to the general public.

8. Accept Medicaid payment from the first day of the recipient's eligibility.

9. Accept as payment in full the amount established by DMAS.

10. Use program-designated billing forms for submission of charges.

11. Maintain and retain business and professional records sufficient to document fully and accurately the nature, scope, and details of the health care provided.

a. Such records shall be retained for at least five years from the last date of service or as provided by applicable state laws, whichever period is longer. If an audit is initiated within the required retention period, the records shall be retained until the audit is completed and every exception resolved. Records of minors shall be kept for at least five years after such minor has reached the age of 18 years.

b. Policies regarding retention of records shall apply even if the agency discontinues operation. DMAS shall be notified in writing of the storage location and procedures for obtaining records for review should the need arise. The location, agent, or trustee shall be within the Commonwealth of Virginia.

12. Furnish to authorized state and federal personnel, in the form and manner requested, access to records and facilities.

13. Disclose, as requested by DMAS, all financial, beneficial, ownership, equity, surety, or other interests in any and all firms, corporations, partnerships, associations, business enterprises, joint ventures, agencies, institutions, or other legal entities providing any form of health care services to recipients of Medicaid.

14. Hold confidential and use for authorized DMAS or DMHMRSAS purposes only all medical assistance information regarding recipients.

15. When ownership of the provider agency changes, DMAS shall be notified within 15 calendar days of such change.

B. Requests for participation.

DMAS will screen requests to determine whether the provider applicant meets the following basic requirements for participation.

C. Provider participation standards.

For DMAS to approve contracts with home and community-based care providers the following standards shall be met:

1. The provider must have the ability to serve all individuals in need of waiver services regardless of the individual's ability to pay or eligibility for Medicaid reimbursement.

2. The provider must have the administrative and financial management capacity to meet state and federal requirements.

3. The provider must have the ability to document and maintain individual case records in accordance with state and federal requirements.

4. The provider of residential and day support services must meet the licensing requirements of DMHMRSAS that address standards for personnel, residential and day program environments, and program and service content. Residential support services may also be provided in programs licensed by DSS (homes for adults) or in adult foster care homes approved by local DSS offices pursuant to state DSS regulations. In addition to licensing requirements, persons providing residential support services are required to pass an objective, standardized test of skills, knowledge and abilities developed by DMHMRSAS and administered by employees of the CSB according to DMHMRSAS policies.

5. Habilitation services shall be provided by agencies that are either licensed by DMHMRSAS or are vendors of prevocational, vocational or supported employment services for DRS.

6. Services provided by members of professional disciplines shall meet all applicable state licensure requirements. Persons providing consultation in behavioral analysis shall be certified by DMHMRSAS based on the individual's work experience, education and demonstrated knowledge, skills, and abilities.

7. All facilities covered by § 1616(e) of the Social Security Act in which home and community-based care services will be provided shall be in compliance with applicable standards that meet the requirements of 45 CFR Part 1397 for board and care facilities. Health and safety standards shall be monitored through the DMHMRSAS's licensure standards, VR 470-02-08, VR 470-02-10 and VR 470-02-11 or through DSS licensure standards VR 615-22-05 and VR 615-50-1.

D. Adherence to provider contract and DMAS provider service manual.

In addition to compliance with the general conditions and requirements, all providers enrolled by DMAS shall adhere to the conditions of participation outlined in their individual provider contracts and in the DMAS provider service manual.

E. Recipient choice of provider agencies.

If there is more than one approved provider agency in the community, the waiver recipient shall have the option of selecting the provider agency of his choice.

F. Termination of provider participation.

DMAS may administratively terminate a provider from participation upon 60 days' written notification. DMAS may also cancel a contract immediately or may give such notification in the event of a breach of the contract by the provider as specified in the DMAS contract. Such action precludes further payment by DMAS for services provided recipients subsequent to the date specified in the termination notice.

G. Reconsideration of adverse actions.

Adverse actions may include, but are not limited to, disallowed payment of claims for services rendered which are not in accordance with DMAS policies and procedures, contract limitation or termination. The following procedures shall be available to all providers when DMAS takes adverse action which includes termination or suspension of the provider agreement.

1. The reconsideration process shall consist of three phases:

a. A written response and reconsideration of the preliminary findings.

b. The informal conference.

c. The formal evidentiary hearing.

2. The provider shall have 30 days to submit information for written reconsideration, 15 days from the date of the notice to request the informal conference, and 15 days from the date of the notice to request the formal evidentiary hearing.

3. An appeal of adverse actions shall be heard in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) and the State Plan for Medical Assistance provided for in § 32.1-325 of the Code of Virginia. Court review of the final agency determination shall be made in accordance with the Administrative Process Act.

H. Responsibility for sharing recipient information.

It shall be the responsibility of the case management provider to notify DMAS and DSS, in writing, when any of the following circumstances occur:

1. Home and community-based care services are implemented.

2. A recipient dies.

3. A recipient is discharged or terminated from services.

4. Any other circumstances (including hospitalization) which cause home and community-based care services to cease or be interrupted for more than 30 days.

I. Changes or termination of care.

It is the care coordinator's responsibility to authorize any changes to a recipient's CSP based on the recommendation of the case management provider.

1. Agencies providing direct service are responsible for modifying their individual service plan and submitting it to the case manager any time there is a change in the recipient's condition or circumstances which may warrant a change in the amount or type of service rendered.

2. The case manager will review the need for a change and may recommend a change to the plan of care to the care coordinator.

3. The care coordinator will approve or deny the requested change to the recipient's plan of care and communicate this authorization to the case manager within 72 hours of receipt of the request for change.

4. The case manager will communicate in writing the authorized change in the recipient's plan of care to the individual service provider and the recipient, in writing, providing the recipient with the right to appeal the decision pursuant to DMAS Client Appeals Regulations (VR 460-04-8.7).

5. Nonemergency termination of home and community-based care services by the individual service provider. The individual service provider shall give the recipient or family and case manager 10 days' written notification of the intent to terminate services. The letter shall provide the reasons for and

effective date of the termination. The effective date of services termination shall be at least 10 days from the date of the termination notification letter.

6. Emergency termination of home and community-based care services by the individual services provider. In an emergency situation when the health and safety of the recipient or provider agency personnel is endangered, the case manager and care coordinator must be notified prior to termination. The 10-day written notification period shall not be required.

7. Termination of home and community-based care services for a recipient by the care coordinator. The effective date of termination shall be at least 10 days from the date of the termination notification letter. The case manager has the responsibility to identify those recipients who no longer meet the criteria for care or for whom home and community-based services are no longer an appropriate alternative. The care coordinator has the authority to terminate home and community-based care services.

J. Suspected abuse or neglect.

Pursuant to § 63.1-55.3 of the Code of Virginia, if a participating provider agency knows or suspects that a home and community-based care recipient is being abused, neglected, or exploited, the party having knowledge or suspicion of the abuse/neglect/exploitation shall report this to the local DSS.

K. DMAS monitoring.

DMAS is responsible for assuring continued adherence to provider participation standards. DMAS shall conduct ongoing monitoring of compliance with provider participation standards and DMAS policies and periodically recertify each provider for contract renewal with DMAS to provide home and community-based services. A provider's noncompliance with DMAS policies and procedures, as required in the provider's contract, may result in a written request from DMAS for a corrective action plan which details the steps the provider will take and the length of time required to achieve full compliance with deficiencies which have been cited.

§ 4. Covered services and limitations.

A. Residential support services shall be provided in the recipient's home or in a licensed residence in the amount and type dictated by the training, supervision, and personal care available from the recipient's place of residence. Service providers are reimbursed only for the amount and type of residential support services included in the individual's approved plan of care based on an hourly fee for service. Residential support services shall not be authorized in the plan of care unless the individual requires these services and they exceed the care included in the individual's room and board arrangement.

B. Day support services include a variety of training, support, and supervision offered in a setting which allows peer interactions and community integration. Service providers are reimbursed only for the amount and type of day support services included in the individual's approved plan of care based on a daily fee for service established according to the intensity and duration of the service to be delivered.

C. Habilitation services shall include prevocational and supported employment services for former institutional residents. Each plan of care must contain documentation regarding whether prevocational or supported employment services are available in vocational rehabilitation agencies through § 110 of the Rehabilitation Act of 1973 or in special education services through § 602(16) and (17) of the Education of the Handicapped Act. When services are provided through these sources, the plan of care shall not authorize them as a waiver funded expenditure. Service providers are reimbursed only for the amount and type of habilitation services included in the individual's approved plan of care based on a daily fee for service established according to the intensity and duration of the service delivered.

D. Therapeutic consultation is available under the waiver for Virginia licensed or certified practitioners in psychology, social work, occupational therapy, physical therapy and speech therapy. Behavioral analysis performed by persons certified by DMHMRSAS based on the individual's work experience, education and demonstrated knowledge, skills, and abilities may also be a covered waiver service. These services may be provided, based on the individual plan of care, for those individuals for whom specialized consultation is clinically necessary to enable their utilization of waiver services. Therapeutic consultation services may be provided in residential or day support settings or in office settings. Service providers are reimbursed according to the amount and type of service authorized in the plan of care based on an hourly fee for service.

§ 5. Reevaluation of service need and utilization review.

A. The Consumer Service Plan.

1. The Consumer Service Plan shall be developed by the case manager mutually with other service providers, the recipient, consultants, and other interested parties based on relevant, current assessment data. The plan of care process determines the services to be rendered to recipients, the frequency of services, the type of service provider, and a description of the services to be offered. Only services authorized on the CSP by DMHMRSAS according to DMAS policies will be reimbursed by DMAS.

The case manager is responsible for continuous monitoring of the appropriateness of the recipient's plan of care and revisions to the CSP as indicated b

the changing needs of the recipient. At a minimum, the case manager shall review the plan of care every three months to determine whether service goals and objectives are being met and whether any modifications to the CSP are necessary.

3. The care coordinator shall review the plan of care every six months or more frequently as required to assure proper utilization of services. Any modification to the amount or type of services in the CSP must be authorized by the care coordinator, another employee of DMHMRSAS or DMAS.

B. Review of level of care.

1. The care coordinator shall review the recipient's level of care and continued need for waiver services every six months or more frequently as required to assure proper utilization of services.

2. The case manager shall coordinate a comprehensive reassessment, including a medical examination and a psychological evaluation or review, for every waiver recipient at least once a year. This reassessment shall include an update of the ICAP instrument, or other appropriate instrument for children under six years of age, and any other appropriate assessment data based on the recipient's characteristics.

C. Documentation required.

1. The case management agency must maintain the following documentation for review by the DMHMRSAS care coordinator and DMAS utilization review staff for each waiver recipient:

a. All ICAP and other assessment summaries and CSP's completed for the recipient maintained for a period not less than five years from the recipient's start of care.

b. All ISP's from any provider rendering waiver services to the recipient.

c. All supporting documentation related to any change in the plan of care.

d. All related communication with the providers, recipient, consultants, DMHMRSAS, DMAS, DSS, DRS or other related parties.

e. An ongoing log which documents all contacts made by the case manager related to the waiver recipient.

2. The individual service providers must maintain the following documentation for review by the DMHMRSAS care coordinator and DMAS utilization review staff for each waiver recipient:

a. All ISP's developed for that recipient maintained for a period not less than five years from the date of the recipient's entry to waiver services.

b. An attendance log which documents the date services were rendered and the amount and type of service rendered.

c. Appropriate progress notes reflecting recipient's progress toward the goals on the ISP.

REAL ESTATE BOARD

Title of Regulation: **VR 585-01-05. Fair Housing Regulations.**

Statutory Authority: §§ 36-94(d) and 36-96.20 C of the Code of Virginia.

Public Hearing Date: July 17, 1991 - 1 p.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulations apply to all persons in the Commonwealth who seek or provide housing. The purpose of the regulations is to implement and clarify the enforcement of Virginia's Fair Housing Law and ensure that Virginia continues to be certified as a substantially equivalent state by the U. S. Department of Housing and Urban Development (HUD). The Virginia Fair Housing Law and these regulations closely follow the federal fair housing law and regulations which are presently in effect nationwide. Maintenance of substantial equivalency will enable Virginia to continue to receive and process fair housing complaints received by HUD from those seeking housing in the Commonwealth of Virginia. In addition, HUD provides reimbursement for processing these cases and moneys for training of Department of Commerce Fair Housing staff. Substantial equivalency prevents the public and housing providers from being subjected to two different investigations and, potentially, two different conclusions and remedies. In addition, substantially equivalent agencies are eligible to apply for federal grants for other activities such as outreach and education.

The proposed fair housing regulations contain procedural and substantive information which expands on the Virginia Fair Housing Law. Clarifying the law is their only purpose. Individuals will not be cited for a violation of these regulations; any violations cited will be of the law. Because many of these provisions already exist in federal law or regulation or in the Virginia Fair Housing Law, additional financial impact on housing providers will not occur as the result of the fair housing regulations.

VR 585-01-05. Fair Housing Regulations.

PART I.
GENERAL PROVISIONS.

§ 1.1. Definitions.

The definitions provided in the Virginia Fair Housing Law, as they may be supplemented herein, shall apply throughout these fair housing regulations.

The following words and terms used in these regulations have the following meanings, unless the context clearly indicates otherwise:

"Authorized representative" means (i) an attorney licensed to practice law in the Commonwealth, or (ii) a law student appearing in accordance with the third-year student practice rule, or (iii) a non-lawyer under the supervision of an attorney and acting pursuant to Part 6, § 1, Rule 1 (UPR 1-101(A)(1)) of the Rules of the Supreme Court of Virginia, or (iv) a person who, without compensation, advises a complainant, respondent, or aggrieved person in connection with a complaint, a conciliation conference or proceeding before the board. When a complainant, respondent, or aggrieved person authorizes a person to represent him under subdivision (iv) of this definition, such authority shall be made to the board, in writing or orally in an appearance before the board, and shall be accepted by the representative by sending a written acknowledgement to the board or by the representative's appearance before the board.

"Board" means the Real Estate Board.

"Broker" or "agent" means any person authorized to perform an action on behalf of another person regarding any matter related to the sale or rental of dwellings, including offers, solicitations or contracts and the administration of matters regarding such offers, solicitations or contracts or any residential real estate-related transactions.

"Department" means the Virginia Department of Commerce.

"Fair housing law" means the Virginia Fair Housing Law, Chapter 5.1 (§ 36-96.1 et seq.) of Title 36 of the Code of Virginia, effective July 1, 1991.

"Fair housing administrator" means the individual employed and designated as such by the Director of the Department of Commerce.

"Handicap" is defined in § 2.14 of these regulations.

"Housing for older persons" means housing: (i) provided under any state or federal program that the secretary of the Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons; (ii) intended for, and solely occupied by, persons 62 years of age or older; or (iii) intended and operated for occupancy by at least one person 55 years of age or older per unit.

"Person in the business of selling or renting dwellings" means any person who (i) within the preceding 12 months, has participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; (ii) within the preceding 12 months, has participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or (iii) is the owner of any dwelling designed or intended for occupancy by or occupied by, five or more families.

"Real estate-related transactions" means: (i) the making or purchasing of loans or providing other financial assistance (a) for purchasing, constructing, improving, repairing or maintaining a dwelling; (b) secured by residential real estate; or (ii) the selling, brokering or appraising of residential real property.

"Receipt of notice" means the day that personal service is completed by handing or delivering a copy of the document to an appropriate person or the date that a document is delivered by certified mail, or three days after the date of the proof of mailing of first class mail.

§ 1.2. Purpose.

These fair housing regulations govern the exercise of the administrative and enforcement powers granted to and the performance of duties imposed upon the Real Estate Board by the Virginia Fair Housing Law.

These regulations provide the board's interpretation of the coverage of the fair housing law regarding discrimination related to the sale or rental of dwellings, the provision of services in connection therewith, and the availability of residential real estate-related transactions.

§ 1.3. General construction.

These rules shall be construed to further policies and purposes of the Virginia Fair Housing Law. The board does not intend that a failure to comply with these rules by the board should constitute a jurisdictional or other bar to administrative or legal action unless otherwise required under these rules or the law. The board intends that substantive rules shall impose obligations, rights, and remedies, which are substantially equivalent to those provided by federal law and regulations of the federal government.

§ 1.4. Authority.

These regulations are promulgated pursuant to the authority conferred on the Real Estate Board under the Virginia Fair Housing Law.

§ 1.5. Scope.

It is the policy of Virginia to provide, within constitutional limitations, for fair housing throughout the Commonwealth and to provide rights and remedies substantially equivalent to those granted under federal law. No person shall be subject to discriminatory housing practices because of race, color, religion, sex, handicap, elderliness, familial status, or national origin in the sale, rental, advertising of dwellings, inspection of dwellings or entry into a neighborhood, in the provision of brokerage services, financing or the availability of residential real estate-related transactions.

§ 1.6. Notice.

Whenever any person is required by these regulations to give notice to any other person of any fact, matter, or event, then such notice shall be written, and delivery of such notice shall be sufficient if the person giving notice demonstrates that he has used any of the following methods: (i) certified mail, (ii) personal service which means handing a copy of the document to the person to be served or leaving a copy of the document with a person of suitable age and discretion at the place of business, residence or usual place of abode of the person to be served; and (iii) first class mailing with proof of mailing.

This section shall in no way be construed to invalidate delivery of notice in any case in which it can be shown that the person intended to receive the notice actually received it.

PART II.
REGULATED CONDUCT.

Article 1.
Prohibited Practices.

§ 2.1. Real estate practices prohibited.

A. These regulations provide the board's interpretation of conduct that is unlawful housing discrimination under § 36-96.3 of the Code of Virginia. The list "...having the right to sell, rent, lease, control, construct or manage..." in § 36-96.3 of the Virginia Fair Housing Law is not exhaustive. Any person engaging in any of the practices prohibited by the Virginia Fair Housing Law will not be exempted from the provisions of this law because they do not have the right to sell, rent, lease, control, construct or manage a dwelling. In general the prohibited actions are set forth under sections of these regulations which are most applicable to the discriminatory conduct described. However, an action illustrated in one section can constitute a violation under other sections in these regulations.

B. It shall be unlawful to:

1. Refuse to sell or rent a dwelling after a bona fide offer has been made, or to refuse to negotiate for the sale or rental of a dwelling because of race, color, religion, sex, familial status, elderliness or national origin, or to discriminate in the sale or rental of a dwelling because of handicap.

2. Discriminate in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with sales or rentals, because of race, color, religion, sex, handicap, familial status, elderliness or national origin.

3. Engage in any conduct relating to the provision of housing which otherwise makes unavailable or denies dwellings to persons because of race, color, religion, sex, handicap, familial status, elderliness or national origin.

4. Make, print or publish, or cause to be made, printed or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination because of race, color, religion, sex, handicap, familial status, elderliness or national origin, or an intention to make any such preference, limitation or discrimination.

5. Represent to any person because of race, color, religion, sex, handicap, familial status, elderliness or national origin that a dwelling is not available for sale or rental when such dwelling is in fact available.

6. Engage in blockbusting practices in connection with the sale or rental of dwellings because of race, color, religion, sex, handicap, familial status, elderliness and national origin.

7. Deny access to or membership or participation in, or to discrimination against any person in his access to or membership or participation in, any multiple-listing service, real estate brokers' association, or other service organization or facility relating to the business of selling or renting a dwelling or in the terms or conditions or membership or participation, because of race, color, religion, sex, handicap, familial status, elderliness or national origin.

C. The application of the fair housing law with respect to persons with handicaps is discussed in § 2.14.

§ 2.2. Unlawful refusal to sell or rent or to negotiate for the sale or rental.

A. It shall be unlawful for a person to refuse to sell or rent a dwelling to a person who has made a bona fide offer, because of race, color, religion, sex, familial status, elderliness, or national origin, or to refuse to negotiate with a person for the sale or rental of a dwelling because of race, color, religion, sex, familial status, elderliness, or national origin, or to discriminate against any person in the sale or rental of a dwelling because of handicap.

B. Prohibited actions under this section include, but are not limited to:

1. Failing to accept or consider a bona fide offer because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

2. Refusing to sell or rent a dwelling to, or to negotiate for the sale or rental of a dwelling with, any person because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

3. Imposing different sales prices or rental charges for the sale or rental of a dwelling upon any person because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

4. Using different qualification criteria or applications, or sale or rental standards or procedures, such as income standards, application requirements, application fees, credit analysis or sale or rental approval procedures or other requirements, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

5. Evicting tenants because of their race, color, religion, sex, handicap, familial status, elderliness, or national origin or because of the race, color, religion, sex, handicap, familial status, elderliness, or national origin of a tenant's guest.

NOTE: § 36-96.2 D of the Virginia Fair Housing Law provides that "Nothing in this chapter prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in federal law."

§ 2.3. Discrimination in terms, conditions and privileges and in services and facilities.

A. It shall be unlawful, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin to impose different terms, conditions or privileges relating to the sale or rental of a dwelling or to deny or limit services or facilities in connection with the sale or rental of a dwelling.

B. Prohibited actions under this section include, but are not limited to:

1. Using different provisions in leases or contracts of sale, such as those relating to rental charges, security deposits and the terms of a lease and those relating to down payment and closing requirements, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

2. Failing or delaying maintenance or repairs of sale or rental dwellings because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

3. Failing to process an offer for the sale or rental of a dwelling or to communicate an offer accurately because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

4. Limiting the use of privileges, services or facilities associated with a dwelling because of race, color, religion, sex, handicap, familial status, elderliness or national origin of an owner, tenant or a person associated with him.

5. Denying or limiting services or facilities in connection with the sale or rental of a dwelling, because a person failed or refused to provide sexual favors.

§ 2.4. Other prohibited sale and rental conduct.

A. It shall be unlawful, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin to restrict or attempt to restrict the choices of a person by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood, or development.

Prohibited actions under subsection A of this section which are generally referred to as unlawful steering practices, include, but are not limited to:

1. Discouraging any person from inspecting purchasing, or renting a dwelling because of race, color, religion, sex, handicap, familial status, elderliness, or national origin or because of the race, color, religion, sex, handicap, familial status, elderliness, or national origin of persons in a community, neighborhood or development.

2. Discouraging the purchase or rental of a dwelling because of race, color, religion, sex, handicap, familial status, elderliness, or national origin by exaggerating drawbacks or failing to inform any person of desirable features of a dwelling or of a community, neighborhood, or development.

3. Communicating to any prospective purchaser that he would not be comfortable or compatible with existing residents of a community, neighborhood or development because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

4. Assigning any person to a particular section of a community, neighborhood or development or to a particular floor or section of a building because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

B. It shall be unlawful because of race, color, religion, sex, handicap, familial status, elderliness, or national origin to engage in any conduct relating to the provision of housing or of services and facilities in connectic

herewith that otherwise makes unavailable or denies dwellings to persons.

Prohibited activities relating to dwellings sales and rental practices under subsection B of this section include, but are not limited to:

1. Discharging or taking other adverse action against an employee, broker, or agent because he refused to participate in a discriminatory housing practice.

2. Employing codes or other devices to segregate or reject applicants, purchasers or renters, refusing to take or to show listings of dwellings in certain areas because of race, color, religion, sex, handicap, familial status, elderliness, or national origin or refusing to deal with certain brokers or agents because they or one or more of their clients are of a particular race, color, religion, sex, handicap, familial status, elderliness, or national origin.

3. Denying or delaying the processing of an application made by a purchaser or renter or refusing to approve such a person for occupancy in a cooperative or condominium dwelling because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

4. Refusing to provide municipal services or property or hazard insurance for dwelling or providing such services or insurance differently because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

§ 2.5. Discriminatory advertisements, statements and notices.

A. It shall be unlawful to make, print or publish, or cause to be made, printed or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling which indicates any preference, limitation or discrimination because of race, color, religion, sex, handicap, familial status, elderliness, or national origin, or an intention to make any such preference, limitation, or discrimination.

B. The prohibitions in this section shall apply to all written or oral notices or statements by a person engaged in the sale or rental of a dwelling. Written notices and statements include any applications, flyers, brochures, deeds, signs, banners, posters, billboards, or any documents used with respect to the sale or rental of a dwelling.

C. Discriminatory notices, statements, and advertisements include, but are not limited to:

1. Using words, phrases, photographs, illustrations, symbols, or forms which convey that dwellings are available or not available to a particular group of persons because of race, color, religion, sex, handicap, familial status, elderliness or national origin.

2. Expressing to agents, brokers, employees, prospective sellers, or renters or any other persons a preference for or limitation on any purchaser or renter because of race, color, religion, sex, handicap, familial status, elderliness, or national origin of such person.

3. Selecting media or locations for advertising the sale or rental of dwelling which deny particular segments of the housing market information about housing opportunities because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

4. Refusing to publish advertising for the sale or rental of dwellings or requiring different charges or terms for such advertising because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

D. Publishers' notice.

All publishers should publish at the beginning of the real estate advertising section a notice such as that appearing in Table III, Appendix I to Part 109, 24 CFR, Ch. 1 (4-1-89 edition). The notice may include a statement regarding the coverage of any local fair housing or human rights ordinance prohibiting discrimination in the sale, rental or financing of dwellings.

E. Fair housing poster requirements.

1. Persons subject. Except to the extent that § 2.5 E 1 b applies, all persons subject to § 36-96.3 of the Virginia Fair Housing Law, Unlawful Discriminatory Housing Practices, shall post and maintain a HUD approved fair housing poster as follows:

a. With respect to a single-family dwelling (not being offered for sale or rental in conjunction with the sale or rental of other dwellings) offered for sale or rental through a real estate broker, agent, salesman, or person in the business of selling or renting dwellings, such person shall post and maintain a fair housing poster at any place of business where the dwelling is offered for sale or rental.

b. With respect to all other dwellings covered by the law: (i) a fair housing poster shall be posted and maintained at any place of business where the dwelling is offered for sale or rental, and (ii) a fair housing poster shall be posted and maintained at the dwelling, except that with respect to a single-family dwelling being offered for sale or rental in conjunction with the sale or rental of other dwellings, the fair housing poster may be posted and maintained at the model dwellings instead of at each of the individual dwellings.

c. With respect to those dwellings to which subdivision 1 b of this section applies, the fair

housing poster must be posted at the beginning of construction and maintained throughout the period of construction and sale or rental.

2. This part shall not require posting and maintaining a fair housing poster:

a. On vacant land, or

b. At any single-family dwelling, unless such dwelling (i) is being offered for sale or rental in conjunction with the sale or rental of other dwellings in which circumstances a fair housing poster shall be posted and maintained as specified in subdivision 1 b (ii) of this subsection, or (ii) is being offered for sale or rental through a real estate broker, agent, salesman, or person in the business of selling or renting dwellings in which circumstances a fair housing poster shall be posted and maintained as specified in subdivision 1 a of this subsection.

c. All persons subject to § 36-96.4 of the Virginia Fair Housing Law, Discrimination in Residential Real Estate-Related Transactions, shall post and maintain a fair housing poster at all their places of business which participate in the covered activities.

d. All persons subject to § 2.8, Discrimination in the Provision of Brokerage Services, shall post and maintain a fair housing poster at all their places of business.

3. Location of posters. All fair housing posters shall be prominently displayed so as to be readily apparent to all persons seeking housing accommodations or seeking to engage in residential real estate-related transactions or brokerage services.

4. Availability of posters. All persons subject to this part may obtain fair housing posters from the Virginia Department of Commerce. A facsimile may be used if the poster and the lettering are equivalent in size and legibility to the poster available from the Department of Commerce. Any person who claims to have been injured by a discriminatory housing practice may file a complaint with the administrator pursuant to Part III of these regulations. A failure to display the fair housing poster as required by this section shall be deemed prima facie evidence of a discriminatory housing practice.

5. Additional fair housing advertising guidelines are found in Article 2, §§ 2.17 through 2.23 of these regulations.

§ 2.6. Discriminatory representations on the availability of dwellings.

A. It shall be unlawful, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin, to provide inaccurate or untrue information about the availability of dwelling for sale or rental.

B. Prohibited actions under this section include, but are not limited to:

1. Indicating through words or conduct that a dwelling which is available for inspection, sale, or rental has been sold or rented, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

2. Representing that covenants or other deed, trust, or lease provisions which purport to restrict the sale or rental of dwellings because of race, color, religion, sex, handicap, familial status, elderliness, or national origin preclude the sale or rental of a dwelling to a person.

3. Enforcing covenants or other deed, trust, or lease provisions which preclude the sale or rental of a dwelling to any person because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

4. Limiting information by word or conduct regarding suitably priced dwellings available for inspection, sale or rental, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

5. Providing false or inaccurate information regarding the availability of a dwelling for sale or rental to any person, including testers, regardless of whether such person is actually seeking housing, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

§ 2.7. Blockbusting.

A. It shall be unlawful to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, familial status, elderliness, or national origin or with a handicap.

B. Prohibited actions under this section include, but are not limited to:

1. Engaging in conduct (including uninvited solicitations for listing) which conveys to a person that a neighborhood is undergoing or is about to undergo a change in the race, color, religion, sex, handicap, familial status, elderliness, or national origin of persons residing in it, in order to encourage the person to offer a dwelling for sale or rental.

2. Encouraging any person to sell or rent a dwelling through assertions that the entry or prospective entry of persons of a particular race, color, religion, sex, familial status, elderliness or national origin, or wit

handicaps, can or will result in undesirable consequences for the project, neighborhood or community, such as a lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other services or facilities.

§ 2.8. Discrimination in the provision of brokerage services.

A. It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against any person in the terms or conditions of such access, membership or participation, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

B. Prohibited actions under this section include, but are not limited to:

1. Setting different fees for access to or membership in a multiple listing service based on race, color, religion, sex, handicap, familial status, elderliness, or national origin.

2. Denying or limiting benefits accruing to members in a real estate brokers' organization because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

3. Imposing different standards or criteria for membership in a real estate sales, rental, or exchange organization because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

4. Establishing geographic boundaries or office location or residence requirements for access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

§ 2.9. Discriminatory practices in residential real estate-related transactions.

It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, elderliness or national origin.

§ 2.10. Discrimination in the making of loans and in the provision of other financial assistance.

A. It shall be unlawful for any person or entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available loans or other financial assistance for a dwelling, or which is or is to be secured by a dwelling, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

B. Prohibited practices under this section include, but are not limited to, failing or refusing to provide to any person, in connection with a residential real estate-related transaction, information regarding the availability of loans or other financial assistance, application requirements, procedures or standards for the review and approval of loans or financial assistance, or providing information which is inaccurate or different from that provided others, because of race, color, religion, sex, handicap, familial status, elderliness or national origin.

§ 2.11. Discrimination in the purchasing of loans.

A. It shall be unlawful for any person or entity engaged in the purchasing of loans or other debts or securities which support the purchase, construction, improvement, repair or maintenance of a dwelling, or which are secured by residential real estate, to refuse to purchase such loans, debts, or securities, or to impose different terms or conditions for such purchases, because of race, color, religion, sex, handicap, familial status, elderliness or national origin.

B. Unlawful conduct under this section includes, but is not limited to:

1. Purchasing loans or other debts or securities which relate to, or which are secured by dwellings in certain communities or neighborhoods but not in others because of the race, color, religion, sex, handicap, familial status, elderliness, or national origin of persons in such neighborhoods or communities.

2. Pooling or packaging loans or other debts or securities which relate to, or which are secured by, dwellings differently because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

3. Imposing or using different terms or conditions on the marketing or sale of securities issued on the basis of loans or other debts or securities which relate to, or which are secured by, dwellings because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

C. This section does not prevent consideration, in the purchasing of loans, of factors justified by business necessity, including requirements of federal law, relating to a transaction's financial security or to protection against default or reduction of the value of the security. Thus, this provision would not preclude considerations employed in normal and prudent transactions, provided that no such factor may in any way relate to race, color, religion, sex,

handicap, familial status, elderliness, or national origin.

§ 2.12. Discrimination in the terms and conditions for making available loans or other financial assistance.

A. It shall be unlawful for any person or entity engaged in the making of loans or in the provision of other financial assistance relating to the purchase, construction, improvement, repair or maintenance of dwellings or which are secured by residential real estate to impose different terms or conditions for the availability of such loans or other financial assistance because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

B. Unlawful conduct under this section includes, but is not limited to:

1. Using different policies, practices or procedures in evaluating or in determining credit worthiness of any person in connection with the provision of any loan or other financial assistance for a dwelling or for any loan or other financial assistance which is secured by residential real estate because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

2. Determining the type of loan or other financial assistance to be provided with respect to a dwelling, or fixing the amount, interest rate, duration or other terms for a loan or other financial assistance for a dwelling or which is secured by residential real estate because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

§ 2.13. Unlawful practices in the selling, brokering, or appraising of residential real property.

A. It shall be unlawful for any person or other entity whose business includes engaging in the selling, brokering or appraising of residential real property to discriminate against any person in making available such services, or in the performance of such services, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

B. For the purposes of this section the term "appraisal" means an estimate or opinion of the value of a specified residential real property made in a business context in connection with the sale, rental, financing or refinancing of a dwelling or in connection with any activity that otherwise affects the availability of a residential real estate-related transaction, whether the appraisal is oral or written, or transmitted formally or informally. The appraisal includes all written comments and other documents submitted as support for the estimate or opinion of value.

C. Nothing in this section prohibits a person engaged in the business of making or furnishing appraisals of residential real property from taking into consideration factors other than race, color, religion, sex, handicap, familial status, elderliness, or national origin.

D. Practices which are unlawful under this section include, but are not limited to, using an appraisal of residential real property in connection with the sale, rental, or financing of any dwelling where the person knows or reasonably should know that the appraisal improperly takes into consideration race, color, religion, sex, handicap, familial status, elderliness, or national origin.

§ 2.14. General prohibitions against discrimination because of handicap.

A. Definitions.

As used in § 2.14 unless a different meaning is plainly required by the context:

"Accessible," when used with respect to the public and common use areas of a building containing covered multi-family dwellings, means that the public or common use areas of the building can be approached, entered, and used by individuals with physical handicaps. The phrase "readily accessible to and usable by" is synonymous with "accessible." A public or common use area that complies with the appropriate requirements of ANSI A117.1-1986 or with any other standards adopted as part of regulations promulgated by HUD providing accessibility and usability for physically handicapped people.

"Accessible route" means a continuous unobstructed path connecting accessible elements and spaces in a building or within a site that can be negotiated by a person with a severe disability using a wheelchair and that is also safe for and usable by people with other disabilities. Interior accessible routes may include corridors, floors, ramps, elevators and lifts. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps and lifts. A route that complies with the appropriate requirements of ANSI A117.1-1986, or with any other standards adopted as part of regulations promulgated by HUD, is an "accessible route."

"ANSI A117.1" means the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

"Building" means a structure, facility or portion thereof that contains or serves one or more dwelling units.

"Building entrance on an accessible route" means an accessible entrance to a building that is connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, or to public street

or sidewalks, if available. A building entrance that complies with ANSI A117.1 or a comparable standard complies with the requirements of this paragraph.

"Common use areas" shall include, but not be limited to rooms, spaces, or elements inside or outside of a building which are not part of the dwelling unit and which are made available for the use of residents of a building or the guests thereof. These areas include hallways, lounges, lobbies, laundry rooms, refuse rooms, mailrooms, recreational areas and passageways among and between buildings.

"Controlled substance" means any drug or other substance, or immediate precursor included in the definition in § 102 of the Controlled Substances Act (21 U.S.C. 802).

"Covered multi-family dwellings" means buildings consisting of four or more dwelling units if such buildings have one or more elevators, and ground floor dwellings units in other buildings consisting of four or more dwelling units.

"Dwelling unit" means a single unit of residence for a family or one or more persons. Examples of dwelling units include: a single family home; an apartment unit within an apartment building; and in other types of dwellings in which sleeping accommodations are provided but toileting or cooking facilities are shared by occupants of more than one room or portion of the dwelling, rooms in which people sleep. Examples of the latter include dormitory rooms and sleeping accommodations in shelters intended for occupancy as a residence for homeless persons.

"Entrance" means any access point to a building or portion of a building used by residents for the purpose of entering.

"Exterior" means all areas of the premises outside of an individual dwelling unit.

"First occupancy" means a building that has never before been used for any purpose.

"Ground floor" means a floor of a building with a building entrance on an accessible route. A building may have more than one ground floor.

"Handicap" means, with respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a medical or psychological record of such an impairment; or being regarded as having such an impairment. This term does not include current, illegal use of or addition to a controlled substance as defined in Virginia or federal law. For purposes of this part, an individual shall not be considered to have a handicap solely because that individual is a transvestite.

As used in this definition:

"Physical or mental impairment" includes:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

"Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

"Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

"Is regarded as having an impairment" means:

1. Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation;

2. Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of other toward such impairment; or

3. Has none of the impairments defined in "physical or mental impairment" but is treated by another person as having such an impairment.

"Interior" means the spaces, parts, components or elements of an individual dwelling unit.

"Modification" means any change to the public or common use areas of a building or any change to a dwelling unit.

"Premises" means the interior or exterior spaces, parts, components or elements of a building, including individual dwelling units and the public and common use areas of a building.

"Public use areas" means interior or exterior rooms or spaces of a building that are made available to the general public. Public use may be provided at a building that is privately or publicly owned.

"Site" means a parcel of land bounded by a property line or a designated portion of a public right of way.

"Standard for Accessibility and Usability for Physically Handicapped People" – Compliance with the appropriate requirements of the American National Standard for building and facilities commonly cited as "ANSI A117.1" or with any other standard adopted as part of regulations promulgated by HUD providing accessibility and usability for physically handicapped people.

B. General prohibitions against discrimination because of handicap.

1. It shall be unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

a. That buyer or renter;

b. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

c. Any person associated with that person.

2. It shall be unlawful to discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:

a. That buyer or renter;

b. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

c. Any person associated with that person.

3. It shall be unlawful to make an inquiry to determine whether an applicant for a dwelling, a person intending to reside in that dwelling after it is so sold, rented or made available, or any person associated with that person, has a handicap or to make inquiry as to the nature or severity of a handicap of such a person. However, this subdivision does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they have handicaps:

a. Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;

b. Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with handicaps or to persons with a particular type of handicap;

c. Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with handicaps or to persons with a particular type of handicap;

d. Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance;

e. Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance;

4. Nothing in this § 2.14 B requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

5. Housing cannot be denied because of current, illegal use of or addiction to a controlled substance which is not on the federal list of controlled substances, even if it is on the Virginia list of controlled substances.

C. Reasonable modifications of existing premises.

1. It shall be unlawful for any person to refuse to permit, at the expense of a handicapped person, reasonable modifications of existing premises, occupied or to be occupied by a handicapped person, if the proposed modifications may be necessary to afford the handicapped person full enjoyment of the premises of a dwelling. In the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. The landlord may not increase for handicapped persons any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

2. A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained.

D. Reasonable accommodations.

It shall be unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

E. Design and construction requirements.

1. Covered multi-family dwellings for first occupancy after March 13, 1991, shall be designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site. For purposes of this section, a covered multi-family dwelling shall be deemed to be designed and constructed for first occupancy on or before March 13, 1991, if they are occupied by that date or if the last building permit or renewal thereof for the covered multi-family dwellings is issued by a state, county or local government on or before January 13, 1990. The burden of establishing impracticality because of terrain or unusual site characteristics is on the person or persons who designed or constructed the housing facility.

2. All covered multi-family dwellings for first occupancy after March 13, 1991, with a building entrance on an accessible route shall be designed and constructed in such a manner that:

a. The public and common use areas are readily accessible to and usable by handicapped persons;

b. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

c. All premises within covered multi-family dwelling units contain the following features of adaptable design:

(1) An accessible route into and through the covered dwelling unit;

(2) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(3) Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower, stall and shower seat, where such facilities are provided; and

(4) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

3. Compliance with the appropriate requirements of ANSI A117.1-1986, or with any other standards adopted as part of regulations promulgated by HUD providing accessibility and usability for physically handicapped people, suffices to satisfy the requirements of subdivision 2 c of this subsection.

§ 2.15. Housing for older persons.

Nothing in the Virginia Fair Housing Law regarding unlawful discrimination because of familial status shall apply to housing for older persons. As used in this section, "housing for older persons" includes:

1. Housing provided under any state or federal program determined by the Secretary of Housing and Urban Development to be specifically designed and operated to assist elderly persons;

2. 62 or over housing. The provisions regarding familial status in these regulations shall not apply to housing intended for, and solely occupied by persons 62 years of age or older. Housing satisfies the requirements of this exemption even though:

a. There are persons residing in such housing on September 13, 1988, who are under 62 years of age, provided that all new occupants are persons 62 years of age or older;

b. There are unoccupied units, provided that such units are reserved for occupancy by persons 62 years of age or older;

c. There are units occupied by employees of the housing (and family members residing in the same unit) who are under 62 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.

3. 55 or over housing. The provisions regarding familial status shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the housing satisfies the requirements of subdivision 3 a or b of this subsection and the requirements of subdivision 3 c of this subsection.

a. The housing facility has significant facilities and services specifically designed to meet the physical or social needs of older persons. "Significant facilities and services specifically designed to meet the physical or social needs of older persons" may include, but are not limited to, social and recreational programs, continuing education, information and counseling, recreational, homemaker, outside maintenance and referral services, and accessible physical environment, emergency and preventive health care programs, congregate dining facilities, transportation to facilitate access to social services, and services designed to encourage and assist residents to use the

services and facilities available to them (the housing facility need not have all of these features to qualify for the exemption under this section);

b. It is not practicable to provide significant facilities and services designed to meet the physical or social needs of older persons and the housing facility is necessary to provide important housing opportunities for older persons. In order to satisfy this requirement the owner or manager of the housing facility must demonstrate through credible and objective evidence that the provision of significant facilities and services designed to meet the physical or social needs of older person would result in depriving older persons in the relevant geographic area of needed and desired housing. The following factors, among others, are relevant in meeting the requirements of this subdivision:

(1) Whether the owner or manager of the housing facility has endeavored to provide significant facilities and services designed to meet the physical or social needs of older persons either by the owner or by some other entity. Demonstrating that such services and facilities are expensive to provide is not alone sufficient to demonstrate that the provision of such services is not practicable.

(2) The amount of rent charged, if the dwellings are rented, or the price of the dwellings, if they are offered for sale;

(3) The income range of the residents of the housing facility;

(4) The demand for housing for older persons in the relevant geographic area;

(5) The range of housing choices for older persons within the relevant geographic area;

(6) The availability of other similarly priced housing for older persons in the relevant geographic area. If similarly priced housing for older persons with significant facilities and services is reasonably available in the relevant geographic area then the housing facility does not meet the requirements of subdivision 2 b of this subsection;

(7) The vacancy rate of the housing facility;

c. (1) At least 80% of the units in the housing facility are occupied by at least one person 55 years of age or older per unit except that a newly constructed housing facility for first occupancy after March 12, 1989, need not comply with this subdivision 2 c (i) of this subsection until 25% of the units in the facility are occupied; and

(2) The owner or manager of a housing facility publishes and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. The following factors, among others, are relevant in determining whether the owner or manager of a housing facility has complied with the requirements of this subdivision:

The manner in which the housing facility is described to prospective tenants.

The nature of any advertising designed to attract prospective residents.

Age verification procedures.

Lease provisions.

Written rules and regulations.

Actual practices of the owner or manager in enforcing relevant lease provisions and relevant rules or regulations.

d. Housing satisfies the requirements of the 55 or older exemption even though:

(1) On September 13, 1988, under 80% of the occupied units in the housing facility are occupied by at least one person 55 years of age or older per unit, provided that at least 80% of the units that are occupied by new occupants after September 13, 1988, are occupied by at least one person 55 years of age or older.

(2) There are unoccupied units, provided that at least 80% of such units are reserved for occupancy by at least one person 55 years of age or over.

(3) There are units occupied by employees of the housing (and family members residing in the same unit) who are under 55 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.

§ 2.16. Interference, coercion or intimidation.

A. This section provides the board's interpretation of the conduct that is unlawful under § 36-96.5 of the Virginia Fair Housing Law.

B. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Virginia Fair Housing Law and these regulations.

C. Conduct made unlawful under this section includes, but is not limited to, the following:

1. Coercing a person, either orally, in writing, or by other means, to deny or limit the benefits provided that person in connection with the sale or rental of a dwelling or in connection with a residential real estate-related transaction because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

2. Threatening, intimidating or interfering with persons in their enjoyment of a dwelling because of the race, color, religion, sex, handicap, familial status, elderliness, or national origin of such persons, or of visitors or associates of such persons.

3. Threatening an employee or agent with dismissal or an adverse employment action, or taking such adverse employment action, for any effort to assist a person seeking access to the sale or rental of a dwelling or seeking access to any residential real estate-related transaction, because of the race, color, religion, sex, handicap, familial status, elderliness, or national origin of that person or of any person associated with that person.

4. Intimidating or threatening any person because that person is engaging in activities designed to make other persons aware of, or encouraging such other persons to exercise, rights granted or protected by this part.

5. Retaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the fair housing law.

Article 2.
Advertising.

The following information is to assist all advertising media, advertising agencies and all other persons who use advertising to make, print, or publish, or cause to be made, printed or published, advertisements with respect to the sale, rental, or financing of dwellings which are in compliance with the requirements of the Virginia Fair Housing Law. These regulations also describe the matters this board will review in evaluating compliance with the fair housing law in connection with investigations of complaints alleging discriminatory housing practices involving advertising.

§ 2.17. Scope.

These guidelines describe the matters the board will review in evaluating compliance with the fair housing law in connection with the investigation of complaints alleging discriminatory housing practices involving advertising. These criteria will be considered in making determinations as to whether there is reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.

§ 2.18. Advertising media.

This section provides criteria for use by advertising media in determining whether to accept and publish advertising regarding sales or rental transactions. These criteria will be considered in making determinations as to whether there is reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.

§ 2.19. Persons placing advertisements.

A failure by persons placing advertisements to use the criteria contained in this part, when found in connection with the investigation of a complaint alleging the making or use of discriminatory advertisements, will be considered in making a determination of reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.

§ 2.20. Affirmative advertising efforts.

Nothing in this section shall be construed to restrict advertising efforts designed to attract persons to dwellings who would not ordinarily be expected to apply, when such efforts are pursuant to an affirmative marketing program or undertaken to remedy the effects of prior discrimination in connection with the advertising or marketing of dwellings.

§ 2.21. Use of words, phrases, symbols and visual aids.

The following words, phrases, symbols, and forms typify those most often used in residential real estate advertising to convey either overt or tacit discriminatory preferences or limitations. These examples are not exhaustive. In considering a complaint under the fair housing law, the board will normally consider the use of these and comparable words, phrases, symbols, and forms to indicate a possible violation of the law and to establish a need for further proceedings on the complaint, if it is apparent from the context of the usage that discrimination within the meaning of the law is likely to result.

1. Words descriptive of dwelling, landlord and tenants. White private home, Colored home, Jewish home, Hispanic residence, adult building.

2. Words indicative of race, color, religion, sex, handicap, familial status, elderliness or national origin.

a. Race-Negro, Black, Caucasian, Oriental, American, Indian

b. Color-White, Black, Colored.

c. Religion-Protestant, Christian, Catholic, Jewish

d. National origin-Mexican American, Puerto Rican, Philippine, Polish, Hungarian, Irish, Italian, Chicano, African, Hispanic, Chinese, Indian, Latino.

e. Sex-the exclusive use of words in advertisements,

including those involving the rental of separate units in a single or multi-family dwelling, stating or intending to imply that the housing being advertised is available to persons of only one sex and not the other, except where the sharing of living areas is involved. Nothing in this section restricts advertisements of dwellings used exclusively for dormitory facilities by educational institutions.

f. Handicap-crippled, blind, deaf, mentally ill, retarded, impaired, handicapped, physically fit. Nothing in this section restricts the inclusion of information about the availability of accessible housing in advertising of dwellings.

g. Familial status-adults, children, singles, mature persons. Nothing in this section restricts advertisements of dwellings which are intended and operated for occupancy by older persons and which constitute "housing for older persons" as defined in § 1.5 of these regulations.

h. Elderliness-elderly, senior citizens, young, old, active, available to those between 25 and 55, the gray wave.

3. Catch words. Words and phrases used in a discriminatory context should be avoided, e.g., "restricted," "exclusive," "private," "integrated," "traditional," "board approval," "membership approval."

4. Symbols or logotypes. Symbols or logotypes which imply or suggest race, color, religion, sex, handicap, familial status, elderliness or national origin.

5. Colloquialisms. Words or phrases used regionally or locally which imply or suggest race, color, religion, sex, handicap, familial status, elderliness or national origin.

6. Directions to real estate for sale or rent (use of maps or written instructions). Directions can imply a discriminatory preference, limitation, or exclusion. For example, references to real estate location made in terms of racial or national origin significant landmarks, such as an existing black development (signal to blacks) or an existing development known for its exclusion of minorities (signal to whites). Specific directions which make reference to a racial or national origin significant area may indicate a preference. References to a synagogue, congregation or parish may also indicate a religious preference.

7. Area (location) description. Names of facilities which cater to a particular racial, national origin or religious group, such as country club or private school designations, or names of facilities which are used exclusively by one sex may indicate a preference.

§ 2.22. Selective use of advertising media or content.

The selective use of advertising media or content when particular combinations thereof are used exclusively with respect to various housing developments or sites can lead to discriminatory results and may indicate a violation of the fair housing law. For example, the use of English language media alone or the exclusive use of media catering to the majority population in an area, when, in such area, there are also available non-English language or other minority media, may have discriminatory impact. Similarly, the selective use of human models in advertisements may have discriminatory impact. The following are examples of the selective use of advertisements which may be discriminatory:

1. Selective geographic advertisements. Such selective use may involve the strategic placement of billboards; brochure advertisements distributed within a limited geographic area by hand or in the mail; advertising in particular geographic coverage editions of major metropolitan newspapers or in newspapers of limited circulation which are mainly advertising vehicles for reaching a particular segment of the community; or displays or announcements available only in selected sales offices.

2. Selective use of equal opportunity slogan or logo. When placing advertisements, such selective use may involve placing the equal housing opportunity slogan or logo in advertising reaching some geographic areas, but not others, or with respect to some properties bu not others.

3. Selective use of human models when conducting an advertising campaign. Selective advertising may involve an advertising campaign using human models primarily in media that cater to one racial or national origin segment of the population without a complementary advertising campaign that is directed at other groups. Another example may involve use of racially mixed models by a developer to advertise one development and not others. Similar care must be exercised in advertising in publications or other media directed at one particular sex, or at persons without children. Such selective advertising may involve the use of human models of members of only one sex, or of adults only, in displays, photographs, or drawings to indicate preferences for one sex or the other, or for adults to the exclusion of children.

§ 2.23. Fair housing policy and practices.

In the investigation of complaints, the board will consider the implementation of fair housing policies and practices provided in this section as evidence of compliance with the prohibitions against discrimination in advertising under the fair housing law.

1. Use of equal housing opportunity logotype, statement, or slogan. All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logotype, statement, c

slogan as a means of educating the homeseeking public that the property is available to all persons regardless of race, color, religion, sex, handicap, familial status, elderliness, or national origin. The choice of logotype, statement, or slogan will depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement. See Appendix I to Part 109, 24 CFR Ch. 1, (4/1/89 edition) for suggested use of the logotype, statement, or slogan and size of logotype and copies of the suggested equal housing opportunity logotype, statement and slogan.

2. Use of human models. Human models in photographs, drawings, or other graphic techniques may not be used to indicate exclusiveness because of race, color, religion, sex, handicap, familial status, elderliness, or national origin. If models are used in display advertising campaigns, the models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area, both sexes and, when appropriate, families with children. Models, if used, should portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, handicap, familial status, elderliness, or national origin, and is not for the exclusive use of one such group.

3. Coverage of local laws. Where the equal housing opportunity statement is used, the advertisement may also include a statement regarding the coverage of any local fair housing or human rights ordinance prohibiting discrimination in the sale, rental or financing of dwellings.

4. Notification of fair housing policy. The following groups should be notified of the firm's fair housing policy:

a. Employees. All publishers of advertisements, advertising agencies, and firms engaged in the sale, rental, or financing of real estate should provide a printed copy of their nondiscrimination policy to each employee and officer.

b. Clients. All publishers or advertisements and advertising agencies should post a copy of their nondiscrimination policy in a conspicuous location wherever persons place advertising and should have copies available for all firms and persons using their advertising services.

5. Publishers' notice. All publishers should publish at the beginning of the real estate advertising section the notice described in § 2.5 D of these regulations.

PART III.
PROCEDURES.

Article 1.
Complaints.

This part contains the procedures established by the Department of Commerce for the investigation and conciliation of complaints under §§ 36-96.9 through 36-96.15 of the Virginia Fair Housing Law.

§ 3.1. Submission of information to file a complaint.

A. The administrator or his designee will receive information concerning alleged discriminatory housing practices from any person. Where the information constitutes a complaint within the meaning of the fair housing law and these regulations and is furnished by an aggrieved person, a complaint will be considered filed in accordance with § 3.6 of these regulations. Where additional information is required for the purpose of perfecting a complaint under the law, the administrator or his designee will advise what additional information is needed and will provide appropriate assistance in the filing of the complaint.

B. The information may also be made available to any appropriate federal, state or local agency having an interest in the matter. In making available such information, steps will be taken to protect the confidentiality of any informant or complainant where desired by the informant or complainant.

C. The administrator or his designee may counsel with an aggrieved party about the facts and circumstances which constitute the alleged discriminatory housing practices. If the facts and circumstances do not constitute discriminatory housing practices, the administrator or his designee shall so advise the aggrieved party. If the facts and circumstances constitute alleged discriminatory housing practices, the administrator or his designee shall assist the aggrieved party in perfecting a complaint.

§ 3.2. Who may file complaint.

Any aggrieved person or the administrator on behalf of the board may file a complaint no later than one year after an alleged discriminatory housing practice has occurred or terminated. The complaint may be filed with the assistance of an authorized representative of an aggrieved person, including any organization acting on behalf of an aggrieved person.

§ 3.3. Persons against whom complaints may be filed.

A. A complaint may be filed against any person alleged to be engaged, to have engaged, or to be about to engage, in a discriminatory housing practice.

B. A complaint may also be filed against any person who directs or controls, or has the right to direct or control, the conduct of another person with respect to any aspect of the sale, rental, advertising, or financing of dwellings, or the provision of brokerage services relating to the sale or rental of dwellings if that other person,

acting within the scope of his authority as employee or agent of the directing or controlling person, is engaged, has engaged, or is about to engage, in a discriminatory housing practice.

§ 3.4. Filing a complaint.

A. Aggrieved persons may file complaints in person with, or by mail to the administrator or his designee on a form furnished by the board.

B. Aggrieved persons may provide information to be contained in a complaint by telephone to personnel in the fair housing office. Personnel in the fair housing office will reduce information provided by telephone to writing on the prescribed complaint form and send the form to the aggrieved person to be signed and affirmed in accordance with § 3.5 A.

§ 3.5. Form and content of a complaint.

A. Each complaint must be in writing and must be signed and affirmed by the aggrieved person filing the complaint or if the complaint is filed by the administrator on behalf of the board, it must be signed and affirmed by the administrator. The signature and affirmation may be made at any time during the investigation. The affirmation shall state "I declare under penalty of perjury that the foregoing is true and correct."

B. The administrator may require complaints to be made on prescribed forms. The complaint forms will be available through the Department of Commerce. Notwithstanding any requirement for use of a prescribed form, the Department of Commerce will accept any written statement which substantially sets forth the allegations of a discriminatory housing practice under the fair housing law (including any such statement filed with a substantially equivalent local agency) as a fair housing law complaint. Personnel in the fair housing office will provide appropriate assistance in filling out forms and filing a complaint.

C. Each complaint must contain substantially the following information:

1. The name and address of the aggrieved person.

2. The name and address of the respondent.

3. A description and address of the dwelling which is involved, if appropriate.

4. A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory housing practice.

§ 3.6. Date of filing of a complaint.

A. Except as provided in subsection B of this section, a complaint is filed when it is received by the board or dual filed with the federal government in a form that reasonably meets the standards of § 3.5 of these regulations.

B. The administrator may determine that a complaint is filed for the purposes of the one-year period for filing of complaints upon submission of written information (including information provided by telephone and reduced to writing by an employee of the board) identifying the parties and describing generally the alleged discriminatory housing practice.

C. Where a complaint alleges a discriminatory housing practice that is continuing, as manifested in a number of incidents of such conduct, the complaint will be timely if filed within one year of the last alleged occurrence of that practice.

§ 3.7. Amendment of complaint.

Complaints may be reasonably and fairly amended at any time. Such amendments may include, but are not limited to: (i) amendments to cure technical defects or omissions, including failure to sign or affirm a complaint, (ii) to clarify or amplify the allegations in a complaint, or (iii) to join additional or substitute respondents. Except for the purposes of notifying respondents, under § 3.9 of these regulations, amended complaints will be considered as having been made as of the original filing date.

§ 3.8. Service of notice on aggrieved person.

Upon the filing of a complaint, the administrator or his designee will notify, by certified mail or personal service, each aggrieved person on whose behalf the complaint was filed. The notice will:

1. Acknowledge the filing of the complaint and state the date that the complaint was accepted for filing.

2. Include a copy of the complaint.

3. Advise the aggrieved person of the time limits applicable to complaint processing and of the procedural rights and obligations of the aggrieved person under the Virginia Fair Housing Law and these regulations.

4. Advise the aggrieved person of his right to commence a civil action under the fair housing law, in state circuit court, not later than two years after the occurrence or termination of the alleged discriminatory housing practice. The notice will state that the computation of this two-year period excludes any time during which an action arising from a breach of a conciliation agreement under the law is pending.

5. Advise the aggrieved person that retaliation against any person because he made a complaint or testified, assisted, or participated in an investigation or

conciliation under these regulations is a discriminatory housing practice that is prohibited under the law and these regulations.

§ 3.9. Respondent to be notified of complaint.

A. Within 10 days of the filing of a complaint under § 3.6 or the filing of an amended complaint under § 3.7, the administrator or his designee will serve a notice on each respondent by certified mail or by personal service. A person who is not named as a respondent in a complaint, but who is identified in the course of the investigation under Part V of these regulations, as a person who is alleged to be engaged, to have engaged, or to be about to engage in the discriminatory housing practice upon which the complaint is based may be joined as an additional or substitute respondent by service of a notice on the person under this section within 10 days of the identification.

B. 1. The notice will identify the alleged discriminatory housing practice upon which the complaint is based, and include a copy of the complaint and copies of any supporting documentation referenced in the complaint which are received with the complaint.

2. The notice will state the date that the complaint was accepted for filing.

3. The notice will advise the respondent of the time limits applicable to complaint processing under these regulations and of the procedural rights and obligations of the respondent under the law and these regulations, including the opportunity to submit an answer to the complaint within 10 days of the receipt of the notice. The administrator, upon request, has the discretion to extend this time period for a reasonable time.

4. The notice will advise the respondent of the aggrieved person's right to commence a civil action under the law, in a state circuit court, no later than 180 days after the conclusion of the administrative process with respect to a complaint or charge, or, not later than two years after the occurrence or termination of the alleged discriminatory housing practice, whichever is longer.

5. If the person is not named in the complaint, but is being joined as an additional or substitute respondent, the notice will explain the basis for the administrator's belief that the joined person is properly joined as a respondent.

6. The notice will advise the respondent that retaliation against any person because he made a complaint or testified, assisted, or participated in an investigation or conciliation under this part is a discriminatory housing practice that is prohibited under the law and these regulations.

7. The notice may invite the respondent to enter into a conciliation agreement for the purpose of resolving the complaint.

8. The notice may include an initial request for information and documentation concerning the facts and circumstances surrounding the alleged discriminatory housing practice set forth in the complaint.

Article 2.
Responses.

§ 3.10. Respondent may file response.

A. The respondent may file an answer not later than 10 days after receipt of the notice described in § 3.9. The respondent may assert any defense that might be available to a defendant in a court of law. The answer must be signed and affirmed by the respondent. The affirmation must state: "I declare under penalty of perjury that the foregoing is true and correct."

B. An answer may be reasonably and fairly amended at any time.

Article 3.
Investigations.

§ 3.11. Investigations.

A. Upon the filing of a complaint, the administrator will initiate an investigation. The purposes of an investigation are:

1. To obtain information concerning the events or transactions that relate to the alleged discriminatory housing practice identified in the complaint.

2. To document policies or practices of the respondent involved in the alleged discriminatory housing practice raised in the complaint.

3. To develop factual data necessary for the administrator on behalf of the board to make a determination whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, and to take other actions provided under this part.

B. Based on the authority delegated to the fair housing administrator by the Real Estate Board, the administrator may initiate an investigation of housing practices to determine whether a complaint should be filed. Such investigations will be conducted in accordance with the procedures described under this section.

§ 3.12. Systemic processing.

Where the administrator determines that the alleged discriminatory practices contained in a complaint are

pervasive or institutional in nature, or that the processing of the complaint will involve complex issues, novel questions of fact or law, or will affect a large number of persons, the administrator may identify the complaint for systemic processing. This determination can be based on the face of the complaint or on information gathered in connection with an investigation. Systemic investigations may focus not only on documenting facts involved in the alleged discriminatory housing practice that is the subject of the complaint but also on review of other policies and procedures related to matters under investigation, to make sure that they also comply with the nondiscrimination requirements of the law.

§ 3.13. Conduct of investigation.

A. In conducting investigations under these regulations, the voluntary cooperation of all persons will be sought to obtain access to premises, records, documents, individuals, and other possible sources of information; to examine, record, and copy necessary materials; and to take and record testimony or statements of persons reasonably necessary for the furtherance of the investigation.

B. The administrator and the respondent may conduct discovery in aid of the investigation by the same methods and to the same extent that parties may conduct discovery in a court of law in an administrative proceeding under the Virginia Fair Housing Law, except that the administrator, on behalf of the board, shall have the power to issue subpoenas described under the law, in support of the investigation.

§ 3.14. Cooperation with federal agencies.

The administrator, in processing complaints under the Virginia Fair Housing Law, may seek the cooperation and utilize the services of federal, state and local agencies, including any agency having regulatory or supervisory authority over financial institutions.

§ 3.15. Completion of investigation.

A. The investigation will remain open until a determination, under these regulations and the Virginia Fair Housing Law, regarding reasonable cause is made or a conciliation agreement is executed and approved.

B. Unless it is impracticable to do so, the administrator will complete the investigation of the alleged discriminatory housing practice within 100 days of the filing of the complaint. In no event shall the investigation extend beyond one year from the receipt of the complaint by the board.

C. If the administrator is unable to complete the investigation within the 100-day period or dispose of all administrative proceedings related to the investigation within one year after the date the complaint is filed, the administrator will notify the aggrieved person and the respondent, by certified mail or personal service, of the reasons for the delay.

§ 3.16. Final investigative report.

A. At the end of each investigation under this article, the administrator or his designee will prepare a final investigative report. The investigative report will contain:

1. The names and dates of contacts with witnesses, except that the report will not disclose the names of witnesses who request anonymity. The board, however, may be required to disclose the names of such witnesses in the course of a civil action under the fair housing law;

2. A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

3. A summary description of other pertinent records;

4. A summary of witness statements; and

5. Answers to interrogatories.

B. A final investigative report may be amended at any time, if additional evidence is discovered.

C. Notwithstanding the prohibitions and requirements with respect to disclosure of information contained in § 3.22, the administrator will make information derived from an investigation, including the final investigative report, available to the aggrieved person and the respondent. Following the completion of an investigation, the administrator shall notify the aggrieved person and the respondent that the final investigation report is complete and will be provided upon request.

Article 4.
Conciliation Procedures.

§ 3.17. Conciliation process.

A. During the period beginning with the filing of the complaint and ending with the filing of a charge or the dismissal of the complaint by the administrator, or his designee will, to the extent feasible, attempt to conciliate the complaint.

B. In conciliating a complaint, the administrator will attempt to achieve a just resolution of the complaint and to obtain assurances that the respondent will satisfactorily remedy any violations of the rights of the aggrieved person, and take such action as will assure the elimination of discriminatory housing practices, or the prevention of their occurrence, in the future.

§ 3.18. Conciliation agreement.

A. The terms of a settlement of a complaint will be reduced to a written conciliation agreement. Th

conciliation agreement shall seek to protect the interests of the aggrieved person, other persons similarly situated, and the public interest. The types of relief that may be sought for the aggrieved person are described in § 3.19 of these regulations and the Virginia Fair Housing Law. The provisions that may be sought for the vindication of the public interest are described in § 3.20.

B. The agreement must be executed by the respondent and the complainant. The agreement is subject to the approval of the administrator, who will indicate approval by signing the agreement. The administrator will approve an agreement and, if the administrator is the complainant, will execute the agreement, only if:

1. The complainant and the respondent agree to the relief accorded the aggrieved person;

2. The provisions of the agreement will adequately vindicate the public interest; and

3. If the administrator is the complainant, all aggrieved persons named in the complaint are satisfied with the relief provided to protect their interests.

C. The board may issue a charge under § 3.24 if the aggrieved person and the respondent have executed a conciliation agreement that has not been approved by the administrator.

§ 3.19. Relief sought for aggrieved persons during conciliation.

A. The following types of relief may be sought for aggrieved persons in conciliation:

1. Monetary relief in the form of compensatory and punitive damages and attorney fees;

2. Other equitable relief including, but not limited to, access to the dwelling at issue, or to a comparable dwelling, the provision of services or facilities in connection with a dwelling, or other specific relief; or

3. Injunctive relief appropriate to the elimination of discriminatory housing practices affecting the aggrieved person or other persons.

B. The conciliation agreement may provide for binding arbitration or other methods of resolving a dispute arising from the complaint. Arbitration may award appropriate relief as described in subsection A of this section. The aggrieved person and the respondent may, in the conciliation agreement, limit the types of relief that may be awarded under binding arbitration or other methods of dispute resolution.

§ 3.20. Conciliation provisions relating to public interest.

The following are types of provisions that may be sought for the vindication of the public interest:

1. Elimination of discriminatory housing practices.

2. Prevention of future discriminatory housing practices.

3. Remedial affirmative activities to overcome discriminatory housing practices.

4. Reporting requirements.

5. Monitoring and enforcement activities.

§ 3.21. Termination of conciliation process.

A. The administrator may terminate his efforts to conciliate the complaint if the respondent fails or refuses to confer with the administrator or his designee; the aggrieved person or the respondent fail to make a good faith effort to resolve any dispute; or the administrator finds, for any reason, that voluntary agreement is not likely to result.

B. Where the aggrieved person has commenced a civil action under federal law or a state law seeking relief with respect to the alleged discriminatory housing practice, and the trial in the action has commenced, the administrator will terminate conciliation unless the court specifically requests assistance from the board.

§ 3.22. Prohibition and requirements for disclosure of information obtained during conciliation.

A. Except as provided in subsection B of this section and § 3.16 C nothing that is said or done in the course of conciliation under this article may be made public or used as evidence in subsequent civil actions under the Virginia Fair Housing Law or these regulations without the written consent of the persons concerned.

B. Conciliation agreements shall be made public, unless the aggrieved person and respondent request nondisclosure and the administrator determines that disclosure is not required to further the purposes of the fair housing law. Notwithstanding a determination that disclosure of a conciliation agreement is not required, the administrator may publish tabulated descriptions of the results of all conciliation efforts.

§ 3.23. Review of compliance with conciliation agreement.

The administrator may, from time to time, review compliance with the terms of any conciliation agreement. Whenever there is reasonable cause to believe that a respondent has breached a conciliation agreement, the board shall refer the matter to the Attorney General with a recommendation for the filing of a civil action under the Virginia Fair Housing Law, for the enforcement of the terms of the conciliation agreement.

Article 5.
Reasonable Cause Determination and Issuance of a Charge.

§ 3.24. Reasonable cause determination.

A. If a conciliation agreement has not been executed by the complainant and the respondent, the administrator, on behalf of the board, within the time limits set forth in § 3.27, shall determine whether, based on the totality of the factual circumstance known at the time of the decision, reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur. The reasonable cause determination will be based solely on the facts concerning the alleged discriminatory housing practice, provided by complainant and respondent and otherwise disclosed during the investigation. In making the reasonable cause determination, the board shall consider whether the facts concerning the alleged discriminatory housing practice are sufficient to warrant the initiation of a civil action in the appropriate state court.

B. In all cases not involving the legality of local zoning or land use laws or ordinances:

1. If the board determines that reasonable cause exists, the board will issue a charge under § 36-96.14 of the fair housing law and these regulations on behalf of the aggrieved person, and shall notify the aggrieved person and the respondent of this determination by certified mail or personal service.

2. If a no reasonable cause determination is made, the board shall: issue a short and plain written statement of the facts upon which the no reasonable cause determination was based; dismiss the complaint; notify the aggrieved person and the respondent of the dismissal (including the written statement of facts) in writing within 30 days of such determination by certified mail or personal service; and make public disclosure of the dismissal. Public disclosure of the dismissal shall be by issuance of a press release, except that the respondent may request that no release be made. Notwithstanding a respondent's request that no press release be issued, the fact of the dismissal, including the names of the parties, shall be public information available on request.

§ 3.25. Local zoning and land use.

If the board determines that the matter involves the legality of local zoning or land use laws or ordinances, in lieu of making a determination regarding reasonable cause, the investigative materials shall be referred to the Attorney General for appropriate action under the fair housing law, and shall notify the aggrieved person and the respondent of this action by certified mail or personal service.

§ 3.26. Pending private civil action.

The board may not issue a charge regarding an alleged discriminatory housing practice if an aggrieved person has commenced a civil action under federal law or a state law seeking relief with respect to the alleged discriminatory housing practice, and the trial in the action has commenced. If a charge may not be issued because of the commencement of such a trial, the board will so notify the aggrieved person and the respondent by certified mail or personal service.

§ 3.27. Time to make reasonable cause determination.

The board shall make a reasonable cause determination within 100 days after filing of the complaint, unless it is impracticable to do so. If the board is unable to make the determination within the 100-day period, the administrator will notify the aggrieved person and the respondent, by certified mail or personal service, of the reasons for the delay.

§ 3.28. Time for administrative disposition.

The board is required to make final administrative disposition of the complaint within one year of the date of receipt of the complaint, unless it is impracticable to do so. If the agency is unable to do so it shall notify the complainant and respondent, in writing, of the reasons for not doing so.

§ 3.29. Issuance of a charge.

A. A charge:

1. Shall consist of a short and plain written statement of the facts upon which the administrator has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

2. Shall be based on the final investigative report; and

3. Need not be limited to facts or grounds that are alleged in the complaint filed under this part and the Virginia Fair Housing Law. If the charge is based on grounds that are alleged in the complaint, a charge will not be issued with regard to the grounds unless the record of the investigation demonstrates that the respondent has been given notice and an opportunity to respond to the allegation.

B. Not later than the 20th day after the board issues a charge, a copy of the charge shall be sent to each respondent and each aggrieved person identified in the charge by certified mail or personal service.

§ 3.30. Referral of a charge.

Once a charge has been issued, the board shall immediately notify and authorize the Attorney General to commence and maintain a civil action seeking relief under § 36-96.16 of the fair housing law on behalf of the aggrieved person in an appropriate circuit court. Such

notification and authorization shall include transmission of the file in the case, including a copy of the final investigative report and the charge, to the Attorney General.

91 MAY 29 PM 2:32

VIRGINIA REAL ESTATE COMMISSION
HOUSING DISCRIMINATION COMPLAINT

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230
TOLL FREE: 1 (800) 552-3016

HOUSING DISCRIMINATION COMPLAINT

INSTRUCTIONS: Read this form and the instructions on the reverse side carefully before completing. All questions should be answered. However, if you do not know the answer, or if a question is not applicable, leave the question unanswered and fill out as much of the form as you can. Your complaint should be signed, dated and notarized. Where more than one individual or organization is filing the same complaint, each additional individual or organization should complete boxes 1, 9 and 10 of separate complaint form and attach it to the original form but the other boxes need not be completed if the information is the same as in the original. Complaints can be mailed to: Complaints Section, Virginia Department of Commerce, 3600 West Broad Street, Richmond, Virginia 23230.

Do not write in this space
File Number _____
HUD Number _____
Filing Date _____
Census Tract _____
Preliminary Determination

PLEASE TYPE OR PRINT

1. Name of aggrieved person or organization *(Last Name—First Name—Middle Initial) (Mr. Mrs. Miss)* | Telephone Number *(Home)*

Street Address, City, County, State and Zip Code | Telephone Number *(Work)*

1A. If in the process of relocating, list name, address and telephone number of an individual having knowledge of your whereabouts and how you can be located.

Name *(Last Name—First Name—Middle Initial)* | Telephone Number *(Home)*

Street Address, City, County, State and Zip Code | Telephone Number *(Work)*

2. Whom is this complaint against? Name *(Last Name—First Name—Middle Initial)*

Street Address, City, County, State and Zip Code *(If known)*

Is the party named above a: *(Check applicable box)*
01 ☐ Builder 02 ☐ Owner 03 ☐ Broker 04 ☐ Salesman 05 ☐ Supt. or Manager 06 ☐ Bank or Other Lender 98 ☐ Other

If you have named an individual above and you know that he was acting for a company in this case, check this box ☐ and write the name and address *(Street, City, County, State and Zip Code)* of the company, if you know it, in this space.

Name and identify others *(If any)* you believe violated the law in this case.

☐ Check this box if you have filed this complaint with the U.S. Department of Housing and Urban Development. Please attach copy of that complaint to this form.

☐ Check this box if you have filed this complaint with any local agencies such as a human relations commission. Please attach copy of that complaint to this form.

☐ Check this box if you have begun court action with respect to this complaint. Please attach a copy of the pleadings to this form.

3. What did the person you are complaining against do? *(Check applicable box or boxes)*
01 ☐ Refuse to rent, sell or deal with you
02 ☐ Discrimination in the conditions or terms of sale, rental, occupancy, or in services or facilities
03 ☐ Advertise in a discriminatory way
04 ☐ Falsely deny housing was available
05 ☐ Engage in blockbusting *(See reverse for definition)*
06 ☐ Discriminate in financing
07 ☐ Discriminate in broker's services
08 ☐ Refuse to make reasonable accommodations *(Handicap)*
98 ☐ Other *(explain in box 8)*
99 ☐ Multiple complaints

When did this occur? *(Be sure to include most recent date, if several dates are involved)*

4. Do you believe there was discrimination because of? *(check applicable box and write your race or color, religion or national origin on the line below the box checked)*
01 ☐ Race or Color
02 ☐ Religion
03 ☐ National Origin
04 ☐ Sex
05 ☐ Parenthood
06 ☐ Elderliness
07 ☐ Handicap
98 ☐ Other
99 ☐ Multiple complaints

5. What kind of house or property was involved?
01 ☐ Single Family house
02 ☐ A house or building for 2, 3 or 4 families
03 ☐ A building for 5 families or more
98 ☐ Other, including vacant land *(explain in box 8)*

6 Did the owner live there?
01 ☐ Yes 02 ☐ No 03 ☐ Unknown

7. Is the house or property *(Check one)*
01 ☐ Being Sold 02 ☐ Or rented

What is the address of the house or property?
Street _____
City/County _____
State _____ Zip Code _____

8. Summarize in your own words what happened. Use this space for a brief and concise statement of the facts. Additional details of what happened may be provided on a separate sheet.

9. I swear or affirm that I have read this complaint *(including any attachments)* and that it is true to the best of my knowledge, information, and belief.

_____ *(Date)* _____ *(Sign your name)*

10. **NOTARIZATION:**

Subscribed and sworn to before me this _____ day of _____, 19____.

_____ *(Name)* _____ *(Title)*

HOUSING DISCRIMINATION COMPLAINT

WHAT DOES THE VIRGINIA FAIR HOUSING LAW PROVIDE?

The law (Chapter 5, Title 36, of the Code of Virginia (1950), as amended) declares that it is state policy to provide fair housing throughout the Commonwealth and prohibits several kinds of discriminatory acts regarding housing if the discrimination is based on race, religion, color, national origin, sex, parenthood, elderliness, or handicap:

1. Refusal to sell or rent or otherwise deal with any person.
2. Discriminating in the conditions or terms of sale, rental or provision of services or facilities.
3. Falsely denying housing is available.
4. Discriminatory advertising.
5. Blockbusting — causing someone to sell or rent by telling him that members of a minority group are moving into the area.
6. Discrimination in financing housing by a bank, savings and loan association or other business.
7. Denial of membership or participation in brokerage, multiple listing or other real estate services.
8. Refusal to make reasonable accommodations (handicap).

Note: Coercion, threats or other interference with an individual's rights under the law, including the right to file a complaint, are prohibited.

WHAT CAN YOU DO ABOUT VIOLATIONS OF THE VIRGINIA FAIR HOUSING LAW?

Remember, the Virginia Fair Housing Law applies to discrimination based on race, religion, color, national origin, sex, parenthood, elderliness, or handicap. If you believe you have been, or are about to be, discriminated against or otherwise harmed by the kinds of discriminatory acts which are prohibited by the law, you have a right to:

1. Complain to the Virginia Real Estate Commission by filing this form by mail. The Virginia Real Estate Commission will investigate and if it finds the complaint is covered by the law and is justified, it will try to end the discrimination by conciliation or, if necessary, refer the complaint to the office of the Attorney General for appropriate legal action.
2. You may file with both the Virginia Real Estate Commission and Federal and/or State Court at the same time. In some cases, the Court may be able to give quicker, more effective relief than conciliation can provide.

You should also report all information about violations to the Virginia Real Estate Commission even though you don't intend to complain or go to court yourself.

WHAT FEDERAL LAWS APPLY TO FAIR HOUSING?

Presidential Order 11063 and Title VI of the Civil Rights Act of 1964 apply to federally assisted housing. Title VIII of the Civil Rights Act of 1968 applies to all housing, both public and private. The Civil Rights Act of 1866 applies only to racial discrimination in public and private housing. These rights are enforceable by private court action.

ADDITIONAL DETAILS

If you wish to explain in detail on a separate sheet what happened, you should consider the following:

1. If you feel that others were treated differently than you, please explain.
2. If there were witnesses or others who know what happened, give their names and addresses.
3. If you have made this complaint to other government agencies or to the courts, state when and where and explain what happened.

You can obtain assistance in learning about the law or in filing a complaint by writing to: Complaints Section, Virginia Department of Commerce, 3600 West Broad Street, Richmond, Virginia 23230, or by telephoning 1-800-552-3016, toll-free.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: **VR 615-08-01. Virginia Energy Assistance Program.**

Statutory Authority: § 63.1-25 of the Code of Virginia.

Publication Date: 7:11 VA.R. 1659-1661 February 25, 1991.

NOTICE: The Department is WITHDRAWING the proposed regulation entitled Virginia Energy Assistance Program (VR 615-08-01) published in 7:11 VA.R. 1659-1661 February 25, 1991.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a substantial change from the proposed text of the regulations.

BOARD OF DENTISTRY

Title of Regulation: **VR 255-01-1. Virginia Board of Dentistry Regulations.**

Statutory Authority: § 54.1-2400 and § 54.1-2700 et seq. of the Code of Virginia.

Effective Date: July 17, 1991.

Summary:

These Board of Dentistry final regulations establish entry requirements and fees for dental hygienists to be licensed by endorsement as a result of Chapter 194 of the 1990 Acts of Assembly signed by Governor Wilder on March 22, 1990. Although the board had proposed similar regulations to permit dentists to receive a license by endorsement, following a public hearing and an extended period for public comment, the board determined such action was not in the interest of the public's health, safety and welfare. The board voted to withdraw the proposed amendments permitting licensure by endorsement for dentists. The board adopted new amendments requiring those applying for a full-time faculty license and temporary permit to successfully complete the board's jurisprudence examination. Further, these amendments permit the board to assess a fee at the time of reinstatment of any licensee who has been practicing in the Commonwealth on an expired license. Several other minor clarifications and nonsubstantive proposals have been initiated resulting from comments from the public regarding the board's current regulations during the past two years. Thus, the proposed regulations, in addition to implementing new legislation, constitute the product of the biennial review of existing regulations for continued effectiveness and need required by Executive Order 5(86).

These regulations establish some new sections, repeal current sections on reciprocity for dental hygienists, and amend, clarify and relocate others. All relevant documents are available for inspection at the office of the Board of Dentistry, 1601 Rolling Hills Drive, Richmond, Virginia 23229, telephone (804) 662-9906.

Preamble:

These regulations state the requirements for licensure of dentists and dental hygienists in the Commonwealth of Virginia. The regulations are adopted by the Virginia Board of Dentistry under the authority of Title 54.1, Chapters 1, 24 and 27 Dentistry, §§ 54.1-2700 through 54.1-2728 of the Code of Virginia.

The board believes that each practitioner in the field of dentistry is accountable to the Commonwealth and to the public to maintain high professional standards of practice in keeping with the ethics of the profession of dentistry.

The licensed dentist and dental hygienist shall be responsible and accountable for the quality and quantity of dental care given to patients by himself or others who are under his direction as set forth in these regulations.

The practitioner shall be held accountable for the quality and quantity of dental care given to patients by himself based upon educational preparation and experience.

VR 255-01-1. Virginia Board of Dentistry Regulations.

PART I.
GENERAL PROVISIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meanings, unless the content clearly indicates otherwise:

"Advertising" means a representation or other notice given to the public or members thereof, directly or indirectly, by a dentist on behalf of himself, his facility, his partner or associ with the dentist or his facility by any means or method for the purpose of inducing purchase, sale or use of dental methods, services, treatments, operations, procedures or products or to promote continued or increased use of such dental methods, treatments, operations, procedures or products.

Analgesia" means the diminution or elimination of pain in the conscious patient.

"Approved schools" means those dental schools, colleges, departments of universities or colleges or schools of dental hygiene currently accredited by the Commission on Dental Accreditation of the American Dental Association, which is hereby incorporated by reference.

"Competent instructor" means any person appointed to the faculty of a dental school, college or department or a university or a college who holds a license or teacher's license to practice dentistry or dental hygiene in the

Commonwealth.

"Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal commands, produced by a pharmacologic or nonpharmacologic method, or a combination thereof.

"Dental assistant" means any unlicensed person under the supervision of a dentist who renders assistance for services provided to the patient as authorized under these regulations but shall not include an individual serving in purely a secretarial or clerical capacity.

"Dental hygiene student" means any person currently enrolled and attending an approved school/program of dental hygiene. No person shall be deemed to be a dental hygiene student who has not begun the first year of enrollment in the school; nor a person who is not attending the regularly scheduled sessions of the school in which he is enrolled.

"Dental student" means any person currently enrolled and attending an approved school of dentistry but shall not include persons enrolled in schools/programs of dental hygiene. No person shall be deemed to be a dental student who has not begun the first year of enrollment in school; nor a person who is not attending the regularly scheduled sessions of the school in which he is enrolled.

"Diagnosis" means an opinion of findings in an examination.

"Direction" means the presence of the dentist for the evaluation, observation, advice, and control over the performance of dental services.

"Examination of patient" means a study of all the structures of the oral cavity, including the recording of the conditions of all such structures and an appropriate history thereof. As a minimum, such study shall include charting of caries, identification of periodontal disease, occlusal discrepancies, and the detection of oral lesions.

"General anesthesia" means a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or combination thereof.

"Local anesthesia" means the loss of sensation or pain in the oral cavity or its contiguous structures generally produced by a topically applied agent or injected agent without causing the loss of consciousness.

"Monitoring ~~of~~ general anesthesia and conscious sedation" includes the following: recording and reporting of blood pressure, pulse, respiration and other vital signs to the attending dentist during the conduct of these procedures and after the dentist has induced a patient and established a maintenance level.

"Monitoring ~~of~~ nitrous oxide oxygen inhalation analgesia" means making the proper adjustments of nitrous oxide machines at the request of the dentist during the administration of the sedation and observing the patient's vital signs.

"Nitrous oxide oxygen inhalation analgesia" means the utilization of nitrous oxide and oxygen to produce a state of reduced sensibility to pain designating particularly the relief of pain without the loss of consciousness.

"Radiographs" means intraoral and extraoral x-rays of the hard and soft oral structures to be used for purposes of diagnosis.

"Recognized governmental clinic" means any clinic operated or funded by any agency of state or local government which provides dental services to the public, the dental services of which shall be provided by a licensed dentist or by persons who may be authorized herein to provide dental services under the direction of a dentist.

§ 1.2. Public participation guidelines.

A. Mailing list.

The Virginia State Board of Dentistry will maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. "Notice of intent" to promulgate regulations.

2. "Notice of public hearing" or "informational proceeding," the subject of which is a proposed or existing regulation.

3. Final regulation adopted.

B. Being placed on list and deletion.

Any person wishing to be placed on the mailing list may have his or her name added by writing the board. In addition, the agency or board may, in its discretion, add to the list any person, organization, or publication whose inclusion it believes will further the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all information stated in subsection A of this section. Individuals and organizations will be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. Where mail is returned as undeliverable, individuals and organizations will be deleted from the list.

C. Notice of intent.

At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14:1 of the Administrative Process Act, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

D. Informational proceedings or public hearings for existing rules.

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and the cost of compliance. Notice of such proceeding will be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations. Such proceeding may be held separately from or in conjunction with other informational proceedings.

E. Petition of rulemaking.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

F. Notice of formulation and adoption.

When a proposed regulation is formulated at any meeting of the board or of a board subcommittee, or when any regulation is adopted by the board, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

G. Advisory committees.

The board may appoint advisory committees as it deems necessary to provide for adequate citizen participation in the formation, promulgation, adoption and review of regulations.

§ 1.3. License renewal and reinstatement.

The board shall forward a renewal notice to each licensee at the address of record (§ 4.2 B) prior to the expiration of the license. Failure to receive such notice shall not relieve the licensee of the responsibility to renew the license.

A. Dental renewal fees.

Every person licensed to practice dentistry shall, on or before March 31, renew their license to practice dentistry and pay an annual renewal fee of $65 except as otherwise provided in § 1.4 of these regulations.

B. Dental hygiene renewal fees.

Every person licensed to practice dental hygiene by this board shall, on or before March 31, renew their license to practice dental hygiene and pay an annual renewal fee of $25 except as otherwise provided in § 1.4 of these regulations.

C. ~~Delinquent~~ *Penalty* Fees.

Any person who does not return the completed form and fee by March 31 shall be required to pay an additional $35 ~~delinquent~~ *penalty* fee. The board shall renew a license when the renewal form is received by the following April 30, along with the completed form, the annual registration fee, and the ~~delinquent~~ *penalty* fee.

D. Reinstatement fees and procedures.

The license of any person who does not return the completed renewal form and fees by April 30 shall automatically expire and become invalid ~~.~~ *and their practice of dentistry/dental hygiene shall be illegal.* Upon such expiration, the board shall immediately notify the affected person of the expiration and the reinstatement procedures. Any person whose license has expired ~~for failure to comply with § 54.1-2400(4) and (5) of the Code of Virginia, and~~ who wishes to ~~renew~~ *reinstate* such license shall submit to the board a reinstatement form, the application fee, the ~~delinquent~~ *penalty* fee, ~~and~~ renewal fee ~~.~~ *and an assessment of $50 per month for each month or part [of a] month the individual has practiced in Virginia without a valid license. The board may reinstate the license of* an applicant ~~for reinstatement shall be required to~~ *who* satisfactorily completes the board-approved examinations unless the applicant demonstrates that he has maintained continuous ethical, legal and clinical practice during the period of licensure expiration or demonstrate that the lapse was due to factors beyond the applicant's control or was other than voluntary.

§ 1.4. Other fees.

A. Dental licensure application fees.

The application for a dental license shall be accompanied by a check or money order for $220, which includes a $155 application fee and a $65 initial licensure fee.

B. Dental hygiene licensure application fees.

The application for a dental hygiene license shall be accompanied by a check or money order for $155, which includes a $130 application fee and a $25 initial licensure fee.

C. Duplicate wall certificate.

Licensees desiring a duplicate wall certificate shall submit a request in writing stating the necessity for such duplicate wall certificate, accompanied by a fee of $15. A duplicate certificate may be issued for any of the following reasons: replacing certificate that has been lost, stolen, misplaced, destroyed or is otherwise irretrievable; recording the new name of a registrant whose name has been changed by court order or by marriage; or for multiple offices.

D. Duplicate license.

Licensees desiring duplicate license shall submit a request in writing stating the necessity for such duplicate license, accompanied by a fee of $10. A duplicate license may be issued for any of the following reasons: maintaining more than one office (notarized photocopy may be used); replacing license that has been lost, stolen, misplaced, destroyed or is otherwise irretrievable; and recording the new name of a licensee whose name has been changed by court order or by marriage.

E. Licensure certification.

Licensees requesting endorsement or certification by this board shall pay a fee of $25 for each endorsement or certification.

F. Restricted license.

Restricted license issued in accordance with § 54.1-2714 of the Code of Virginia shall be at a fee of $100.

G. Teacher's license.

License to teach dentistry and dental hygiene issued in accordance with § 54.1-2725 of the Code of Virginia shall be at a fee of $220 and $155, respectively. The renewal fee shall be $65 and $25, respectively.

H. Temporary permit.

Temporary permit for dentists and dental hygienists issued in accordance with §§ 54.1-2715 and 54.1-2726 of the Code of Virginia shall be at a fee of $220 and $155, respectively. The renewal fee shall be $65 and $25, respectively.

I. Radiology safety examination.

Each examination administered in accordance with § 4.5(A)(11) of these regulations shall be at a fee of $25.

J. Jurisprudence examination.

Each examination administered by the board outside the scheduled clinical examination site in accordance with §§ 2.2.A.3 and 2.2.B.3 shall be at a fee of $25.

K. Full-time faculty license.

Full-time faculty license for dentists issued in accordance with § 54.1-2714.1 of the Code of Virginia, shall be at a fee of $220. The renewal fee shall be $65.

L. Endorsement license.

License by endorsement issued in accordance with [~~§ 2.2~~ § 2.3] for [~~dentists and~~] dental hygienists shall be at a fee of [~~$1,000 ($935 application and $65 initial licensure fee) and~~ $700 ~~($675~~ $200 ($175] application and $25 initial licensure fee) [~~, respectively~~] . The renewal fee shall be [~~$65 and~~] $25 [~~, respectively~~].

§ 1.5. Refunds.

No fee will be refunded or applied for any purpose other than the purpose for which the fee is submitted.

PART II.
ENTRY AND LICENSURE REQUIREMENTS.

§ 2.1. Education.

A. Dental licensure.

An applicant for dental licensure shall be a graduate and a holder of a diploma from an accredited or approved dental school recognized by the Commission on Dental Accreditation of the American Dental Association, be of good moral character, and provide proof that the individual has not committed any act which would constitute a violation of § 54.1-2706 of the Code of Virginia.

B. Dental hygiene licensure.

An applicant for dental hygiene licensure shall have graduated from or be issued a certificate by an accredited school/program of dental hygiene recognized by the Commission on Dental Accreditation of the American Dental Association, be of good moral character, and provide proof that the individual has not committed any act which would constitute a violation of § 54.1-2728 of the Code of Virginia.

~~C. Applications.~~

~~All applications for any license or permit issued by the board shall include:~~

~~1. A final certified transcript of the grades from the college from which the applicant received the dental degree, dental hygiene degree or certificate, or post-doctoral degree or certificate.~~

~~2. One recently made passport type photograph of the applicant. The photograph shall be securely pasted in the space provided on the application.~~

~~3. An original grade card issued by the Joint Commission on National Dental Examinations.~~

§ 2.2. Licensure examinations.

A. Dental examinations.

1. All applicants shall have successfully completed Part I and Part II of the examinations of the Joint Commission on National Dental Examinations prior to making application to this board.

2. For the purpose of § 54.1-2713 of the Code of Virginia, all persons desiring to practice dentistry in the Commonwealth of Virginia will be required to satisfactorily pass the complete board-approved examinations in dentistry as a precondition for licensure, except those persons eligible for licensure pursuant to § 54.1-103 of the Code of Virginia and subsection A of § 2.3 of these regulations. Applicants who successfully completed the board-approved examinations five or more years prior to the date of receipt of their applications for licensure by this board will be required to retake the examinations unless they demonstrate that they have maintained continuous ~~active~~ clinical, ethical and legal practice since passing the board-approved examinations.

~~3. All applicants will be required to satisfactorily pass an examination on the Virginia dental laws and the regulations of the board.~~

B. Dental hygiene examinations.

1. All applicants are required to successfully complete the dental hygiene examination of the Joint Commission on National Dental Examinations prior to making application to this board for licensure.

2. For the purpose of § 54.1-2722 of the Code of Virginia, all persons desiring to practice dental hygiene in the Commonwealth of Virginia shall be required to successfully complete the board-approved examinations in dental hygiene as a precondition for licensure, except those persons eligible for licensure pursuant to § 54.1-103 of the Code of Virginia and subsection B of § 2.3 of these regulations. Applicants who successfully complete the board-approved examinations five or more years prior to the date of receipt of their applications for licensure by this board will be required to retake the board-approved examinations unless they demonstrate that they have maintained continuous ~~active~~ clinical, ethical and legal practice since passing the board-approved examinations.

~~3.~~ *C.* All applicants *for dental/dental hygiene licensure by examination* ~~will~~ *shall* be required to pass an examination on the Virginia dental hygiene laws and the regulations of this board.

~~§ 2.3. Reciprocal licensure.~~

~~A. Dental reciprocal licensure.~~

~~An applicant for dental reciprocal licensure shall:~~

~~1. Be a graduate of an accredited dental school recognized by the Commission on Dental Accreditation of the American Dental Association, and~~

~~2. Be currently licensed and engaged in the active, legal and ethical practice of dentistry in a state having licensure requirements comparable to those established by the Code of Virginia with which the Virginia Board of Dentistry has established reciprocity.~~

~~B. Dental hygiene reciprocal licensure.~~

~~An applicant for dental hygiene reciprocal licensure shall:~~

~~1. Be a graduate of an accredited dental hygiene school recognized by the Commission on Dental Accreditation of the American Dental Association, and~~

~~2. Be currently licensed and engaged in the active, legal and ethical practice of dental hygiene in a state having licensure requirements comparable to those established by the Code of Virginia with which the Virginia Board of Dentistry has established reciprocity.~~

[~~*§ 2.3. Licensure by endorsement.*~~

~~*A. Dental.*~~

~~*An applicant for dental endorsement licensure shall:*~~

~~*1. Be a graduate and holder of a diploma from an accredited or approved dental school recognized by the Commission on Dental Accreditation of the American Dental Association;*~~

~~*2. Be currently licensed to practice dentistry in another state, territory, District of Columbia or possession of the U.S., and have continuous clinical, ethical and legal practice for five out of the past six years immediately preceding application for licensure. Active patient care in armed forces dental corps, state and federal, and intern residency programs, may substitute for required clinical practice;*~~

~~*3. Be certified in good standing from each state in which he is currently licensed or has ever held a license;*~~

~~*4. Have successfully completed a clinical licensing examination substantially equivalent to that of the examination required by Virginia;*~~

~~*5. Not have failed the clinical examination accepted by the board, pursuant to § 54.1-2709, within the last five years;*~~

~~*6. Be of good moral character;*~~

~~7. Provide proof of having not committed any act which would constitute a violation of § 54.1-2706;~~

~~8. Successfully complete Part I and Part II of the examinations of the Joint Commission on National Dental Examinations prior to making application to this board; and~~

~~9. Pass an examination on the laws and the regulations governing the practice of dentistry in Virginia.~~]

[*§ 2.3. Reciprocal licensure for dentists and licensure by endorsement for dental hygienists.*

A. Dental reciprocal licensure.

An applicant for dental reciprocal licensure must:

1. Be a graduate of an accredited dental school recognized by the Commission on Dental Accreditation of the American Dental Association, and

2. Be currently licensed and engaged in the active, legal and ethical practice of dentistry in a state having licensure requirements comparable to those established by the Code of Virginia with which the Virginia Board of Dentistry has established reciprocity.
]

B. Dental hygiene.

An applicant for dental hygiene endorsement licensure shall:

1. Be a graduate or be issued a certificate from an accredited dental hygiene school/program of dental hygiene recognized by the Commission on Dental Accreditation of the American Dental Association;

2. Be currently licensed to practice [~~*dentistry*~~ *dental hygiene*] *in another state, territory, District of Columbia or possession of the U.S., and have continuous clinical, ethical and legal practice for two out of the past four years immediately preceding application for licensure. Active patient care in armed forces dental corps, state and federal, and intern and residency programs, may substitute for required clinical practice;*

3. Be certified to be in good standing from each state in which he is currently licensed or has ever held a license;

4. Have successfully completed a clinical licensing examination substantially equivalent to that required by Virginia;

5. Not have failed the clinical examination accepted by the board, pursuant to § 54.1-2722, within the last five years;

6. Be of good moral character;

7. Provide proof of not having committed any act which would constitute a violation of § 54.1-2706;

8. Successfully complete the dental hygiene examination of the Joint Commission on National Dental Examinations prior to making application to this board; and

9. Pass an examination on the laws and the regulations governing the practice of dentistry in Virginia.

§ 2.4. Temporary permit, teacher's license and full-time faculty license.

A. A temporary permit shall be issued only for the purpose of allowing dental and dental hygiene practice as limited by §§ 54.1-2715 and 54.1-2726 of the Code of Virginia until the release of grades of the next licensure examination given in this Commonwealth, after the issuance of the temporary permit.

B. A temporary permit will not be renewed unless the permittee shows that extraordinary circumstances prevented the permittee from taking the first examination given immediately after the issuance of the permit. Such permit ~~renewals~~ *reissuance* shall expire seven days after the release of grades of the next examination given.

C. A full-time faculty license shall be issued to any dentist who meets the entry requirements of § 54.1-2713, who is certified by the Dean of a dental school in the Commonwealth and who is serving full-time on the faculty of a dental school or its affiliated clinics intramurally in the Commonwealth. A full-time faculty license shall remain valid only while the license holder is serving full-time on the faculty of a dental school in the Commonwealth. When any such license holder ceases to continue serving full-time on the faculty of the dental school for which the license was issued, the licensee shall surrender the license, which shall be null and void upon termination of full-time employment. The Dean of the dental school shall notify the board within five working days of such termination of full-time employment.

D. A temporary permit issued pursuant to § 54.1-2715, a teacher's license issued pursuant to § 54.1-2713, 54.1-2714 and 54.1-2725 and full-time faculty license issued pursuant to § 54.1-2714.1 of the Code of Virginia may be revoked for any grounds for which the license of a regularly licensed dentist or dental hygienist may be revoked and for any act, acts or actions indicating the inability of the permittee or licensee to practice dentistry that is consistent with the protection of the public health and safety as determined by the generally accepted standards of dental practice in Virginia.

E. Applicants for a full-time faculty license or temporary permit shall be required to pass an examination on th

laws and the regulations governing the practice of dentistry in Virginia.

§ 2.5. All applications for any license or permit issued by the board shall include:

1. A final certified transcript of the grades from the college from which the applicant received the dental degree, dental hygiene degree or certificate, or post-doctoral degree or certificate; and

2. An original grade card issued by the Joint Commission on National Dental Examinations.

PART III.
GENERAL ANESTHESIA AND CONSCIOUS SEDATION.

§ 3.1. Requirements to administer general anesthesia.

A. Educational requirements.

A dentist may employ or use general anesthesia on an outpatient basis by meeting one of the following educational criteria and by posting the educational certificate, in plain view of the patient, which verifies completion of the advanced training as required in ~~paragraphs 1 or 2 of this subsection.~~ *§ 3.1 A 1 or 2. The foregoing shall not apply nor interfere with requirements for obtaining hospital staff privileges.*

1. Has completed a minimum of one calendar year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program in conformity with Part II of the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry" as currently published by the American Dental Association; or

2. Is board certified or board eligible in any dental specialty which incorporates into its curriculum the standards of teaching comparable to those set forth in Part II of the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry."

~~B. Self-certification requirements.~~

~~Any licensed dentist who does not meet the requirements of subsection A.1 or 2 of § 3.1 and who has utilized general anesthesia on a regular and routine basis prior to January 1, 1989, may continue to do so by:~~

~~1. Completing the Self-Certification Form provided and subject to approval by the board. Such form shall be filed with the board on or before July 1, 1989; and~~

~~2. Posting the nonrenewable certificate issued to the dentist upon approval by the board, which shall verify the board's authorization that the dentist may continue to administer conscious sedation. No Self-Certification Forms shall be accepted by the board after July 1, 1989.~~

~~C.~~ *B.* Exemptions.

A dentist who has not meet the requirements specified in subsections A or B of this section may treat patients under general anesthesia in his practice if a qualified anesthesiologist, or a dentist who fulfills the requirements specified in subsections A or B of this section is present and is responsible for the administration of the anesthetic. If a dentist fulfills requirements himself to use general anesthesia and conscious sedation, he may employ the services of a certified nurse anesthetist.

§ 3.2. Conscious sedation [*; intravenous and intramuscular*].

A. Automatic qualification.

Dentists qualified to administer general anesthesia may administer conscious sedation.

B. Educational requirements.

A dentist may administer conscious sedation upon completion of training in conformity with requirements for this treatment modality as published by the American Dental Association in the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," while enrolled at an approved dental school or while enrolled in a post-doctoral university or teaching hospital program.

~~C. Self-certification requirements.~~

~~Any licensed dentist who does not meet the requirements of subsections A or B of this section and who has utilized conscious sedation on a regular and routine basis prior to January 1, 1989, may continue to do so by:~~

~~1. Completing the Self-Certification Form provided and subject to approval by the board. Such form shall be filed with the board on or before July 1, 1989; and~~

~~2. Posting the nonrenewable certificate issued to the dentist upon approval by the board, which shall verify the board's authorization that the dentist may continue to administer conscious sedation. No Self-Certification Forms shall be accepted by the board after July 1, 1989.~~

§ 3.3. General information.

A. Emergency equipment and techniques.

A dentist who administers general anesthesia and conscious sedation shall be proficient in handling emergencies and complications related to pain control

procedures, including the maintenance of respiration and circulation, immediate establishment of an airway and cardiopulmonary resuscitation, and shall maintain the following emergency airway equipment in the dental facility:

1. Full face mask for children or adults, or both;

2. Oral and nasopharyngeal airways;

3. Endotracheal tubes for children or adults, or both, with appropriate connectors;

4. A laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades for children or adults, or both;

5. Source of delivery of oxygen under controlled pressure; and

6. Mechanical (hand) respiratory bag.

B. Posting requirements.

Any dentist who utilizes general anesthesia or conscious sedation shall post in each facility the certificate of education required under §§ 3.1 A and 3.2 B or the self-certification certificate issued by the board.

C. Other.

1. The team for general anesthesia shall consist of the operating dentist, a second person to monitor and observe the patient, and a third person to assist the operating dentist.

2. Person in charge of the anesthesia must remain on the premises of the dental facility until the patient has regained consciousness and is discharged.

D. Scope of regulation.

Part III shall not apply to administration of General Anesthesia and Conscious Sedation in hospitals and surgi-centers.

§ 3.4. Report of adverse reactions.

A written report shall be submitted to the board by the treating dentist within 30 days following any mortality or morbidity that occurs in the facility or during the first 24 hours immediately following the patient's departure from the facility following and directly resulting from the administration of general anesthesia, conscious sedation, or nitrous oxide oxygen inhalation analgesia.

PART IV.
RECORD KEEPING AND REPORTING.

§ 4.1. Records.

A. Laboratory work orders.

Written work order forms and subwork order forms to employ or engage the services of any person, firm or corporation to construct or reproduce or repair, extraorally, prosthetic dentures, bridges or other replacements for a part of a tooth or teeth as required by § 54.1-2719 of the Code of Virginia shall include as a minimum the following information:

1. Patient [*name*] or case number, and date.

2. The signature, license number and address of the dentist.

B. Patient records.

A dentist shall maintain patient records for not less than five years from the most recent date of service for purposes or review by the board to include the following:

1. Patient's name and date of treatment;

2. Updated health history;

3. Diagnosis and treatment rendered;

4. List of drugs prescribed, administered, dispensed and the quantity;

5. Radiographs;

6. ~~Fees and charges;~~ ~~and~~ *Patient financial records and all insurance claim forms; and*

7. Name of dentist and dental hygienist providing service.

§ 4.2. Reporting.

A. Dental students as hygienists.

Prior to utilizing the services of a senior dental student as a dental hygienist as provided in § 54.1-2712 of the Code of Virginia a dentist shall supply the board with the name and address of the student, the school in which the senior student is enrolled, the hours during which the student is expected to be employed as a hygienist, the expected period of employment (June and July, only) and verification that the employing dentist holds faculty appointment.

B. Current business addresses.

Each licensee shall furnish the board at all times with his current *primary Virginia* business address ~~;~~ *(no P. O. Box accepted). If not practicing in Virginia, the primary out-of-state business address must be furnished (no P. O. Box accepted). Each dental hygienist shall furnish current resident address (no P. O. Box accepted).* All notices required by law or by these regulations to be mailed by

the board to any such licensee shall be validly given when mailed to the latest address given by the licensee. All changes of address shall be furnished to the board *in writing* within 30 days of such changes.

§ 4.3. Unprofessional conduct.

The following practices shall constitute unprofessional conduct within the meaning of § 54.1-2706 of the Code of Virginia:

1. Fraudulently obtaining, attempting to obtain or cooperating with others in obtaining payment for services.

2. Performing services for a patient under terms or conditions which are unconscionable. The board shall not consider terms unconscionable where there has been a full and fair disclosure of all terms and where the patient entered the agreement without fraud or duress.

3. Misrepresenting to a patient and the public the materials or methods and techniques the licensee uses or intends to use.

4. Committing any act in violation of the Code of Virginia reasonably related to the practice of dentistry and dental hygiene.

5. Delegating any service or operation which requires the professional competence of a dentist or dental hygienist to any person who is not a dentist or dental hygienist except as otherwise authorized by these regulations.

6. Certifying completion of a dental procedure that has not actually been completed.

7. Knowingly or negligently violating any applicable statute or regulation governing ionizing radiation in the Commonwealth of Virginia, including, but not limited to, current regulations promulgated by the Virginia Department of Health.

8. Permitting or condoning the placement or exposure of dental x-ray film by an unlicensed person, except where the unlicensed person has complied with [~~subsection A, paragraph 11 of~~] § 4.5 [*A 11*] of these regulations.

§ 4.4. Advertising.

A. Practice limitation.

~~Any~~ *A general* dentist who ~~has a limited~~ *limits his* practice ~~and who is not a board-eligible or a certified specialist as recognized by the Commission on Dental Accreditation of the American Dental Association~~ shall state in conjunction with ~~the dentist's~~ *his* name that he is a general dentist providing only certain services, i.e., orthodontic services.

B. Fee disclosures.

Any statement specifying a fee for a dental service which does not include the cost of all related procedures, services and products which, to a substantial likelihood will be necessary for the completion of the advertised services as it would be understood by an ordinarily prudent person, shall be deemed to be deceptive or misleading. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of fees for specifically described dental services shall not be deemed to be deceptive or misleading.

C. Discounts.

Discount offers for a dental service are permissible for advertising only when the nondiscounted or full fee and the final discounted fee are also disclosed in the advertisement. The dentist shall maintain documented evidence to substantiate the discounted fee.

D. Retention of broadcast advertising.

A prerecorded copy of all advertisements on radio or television shall be retained for a six-month period following the final appearance of the advertisement. The advertising dentist is responsible for making prerecorded copies of the advertisement available to the board within five days following a request by the board.

E. Routine dental services.

The purpose of this subsection is to delineate those routine dental services which may be advertised pursuant to § 54.1-2706(7) of the Code of Virginia and subsection F of § 4.4 of these regulations. The definitions as set out in Regulation I are intended to set forth a minimum standard as to what constitutes such services for advertising purposes in order to allow the public to accurately compare the fees charged for a given service and to preclude potentially misleading advertisement of fees for a given service which may be delivered on a superficial or minimum basis. Advertising of fees pursuant to [~~subsection F, paragraph 3~~] of § 4.4 [*F 3*] of these regulations is limited to the following routine dental services:

1. "Examination." A study of all the structures of the oral cavity, including the recording of the conditions of all such structures and an appropriate history thereof. As a minimum, such study shall include charting of caries, identification of periodontal disease, occlusal discrepancies, and the detection of oral lesions.

2. "Diagnosis." An opinion of findings in an examination.

3. "Treatment planning." A written statement of

treatment recommendations following an examination and diagnosis. This statement shall include a written itemized treatment recommendation and written itemized fee statement.

4. "Radiographs." Shall document type and quantity. (See definitions).

5. "Complete or partial dentures and crowns." Any advertisement shall include full disclosure of all related fees and procedures.

6. "Prophylaxis." The removal of calculus, accretions and stains from exposed surfaces of the teeth and from the gingival sulcus.

7. "Simple extractions." A service for the removal of nonimpacted teeth, including a full disclosure of all related fees and procedures.

8. Other procedures which are determined by the board to be routine dental services are those services set forth in the American Dental Association's "Code on Dental Procedures and Nomenclature," as published in the Journal of the American Dental Association (JADA), as amended, which is hereby adopted and incorporated by reference.

F. The following practices shall constitute false, deceptive or misleading advertising within the meaning of § 54.1-2706(7) of the Code of Virginia.

1. Publishing an advertisement which contains a material misrepresentation or omission of facts.

2. Publishing an advertisement which contains a representation or implication that is likely to cause an ordinarily prudent person to misunderstand or be deceived, or that fails to contain reasonable warnings or disclaimers necessary to make a representation or implication not deceptive.

3. Publishing an advertisement which fails to include the information and disclaimers required by § 4.4 of these regulations.

G. Signage.

Advertisements, including but not limited to signage, containing descriptions of the type of dentistry practiced or a specific geographic locator are permissible so long as the requirements of §§ 54.1-2718 and 54.1-2720 of the Code of Virginia are complied with.

§ 4.5. Nondelegable duties.

A. Nondentists: The following duties shall not be delegated to a nondentist:

1. *Final* diagnosis and treatment planning.

2. Performing surgical or cutting procedures on hai or soft tissue.

3. Prescribing drugs, medicaments and work authorizations.

4. Adjusting fixed or removable appliances or restorations in the oral cavity.

5. Making occlusal adjustments in the oral cavity.

6. Performing pulp capping and pulpotomy procedures.

7. Administering and monitoring local or general anesthetics, conscious sedation and administering nitrous oxide oxygen inhalation analgesia, except as provided for in § 54.1-2701 of the Code of Virginia and § 5.4 A 17 of these regulations.

8. Condensing and carving amalgam restorations.

9. Placing and contouring silicate cement and composite resin restorations.

10. Placement and fitting of orthodontic arch wire and making ligature adjustments creating active pressure on the teeth.

11. No person, not otherwise licensed by the board, shall place or expose dental x-ray film unless he ha (i) satisfactorily completed a course or examinati recognized by the Commission on Dental Accreditatio of the American Dental Association, or (ii) been certified by the American Society of Radiological Technicians, [~~or~~] (iii) satisfactorily completed a course and passed an examination in compliance with guidelines provided by the board, or (iv) [~~on the job training and passed the board's examination in radiation safety and hygiene~~ *passed the board's examination in radiation safety and hygiene followed by on-the-job training*]. Any individual not able to successfully complete the board's examination after two attempts may be certified only by completing [~~(a) or (b) or (c)~~ *(i), (ii) or (iii)*] of this provision. *Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.*

12. Taking impressions for any working model except as provided in [~~subsection A, paragraph 2, of § 5.4~~ *§ 5.3 A 2*] of these regulations.

PART V.
DIRECTION AND UTILIZATION OF DENTAL HYGIENISTS AND DENTAL ASSISTANTS.

§ 5.1. Employment of dental hygienists.

No dentist shall direct more than two dental hygienists at one and the same time.

§ 5.2. Required direction.

In all instances, a licensed dentist assumes ultimate responsibility for determining, on the basis of his diagnosis, the specific treatment the patient will receive and which aspects of treatment will be delegated to qualified personnel in accordance with these regulations and the Code of Virginia.

Dental hygienists and assistants shall engage in their respective duties only while in the employment of a licensed dentist or governmental agency and under the direction and control of the employing dentist or the dentist in charge, or the dentist in charge or control of the governmental agency. The dentist shall be present and evaluate the patient during the time the patient is in the facility. Persons acting within the scope of a license issued to them by the board under § 54.1-2725 of the Code of Virginia to teach dental hygiene and those persons licensed pursuant to § 54.1-2722 of the Code of Virginia providing oral health education and preliminary dental screenings in any setting are exempt from this section.

§ 5.3. Dental hygienists.

A. The following duties may be delegated to dental hygienists under direction:

1. Scaling, root planing and polishing natural and restored teeth using hand instruments, rotary instruments, prophy-jets and ultra sonic devices.

2. Taking of working impressions for construction of athletic and fluoride guards.

3. Performing an original or clinical examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets or other abnormal conditions for assisting the dentist in the diagnosis.

§ 5.4. Dental hygienists and dental assistants.

A. Only the following duties may be delegated to dental hygienists and dental assistants under direction:

1. Application of topical medicinal agents, including topical fluoride or desensitizing agents (aerosol topical anesthesia excluded).

2. Acid etching in those instances where the procedure is reversible.

3. Application of sealants.

4. Serving as a chairside assistant aiding the dentist's treatment by concurrently performing supportive procedures for the dentist ~~:~~ , *including drawing* [~~*upon*~~ *up*] *and compounding medications for administration by the dentist. The foregoing shall not prohibit the dentist from delegating to another licensed health care professional duties within the scope of their respective practice.*

5. Placing and removing matrixes for restorations.

6. Placing and removing rubber dam.

7. Placing and removing periodontal packs.

8. Polishing natural and restored teeth by means of a rotary rubber cup or brush and appropriate polishing agent.

9. Holding and removing impression material for working models after placement in the patient's mouth by the dentist.

10. Taking nonworking impressions for diagnostic study models.

11. Placing of amalgam in prepared cavities with the carrier to be condensed and carved by the dentist.

12. Placing and removing elastic orthodontic separators.

13. Checking for loose orthodontic bands.

14. Removing arch wires and ligature ties.

15. Placing ligatures to tie in orthodontic arch wire that has been fitted and placed by the dentist ~~;~~ ~~provided that no active pressure is created by the placement of such ligatures~~ .

16. Selecting and prefitting of orthodontic bands for cementation by the dentist.

17. Monitoring of nitrous oxide oxygen inhalation analgesia.

18. Placing and exposing dental x-ray film. (No person who is not otherwise licensed by the board shall place or expose dental x-ray film unless the requirements of subsection A, paragraph 11, of § 4.5 of these regulations have been fulfilled.)

19. Removing socket dressings.

20. Instructing patients in placement and removal of retainers and appliances after they have been completely fitted and adjusted in the patient's mouth by the dentist.

21. Removing sutures.

22. Removing supragingival cement on crowns, bands, and restorations.

Any procedure not listed above is prohibited.

§ 5.5. What does not constitute practice.

A. Oral health education and preliminary dental screenings in any setting are not considered the practice of dental hygiene and dentistry.

B. Recording a patient's pulse, blood pressure, temperature, and medical history.

VIRGINIA BOARD OF DENTISTRY

APPLICATION FOR DENTAL HYGIENE LICENSE

Received	
Returned for completion	
SRTA Clinical	Date
SRTA Written	Date
National Board	
Law Examination	
Transcript	

INSTRUCTIONS: Use typewriter or print clearly. If the space for any answer is insufficient the applicant must complete his/her answer on a rider, signed by him/her, specifying the number of the question to which it relates and enclose with this application. OMMISSIONS OR INACCURACIES ARE GROUNDS FOR REJECTION.

I APPLICANT PROFILE DATA

FULL NAME (Last / First / Middle)

ADDRESS (Street & Number / Apt. No. / City, State, Zip Code)

NOTE: Once you have established your place of business, the Regulations require that your business address be on file with the Board, within 30 days. (please notify in writin

TELEPHONE NUMBERS: Home ( ) _____ Business ( ) _____

CITIZEN OR PERMANENT RESIDENT OF UNITED ST: Yes No

OTHER NAMES: Have you ever changed your name through marriage or through action of the co or have you ever been known by any other name? YES____ NO_____
If yes, list name(s), date(s), and reason for change below.

DATE OF BIRTH | PLACE OF BIRTH

SEX | PROF. SCH. DEGREE | SCHOOL / CITY, STATE

GRADUATION DATE | SOCIAL SECURITY NUMBER

APPLICANTS DO NOT USE THESE SPACES
FOR OFFICE USE ONLY

License No.	Pending No.	School Code	Fee	Date Issued

Scores: DRI | CLIN | LAW

(revised 1988)

II EXAMINATIONS — Date Taken or Scheduled

A. NATIONAL BOARD EXAMINATION Date Completed (Attach original of National Board Score Card) Mo Day Yr

B. VA. BOARD REGIONAL DENTAL EXAMINATION Mo Day Yr

Exam Site: _____

C. VA. JURISPRUDENCE EXAMINATION (Required by every applicant) Mo Day Yr

D. OTHER NATIONAL, REGIONAL, STATE LICENSURE EXAMINATIONS:

III APPLICANT HISTORY — YES / NO

A. Have you ever been denied the right to take a dental hygiene examination in any state? ____ ____

B. Have you ever been refused a license to practice dental hygiene or any other license - or the renewal thereof - in any state? ____ ____

C. Have you ever had a license or certificate of registration to practice dental hygiene or any other license revoked, suspended or otherwise acted against (including probation, fine, or reprimand) in a disciplinary proceeding in any state? ____ ____

D. Is there currently pending against you, in any jurisdiction, a complaint against your professional conduct or competence as a dental hygienist? ____ ____

E. Have you ever failed the dental examinations given by another board? ____ ____

(If questions A-E above are answered yes, you must provide complete details as to state(s), license number(s), dates , and relevant circumstances on a rider.

F. Have you ever been dropped, suspended, expelled, or disciplined by any school or college for any cause whatever? ____ ____

(If yes, state reasons fully on rider giving name of school, dates,and causes)

G. Have you ever been a defendant in a military court martial or received medical or other than honorable discharge? ____ ____

(If yes, pleaselist date, jurisdiction, (state & parish), offense, disposition, and all other relevant information on a rider.)

H. Have you ever been declared legally incompetent? ____ ____

(If yes, please explain on a rider including full details as to court date, circumstances, and medical practitioners consulted.)

I am , or have been, licensed to practice dental hygiene in the following jurisdictio and no others:

JURISDICTION	LICENSED BY examination, credentials, etc.	LICENSE NO.	DATE OF ISSUANCE	YRS. OF PRAC

CERTIFICATION OF LICENSURE (FORM 1) MUST BE INCLUDED, IF APPLICABLE.

If you have been admitted to practice in any jurisdiction, provide the following certification and make a complete statement of all your practices since graduation to date. Include temporary or part-time work. All time must be accounted for whether employed or not employed.

EXPERIENCE

I have been employed by the following dentists as a Dental Hygienist or Dental Assista

Inclusive Dates Began	Ended	Name/Address of Employer	Employed as Hygienist	Employed as Assistant

In addition to the foregoing, I add the following:

a) I have read the Virginia Dental Practice Act & the Rules & the Regulations of the Board. I am aware that if I am granted a Certificate to practice dental hygiene in Virginia, I am required to comply with any law governing the practice of dental hygiene in this state.

b) I hereby give permission to the Virginia Board of Dentistry to secure additional information related to any statement in this application from any person or any source.

	YES	NO
I. Have you ever been addicted or received treatment for the use of drugs, narcotics, or intoxicating liquores, or are you afflicted with an incurable or recurring contagious or infectious disease?	____	____
J. Have you ever received treatment for amnesia or any form of insanity, emotional disturbance, or mental disorder?	____	____

(If I or J above are answered yes, please show on a rider the relevant dates and circumstances of such treatment, along with the names and addresses of the medical practitioners who treated you. In addition, it will be necessary for you to direct each of the practitioners or hospitals who treated you to furnish the board any information it may request with respect to said treatment.)

K. Have you ever been convicted of a felony or crime involving moral turpitude?	____	____

(If yes, furnish a written statement giving the complete facts, the nature of the charges, the disposition of the matter, and the name and address of authority in possession of the records thereof.

DENTAL HYGIENE EDUCATION

Name and location of institution attended: Period of attendanc

1st yr _____ City State _____

2nd yr _____ City State _____

3rd yr _____ City State _____

4th yr _____ City State _____

I have received the degree of _____ from _____ (College or University)

on the _____day of _____, 19____.

In addition to the above, applicant is required to include a transcript of his or her record, i.e. subjects and grades which has been certified by the registrar and affixed with the college seal and has date degree conferred.

FORM #2

CERTIFICATION OF _____ DENTAL HYGIENE SCHOOL

To be completed by the Dean, Registrar, President, or Secretary of the Dental/Hygiene School which granted the degree upon which this application is based.

_____

I HEREBY CERTIFY That _____ matriculated
(please print or type name of applicant)

in this Dental/Hygiene School on the _____ day of _____, 19____,

and completed all courses of instruction, graduating with the degree

of _____ (RDH) , on the _____ day of _____, 19____.

Dental Hygiene School _____

SIGNATURE _____

Title _____ Date _____

(seal)

3) I hereby expressly authorize any hospital, clinic or treating physician or other person who has attended or examined me to disclose any information related to Section III (Applicant History) to the Virginia Board of Dentistry.

4) I have attached a money order in the amount of $_____ made payable to the Treasurer of Virginia.

I,_____, the applicant herein, dispose and say that all facts, statements, and answers contained in this application are true and correct; I am not omitting any information which might be of value to this Board in determining my qualifications and character, whether it is called for or not; and I agree that any falsification, omission, or withholding of information of facts concerning my qualifications as an applicant shall be sufficient grounds for the suspension, cancellation, or revocation of my Virginia Dental Hygiene License even though it is not discovered until after issuance.

_____
Applicants Signature

The State of _____

Before me, the undersigned authority, on this day personally appeared

_____who after being duly sworn by me on

his/her oath that all facts, statements, and answers contained in this application

are true and correct in every respect, and that the attached photograph is a true

likeness of the applicant.

_____
Applicant (signed in presence of Notary)

Sworn and subscribed to before me this _____day of _____, 19____, to certify which witness my hand and official seal of office.

_____
Notary Public

County of _____

or City of _____

My Commission Expires_____

AN UNMOUNTED BUST PHOTO 3"x3", of applicant, tak not more than six months before the date of this application must be past in this space and must : be larger than the space provided.

(NOTARY SEAL)

NOTARY SEAL MUST CUPPLIE A PORTION OF THE PHOTOGRAPH.

FORM #1 CERTIFICATION OF LICENSURE

CERTIFICATION OF DENTAL HYGIENE BOARDS

This endorsement must be completed if an applicant has been licensed by the Dental Board of another state. If more than one license has been held, it should be executed by each of those State Dental Boards. This may be copied if additional forms are needed.

Name of Applicant (print clearly or type)

Address

License Number Date Issued Status ___active ___inactive ___current

NAME OF BOARD

ADDRESS

As _____ of the Board named above, I certify that _____ was granted License No. _____, on _____ to practice dental hygiene in the state of _____. I further certify that the licensee named above has not been revoked, suspended, or disciplined. I, therefore, recommend the applicant as a fit and proper person to be licensed by the Virginia State Board of Dentistry. IN TESTIMONY, witness my hand and seal of the Board.

_____ (seal)
Signature

_____
Title

_____
Date

APPENDIX D

PRACTICE EXPERIENCE
DOCUMENTATION SHEET

INSTRUCTIONS: Starting with most recent experience (active patient care in dental hygiene), list the dates, name of employer and address of each separate work expereince. DENTAL HYGIENISTS MUST SHOW 2 YEARS OF EXPERIENCE OUT OF LAST 4 YEARS. You must account for all periods of unemployment including dates, addresses where you resided, and reason for unemployment.

DATES	NAME OF EMPLOYER / ADDRESS	REASON FOR UNEMPLOYMENT

IF ADDITIONAL SPACE IS NEEDED, PLEASE USE AN EXTRA SHEET

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

NOTICE: The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: **VR 400-02-0011. Rules and Regulations for Allocation of Low-Income Housing Tax Credits.**

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Effective Date: May 20, 1991.

Summary:

The amendments to the rules and regulations for allocation of low-income housing tax credits ("federal credits") of the Virginia Housing Development Authority (the "authority") will make the following changes:

1. Amend the requirement for site control (as a prerequisite for submission of the application) by eliminating the provision whereby site control by a party having an ownership interest in the applicant or a party within the exclusive control of the applicant can satisfy this requirement;

2. Increase the general partnership ownership percentage of the qualifying nonprofit organization from 10% to 51% for projects in the nonprofit pool and clarify that the requirement for such 51% interest means a 51% interest in both the income and profit and in all items of cashflow;

3. Clarify that (i) there may be more than one round of application review and selection using all or only a portion of the total amount of federal credits available for each round, (ii) unreserved federal credits in any pool at the end of a round may be retained in such pool for future rounds or may be redistributed among other pools, and (iii) unreserved federal credits may be carried over to the next succeeding calendar year;

4. Eliminate points for the applicant's ownership or leasing of the site;

5. Combine and reduce the points for financing and equity commitments, the amounts of which must equal 100% of the total development costs of the project and must be provided by financial institutions or governmental entities and financially sound third-party syndicators for projects involving more than 12 units;

6. Add a provision allowing the executive director to treat reservations of funds from the Virginia Partnership Revolving Fund as firm financing commitments;

7. Decrease the number of points for (i) development team experience and (ii) increase in housing stock;

8. Award points for nonprofit involvement only if the nonprofit has its principal place of business in Virginia;

9. Increase the threshold number of points from a federal credit allocation from 150 to 190;

10. In accordance with certain 1990 amendments to the Internal Revenue Code, eliminate the award of bonus points based upon the percentage of federal credits used to provide equity for the development and, instead, provide for the use of such percentage in determining the amount of federal credits necessary for project feasibility;

11. Increase the bonus points awarded to projects serving lower income households;

12. Lower the bonus points awarded to projects remaining low-income projects beyond the 15-year compliance period;

13. Eliminate the authority's ability to exclude an application because the applicant's development is located within close proximity to another proposed development;

14. Allow the executive director to increase reservation amounts by not more than 10% without board approval;

15. Clarify that the authority may require an applicant to enter into a contract to commit the applicant to perform all representations in its application; and

16. Make a number of technical and clarification changes.

VR 400-02-0011. Rules and Regulations for Allocation of Low-Income Housing Tax Credits.

§ 1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"Applicant" means an applicant for federal credits or state credits or both under these rules and regulations and, upon and subsequent to an allocation of such credits, also means the owner of the development to whom the federal credits or state credits or both are allocated.

"Estimated highest per bedroom credit amount for new construction units" means, in subdivision ~~11~~ 7 of § 6, the highest amount of federal credits and 50% of state credits estimated by the executive director to be allocated per bedroom *(within the low-income housing units)* to any

development in the state (or, if the executive director shall so determine, in each pool or subpool) composed solely of new construction units.

"Estimated highest per bedroom credit amount for rehabilitation units" means, in subdivision ~~11~~ 7 of § 6, the highest amount of federal credits and 50% of state credits estimated by the executive director to be allocated per bedroom *(within the low-income housing units)* to any development in the state (or, if the executive director shall so determine, in each pool or subpool) composed solely of rehabilitation units.

"Estimated highest per unit credit amount for new construction units" means, in subdivision ~~10~~ *6* of § 6, the highest amount of federal credits and 50% of state credits estimated by the executive director to be allocated per *low-income* unit to any development in the state (or if the executive director shall so determine, in each pool or subpool) composed solely of new construction units.

"Estimated highest per unit credit amount for rehabilitation units" means, in subdivision ~~10~~ *6* of § 6, the highest amount of federal credits and 50% of state credits estimated by the executive director to be allocated per *low-income* unit to any development in the state (or, if the executive director shall so determine, in each pool or subpool) composed solely of rehabilitation units.

"Federal credits" means the low-income housing tax credits as described in § 42 of the IRC.

"IRC" means the Internal Revenue Code of 1986, as amended, and the rules ~~and~~ , regulations , *notices and other official pronouncements* promulgated thereunder.

"Low-income housing units" means those units which are defined as "low income units" under § 42 of the IRC.

"Qualified low-income buildings" or *"qualified low-income development"* means the buildings or development which meets the applicable requirements in § 42 of the IRC to qualify for an allocation of federal credits thereunder.

"State code" means Chapter 1.4 of Title 36 of the Code of Virginia.

"State credits" means the low-income housing tax credits as described in the state code.

"Virginia taxpayer" means any individual, estate, trust or corporation which, in the determination of the authority, is subject to the payment of Virginia income taxes and will be able to claim in full against such taxes the amount of state credits reserved or allocated to such individual, estate, trust or corporation under these rules and regulations.

§ 2. Purpose and applicability.

The following rules and regulations will govern the allocation by the authority of federal credits pursuant to § 42 of the IRC and state credits pursuant to the state code.

Notwithstanding anything to the contrary herein, acting at the request or with the consent of the applicant for federal credits or state credits or both, the executive director is authorized to waive or modify any provision herein where deemed appropriate by him for good cause, to the extent not inconsistent with the IRC and the state code.

The rules and regulations set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the processing and administration of the federal credits and state credits. These rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time.

Any determination made by the authority pursuant to these rules and regulations as to the financial feasibility of any development or its viability as a qualified low-income development shall not be construed to be a representation or warranty by the authority as to such feasibility or viability.

Notwithstanding anything to the contrary herein, all procedures and requirements in the IRC and the state code must be complied with and satisfied.

§ 3. General description.

The IRC provides for federal credits to the owners of residential rental projects comprised of qualified low-income buildings in which low-income housing units are provided, all as described therein. The aggregate amount of such credits (other than federal credits for developments financed with certain tax-exempt bonds as provided in the IRC) allocated in any calendar year within the Commonwealth may not exceed the Commonwealth's annual state housing credit ceiling for such year under the IRC. An amount equal to 10% of such ceiling is set-aside for developments in which certain qualified nonprofit organizations *hold an ownership interest and* materially participate in the development and operation thereof. Federal credit ~~allocations (other than credits for developments financed with certain tax-exempt bonds as provided in the IRC)~~ *allocation amounts* are counted against the Commonwealth's annual state housing credit ceiling *for federal credits* for the calendar year in which the federal credits are allocated. The IRC provides for the allocation of the Commonwealth's state housing credit ceiling *for federal credits* to the housing credit agency of the Commonwealth. The authority has been designated by executive order of the Governor as the housing credit agency under the IRC and, in such capacity, shall allocate for each calendar year federal credits to qualified low-income buildings or developments in accordance

herewith.

Federal credits may be allocated to each qualified low-income building in a development separately or to the development as a whole *in accordance with the the IRC* .

Federal credits may be allocated to such buildings or development either (i) during the calendar year in which such building or development is placed in service or (ii) if the building or development meets the requirements of § 42 (h)(1)(E) of the IRC, during one of the two years preceding the calendar year in which such building or development is expected to be placed in service. Prior to such allocation, the authority shall receive and review applications for reservations of federal credits as described hereinbelow and shall make such reservations of federal credits to ~~qualified low-income buildings~~ *eligible applications in accordance herewith and* , subject to satisfaction of certain terms and conditions as described herein. Upon compliance with such terms and conditions and, as applicable, either (i) the placement in service of the qualified low-income buildings or development or (ii) the satisfaction of the requirements of § 42 (h)(1)(E) of the IRC with respect to such buildings or the development, the federal credits shall be allocated to such buildings or the development as a whole in the calendar year for which such federal credits were reserved by the authority.

Except as otherwise provided herein or as may otherwise be required by the IRC, these rules and regulations shall not apply to federal credits ~~for~~ *with respect to* any development or building to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal credits hereunder.

The authority is authorized by the state code to establish the amount, if any, of state credits to be allocated to any buildings or development qualified for and claiming federal credits. The amount of state credits is calculated as a percentage of federal credits. Such percentage is established by the authority as provided herein. The state code provides for a maximum allocation of $3,500,000 state credits in any calendar year. The state credits will be available for buildings or developments for which federal credits shall be allocated in 1990 and subsequent years or, in the case of any development or building to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal tax credits hereunder, for which such bonds shall be issued in 1990 and subsequent years. In the event that legislation is adopted by the General Assembly to defer the date set forth in §§ 36-55.63 A, 58.1-336 A or 58.1-435 A of the state code, then the year 1990 in the preceding sentence shall likewise be deferred and the provisions of these rules and regulations relating to state credits shall not become effective until the date set forth in such legislation.

The authority shall charge to each applicant fees in such amount as the executive director shall determine to be necessary to cover the administrative costs to the authority, but not to exceed the maximum amount permitted under the IRC. Such fees shall be payable at such time or times as the executive director shall require.

§ 4. Adoption of allocation plan; solicitations of applications.

The IRC requires that the authority adopt a qualified allocation plan which shall set forth the selection criteria to be used to determine housing priorities of the authority which are appropriate to local conditions and which shall give certain priority to and preference among developments in accordance with the IRC. The executive director from time to time may cause housing needs studies to be performed in order to develop the qualified allocation plan and, based upon any such housing needs study and any other available information and data, may direct and supervise the preparation of and approve the qualified allocation plan and any revisions and amendments thereof in accordance with the IRC. The IRC requires that the qualified allocation plan be subject to public approval in accordance with rules similar to those in § 147(f)(2) of the IRC. The executive director may include all or any portion of these rules and regulations in the qualified allocation plan.

The executive director may from time to time take such action he may deem necessary or proper in order to solicit applications for federal credits and state credits. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications and the selection thereof as he shall consider necessary or appropriate.

§ 5. Application.

Application for a reservation of federal credits or state credits or both shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe or approve, together with such documents and additional information as may be requested by the authority in order to comply with the IRC ~~and~~ , the state code *and these rules and regulatons* and to make the reservation and allocation of the federal credits and state credits in accordance with these rules and regulations. The application shall include a breakdown of sources and uses of funds sufficiently detailed to enable the authority to ascertain where and what costs will be incurred and what will comprise the total financing package, including the various subsidies and the anticipated syndication or placement proceeds that will be raised. The following cost information must be included in the application: site acquisition costs, site preparation costs, construction costs, construction contingency, general contractor's overhead and profit, architect and engineer's fees, permit and survey

fees, insurance premiums, real estate taxes during construction, title and recording fees, construction period interest, financing fees, organizational costs, rent-up and marketing costs, accounting and auditing costs, working capital and operating deficit reserves, and syndication and legal fees , *development fees* and other costs *and fees* .

Each application shall include evidence of (i) sole fee simple ownership of the site of the proposed development by the applicant, ~~by one or more persons having ownership interests in the applicants or by one or more entities within the exclusive control of the applicant or the above described persons,~~ (ii) lease of such site by the applicant ~~or by the above described persons or entities~~ for a term exceeding the compliance period (as defined in the IRC) or for such longer period as the applicant represents in the application that the development will be held for occupancy by low-income persons or families or (iii) right to acquire or lease such site pursuant to a valid and binding *written* option or contract between the applicant ~~or the above described persons or entities~~ and the fee simple owner of such site, provided that such option or contract shall have no conditions within the discretion or control of such owner of such site. No application shall be considered for a reservation or allocation of federal credits or state credits unless such evidence is submitted with the application and the authority determines that the applicant ~~or the above described persons or entities own, lease or have~~ *owns, leases or has* the right to acquire or lease the site of the proposed development as described in the preceding sentence.

The application shall include pro forma financial statements setting forth the anticipated cash flows during the credit period as defined in the IRC. The application shall include a certification by the applicant as to the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to each building or development. The executive director may also require the submission of a legal opinion or other assurances satisfactory to the executive director as to , *among other things,* compliance of the proposed development with the IRC and a certification, together with an opinion of an independent certified public accountant or other assurances satisfactory to the executive director, setting forth the calculation of the amount of federal credits requested by the application and certifying , *among other things,* that under the existing facts and circumstances the applicant will be eligible for the amount of federal credits requested.

The executive director may establish criteria and assumptions to be used by the applicant in the calculation of amounts in the application; and any such criteria and assumptions shall be indicated on the application form or instructions.

The executive director may prescribe such deadlines for submission of applications for reservation and allocation of federal credits and state credits for any calendar year as he shall deem necessary or desirable to allow sufficient processing time for the authority to make suc. reservations and allocations.

After receipt of the applications, the authority shall notify the chief executive officers (or the equivalent) of the local jurisdictions in which the developments are to be located and shall provide such individuals a reasonable opportunity to comment on the developments.

The development for which an application is submitted may be, but shall not be required to be, financed by the authority. If any such development is to be financed by the authority, the application for such financing shall be submitted to and received by the authority in accordance with its applicable rules and regulations.

The authority may consider and approve, in accordance herewith, both the reservation and the allocation of federal credits and state credits to buildings or developments which the authority may own or may intend to acquire, construct and/or rehabilitate.

§ 6. Review and selection of applications; reservation of federal credits.

The executive director may divide the amount of federal credits into separate pools and may further subdivide those pools into subpools. The division of such pools and subpools may be based upon one or more of the following factors: geographical areas of the state; types o characteristics of housing, construction, financing, owne or occupants; or any other factors deemed appropriate b him to best meet the housing needs of the Commonwealth.

An amount, as determined by the executive director, not less than 10% of the Commonwealth's annual state housing credit ceiling *for federal credits* , shall be available for reservation and allocation to buildings or developments with respect to which the following requirements are met:

1. With respect to all reservations and allocations of federal credits, a "qualified nonprofit organization" (as described in § 42(h)(5)(C) of the IRC) is to materially participate (within the meaning of § 469(h) of the IRC) in the development and operation of the development throughout the "compliance period" (as defined in § 42 (i)(1) of the IRC); and

2. With respect to only these reservations of federal credits approved or ratified by the board on or after December 18, 1990, and with respect to only those allocations made pursuant to such reservations, (i) the "qualified nonprofit organization" described in the preceding subdivision 1 is to own an interest in the development (directly or through a partnership) as required by the IRC; (ii) such qualified nonprofit organization is to, prior to the allocation of federal credits to the buildings or development, own [~~an~~ *a general partnership*] interest in the development which shall constitute not less than [~~10%~~ *51%*] of all of the general partnership interests of the ownersh

entity thereof *(such that the qualified nonprofit organizations have at least a* [~~10%~~ *51%*] *interest in both the income and profit allocated to all of the general partners and in all items of cashflow distributed to the general partners)* and which will result in such qualified nonprofit organization receiving not less than [~~10%~~ *51%*] of ~~the development~~ *all* fees paid *or to be paid* to all of the general partners *(and any other entities determined by the authority to be related to or affiliated with one or more of such general partners)* in connection with the development; (iii) the executive director of the authority shall have determined that such qualified nonprofit organization is not affiliated with or controlled by a for-profit organization; and (iv) the executive director of the authority shall have determined that the qualified nonprofit organization was not or will not be formed by one or more individuals or for-profit entities for the principal purpose of being included in any nonprofit pools or subpools (as defined below) established by the executive director. In making the determination required by this subdivision 2 (iv), the executive director may apply such factors as he deems relevant, including, without limitation, the past experience and anticipated future activities of the qualified nonprofit organization, the sources and manner of funding of the qualified nonprofit organization, the date of formation and expected life of the qualified nonprofit organization, the number of staff members and volunteers of the qualified nonprofit organization, the nature and extent of the qualified nonprofit organization's proposed involvement in the construction or rehabilitation and the operation of the proposed development, and the relationship of the staff, directors or other principals involved in the formation or operation of the qualified nonprofit organization with any persons or entities to be involved in the proposed development on a for-profit basis. The executive director may include in the application of the foregoing factors any other nonprofit organizations which, in his determination, are related (by shared directors, staff or otherwise) to the qualified nonprofit organization for which such determination is to be made.

For purposes of the foregoing requirements, a qualified nonprofit organization shall be treated as satisfying such requirements if any qualified corporation (as defined in § 42(h)(5)(D)(ii) of the IRC) in which such organization holds stock satisfies such requirements.

The applications shall include such representations and warranties and such information as the executive director may require in order to determine that the foregoing requirements have been satisfied. In no event shall more than 90% of the Commonwealth's annual state housing credit ceiling *for federal credits* be available for developments other than those satisfying the preceding requirements. The executive director may establish such pools or subpools ("nonprofit pools or subpools") of federal credits as he may deem appropriate to satisfy the foregoing requirement. If any such nonprofit pools or subpools are so established, the executive director may rank the applications therein and reserve federal credits (and, if applicable, state credits) to such applications before ranking applications and reserving federal credits (and, if applicable, state credits) in other pools and subpools, and any such applications in such nonprofit pools or subpools not receiving any ~~such reservation~~ *reservations* of federal credits (and, if applicable, state credits) *or receiving such reservations in amounts less than the full amount permissible hereunder (because there are not enough federal credits then available in such nonprofit pools or subpools to make such reservations)* shall be assigned to such other pool or subpool as shall be appropriate *hereunder* ; provided, however, that if ~~additional~~ federal credits are later made available ~~by federal legislation~~ *(pursuant to the IRC or as a result of either a termination or reduction of a reservation of federal credits made from any nonprofit pools or subpools or a rescission in whole or in part of an allocation of federal credits made from such nonprofit pools or subpools or otherwise)* for reservation and allocation by the authority during the same calendar year as that in which applications in the nonprofit pools or subpools have been so assigned to other pools or subpools as described above, the executive director may, in such situations, designate all or any portion of such additional federal credits for the nonprofit pools or subpools (or for any other pools or subpools as he shall determine) and may, if additional federal credits have been so designated for the nonprofit pools or subpools, reassign such applications to such nonprofit pools or subpools, rank the applications therein and reserve federal credits to such applications in accordance with the IRC and these rules and regulations. In the event that *during any round (as authorized hereinbelow) of application review and ranking* the amount of federal credits reserved within such nonprofit pools or subpools is less than the total amount *of federal credits* made available therein, *the executive director may either (i) leave such unreserved federal credits in such nonprofit pools or subpools for reservation and allocation in any subsequent round or rounds or (ii) redistribute, to the extent permissible under the IRC, such unreserved federal credits to such other pools or subpools as the executive director shall designate and in which there are or remain applications for federal credits which have not then received reservations therefor in the full amount permissible hereunder (which applications shall hereinafter be referred to as "excess applications") or (iii) carry over such unreserved federal credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. Any redistribution made pursuant to subdivision (ii) above shall be made pro rata based on the amount originally distributed to each such pool or subpool with excess applications divided by the total amount originally distributed to all such pools or subpools with excess applications* ~~such amount of unreserved federal credits may, to the extent permitted by the IRC, be redesignated from time to time by the executive director to such other~~

~~pools or subpools and in such amounts as he shall determine~~ . Notwithstanding anything to the contrary herein, no allocation of credits shall be made from any nonprofit pools or subpools to any application with respect to which the qualified nonprofit organization has not yet been legally formed in accordance with the requirements of the IRC. [In addition, no application for credits from any nonprofit pools or subpools may receive a reservation or allocation of credits in any amount greater than $500,000. For the purposes of implementing this limitation, the executive director may determine that more than one application for more than one development which he deems to be a single development shall be considered as a single application.]

The authority ~~staff~~ shall review each application, and, based on the application and other information available to the authority, shall assign points to each application as follows:

~~1. Either (i) sole fee simple ownership of the site of the proposed development by the applicant, by one or more persons having ownership interests in the applicant, or by one or more entities within the exclusive control of the applicant or the above described persons or (ii) lease of such site by the applicant or by the above described persons or entities for a term exceeding the compliance period (as defined in the IRC) or for such longer period as the applicant represents in the application that the development will be held for occupancy by low-income persons and families (10 points);~~

~~2.~~ *1.* Approval by local authorities of the plan of development for the proposed development or ~~a letter from such authorities stating~~ *written evidence satisfactory to the authority* that such approval is not required (15 points), proper zoning for such site or ~~a letter from the applicable local authorities stating~~ *written evidence satisfactory to the authority* that no zoning requirements are applicable (15 points), availability of all requisite public utilities for such site (15 points), completion of plans and specifications or, in the case of rehabilitation for which plans and specifications will not be used, work write-up for such rehabilitation (20 points multiplied by the percentage of completion of such plans and specifications or such work write-up), and building permit (10 points);

~~3. Issuance of a loan commitment or commitments to provide the financing for the proposed development without any conditions within the discretion or control of the lender (in the case of an unconditional commitment or commitments to provide permanent financing for a term of 15 years or more, 50 points or, in the case of any other unconditional commitment or commitments, 25 points) or any other written evidence of the intent of the lender or lenders to provide such financing (10 points);~~

~~4. Issuance of a commitment or commitments to provide equity funding for the proposed development from a financially sound syndicator or investor (or other source of such funding) without any conditions within the discretion or control of the syndicator or investor (25 points) or any other written evidence of the intent of such syndicator or investor to provide such equity funding (10 points);~~

2. Firm financing commitment(s) or firm equity commitment(s), or both, which provide funds for the proposed development in an aggregate amount equal to 100% of the total development cost of the development as represented in the application (50 points). For the purpose of this subdivision 2, a firm financing commitment means a written commitment issued by a financial institution to provide permanent financing for a term of 15 years or more for the proposed development without any conditions within the sole discretion or control of the lender. A firm equity commitment means a written commitment issued by a financially sound third party syndicator or third party investor without any conditions within the sole discretion or control of such syndicator or investor. Such third party syndicator or investor shall neither be directly or indirectly related to nor controlled by the applicant. Notwithstanding the foregoing, in the case of a development comprised of 12 or fewer units only, all or a portion of the aforementioned aggregate amount [~~or~~ *of*] *funds to be provided for the proposed development may be made available by the applicant or another party if the authority receives satisfactory evidence of the availability of those funds.*

~~5.~~ *3.* The quality of the proposed development's amenities, building materials and energy efficiency (the development shall be ranked by the executive director on a scale from 0 to 5 for each of the first two categories and at either 0 or 5 for the last category and the application shall be assigned points equal to the sum of the products of each such ranking multiplied by 3);

~~6.~~ *4.* Evidence that the members of the development team for the proposed development have the demonstrated experience, qualifications and ability to perform their respective functions (the development team shall be ranked by the executive director on a scale from 0 to 10, and the application shall be assigned points equal to ~~5~~ *3* multiplied by the number of such ranking);

~~7.~~ *5.* Increase in the housing stock attributable to new construction or adaptive reuse of units or to the rehabilitation of units determined by the applicable local governmental unit to be uninhabitable (~~75~~ *20* points multiplied by the percentage of such units in the proposed development);

~~8.~~ *6.* The percentage by which the total of the amount of federal credits and 50% of the amount of stat

credits per low-income housing unit (the "per unit credit amount") of the proposed development is less than the weighted average of the estimated highest per unit credit amount for new construction units and the estimated highest per unit credit amount for rehabilitation units based upon the number of new construction units and rehabilitations units in the proposed development (if the per unit credit amount of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per unit credit amount of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and the proposed development receives one point for each percentage point);

~~9.~~ *7.* The percentage by which the total of the amount of federal credits and 50% of the amount of state credits per bedroom in such low-income housing units (the "per bedroom credit amount") of the proposed development is less than the weighted average of the estimated highest per bedroom credit amount for new construction units and the estimated highest per bedroom credit amount for rehabilitation units based upon the number of new construction units and rehabilitation units in the proposed development (if the per bedroom credit amount of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per bedroom credit amount of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and the proposed development receives one point for each percentage point);

~~10.~~ *8.* Letter addressed to the authority and signed by the chief executive officer of the locality in which the proposed development is to be located stating, without qualification or limitation, [~~either or both of~~] the following:

~~"The (name of locality) supports the allocation of federal housing tax credits available under IRC Section 42 requested by (name of applicant) for (name of development)." (10 points)~~

"The construction or rehabilitation of (name of development) and the allocation of federal housing tax credits available under IRC Section 42 for that development will help meet the housing needs and priorities of (name of locality). ~~"~~ ~~(10 points)~~ *Accordingly, (name of locality) supports the allocation of federal housing tax credits requested by (name of applicant) for that development." (20 points)*

~~11.~~ *9.* Participation in the ownership of the proposed development *(either directly or through a wholly-owned subsidiary)* by any organization *which has its principal place of business in Virginia and which is* exempt from federal taxation (10 points) or participation other than ownership in the development, construction or rehabilitation, operation or management of the proposed development by any *such* organization ~~exempt from federal taxation~~ (5 points);

~~12.~~ *10.* Commitment by the applicant to give first leasing preference to individuals and families on public housing waiting lists maintained by the local housing authority operating in the locality in which the proposed development is to be located (5 points); and

~~13.~~ *11.* Commitment by the applicant to lease low-income housing units in the proposed development only to one or more of the following: persons 62 years or older; homeless persons or families; or physically or mentally disabled persons (10 points).

With respect to items ~~8 and 9~~ *6 and 7* above only, the term "new construction units" shall be deemed to include adaptive reuse units and units determined by the applicable local governmental unit to be uninhabitable which are intended to be rehabilitated. Also, for the purpose of calculating the points to be assigned pursuant to such items ~~8 and 9~~ *6 and 7* above, all credit amounts shall be those requested in the applicable application, and the per unit credit amount and per bedroom credit amount for any building located in a qualified census tract or difficult development area (such tract or area being as defined in the IRC) shall be determined based upon 100% of the eligible basis of such building, in the case of new construction, or 100% of the rehabilitation expenditures, in the case of rehabilitation of an existing building, notwithstanding the use by the applicant of 130% of such eligible basis or rehabilitation expenditures in determining the amount of federal credits as provided in the IRC.

After points have been assigned to each application in the manner described above, the executive director shall compute the total number of points assigned to each such application. Notwithstanding any other provisions herein, any application which is assigned a total number of points less than a threshold amount of ~~150~~ *220* points shall be rejected from further consideration hereunder and shall not be eligible for any reservation or allocation of federal tax credits.

Each application to which the total number of points assigned is equal to or more than the above-described threshold amount of points shall be assigned bonus points as follows:

~~1. The percentage determined by dividing (i) the amount of investment proceeds (net of the cost of intermediaries and amounts paid for historic tax credits) expected by the authority to be generated with respect to the development and to be used for the cost of land and for costs determined by the authority to be reasonable and to be includable in the eligible basis of the proposed development by (ii) the~~

~~total amount of federal credits for the proposed development during the credit period (200 points multiplied by the percentage as so determined);~~

~~2.~~ *1.* Commitment by the applicant to ~~use~~ *impose* income limits *throughout the extended use period (as defined in the IRC)* below those required by the IRC in order for the development to be a qualified low-income development (the product of (i) ~~100~~ *200* points multiplied by the percentage of low-income housing units subject to such commitment and (ii) a fraction the numerator of which is the difference between 60% and the percentage of area median gross income to be used as the income limits for such units and the denominator of which is 60%; and

~~3.~~ *2.* Commitment by the applicant to maintain the development as a qualified low-income housing development beyond the 15-year compliance period as defined in the IRC; such commitment beyond the end of the 15-year compliance period and prior to the end of the 30-year extended use period (as defined in the IRC) being deemed to represent a waiver of the applicant's right under the IRC to cause a termination of the extended use period in the event the authority is unable to present during the period specified in the IRC a qualified contract (as defined in the IRC) for the acquisition of the ~~low-income portion of the~~ building by any person who will continue to operate ~~such portion~~ *the low-income portion thereof* as a qualified low-income building (~~5~~ *2* points for each full year in such commitment beyond such compliance period - maximum ~~100~~ *30* points).

In the event of a tie in the number of points assigned to two or more ~~applicants~~ *applications* within the same pool or subpool, or, if none, within the state, *and if the amount of federal credits available for reservation to such applications is determined by the executive director to be insufficient for the financial feasibility of both or, as applicable, all of the developments described* [~~herein,~~ *therein*] the authority shall ~~select one or more of them by loft, if necessary,~~ in order to fully utilize the amount of credits available for reservation within such pool or subpool or, if none, within the Commonwealth *select one or more of the applications, by lot, to receive a reservation of federal credits in the lesser of the full amount determined by the executive director to be permissible hereunder or the amount of federal credits then available in such pool or subpool.*

The executive director may exclude and disregard any application which he determines is not submitted in good faith or which he determines would not be financially feasible.

Upon assignment of points to all of the applications, the executive director shall rank the applications based on the number of points so assigned. If any pools or subpools shall have been established, each ~~applicant~~ *application* shall be assigned to a pool or subpool and shall be ranked within such pool or subpool. Those applications ~~awarded~~ *assigned* more points shall be ranked higher than those applications ~~awarded~~ *assigned* fewer points.

For each application which may receive a reservation of federal credits, the executive director shall determine the amount, as of the date of ~~application~~ *the deadline for submission of applications for reservation of federal credits* , to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC. In making this determination, the executive director shall consider the sources and uses of the funds, the available federal, state and local subsidies committed to the development, and the total financing planned for the development as well as the investment proceeds or receipts expected by the authority to be generated with respect to the development ~~(which proceeds or receipts shall in no event be less than the amount used above in the calculation of bonus points for the ranking of the proposed development) and~~ , *and the percentage of the federal credit dollar amount used for development costs other than the costs of intermediaries. He* shall *also* examine the development's costs, including developer's fees *and other amounts in the application* , for reasonableness *and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines, in his sole discretion, to be reasonable* . (If the applicant requests any state credits, the amount of state credits to be reserved to the applicant shall be determined pursuant to § 7 prior to the foregoing determination, and any funds to be derived from such state credits shall be included in the above described sources and uses of funds.) The executive director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The executive director may establish such criteria and assumptions as he shall deem reasonable for the purpose of making such determination, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received *(based upon such percentage of the federal credit dollar amount used for development costs, other than the costs of intermediaries, as the executive director shall determine to be reasonable for the proposed development)* , increases in the market value of the development, and increases in operating expenses, rental income and, in the case of ~~variable rate financing~~ *applications without firm financing commitments (as defined hereinabove) at fixed interest rates* , debt service on the proposed mortgage loan.

~~Under the IRC, the foregoing determination shall also be required for any buildings or development to be financed by certain tax-exempt bonds of the authority in an amount so as not to require under the IRC an allocation of federal credits hereunder. For the purpose of such determination, the owner of the proposed buildings or development shall submit to the authority, as and when required by the executive director, such of the above described information and documents as the executive director may~~

~~equire.~~

~~The~~ *At such time or times during each calendar year as the executive director shall designate, the* executive director shall reserve federal credits to applications in descending order of ranking within each pool or subpool, if applicable, until either *substantially* all federal credits therein are reserved or all applications therein have received reservations. *(For the purpose of the preceding sentence, if there is not more than a de minimis amount, as determined by the executive director, of federal credits remaining in a pool or subpool after reservations have been made, "substantially all" of the federal credits in such pool shall be deemed to have been reserved.)* The executive director may rank the applications within pools or subpools at different times for different pools or subpools and may reserve federal credits, based on such rankings, one or more times with respect to each pool or subpool. *The executive director may also establish more than one round of review and ranking of applications and reservations of federal credits based on such rankings, and he shall designate the amount of federal credits to be made available for reservation within each pool or subpool during each such round.* The amount reserved to each such application shall be equal to the lesser of (i) the amount requested in the application or (ii) an amount determined by the executive director, as of the date of application, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC; provided, however, that in no event shall the amount of federal credits so reserved exceed either the maximum amount permissible under the IRC or the amount of federal credits available in the pool or subpool from which such federal credits are to be reserved.

If the amount of federal credits available in any pool is determined by the executive director to be insufficient for the financial feasibility of the proposed development to which such available federal credits are to be reserved, the executive director may permit the applicant to modify such proposed development and his application so as to achieve financial feasibility based upon the amount of such available federal credits. Any such modifications shall be subject to the approval of the executive director *; provided, however, that in no event shall such modifications result in a material reduction in the number of points assigned to the application pursuant to § 6 hereof* .

~~Any amounts in any pools or subpools not reserved to applications shall be reallocated among the other pools or subpools which are designated by the executive director and in which applications shall not have received reservations in the full amount permissible under these rules and regulations. Such reallocation~~ *In the event that during any round of application review and ranking the amount of federal credits reserved within any pools or subpools is less than the total amount of federal credits made available therein during such round, the executive director may either (i) leave such unreserved federal credits in such pools or subpools for reservation and allocation in any subsequent round or rounds or (ii) redistribute such unreserved federal credits to such other pools or subpools as the executive director may designate and in which there* [~~remains~~ *remain*] *excess applications or (iii) carry over such unreserved federal credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. Any redistribution made pursuant to subdivision (ii) above* shall be made pro rata based on the amount originally ~~allocated~~ *distributed* to ~~all~~ *each of* such pools or subpools *so designated by the executive director* with excess applications divided by the total amount originally ~~allocated~~ *distributed* to all such *designated* pools or subpools with excess applications. Such ~~reallocations shall~~ *redistributions may* continue to be made until either all of the federal credits are reserved or all applications have received reservations.

~~Notwithstanding anything herein to the contrary, in the event that the executive director determines that the reservation of federal credits to two or more applications for developments to be located within close proximity to each other would create an oversupply of low income housing units in such area which would make the developments financially infeasible, the executive director may, based upon to rankings of such applications, exclude one or more of such applications from receiving a reservation of federal credits as he deems necessary or desirable to reduce such oversupply of units and contribute to the financial feasibility of the other such development or developments described in the other application or applications.~~

~~The~~ *Within a reasonable time after federal credits are reserved to any applicants' applications, the* executive director shall notify each applicant *for such reservations of federal credits* either of the amount of federal credits reserved to such applicant's application *(by issuing to such applicant a written binding commitment to allocate such reserved federal credits subject to such terms and conditions as may be imposed by the executive director therein, by the IRC and by these rules and regulations)* or, as applicable, that the applicant's application has been rejected or excluded or has otherwise not been reserved federal credits in accordance herewith.

The board shall review and consider the analysis and recommendation of the executive director for the reservation of federal credits (and, if applicable, state credits), and, if it concurs with such recommendation, it shall by resolution ratify the reservation by the executive director of the federal credits (and, if applicable, state credits) to the applicant, subject to such terms and conditions as it shall deem necessary or appropriate to assure compliance with the *aforementioned binding commitment issued or to be issued to the applicant, the* IRC (and, in the case of state credits, the state code) and these rules and regulations. If the board determines not to ratify a reservation of federal credits (and, if applicable, state credits) or to establish any such terms and

conditions, the executive director shall so notify the applicant.

Subsequent to such ratification of the reservation of federal credits, the executive director may, in his discretion and without ratification or approval by the board, increase the amount of such reservation by an amount not to exceed 10% of the initial reservation amount.

The executive director may require the applicant to make a good faith deposit *or to execute such contractual agreements providing for monetary or other remedies as it may require, or both,* to assure that the applicant will comply with all requirements under the IRC (and, in the case of state credits, the state code) ~~and~~ , these rules and regulations ~~for allocation of the federal credits (and, if applicable, state credits)~~ *and the binding commitment (including, without limitation, any requirement to conform to all of the representations, commitments and information contained in the application for which points were assigned pursuant to § 6 hereof)* . Upon ~~allocation of the federal credits (and, if applicable, state credits),~~ *satisfaction of all such aforementioned requirements (including any post-allocation requirements),* such deposit (or a pro rata portion thereof based upon the portion of federal credits and, if applicable, state credits so allocated) shall be refunded to the applicant *or such contractual agreements shall terminate, or both, as applicable* .

If, as of the date the application is approved by the executive director, the applicant is entitled to an allocation of the federal credits under the IRC , *these rules and regulations and the terms of any binding commitment that the authority would have otherwise issued to such applicant* , the executive director may at that time allocate the federal credits (and, if applicable, state credits) to such qualified low-income buildings or development without first providing a reservation of such federal credits (and, if applicable, state credits). *This provision in no way limits the authority of the executive director to require a good faith deposit or contractual agreement, or both, as described in the preceding paragraph, nor to relieve the applicant from any other requirements hereunder for eligibility for an allocation of federal credits.* Any such allocation shall be subject to ratification by the board in the same manner as provided above with respect to reservations.

The executive director may require that applicants to whom federal credits (and, if applicable, state credits) have been reserved shall submit from time to time or at such specified times as he shall require, written confirmation and documentation as to the status of the proposed development and its compliance with the application , *the binding commitment and any contractual agreements between the applicant and the authority* . If on the basis of such written confirmation and documentation ~~and~~ *as the executive director shall have received in response to such a request, or on the basis of such* other available information , *or both* the executive director determines ~~that~~ *any or all of* the buildings in the development which were to ~~be~~ *become* qualified low-income buildings will not ~~be placed in service~~ *do so* within the time period required by the IRC (and, in the case of state credits, the state code) or will not otherwise qualify for such federal credits (and, if applicable, state credits) *under the IRC, these rules and regulations or the binding commitment* , then the executive director may terminate the reservation of such federal credits (and, if applicable, state credits) *and draw on any good faith deposit. If, in lieu of or in addition to the foregoing determination, the executive director determines that any contractual agreements between the applicant and the authority have been breached by the applicant, whether before or after allocation of the federal credits, he may seek to enforce any and all remedies to which the authority may then be entitled under such contractual agreements.*

The executive director may establish such deadlines for determining the ability of the applicant to qualify for ~~the~~ *an allocation of* federal credits (and, if applicable, state credits) as he shall deem necessary or desirable to allow the authority sufficient time, in the event of a reduction or termination of the applicant's reservation, to reserve such federal credits (and, if applicable, state credits) to other eligible ~~applicants~~ *applications and to allocate such federal credits pursuant thereto* .

Any material changes to the development, as proposed in the application, occurring subsequent to the submission of the application for the federal credits (and, if applicable, state credits) therefor shall be subject to the prior written approval of the executive director. As a condition to any such approval, the executive director may, as necessary to comply with these rules and regulations ~~and~~ , the IRC, *the binding commitment and any other contractual agreement between the authority and the applicant,* reduce the amount of federal credits (and, if applicable, state credits) applied for or reserved or impose additional terms and conditions with respect thereto. If such changes are made without the prior written approval of the executive director, he may terminate or reduce the reservation of such federal credits (and, if applicable, state credits) ~~or~~ , impose additional terms and conditions with respect thereto , *seek to enforce any contractual remedies to which the authority may then be entitled, draw on any good faith deposit, or any combination of the foregoing* .

In the event that any reservation of federal credits is terminated or reduced by the executive director under this section, he may reserve ~~or~~ , allocate, *or carry over* as applicable, such federal credits ~~to other qualified applicants~~ in such manner as he shall determine consistent with the requirements of the IRC *and these rules and regulations* .

§ 7. Reservation of state credits.

Each applicant may also request a reservation of state credits in his application for a reservation of federal credits. State credits may be reserved only ~~for~~ *to* those ~~applicants~~ *applications* (i) to ~~whom~~ *which* federal credits have been reserved or (ii) ~~who~~ *which represent that the applicant* will be the owner of any development or buildings to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal credits hereunder. In the case of (ii) above, the applicant for state credits shall submit an application for federal credits (as well as for state credits), and such application shall be submitted, reviewed, and ranked in accordance with these rules and regulations; provided, however, that a reservation shall be made for the state credits only and not for any federal credits.

In order to be eligible for a reservation and allocation of state credits, the development must be owned by one of the following: (i) an individual who is a Virginia taxpayer, (ii) a corporation (other than an S corporation) which is a Virginia taxpayer, (iii) a partnership or an S corporation in which at least 75% of the state credits received by such partnership or S corporation will be allocated to partners or shareholders who are Virginia taxpayers, or (iv) any other legal entity which is a Virginia taxpayer or, in the case of an entity that is taxed on a pass-through basis with respect to tax credits, in which at least 75% of the state credits received by such entity will be allocated to Virginia taxpayers. If more than one of the foregoing shall be joint owners of the development, then the joint tenancy shall be treated as a partnership for purposes of applying the foregoing ownership test. In the case of tiered partnerships, S corporations, and other entities that are taxed on a pass-through basis with respect to tax credits, the ownership test will be applied by looking through such pass-through entities to the underlying owners. The application shall include such information as the executive director may require in order to determine the owner or owners of the development and the status of such owner or owners or those owning interests therein as Virginia taxpayers. The prior written approval of the authority shall be required for any change in the ownership of the development prior to the end of the calendar year in which all of the buildings in such development shall be placed in service, unless the transferee certifies that it is a Virginia taxpayer or, in the case of a pass-through entity, that 100% of its owners of such entity are Virginia taxpayers.

State credits may be reserved by the executive director to an ~~applicant~~ *application* only if the maximum amount of *federal* credits (determined by the use of the full applicable percentage as defined in the IRC, regardless of the amount requested by the applicant) which could be claimed for any development is determined by the executive director not to be sufficient for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the credit period under the IRC. The amount of state credits which may be reserved shall be equal to the lessor of (i) the amount requested by the applicant or (ii) the amount which is necessary for such financial feasibility and viability as so determined by the executive director. Such determination shall be made by the executive director in the same manner and based upon the same factors and assumptions as the determination described in § 6 with respect to reservation of federal credits. In addition, the executive director may establish assumptions as to the amount of additional net syndication proceeds to be generated by reason of the state credits *(based upon such percentage of the state credit dollar amount used for development costs, other than costs of intermediaries, as the executive director shall determine to be reasonable for the proposed development)* . The amount of state credits which may be so reserved shall be based upon a percentage of the federal credits as the executive director shall determine to produce such amount of state credits.

The executive director may divide the amount of state credits into pools and may further divide those pools into subpools based upon the factors set forth in § 6 with respect to the federal credits; however, the state credits need not be so divided in the same manner or proportions as the federal credits. ~~Applicants~~ *Applications* for state credits shall be assigned points and ranked *at the same time or times and* in the same manner as described in § 6. The executive director shall reserve state credits to applications in descending order of ranking within each pool or subpool, if applicable, until either all state credits therein are reserved or all ~~applicants~~ *applications* therein eligible for state credits hereunder have received reservations for state credits. Any amounts in any pools or subpools not reserved to ~~applicants~~ *applications* shall be reallocated *at the time or times and in the same manner as the federal credits,* among the pools or subpools in which ~~applicants~~ *applications* eligible for state credits hereunder shall have not received reservations of state credits in the full amount permissible under these rules and regulations. Such allocation shall be made pro rata based on the amount originally allocated to each such pool or subpool with such excess ~~applicants~~ *applications* divided by the total amount originally allocated to all such pools or subpools with such excess ~~applicants~~ *applications* . Such reallocations shall continue to be made until either all of the state credits are reserved or all ~~applicants~~ *applications* for state credits have received reservations.

Section 6 hereof contains certain provisions relating to ratification by the board of reservations of state credits, requirements for good faith deposits *and contractual agreements* , allocation of state credits without any *prior* reservation thereof, deadlines for determining the ability of the applicant to qualify for state credits, and reduction and termination of state credits. Such provisions shall be applicable to all applicants for state credits, notwithstanding the fact that the developments or buildings may be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder. In the event that any reservation of state credits is reduced or terminated, the executive director may reserve or allocate, as applicable, such state credits to other eligible applicants in such manner as he

shall determine consistent with the requirements of the state code.

§ 8. Allocation of federal credits.

At such time as one or more of an applicant's buildings or an applicant's development which has received a reservation of federal credits *(i)* is placed in service or satisfies the requirements of § 42 (h)(1)(E) of the IRC *and (ii) meets all of the preallocation requirements of these rules and regulations, the binding commitment and any other applicable contractual agreements between the applicant and the authority* , the applicant shall so advise the authority, shall request the allocation of all of the federal credits so reserved or such portion thereof to which the applicant's buildings or development is then entitled under the IRC , *these rules and regulations, the binding commitment and the aforementioned contractual agreements, if any* , and shall submit such *application,* certifications, legal and accounting opinions, evidence as to costs, a breakdown of sources and uses of funds, pro forma financial statements setting forth anticipated cash flows, and other documentation as the executive director shall require in order to determine that the applicant's buildings or development is entitled to such federal credits ~~under the IRC and these rules and regulations~~ *as described above* . The applicant shall certify to the authority the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to the buildings or the development.

As of the date of allocation of federal credits to any building or development and as of the date such building or such development is placed in service, the executive director shall determine the amount of federal credits to be necessary for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the credit period under the IRC. In making such determinations, the executive director shall consider the sources and uses of the funds (including, without limitation, any funds to be derived from the state credits), the available federal, state and local subsidies committed to the development, ~~and~~ the total financing planned for the ~~developments~~ *development* as well as the investment proceeds or receipts expected by the authority to be generated with respect to the development ~~(which proceeds or receipts shall in no event be less than the amount used in § 6 in the calculation of bonus points for the ranking of the proposed development) and shall~~ *and the percentage of the federal credit dollar amount used for development costs other than the costs of intermediaries. He shall also* examine the development's costs, including developer's fees *and other amounts in the application* , for reasonableness *and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines, in his sole discretion, to be reasonable* . The executive director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The executive director may establish such criteria and assumptions as he shall then deem reasonable (or he may apply the criteria and assumptions he established pursuant to § 6) for the purpose of making such determinations, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received *(based upon such percentage of the federal credit dollar amount used for development costs, other than the costs of intermediaries, as the executive director shall determine to be reasonable for the proposed development)* , increases in the market value of the development, and increases in operating expenses, rental income and, in the case of ~~variable rate financing~~ *applications without firm financing commitments (as defined in § 6 hereinabove) at fixed interest rates* , debt service on the proposed mortgage loan. The amount of federal credits allocated to the applicant shall in no event exceed such amount as so determined by the executive director *by more than a de minimis amount of not more than $100* .

In the case of any buildings or development to be financed by certain tax-exempt bonds of the authority in such amount so as not to require under the IRC an allocation of federal credits hereunder, the executive director shall , *upon timely request by the owner thereof,* make the foregoing determination as of the date the buildings or the development is placed in service, and for the purpose of such determination, the owner of the buildings or development shall submit to the authority such of the above described information and documents *and such other information and documents* as the executive director may require. *The executive directo. shall also determine, in accordance with the IRC and upon timely request by the owner thereof, for such buildings or development (and, in addition,* [~~of~~ *for*] *any buildings or development to be financed by certain tax-exempt bonds of an issuer other than the authority in such amount so as not to require under the IRC an allocation of federal credits hereunder) whether such buildings or development satisfies the requirements for allocation of federal credits hereunder. For the purposes of such determination, buildings or a development shall be deemed to satisfy the requirements for allocation of federal credits hereunder if the application submitted to the authority in connection therewith is assigned not fewer than the threshold number of points (exclusive of bonus points) under the ranking system described in § 6 hereof.*

Prior to allocating the federal credits to an applicant, the executive director shall require the applicant to execute, deliver and record among the land records of the appropriate jurisdiction or jurisdictions an extended low-income housing commitment in accordance with the requirements of the IRC. Such commitment shall require that the applicable fraction (as defined in the IRC) for the buildings for each taxable year in the extended use period (as defined in the IRC) will not be less than the applicable fraction specified in such commitment *and which prohibits both (i) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of a low-income unit and (ii) any increase in the gross rent with respect to such unit not otherwise permitte*

Under the IRC . The amount of federal credits allocated to any building shall not exceed the amount necessary to support such applicable fraction, including any increase thereto pursuant to § 42(f)(3) of the IRC reflected in an amendment to such commitment. The commitment shall provide that the extended use period will end on the day 15 years after the close of the compliance period (as defined in the IRC) or on the last day of any longer period of time specified in the application during which low-income housing units in the development will be occupied by tenants with incomes not in excess of the applicable income limitations; provided, however, that the extended use period for any building shall be subject to termination, in accordance with the IRC, (i) on the date the building is acquired by foreclosure or instrument in lieu thereof *unless a determination is made pursuant to the IRC that such acquisition is part of an agreement with the current owner thereof, a purpose of which is to terminate such period* or (ii) the last day of the one-year period following the written request by the applicant as specified in the IRC (such period in no event beginning earlier than the end of the fourteenth year of the compliance period) if the authority is unable to present during such one-year period a qualified contract (as defined in the IRC) for the acquisition of the ~~low-income portion of the~~ building by any person who will continue to operate ~~such portion~~ *the low-income portion thereof* as a qualified low-income building ~~(such~~ . *In addition, such* termination shall not be construed to permit, prior to close of the three-year period following such termination, the eviction or termination of tenancy of any existing tenant of any low-income housing unit other than for good cause or any increase in the gross rents over the maximum rent levels then permitted by the IRC with respect to such low-income housing units ~~)~~ . Such commitment shall also contain such other terms and conditions as the executive director may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments and information in the application and comply with the requirements of the IRC (and, in the case of an allocation of state credits, the state code) and these rules and regulations. Such commitment shall be a restrictive covenant on the buildings binding on all successors to the applicant and shall be enforceable in any state court of competent jurisdiction by individuals (whether prospective, present or former occupants) who meet the applicable income limitations under the IRC. Such commitment shall also be required with respect to any development financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder *and the form thereof shall be made available to owners of such developments upon their timely request therefor* .

In accordance with the IRC, the executive director may, for any calendar year during the project period (as defined in the IRC), allocate federal credits to a development, as a whole, which contains more than one building. Such an allocation shall apply only to buildings placed in service during or ~~after~~ *prior to the end of the second calendar year after* the calendar year ~~for~~ *in* which such allocation is made, and the portion of such allocation allocated to any building shall be specified not later than the close of the calendar year in which such building is placed in service. Any such allocation shall be subject to satisfaction of all requirements under the IRC.

If the executive director determines that the buildings or development is so entitled to the federal credits, he shall allocate the federal credits (or such portion thereof to which he deems the buildings or the development to be entitled) to the applicant's qualified low income buildings or to the applicant's development in accordance with the requirements of the IRC. If the executive director shall determine that the applicant's buildings or development is not so entitled to the federal credits, he shall not allocate the federal credits and shall so notify the applicant *within a reasonable time after such determination is made* . In the event that any such applicant shall not request an allocation of all of its reserved federal credits or whose buildings or development shall be deemed by the executive director not to be entitled to any or all of its reserved federal credits, the executive director may reserve or allocate, as applicable, such unallocated federal credits to the buildings or developments of other qualified applicants *at such time or times and* in such manner as he shall determine consistent with the requirements of the IRC *and these rules and regulations* .

The executive director may prescribe (i) such deadlines for submissions of requests for allocations of federal credits (and, if applicable, state credits) for any calendar year as he deems necessary or desirable to allow sufficient processing time for the authority to make such allocations within such calendar year. and (ii) such deadlines for satisfaction of all *preallocation* requirements of the IRC (and, in the case of state credits, the state code) , *the binding commitment, any contractual agreements between the authority and the applicant and these rules and regulations* as he deems necessary or desirable to allow the authority sufficient time to allocate to other eligible applicants any federal credits for which *the applicants fail to satisfy* such requirements ~~are not satisfied~~ .

The executive director may make the allocation of federal credits subject to such terms as he may deem necessary or appropriate to assure that the applicant and the development comply with the requirements of the IRC.

The executive director may also *(to the extent not already required under § 6 hereof)* require ~~the applicant,~~ *that all applicants make such good faith deposits or execute such contractual agreements with the authority as the executive director may require with respect to the federal credits (and, if applicable, state credits), (i) to ensure that the building or development are completed in accordance with the binding commitment, including all of the representations made in the application for which points were assigned pursuant to § 6 hereof and (ii) only* in the case of any buildings or development which are to receive an allocation of federal credits hereunder and

which are to be placed in service in any future year, ~~to make a good faith deposit with respect to the federal credits (and, if applicable, the state credits)~~ to assure that the buildings or the development will be placed in service *as a qualified low-income housing project (as defined in the IRC)* in accordance with the IRC and that the applicant will otherwise comply with all of the requirements under the IRC.

~~The executive director may make the allocation of federal credits subject to such terms as he may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments and information in the application and comply with the requirements of the IRC and these rules and regulations.~~

In the event that ~~any~~ *the executive director determines that a* development for which an allocation of federal credits is made shall not become a qualified low-income housing project (as defined in the IRC) within the time period required by the IRC or the terms of the allocation *or any contractual agreements between the applicant and the authority* , the executive director may terminate the allocation *and rescind the federal credits in accordance with the IRC and, in addition, may draw on any good faith deposit and enforce any of the authority's rights and remedies under any contractual agreement* . An allocation of federal credits to an applicant may also be cancelled with the mutual consent of such applicant and the executive director. Upon the termination or cancellation of any federal credits, the executive director may reserve ~~or~~ , allocate *or carry over* , as applicable, such federal credits ~~to other qualified applicants~~ in such manner as he shall determine consistent with the requirements of the IRC *and these rules and regulations* .

§ 9. Allocation of state credits.

Upon the allocation of federal credits to ~~an applicant who~~ *the buildings or development described in an application which* received a reservation of state credits under § 7, the executive director shall allocate state credits to ~~the applicant~~ *such buildings or development* in an amount equal to the amount of federal credits so allocated times such percentage of federal credits as shall have been determined by the executive director under § 7 but in no event shall such amount of state credits exceed the amount reserved to the ~~applicant~~ *application* under § 7. If the amount of state credits so allocated to the ~~applicant~~ *buildings or development* under this § 9 is less than the amount of state credits reserved to the ~~applicant~~ *application* under § 7, then the executive director may reserve *to other applications* or allocate *to other buildings or developments* , as applicable, such unallocated state credits ~~to other applicants~~ *at such time or times and* in such manner as he shall determine consistent with the requirements of the state code.

In the case of any ~~building~~ *buildings* or development to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal credits hereunder, the executive director shall, prior to the last day of the calendar year in which such building or development is ~~placed in service~~ *reserved state credits* , allocate state credits to the ~~applicant~~ *buildings or development* in an amount equal to the amount of federal credits to be claimed annually by the applicant times such percentage of federal credits as shall have been determined by the executive director under § 7 but in no event shall such amount of state credits exceed the amount reserved to the ~~applicant~~ *application* under § 7.

Prior to any allocation of state credits, the executive director may require the applicant to confirm the status of the owner or owners as Virginia taxpayers who are eligible for an allocation of state credits under § 7.

The executive director may make the allocation of state credits subject to such terms as he may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments, and information in the application and comply with the requirements of the IRC, the state code, and these rules and regulations.

The state credits allocated may be claimed for the first five taxable years in which the federal credits shall be claimed. The amount of state credits claimed in each such year shall be such percentage of the federal credits so claimed as shall have been established by the executive director pursuant to § 7; provided, however, that the amount of state credits which may be claimed by the applicant in the initial taxable year shall be calculated for the entire development on the basis of a twelve-month period during such initial taxable year, notwithstanding that the federal credits may be calculated on the basis of some (but not all) of the buildings in such development or on the basis of a period of less than twelve months or both; provided, further, that in no event shall the amount of state credits claimed in any year exceed the amount allocated under this § 9.

In the event that any federal credits claimed by the applicant for any taxable year in which the applicant also claimed state credits shall be recaptured pursuant to the IRC, the state credits for such taxable year shall be recaptured in an amount equal to the amount of federal credits recaptured for such taxable year times such percentage as shall have been established by the executive director pursuant to § 7. The applicants receiving state credits shall provide the authority with such information as the executive director may from time to time request regarding any recapture of the federal credits.

On or before such date each year as the executive director may require, each applicant shall apply to the authority to determine the amount of state credits which such applicant may claim for the applicable taxable year. Each such applicant shall submit such documents, certifications and information as the executive director may require. The authority shall certify to the Department

t Taxation on forms prepared by the authority that the applicant qualified for the state credits in the amount set forth therein and shall provide such certification to the applicant. Such certification is required to be attached to the applicant's state income tax return to be filed with the Department of Taxation.

Section 8 hereof contains certain provisions relating to (i) the establishment of deadlines for submission of requests for allocation of state credits and for satisfaction of requirements of the IRC and state code and (ii) requirements for good faith deposits *and contractual agreements* . Such provisions shall be applicable to all applicants for state credits, notwithstanding the fact that the developments or buildings may be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder.

In the event that any allocation of federal credits shall be terminated *and rescinded* or cancelled pursuant to § 8 (or, in the case of any development or buildings to be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder, in the event that the development shall not become a qualified low-income housing project as defined in the IRC within the time period required by the IRC or by the terms of the allocation of state credits), the executive director may also terminate *and rescind* or cancel the state credits and, if permitted by the state code, may reserve or allocate, as applicable, such state credits to ther qualified applicants *at such time or times and* in such manner as he shall determine consistent with the requirements of the state code.

§ 10. Reservation and allocation of additional federal credits and state credits.

Prior to the initial determination of the "qualified basis" (as defined in the IRC) of the qualified low-income buildings of a development pursuant to the IRC, an applicant to whose buildings federal credits or state credits or both have been reserved may submit an application for a reservation of additional federal credits or state credits or both. Subsequent to such initial determination of the qualified basis, the applicant may submit an application for an additional allocation of federal credits or state credits or both by reason of an increase in qualified basis based on an increase in the number of low-income housing units or in the amount of floor space of the low-income housing units. Any application for an additional allocation of federal credits or state credits or both shall include such information, opinions, certifications and documentation as the executive director shall require in order to determine that the applicant's buildings or development will be entitled to such additional federal credits or state credits or both under the IRC, the state code and these rules and regulations. The application shall be submitted, reviewed, ranked and selected by the executive director in accordance with the provisions of §§ 6 and 7 hereof, and any allocation of federal credits or state credits or both shall be made in accordance with §§ 8 and 9 hereof. For the purposes of such review, ranking and selection and the determinations to be made by the executive director under the rules and regulations as to the financial feasibility of the development and its viability as a qualified low-income development during the credit period, the amount of federal credits or state credits, or both, previously reserved *to the application* or allocated to the ~~applicant~~ *buildings or development* (or, in the case of any development or building to be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder, the amount of federal credits which may be claimed by the applicant) shall be included with the amount of such federal credits or state credits or both so requested.

§ 11. Notification to the Internal Revenue Service of noncompliance with IRC.

In the event that the executive director shall become aware of noncompliance by any applicant with any of the provisions of § 42 of the IRC, the executive director shall, within 90 days, notify the Internal Revenue Service of such noncompliance. Such notification shall identify the applicant and the buildings and shall describe the noncompliance.

DEPARTMENT OF LABOR AND INDUSTRY

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Labor and Industry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **VR 425-01-80. Virginia Hours of Work for Minors.**

Statutory Authority: §§ 40.1-6(3) and 40.1-80.1 of the Code of Virginia.

Effective Date: July 17, 1991.

Summary:

This regulation provides for new hours and days of work which apply to all children who are 14 and 15 years of age, except those working on farms. When school is in session, such children will be permitted to work not more than 18 hours per week, nor more than three hours per day. When school is not in session, they may work up to 40 hours per week and eight hours per day. They may not work before 7 a.m. or after 7 p.m., except from June 1 through Labor Day when they may work until 9 p.m.

VR 425-01-80. Virginia Hours of Work for Minors.

§ 1. Definitions.

The following terms, when used in this regulation, shall have the following meanings unless the context clearly indicates otherwise.

"Employ" means to put to work, use or service, or to engage the services of, and shall include to permit or suffer to work. "To permit or suffer to work" means to knowingly allow by failure to stop or to protest, as well as to employ by oral or written contract, by any person having authority over a minor in connection with the services being performed. As used in this regulation the term "employ" is broader than the common law concept of employment and must be interpreted broadly in the light of the mischief to be corrected. Neither the technical relationship between the parties nor the fact that the minor is unsupervised or receives no compensation is controlling in determining whether an employer-employee relationship exists for the purpose of this regulation.

"Employer" means an individual, partnership, association, corporation, legal representative, receiver, trustee, or trustee in bankruptcy doing business in or operating within this Commonwealth who employs another to work for wages, salaries, or on commission and shall include any similar entity acting directly or indirectly in the interest of an employer in relation to an employee. For purposes of this regulation, it shall not include the government of the United States, the Commonwealth of Virginia or any of its agencies, institutions, or political subdivisions or any public body.

"School hours" means those periods when the school attended by the minor is in regular session, and does not include hours before and after school, Saturdays and Sundays, holidays, or school vacations, including summer vacations. If the minor does not attend school, "school hours" shall mean the school hours of the school district in which the minor is currently living.

§ 2. Scope and application.

This regulation is promulgated pursuant to §§ 40.1-80.1 A and 40.1-6(3) of the Code of Virginia, and supplements existing Child Labor Laws relating to the employment of minors (Chapter 5 (§ 40.1-78 et seq.) of Title 40.1 of the Code of Virginia). Its purpose is to regulate the maximum number of hours per week, the maximum hours per day, and the hours during the day that minors under age 16 may work. Other regulations promulgated by the Department of Labor and Industry governing child labor are: (i) Virginia Regulation Declaring Hazardous Occupations, and (ii) Virginia Regulation Governing the Employment of Minors on Farms, in Gardens and in Orchards.

§ 3. Hours of work in nonagricultual employment.

A. No minor under 16 years of age shall be employed, suffered, or permitted to work in any nonagricultural occupation:

1. During school hours;

2. More than 40 hours in any one week when school is not in session;

3. More than 18 hours in any one week when school is in session;

4. More than eight hours in any one day when school is not in session;

5. More than three hours in any one day when school is in session; or

6. Before 7 a.m. or after 7 p.m., except that from June 1 through Labor Day, such a minor may work until 9 p.m.

B. No minor under 16 years of age shall be employed or permitted to work for more than five hours continuously without an interval of at least 30 minutes for a lunch period, and no period of less than 30 minutes shall be deemed to interrupt a continuous period of work.

§ 4. Hours of work in agricultural employment.

A. No minor under 16 years of age shall be employed, permitted or suffered to work in any occupation on farms in gardens or in orchards during the hours that school in session, except as provided in subsection B of this section.

B. No hours of work restrictions shall apply to a minor employed by his parent or a person standing in place of his parent on farms, in gardens or in orchards owned or operated by such parent or person.

C. No minor under 16 years of age shall be employed or permitted to work on farms, in gardens or in orchards for more than five hours continuously without an interval of at least 30 minutes for a lunch period, and no period of less than 30 minutes shall be deemed to interrupt a continuous period of work.

§ 5. Exceptions.

This regulation does not apply whenever the Code of Virginia exempts a minor from hours-of-work limitations or provides different hours of work. As of July 17, 1991, these exemptions are as follows:

1. Minors employed in the following situations are exempt from hours-of-work limitations contained in §§ 3 and 4 of this regulation:

a. A minor under 16 years of age may be employed by his parent, or a person standing in place of his parent, in a business owned by such parent or person, except in manufacturing.

b. A page or clerk for either the House of Delegates or the Senate of Virginia.

c. Domestic duties in and around a minor's own home when duties are performed directly for the minor's parent or other person standing in place of the parent.

d. Work performed for the state or any of its agencies, institutions, or political subdivisions, or any public body.

e. Theatrical performers, provided a theatrical permit is obtained from the Department of Labor and Industry.

f. Activities performed for a volunteer rescue squad.

2. Minors engaged in occasional work performed around the home of the employer (not in connection with the employer's trade, business, or profession) may not work during school hours, but are otherwise exempt from the hours-of-work limitations contained in § 3 of this regulation.

3. Minors 14 and 15 years of age enrolled in a regular school work-training program in accordance with §§ 40.1-88 and 40.1-89 of the Code of Virginia may work during school hours as part of this program, but are otherwise subject to the hours-of-work limitations contained in §§ 3 and 4 of this regulation.

4. Minors at least 12 years of age may deliver newspapers as early as 4 a.m., but are otherwise subject to the hours-of-work limitations contained in § 3 of this regulation.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **State Plan for Medical Assistance Relating to Long-Stay Acute Care Hospitals.**
VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.
VR 460-04-8.10. Long-Stay Acute Care Hospitals.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Date: July 17, 1991.

Summary:

The purpose of this proposal is to promulgate permanent regulations regarding authorization and utilization review processes in long-stay acute care hospitals, to supersede the temporary emergency regulations which became effective on August 8, 1990.

The Board of Medical Assistance Services (BMAS), in response to the Administration's directive to identify potential cost savings initiatives, directed the Department of Medical Assistance Services (DMAS) to implement the policy described in this regulation.

The final regulations affect both state regulations VR 460-04-8.10 governing the provision of long-stay acute care hospital services as well as Attachment 3.1-C of the State Plan for Medical Assistance ("Standards Established and Methods Used to Assure High Quality Care").

Long-stay acute care hospitals provide specialized services to individuals who require more intensive medical management and nursing care than can normally be provided in nursing facilities. The final regulations establish criteria for use both during the admission process and during utilization review, to ensure that the intensive care services offered are appropriate to the patient. These criteria do not apply to long-stay hospitals serving the mentally ill.

The criteria have been separated to accommodate the differing medical and habilitation needs of adult and pediatric/adolescent patient populations. The following are descriptions of the criteria for each of these categories.

1. Adult Long-Stay Acute Care Hospital Criteria: The resident must have long-term health conditions requiring close medical supervision (defined as weekly physician visits), the need for 24-hour licensed nursing care, and the need for specialized services (defined as two out of these rehabilitation services: physical and occupational therapies and speech-language pathology services) or specialized equipment. The targeted population includes individuals requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, comprehensive rehabilitative therapy services, and individuals with communicable diseases requiring universal or respiratory precautions.

2. Pediatric/Adolescent Long-Stay Acute Care Hospital Criteria: The child (age 21 or younger) must have ongoing health care needs requiring close medical supervision (defined as weekly physician visits), 24-hour licensed nursing supervision, and specialized services (defined as two out of these rehabilitation services: physical and occupational therapies and speech-language pathology services) or equipment. The targeted population includes children requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, daily dependence on device-based respiratory or nutritional support (tracheostomy, gastrostomy, etc.), comprehensive rehabilitative therapy services, and children with communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.) or terminal illnesses.

In addition, the nursing facility must provide for age-appropriate educational and habilitative needs of children. These individualized services must be appropriate to the child's cognitive level, must meet state educational requirements, and be provided in an organized manner that encourages the child's participation. Services may include, but are not limited to, school, active treatment for mental retardation, habilitative therapies, social skills and leisure activities. Therapeutic leisure services must be provided daily for both children and adults.

VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.

The following is a description of the standards and the methods that will be used to assure that the medical and remedial care and services are of high quality:

§ 1. Institutional care will be provided by facilities qualified to participate in Title XVIII and/or Title XIX.

§ 2. Utilization control.

A. Hospitals.

1. The Commonwealth of Virginia is required by state law to take affirmative action on all hospital stays that approach 15 days. It is a requirement that the hospitals submit to the Department of Medical Assistance Services complete information on all hospital stays where there is a need to exceed 15 days. The various documents which are submitted are reviewed by professional program staff, including a physician who determines if additional hospitalization is indicated. This review not only serves as a mechanism for approving additional days, but allows physicians on the Department of Medical Assistance Services' staff to evaluate patient documents and give the Program an insight into the quality of care by individual patient. In addition, hospital representatives of the Medical Assistance Program visit hospitals, review the minutes of the Utilization Review Committee, discuss patient care, and discharge planning.

2. In each case for which payment for inpatient hospital services, or inpatient mental hospital services is made under the State Plan:

a. A physician must certify at the time of admission, or if later, the time the individual applies for medical assistance under the State Plan that the individual requires inpatient hospital or mental hospital care.

b. The physician, or physician assistant under the supervision of a physician, must recertify, at least every 60 days, that patients continue to require inpatient hospital or mental hospital care.

c. Such services were furnished under a pla. established and periodically reviewed and evaluated by a physician for inpatient hospital or mental hospital services.

B. Long-stay acute care hospitals (nonmental hospitals).

1. Services for adults in long-stay acute care hospitals. The population to be served includes individuals requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, comprehensive rehabilitative therapy services and individuals with communicable diseases requiring universal or respiratory precautions.

a. [~~Admission criteria for long-stay acute care hospital stays require that the hospital submit a completed LTC Assessment Process Instrument (DMAS-95)~~ Long-stay acute care hospital stays shall be preauthorized by the submission of a completed comprehensive assessment instrument] , a physician certification of the need for long-stay acute care hospital placement, and any additional information that justifies the need for intensive services. [~~Prior authorization shall be required by submission of the DMAS-95.~~] Physician certification must accompany the request. Periods of care not authorized by DMAS shall not be approved for payment.

b. These individuals must have long-term health conditions requiring close medical supervision, th need for 24-hour licensed nursing care, and the need for specialized services or equipment needs.

c. At a minimum, these individuals must require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is the designated unit must be on the nursing unit 24 hours a day on which the resident resides), and coordinated multidisciplinary team approach to meet needs [that must include daily therapeutic leisure activities] .

d. In addition, the individual must meet at least one of the following requirements:

(1) Must require two out of three of the following rehabilitative services: physical therapy, occupational therapy, speech-pathology services; each required therapy must be provided daily, five days per week, for a minimum of one hour each day; individual must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by a licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy; or

(3) The individual must require at least one of the

following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only);

(c) Dialysis treatment that is provided on-unit (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second- or third-degree burns covering more than 10% of the body); or

(f) Ongoing management of multiple unstable ostomies (a single ostomy does not constitute a requirement for special care) requiring frequent care (i.e. suctioning every hour; stabilization of feeding; stabilization of elimination, etc.).

e. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the individuals' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

f. When the individual no longer meets long-stay acute care hospital criteria or requires services that the facility is unable to provide, then the individual must be discharged.

2. Services to pediatric/adolescent patients in long-stay acute care hospitals. The population to be served shall include children requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, daily dependence on device-based respiratory or nutritional support (tracheostomy, gastrostomy, etc.), comprehensive rehabilitative therapy services, and those children having communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.) and with terminal illnesses.

a. Long-stay acute care hospital stays shall be preauthorized by the submission of a completed [~~LTC Assessment Process Instrument (DMAS-95)~~ comprehensive assessment instrument] , a physician certification of the need for long-stay acute care, and any additional information that justifies the need for intensive services. Periods of care not authorized by DMAS shall not be approved for payment.

b. The child must have ongoing health conditions requiring close medical supervision, the need for 24-hour licensed nursing supervision, and the need for specialized services or equipment. The recipient must be age 21 or under.

c. The child must minimally require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is that nursing unit must be on the unit 24 hours a day on which the child is residing), and a coordinated multidisciplinary team approach to meet needs.

d. In addition, the child must meet one of the following requirements:

(1) Must require two out of three of the following physical rehabilitative services: physical therapy, occupational therapy, speech-pathology services; each required therapy must be provided daily, fivedays per week, for a minimum of 45 minutes per day; child must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy, etc; or

(3) Must require at least one of the following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only or isolation for normal childhood diseases such as measles, chicken pox, strep throat, etc.);

(c) Dialysis treatment that is provided within the facility (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc. more than two times a day (i.e. grade IV decubiti; large surgical wounds that

cannot be closed; second- or third-degree burns covering more than 10% of the body);

(f) Ostomy care requiring services by a licensed nurse;

(g) Services required for terminal care.

e. In addition, the long-stay acute care hospital must provide for the educational and habilitative needs of the child. These services must be age appropriate, must meet state educational requirements, and must be appropriate to the child's cognitive level. Services must also be individualized to meet the child's specific needs and must be provided in an organized manner that encourages the child's participation. Services may include, but are not limited to, school, active treatment for mental retardation, habilitative therapies, social skills, and leisure activities. Therapeutic leisure activities must be provided daily.

f. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

g. When the resident no longer meets long-stay hospital criteria or requires services that the facility is unable to provide, the resident must be discharged.

~~B.~~ *C.* Nursing ~~homes~~ *facilities* .

~~(Skilled and Intermediate Care Facility)~~

1. As required by federal law, the Department of Medical Assistance Services visits every Medicaid patient that is residing in a nursing home in Virginia. The purpose of the visit is to conduct a complete medical and social evaluation of the patient. The visit also includes patient interviews and discussions with the professional staff and the attending physician. Thus, it is assured that quality care is rendered to these recipients and that the patient is receiving the proper level of care.

2. Long term care of patients in medical institutions will be provided in accordance with procedures and practices that are based on the patient's medical and social needs and requirements.

3. In each case for which payment for ~~services, skilled~~ nursing facility services ~~or intermediate care facility services~~ is made under the State Plan:

a. A physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with physician, must certify at the time of admission, or if later, the time the individual applies for medical assistance under the State Plan that the individual requires the ~~skilled or intermediate~~ *nursing facility* level of care. The Nursing Home Preadmission Screening shall serve as the admission or initial certification for ~~intermediate or skilled~~ nursing home care if the date of the screening occurred within 30 days prior to the admission;

b. The physician, or nurse practitioner or clinical nurse specialist, who is not an employee of the facility but is working in collaboration with a physician, must recertify the need for skilled or intermediate level of care. Recertifications must be written according to the following schedule:

(1) Skilled Nursing Facility Services - at least:

30 days after the date of the initial certification,

60 days after the date of the initial certification,

90 days after the date of the initial certification, and

every 60 days thereafter;

(2) Intermediate Nursing Home Care - at least:

60 days after the date of the initial certification,

180 days after the date of the initial certification,

12 months after the date of the initial certification,

18 months after the date of the initial certification,

24 months after the date of the initial certification, and

every 12 months thereafter;

(3) Intermediate Care Facilities for the Mentally Retarded - at least every 365 days;

c. For the purpose of determining compliance with the schedule established by paragraph b, a recertification shall be considered to have been done on a timely basis if it was performed not later than 10 days after the date the recertification was otherwise required, if the physician, or other person making such recertification, provides a written statement showing good cause why such recertification did not meet such schedule;

d. Such services were furnished under a plan established and periodically reviewed and evaluated by a physician or a nurse practitioner or clinical nurse specialist who is not an employee of th

facility but who is working in collaboration with a physician for skilled or intermediate care services ;

e. The schedule of recertifications set forth in paragraph b shall become effective for all admissions and recertifications due on or after October 1, 1984, except that this amendment made by this section shall not require recertifications sooner or more frequently than every 60 days for skilled care patients admitted before October 1, 1984;

f. The addition of the nurse practitioner or clinical nurse specialist, as qualified in paragraphs a, b, and d, shall apply to certifications, recertifications, and plans of care for skilled or intermediate care written on or after July 1, 1988, and before October 1, 1990;

g. The Department of Medical Assistance Services will recover payments made for periods of care in which the certifications, recertifications, and plans of care documentation does not meet the time schedule of this section to the extent required by federal law.

h. In addition, a fiscal penalty of 1-1/2% per month of the disallowed payment will be assessed against the nursing home from the time the noncertified service was rendered until payment is received by the Virginia Medical Assistance Program (§ 32.1-313 of the Code of Virginia). No efforts by the nursing home shall be exerted to recoup this penalty from the patient or responsible party.

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PART I.
ADMISSION CRITERIA FOR REHABILITATIVE SERVICES.

§ 1.1. A patient qualifies for intensive inpatient or outpatient rehabilitation if:

A. Adequate treatment of his medical condition requires an intensive rehabilitation program consisting of a multi-disciplinary coordinated team approach to upgrade his ability to function as independently as possible; and

B. It has been established that the rehabilitation program cannot be safely and adequately carried out in a less intense setting.

§ 1.2. In addition to the initial disability requirement, participants shall meet the following criteria:

A. Require at least two of the listed therapies in addition to rehabilitative nursing:

1. Occupational Therapy

2. Physical Therapy

3. Cognitive Rehabilitation

4. Speech-Language Therapy

B. Medical condition stable and compatible with an active rehabilitation program.

PART II.
INPATIENT ADMISSION AUTHORIZATION.

§ 2.1. Within 72 hours of a patient's admission to an inpatient rehabilitation program, or within 72 hours of notification to the facility of the patient's Medicaid eligibility, the facility shall notify the Department of Medical Assistance Services in writing of the patient's admission. This notification shall include a description of the admitting diagnoses, plan of treatment, expected progress and a physician's certification that the patient meets the admission criteria. The Department of Medical Assistance Services will make a determination as to the appropriateness of the admission for Medicaid payment and notify the facility of its decision. If payment is approved, the Department will establish and notify the facility of an approved length of stay. Additional lengths of stay shall be reques ted in writing and approved by the Department. Admissions or lengths of stay not authorized by the Department of Medical Assistance Services will not be approved for payment.

PART III.
DOCUMENTATION REQUIREMENTS.

§ 3.1. Documentation of rehabilitation services shall, at a minimum:

A. Describe the clinical signs and symptoms of the patient necessitating admission to the rehabilitation program;

B. Describe any prior treatment and attempts to rehabilitate the patient;

C. Document an accurate and complete chronological picture of the patient's clinical course and progress in treatment;

D. Document that a multi-disciplinary coordinated treatment plan specifically designed for the patient has been developed;

E. Document in detail all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response to treatment, and identify who provided such treatment;

F. Document each change in each of the patient's conditions;

G. Describe responses to and the outcome of treatment;

and

H. Describe a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet these goals, and the patient's discharge destination.

§ 3.2. Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no coverage will be provided.

PART IV.
INPATIENT REHABILITATION EVALUATION.

§ 4.1. For a patient with a potential for rehabilitation for which an outpatient assessment cannot be adequately performed, an inpatient evaluation of no more than seven calendar days will be allowed. A comprehensive assessment will be made of the patient's medical condition, functional limitations, prognosis, possible need for corrective surgery, attitude toward rehabilitation, and the existence of any social problems affecting rehabilitation. After these assessments have been made, the physician, in consultation with the rehabilitation team, shall determine and justify the level of care required to achieve the stated goals.

§ 4.2. If during a previous hospital stay an individual completed a rehabilitation program for essentially the same condition for which inpatient hospital care is now being considered, reimbursement for the evaluation will not be covered unless there is a justifiable intervening circumstance which necessitates a re-evaluation.

§ 4.3. Admissions for evaluation and/or training for solely vocational or educational purposes or for developmental or behavioral assessments are not covered services.

PART V.
CONTINUING EVALUATION.

§ 5.1. Team conferences shall be held as needed but at least every two weeks to assess and document the patient's progress or problems impeding progress. The team shall periodically assess the validity of the rehabilitation goals established at the time of the initial evaluation, and make appropriate adjustments in the rehabilitation goals and the prescribed treatment program. A review by the various team members of each others' notes does not constitute a team conference. A summary of the conferences, noting the team members present, shall be recorded in the clinical record and reflect the reassessments of the various contributors.

§ 5.2. Rehabilitation care is to be terminated, regardless of the approved length of stay, when further progress toward the established rehabilitation goal is unlikely or further rehabilitation can be achieved in a less intensive setting.

PART VI.
THERAPEUTIC FURLOUGH DAYS.

§ 6.1. Properly documented medical reasons for furlough may be included as part of an overall rehabilitation program. Unoccupied beds (or days) resulting from an overnight therapeutic furlough will not be reimbursed by the Department of Medical Assistance Services.

PART VII.
DISCHARGE PLANNING.

§ 7.1. Discharge planning shall be an integral part of the overall treatment plan which is developed at the time of admission to the program. The plan shall identify the anticipated improvements in functional abilities and the probable discharge destination. The patient, unless unable to do so, or the responsible party shall participate in the discharge planning. Notations concerning changes in the discharge plan shall be entered into the record at least every two weeks, as a part of the team conference.

PART VIII.
REHABILITATION SERVICES TO PATIENTS.

§ 8.1. Rehabilitation services are medically prescribed treatment for improving or restoring functions which have been impaired by illness or injury or, where function has been permanently lost or reduced by illness or injury, to improve the individual's ability to perform those tasks required for independent functioning. The rules pertainin to them are:

A. Rehabilitative nursing.

Rehabilitative nursing requires education, training, or experience that provides special knowledge and clinical skills to diagnose nursing needs and treat individuals who have health problems characterized by alteration in cognitive and functional ability.

Rehabilitative nursing are those services furnished a patient which meet all of the following conditions:

1. The services shall be directly and specifically related to an active written treatment plan approved by a physician after any needed consultation with a registered nurse who is experienced in rehabilitation;

2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a registered nurse or licensed professional nurse, nursing assistant, or rehabilitation technician under the direct supervision of a registered nurse who is experienced in rehabilitation;

3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall b

necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

4. The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.

B. Physical therapy.

1. Physical therapy services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a qualified physical therapist licensed by the Board of Medicine;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

C. Occupational therapy.

1. Occupational therapy services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the American Occupational Therapy Certification Board under the direct supervision of a qualified occupational therapist as defined above;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

D. Speech-Language therapy.

1. Speech-Language therapy services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall

be reasonable.

E. Cognitive rehabilitation.

1. Cognitive rehabilitation services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with a clinical psychologist experienced in working with the neurologically impaired and licensed by the Board of Medicine;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be rendered after a neuropsychological evaluation administered by a clinical psychologist or physician experienced in the administration of neuropsychological assessments and licensed by the Board of Medicine and in accordance with a plan of care based on the findings of the neuropsychological evaluation;

c. Cognitive rehabiitation therapy services may be provided by occupational therapists, speech-language pathologists, and psychologists who have experience in working with the neurologically impaired when provided under a plan recommended and coordinated by a physician or clinical psychologist licensed by the Board of Medicine;

d. The cognitive rehabilitation services shall be an integrated part of the total patient care plan and shall relate to information processing deficits which are a consequence of and related to a neurologic event;

e. The services include activities to improve a variety of cognitive functions such as orientation, attention/concentration, reasoning, memory, discrimination and behavior; and

f. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis.

F. Psychology.

1. Psychology services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a qualified psychologist as required by state law;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

G. Social work.

1. Social work services are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a qualified social worker as required by state law;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

H. Recreational therapy.

1. Recreational therapy are those services furnished a patient which meet all of the following conditions:

a. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;

b. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services are performed as an integrated part of a comprehensive rehabilitation plan of care by a recreation therapist certified with the National Council for Therapeutic Recreation at the professional level;

c. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and

d. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

I. Prosthetic/orthotic services.

1. Prosthetic services furnished to a patient include prosthetic devices that replace all or part of an external body member, and services necessary to design the device, including measuring, fitting, and instructing the patient in its use;

2. Orthotic device services furnished to a patient include orthotic devices that support or align extremities to prevent or correct deformities, or to improve functioning, and services necessary to design the device, including measuring, fitting and instructing the patient in its use; and

3. Maxillofacial prosthetic and related dental services are those services that are specifically related to the improvement of oral function not to include routine oral and dental care.

4. The services shall be directly and specifically related to an active written treatment plan approved by a physician after consultation with a prosthetist, orthotist, or a licensed, board eligible prosthodontist, certified in Maxillofacial prosthetics.

5. The services shall be provided with the expectation, based on the assessment made by physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and predictable period of time, or shall be necessary to establish an improved functional state of maintenance.

6. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical and dental practice; this includes the requirement that the amount, frequency, and duration of the services be reasonable.

J. Durable medical equipment.

1. Durable medical equipment furnished the patient receiving approved covered rehabilitation services is covered when the equipment is necessary to carry out an approved plan of rehabilitation. A rehabilitation hospital or a rehabilitation unit of a hospital enrolled with Medicaid under a separate provider agreement for rehabilitative services may supply the durable medical equipment. The provision of the equipment is to be billed as an outpatient service. All durable medical equipment over $1,000 shall be preauthorized by the department; however, all durable medical equipment is subject to justification of need. Durable medical equipment normally supplied by the hospital for inpatient care is not covered by this provision.

VR 460-04-8.10. Regulation for Long-Stay Acute Care Hospitals.

§ 1. Scope.

Medicaid shall cover long-stay acute care hospital services as defined in § 2 provided by hospitals certified as long-stay acute care hospitals and which have provider agreements with the Department of Medical Assistance Services.

§ 2. Authorization for services.

Long-stay acute care hospital stays shall be preauthorized by the submission of a completed [~~*DMAS-95*~~ *comprehensive assessment instrument*] , *a physician certification of the need for long-stay acute care hospital placement, and any additional information that justifies the need for intensive services. Prior authorization shall be required by submission of the* [~~*DMAS-95*~~ *information described above*] . *Physician certification must accompany the request. Periods of care not authorized by the Department of Medical Assistance Services shall not be approved for payment.*

§ 3. Criteria for long-stay acute care hospital stays.

A. Adult long-stay acute care hospital criteria.

1. The resident must have long-term health conditions requiring close medical supervision, 24-hour licensed nursing care, and specialized services or equipment needs. The population to be served includes individuals requiring mechanical ventilation, individuals with communicable diseases requiring universal or respiratory precautions, individuals requiring ongoing intravenous medication or nutrition administration, and

individuals requiring comprehensive rehabilitative therapy services.

2. At a minimum, the individual must require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is the designated unit must be on the nursing unit on which the resident resides, 24 hours a day), and coordinated multidisciplinary team approach to meet needs.

3. In addition, the individual must meet at least one of the following requirements:

a. Must require two out of three of the following rehabilitative services: physical therapy, occupational therapy, speech-pathology services; each required therapy must be provided daily, five days per week, for a minimum of one hour each day; individual must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

b. Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by a licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy; or

c. The individual must require at least one of the following special services:

(1) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(2) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only);

(3) Dialysis treatment that is provided on-unit (i.e. peritoneal dialysis);

(4) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(5) Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second- or third-degree burns covering more than 10% of the body); or

(6) Multiple unstable ostomies (a single ostomy does not constitute a requirement for special care) requiring frequent care (i.e. suctioning every hour, stabilization of feeding, stabilization of elimination, etc.)

B. Pediatric/adolescent patients in long-stay acute care hospitals criteria.

1. To be eligible for long-stay acute care hospital services, the child must have ongoing health conditions requiring close medical supervision, 24-hour licensed nursing supervision, and specialized services or equipment needs. The recipient must be age 21 or under. The population to be served includes children requiring mechanical ventilation, those with communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.), those requiring ongoing intravenous medication or nutrition administration, those requiring daily dependence on device-based respiratory or nutritional support (tracheostomy, gastrostomy, etc.), those requiring comprehensive rehabilitative therapy services, and those with a terminal illness.

2. The child must minimally require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is that nursing unit must be on the unit on which the child is residing 24 hours a day), and a coordinated multidisciplinary team approach to meet needs.

3. In addition, the child must meet one of the following requirements:

a. Must require two out of three of the following physical rehabilitative services: physical therapy, occupational therapy, speech-pathology services; each required therapy must be provided daily, five days per week, for a minimum of 45 minutes per day; child must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

b. Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy, etc; or

c. Must require at least one of the following special services:

(1) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(2) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only or isolation for normal childhood diseases such as measles, chicken pox, strep throat, etc.);

(3) Dialysis treatment that is provided within the facility (i.e. peritoneal dialysis);

(4) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(5) Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e., grade IV decubiti; large surgical wounds that cannot be closed; second- or third-degree burns covering more than 10% of the body);

(6) Ostomy care requiring services by a licensed nurse;

(7) Services required for terminal care.

4. In addition, the long-stay acute care hospital must provide for the educational and habilitative needs of the child. These services must be age appropriate, must meet state educational requirements, and must be appropriate to the child's cognitive level. Services must also be individualized to meet the specific needs of the child and must be provided in an organized manner that encourages the child to participate. Services may include, but are not limited to, school, active treatment for mental retardation, habilitative therapies, social skills, and leisure activities. Therapeutic leisure activities must be provided daily. The services must be provided for a minimum of two hours per day.

§ 4. Documentation requirements.

A. Services not specifically documented in the resident's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

B. The long-stay acute care hospital shall maintain and retain the business and professional records sufficient to document fully and accurately the nature, scope, and details of the health care provided. Such records shall be retained for a period of not less than five years from the date of service or as provided by applicable state laws, whichever period is longer, except that, if an audit is initiated within the required retention period, the records must be retained until the audit is completed and every exception resolved.

C. The following documentation must be maintained in the resident's medical record:

1. Each record must identify the resident on each page.

2. Entries must be signed and dated (month, day, and year) by the author, followed by professional title. Care rendered by personnel under the supervision of the provider, which is in accordance with Medicaid policy, must be countersigned by the responsible licensed participating provider.

3. The attending physician must certify at the time of admission that the resident requires long-stay acute hospital care and meets the criteria as defined by DMAS.

4. The record must contain a preliminary working diagnosis and the elements of a history and physical examination upon which the diagnosis is based.

5. All services provided, as well as any treatment plan, must be entered in the record. Any drugs prescribed and administered as part of a physician's treatment plan, including the quantities, route of administration, and the dosage must be recorded.

6. The record must indicate the resident's progress, any change in diagnosis or treatment, and the response to the treatment. [The documentation must include in detail all treatment rendered to the resident in accordance with the plan with specific attention to frequency, duration, modality, response to treatment, and identify who provided such treatment.]

7. Physician progress notes must be written at least weekly and must reflect that the resident has been examined by the physician.

8. A comprehensive nursing assessment must be made by a registered nurse at the time of admission to the facility. Nursing care plans based on an admission assessment must be resident-specific and must indicate realistic nursing needs, measurable goals, and specifically state the method by which the goals are to be accomplished. They must be updated as needed, but at least monthly. Nursing summaries, in addition to the p.r.n. (as needed) notes, are required weekly. Nursing summaries must give a current, written picture of the resident, the resident's nursing needs, the care being provided, and the resident's response to treatment. The nursing summary at a minimum must address the following: medical status; functional status in activities of daily living, elimination, mobility, and emotional/mental status; special nursing procedures; and identification and resolution of acute illnesses or episodes.

9. Social services documentation must include a social evaluation and history and a social services plan of care including a discharge plan. The social work plans of care must be resident-specific and include measurable goals with realistic time frames. Social work plans of care must be updated as needed and at least monthly every 30 days. Social services progress notes must be written at least every 30 days.

10. Activities documentation must be based on a comprehensive assessment completed by the designated activity coordinator. An activity plan of care must be developed for each resident and must include consideration of the individual's interests and skills, the physician's recommendations, social and rehabilitation goals, and personal care requirements. Individual and group activities must be included in the plan. The activity plan of care must be updated as needed but at least every 30 days. Activity progress notes must be written at least every 30 days. [

Therapeutic leisure activities must be provided daily.]

11. Rehabilitative therapy (physical and occupational therapy or speech-language services) or other health care professional (psychologist, respiratory therapist, etc.) documentation must include an assessment completed by the qualified rehabilitation professional. A plan of care developed specific to the resident must be developed and must include measurable goals with realistic time frames. The plan of care must be updated as needed but at least every 30 days. Rehabilitative therapy or other health care professional progress notes must be written at least every 30 days.

12. Each resident's record must contain a dietary evaluation and plan of care completed by a registered dietician. The plan of care must be resident-specific and must have measurable goals within realistic time frames. The plan of care must be updated as needed, but at least every 30 days. The dietary assessment and monthly plans of care must be completed by a registered dietician. Dietary progress notes must be written at least every 30 days.

13. A coordinated interdisciplinary plan of care must be developed for each resident. The plan of care must be resident-specific and must contain measurable goals within realistic time frames. Based on the physician's plan of care, the interdisciplinary team should include, but is not necessarily limited to, nurses, social workers, activities coordinators, dieticians, rehabilitative therapists, direct care staff, and the resident or responsible party. At a minimum, the interdisciplinary team must review and update the interdisciplinary plan of care as needed but at least every 30 days. The interdisciplinary plan of care review must identify those attending the meeting, changes in goals and approaches, and progress made toward meeting established goals and discharge.

14. For residents age 21 and younger, the record must contain documentation that educational or habilitative services are provided as required. The documentation shall include an evaluation of the resident's educational or habilitative needs, a description of the educational or habilitative services provided, a schedule of planned programs, and records of resident attendance. Educational or habilitative progress notes shall be written at least every 30 days.

§ 5. Long-stay acute care hospital services.

All services must be provided by appropriately qualified personnel. The following services are covered long-stay acute care hospital services:

A. Physician services.

1. Physician services shall be performed by a professional who is licensed to practice in the Commonwealth, who is acting within the scope of his license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor.

2. An attending physician means a physician who is a doctor of medicine or osteopathy and is identified by the individual as having the most significant role in the determination and delivery of the individual's medical care.

B. Licensed nursing services.

1. Must be provided 24 hours a day (a registered nurse, whose sole responsibility is the designated unit on which the resident resides, must be on the unit 24 hours a day).

2. Nursing services shall be of a level of complexity and sophistication, or the condition of the resident shall be of a nature, that the services can only be performed by a registered nurse or licensed professional nurse, or nursing assistant under the direct supervision of a registered nurse who is experienced in providing the specialized care required by the resident.

C. Rehabilitative services.

1. Rehabilitative services shall be directly and specifically related to written plan of care designed by a physician after any needed consultation with the rehabilitation professional.

2. Physical therapy services shall be of a level of complexity and sophistication, or the condition of the resident shall be of a nature, that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a physical therapist licensed by the Board of Medicine.

3. Occupational therapy services shall be of a level of complexity and sophistication, or the condition of the resident shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the American Occupational Therapy Certification Board under the direct supervision of an occupational therapist as defined.

4. Speech-language services shall be of a level of complexity and sophistication, or the condition of the resident shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology.

D. Ancillary services shall be provided directly and specifically related to a plan of care designed by the physician. The ancillary services may include but are not limited to dietary, respiratory therapy services, and psychological services.

1. Dietary services must be of a level of complexity or sophistication, or the nature of the resident shall be of a nature that the services can only be performed or supervised by a dietician, registered with the American Dietetic Association.

2. Respiratory therapy services must be of a level of complexity and sophistication, or the nature of the resident shall be of a nature that the services can only be performed by a respiratory therapist. Respiratory therapy services must be provided by a respiratory therapist certified by the Board of Medicine or registered with the National Board for Respiratory Care. If the facility agrees to provide care to a resident who is dependent on mechanical assistance for respiration (positive or negative pressure mechanical ventilators), respiratory therapy services must be available 24 hours daily. If the facility contracts for respiratory therapy services, a respiratory therapist must be on call 24 hours daily and available to the facility in a timely manner.

3. Psychology services shall be of a level of complexity or sophistication, or the condition shall be of a nature that the services can only be performed by a psychologist licensed by the Board of Medicine.

4. Activity programs under the supervision of designated activities coordinators. The program of activities must include both individual and group activities which are based on consideration of interest, skills, physical and mental status, and personal care requirements.

5. Provide social services to each resident in an effort to assist the resident, his family and the [~~nursing~~] facility staff in understanding the significant social and emotional factors related to the health problems, to assist with appropriate utilization of community resources and to coordinate discharge plans. Social services must be provided by a social worker with at least a bachelor's degree in social work or similar qualifications.

§ 6. Long-stay acute care hospital requirements.

A. A coordinated multidisciplinary team approach shall be implemented to meet the needs of the resident. Based on the physician's plan of care, the interdisciplinary team should include, but is not necessarily limited to, nurses, social workers, activity coordinators, dieticians, rehabilitative therapists, and any direct care staff.

B. The long-stay acute care hospital shall provide for the educational and habilitative needs of residents age 21 or younger. These services must be age appropriate, must meet state educational requirements, and must be appropriate to the child's cognitive level. Services must be individualized to meet the specific needs of the child and must be provided in an organized manner which encourages the child to participate. Services may include but are not limited to school, active treatment for mental retardation, habilitative therapies, social skills and leisure activities. Therapeutic leisure activities must be provided daily.

C. The long-stay acute care hospital shall provide an acceptable plan for assuring that residents requiring long-stay acute hospital care are afforded the same opportunity for participating in integrated facility activities as the other facility residents.

D. Nonemergency transportation shall be provided so that residents may participate in community activities sponsored by the facility or community activities in which the facility is providing transportation for other facility residents.

E. The long-stay acute care hospital shall coordinate discharge planning for the resident utilizing all available resources in an effort to assist the resident to maximize his potential for independence and self-sufficiency and to assure that services are being provided by the most effective level of care.

F. The long-stay acute care hospital shall provide family or caregiver training in the skills necessary for the care of the resident in the community, should the resident or the resident's caregiver so desire.

G. The long-stay acute care hospital shall provide all necessary durable medical equipment to sustain life or monitor vital signs and to carry out a plan of care designed by the physician. This equipment may include but is not limited to mechanical ventilator, apnea monitor, etc.

H. The long-stay acute care hospital shall provide utilization review activities as follows:

1. Purpose. The objective of the utilization review mechanism is the maintenance of high-quality patient care and the most efficient utilization of resources through an educational approach involving the study of patient care as well as to ensure that inpatient care is provided only when medically necessary and that the care meets quality standards.

a. In addition to the certification by the resident's physician, the hospital shall have a utilization review plan which provides for review of all Medicaid patient stays and medical care evaluation studies of admissions, durations of stay, and professional services rendered.

b. Effective utilization review shall be maintained on

a continuing basis to ensure the medical necessity of the services for which the program pays and to promote the most efficient use of available health facilities and services.

2. The Department of Medical Assistance Services delegates to the local facilities' utilization review departments the utilization review of inpatient hospital services for all Medicaid admissions. The hospital must have a utilization review plan reflecting 100% review of Medicaid residents, approved by the Division of Licensure and Certification of the Department of Health, and DMAS or the appropriate licensing agency in the state in which the institution is licensed.

3. The hospital utilization review coordinator shall approve the medical necessity, based on admission criteria approved by the utilization review committee, within one working day of admission. In the event of an intervening Saturday, Sunday, or holiday, a review must be performed the next working day. This review shall be reflected in the hospital utilization review plan and the resident's record.

4. If the admission is determined medically necessary, an initial stay review date must be assigned and reflected on the utilization review sheets. Continued or extended stay review must be assigned prior to or on the date assigned for the initial stay. If the facility's utilization review committee has reason to believe that an inpatient admission was not medically necessary, it may review the admission at any time. However, the decision of a utilization review committee in one facility shall not be binding upon the utilization review committee in another facility.

5. If the admission or continued stay is found to be medically unnecessary, the attending physician shall be notified and be allowed to present additional information. If the hospital physician advisor still finds the admission or continued stay unnecessary, a notice of adverse decision must be made within one working day after the admission or continued stay is denied. Copies of this decision must be sent by the utilization review committee's designated agent to the hospital administrator, attending physician, recipient or recipient's authorized representative, and Medicaid.

6. As part of the utilization review plan, long-stay acute care hospitals shall have one medical or patient care evaluation study in process and one completed each calendar year. Medical care evaluation studies must contain the elements mandated by 42 CFR 456.141 through 456.145. The elements are objectives of study, results of the study, evaluation of the results, and action plan or recommendations as indicated by study results.

7. The Department of Medical Assistance Services shall monitor the length of stay for inpatient hospital stays. The guidelines used shall be based on the criteria described in § 3 of these regulations. If th stay or any portion of the stay is found to be medically unnecessary, contrary to program requirements, or if the required documentation has not been received, reimbursement will not be made by Medicaid.

8. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

I. The long-stay acute care hospital shall provide all medical supplies necessary to provide care as directed by the physician's plan of care for the resident. These supplies may include but are not limited to suction catheters, tracheostomy care supplies, oxygen, etc.

J. The long-stay acute care hospital shall provide all nutritional elements including those that must be administered intravenously. This includes providing all necessary equipment or supplies necessary to administer the nutrients.

K. The long-stay acute care hospital shall submit all necessary health care and medical social service information on the resident to DMAS for preadmission authorization. The provider cannot bill DMAS for services that have not been preauthorized.

ASSESSMENT PROCESS

NAME | HOME ADDRESS | TELEPHONE NUMBER

SUMMARY OF PROVIDERS

RECORD NUMBER	PROVIDER NAME	PROVIDER ADDRESS	TELEPHONE NUMBER	PROVIDER NUMBER	PROVIDER SOURCE	DATES OF ADMISSION	DATES OF DISCHARGE

BIRTHDATE (MONTH / DAY / YEAR)

BIRTHPLACE (SPECIFY STATE OR COUNTRY) ☐ USA 0 ☐ OTHER 1 _____

SEX ☐ MALE 0 ☐ FEMALE 1

MARITAL STATUS (Length of Time) ☐ MARRIED 0 ☐ SEPARATED 2 ☐ SINGLE 4 ☐ WIDOWED 1 ☐ DIVORCED 3 ☐ UNKNOWN 9

RELIGIOUS PREFERENCE
☐ CATHOLIC 0 ☐ OTHER 3, 8 _____
☐ JEWISH 1-SECT _____
☐ PROTESTANT 2—SECT _____

RACIAL/ETHNIC BACKGROUND
☐ AMERICAN INDIAN OR ALASKAN NATIVE 0
☐ ASIAN OR PACIFIC ISLANDER 1
☐ BLACK 2 (NOT HISPANIC)
☐ HISPANIC 3
☐ WHITE 4 (NOT HISPANIC)
☐ OTHER 5 _____

EDUCATION
☐ GRADUATE ☐ ELEM. 6/HIGH SCHOOL 5 COLLEGE 0 GRADES COMPLETED _____
☐ UNDERGRADUATE COLLEGE Degree 1 or yrs. 2 _____ ☐ SPECIAL EDUCATION 7
☐ TRADE TECHNICAL VOCATIONAL 3 ☐ NO SCHOOLING 8
☐ HIGH SCHOOL DIPLOMA 4 ☐ UNKNOWN 9

FAMILY INCOME
☐ $20,000 OR MORE 0 ☐ $3,600 - $4,999 4
☐ $15,000 - $19,999 1 ☐ $2,600 - $3,599 6
☐ $10,000 - $14,999 2 ☐ $2,599 OR LESS 5
☐ $5,000 - $9,999 3 ☐ UNKNOWN 9

USUAL LIVING ARRANGEMENTS

	ALONE 1	SPOUSE 2	OTHER 3,7
☐ HOME/APARTMENT 0			
☐ RENTED ROOM(S) 1			

☐ DOMICILIARY/PERSONAL CARE FACILITY 20
☐ HEALTH CARE FACILITY 3 -TYPE 1,5 _____
☐ OTHER 40 _____

HEALTH CARE COVERAGE
☐ MEDICARE 1 # PARTS ☐ A 2 ☐ B
☐ MEDICAID 1 # _____
☐ OTHER 1 TYPE 1, 6 _____ # _____
☐ VETERAN 0 ☐ NON-VETERAN 1 ☐ UNKNOWN 9
SOCIAL SECURITY # _____

NUMBER OF LIVING CHILDREN _____
SON(S) _____ DAUGHTER(S) _____

EMPLOYMENT STATUS
☐ EMPLOYED 0 ☐ RETIRED 2
☐ PRE-RETIREMENT 1 ☐ PENSION 1
☐ POST-RETIREMENT 2, 3 ☐ NO PENSION 2
☐ UNEMPLOYED 10 ☐ NEVER EMPLOYED 30
☐ UNKNOWN 99

USUAL OCCUPATION
☐ HOMEMAKER 10 ☐ NONE 00
☐ OCCUPATION OUTSIDE THE HOME 2 SPECIFY 1, 7 _____

NONINSTITUTIONAL LIVING SPACE
☐ AVAILABLE 0 ☐ NOT AVAILABLE 1 ☐ NOT APPLICABLE 2

YES 0	NO 1	
		ENTRY STAIRS
		ELEVATOR OR OTHER CONVEYANCE AVAILABLE
		TOILET ROOM SAME FLOOR LEVEL AS BEDROOM
		KITCHEN SAME FLOOR LEVEL AS BEDROOM
		OTHER CONDITION

SOCIAL SUPPORT WILLING AND ABLE TO PROVIDE

	YES 1	NO 0	TIMES AVAILABLE
ACTIVITIES OF DAILY LIVING/ SUPERVISION			
HOUSEKEEPING			
LIVING SPACE			
MEAL PREPARATION			
SHOPPING			
TRANSPORTATION			
OTHER			

DIRECTORY OF HEALTH CARE PROFESSIONALS & OTHERS / UTILIZATION INFORMATION

NAME, ADDRESS, TELEPHONE NUMBER	DATES OF ASSESSMENT	TYPE OF SERVICE OR LEVEL OF CARE CURRENT	TYPE OF SERVICE OR LEVEL OF CARE RECOMMENDED	METHOD OF PAYMENT CURRENT	METHOD OF PAYMENT EXPECTED
REFERRING PHYSICIAN		0,7	0,8	0,8	0,8
ATTENDING PHYSICIAN					
ALTERNATE PHYSICIAN					
DENTIST					
PODIATRIST					
PHARMACY					
FUNERAL HOME					
PERSON(S) TO BE NOTIFIED					
OTHER					

LONG-TERM CARE INFORMATION SYSTEM SM

1 FORMAT A

MEDICAL STATUS

CHECK BOXES WHICH APPLY. FILL IN SPACES AS INDICATED

	NO IMPAIRMENT 0	IMPAIRMENT (ATTEMPTED) 2 COMPENSATION 1 SPECIFY	NO COMPENSATION 3	COMPLETE LOSS 4	DATE OF CHANGE (IF ANY)
SIGHT			D		
HEARING			D		

SPEECH
☐ NO IMPAIRMENT 000
☐ IMPAIRMENT 1
☐ STRUCTURE OR MUSCULATURE OF VOCAL TRACT 2
TYPE
☐ LINGUISTIC SYSTEM 3
☐ COMPLETE LOSS 5
☐ DOES NOT SPEAK—NO KNOWN IMPAIRMENT 8

PREVIOUS REHABILITATION	COMPLETED 1		NOT COMPLETED 2	
ONSET	More Than 6 Months 1	6 Months Or Less 2	More Than 6 Months 1	6 Months Or Less 2
				D
				D

DENTITION
☐ NO TEETH MISSING OR FEW TEETH MISSING 00
☐ SOME OPPOSING TEETH 1
☐ NO TEETH OR NO OPPOSING TEETH 2

	COMPENSATION TYPE 1	NONE 2	DATE OF CHANGE
		D	
		D	

FRACTURES/DISLOCATIONS ☐ NONE 000

	LOCATION/ TREATMENT	PREVIOUS REHABILITATION PROGRAM YES 1	PREVIOUS REHABILITATION PROGRAM NO OR NOT COMPLETED 2	ONSET MORE THAN ONE YEAR 1	ONSET ONE YEAR OR LESS 4
HIP FRACTURE 1(S) 2			D		D
OTHER FRACTURE(S) 3					
DISLOCATION(S) 4					

MISSING LIMBS ☐ NONE 000

	LOCATION	PREVIOUS REHABILITATION PROGRAM YES 1	PREVIOUS REHABILITATION PROGRAM NO OR NOT COMPLETED 2	ONSET MORE THAN ONE YEAR 1	ONSET ONE YEAR OR LESS 2
FINGER(S) OR TOE(S) 1			D		
BELOW ELBOW 2			D		
ABOVE ELBOW 3			D		
BELOW KNEE 4			D		
ABOVE KNEE 5			D		

PARALYSIS/PARESIS ☐ NONE 000

	LOCATION	PREVIOUS REHABILITATION PROGRAM YES 1	PREVIOUS REHABILITATION PROGRAM NO OR NOT COMPLETED 2	ONSET MORE THAN ONE YEAR 1	ONSET ONE YEAR OR LESS 2
MONOPLEGIA/ PARESIS 1			D		D
HEMIPLEGIA/ PARESIS 2			D		D
PARAPLEGIA/ PARESIS 3			D		D
TRIPLEGIA/ PARESIS 4			D		D
BILATERAL HEMIPLEGIA/PARESIS 5			D		D
QUADRIPLEGIA/ PARESIS 6			D		D

ALLERGIES—SPECIFY ICD-9CM CODE

NAME OR NUMBER

DIAGNOSES ICD-9CM CODE | DATE OF ONSET 0, 6

RISK FACTOR MEASUREMENTS/OTHER TESTS

ALCOHOL/SUBSTANCE USE ☐ BY HISTORY - NOT AT PRESENT
☐ NO ☐ YES Type _____ Amount _____ ☐ UNKNOWN 9

TOBACCO USE ☐ NEVER USED ☐ BY HISTORY-NOT AT PRESENT
☐ CIGARETTES ☐ PIPE ☐ CHEWING Specify Amount Per Day _____

	RECORD DATE AND READING			
HEIGHT				
WEIGHT IDEAL _____				
BLOOD PRESSURE				
BLOOD CHOLESTEROL				
BUN				
ALBUMINURIA				
BLOOD SUGAR-SPECIFY TEST				
HEMOGLOBIN OR HEMATOCRIT				
DIG. LEVEL SPECIFY TEST				
PROTHROMBIN TIME				
SERUM POTASSIUM				
CHEST X-RAY 1, 2 OTHER				

JOINT MOTION SPECIFY JOINTS AFFECTED

	DATE			
WITHIN NORMAL LIMITS 0				
LIMITED MOTION 1 d				
INSTABILITY—CORRECTED 2				
INSTABILITY—UNCORRECTED 3 D				
IMMOBILITY 4 D				

MEDICAL HISTORY ICD-9CM CODE

FAMILY HISTORY ICD-9CM CODE

LONG-TERM CARE INFORMATION SYSTEM SM
2 FORMAT A-1

FUNCTIONING STATUS

MH = MECHANICAL HELP
HH = HUMAN HELP

NAME OR NUMBER

ACTIVITIES OF DAILY LIVING (ADL)

BATHING (DATE)
- WITHOUT HELP 0
- MH ONLY 1
- HH ONLY 2 D
- MH AND HH 3 D
- IS BATHED 4 OR DOES NOT BATHE 5 D
- DESCRIBE HELP

DRESSING
- WITHOUT HELP 0
- MH ONLY 1
- HH ONLY 2 D
- MH AND HH 3 D
- IS DRESSED 4 D
- IS NOT DRESSED 5 D
- DESCRIBE HELP

TOILETING
- WITHOUT HELP 0 DAY & NIGHT
- MH ONLY 1
- HH ONLY 2 D
- MH AND HH 3 D
- DOES NOT USE TOILET ROOM 4 D
- DESCRIBE HELP

TRANSFERRING
- WITHOUT HELP 0
- MH ONLY 1
- HH ONLY 2 D
- MH AND HH 3 D
- IS TRANSFERRED 4 D
- IS NOT TRANSFERRED 5 D
- DESCRIBE HELP

BOWEL FUNCTION
- CONTINENT 0
- INCONTINENT 1 LESS THAN WEEKLY
- OSTOMY-SELF CARE 2
- INCONTINENT 3 WEEKLY OR MORE D
- OSTOMY - NOT SELF CARE 4 D
- TYPE OF OSTOMY OTHER PROBLEM 5

BLADDER FUNCTION (DATE)
- CONTINENT 0
- INCONTINENT 1 LESS THAN WKLY.
- EXTERNAL DEVICE SELF CARE 2
- INDWELLING CATHETER SELF CARE 3
- OSTOMY SELF CARE 4
- INCONTINENT 5 WEEKLY OR MORE D
- EXTERNAL DEVICE NOT SELF CARE 6 D
- INDWELLING CATHETER NOT SELF CARE 7 D
- OSTOMY NOT SELF CARE 8 D
- TYPE OF OSTOMY OTHER PROBLEM

EATING/FEEDING
- WITHOUT HELP 0
- MH ONLY 1
- HH ONLY 2 D
- MH AND HH 3 D
- SPOON FED 4 D
- SYRINGE OR TUBE FED 5 D
- FED BY IV OR CLYSIS 6 DD
- DESCRIBE HELP

BEHAVIOR PATTERN
- APPROPRIATE 0 I
- WANDERING/PASSIVE LESS THAN WEEKLY 1 I
- WANDERING/PASSIVE WEEKLY OR MORE 2 d
- ABUSIVE/AGGRESSIVE/DISRUPTIVE—LESS THAN WEEKLY 3 D
- ABUSIVE/AGGRESSIVE/DISRUPTIVE—WEEKLY OR MORE 4 DD
- COMATOSE 5
- TYPE OF INAPPROPRIATE BEHAVIOR

ORIENTATION
- ORIENTED 0 I
- DISORIENTED - SOME SPHERES SOME TIME 1 d
- DISORIENTED - SOME SPHERES ALL TIME 2 d
- DISORIENTED - ALL SPHERES SOME TIME 3 D
- DISORIENTED - ALL SPHERES ALL TIME 4 D
- COMATOSE 5
- SPHERES AFFECTED

MOBILITY LEVEL (DATE)
- GOES OUTSIDE WITHOUT HELP 0
- GOES OUTSIDE MH ONLY 1 d
- GOES OUTSIDE HH ONLY 2 D
- GOES OUTSIDE MH AND HH 3 D
- CONFINED MOVES ABOUT 4 D
- CONFINED—DOES NOT MOVE ABOUT 5 D
- DESCRIBE HELP

WALKING
- WITHOUT HELP 0
- MH ONLY 1
- HH ONLY 2
- MH AND HH 3
- DOES NOT WALK 4
- DESCRIBE HELP

WHEELING
- DOES NOT WHEEL-MOVES ABOUT 0
- WITHOUT HELP 1
- MH ONLY 2
- HH ONLY 3
- MH AND HH 4
- IS WHEELED 5
- IS NOT WHEELED 6
- DESCRIBE HELP

STAIRCLIMBING
- WITHOUT HELP 0
- MH ONLY 1
- HH ONLY 2
- MH AND HH 3
- DOES NOT CLIMB 4
- DESCRIBE HELP

COMMUNICATION OF NEEDS
- VERBALLY-ENGLISH 0
- VERBALLY — OTHER LANGUAGE 1
- NONVERBALLY 2
- DOES NOT COMMUNICATE 3
- OTHER LANGUAGE NONVERBAL COMMUNICATION

SERVICES CURRENTLY RECEIVED

FILL IN SPACES AS INDICATED

NAME OR NUMBER

THERAPIES (DATE) — SPECIFY FREQUENCY
- INHALATION 1 4
- OCCUPATIONAL 1
- PHYSICAL 1
- SPEECH 1
- REALITY/REMOTIVATION 1
- SOCIAL SERVICE 1
- OTHER 1

OTHER SERVICES/SOCIAL CONTACTS
- RECREATION/ACTIVITIES 1
- RELIGIOUS SERVICES 1
- VISITORS 1
- OTHER 1

NUTRITION
- DIET—SPECIFY 0, 6
- FOOD/FLUID (✓ INTAKE-NO PROB 0
- PROBLEM— 1 SPECIFY
- SUPPLEMENTAL 1 NOURISHMENTS 0, 2
- DINING LOCATION

SPECIAL NURSING PROCEDURES — SPECIFY SITES WHERE APPLICABLE, TYPE, AND FREQUENCY OF TREATMENT
- DECUBITUS CARE SITE(S) 1, 5
- DRESSING(S) SITE(S) 1, 5
- EYE CARE— 1 SPECIFY
- OXYGEN Rx— 1, 4 TYPE:
- RESTORATIVE NURSING BOWEL 1 /BLADDER 2 TRAINING 3 ROM EXERCISES SITES 1, 4 OTHER 1
- RESTRAINTS-SITES OF APPLICATION 1
- TEACHING OSTOMY CARE-TYPE 1, 6
- SELF INJECTION OTHER 1
- OTHER SPECIAL NURSING 1

PROFESSIONAL VISITS 1, 6 SPECIFY FREQUENCY OF VISITS
- ATTENDING MD/DO
- OTHER MD/DO
- AUDIOLOGIST
- DENTIST
- OPHTHALMOLOGIST/OPTOMETRIST
- PODIATRIST
- HOME HEALTH
- OTHER

MEDICATIONS

SPECIFY EACH MEDICATION BY CATEGORY. INCLUDE DOSE, ROUTE OF ADMINISTRATION 1, 7, FREQUENCY 1, 7 AND TIME OF LAST DOSE AT DISCHARGE. CHECK IF ADMINISTERED UNDER CORRESPONDING DATE. (DATE)

- ANALGESICS/NARCOTICS
- ANTACIDS
- ANTIBIOTICS/ANTI-INFECTIVES
- ANTICOAGULANTS
- ANTICONVULSIVES
- ANTIHYPERTENSIVES
- BOWEL REGULATORS
- CARDIAC REGULATORS
- DIURETICS/ELECTROLYTES
- INSULIN HYPOGLYCEMICS
- SEDATIVES/BARBITURATES
- TRANQUILIZERS/ANTIDEPRESSANTS
- VASODILATORS
- VITAMINS/IRON
- OTHER

MEDICATION ADMINISTRATION
- NO MEDICATIONS 0
- SELF ADM. MONITORED LESS THAN WEEKLY 1
- BY LAY PERSONS, MONITORED LESS THAN WEEKLY 2
- BY LICENSED/PROF. NURSE AND/OR MONITORED WEEKLY OR MORE 3 d
- BY PROFESSIONAL NURSE 4 D

TRANSLATION TO SERVICE NEEDS

NAME OR NUMBER

ADDITIONAL INFORMATION/PLAN

1. RECORD THE DATE OF ASSESSMENT.
2. MATCH THE ASSESSED STATUS RECORDED AS ≠, 0, OR 00 IN THE COMPLETED ASSESSMENT WITH THE SAME ITEMS IN THE ASSESSED STATUS COLUMN BELOW. CHECK THE SERVICE(S) NEXT TO EACH MATCHED ITEM UNDER THE DATE OF ASSESSMENT.
3. MATCH THE ASSESSED STATUS FOR BEHAVIOR PATTERN WITH THAT OF ORIENTATION AND CHECK THE CORRESPONDING SERVICE AS NEEDED. IF THE ASSESSED STATUS IS "I" FOR BEHAVIOR AND ORIENTATION, NO SERVICE IS CHECKED AS NEEDED.

ASSESSED STATUS	DATE	SERVICE NEEDS 1			✓ OR SPECIFY. IF CHANGE OCCURS, RECORD DATE AND CHANGE: SOCIAL SUPPORT 1	SERVICE PROVIDER	AT REASSESSMENT, DATE AND ✓ IF SERVICE RECEIVED 1
NON-INSTITUTIONAL LIVING SPACE 0 Not Available		HOMEFINDING SERVICE					
SIGHT 0 IMPAIRMENT — NO (ATTEMPTED) COMPENSATION		OPHTHALMOLOGY/OPTOMETRY					
HEARING 0 IMPAIRMENT — NO (ATTEMPTED) COMPENSATION		AUDIOLOGY					
SPEECH 0 IMPAIRMENT SIX MONTHS AGO OR LESS — THERAPY NOT COMPLETED		SPEECH THERAPY					
DENTITION 0 SOME OR NO OPPOSING TEETH — NO COMPENSATION		DENTAL SERVICE					
FRACTURED HIP(S) 00 / PARALYSIS/PARESIS 00 — ONE YEAR AGO OR LESS AND REHABILITATION NOT COMPLETED MISSING LIMBS 0 REHABILITATION NOT COMPLETED JOINT MOTION INSTABILITY UNCORRECTED OR IMMOBILITY 0		PHYSICAL THERAPY					
LIMITED MOTION ≠ EATING/FEEDING 00 FED BY I.V. OR CLYSIS MEDICATION ADMINISTRATION SOME OR ALL BY PROFESSIONAL NURSE 0		PROFESSIONAL NURSING					
BY LICENSED OR PROFESSIONAL NURSE ≠		LICENSED OR PROFESSIONAL NURSING					
ACTIVITIES OF DAILY LIVING ADL: BATHING, DRESSING, TOILETING — 0 FOR 5, 6, OR 7 ADL		MEAL PREPARATION					
TRANSFERRING, BOWEL FUNCTION, BLADDER FUNCTION, EATING/FEEDING — 0 FOR 2, 3, 4, 5, 6, OR 7 ADL		HOUSEKEEPING					
BEHAVIOR PATTERN / ORIENTATION: I-APPROPRIATE OR WANDERING/PASSIVE LESS THAN WEEKLY AND ≠-DISORIENTED SOME SPHERES ≠-WANDERING/PASSIVE WEEKLY OR MORE AND I-ORIENTED		ADL OR SUPERVISION BY LAY PERSONS OR AIDES					
I-APPROPRIATE OR WANDERING/PASSIVE LESS THAN WEEKLY AND 0-DISORIENTED ALL SPHERES ≠-WANDERING/PASSIVE WEEKLY OR MORE AND ≠,0-DISORIENTED SOME OR ALL SPHERES 0-ABUSIVE/AGGRESSIVE/DISRUPTIVE LESS THAN WEEKLY AND I. ORIENTED ≠. OR 0 DISORIENTED		EMOTIONAL AND SOCIAL ASSESSMENT SERVICES					
00-ABUSIVE/AGGRESSIVE/DISRUPTIVE WEEKLY OR MORE AND I. ORIENTED ≠. OR 0 DISORIENTED		EMOTIONAL AND SOCIAL TREATMENT SERVICES					
MOBILITY LEVEL ≠, 0 GOES OUTSIDE WITH HELP OR DOES NOT GO OUTSIDE		SHOPPING					
OTHER SERVICE NEEDS							

PREFERENCES ☐ NONE 0

FOOD 1	ACTIVITIES/HOBBIES/INTERESTS 2	OTHER 3

REASON FOR REFERRAL/DISCHARGE

IF DECEASED,[1] CAUSE OF DEATH H-ICDA CODE DATE

PHYSICIAN'S SIGNATURE

PHYSICIAN'S ORDERS FOR CARE

NAME OR NUMBER

PHYSICIAN'S SIGNATURE DATE DATE OF NEXT VISIT

I ( ) CERTIFY ( ) RECERTIFY THAT ( ) SKILLED[1] ( ) INTERMEDIATE[2] NURSING CARE ( ) OTHER PROFESSIONAL[3] SERVICES ARE REQUIRED BY THE BENEFICIARY ( ) ON AN IN-PATIENT BASIS **OR** ( ) ON AN INTERMITTENT BASIS FOR A BENEFICIARY CONFINED TO THE HOME, FOR CONDITION(S) ELIGIBLE FOR PRESUMED COVERAGE AS DESIGNATED IN THE ( ) MEDICARE[1] ( ) MEDICAID[2] REGULATIONS. THE ABOVE PATIENT IS UNDER CARE AND AN ESTABLISHED PLAN OF CARE WILL BE REVIEWED BY ( ) ME OR ( ) ______ AT LEAST EVERY ______ MONTHS.

PROGNOSIS/REHABILITATION POTENTIAL PHYSICIAN'S SIGNATURE DATE

PHYSICIAN'S SIGNATURE DATE DATE OF NEXT VISIT

I ( ) CERTIFY ( ) RECERTIFY THAT ( ) SKILLED[1] ( ) INTERMEDIATE[2] NURSING CARE ( ) OTHER PROFESSIONAL[3] SERVICES ARE REQUIRED BY THE BENEFICIARY ( ) ON AN IN-PATIENT BASIS **OR** ( ) ON AN INTERMITTENT BASIS FOR A BENEFICIARY CONFINED TO THE HOME, FOR CONDITION(S) ELIGIBLE FOR PRESUMED COVERAGE AS DESIGNATED IN THE ( ) MEDICARE[1] ( ) MEDICAID[2] REGULATIONS. THE ABOVE PATIENT IS UNDER CARE AND AN ESTABLISHED PLAN OF CARE WILL BE REVIEWED BY ( ) ME OR ( ) ______ AT LEAST EVERY ______ MONTHS.

PROGNOSIS/REHABILITATION POTENTIAL PHYSICIAN'S SIGNATURE DATE

PHYSICIAN'S SIGNATURE DATE DATE OF NEXT VISIT

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PROGNOSIS/REHABILITATION POTENTIAL PHYSICIAN'S SIGNATURE DATE

PHYSICIAN'S SIGNATURE DATE DATE OF NEXT VISIT

I ( ) CERTIFY ( ) RECERTIFY THAT ( ) SKILLED[1] ( ) INTERMEDIATE[2] NURSING CARE ( ) OTHER PROFESSIONAL[3] SERVICES ARE REQUIRED BY THE BENEFICIARY ( ) ON AN IN-PATIENT BASIS **OR** ( ) ON AN INTERMITTENT BASIS FOR A BENEFICIARY CONFINED TO THE HOME, FOR CONDITION(S) ELIGIBLE FOR PRESUMED COVERAGE AS DESIGNATED IN THE ( ) MEDICARE[1] ( ) MEDICAID[2] REGULATIONS. THE ABOVE PATIENT IS UNDER CARE AND AN ESTABLISHED PLAN OF CARE WILL BE REVIEWED BY ( ) ME OR ( ) ______ AT LEAST EVERY ______ MONTHS.

PROGNOSIS/REHABILITATION POTENTIAL PHYSICIAN'S SIGNATURE DATE

ADDITIONAL COMMENTS/JUSTIFICATIONS/RECOMMENDATIONS/DECISIONS

SIGNATURE AFFILIATION	SIGNATURE AFFILIATION	SIGNATURE AFFILIATION	SIGNATURE AFFILIATION

DEPARTMENT OF MINES, MINERALS AND ENERGY

Title of Regulation: **VR 480-03-19. Coal Surface Mining Reclamation Regulations.**

Statutory Authority: §§ 45.1-1.3 and 45.1-230 of the Code of Virginia.

Effective Date: July 17, 1991.

NOTICE: As provided in § 9-6.14:22 of the Code of Virginia, this regulation is not being republished. It was adopted as it was proposed in 7:11 VA.R. 1639-1659 February 25, 1991.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Title of Regulation: **VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.**

Statutory Authority: §§ 10.1-1402 and 10.1-1450 of the Code of Virginia.

Effective Date: July 17, 1991.

EDITOR'S NOTE ON INCORPORATION BY REFERENCE: Pursuant to § 9-6.18 of the Code of Virginia, 49 CFR Parts 171-179 and 390-397, is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Virginia Register of Regulations. Copies of this document are available for inspection at the Department of Waste Management, 11th floor, James Monroe Building, 101 N. 14th Street, Richmond, Virginia, and in the office of the Registrar of Regulations, Room 262, General Assembly Building, Capitol Square, Richmond, Virginia.

Summary:

Amendment 9 incorporates, by reference, changes that were made by U.S. DOT to Title 49 Code of Federal Regulations, Parts 171-180 and 390-397 from July 1, 1989, to June 30, 1990. These changes include: (i) amending the Hazardous Materials Regulations (HMR) by revising the "List of Hazardous Substances and Reportable Quantities," which appears in the Appendix to 49 CFR 172.101; (ii) amending the HMR by permitting the transport of uranium hexafluoride in certain packaging that does not meet the requirements of either the American National Standard or the specification for Class DOT-106A multi-unit tank car tanks, as required by 49 CFR 173.420, and by permitting the transport of depleted uranium hexafluoride in packaging filled to a capacity not exceeding 62% by volume at 20 degrees Celsius; (iii) amending the HMR by revising the requirements pertaining to the approval of Class B and C fireworks and Class C novelties (a novelty being a device which produces limited visible or audible effects, E.G., toy smoke devices, trick noisemakers). This amendment was requested by Research and Special Programs Administration (RSPA); (iv) changing the reportable quantities (RQs) for radionuclides from the all-inclusive one pound RQ to RQs of varying values, based on activity, for specific radionuclides. RSPA had decided to create two separate tables, one for radionuclides and their radionuclides and their RQs and the other for all other hazardous substances; (v) amending 49 CFR Part 383 to define the serious traffic violations for which commercial motor vehicle operators may be disqualified for periods of 60 and 120 days under § 383.51. This amendment was made by the Federal Highway Authority (FHWA). Specifically, the FHWA is defining these serious traffic violations to include a conviction for "excessive speeding," which is any speed of 15 miles per hour or more above the posted speed limit, "reckless driving," "improper or erratic traffic lane changes," "following the vehicle ahead too closely," and any other motor vehicle traffic control laws which arise in connection with a fatal traffic accident; (vi) amending Part 383, Parts and Accessories Necessary for Safe Operation, to allow Mexican motor carriers operating commercial motor vehicle in border commercial zones additional time to comply with the requirement that every commercial motor vehicle be equipped with brakes acting on all wheels. This amendment was made by the FHWA. This action will facilitate the flow of trade and traffic between the two countries without interruption; (vii) amending the HMR 49 CFR Parts 171-180 (a) to permit the use of railroad tank car tanks with tank shell thickness in localized area less than the minimum specified in the HMR, and (b) to require the measurement of tank car tank thickness under certain cars with reduced shell thickness and to verify that tank repairs do not result in significant decreases in shell thickness. The intended effect of this action is to assure that tank repairs do not result in a reduction in the level of safety and to facilitate commerce by allowing the use of tank car tanks, with localized thin spots, which have been determined to be safe for the transportation of hazardous materials; (viii) amending § 390.21, Marking of Vehicles to allow motor vehicles with the name and address of the rental company, and their "USDOT" Identification Number in lieu of requiring the renting motor carrier to display its required identification information on the sides of the rental vehicle; (ix) amending the HMR by an FHWA final rule requiring motor carriers to have an anti-drug program. This program includes testing of interstate drivers of certain commercial motor vehicles for drug use. This interim final rule amends the requirements for preemployment/pre-use and post-accident testing; (x) amending the HMR by an FHWA final rule implementing random and certain mandatory post-accident testing of commercial motor vehicle drivers. This notice also clarifies the types of testing that must be implemented by December 21, 1989. Motor carriers with 50 or more "driver subject to testing" on December 21, 1989, must implement a testing program for controlled substances by December 21, 1989. Motor carriers with fewer than 50 "drivers subject to testing" on December 21, 1989, must begin testing no later than December 21, 1990; (xi

amending the HMR to include new requirements for additional emergency response information on shipping papers and packages, and maintenance of emergency response information on transport vehicles at transportation facilities; and (xii) editorial changes, clarifications, deletions, delay of compliance dates, extension of effective dates of final rules, and other minor revisions.

In its final form, Amendment 9 provides for a delay in implementation of the Controlled Substances Testing, Title 49, Code of Federal Regulations, Part 391. This change was made in response to public comment and has the support of Virginia State Police officials responsible for hazardous materials transportation enforcement and motor carrier safety.

VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.

PART I.
DEFINITIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise.

"Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified in 49 Code of Federal Regulations (CFR) Parts 170 through 177.

"Hazardous material" means a substance or material in a form or quantity which may pose an unreasonable risk to health, safety or property when transported, and which the Secretary of Transportation of the United States has so determined by regulation or order.

"Transport" or *"Transportation"* means any movement of property by any mode, and any packing, loading, unloading, identification, marking, placarding, or storage incidental thereto.

PART II.
GENERAL INFORMATION AND LEGISLATIVE AUTHORITY.

§ 2.1. Authority for regulation.

A. These regulations are issued under authority of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, Transportation of Hazardous Materials.

B. Section 10.1-1450 of the Code of Virginia assigns the Virginia Waste Management Board the responsibility for promulgating regulations governing the transportation of hazardous materials.

C. The board is authorized to promulgate rules and regulations designating the manner and method by which hazardous materials shall be loaded, unloaded, packed, identified, marked, placarded, stored and transported, such rules to be no more restrictive than applicable federal regulations.

§ 2.2. Purpose of regulations.

The purpose of these regulations is to regulate the transportation of hazardous materials in Virginia.

§ 2.3. Administration of regulations.

A. The Director of the Department of Waste Management is designated by the Virginia Waste Management Board with the responsibility to carry out these regulations.

B. The Department of Waste Management is responsible for the planning, development and implementation of programs to meet the requirements of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia.

§ 2.4. Application of regulations.

Notwithstanding the limitations contained in Title 49, Code of Federal Regulations, § 171.1(a)(3), and subject to the exceptions set forth in § 2.5 below, these regulations apply to any person who transports hazardous materials, or offers such materials for shipment.

§ 2.5. Exceptions.

Nothing contained in these regulations shall apply to regular military or naval forces of the United States, nor to the duly authorized militia of any state or territory thereof, nor to the police or fire departments of this Commonwealth, providing the same are acting within their official capacity and in the performance of their duties; nor to the transportation of hazardous radioactive materials in accordance with § 44-146.30 of the Code of Virginia.

§ 2.6. Regulations not to preclude exercise of certain regulatory powers.

Pursuant to § 10.1-1452 of the Code of Virginia, the provisions of these regulations shall not be construed so as to preclude the exercise of the statutory and regulatory powers of any agency, department or political subdivision of the Commonwealth having statutory authority to regulate hazardous materials on specified highways or portions thereof.

§ 2.7. Transportation under United States Regulations.

Pursuant to § 10.1-1454 of the Code of Virginia, any

person transporting or offering for shipment hazardous materials in accordance with regulations promulgated under the laws of the United States, shall be deemed to have complied with the provisions of these regulations, except when such transportation is excluded from regulation under the laws or regulations of the United States.

§ 2.8. Enforcement.

A. Law-enforcement officers.

The Department of State Police and all other law-enforcement officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation, Research and Special Programs Administration, Office of Hazardous Materials Transportation, in federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials, shall enforce the provisions of this article, and any rule or regulation promulgated herein. Those law-enforcement officers certified to enforce the provisions of this article, and any regulation promulgated hereunder, shall annually receive in-service training in current federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials. Pursuant to § 10.1-1455 of the Code of Virginia, violation of these regulations is a Class 1 misdemeanor.

B. Civil judicial enforcement of these regulations shall be governed by § 10.1-1455 of the Code of Virginia.

§ 2.9. Application of Administrative Process Act.

The provisions of the Virginia Administrative Process Act, codified as § 9-6.14:1 of the Code of Virginia, govern the adoption, amendment, modification, and revision of these regulations, and the conduct of all proceedings hereunder.

PART III.
COMPLIANCE WITH FEDERAL REGULATIONS.

§ 3.1. Compliance.

Every person who transports or offers for transportation hazardous materials within or through the Commonwealth of Virginia shall comply with the federal regulations governing the transportation of hazardous materials promulgated by the United States Secretary of Transportation with amendments promulgated and in effect as of ~~June 30, 1989~~ *June 30, 1990* , pursuant to the Hazardous Materials Transportation Act, and located at Title 49 of the Code of Federal Regulations (CFR) as set forth below and which are incorporated in these regulations by reference:

1. Exemptions. Hazardous Materials Program Procedures in 49 CFR, Part 107, Subpart B.

2. Hazardous Materials Regulations in 49 CFR, Par. 171 through 177.

3. Shipping Container Specifications in 49 CFR, Part 178.

4. Specifications for Tank Cars in 49 CFR, Part 179.

5. Commercial Licensing Requirements in 49 CFR, Part 383.

6. Motor Carrier Safety Regulations in 49 CFR, Parts 390 through 397 [*(provided, however, that the requirements of 49 CFR, Part 391 relating to Controlled Substances Testing shall not become effective until 120 days after the effective date of Amendment 9 of the Virginia Regulations Governing the Transportation of Hazardous Materials)*].

PART IV.
HAULING EXPLOSIVES IN PASSENGER-TYPE VEHICLES.

§ 4.1. Hauling explosives in passenger-type vehicles.

Explosives shall not be transported in or on any motor vehicle licensed as a passenger vehicle or a vehicle which is customarily and ordinarily used in the transportation of passengers except upon written permission of the State Police and under their direct supervision and only in the amount and between points authorized. If the movement is intracity, the permission of the properly designated authority of such city shall be secured. Dangerous articles, including small arms ammunition, but not including other types of explosives, may be transported in passenger-type vehicles provided the maximum quantity transported does not exceed 100 pounds in weight. Such transportation shall not be subject to these rules.

PART V.
OUT OF SERVICE.

§ 5.1. Out of service.

The Department of State Police and all other law-enforcement officers of the Commonwealth who have met the qualifications set forth in § 2.8, above, shall be the agents authorized to perform inspections of motor vehicles in operation and to declare and mark vehicles "out of service" as set forth in 49 CFR, § 396.9.

STATE CORPORATION COMMISSION

AT RICHMOND, MAY 17, 1991

COMMONWEALTH OF VIRGINIA

At the relation of the

CASE NO. INS910072

STATE CORPORATION COMMISSION

Ex Parte: In the matter
of adopting Rules Governing
Annual Audited Financial Reports

ORDER SETTING HEARING

WHEREAS, Virginia Code § 12.1-13 provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction and Virginia Code §§ 38.2-1109, 38.2-1203, 38.2-1301, 38.2-2506, 38.2-2613, 38.2-3903, 38.2-4004, 38.2-4126, 38.2-4214, 38.2-4307.1, 38.2-4408, 38.2-4509 and 38.2-4602 provide that the Commission is authorized to issue reasonable rules and regulations necessary to monitor the financial position of licensed insurance companies by requiring an annual examination by an Independent Certified Public Accountant of the financial statements reporting the financial position and the results of operations of insurers;

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed regulation entitled "Rules Governing Annual Audited Financial Reports"; and

WHEREAS, the Commission is of the opinion that a hearing should be held to consider the adoption of the proposed regulation;

THEREFORE, IT IS ORDERED:

(1) That the proposed regulation entitled "Rules Governing Annual Audited Financial Reports" be appended hereto and made a part hereof, filed and made a part of the record herein;

(2) That a hearing be held in the Commission's Courtroom, 13th Floor, Jefferson Building, Bank and Governor Streets, Richmond, Virginia at 10:00 a.m. on July 18, 1991, for the purpose of considering the adoption of the proposed regulation;

(3) That, on or before June 28, 1991, any person desiring to comment on the proposed regulation shall file such comments in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23216;

(4) That an attested copy hereof, together with a copy of the proposed regulation, be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Alfred W. Gross, who shall forthwith give further notice of the proposed regulation and hearing by mailing a copy of the proposed regulation to all insurers, health services plans, health maintenance organizations, fraternal benefit societies, burial societies, legal services plans and dental or optometric services plans licensed by the Commission.

(5) That the Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

§ 1. Authority.

This regulation is issued pursuant to §§ 38.2-1109, 38.2-1203, 38.2-1301, 38.2-2506, 38.2-2613, 38.2-3804, 38.2-3903, 38.2-4004, 38.2-4126, 38.2-4214, 38.2-4307.1, 38.2-4408, 38.2-4509 and 38.2-4602 of the Code of Virginia, as amended.

§ 2. Purpose.

The purpose of this regulation is to improve the Commission's monitoring of the financial position of licensed companies by requiring an annual examination by an Independent Certified Public Accountant of the financial statements reporting the financial position and the results of operations of insurers.

§ 3. Applicability.

This regulation shall apply to all Life, Accident and Health, Sickness, and Property and Casualty insurers licensed to transact the business of insurance in Virginia under Chapter 10 of Title 38.2 of the Virginia Code and all other organizations licensed to do business under any one or more of the following chapters of the Virginia Insurance Code (Title 38.2), subject to the limitations and/or exemptions as further stated in this regulation.

A. Chapter 11 - Captive Insurers.

B. Chapter 12 - Reciprocal Insurance.

C. Chapter 25 - Mutual Assessment Property and Casualty Insurers.

D. Chapter 26 - Home Protection Companies.

E. Chapter 38 - Cooperative Nonprofit Life Benefit Companies.

F. Chapter 39 - Mutual Assessment Life, Accident and Sickness Insurers.

G. Chapter 40 - Burial Societies.

H. Chapter 41 - Fraternal Benefit Societies.

I. Chapter 42 - Health Services Plans.

J. Chapter 43 - Health Maintenance Organizations.

K. Chapter 44 - Legal Services Plans.

L. Chapter 45 - Dental or Optometric Services Plans.

M. Chapter 46 - Title Insurance.

§ 4. Scope.

This regulation shall apply to all organizations listed in § 3, hereinafter referred to as "insurers." Insurers having direct premiums written of less than $1,000,000 in any calendar year and having less than 1,000 policyholders or certificateholders of directly written policies at the end of such calendar year are exempt from the requirements of this regulation for such year unless the Commission deems that compliance with the reporting requirements of this regulation is necessary to establish the financial condition of an insurer. Insurers having assumed premiums of $1,000,000 or more pursuant to contracts and/or treaties of reinsurance will not be so exempt.

Foreign or alien insurers filing Audited Financial Reports in another state, pursuant to that state's requirements for filing of Audited Financial Reports and where such requirements have been found by the Commission to be substantially similar to the requirements herein, are exempt from this regulation if:

A. Copies of the Audited Financial Report, the Report on Significant Deficiencies in Internal Controls, and the Accountant's Letter of Qualifications which are filed with such other state are filed with the Commission in accordance with the filing dates specified in §§ 6, 13 and 14, respectively (Canadian insurers may submit Accountants' reports as filed with the Canadian Dominion Department of Insurance); and

B. A copy of any Notification of Adverse Financial Condition Report filed with such other state is filed with the Commission within the time specified in § 12.

This provision shall not prohibit, preclude or in any way limit the Commission's rights with respect to workpapers described in § 15 of this regulation or its rights concerning the ordering and/or conducting and/or performing of examinations of insurers under Title 38.2 of the Virginia Code.

§ 5. Definitions.

A. "Audited Financial Report" means and includes those items specified in § 7 of this regulation.

B. "Accountant" and "Independent Certified Public Accountant" means an independent, certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants ("AICPA") and in all states in which such accountant or firm is licensed to practice; for Canadian and British companies, it means a Canadian-chartered or British-chartered accountant.

C. "Workpapers" means the records kept by the Accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the Accountant's examination of the financial statements of an insurer. Workpapers, accordingly, may include work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the Accountant in the course of the examination of the financial statements of an insurer and which support the Accountant's opinion thereof.

§ 6. Filing and Extensions for Filing of Annual Audited Financial Reports.

All insurers shall have an annual audit by an Accountant and shall file an Audited Financial Report with the Commission on or before June 1 for the year ended December 31 immediately preceding.

The Commission may require an insurer to file an Audited Financial Report earlier than June 1 with ninety (90) days advance notice to the insurer.

An extension of the June 1 filing date may be granted by the Commission for periods of up to thirty days upon a showing by the insurer and its Accountant of the reasons for requesting such extension and upon determination by the Commission of good cause for an extension. The request for extension must be submitted in writing not less than ten (10) days prior to the due date in sufficient detail to permit the Commission to make an informed decision with respect to the requested extension.

§ 7. Contents of Annual Audited Financial Report.

The annual Audited Financial Report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows, and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the insurer's state of domicile.

The annual Audited Financial Report shall include the following:

A. Report of Independent Certified Public Accountant.

B. Balance sheet reporting admitted assets, liabilities, capital and surplus.

C. Statement of operations.

D. Statement of cash flows.

E. Statement of changes in capital and surplus.

F. Notes to financial statements. These notes shall be those required by the Annual Statement and/or generally accepted accounting principles and shall also include:

(1) A reconciliation of differences, if any, between the statutory financial statements contained in the Audited Financial Report and the Annual Statement filed pursuant to §§ 38.2-1300, 38.2-4126 or 38.2-4307 of the Virginia Insurance Code with a written description of the nature of these differences.

(2) A summary of ownership and relationships of insurer and all affiliated companies.

G. The financial statements included in the Audited Financial Report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the Annual Statement the insurer files with the Commission and the financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. (However, in the first year in which an insurer is required to file an Audited Financial Report, the comparative data may be omitted.)

§ 8. Designation of Independent Certified Public Accountant.

Each insurer required by this regulation to file an annual Audited Financial Report must within sixty (60) days after becoming subject to such requirement, register with the Commission in writing the name and address of the Accountant retained to conduct the annual audit set forth in this regulation. Insurers not retaining an Accountant on the effective date of this regulation shall register the name and address of a retained Accountant not less than six (6) months before the date when the first Audited Financial Report is to be filed.

As part of this registration, the insurer shall obtain a letter from the Accountant and file a copy with the Commission stating that the Accountant is aware of the provisions of the Insurance Code and the Rules and Regulations of the Insurance Department of the state of domicile that relate to accounting and financial matters, and affirming that he will express his opinion on the financial statements in the terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that Department, specifying such exceptions as he may believe appropriate.

If the Accountant who was the Accountant for the immediately preceding filed Audited Financial Report is dismissed or resigns the insurer shall within five (5) business days notify the Commission of this event. The insurer shall also furnish the Commission with a separate letter within ten (10) business days of the above notification stating whether in the twenty-four (24) months preceding such event there were any disagreements with the former Accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure; which disagreements, if not resolved to the satisfaction of the former Accountant, would have caused him to make reference to the subject matter of the disagreement in his opinion. The disagreements required to be reported in response to this section include those resolved to the former Accountant's satisfaction and those not resolved to the former Accountant's satisfaction. Disagreements contemplated by this section are those that occur at the decision-making level, i.e. between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer shall also in writing request such former Accountant to furnish a letter addressed to the insurer stating whether the Accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for disagreement; and the insurer shall furnish such responsive letter from the former Accountant to the Commission together with its own letter.

§ 9. Qualifications of the Accountant.

A. The Commission shall not recognize any person or firm as a qualified Accountant that is not in good standing with the AICPA and in all states in which the Accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered Accountant.

B. Except as otherwise provided herein, an Independent Certified Public Accountant shall be recognized as qualified as long as he or she conforms to the standards of his or her profession, as contained in the Code of Professional Ethics of the AICPA and the Rules and Regulations, including the Standard of Practice, of the Virginia Board for Accountancy, or similar code.

C. No partner or other person responsible for rendering a report may act in that capacity for more than seven (7) consecutive years. Following any period of service, such person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of two (2) years. An insurer may make application to the Commission for relief from the above rotation requirement on the basis of unusual circumstances. The Commission may consider the following factors in determining if the relief should be granted:

(1) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;

(2) Premium volume of the insurer; or

(3) Number of jurisdictions in which the insurer transacts business.

The requirements of this paragraph shall become effective two (2) years after the promulgation of this regulation.

D. The Commission shall not recognize as a qualified Accountant, nor accept any annual Audited Financial Report, prepared in whole or in part by any person who:

(1) has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. Sections 1961-1968) or any dishonest conduct or practices under federal or state law;

(2) has violated the insurance laws of this Commonwealth with respect to any previous reports submitted under this regulation; or

(3) has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this regulation.

E. The Commission may (i) make a determination as to whether an Accountant is qualified and may, based upon the facts considered, determine that such Accountant is not qualified for purposes of expressing an opinion on the financial statements in the annual Audited Financial Report made pursuant to this regulation and (ii) require the insurer to replace such Accountant with another whose relationship with the insurer is qualified within the meaning of this regulation.

§ 10. Consolidated or Combined Audits.

An insurer may make written application to the Commission for approval to include in its Audited Financial Report audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance companies which utilizes a pooling or one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and such insurer cedes all of its direct and assumed business to the pool. In such cases, a columnar consolidating or combining worksheet shall be filed with the report, as follows:

A. Amounts shown on the consolidated or combined Audited Financial Report shall be shown on the worksheet.

B. Amounts for each insurer subject to this section shall be stated separately.

C. Noninsurance operations may be shown on the worksheet on a combined or individual basis.

D. Explanations of consolidating and eliminating entries shall be included.

E. A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the Annual Statements of the insurers.

§ 11. Scope of Examination and Report of Independent Certified Public Accountant.

Financial statements furnished pursuant to § 7 hereof shall be examined by an Accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards. Consideration should also be given to such other procedures illustrated in the Financial Condition Examiner's Handbook promulgated by the National Association of Insurance Commissioners as the Accountant deems necessary.

§ 12. Notification of Adverse Financial Condition.

The insurer required to furnish the annual Audited Financial Report shall require the Accountant to report in writing within five (5) business days to the board of directors or its audit committee any determination by the Accountant that the insurer has materially misstated its financial condition as reported to the Commission as of the balance sheet date under examination or that the insurer does not meet its minimum statutory capital and surplus requirements as of that date pursuant to Virginia law. An insurer that has received a report pursuant to this paragraph shall forward a copy of the report to the Commission within five (5) business days of receipt of such report and shall provide the Accountant making the report with evidence of the report being furnished to the Commission. If the Accountant fails to receive such evidence within the required five (5) business day period, the Accountant shall furnish to the Commission a copy of its report within the next five (5) business days.

No Accountant shall be liable in any manner to any person for any statement made in connection with the above paragraph if such statement is made in good faith in compliance with the above paragraph.

If the Accountant, subsequent to the date of the Audited Financial Report filed pursuant to this regulation, becomes aware of facts which might have affected his report, the Commission notes the obligation of the Accountant to take such action as prescribed in Volume 1, AU Section 561 of the Professional Standards of the AICPA. In addition, the insurer shall require the Accountant to notify the Commission.

§ 13. Report on Significant Deficiencies in Internal Controls.

In addition to the annual audited financial statements, each insurer shall furnish the Commission with a written report prepared by the Accountant describing significant deficiencies in the insurer's internal control structure noted by the Accountant during the audit. Statement of Auditing Standards No. 60, Communication of Internal Control Structure Matters Noted in an Audit (AU Section 325 of the Professional Standards of the AICPA) requires an Accountant to communicate significant deficiencies (known as "reportable conditions") noted during a financial statement audit to the appropriate parties within an entity. No report should be issued if the Accountant does not identify significant deficiencies. If significar

deficiencies are noted, the written report shall be filed annually by the insurer with the Commission within sixty (60) days after the filing of the annual Audited Financial Statements. The insurer is required to provide a description of remedial actions taken or proposed to correct significant deficiencies, if such actions are not described in the Accountant's report.

§ 14. Accountant's Letter of Qualifications.

The Accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual Audited Financial Report, a letter stating:

A. That he is independent with respect to the insurer and conforms to the standards of his profession as contained in the AICPA's Code of Professional Ethics and pronouncements of its Financial Accounting Standards Board, and the Rules of Professional Conduct of the Virginia Board of Public Accountancy, or similar code.

B. The background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an Accountant. Nothing within this regulation shall be construed as prohibiting the Accountant from utilizing such staff as he deems appropriate where such use is consistent with the standards prescribed by generally accepted auditing standards.

C. That the Accountant understands the annual Audited Financial Report, and that its opinion thereon will be filed in compliance with this regulation and that the Commission will be relying on this information in the monitoring and regulation of the financial position of insurers.

D. That the Accountant consents to the requirements of § 15 of this regulation and that the Accountant consents and agrees to make available for review by the Commission, its designee or appointed agent, the workpapers, as defined in § 5.

E. That the Accountant is properly licensed by an appropriate state licensing authority and that he is a member in good standing in the AICPA.

F. That the Accountant is in compliance with § 9 of this regulation.

§ 15. Availability and Maintenance of CPA Workpapers.

Every insurer required to file the Audited Financial Report described in this regulation, shall require the Accountant to make available for review by the Commission's examiners, all workpapers prepared in the conduct of his examination and any communications between the Accountant and the insurer, at the offices of the insurer, at the Commission or at any other reasonable place designated by the Commission. The insurer shall require that the Accountant retain the workpapers and communications until the Commission has filed a Report on Examination covering the period of the audit, but no longer than seven (7) years from the date of the audit report.

In the conduct of the aforementioned periodic review by the Commission's examiners, it shall be agreed that photocopies of pertinent workpapers may be made and retained by the Commission. Such reviews by the Commission's examiners shall be considered investigations and all workpapers and communications obtained during the course of such investigations shall be confidential.

§ 16. Exemptions.

Upon written application of any insurer, the Commission may grant an exemption from any provision and/or requirement of this regulation if the Commission finds, upon review of the application, that compliance with this regulation would constitute an undue financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for a specified period or periods. Upon written application of any insurer, the Commission may, for a specified period or periods, permit an insurer to file annual Audited Financial Reports on some basis other than a calendar year basis.

§ 17. Effective Dates.

All insurers retaining a certified public accountant on the effective date of this regulation who qualifies as an Accountant shall comply with all provisions of this regulation for the year ending December 31, 1991, and each year thereafter unless the Commission permits otherwise.

Insurers not retaining a certified public accountant on the effective date of this regulation who qualifies as independent may meet the following schedule for compliance unless the Commission permits otherwise.

A. For the year ending December 31, 1991, file with the Commission:

(1) Report of Independent Certified Public Accountant;

(2) Audited balance sheet; and

(3) Notes to audited balance sheet.

B. For the year ending December 31, 1992, and each year thereafter, such insurers shall file with the Commission all reports required by this regulation.

§ 18. Canadian and British Companies.

A. In the case of Canadian and British insurers, the annual Audited Financial Report shall be defined as the annual statement of total business on the form filed by such companies with their domiciliary regulatory authority

duly audited by an independent chartered accountant.

B. For such insurers, the letter required in § 8 shall state that the Accountant is aware of the requirements relating to the annual Audited Financial Report filed with the Commission pursuant to this section and § 6 and shall affirm that the opinion expressed is in conformity with such requirements.

§ 19. Severability Provision.

If any section or portion of a section of this regulation or the applicability thereof to any person or circumstance is held invalid, the remainder of the requirement or the applicability of such provision to other persons or circumstances shall not be affected thereby.

BUREAU OF FINANCIAL INSTITUTIONS

Title of Regulation: **VR 225-01-001. Delegation of Certain Authority to the Commission of Financial Institutions.**

Statutory Authority: § 12.1-16 of the Code of Virginia.

Effective Date: January 8, 1991.

The Commission hereby delegates to the Commissioner of Financial Institutions the authority to exercise its powers and to act for it in the following matters:

1. To grant or deny petitions relating to service by an individual as a director of more than one financial institution. (§ 6.1-2.7)

2. To grant a certificate of authority to a bank formed for the purpose of its being acquired under the provisions of Chapter 14 of Title 6.1, or for the purpose of facilitating the consolidation of banks or the acquisition by merger of a bank pursuant to any provision of Title 6.1. (§§ 6.1-13, 6.1-43)

3. To grant or deny authority to a bank, or to a trust subsidiary, to engage in the trust business or exercise trust powers. (§ 6.1-16, 6.1-32.5)

4. To grant or deny authority to a bank to establish a branch office, or to relocate its main office or any of its branch offices. (§ 6.1-39.3)

5. To grant approval for directors' meetings of a bank to be held less frequently than monthly. (§ 6.1-52)

6. To grant approval for the investing of more than fifty (50) percent of the aggregate amount of a bank's capital stock, surplus, and undivided profits in its bank building and premises; and to permit the payment of dividends while such investment exceeds 50 percent of capital, surplus, and undivided profits. (§ 6.1-57)

7. To consent to a bank's investment in more than one service corporation. (§ 6.1-58)

8. To give permission for the aggregate investment of more than fifty (50) percent of a bank's capital stock and permanent surplus in the stock, securities, or obligations of controlled-subsidiary and bank service corporations. (§ 6.1-58.1)

9. To give written consent and approval for a bank to hold the possession of certain real estate for a longer period than ten (10) years. (§ 6.1-59(4))

10. To approve the issuance by a bank of capital notes and debentures, so that such notes and debentures may qualify as surplus for the purpose of calculating the legal lending limit of a bank. (§ 6.1-61)

11. To give written approval in advance for a bank or trust company to pledge its assets as security for certain temporary purposes. (§ 6.1-80)

12. To require any bank to prepare and submit such reports and material as he may deem necessary to protect and promote the public interest. (§ 6.1-93)

13. To approve the issuance of stock in savings and loan associations in exchange for property or services valued at an amount not less than the aggregate par value of the shares issued. (§ 6.1-194.11)

14. To reduce temporarily the reserve requirement for a savings and loan association upon a finding that such reduction is in the best interest of the association and its members. (§ 6.1-194.23)

15. To grant a certificate of authority to a savings institution formed solely for the purpose of facilitating the merger or acquisition of savings institutions pursuant to any provision of Title 6.1.

16. To grant or deny authority to a state association or foreign savings institution to establish a branch office, or other office or facility where deposits are accepted (§ 6.1-194.26), or to change the location of a main or branch office. (§ 6.1-194.28)

17. To cause special examinations of savings institutions to be made. (§ 6.1-194.84:1)

18. To grant or deny authority to a savings institution to exercise fiduciary powers. (§ 6.1-195.77, et seq.)

19. To approve the investment of credit union funds in certain stock, securities and other obligations. (§ 6.1-225.7(8))

20. To grant or deny authority to an industrial loan association to relocate its office. (§ 6.1-233)

21. To grant or deny licenses pursuant to Chapter 6 of Title 6.1. (§ 6.1-256.1)

22. To grant or deny permission to a consumer finance licensee to change the location of an office. (§ 6.1-269.1)

23. To grant or deny licenses to engage in the business of selling money orders for a fee or other consideration. (§ 6.1-371)

24. To grant or deny licenses to operate non-profit debt counseling agencies. (§ 6.1-363.1)

25. To grant or deny licenses to engage in business as a mortgage lender and/or mortgage broker. (§ 6.1-415)

26. To grant or deny permission to a mortgage lender or mortgage broker licensee to relocate an office or open an additional office. (§ 6.1-416)

27. To enter into cooperative agreements with appropriate regulatory authorities for the examination of regional bank holding companies and their subsidiaries and regional savings institution holding companies and their subsidiaries and for the accomplishment of other duties imposed on the Commission by Chapter 3.01, Article 11, and by Chapter 15 of Title 6.1.

28. To prescribe the form and content of all applications, documents, undertakings, papers and information required to be submitted to the Commission under Title 6.1.

29. To make all investigations and examinations, give all notices and shorten, waive or extend any time period within which any action of the Commission must or may be taken or performed under Title 6.1.

In the performance of the duties hereby delegated to him, the Commissioner shall have the power and authority to make all findings and determinations permitted or required by law.

The foregoing delegations of authority shall be effective until revoked by order of the Commission. All actions taken by the Commissioner of Financial Institutions pursuant to the authority granted herein are subject to review by the Commission in accordance with the Rules of Practice and Procedure of the State Corporation Commission. Each delegation set forth in a numbered paragraph herein shall be severable from all others.

By order of the State Corporation Commission dated January 8, 1991, effective that date, which order superseded and revoked the previous delegating order.

Reference: § 12.1-16 of the Code of Virginia.

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Title of Regulation: **VR 225-01-0201. Interest Rate for State-Chartered Banks.**

Statutory Authority: § 6.1-5.3 of the Code of Virginia.

Effective Date: July 25, 1978.

State-chartered banks in Virginia may take, receive, reserve and charge on any loan or discount made at a rate of one per centum above the discount rate on ninety-day commercial paper now and hereafter in effect at the Federal Reserve Bank for the Fifth Federal Reserve District, and they hereby are so empowered.

By order of the State Corporation Commission dated July 25, 1978, effective that date.

Reference: § 6.1-5.3 of the Code of Virginia.

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Title of Regulation: **VR 225-01-0202. Common Trust Funds.**

Statutory Authority: § 6.1-30.3 of the Code of Virginia.

Effective Date: July 20, 1984.

A. Definition of Terms - As used in this regulation the term "common trust fund" shall have the meaning set forth in Virginia Code § 6.1-30.1. "Common trust fund" herein will be equivalent in meaning to the term "collective investment fund" used in the regulations of the Comptroller of the Currency (12 CFR 9.18) and will include the following types of fund: (1) a fund maintained by a bank exclusively for the collective investment and re-investment of moneys contributed thereto by the bank in its capacity as trustee, executor, administrator, guardian, or custodian under a uniform gifts-to-minors act, and (2) a fund consisting solely of assets of retirement, pension, profit-sharing, stock-bonus, or other such trust. Funds described in (1) above will be referred to herein as "fiduciary funds," and funds described in (2) will be called "employee benefit trusts."

B. Operating Rules - Common trust funds shall be administered in accordance with the following rules:

1. Each common trust fund shall be established and maintained in accordance with a written plan, which shall be approved by a resolution of the bank's board of directors and filed with the Commissioner of Financial Institutions. The plan shall contain appropriate provisions as to the manner in which the fund is to be operated, which provisions shall not be inconsistent with the rules and regulations applicable thereto. The plan shall include provisions relating to: the investment powers of the maintaining bank; a general statement of the investment policy of the bank with respect to the fund; the allocation of income, profits and losses; the terms and conditions governing the admission or withdrawal of participations in the fund; the auditing of accounts of the bank with respect to the fund; the basis and method of valuing assets in the fund, setting forth specific criteria for

each type of asset; the minimum frequency for valuation of assets of the fund; the period following each such valuation date during which the valuation may be made (which period in usual circumstances should not exceed 10 business days); the basis upon which the fund may be terminated; and other such matters as may be necessary to define clearly the rights of participants in the fund. Except as otherwise provided in paragraph B.15 of this section, fund assets shall be valued at market value unless such value is not readily ascertainable, in which case a fair value determined in good faith by the fund trustees may be used. A copy of each such plan shall be available at the principal office of the bank for inspection during all banking hours, and upon request a copy of that plan shall be furnished to any person.

2. Property held by a bank in its capacity as trustee of retirement, pension, profit sharing, stock bonus, or other trusts which are exempt from federal income taxation under any provision of the Internal Revenue Code may be invested in fiduciary funds or employee benefit trusts, subject to the provisions herein contained pertaining to such funds and may qualify for tax exemption pursuant to section 584 of the Internal Revenue Code. Assets of retirement, pension, profit-sharing, stock-bonus, or other trusts which are exempt from federal income taxation by reason of being described in section 401 of the Code may be invested in employee benefit trusts if such trust qualifies for tax exemption under Revenue Ruling 81-100.

3. Participation in a common trust fund shall be on the basis of a proportionate interest in all the assets of the fund. In order to determine whether the investment of funds received or held by a bank as fiduciary in a participation in a common trust fund is proper, a bank may consider the common trust fund as a whole and shall not, for example, be prohibited from making such investment because any particular asset of the fund is not income-producing.

4. Not less frequently than once during each three-month period, a maintaining bank shall determine the value of the assets in a common trust fund as of the date set for the valuation of assets. No participation shall be admitted to or withdrawn from the fund except (a) on the basis of such valuation, and (b) as of such valuation date. No participation shall be admitted to or withdrawn from the fund unless a written request for such action or a notice of intention to take such action shall have been entered in the fiduciary records of the bank on or before the valuation date and approved in a manner prescribed by the board of directors. No request or notice may be cancelled or countermanded after the valuation date. If an employee benefit trust is to be invested in real estate or in some other asset that is not readily marketable, the bank may require a prior notice period, not to exceed a year, for withdrawals.

5. a. A bank administering a common trust fund shall at least once during each 12-month period cause an adequate audit to be made of the fund by auditors responsible only to the board of directors of the bank. In the event such audit is performed by independent public accountants, the reasonable expenses of such audit may be charged to the fund.

b. A bank administering a common trust fund shall at least once during each 12-month period prepare a financial report of the fund. This report, based upon the above audit, shall contain: (1) a list of investments in the fund showing the cost and the current market value of each investment; and (2) a statement for the period since the previous report showing: purchases, with cost; sales, with profit or loss; any other investment changes; income and disbursements; an appropriate notation as to any investment in default.

c. The financial report may include a description of the fund's value on previous dates, as well as its income and disbursements during previous accounting periods. No predictions or representations as to future results may be made. In addition, as to fiduciary funds (as defined herein), neither the report nor any other publication of the bank shall make reference to the performance of funds other than those administered by the bank.

d. A copy of the financial report shall be furnished or notice shall be given that a copy of such report is available and will be furnished without charge upon request, to each person to whom a regular periodic accounting would ordinarily be rendered with respect to each participating account. A copy of such financial report may be furnished to prospective customers. The cost of printing and distribution of these reports shall be borne by the bank. In addition, a copy of the report shall be furnished upon request to any person for a reasonable charge. The fact of the availability of the report on any fiduciary fund may be given publicity solely in connection with the promotion of the fiduciary services of the bank.

e. Except as herein provided, the bank shall not advertise or publicize its fiduciary funds.

6. When participations are withdrawn from a common trust fund, distributions may be made in cash, or ratably in kind, or partly in cash and partly in kind. However, all distributions made as of any one valuation date shall be made on the same basis.

7. If for any reason an investment is withdrawn in kind from a common trust fund for the benefit of all participants in the fund at the time of such withdrawal, and such investment is not distributed ratably in kind, it shall be segregated and administered or realized upon for the benefit ratably

of all those who were participants in the fund at the time of withdrawal.

8.

a. No bank shall have any interest in a common trust fund other than in its fiduciary capacity. Except for temporary net cash overdrafts, or as otherwise specifically provided herein, it may not lend money to a fund, sell property to a fund, or purchase property from a fund. No asset of a common trust fund may be invested in any stock or obligation, including any time or savings deposit, of the bank or of any of its affiliates. However, such deposits may be made of funds awaiting investment or distribution.

Subject to all other provisions of this regulation, funds held by a bank as fiduciary for its own employees may be invested in a common trust fund. A bank may not make any loan on the security of a participation in a fund. If, because of a credit relationship or otherwise, the bank acquires an interest in a participation in a fund, the participation shall be withdrawn on the first date when such withdrawal can be effected. However, an unsecured advance to an account holding a participation until the time of the next valuation date shall not be deemed to constitute the acquisition of an interest by the bank.

b. A maintaining bank may purchase for its own account from a common trust fund any defaulted, fixed-income investment held by such fund, if in the judgment of the board of directors the cost of segregation of such investment would be greater than the difference between its market value and its principal amount plus interest and penalty charges due. If the bank elects to make such a purchase of an investment, it must do so at the market value of the investment or at the sum of cost, accrued unpaid interest, and penalty charges - whichever is greater.

9. Except in the case of qualifying employee benefit trusts:

a. No funds or other property shall be invested in a participation in a common trust fund if, as a result of such investment, the participant would have an interest aggregating in excess of 10 percent of the market value of the fund at the time the investment is contemplated. In applying this limitation, if two or more accounts are created by the same person or persons and as much as one-half the income or principal of each account is payable or applicable to the use of the same person or persons, such accounts shall be considered as one;

b. No investment for a common trust fund shall be made in stocks, bonds, or other obligations of a particular person, firm, or corporation if as a result of such investment the total investment of such fund in the obligations issued or guaranteed by such person, firm, or corporation would exceed 10 percent of the then market value of the fund. However, this limitation shall not apply to investments in direct obligations of the United States or in other obligations fully guaranteed by the United States as to principal and interest;

c. A maintaining bank shall keep in cash and readily marketable investments such percentage of the assets of the fund as is necessary to provide adequately for the liquidity needs of the fund and to prevent inequity among participants in the fund.

10. The reasonable expenses incurred in servicing mortgages held by a common trust fund may be charged against the income account of the fund and paid to servicing agents, including the bank maintaining the fund.

11.

a. A bank may (but shall not be required to) transfer up to 5 percent of the net income derived by a common trust fund from mortgages held by such fund during any regular accounting period to a reserve account, but no such transfer shall be made which would cause the amount in the reserve to exceed 1 percent of the outstanding principal amount of all mortgages held in the fund. The amount of any such reserve account shall be deducted from the assets of the fund in determining the fair market value of the fund for purposes of admissions and withdrawals.

b. At the end of each accounting period, all interest payments which are due but unpaid with respect to mortgages in the fund shall be charged against such reserve account (to the extent one is available) and credited to income distributed to participants. In the event of subsequent recovery of such interest payments by the fund, the reserve account shall be credited with the amount so recovered.

12. A bank maintaining a common trust fund shall have the exclusive management thereof. A bank may charge a fee for managing such a fund. However, the fractional part of such fee proportionate to the interest of any participant, when added to all other compensation charged by a bank to the participant, shall not exceed the total amount of compensation which would have been charged to said participant if no asset of that participant had been invested in the common trust fund. The bank shall absorb the cost of establishing or reorganizing a common trust fund.

13. A maintaining bank shall not issue any certificate or other document evidencing a direct or indirect interest in a common trust fund.

14. No mistake made in good faith and in the exercise of due care in connection with maintaining a common trust fund shall be deemed to be a violation of this regulation, if, promptly after discovery of the mistake, the bank takes whatever action may be practicable in the circumstances to remedy the mistake.

15. Short-term investment funds that are fiduciary funds may be operated for purposes of admissions and withdrawals on a cost basis, rather than on the basis of market value, if the plan of operation satisfies the following conditions:

a. Investments of such funds must be limited to bonds, notes, or other evidences of indebtedness which are payable on demand (including variable amount notes) or which have a maturity date not exceeding 91 days from the date of purchase. However, 20 percent of the value of the fund may be invested in longer-term obligations;

b. The difference between the cost and anticipated principal receipt on maturity must be accrued on a straight-line basis;

c. Assets of the fund must be held until maturity under usual circumstances; and

d. After effecting admissions and withdrawals, not less than 20 percent of the value of the remaining assets of the fund must be composed of cash, demand obligations, and assets that will mature on the fund's next business day.

C. Investment Authorization - To the extent not otherwise prohibited by Virginia law, funds or other property received or held by a bank as fiduciary may be invested collectively as follows:

1.

a. In a single real estate loan, a direct obligation of the United States, or an obligation fully guaranteed by the United States, or in a single, fixed-amount security, obligation, or other property (real, personal, or mixed) of a single issuer; or

b. On a short-term basis, in a variable-amount note of a borrower of prime credit. However, such note shall be maintained by the bank on its premises and may be utilized by it only for investment of moneys held in its trust department accounts.

Furthermore, a bank may not own any participation in a loan or obligation authorized for investment under sub-paragraphs C.1.a or C.1.b and may have no interest in any investment therein except in its capacity as fiduciary.

2. In a common trust fund maintained by the bank for the collective investment of cash balances received or held by a bank in its capacity as trustee, executor, administrator, or guardian, which balances the bank considers to be individually too small to be invested separately to advantage. The total investment for such fund must not exceed $100,000; the number of participating accounts is limited to 100, and no participating account may have an interest in the fund in excess of $10,000.

In applying these limitations, if two or more accounts are created by the same person or persons, and half or more of the income or principal of each account is presently payable or applicable to the use of the same person or persons, such accounts shall be considered as one. No fund may be established or operated under this sub-paragraph C.2. for the purpose of avoiding any provision of paragraph B. of this regulation.

3. In any investment specifically authorized by court order, or authorized by the instrument creating the fiduciary relationship in the case of trusts created by a corporation, its subsidiaries and affiliates, or by several individual settlers who are closely related. However, such investment may not be made under this sub-paragraph C.3. for the purpose of avoiding the provisions of paragraph B. of this regulation.

4. In such other manner, consistent with applicable law, as may be approved in writing by the Commissioner of Financial Institutions. The foregoing authorizations are not exclusive; rather they are in addition to such other investment authorizations as are provided in Virginia law.

D. Authority - Virginia Code § 6.1-30.3.

E. Status of Comptroller's "Precedents and Opinions" - Certain statements designated "Precedents and Opinions" of the Comptroller of the Currency and numbered 9.5000 through 9.6930 relate to § 9.18 of the Comptroller's regulations, entitled "Collective Investment." These "Precedents and Opinions" are not binding on the Bureau of Financial Institutions. However, such statements may furnish guidance and may be persuasive in determining the Bureau's position on an issue.

By order of the State Corporation Commission dated July 20, 1984, effective that date.

Reference: § 6.1-30.3 of the Code of Virginia.

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Title of Regulation: **VR 225-01-0203. Reserves of Virginia Banks.**

Statutory Authority: § 6.1-69 of the Code of Virginia.

Effective Date: July 1, 1981.

The percentage of reserves to be maintained against

deposits, as established in accordance with § 6.1-69 of the Code of Virginia, shall be: zero percent against demand deposits, and zero percent against time deposits.

This regulation shall not relieve any bank from complying with all applicable federal laws and with Regulation D, "Reserve Requirements of Depository Institutions," of the Board of Governors of the Federal Reserve System.

By order of the State Corporation Commission dated July 1, 1981, effective that date.

Reference: § 6.1-69 of the Code of Virginia.

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Title of Regulation: **VR 225-01-0204. Schedule Prescribing Annual Fees Paid for Examination, Supervision, and Regulation of State Chartered Banks and Savings Institutions.**

Statutory Authority: §§ 6.1-94 and 6.1-194.85 of the Code of Virginia.

Effective Date: June 27, 1990.

Pursuant to the provisions of § 6.1-94 and § 6.1-194.85 of the Code of Virginia, the State Corporation Commission hereby promulgates the following schedule prescribing the annual fee to be paid by every State-chartered bank and State-chartered savings institution for its supervision and regulation, as follows:

SCHEDULE

Asset Interval			Fee	
Assets Exceeding	But Not Exceeding	This Amount	Plus	Assets Exceeding
$ 0	$ 5 million	$ 4,500	0	
5 million	25 million	4,500	.000250 x	$ 5 million
25 million	100 million	9,500	.000200 x	25 million
100 million	200 million	24,500	.000150 x	100 million
200 million	1000 million	39,500	.000110 x	200 million
1000 million	5000 million	127,500	.000090 x	1000 million
5000 million		487,500	.000070 x	5000 million

The assessment fee resulting from the above schedule shall be rounded down to the nearest whole dollar amount. The assessment shall be computed on the basis of the bank's or savings institution's total assets as shown by its Report of Condition made as of the close of business for the preceding calendar year as filed with the Bureau of Financial Institutions.

Any bank or savings institution which opens for business between January 1 and June 30, inclusive, shall be assessed a fee of $4,500.

Any bank or savings institution which receives authorization to commence business but does not exercise that authority prior to July 1 shall be assessed a fee of $3,000, which shall be in lieu of the assessment prescribed by the foregoing schedule.

By order of the State Corporation Commission dated June 27, 1990.

Reference: §§ 6.1-94 and 6.1-194.85 of the Code of Virginia.

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Title of Regulation: **VR 225-01-0301. Savings Institution Holding Companies.**

Statutory Authority: § 6.1-194.87 of the Code of Virginia.

Effective Date: June 3, 1986; amended July 1, 1990.

Definitions

"Savings institution" means a savings and loan association, building and loan association, building association, or savings bank, whether organized as a capital stock corporation or a nonstock corporation, which is authorized by law to accept deposits and to hold itself out to the public as engaged in the savings institution business.

"State savings institution" means a savings institution granted a certificate of authority pursuant to the laws of the Commonwealth. (The term is identical to "state association" as defined in Code § 6.1-194.2.)

"Savings institution holding company" means any person that directly or indirectly, or acting in concert with one or more other companies or persons (including one or more subsidiaries or affiliates) controls one or more stock savings institutions, or that controls in any manner the election of a majority of the directors of such an institution.

"State savings institution holding company" means a savings institution holding company that controls one or more state savings institutions, but that is not a "regional savings institution holding company" as defined in § 6.1-194.96.

"Control" means the ownership, control, or power to vote twenty-five percent or more of the voting shares of a state savings institution or other company, the ability to elect a majority of the directors of such an institution or company, or, as determined by the Commission on the basis of evidence, actual control of the management or policies of such an institution or company.

"Company" means any corporation, partnership, trust, joint stock company, or similar organization.

"Person" means a company, association, joint venture, pool, syndicate, sole proprietorship, unincorporated association, individual or any other entity not specifically listed.

"Financial institution" means any bank, trust company, savings and loan association, industrial loan association, consumer finance company, or credit union. (Code § 6.1-2.1.)

Scope

This regulation governs acquisitions intra-state of control of state savings institutions and of state savings institution holding companies, and acquisitions by such holding companies. It governs the examination, supervision and regulation of state savings institution holding companies. This regulation does not apply to any inter-state acquisition authorized by Article 11 of Chapter 3.01, or to the reporting, examination, supervision, and regulation of any regional savings institution holding company resulting from such an inter-state transaction; such matters are governed entirely by Article 11 and by any regulation adopted pursuant thereto.

Requirement of an Application

a. Except as provided in subsection b. of this Section, no person shall take any action, or consummate any transaction, directly or indirectly, or through or in concert with one or more other persons, that would result in the creation of a state savings institution holding company, and no persons shall acquire control of a state savings institution or state savings institution holding company, unless such person first (i) files a satisfactorily completed application with the Bureau of Financial Institutions using the form prescribed from time to time for such purpose; (ii) delivers to the Bureau such other information as the Bureau may require, certified or verified as may be deemed appropriate by the Bureau; (iii) pays an application fee of $3,000; and (iv) receives prior written approval of the action, transaction or acquisition from the Commission.

b. In instances in which the action to be taken is limited to the formation of a corporation by a state savings institution for the purpose of acquiring and holding the stock of such state savings institution, and the shareholders of the state savings institution will become the shareholders of the resulting state savings institution holding company, no application fee shall be required.

c. No state savings institution holding company shall acquire control of any additional financial institution, or of any other company which is not a financial institution, unless such state savings institution holding company first (i) files a satisfactorily completed application with the Bureau of Financial Institutions using the form prescribed from time to time for such purpose; (ii) delivers to the Bureau such other information as the Bureau may require, certified or verified as may be deemed appropriate by the Bureau; (iii) pays an application fee of $3,000; and (iv) receives prior written approval of the acquisition from the Commission.

Standard for Approval

a. No application that involves the acquisition of control of a state savings institution or a state savings institution holding company, other than applications of the types described in subsections b. and c. of Section 4 of this regulation, shall be approved unless the Commission determines that:

(1) The proposed acquisition would not be detrimental to the safety and soundness of the applicant or of the state savings institution or state savings institution holding company which the applicant seeks to acquire or control;

(2) The applicant, its directors and officers (if applicable), and any proposed new directors and officers of the state savings institution or state savings institution holding company which the applicant seeks to control, are qualified by character, experience and financial responsibility to control and operate a state savings institution or state savings institution holding company;

(3) The proposed acquisition would not be prejudicial to the interests of the depositors, creditors, beneficiaries of fiduciary accounts orshareholders of the state savings institution holdin company or any state savings institution which th applicant seeks to acquire or control; and

(4) The acquisition is in the public interest.

b. No application that involves the circumstances described in Section 4.b. or 4.c. of this regulation shall be approved unless the Commission determines that the proposed action or transaction would not be detrimental to the soundness of any state savings institution affected by the action or transaction.

The Application Process

Upon receiving a satisfactorily completed application, the Bureau will accept it as filed, investigate the proposed transaction, and present the matter to the Commission for action.

In every case the Commission will act within 90 days after an application has been filed, unless such time is extended. The ninety-day investigation period may be extended if the Commission determines that the applicant has not furnished all the information necessary to make the determinations required herein or that the information submitted is substantially inaccurate or misleading.

Within the prescribed investigation period (or any extension thereof), and upon request of the applicant or any state savings institution or state savings institution holding company which the applicant seeks to acquire c

control, or upon its own motion, the Commission may order a hearing concerning the proposed acquisition. Within the prescribed investigation period (or any extension thereof), the Commission, by giving written notice of its decision and the reasons therefor to the applicant and to the state savings institution or state savings institution holding company which the applicant seeks to acquire or control, may: (i) approve the application, (ii) disapprove the application, or (iii) impose such conditions on the acquisition as the Commission may deem advisable to effect the purposes of this section.

The ninety-day investigation period may be shortened or waived by the Commission, as it deems appropriate, if the Commission finds that it must act immediately in order to prevent the probable failure of a state savings institution affected by the application.

Reporting

Every state savings institution holding company shall report by filing with the Bureau a copy of every report such holding company submits to the appropriate federal authority. Any person that is a state savings institution holding company but that is not subject to a reporting requirement of such a federal authority shall file such reports as the Bureau may direct.

Books and Records

The Bureau may require every state savings institution holding company to maintain its books and records in such form as the Bureau deems necessary for its determination that every state savings institution subject to the control of such holding company is being operated in a safe and sound manner.

Examination of Holding Company

The Bureau may examine any state savings institution holding company and any subsidiary or affiliate of such a holding company when such examination is deemed necessary or appropriate to the proper supervision of any state savings institution. The cost of any such examination shall be borne by the holding company. Every state savings institution holding company, and every affiliate or subsidiary thereof, shall make available to the Bureau such books and records as the Bureau may require.

Cease and Desist Order

If the Commission finds that any action or activity, current or proposed, of a state savings institution holding company, or of any affiliate or subsidiary thereof, is detrimental to the safety or soundness of any state savings institution, the Commission, after reasonable notice to the holding company and an opportunity for it to be heard, may order the holding company to cease and desist from such action or activity.

By order of the State Corporation Commission dated June 3, 1986. (Provision headed "Reporting" (p. 4) modified July 1, 1990 to conform to a change in the law: "appropriate federal authority" substituted throughout Chapter 3.01 for "Federal Savings and Loan Insurance Corporation" and "Federal Home Loan Bank Board.")

Reference: § 6.1-194.87 of the Code of Virginia.

Title of Regulation: **VR 225-01-0401. Surety Bond Amount Required.**

Statutory Authority: § 6.1-225.36(2) of the Code of Virginia.

Effective Date: January 28, 1988; amended January 1, 1991.

1. Every credit union incorporated and operating under the provisions of Chapter 4.01, Title 6.1 of the Code of Virginia shall obtain and keep in force a blanket surety bond upon all of its officials, committee members and employees in a surety company licensed to do business in Virginia in an amount of at least that shown in the following schedule based upon its total assets as shown by its latest statement of financial condition made to the Commission as of the end of each calendar year:

ASSETS	MINIMUM BOND
$0 to $10,000	Coverage equal to the credit union's assets.
$10,001 to $1,000,000	$10,000 for each $100,000 or fraction thereof.
$1,000,001 to $50,000,000	$100,000 plus $50,000 for each million or fraction over $1,000,000.
$50,000,001 to $295,000,000	$2,550,000 plus $10,000 for each million or fraction thereof over $50,000,000.
Over $295,000,000	$5,000,000

2. The maximum amount of deductibles allowed are based on the credit union's total assets. The following table sets out the maximum deductibles:

ASSETS	MINIMUM DEDUCTIBLE
$0 - $100,000	No deductibles allowed
$100,001 - $250,000	$1,000
$250,001 - $1,000,000	$2,000
Over $1,000,000	$2,000 plus 1/1000 of total assets up to a maximum deductible of $200,000

3. No bond obtained pursuant to this Regulation may be canceled unless written notice thereof is given to the Commissioner of Financial Institutions at least thirty days prior to the effective date of such cancellation, and every such bond shall contain a provision to that effect.

By order of the State Corporation Commission dated January 28, 1988. The regulation has been modified to refer to Chapter 4.01, which replaced Chapter 4 of Title 6.1, effective Jaunary 1, 1991.

Reference: § 6.1-225.36(2) of the Code of Virginia, which replaced former § 6.1-211(2).

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Title of Regulation: **VR 225-01-0402. Schedule Prescribing Annual Fees Paid for Examination, Supervision, and Regulation of State Chartered Credit Unions.**

Statutory Authority: § § 6.1-225.5 of the Code of Virginia.

Effective Date: December 22, 1981; amended January 1, 1991.

Pursuant to the requirement of § 6.1-225.5 of the Code of Virginia, state-chartered credit unions shall pay annual fees for their examination, supervision and regulation in accordance with the following schedule:

SCHEDULE

Total Assets	FEE
$25,000 or less	$4 per $1,000 but not less than $20
Over $25,000 through $100,000	$100 plus $1.75 per $1,000 for assets in excess of $25,000
Over $100,000 through $1,000,000	$231.25 plus $.75 per $1,000 for assets in excess of $100,000
Over $1,000,000 through $5,000,000	$906.25 plus $.60 per $1,000 for assets in excess of $1,000,000
Over $5,000,000 through $10,000,000	$3,306.25 plus $.30 per $1,000 for assets in excess of $5,000,000
Over $10,000,000	$4,806.25 plus $.20 per $1,000 of assets in excess of $10,000,000

(These fees are to be applied to even thousand-dollar units, with fractional parts of $1,000 dropped.)

The assessment shall be computed on the basis of the credit union's total assets as shown by its Report of Condition as of the close of business for the preceding year (December 31), as filed with the Bureau of Financial Institutions on or before the first day of February.

By order of the State Corporation Commission dated December 22, 1981. The regulation has been updated to refer to Virginia Code § 6.1-225.5, which was effective January 1, 1991.

Reference: § 6.1-225.5 of the Code of Virginia, which replaced former § 6.1-221.1.

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Title of Regulation: **VR 225-01-0501. Disclosure on Debt Instruments: Minimum Amount and Maturity.**

Statutory Authority: § 6.1-227.1 of the Code of Virginia.

Effective Date: February 6, 1975.

No bond, debenture, or other evidence of debt, however described, shall be offered, nor shall any such instrument be issued for offer to the general public by advertisement or solicitation, unless such instrument states on its face in a prominent manner the words:

> "This instrument is not a deposit. It is not insured or guaranteed by any governmental agency or private insurance company."

No such evidence of debt shall mature less than one year from its issuance, nor shall any such instrument be issued for an amount less than one thousand dollars ($1,000).

By order of the State Corporation Commission dated February 6, 1975.

Reference: § 6.1-227.1 of the Code of Virginia.

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Title of Regulation: **VR 225-01-0502. Surety Bond Upon All Active Officers.**

Staturory Authority: § 6.1-235 of the Code of Virginia.

Effective Date: February 27, 1981.

1. Every industrial loan association as defined in Chapter 5 of Title 6.1 of the Code shall obtain and keep in force upon all its active officers a bond or bonds in a surety company authorized to do business in this State in the penalty of whatever amount deemed appropriate by its Board of Directors;

2. No bond given pursuant to this order may be cancelled without first giving the Commissioner of Financial Institutions ten days written notice of such cancellation, and every such bond shall contain a provision to that effect.

By order of the State Corporation Commission dated February 27, 1981.

Reference: § 6.1-235 of the Code of Virginia.

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Title of Regulation: **VR 225-01-0503. Schedule Prescribing Annual Fees Paid for Examination, Supervision, and Regulation of Industrial Loan Associations.**

Statutory Authority: § 6.1-237 of the Code of Virginia.

Effective Date: July 1, 1990.

Pursuant to the provision of Section 6.1-237 of the Code of Virginia, the State Corporation Commission hereby

promulgates the following schedule prescribing the annual fee to be paid by every industrial loan association for its supervision and regulation, as follows:

SCHEDULE

Asset Interval			Fee	
Assets Exceeding	But Not Exceeding	Pay This Amount	Plus	Assets Exceeding
$ 0	$ 2 million	$ 1,200	0	
2 million	5 million	1,200	.000900 x	$ 2 million
5 million	25 million	3,900	.000120 x	5 million
25 million		6,300	.000060 x	25 million

The assessment calculation shall be rounded down to the nearest whole dollar amount. The assessment shall be computed on the basis of the association's total assets as shown by its last Consolidated Report of Condition made as of the close of business for the preceding calendar year as filed with the Bureau of Financial Institutions.

By order of the State Corporation Commission dated June 27, 1990 effective July 1, 1990.

Reference: § 6.1-237 of the Code of Virginia.

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Title of Regulation: **VR 225-01-0601. Establishing Maximum Rates of Charge and Loan Ceilings .**

tatutory Authority: § 6.1-271 of the Code of Virginia.

Effective Date: September 1, 1989.

Section 1. LOAN CEILINGS AND RATES OF CHANGE

(a) The loan ceiling for small loans shall be three thousand five hundred dollars ($3,500) in principal amount.

(b) Every licensee may contract for and receive on any such loan charges at rates not exceeding 2.75 percent per month on that part of the unpaid principal balance of any loan not in excess of eight hundred dollars ($800), two percent per month on that part of the unpaid principal balance in excess of $800 but not in excess of two thousand dollars ($2,000), and 1.5 percent per month on that part of the unpaid principal balance in excess of $2,000 through the maximum loan ceiling.

(c) When the loan contract is repayable in substantially equal installments of principal and charges combined, a licensee - in lieu of the rates and charges provided in paragraph 1(b) above - may contract for and receive charges at a rate not exceeding $19 per one hundred dollars per year on that part of the original principal not exceeding $800, $15 per one hundred dollars per year on the part of the original principal exceeding $800 but not exceeding $2,000, and $12 per one hundred dollars per year on the part of the original principal exceeding $2,000 up to the maximum loan ceiling.

(d) Where the charges are computed using the rates set forth in paragraph 1(b) hereof, such computation shall be made in accordance with the provisions of § 6.1-277(a) of the Code of Virginia, as amended. Where the charges are precomputed using the rates set forth in paragraph 1(c) hereof, such computation shall be made in accordance with the provisions of § 6.1-277(b) of the Code of Virginia, as amended.

Section 2. INSTALLMENT PAYMENTS

No licensee shall enter into any contract of loan under Chapter 6 of Title 6.1 of the Code of Virginia providing for installment payments extending more than: 21 calendar months from the date of making the contract for any loan of $500 or less in principal amount, 31 calendar months for any loan exceeding $500 but not exceeding $1,000 in principal amount, 43 calendar months for any loan exceeding $1,000 but not exceeding $1,500 in principal amount, and 49 calendar months from the date of making the contract for any loan in excess of $1,500 in principal amount.

The Bureau of Financial Institutions shall send a copy of the regulation adopted herein to every company engaged in the consumer finance business in Virginia, and it shall monitor and report the results of operations under the structure of rates and ceilings herein authorized.

By order of the State Corporation Commission dated August 15, 1989, effective September 1, 1989.

Reference: § 6.1-271 of the Code of Virginia.

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Title of Regulation: **VR 225-01-0602. Time Limit for Compliance.**

Statutory Authority: § 6.1-282(4) of the Code of Virginia.

Effective Date: May 1, 1976.

Licensees shall have thirty (30) days after the date a loan is paid in full, or a judgment is satisfied, or a borrower's obligation is otherwise terminated to accomplish the acts required by 6.1-282(4).

Failure so to comply within that time limit shall constitute a violation of said sub-section, which violation will result in penalties as provided by law.

By order of the State Corporation Commission dated April 30, 1976, effective May 1, 1976.

Reference: § 6.1-282(4) of the Code of Virginia.

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Title of Regulation: **VR 225-01-0603. Allotment Program Loans.**

Statutory Authority: §§ 6.1-278 and 6.1-302 of the Code of Virginia.

Effective Date: April 1, 1989.

I. Applicability.

This regulation applies to all licensees under the Consumer Finance Act (the Act) making any loan under the Act in connection with which loan a borrower authorizes an allotment and automatic disbursement from an account for the purpose of making any payments required by the loan agreement. Such a loan is referred to herein as an "allotment program loan."

II. Definitions.

As used in this Regulation the following terms shall have the following meanings:

1. "Allotment" means payment of any part of a borrower's military pay to a financial institution as permitted under Federal law and regulations.

2."Automatic disbursement" means payment, by a financial institution to a licensee, of funds received pursuant to an allotment.

3."Borrower" means any person in the United States military service obligated, directly or contingently, to repay a loan made by a licensee.

4. "Licensee" has the meaning set forth in Virginia Code § 6.1-245.

III. Loan Rules.

1. No licensee shall require any allotment or automatic disbursement, or a borrower's execution of the Allotment Disclosure Form appended to this Regulation, as a condition to making a loan under the Act.

2. A licensee making an allotment program loan shall bear all costs and expenses incident to the allotment and automatic disbursement.

3. When making an allotment program loan, a licensee shall use the Allotment Disclosure Form appended to this Regulation. The form shall be printed or typed without alteration on one side of a paper separate from all other papers or documents obtained by the licensee in type of size not less than that known as twelve point. All blanks on the form, other than those blanks to be filled in with the name of the licensee shall be filled in by the borrower and the filled-in form shall be signed and dated by the borrower. The completed form shall be kept in the separate loan file maintained with respect to the loan for the period specified in Virginia Code § 6.1-300.

4. No licensee making an allotment program loan shall withhold any part of the proceeds of the loan to be applied to any payment required under the loan.

By order of the State Corporation Commission dated March 2, 1989, effective April 1, 1989.

Reference: §§ 6.1-278 and 6.1-302 of the Code of Virginia.

Attachment: Allotment Disclosure Form

ALLOTMENT DISCLOSURE FORM

1. I, (APPLICANT'S NAME), intend to apply for an allotment of my military pay in the amount of $(AMOUNT) per month to an account in my name at (FINANCIAL INSTITUTION).

2. I also intend to authorize disbursement of funds from my account at (FINANCIAL INSTITUTION) in the amount of $ (AMOUNT) per month for the purpose of making monthly payments on my loan with (FINANCE COMPANY).

3. I am authorizing the allotment and automatic disbursement voluntarily and solely for my own convenience, and acknowledge that (FINANCE COMPANY) has not required me to authorize the allotment or automatic disbursement, or to sign this form, as a condition to making me a loan.

4. I understand that I can cancel the allotment and automatic disbursement at any time, and understand that I am not obligated to pay any fee or charge to any person or company, directly or indirectly, for the allotment or automatic disbursement.

. . . .
(Applicant's Signature) (Date)

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Title of Regulation: **VR 225-01-0604. Rules Governing Open-End Credit Business in Licensed Consumer Finance Offices.**

Statutory Authority: §§ 6.1-267 and 6.1-302 of the Code of Virginia.

Effective Date: February 1, 1990.

1. The business of extending open-end credit shall be conducted by a separate legal entity, and not by the consumer finance licensee.

2. All governing State and Federal laws shall be observed.

3. Separate books and records shall be maintained by the licensee and the separate entity, and the books and records of the licensee shall not be commingled with those

the separate entity, but shall be kept in a different location within the office.

4. The minimum amount of credit which may be extended to any consumer or borrower under an open-end credit agreement shall be at least two hundred dollars ($200.00) greater than the consumer finance loan ceiling in effect at the time such agreement is made.

5. Advertising or other information published by the licensee or the separate entity shall not contain any false, misleading or deceptive statement or representation concerning the rates, terms or conditions for loans or credit made or extended by either of them. The separate entity shall not make or cause to be made any misrepresentation as to its being a licensed lender, or as to the extent to which it is subject to supervision or regulation.

6. The licensee and the separate entity shall not make both a consumer finance loan and an extension of open-end credit to the same borrower or borrowers as part of the same transaction or for the purpose of obtaining a higher interest rate.

7. Except as authorized by the Commissioner, or by order of the Commission, insurance, other than credit life or credit accident and health insurance, shall not be sold in licensed consumer finance offices in connection with any extension of open-end credit by the separate entity.

8. When the balance owed under an open-end credit agreement is paid, finance charges will be assessed only to the date of payment.

9. The expenses of the two entities will be accounted for separately and so reported to the Bureau as of the end of each calendar year.

10. The balance owed under an open-end credit agreement shall not, in whole or in part, be converted to or included in the amount of a consumer finance loan.

11. The Bureau shall be given access to the books and records of the separate entity, and shall be furnished such information as it may require in order to assure compliance with these Rules.

12. The provisions of these Rules supersede all prior Rules Governing Open-End Lending In Consumer Finance Offices.

By order of the State Corporation Commission dated January 19, 1990, effective February 1, 1990.

Reference: §§ 6.1-267 and 6.1-302 of the Code of Virginia.

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Title of Regulation: **VR 225-01-0605. Rules Governing Real Estate Mortgage Business in Licensed Consumer Finance Offices.**

Statutory Authority: §§ 6.1-267 and 6.1-302 of the Code of Virginia.

Effective Date: February 1, 1990.

1. The business of making or purchasing loans secured by liens on real estate shall be conducted by a separate legal entity, and not by the consumer finance licensee.

2. All governing State and Federal laws shall be observed.

3. Separate books and records shall be maintained by the consumer finance licensee and the separate entity, and the books and records of the consumer finance licensee shall not be commingled with those of the separate entity, but shall be kept in a different location within the office.

4. The minimum real estate mortgage loan that may be made or purchased shall be at least two hundred dollars ($200.00) greater than the consumer finance loan ceiling in effect at the time the real estate mortgage loan is made or purchased.

5. Advertising or other information published by the consumer finance licensee or the separate entity shall not contain any false, misleading or deceptive statement or representation concerning the rates, terms or conditions for loans made by either of them. The separate entity shall not make or cause to be made any misrepresentation as to its being a licensed lender, or as to the extent to which it is subject to supervision or regulation.

6. The consumer finance licensee and the separate entity shall not make both a consumer finance loan and a real estate mortgage loan to the same borrower or borrowers as part of the same transaction or for the purpose of obtaining a higher interest rate.

7. The balance owed under a real estate mortgage loan shall not, in whole or in part, be converted to or included in the amount of a consumer finance loan.

8. Any compensation paid by the separate entity to any other party for the referral of loans, pursuant to an agreement or understanding between the separate entity and such other party, shall be an expense borne entirely by the separate entity. Such expense shall not be charged directly or indirectly to the borrower.

9. Except as authorized by the Commissioner, or by order of the Commission, insurance, other than credit life or credit accident and health insurance, shall not be sold in licensed consumer finance offices in connection with any mortgage loan made or purchased by the separate entity.

10. No interest in collateral other than real estate shall be taken in connection with any real estate mortgage loan

made or purchased by the separate entity.

11. The expenses of the two entities shall be accounted for separately and so reported to the Bureau as of the end of each calendar year.

12. The Bureau shall be given access to the books and records of the separate entity, and shall be furnished such information as it may require in order to assure compliance with these Rules.

13. The provisions of these Rules supersede all prior Rules Governing Real Estate Mortgage Business In Licensed Consumer Finance Offices.

By order of the State Corporation Commission dated January 19, 1990, effective February 1, 1990.

Reference: §§ 6.1-267 and 6.1-302 of the Code of Virginia.

Title of Regulation: **VR 225-01-0606. Schedule Prescribing Annual Fees Paid for Examination, Supervision, and Regulation of Consumer Finance Licenses.**

Statutory Authority: § 6.1-299.1 of the Code of Virginia.

Effective Date: April 14, 1983.

Pursuant to Virginia Code § 6.1-299.1, the following schedule sets the fees to be paid annually by consumer finance licensees for their licenses, and to defray the costs of examination, supervision and regulation of licensed consumer finance offices:

Minimum fee - $300 per office open January 1 of the current calendar year.

In addition to the minimum fee, the following fee based on total assets:

SCHEDULE

Total Assets	Fee
Over $300,000 - $750,000	$.85 per $1,000 or fraction thereof
$750,000 - $2,000,000	$.70 per $1,000 or fraction thereof
Over $2,000,000	$.55 per $1,000 or fraction thereof

The annual fee for each licensee will be computed on the basis of its total assets combined with the total assets of all other businesses conducted in any of its licensed offices as of the close of business December 31 of the preceding calendar year. The amounts of such total assets will be derived from the annual reports which Code § 6.1-301 requires licensees to file with the Bureau of Financial Institutions on or before the first day of April of each year.

In accordance with § 6.1-299.1, annual fees for any given calendar year will be assessed on or before May 1 of that year and must be paid on or before June 1 of that year. Fees are to be assessed using the foregoing schedule for the calendar year which began January 1, 1983. This fee schedule will be in effect until it is amended or revoked by order of the Commission.

By order of the State Corporation Commission dated April 14, 1983, effective that date.

Reference: § 6.1-299.1 of the Code of Virginia.

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Title of Regulation: **VR 225-01-1001. Governing Nonprofit Debt Counseling Agencies.**

Statutory Authority: § 6.1-363.1 of the Code of Virginia.

Effective Date: October 17, 1975.

I. LICENSING

A. Procedure for Obtaining a License

Each application for a license to operate a debt counseling agency, or for renewal of such a license, shall be submitted on a form prescribed by the Commission. The application form shall be completed in accordance with instructions, and filed with the applicable license fee.

Upon receiving the completed application, the Bureau of Financial Institutuions will investigate the applicant. If, from the report of said investigation, the Commission finds that the financial responsibility, experience, character, and general fitness of the applicant (and of the members thereof, if the applicant is a partnership; and of the officers and directors thereof, if the applicant is a corporation) are such as will command the confidence of the community and warrant belief that the applicant will operate its agency fairly and honestly within the provisions of the law, it shall issue the applicant a license.

B. Qualifications for a License

In accordance with law, the Commission shall insure that every applicant and every licensee is a non-profit organization, and that each such organization maintains appropriate safeguards against any conflict of interest in the conduct of its counseling activities.

No license will be issued to any collection agency or to any creditor or association of creditors, or to any credit granting organization or association of such organizations. A license will not be transferable.

NOTE: The term "creditor or credit-granting organization" shall not include doctors, lawyers, dentists, or other professionals who receive payment of their fees by installments, nor shall it include those whose on

articipation in a credit transaction is to honor a credit card.

C. Revocation of License

If the Commission finds a violation of these regulations on the part of any licensee, it may revoke or suspend that agency's license.

II. OPERATION OF DEBT COUNSELING AGENCIES

A. Personnel

No debt counseling agency shall employ any person who is employed at the same time by any creditor or collection agency. If any agency is a corporation, no more than one-third of the members of its board of directors may be associated with any creditor or credit-granting organization as an officer, director, or employee.

No proprietor of an agency or partner in an agency may be associated with any credit-granting organization as an officer, director, or employee.

If any licensee (or partner in a licensed agency, or officer or director or employee of a licensed agency) is arrested, indicated, or convicted of any crime (other than a misdemeanor under the Motor Vehicle Code); or if any such person makes an assignment for the benefit of his creditors, or seeks the protection of the National Bankruptcy Act, the Commission shall be advised of the facts in the matter, in writing, within ten (10) days of the occurrence.

Every agency shall be responsible for reporting such acts on the part of its own personnel; failure to report as required shall constitute a violation of these regulations.

Every person who is an employee of a licensed debt counseling agency shall be bonded in an amount commensurate with the sums with which they are regularly entrusted.

B. Trust Account

The operating monies of every debt counseling agency shall be kept separate from any funds entrusted to such agencies by clients for disbursement to creditors. Clients' funds shall be kept in a separate trust account.

It is the policy of the Commission to encourage use of cashier's checks, money orders and personal checks as substitutes for cash, insofar as that is possible.

C. Records, Reports, Examinations

Supervision and inspection of debt counseling agencies shall be the responsibility of the Bureau of Financial Institutions.

Every agency shall keep and preserve for five years its accounts, correspondence, papers, and other records; it shall make annual reports to the Bureau of Financial Institutions, and such other reports as may be required by the Commission as being necessary and appropriate in the public interest for the protection of debtors and creditors.

In accordance with law, the Bureau may inspect at any time, all accounts, correspondence, papers, and other records for the purpose of determining whether such agency is in compliance with applicable statutes and regulations. The Bureau shall inspect each agency at least once a year.

Every licensee shall maintain in strict confidence the information in its files, and shall release information regarding any debtor to creditors or others only in accordance with authorization from the client and in furtherance of the client's interests. Especially, information concerning a debtor or his affairs shall not be released after the counseling relationship with him has ended.

III. POWERS OF DEBT COUNSELING AGENCIES

Licensed debt counseling agencies may conduct activities to educate and advise the public with regard to the use of credit; such agencies may devise plans for pro-ration and repayment of debts to creditors, and may negotiate the acceptance of such plans with creditors; and all licensed agencies may give advice and render services related to the activities previously set forth and those permitted by law.

No licensed agency may charge any fee, or receive any compensation for services rendered; and no such agency shall give legal guidance or perform legal service in connection with its licensed activities.

By order of the State Corporation Commission dated October 17, 1975, effective that date.

Reference: § 6.1-363.1 of the Code of Virginia.

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Title of Regulation: **VR 225-01-1201. Surety Bond Standard Required of Money Order Sellers.**

Statutory Authority: § 6.1-372 of the Code of Virginia.

Effective Date: November 13, 1987.

1. Every seller of money orders shall be bonded in principal amount as follows:

1 office	-	$ 25,000
Each additional office	-	$ 5,000
Maximum bond required	-	$250,000

2. The form of the bond will be provided by the Bureau.

3. Evidence of an appropriate bond shall be submitted prior to the issuance of a license.

4. The seller must continuously maintain its bond thereafter as long as it has money orders outstanding, and for a reasonable period after any termination of business. In any case where a bond of less than $250,000 is maintained, it shall be the duty of the licensee to keep the amount of the bond commensurate with the number of offices.

By order of the State Corporation Commission dated November 13, 1987, effective that date.

Reference: § 6.1-372 of the Code of Virginia.

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Title of Regulation: **VR 225-01-1301. Registration by Virginia Financial Institution Holding Companies.**

Statutory Authority: § 6.1-382 of the Code of Virginia.

Effective Date: December 27, 1978.

Pursuant to the direction of § 6.1-382, every Virginia financial institution holding company (as defined in § 6.1-381) which was in existence as of November 1, 1978, shall register not later than December 31, 1978 by filing with the Bureau of Financial Institutions a copy of the registration statement it has filed with a federal agency pursuant to the Bank Holding Company Act of 1956 (as amended), or pursuant to Section 408 of the National Housing Act (as amended).

Any company which becomes a Virginia financial institution holding company after November 1, 1978 shall file with the Bureau of Financial Institutions, within 180 days of its becoming such a company, a copy of the registration statement it files with a federal agency under the provisions of the Bank Holding Company Act of 1956 (as amended) or under Section 408 of the National Housing Act (as amended).

By attachment to an order of the State Corporation Commission dated December 27, 1978. (See Regulation VR 225-01-1302).

Reference: § 6.1-382 of the Code of Virginia.

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Title of Regulation: **VR 225-01-1302. Reporting by Virginia Financial Institution Holding Companies.**

Statutory Authority: § 6.1-384 of the Code of Virginia.

Effective Date: February 8, 1991.

Every company which has control over any Virginia financial institution (within the meaning of Title 6.1, Chapter 13, Code of Virginia) shall report annually by filing with the Bureau of Financial Institutions a copy of the report it submits to the federal regulatory agency requiring such reports. Excluded from the reporting requirement herein shall be any such company which, according to an applicable provision of the Bank Holding Company Act is exempt from such reporting to a federal agency; or which acquires a controlling interest in a Virginia financial institution solely: (1) in a fiduciary capacity, (2) in connection with the company's underwriting of securities or proxy solicitation, or (3) in connection with the company's securing or collecting a debt.

By order of the State Corporation Commission dated December 27, 1978, as modified administratively February 8, 1991, to take into account changes in the nomenclature of certain federal agencies.

Reference: § 6.1-384 of the Code of Virginia.

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Title of Regulation: **VR 225-01-1401. Financial Service Center Banks.**

Statutory Authority: §§ 6.1-393 and 6.1-395 of the Code of Virginia.

Effective Date: July 1, 1983; amended July 1, 1988.

I. Application.

The applicant shall file its application to acquire a financial service center bank, pursuant to Virginia Code 6.1-393, with the Bureau of Financial Institutions using the form prescribed by the Bureau. Upon receiving the completed application form and the $6,500 fee prescribed by law, and after ascertaining that an application to establish a state or national bank in Virginia has been duly filed and all necessary fees in connection therewith paid, the Bureau shall proceed to investigate the application (or, applications, if a state bank charter has been sought). The applicant shall furnish such additional information as the Bureau may reasonably require in furtherance of its investigation.

When it has accepted an application, the Bureau shall publish notice of the application in its "Weekly Information Bulletin." Every written objection to the application shall be filed in the Commission's Document Control Center. Should any party in interest submit a written request for a hearing on the application, an appropriate proceeding under the Rules of Practice and Procedure of the State Corporation Commission will be established. If no request for a hearing is made within 20 days from the publication of notice of the application, the Bureau shall submit to the Commission its findings and recommendations upon completion of its investigation.

The Commission will consider in connection with t

application for acquisition the criteria set forth in § 6.1-393B, Code of Virginia, viz: (1) the financial and managerial resources of the applicant; (2) its future prospects and those of the bank whose assets or shares it will acquire; (3) the financial history of the applicant; (4) whether such acquisition or holding may result in undue concentration of resources or substantial lessening of competition in this Commonwealth; and (5) the convenience and needs of the public of this Commonwealth. The Commission will grant or deny the application on the basis of the record in the matter, stating its reason or reasons for denial of any such application.

II. Reporting.

Every out-of-state bank holding company which directly or indirectly through any subsidiary acquires voting stock of a bank pursuant to Chapter 14, Title 6.1, Code of Virginia, shall file with the Commissioner of Financial Institutions copies of all regular and periodic reports which such bank holding company is required to file under Section 13 or Section 15(d) of the Securities and Exchange Act of 1934, as amended, excluding any portion of such reports which is not available to the public.

III. Compliance with Statutory Conditions.

Whenever the Bureau has reason to believe that any financial service center bank or any holding company controlling such a bank is failing to comply with any condition prescribed by law for the operation of such banks, it shall seek a rule to show cause why the sanctions set forth in Virginia Code § 6.1-396 ought not to be imposed. All such proceedings shall be governed by the appropriate provisions of the Commission's Rules of Practice and Procedure.

By order of the State Corporation Commission dated July 1, 1983, effective that date. (A 1988 amendment to Code 6.1-393 set the application fee at $6,500.)

References: §§ 6.1-393 and 6.1-395 of the Code of Virginia.

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Title of Regulation: **VR 225-01-1601. Governing Mortgage Lenders and Brokers. .**

Statutory Authority: § 6.1-421 of the Code of Virginia.

Effective Date: February 1, 1989.

I. Definitions

As used in this Regulation:

1. The terms "mortgage lender," "mortgage broker" and "mortgage loan" have the meaning ascribed to them in Section 6.1-409 of the Code of Virginia.

2. The term "commitment" means a written offer to make a mortgage loan signed by a mortgage lender, or by another person authorized to sign such instruments on behalf of a mortgage lender.

3. The term "commitment agreement" means a commitment accepted by an applicant for a mortgage loan, as evidenced by the applicant's signature thereon.

4. The term "fees paid to third persons" means the bona fide fees or charges paid by the applicant for a mortgage loan to third persons other than the mortgage lender or mortgage broker or paid by the applicant to or retained by the mortgage lender or mortgage broker for transmittal to such third persons in connection with the mortgage loan, including, but not limited to, recording taxes and fees, reconveyance or releasing fees, appraisal fees, credit report fees, attorney fees, fees for title reports and title searches, title insurance premiums, surveys and similar charges.

5. The term "commitment fee" means any fee or charge accepted by a mortgage lender, or by a mortgage broker for transmittal to a mortgage lender, as consideration for binding the mortgage lender to make a mortgage loan in accordance with the terms of the commitment or as a requirement for acceptance by the applicant of a commitment, but the term does not include fees paid to third persons or interest.

6. The term "lock-in agreement" means a written agreement between a mortgage lender and an applicant for a mortgage loan which establishes and sets an interest rate and the points to be charged in connection with a mortgage loan that is closed within the time period specified in the agreement. A lock-in agreement can be entered into before mortgage loan approval, subject to the mortgage loan being approved and closed, or after such approval. A commitment agreement which establishes and sets an interest rate and the points to be charged in connection with a mortgage loan that is closed within the time period specified in the agreement is also a lock-in agreement. The interest rate that is established and set by the agreement may be either a fixed rate or an adjustable rate.

7. The term "lock-in fee" means any fee or charge accepted by a mortgage lender, or by a mortgage broker for transmittal to a mortgage lender, as consideration for making a lock-in agreement, but the term does not include fees paid to third persons or interest.

8. The term "points" means any fee or charge retained or received by a mortgage lender or mortgage broker stated or calculated as a percentage or fraction of the principal amount of the loan, other than or in addition to fees paid to third persons or

interest.

9. The term "reasonable period of time" means that period of time, determined by a mortgage lender in good faith on the basis of its most recent relevant experience and other facts and circumstances known to it, within which the mortgage loan will be closed.

II. Operating Rules

A licensee shall conduct its business in accordance with the following rules:

1. No licensee shall intentionally misrepresent the qualification requirements for a mortgage loan or any material loan terms or make false promises to induce an applicant to apply for a mortgage loan or to induce an applicant to enter into any commitment agreement or lock-in agreement or to induce an applicant to pay any commitment fee or lock-in fee in connection therewith. A "material loan term" means the loan terms required to be disclosed to a consumer pursuant to (i) the federal Truth-in-Lending Act, and regulations and official commentary issued thereunder, as amended from time to time, (ii) Section 6.1-2.9:5 of the Code of Virginia, and (iii) Part III of these Regulations.

2. All moneys received by a licensee from an applicant for fees paid to third persons shall be accounted for separately, and all disbursements for fees paid to third persons shall be supported by adequate documentation of the services for which such fees were or are to be paid.

3. The mortgagor who obtains a mortgage loan shall be entitled to continue to make payments to the transferor of the servicing rights under a mortgage loan until the mortgagor is given written notice of the transfer of the servicing rights by the transferor. The notice shall specify the name and address to which future payments are to be made and shall be mailed or delivered to the mortgagor at least ten (10) calendar days before the first payment affected by the notice.

4. If a person has been or is engaged in business as a mortgage lender or mortgage broker and has filed a bond or letter of credit with the Commissioner, as required by Virginia Code Section 6.1-413, such bond or letter of credit shall be retained by the Commissioner notwithstanding the occurrence of any of the following events:

(a) The person's application for a license is withdrawn or denied;

(b) The person's license is surrendered, suspended or revoked; or

(c) The person ceases engaging in business as a mortgage lender or mortgage broker.

III. Commitment Agreements and Lock-in Agreements

1. A commitment agreement shall include the following:

(a) Identification of the property intended to secure the mortgage loan (this does not require a formal legal description);

(b) The principal amount and term of the loan;

(c) The interest rate and points for the mortgage loan if the commitment agreement is also a lock-in agreement or a statement that the mortgage loan will be made at the mortgage lender's prevailing rate and points for such loans at the time of closing or a specified number of days prior to closing;

(d) The amount of any commitment fee and the time within which the commitment fee must be paid;

(e) Whether or not funds are to be escrowed and for what purpose;

(f) Whether or not private mortgage insurance is required;

(g) The length of the commitment period;

(h) A statement that if the loan is not closed within the commitment period, the mortgage lender is no longer obligated by the commitment agreement and any commitment fee paid by the applicant will be refunded only under the circumstances set forth in Section III.3 of this Regulation and such other circumstances as are set forth in the commitment agreement; and

(i) Any other terms and conditions of the commitment agreement required by the lender.

2. A lock-in agreement shall include the following:

(a) The interest rate and points for the mortgage loan, and if the rate is an adjustable rate, the initial interest rate and a brief description of the method of determining the rate (such as the index and the margin);

(b) The amount of any lock-in fee and the time within which the lock-in fee must be paid;

(c) The length of the lock-in period;

(d) A statement that if the loan is not closed within the lock-in period, the mortgage lender is no longer obligated by the lock-in agreement and any lock-in fee paid by the applicant will be refunded only under the circumstances set forth in Section III.4 (

this Regulation and such other circumstances as are set forth in the lock-in agreement;

(e) A statement that any terms not locked-in by the lock-in agreement are subject to change until the loan is closed at settlement; and

(f) Any other terms and conditions of the lock-in agreement required by the lender.

3. If an applicant has paid any commitment fee, and the mortgage loan is not closed due to any of the following, such commitment fee shall be refunded:

(a) The commitment period was not a reasonable period of time given the prevailing market conditions at the time the commitment agreement was entered into;

(b) The mortgage loan is turned down because of the applicant's lack of creditworthiness;

(c) The mortgage loan is turned down because of the appraised value of the property intended to secure the mortgage loan;

4. If an applicant has paid any lock-in fee and the loan is not closed because the lock-in period was not a reasonable period of time given the prevailing market conditions at the time the lock-in agreement was entered into, such lock-in fee shall be refunded.

By order of the State Corporation Commission dated December 16, 1988, effective February 1, 1989.

Reference: § 6.1-421 of the Code of Virginia.

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Title of Regulation: **VR 225-01-1602. Schedule Prescribing Annual Fees Paid for the Examination, Supervision and Regulation of Mortgage Lenders and Mortgage Brokers.**

Statutory Authority: § 6.1-420 of the Code of Virginia.

Effective Date: April 23, 1991.

Pursuant to Virginia Code § 6.1-420, the Commission sets the following schedule of annual fees to be paid by mortgage lenders and mortgage brokers required to be licensed under Chapter 16 of Title 6.1 of the Code. Such fees are to defray the costs of examination, supervision and regulation of such lenders and brokers by the Bureau of Financial Institutions. The fees are related to the actual costs of the Bureau, to the assets (i.e., loans) of the lenders, to the volume of business of the brokers, and to other factors relating to supervision and regulation.

SCHEDULE

LENDER LICENSEE: Minimum fee - $800, plus $6.60 per loan

BROKER LICENSEE: Minimum fee - $400, plus $6.60 per loan

DUAL AUTHORITY (LENDER/BROKER): Minimum fee - $1,200, plus $6.60 per loan

The annual fee for each mortgage lender will be computed on the basis of the number of mortgage loans, as defined in § 6.1-409, made or originated during the calendar year preceding the year of assessment. The annual fee of each broker will be based on the number of such loans brokered. The annual fee of each lender/broker will be based on the total of mortgage loans made or originated and mortgage loans brokered.

Fees will be assessed on or before April 25 for the current calendar year. By law the fee must be paid on or before May 25.

The annual report, due March 25, 1991, of each licensee provides the basis for its assessment, i.e., the number of loans made or brokered. If the annual report of a licensee has not been filed by the assessment date, a provisional fee, subject to adjustment when the report is filed, will be assessed. In cases where a license or additional authority has been granted between January 1 and April 25, one of the following fees or additional fee will be assessed: lender - $400; broker - $200; lender/broker - $600.

Fees prescribed and assessed by this schedule are apart from, and do not include, the reimbursement for expenses permitted by paragraph B of § 6.1-420.

This order is effective immediately and remains in effect until amended or revoked. The foregoing schedule amends and supersedes the schedule set by administrative order dated April 25, 1990.

By order of the State Corporation Commission dated April 23, 1991.

Reference: § 6.1-420 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0201. Application for a Branch Office.**

Statutory Authority: §§ 6.1-39.3 and 6.1-194.26 of the Code of Virginia.

Effective Date: September 10, 1979; reissued February 27, 1991.

1. Any bank or savings institution may apply to the State Corporation Commission for authority to establish a branch office.

2. Authority granted to any bank or savings institution to establish a branch will expire at the end of one year, unless a request for an extension of time is

received not less than 45 days nor more than 60 days prior to expiration of the time stated in the certificate of authority to establish the branch. A request for an extension of time must specify the reason(s) for the delay.

3. For good cause, the time within which a branch must be opened for business may be extended for a period not to exceed six months beyond the expiration of the initial one year period authorized for the branch to be opened. Except in unusual circumstances and for good cause shown, a second extension of time will not be granted unless construction of the branch has been started.

4. Where a bank or savings institution has been granted an extension of time for the opening of an approved branch, the State Corporation Commission may elect not to act on an application for an additional branch office until construction of such previously approved branch has been started.

Reissued by the Commissioner of Financial Institutions February 27, 1991. Original effective date: September 10, 1979.

Reference: §§ 6.1-39.3 (Banking Act) and 6.1-194.26 (Savings Institutions Act) of the Code of Virginia

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Title of Regulation: **Administrative Ruling 0202. Investment by Banks in Shares of Investment Companies.**

Statutory Authority: § 6.1-60.1 of the Code of Virginia.

Effective Date: August 10, 1987.

Chapter 297 of the 1987 Acts of Assembly amends Virginia Code § 6.1-60.1 to provide (among other things) that the general prohibition against a bank's investing in corporate stock shall not prevent any bank "from acquiring, owning and holding, subject to such conditions as the Commissioner may prescribe, shares of investment companies." This circular prescribes the conditions governing investment in shares of investment companies (or, mutual funds) by State banks.

1. The investment portfolio of the investment company must consist solely and exclusively of instruments and obligations in which the bank could invest directly for its own portfolio.

2. Purchases of such shares are limited to the same extent that direct investment in any particular asset in the investment company's portfolio would be limited by applicable law or regulation.

3. The bank as shareholder must have a legally enforceable, undivided interest in the underlying assets of the investment company, which interest is proportionate to the bank's ownership in the company.

4. The bank as shareholder must be shielded absolutely from direct or indirect liability for any act or obligation of the investment company.

5. The investment company must be registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the Securities Act of 1933.

6. Where the investment company engages in such activities as transactions in options, futures, puts or calls, etc., shares purchased by the bank must be treated as if the bank were engaging in such transactions directly and such transactions must be reported and accounted for accordingly.

7. The bank's board of directors must have established and formally approved an investment policy that specifically provides for investment in investment companies, and that requires specific prior approval by the board of each initial investment in the shares of any company. Thereafter, each additional investment in the shares of that investment company must be reviewed and approved by the board, and such review and approval must be reflected in official board minutes. It is the board's sole responsibility to determine, with the advice of counsel if necessary, whether the shares of any particular investment company meet all established criteria, legal and otherwise, before authorizing investment in those shares. The Bureau will not provide a prior determination of the eligibility of the shares of any specific company for investment.

8. Prior to any investment in investment companies, adequately detailed procedures, standards and controls for managing such investments must be established.

9. Not less frequently than quarterly, a detailed review of all holdings of investment companies' shares must be conducted by the board, and the board must further review the extent to which the board's policies and procedures are effective.

The board of directors must specifically consider and make adequate provision for the effect of investment in investment companies' shares upon the bank's present and future liquidity needs. The marketability of such shares and their acceptability as security for public deposits and for other purposes requires the full understanding and careful attention of the board. Careful attention to sales fees and accounting for such fees when shares are bought and sold is also necessary.

It is strongly emphasized that the decision to invest in shares of one or more investment companies is the absolute and sole responsibility of each bank's board of directors. Considerations of safety and soundness of

...stitution must not be subordinated to perceived opportunities for income.

Compliance with the foregoing conditions and requirements will be reviewed during examinations.

Issued by the Commissioner of Financial Institutions, August 10, 1987, as Circular 1-87.

Reference: § 6.1-60.1 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0203. Loans Secured by Stock of Financial Institution Holding Companies.**

Statutory Authority: §§ 6.1-60.1 and 6.1-194.69 of the Code of Virginia.

Effective Date: November 16, 1987.

Section 6.1-60.1 of the Code provides, in part, that no bank may make loans secured by its own stock. Although this statutory prohibition does not extend to shares of a bank's parent holding company, there is no substantial distinction in the nature and extent of the risks involved in either situation.

In view of these similar risks, it is the position of the ...reau of Financial Institutions that, except to prevent loss on debts previously contracted, lending by a bank on the security of shares of its parent holding company is deemed to be an unsafe and unsound practice and will be treated accordingly for examination purposes.

The investments permitted to State chartered savings and loan associations by § 6.1-194.69 of the Code do not include loans secured by shares of stock of the lending Association or of its parent holding company. While Subsection (15) of that Section provides for some exceptions to the restrictions on allowable investments, no authority has been granted in any case to make loans secured by the lender's stock or that of its parent holding company. Therefore, such loans will be deemed to be illegal investments in violation of this Section.

Issued by the Commissioner of Financial Institutions November 16, 1987, as Circular 2-87.

Reference: §§ 6.1-60.1 and 6.1-194.69 of the Code of Virginia.

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Title of Regulation: **Aministrative Ruling 0204. Investment in Community Development Corporations.**

Statutory Authority: § 6.1-60.1 of the Code of Virginia.

...fective Date: September 8, 1988.

Chapter 464 of the 1988 Acts of Assembly amended Virginia Code § 6.1-60.1 to provide that the general prohibition against investment by a State bank in corporate stock shall not prevent any bank "...from acquiring, owning and holding, subject to such conditions as the Commissioner may prescribe, shares of stock in a community development corporation."

Under that authority, a State bank may invest in a community development corporation (CDC), provided: [1]

1. The CDC is, or is to be, organized and operated for predominately civic, community or public purposes, including (but not necessarily limited to) development or rehabilitation of housing or other property in low-income or moderate-income areas in designated Community Development Areas or in Urban Development Action Grant designated communities;

2. A bank's investment in any one CDC may not exceed two percent of the bank's capital and surplus (as defined in Code § 6.1-61) and its total investment in all CDC's may not exceed five percent of its capital and surplus;

3. Investments in CDC's are to be carried on a bank's books as "other assets";

4. As a matter of policy, the Board of Directors of a CDC should include representatives of the residential, business and government sectors of the community to be affected by the CDC;

5. Each bank investing in a CDC must have on file an investment proposal containing:

a. A description of the CDC, including name, state of incorporation, registered agent, total capitalization, etc.

b. A statement of the purpose of the CDC, including a description of how the purpose conforms to the requirement that it be predominately civic, community or public in nature;

c. A list of the Board of Directors of the CDC, showing principal occupation and how the individual will satisfy the requirement for representation of the residential, business or government sectors of the community;

d. A list of advisory committee members (if any) and their involvement or participation in the community;

e. The nature and extent of the banks investment, contribution and other participation;

f. A description of the CDC's target areas, projects and beneficiaries.

6. No bank may invest in a CDC if the activity of or transactions by the CDC will result in improvement or enhancement of the value of property in which a bank insider (officer, director, employee or a member of such individual's immediate family) has an interest.

Every investment in a CDC by a bank will be reviewed by the Bureau's examiners for asset quality, risk characteristics and adherence to the provisions of Code § 6.1-60.1(15) and this Circular. The management and Board of Directors of the bank are responsible for compliance with applicable laws and regulations.

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[1](1)These conditions apply only to investment in the stock (equity) of community development corporations. State banks have authority to donate funds to community organizations (Code § 13.1-627A.13), or to lend to such organizations subject to the provisions of Code § 6.1-61. However, it is noted particularly that, unlike general business corporations in Virginia, State banks are not empowered by law to enter into partnerships, joint ventures, or other associations, regardless of the purpose of such an organization (§ 13.1-627B).

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Issued by the Commissioner of Financial Institutions September 8, 1988 as Circular 1-88.

Reference: § 6.1-60.1 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0205. Securities Rating Services.**

Statutory Authority: § 6.1-61 of the Code of Virginia.

Effective Date: June 21, 1978.

Ratings of securities published by any of the nationally recognized rating services (Moody's, Standard & Poor's, Fitch's, etc.) are acceptable for use in examining a bank's investment portfolio, where such service is used by the bank.

Every bank should, as a matter of prudence and as a basis for investment decisions, have available for analysis sufficient credit information to enable an informed appraisal of any non-rated security. It is also noted that rating by an investment rating service does not relieve a bank's board of directors of responsibility for soundness of the investment portfolio.

Issued by the Commissioner of Financial Institutions June 21, 1978, as Circular 1-78.

Reference: § 6.1-61 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0206. Loans in Violation of § 6.1-61.**

Statutory Authority: § 6.1-61 of the Code of Virginia.

Effective Date: December 16, 1977.

The entire amount of a loan or other transaction which, at the time such loan or transaction is made, results in an aggregate obligation in excess of the bank's lending limit, is to be extended, rather than only that portion in excess of the legal limit. The lending limit on the date when the violation occurred is to be calculated and shown in the examination report as well as the lending limit and the balance of the obligation on the date of examination.

The foregoing procedure recognizes that a transaction which results in violation of the law is illegal in its entirety, rather than only to some lesser degree related to the amount by which the legal lending limit may have been exceeded. The emphasis here should not be, and is not, placed upon some concept of degree of violation of law, since violations are not believed to occur by degrees. If a transaction violates the law, the amount of the transaction is of no consequence.

Issued by the Commissioner of Financial Institutions December 16, 1977, as Circular 3-77.

Reference: § 6.1-61 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 020 Obligations Subject to the Limits Specified.**

Statutory Authority: § 6.1-61 of the Code of Virginia.

Effective Date: November 1, 1978.

For legal lending limit purposes, § 6.1-61 of the Code of Virginia defines 'obligations' as the direct liability of the maker or acceptor of paper discounted with or sold to a bank and the liability of an endorser, drawer or guarantor who obtains a loan from or discounts paper with or sells paper under his guarantee to a bank. With respect to endorsers, the effect of this section is to define the obligation of an endorser or guarantor subject to the bank's lending limit as those instances in which the endorser or guarantor obtains a loan from, discounts paper with or sells paper under his guarantee to the bank. Stated differently, the bank's lending limit applies to the obligation of an endorser or guarantor only when the endorser or guarantor obtains the proceeds of a loan, directly or indirectly. The statute provides further that the obligations of a corporation must be combined with the obligations of subsidiaries in which it owns or controls a majority interest.

The foregoing incorporates amendments to § 6.1-61 made by the 1978 session of the legislature. Of particular interest is the definition of obligations of endorsers or guarantors, for purposes of the bank's lending limit. Please be guided accordingly.

Issued by the Commissioner of Financial Institutions November 1, 1978, as Circular 2-78.

Reference: § 6.1-61 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0208. Exceptions to Lending Limits for State Chartered Banks.**

Statutory Authority: §§ 6.1-61 A(2) and 6.1-61 A(7) of the Code of Virginia.

Effective Date: December 16, 1977.

Obligations as endorser or guarantor of installment consumer paper are not subject to lending limits, provided all conditions and requirements of § 6.1-61-A(7) are met. For purposes of this Section, an unconditional repurchase agreement is considered to create a liability of the seller or discountor of installment consumer paper to the same degree as an endorsement without recourse or guarantee. A condition reasonably within the power of the bank to perform, such as repossession of a consumer product covered by a defaulted obligation, will not be considered to make conditional an otherwise unconditional agreement.

Certification pursuant to the foregoing section is necessary in all cases of paper purchased under endorsement, guarantee or repurchase agreement, if the obligation of the seller of the paper is to be excepted from the lending limit.

Section 6.1-61-A(2) can be applied only to obligations arising out of the discount of commercial or business paper. Installment consumer paper may not be sold or discounted without limit under the provisions of this exception.

Issued by the Commissioner of Financial Institutions December 16, 1977, as Circular 2-77.

Reference: §§ 6.1-61-A(2) and 6.1-61-A(7) of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0209. Right of Offset by Holders of Subordinated Bank Debt.**

Statutory Authority: §§ 6.1-61 and 6.1-78 of the Code of Virginia.

Effective Date: November 9, 1981.

A recent ruling by a United States District Court has allowed the holder of a subordinated note, issued by a bank which subsequently had failed, to offset against that note funds of the closed bank which the lending bank was holding in a correspondent account.

In the specific instance cited, the subordinated capital note contained the usual subordination language and stated that payments on the note were subject to the provisions of Section 18(i) of the FDI Act. However, the note agreement also contained a clause stating: "Nothing in this agreement shall be deemed any waiver or prohibition of Bank's right of Banker's lien or offset." This clause was deemed to supersede the subordination provisions and allow the lending bank to offset, or apply, the deposit funds held against the outstanding note of the failed bank.

It is the Bureau's position that subordinated debt instruments which contain language permitting the holder to offset funds on deposit against the obligation do not qualify as capital for purposes of § 6.1-61 and, further, may result in violation of § 6.1-78, et seq. of the Code.

If a subordinated debt instrument is held by a bank which does not hold a deposit account against which the obligation could be offset, care should be taken in establishing subsequent deposit relationship.

The Bureau's examiners have been instructed to cite the existence of subordinated debt with this characteristic held in conjunction with deposit accounts of the issuing bank as violations of law.

Issued by the Commissioner of Financial Institutions November 9, 1981, as Circular 3-81.

Reference: §§ 6.1-61 and 6.1-78 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0210. Appraisal of Real Estate Required.**

Statutory Authority: § 6.1-63 of the Code of Virginia.

Effective Date: July 17, 1979.

Section 6.1-63 of the Code, among other provisions, restricts the amount of a loan secured by a lien on real estate to a specific percentage of the appraised value of the real estate. While the statute sets no requirements for the date of an appraisal in relation to the date of the loan involved, it is reasonable to expect that the appraisal be current and that it support the value upon which the loan relies.

Accordingly, while arbitrary time limits within which appraisals must be made are not warranted, an appraisal must have been made within a reasonable time prior to the date of the loan and must be related specifically to the loan to be secured by the property, rather than to some other prior transaction. Please be guided accordingly.

Issued by the Commissioner of Financial Institutions July 17, 1979, as Circular 2-79.

Reference: § 6.1-63 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0211. Graduated-Payment Mortgage Loans.**

Statutory Authority: § 6.1-63 B of the Code of Virginia.

Effective Date: September 17, 1981; reissued November 2, 1987.

Section 6.1-63B of the Code of Virginia provides:

> The Commissioner of Financial Institutions may authorize, upon such terms and conditions deemed appropriate by him, investment in loans secured by real estate, providing for lesser payments during the early periods of maturity of such loans.

Prior amendments to the Code permit an adjustable interest rate on loans secured by liens against residential real estate (by removing the requirement that the rate of interest be stated in the note), and "negative amortization" such as may result from a "payment cap" (by permitting accrued interest to be added to principal and the accrual of interest on the total balance).

The Bureau has been asked to consider whether state banks in Virginia may make loans secured by first liens on real estate which provide for payments set at an artificially low level during some initial period, and which are also characterized by: (1) interest at a rate which may be adjusted periodically in accordance with changes in a given index, and (2) an agreement limiting the amount by which scheduled monthly payments on the loan may be altered at specified intervals (i.e., a payment cap).

Certain concerns about such payment-capped mortgages are clearly warranted, especially in view of the likelihood that a lowered initial payment level will result in substantial negative amortization and "balloon" payments. Nevertheless, the need to make mortgage funds available to borrowers in appropriate circumstances and the reality of market conditions make it necessary to authorize, pursuant to § 6.1-63B of the Code of Virginia, investment by state banks in mortgage loans which provide for lesser payments during the early periods of maturity of such loans, subject to the following terms and conditions:

1. Graduated-payment loans with a fixed rate of interest

The graduation period is limited to 10 years. During the graduation period the size and frequency of increase(s) in the payment are to be as provided in the loan contract.

2. Graduated-payment,* adjustable-rate loans

(a) Not later than 10 years from the loan closing, the level of payments must be raised to an amount sufficient to amortize the loan over its remaining term at the interest rate then applied to the loan.

(b) Thereafter, the periodic payment on such loans must be adjusted at least every five years so as to fully amortize the loan over its remaining term.

(c) In the event the final payment due on the loan is more than twice the amount of the last regularly scheduled payment, the borrower has the option to refinance such final payment on terms acceptable to the bank, provided that the combined term does not exceed 40 years and 2 months.

(d) Such loan agreements must allow pre-payment without penalty at any time.

(e) Prospective borrowers must be furnished full and clear disclosure on a timely basis.

3. Graduated-payment,* adjustable-rate loans with a payment cap

(a) The payment must be adjusted at least every five years.

(b) As of the date of the first payment change, the level of payments must be raised to an amount sufficient to amortize the loan over its remaining term at the interest rate then applied to the loan, subject however to such limitations on payment changes as may be agreed upon by the parties.

(c) No later than the final payment change date, payments must be adjusted - regardless of any contractual limitation on the amount of payment increase - so as to amortize the loan fully over its remaining term.

(d) In the event the final payment due on the loan is more than twice the amount of the last regularly scheduled payment, the borrower has the option to refinance such final payment on terms acceptable to the bank, provided that the combined term does not exceed 40 years and 2 months.

(e) Such loan agreements must allow pre-payment without penalty at any time.

(f) Prospective borrowers must be furnished full and clear disclosure on a timely basis, to include: (1) the monthly payment amount initially required to amortize the loan fully at the interest rate then indicated by the index; and (2) the difference (stated as a percentage) between the interest rate initially indicated by the index and the rate applied to principal which results in the initial level of monthly payments.

(g) Such loans are to be made in accordance with sound banking practices.

The foregoing terms and conditions establish minimum standards only, and should not be construed as preventing variation within their prescribed limits. This is effective until altered or revoked.

*The term "graduated-payment" here refers to an agreement setting the initial level of payments below the level which would be indicated by applying the index-derived rate to principal.

Reissued by the Commissioner of Financial Institutions, November 2, 1987. Original effective date: September 17, 1981, as Circular 2-81.

Reference: § 6.1-63B of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0212. Outside Auditor Access to Virginia Examination Reports.**

Statutory Authority: §§ 6.1-90 and 6.1-194.82 of the Code of Virginia.

Effective Date: December 19, 1990.

Section 931 of FIRREA requires an insured depository institution to furnish copies of examination reports to its outside auditors. The examination reports prepared by the Bureau of Financial Institutions remain the property of the Bureau and may be released only under certain specific conditions. The FIRREA requirement is not covered by the Code of Virginia. The Bureau will not interpose an objection to a copy of an examination report being sent to an institution's outside auditor, provided the institution receives a written pledge of confidentiality. Information from an examination report may be used by auditors only upon written authorization from this Bureau. The required pledge of confidentiality should also include an agreement by the CPA to return any reports, including all copies, to the institution upon completion of the audit.

Issued by the Commissioner of Financial Institutions December 19, 1990, as Circular 90-1.

Reference: §§ 6.1-90 and 6.1-194.82 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0213. Membership by FDIC-Insured Banks in a Federal Home Loan Bank.**

Statutory Authority: §§ 6.1-9 and 6.1-60.1 of the Code of Virginia.

Effective Date: January 23, 1991.

Current federal rules and policies provide, in general, that FDIC-insured banks are eligible for membership in a Federal Home Loan Bank. As a result of this eligibility, interest in the possibilities of such membership appears to be increasing among Virginia State-chartered banks.

Whether to seek membership in a Federal Home Loan Bank is a matter which must be determined by a bank's Board of Directors on its own absolute responsibility. Therefore, in the absence of either any authority or responsibility under the law to do so, the Bureau of Financial Institutions will neither approve nor disapprove such proposals.

However, as a closely involved and related matter, based upon the advice of counsel the Bureau has concluded that FDIC-insured Virginia State-chartered banks may become members of a Federal Home Loan Bank pursuant to Virginia Code § 6.1-9 and Section 704 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. The Bureau concludes also that Virginia State-chartered banks may comply with any requirement for Federal Home Loan Bank membership, including the purchase and ownership of Federal Home Loan Bank stock, notwithstanding the provision of Virginia Code § 6.1-60.1.

Issued by the Commissioner of Financial Institutions January 23, 1991, as Circular 91-1.

Reference: §§ 6.1-9 and 6.1-60.1 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0214. Responsibility of Directors for Legal Lending Limit Violations.**

Statutory Authority: § 6.1-61 of the Code of Virginia.

Effective Date: May 7, 1991.

The concluding paragraph of Virginia Code § 6.1-61 D provides:

> All loans made by a bank in excess of fifteen percent of its capital and surplus shall be approved by the board of directors or the executive committee of the bank by resolution recorded in the minute book.

Except in instances where a director records a negative vote on the approval of a loan creating a legal lending limit violation, the board, jointly and severally, may be held responsible for any loss the bank may suffer on any loan made to a borrower creating a violation of the bank's legal lending limit.

In some instances, lending limits reduced by operating losses may cause existing loans, which were legal when made, to exceed the current limit. Such loans will be reviewed on a case-by-case basis during examinations. Directors of a new institution should anticipate a reduced legal lending limit based on projected initial losses.

Issued by the Commissioner of Financial Institutions May 7, 1991.

Reference: § 6.1-61 D of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0301. Investment in Capital Stock of USL Savings Insititutions Insurance Group, Ltd.**

Statutory Authority: §§ 6.1-194.4 and 6.1-194.69(15) of the Code of Virginia.

Effective Date: February 12, 1987.

USL Savings Institutions Insurance Group, Ltd. (the "Company"), was formed for the primary purpose of owning and operating Savings Institutions Insurance Company (the "Subsidiary"), which expects to be licensed to operate as an insurance company under the provisions of the laws of Illinois and to begin operations by March 1, 1987. The Subsidiary proposes to provide reinsurance for certain directors and officers liability and blanket bond risks for institutions which hold shares in the Company. It is understood that the Subsidiary intends to enter into contractual arrangements with Virginia Surety Company, Inc. ("Virginia Surety"), pursuant to which the Subsidiary will reinsure portions of risks under directors and officers liability and blanket bond insurance policies issued by Virginia Surety.

Shares of common stock in the Company are offered to certain savings institutions which will thereupon become eligible to apply for the insurance coverage to be offered. The Bureau of Financial Institutions has been asked whether shares of stock issued by the Company may be purchased by Virginia savings institutions.

Section 6.1-194.69(15) of the Virginia Code authorizes state associations to invest in obligations, instruments or investments which are specifically approved by the Commissioner of Financial Institutions. Section 6.1-194.4 of the Code grants savings institutions the power to "...become a member of, deal with, maintain reserves or deposits with, or make reasonable payments...to any organization...to the extent that such organization...assists in furthering or facilitating the institution's purposes, powers, services or community responsibilities..."

There is ample evidence that directors and officers liability and blanket bond insurance coverage has become difficult and expensive for savings institutions to obtain. The program to be offered by the Company and its Subsidiary appears to be directed toward making such insurance coverage more readily available. It is clear that the absence of reasonably adequate insurance coverage has a potentially detrimental effect upon a savings institution's purposes and operation and its ability to provide services and meet its community responsibilities. The insurance program in question will tend to reduce the risks to which an institution might other wise be expose as a result of insufficient insurance coverage.

In view of these circumstances, shares of common stock in USL Savings Institutions Insurance Group, Ltd., are hereby approved for investment by Virginia savings institutions in accordance with the schedule of maximum investment requirements, based upon total asset size, incorporated in the January 7, 1987 Prospectus issued by the Company. This approval will continue so long as the Company and its Subsidiary are engaged in the business of reinsuring directors and officers liability and blanket bond risks relating to savings institutions.

Each Virginia savings institution which invests in these shares is required to inform the Bureau of Financial Institutions promptly, in writing, of the number of shares purchased, the price paid and, upon issuance, the kinds and amounts of insurance coverage obtained.

Issued by the Commissioner of Financial Institutions February 12, 1987, as Circular 1-87.

Reference: § 6.1-194.4 and 6.1-194.69(15) of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0302. Application by an Out-of-State Mutual Savings Institutio to Transact a Savings Institution Business in Virginia.**

Statutory Authority: § 6.1-194.41 of the Code of Virginia.

Effective Date: December 7, 1990.

The application is designed to elicit the minimum information needed by the State Corporation Commission of Virginia to determine whether an out-of-state mutual savings institution ought to be given permission to transact a savings institution business in Virginia pursuant to the provisions of Article 5, Chapter 3.01, Title 6.1 of the Virginia Code. Additional information may be required in some cases, and the right to request such information is hereby reserved. The form is not intended to limit the presentation of the proposal, and the applicant may submit any additional information it considers pertinent. When space allowed is insufficient, a separate page should be used. Additional information and documents must be submitted on 8-1/2" X 11" paper.

A check for $6,500 payable to the Treasurer of Virginia must accompany the application. Copies of the following documents, as well as the application, must be filed in triplicate:

1. Related applications and documents filed or to be filed with federal and other state agencies.

2. The applicant's articles of incorporation certified as true by the public officer having custody of t

original. A certified copy of the applicant's by-laws.

3. Evidence that the applicant's accounts are insured by the Federal Deposit Insurance Corporation.

4. Financial statements of the applicant for the last three fiscal years. Furnish audited statements, if available.

5. Evidence that the applicant meets the net worth and reserve requirements of federal agencies and of the state(s) where it operates.

6. A statement by the applicant's directors that they have read the booklet prepared by the Bureau of Financial Institutions concerning their responsibilities as directors of a savings institution.

7. A personal financial statement (on forms provided by the Bureau of Financial Institutions) of each director and principal officer of the applicant. (Only one statement, with an original signature, should be submitted. Personal financial statements are considered confidential.)

8. An executed lease or letter of intent from the owner(s) of property to be leased, or an executed purchase agreement or other evidence indicating that the proposed site will become available to the applicant.

9. Copies of the law of the state where the applicant has its principal place of business, which law authorizes interstate branching.

10. An opinion indicating that the laws and regulations of the state in which the applicant has its principal place of business permit a Virginia savings institution to transact savings institution business in that state, specifying any conditions, restrictions, requirements, or other limitations that would apply. Also indicate any differences in the laws of that state with respect to branching by state savings institutions and out-of-state savings institutions.

11. A statement of the basis of applicant's belief that it is "a regional mutual savings institution" as defined in the Virginia Code. For this purpose, show the corporate structure of the applicant, listing all affiliates and subsidiaries with their addresses. Indicate which entities accept deposits and the amount of deposits held by each, per state, at the end of the last calendar year.

12. A scaled map showing the proposed trade area and the locations of financial institutions having trade areas which overlap the applicant's proposed trade area.

13. A statement of facts or a study which demonstrates that the proposed branch will be in the public interest.

Some of the requested documents and information may be contained in the federal or other state applications. The applicant may elect to refer to such applications or documents by document and page number.

All documents filed, with the exception of personal financial statements, will become part of the public record unless the applicant makes a written request for confidential treatment of some particular document or information. Final determination as to the confidentiality of such information will rest with the Commissioner of Financial Institutions.

Inquiries concerning the preparation and filing of the notice should be directed to the Bureau of Financial Institutions, Post Office Box 2AE, Richmond, Virginia 23205. [Telephone: (804) 786-4690].

Revised: December 7, 1990

Reference: § 6.1-194.41 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0303. Investment by Virginia Savings Institutions in Shares of Open-End Management Investment Companies.EB**

Statutory Authority: § 6.1-194.69(14) of the Code of Virginia.

Effective Date: August 12, 1987.

Section 6.1-194.69(14) of the Code of Virginia provides, in part, that the assets of a State Association may be invested in shares in open-end management investment companies. In consideration of the potential risk characteristics which such shares may exhibit, careful attention to reasonable standards in their acquisition is warranted. During examinations, investment company shares will be reviewed to determine whether the following conditions are met:

1. The investment portfolio of the investment company must consist solely and exclusively of instruments and obligations in which the Association could invest directly for its own portfolio.

2. Purchases of such shares are limited to the same extent that direct investment in any particular asset in the investment company's portfolio would be limited by applicable law or regulation.

3. The Association as shareholder must have a legally enforceable, undivided interest in the underlying assets of the investment company, which interest is proportionate to the associations ownership in the company.

4. The Association as shareholder must be shielded absolutely from direct or indirect liability for any act or obligation of the investment company.

5. The investment company must be registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the Securities Act of 1933.

6. Where the investment company engages in such activities as transactions in options, futures, puts or calls, etc., shares purchased by the Association must be treated as if the Association were engaging in such transactions directly and such transactions must be reported and accounted for accordingly.

7. The Association's board of directors must have established and formally approved an investment policy that specifically provides for investment in investment companies, and that requires specific prior approval by the board of each initial investment in the shares of any company. Thereafter, each additional investment in the shares of that investment company must be reported to the board and reflected in official board minutes. It is the board's sole responsibility to determine, with the advice of counsel if necessary, whether the shares of any particular investment company meet all established criteria, legal and otherwise, before authorizing investment in those shares. The Bureau will not provide a prior determination of the eligibility of the shares of any specific company for investment.

8. Prior to any investment in investment companies, adequately detailed procedures, standards and controls for managing such investments must be established.

9. Not less frequently than quarterly, a detailed review of all holdings of investment companies' shares must be conducted by the board, and the board must further review the extent to which the board's policies and procedures are effective.

The board of directors of an association must specifically consider and make adequate provision for the effect of investment in investment company shares upon the association's present and future liquidity needs. The marketability of such shares and their acceptability as security for public deposits and for other purposes requires the full understanding and careful attention of the board. Careful attention to sales fees and accounting for such fees when shares are bought and sold is also necessary.

It is emphasized strongly that the decision to invest in shares of one or more investment companies is the absolute and sole responsibility of each association's board of directors. Considerations of safety and soundness of an institution must take precedence over perceived opportunities for income.

Failure to meet the foregoing conditions may result in classification of the investment in whole or in part, as substandard, doubtful or loss and may be deemed to be an unsafe and unsound practice.

Issued by the Commissioner of Financial Institutions August 12, 1987, as Circular 2-87.

Reference: § 6.1-194.69(14) of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0304. Application by a Regional Savings Institution or Savings Institution Holding Company to Acquire a Virginia Savings Institution.**

Statutory Authority: §§ 6.1-194.96, 6.1-194.97 and 6.1-194.98 of the Code of Virginia.

Effective Date: October 31, 1990.

The application is designed to elicit the minimum information needed by the State Corporation Commission of Virginia to determine whether an out-of-state savings institution holding company or out-of-state savings institution ought to be given permission to acquire a Virginia savings institution holding company or Virginia savings institution pursuant to the provisions of Title 6.1, Chapter 3.01, Article 11 of the Code of Virginia. Specifically, the application must be filed by: (a) A regional savings institution holding company seeking to acquire more than 25 percent of the voting stock of a Virginia savings institution holding company or Virginia savings institution §§ 6.1-194.97), or (b) A regional savings institution seeking to acquire more than 25 percent of the voting stock of a Virginia savings institution holding company or Virginia savings institution §§ 6.1-194.98).

Additional information may be required in some cases, and the right to request such information is hereby reserved. The form is not intended to limit the presentation of the proposal and the applicant may submit any information it considers pertinent. When space allowed is insufficient, a separate page should be used. Additional information and documents must be submitted on 8-1/2" X 11" paper.

A check for $10,000 payable to the Treasurer of Virginia must accompany the application. Copies of the following documents, as well as the application, must be filed in triplicate:

1. Related applications and documents filed or to be filed with federal and other state agencies.

2. Proxy statement(s), if available.

3. The executed acquisition agreement or executed merger plan. If not available, a description of the proposed transaction.

4. The applicant's articles of incorporation certified as true by the public officer having custody of the original. A certified copy of the applicant's bylaws.

5. Most recent reports filed with the Securities and Exchange Commission for the applicant and the institution to be acquired. Copies of annual financial statements for the last three years for both the applicant and its parent, if any, and for the institution to be acquired and its parent, if any. Furnish audited statements, if available.

6. Pro-forma balance sheet of the resultant institution, using the most recent, quarterly balance sheets of the applicant and of the institution to be acquired.

7. Deposit and income statement projections of the resultant institution for the first, second and third twelve-month periods following the proposed acquisition.

8. A resume of the chief executive officer of the resultant institution.

9. A personal financial report (on forms provided by the Bureau of Financial Institutions) of each director and principal officer of the applicant and each proposed new director and principal officer of the resultant institution. (Only one report, with an original signature, should be submitted. Personal financial reports are considered confidential.)

10. Evidence that all institutions to be acquired, directly or indirectly, have been in existence and continuously operating for more than two years, if applicable.

11. Copies of the law of the state where the applicant has its principal place of business, which law authorizes interstate acquisitions or mergers.

12. Evidence that each institution's deposit accounts are insured by the Federal Deposit Insurance Corporation, other agency, or insurer. (Provide details).

13. An opinion that the laws of the state in which the applicant has its principal place of business: (a) permit Virginia savings institution holding companies to acquire savings institutions and savings institution holding companies in that state, and (b) would permit the applicant to be acquired by the Virginia savings institution holding company or savings institution sought to be acquired, specifying any conditions, restrictions, require ments or other limitations that would apply for such acquisition. Also indicate any restrictions or limitations in such state law that would apply to an interstate acquisition, but not to an intrastate acquisition.

14. A statement of the basis for applicant's belief that it is a "regional savings institution holding company" or "regional savings institution" as defined in § 6.1-194.96 of the Virginia Code. For this purpose, show the corporate structure of the applicant, listing all parent companies, affiliates and subsidiaries, with their addresses. Indicate which entities accept deposits and the amount of deposits held by each, per state, at the end of the last calendar year. If the applicant claims any exception to the 80 percent deposit requirement, please specify.

15. A statement of facts or a study which demonstrates that the proposed acquisition will be in the public interest.

Some of the requested documents and information may be contained in the federal or other state applications. The applicant may refer to such application(s) and document(s) by document and page number.

All documents filed, with the exception of personal financial reports, will become part of the public record unless the applicant makes a written request for confidential treatment of some particular document or information. Final determination as to the confidentiality of such information will rest with the Virginia Commissioner of Financial Institutions.

Once an application and supporting documents are received by the Bureau, they will be reviewed for completeness. When it is determined that a substantially complete application has been received, the Bureau will notify the applicant and the ninety-day investigation period will commence.

Inquiries concerning the preparation and filing of the application should be directed to the Bureau of Financial Institutions, Post Office Box 2AE, Richmond, Virginia 23205. [Telephone: (804) 786-4690].

Revised: October 31, 1990

Reference: §§ 6.1-194.96, 6.1-194.97 and 6.1-194.98 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0305. Notice of Intent to Acquire a Savings Institution Outside Virginia.**

Statutory Authority: § 6.1-194.105 of the Code of Virginia.

Effective Date: October 31, 1990.

The notice is to be filed when (a) a Virginia savings institution or a Virginia savings institution holding company, or (b) a regional savings institution or a regional savings institution holding company that controls a Virginia savings institution seeks to acquire a savings institution outside Virginia by any of the means allowed by Article 11 of Chapter 3.01 of the Virginia Code. The Virginia State

Corporation Commission is directed to disapprove such a proposed acquisition if, within a 30-day period (which may be extended to 45 days) it determines that the acquisition could affect detrimentally the safety or soundness of a Virginia savings institution.

The form is designed to elicit the minimum information needed by the Commission to make such a determination. Additional information may be required in some cases, and the right to request such information is hereby reserved. The form is not intended to limit the presentation of the proposals, and the applicant may submit any additional information it considers pertinent. Additional information and documents must be submitted on 8-1/2" X 11" paper.

A check for $7,000 payable to the Treasurer of Virginia must accompany the notice. Copies of the following documents, as well as the notice, must be filed in triplicate:

1. Related applications and documents filed or to be filed with federal and other state agencies.

2. Proxy statement(s), if available.

3. The executed acquisition or merger agreement. If not available, a description of the proposed transaction.

4. Most recent reports filed with the Securities and Exchange Commission for the applicant and the institution to be acquired. Copies of annual financial statements for the last three years for both the applicant and its parent, if any, and of the savings institution to be acquired and its parent, if any. Furnish audited statements, if available.

All documents filed will become part of the public record unless the applicant makes a written request for confidential treatment of some particular document or information. Final determination as to the confidentiality of such information will rest with the Virginia Commissioner of Financial Institutions.

Inquiries concerning the preparation and filing of the notice should be directed to the Bureau of Financial Institutions, Post Office Box 2AE, Richmond, Virginia 23205 [Telephone: (804) 786-4690].

Revised: October 31, 1990

Reference: § 6.1-194.105 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0401. Investment of Funds by State Chartered Credit Unions.**

Statutory Authority: § 6.1-225.57 of the Code of Virginia.

Effective Date: January 4, 1988; reissued December 1[illegible] 1990.

I. OBLIGATIONS GUARANTEED AS TO PRINCIPAL AND INTEREST BY THE U. S. GOVERNMENT

Section 6.1-225.57 of the Code of Virginia provides, in part, that the funds of a credit union may be invested in obligations of the United States. It is noted that State chartered banks and savings institutions may invest in such securities without limit.

Finding no reasonable basis for prohibiting credit unions from investing in such obligations, approval is hereby granted for the investment of funds by State chartered credit unions in such obligations as State chartered banks and savings institutions are permitted to invest by Virginia Code Sections 6.1-61(5) and 6.1-194.69.5, respectively. Provided, however, that such investments may be made only in accordance with a written investment policy adopted and enforced by a credit union's Board of Directors.

II. SHARES OF OPEN-END MANAGEMENT INVESTMENT COMPANIES (MUTUAL FUNDS) AND GOVERNMENT SECURITIES TRUST

Section 6.1-225.57 of the Code of Virginia allows the funds of a credit union to be invested in "...such stock, securities, obligations or other investments as may be approved from time to time by the Commission... Recognizing that State chartered banks and savings institutions are permitted by law to invest in shares of investment companies, similar investment authority for credit unions may be useful and is found to be warranted. Accordingly, pursuant to Virginia Code § 6.1-225.57 approval is hereby granted for investment of funds by credit unions in shares of investment management companies, subject the following conditions:

1. The investment portfolio of the investment company must be made up solely and exclusively of obligations of, or fully guaranteed as to principal and interest by, the U. S. Government, or obligations of the Commonwealth of Virginia or any political subdivision or agency thereof;

2. Investment in such shares is limited, in the aggregate, to not more than ten percent of the credit union's assets;

3. The credit union, as a shareholder, must be legally enforceable, undivided interest in the underlying assets of the investment company, which interest is proportionate to the credit union's share of ownership in the company;

4. The credit union, as a shareholder, must be shielded absolutely from direct or indirect liability for any act or obligation of the investment company;

5. The investment company must be registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the Securities Act of 1933;

6. Where the investment company engages in such activities as transactions in options, futures, puts or calls, etc., shares purchased by the credit union must be treated as if it were engaging in such transactions directly and must be reported and accounted for accordingly;

7. The credit union's Board of Directors must have established and formally approved an investment policy which provides specifically for investment in shares of investment companies and which requires specific prior approval by the Board for each initial investment in the shares of any company. It is the absolute responsibility of the credit union's Board of Directors to determine, with Counsel's advice if necessary, whether the shares of any specific investment company meet all established criteria, legal and otherwise, before authorizing investment in those shares. The Bureau of Financial Institutions will not provide a prior determination of the eligibility of the shares of any specific company for investment;

8. Prior to any investment in the shares of an investment company, adequately detailed procedures, standards and controls for managing such investments must be established;

9. Not less frequently than quarterly, a detailed review of all holdings of investment company shares must be conducted by the credit union's Board of Directors, including an evaluation of the extent to which policies and procedures are effective and adequately protective of the credit union's financial condition.

Each credit union's Board of Directors must specifically consider and make adequate provision for the effect of investment in the shares of investment companies upon the credit union's present and future liquidity needs. Careful attention is necessary to the marketability of such shares as well as to sales fees and proper accounting for such fees when shares are bought and sold.

It is strongly emphasized that the decision to invest in shares of one or more investment companies is the absolute responsibility of the credit union's Board of Directors. Considerations of safety and soundness must not be subordinated to anticipated opportunities for income and growth.

Failure to meet the foregoing conditions may result in classification of the investment as substandard, doubtful or loss and may be deemed to be a violation of § 6.1-225.57 of the Code.

This approval is granted under authority delegated by the State Corporation Commission.

Reissued by the Commissioner of Financial Institutions December 15, 1990. Original effective date January 4, 1988, as Credit Union Circular 1-88.

Reference: § 6.1-225.57 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0601. Sales of Automobile Club Memberships .**

Statutory Authority: § 6.1-267 of the Code of Virginia.

Effective Date: November 21, 1990.

As a result of a recent inquiry, the Bureau has reviewed its authorizations, pursuant to Virginia Code § 6.1-267, for various licensees to make loans under the Consumer Finance Act in offices where the business of selling automobile club memberships is also conducted.

The purpose of § 6.1-267 is different from that of Chapter 3.1, "Automobile Clubs", of Title 13.1 of the Code, which is administered by the Commission's Bureau of Insurance. So, licensing of an "automobile club" for sale in Virginia pursuant to Chapter 3.1 does not automatically mean that the club may be sold in consumer finance offices. An application to this Bureau is also necessary.

In cases where a consumer finance company has applied to sell automobile club memberships, and has filed with the application a particular program of motor vehicle and travel-related goods and services, i.e., a specific "automobile club", the approval is for the sale of membership in that particular club. In the event that a company desires to change an approved plan or to sell another plan, an additional application will be required before such a change is made, unless the company obtains a determination from this Bureau to the effect that the new (or changed) plan is not substantially different from the program previously approved.

The Bureau of Financial Institutions holds that the services offered by virtue of membership in an automobile club must relate to motor travel or the operation, use, or maintenance of a motor vehicle.

Issued by the Commissioner of Financial Institutions November 21, 1990, as Consumer Finance Circular 90-1. (In fact, the ruling was the second issued in 1990 and should have been designated "90-2".)

Reference: § 6.1-267 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0602. Fees Allowed: Recovery of Certain Costs and Fees and Sale of Credit Property Insurance.**

Statutory Authority: §§ 6.1-277(c) and 6.1-278 of the Code of Virginia.

Effective Date: April 21, 1987.

Virginia Code §§ 6.1-277(c) and 6.1-278 allow: (1) a 2% administrative fee, (2) recovery of certain costs and fees, and (3) sale of credit property insurance. It is the position of the Bureau of Financial Institutions that:

1.

(a) A 2% administrative fee may be imposed on new loans made by licensees on or after July 1, 1981.

(b) A 2% administrative fee may be imposed on loans refinanced on or after July 1, 1981 only if the loan to be refinanced has been outstanding for twelve months or more.

(c) Where part of the principal amount of a loan made on or after July 1, 1981 is applied to the unpaid principal balance of a prior loan, the 2% fee may be charged on that portion of the later loan in excess of the prior loan balance, which is being refinanced. The fee may also be charged on that portion of the later loan which represents the unpaid balance of the prior loan; if the prior loan was outstanding for twelve months or more. If the prior loan was outstanding less than twelve months, the fee may not be charged on the balance refinanced.

(d) The administrative fee is a part of the finance charge; it is not part of the principal amount of the loan nor of the amount financed. It may be imposed on the "amount financed", including the principal amount of the loan, insurance premiums, recordation costs, etc., but not on pre-paid finance charges. It may be treated as a pre-paid finance charge or collected as part of the installment payments on the loan. If paid in installments, any portion which remains outstanding upon acceleration or pre-payment cannot be collected.

(e) Full disclosure of the fee as a part of the finance charge under Regulation Z is required. The annual percentage rate (APR) will be affected accordingly. Standardized loan charts may be used for reference.

(f) Interest may not be charged on the administration fee, and the fee may not be applied to any interest nor to any other amount representing income to the lender.

2. Pursuant to § 6.1-278 as amended, licensees may collect from the borrower the actual cost incurred for recording documents to secure a loan. The lender's records must show that the cost was incurred, that the charge was made to the borrower, and that it was disclosed to the borrower. A receipt showing that the recording fee was paid must be retained by the lender. Recording fees which may be recovered include charges paid by the lender for a continuation statement. Recording fees do not include fees paid to a court clerk for releasing a lien or security agreement; fees for releases may not be recovered.

3. Section 6.1-278 as amended allows the licensee to recover insurance premiums actually paid out to any insurance company or agent, duly authorized to do business in Virginia, for insurance purchased for the protection and benefit of the borrower in connection with any loan. It is the Bureau's position that this authority allows licensees to withhold or collect insurance premiums to be paid to insurance agents or companies, but it does not permit the sale of such insurance by the licensee nor does it allow such business to be conducted in the same office with the licensed lender. If the licensee desires to sell such insurance or to make loans in the same office where such insurance is sold, authority to do so must be sought from the State Corporation Commission under the provisions of § 6.1-267.

Issued by the Commissioner of Financial Institutions August 18, 1981, as Consumer Finance Circular 1-81.

1987 Amendment - Administrative Fee Allowed

1. Section 6.1-277(c) of the Code, permits consumer finance licensees to charge and collect a two percent (2%) administrative fee on loans made after July 1, 1981 and, after that date, on "...loans refinanced no earlier than twelve months from the date the loan was made or refinanced". The Bureau's position with respect to the effect of that amendment was outlined in a memorandum dated August 18, 1981 to Consumer Finance Examiners for their use in reviewing transactions during examinations.

2. Some misconstruction of the language in that Memorandum appears to have occurred in connection with the initial institution of the 2% Administrative Fee by a number of Licensees in 1986.

3. While the August 18, 1981 MEMORANDUM to Consumer Finance Examiners stated, in part, "...If the prior loan was outstanding less than twelve months, the fee may not be charged on the balance refinanced...", that limiting instruction was intended to apply only to loans upon which the 2% fee had been imposed previously. It is clear that the law permits initial imposition of the fee at any time during the life of the loan. Once imposed, however, the fee cannot be charged in connection with any subsequent refinancing until twelve months have elapsed from the date of the previous charge.

Issued by the Commissioner of Financial Institutions Apr

1, 1987, as Consumer Finance Circular 2-87.

Reference: §§ 6.1-277(c) and 6.1-278 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0701. Judgment Rate of Interest; Excessive Deferments.**

Statutory Authority: § 6..1-330.54 of the Code of Virginia.

Effective Date: December 9, 1983; amended July 1, 1991.

1. Judgments

Effective July 1, 1991, Section 6.1-330.54 of the Code of Virginia provides that the interest rate on an obligation upon which judgment has been obtained shall be an annual rate of ten percent. A money judgment entered in an action arising from a contract shall carry interest at the rate lawfully charged on such contract, or at ten percent annually whichever is higher.

It is the position of the Bureau that interest may be charged only on the amount for which judgment is granted and that no other amount may be added, such as residual unearned interest, not included in the judgment. This prohibition applies to both direct loans and installment sales contracts purchased by licensees. Examiners will cite instances of duplication of interest charges on judgments as violations of law.

2. Deferred Payment

An excessive number of deferments results in gross distortion of the original terms of an obligation, both as to the total charges collected and as to the number of months over which the contract eventually extends. This practice will be reviewed closely during examinations. Where deferments are excessive (more than four per year on a particular loan) documentation of the reasons therefor will be sought. Any unreasonable practice will be noted in examination reports.

Issued by the Commissioner of Financial Institutions December 9, 1983. The current ruling has been revised to reflect a 1991 law change in the judgment rate of interest.

Reference: § 6.1-330.54 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0702. Charges on Subordinate Mortgage Loans by Certain Lenders.**

Statutory Authority: § 6.1-330.71 of the Code of Virginia.

Effective Date: April 6, 1990.

Virginia Code § 6.1-330.71 allows certain lenders making subordinate mortgage loans on which interest is charged on the basis of a simple annual rate to also charge a 2% "loan fee" and a 3% "additional charge" (referred to, collectively, as "points").

1. Such lenders may charge interest on a loan amount which includes points only if points charged are financed.

2. Points charged on such loans may not exceed 5% of a loan amount which does not include points.

3. Overcharges resulting from violation of this Ruling must be reimbursed to the borrower.

Issued by the Commissioner of Financial Institutions April 6, 1990, as Consumer Finance Circular 90-1.

Reference: § 6.1-330.71 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 0703. Rebate of Unearned Installment Loan Interest by Banks Rule of 78.**

Statutory Authority: §§ 6.1-330.84, 6.1-330.85, 6.1-330.86 and 6.1-330.89 of the Code of Virginia.

Effective Date: January 7, 1980; reissued July 1, 1990.

The following represents the Bureau's interpretation of Virginia Code § 6.1-330.86, as it relates to banks, and the effect of the term "scheduled payment date" in the last paragraph of that section. This is an administrative interpretation only, made in response to questions, and may not be considered binding by a court of law.

1.

(a) Section 6.1-330.85 relates to rebates of unearned interest on installment loans secured by subordinate mortgages, but specifically exempts certain types of institutions, including banks, from its terms.

(b) Section 6.1-330.89 requires lenders to rebate unearned interest, calculated according to § 6.1-330.86, when payment of the balance of a defaulted installment loan is accelerated.

(c) Section 6.1-330.86 contains a formula for calculating rebates of unearned installment loan interest but does not say when it is to be used. I conclude, therefore, that banks are not required by law to use the definition in § 6.1-330.86, except upon acceleration of a defaulted debt.

2. Section 6.1-330.86 could govern the rights of parties under a bank's installment loan contract, if the contract recited the terms of the section or incorporated them by reference. Further, a court or

other authority might find, based on evidence, that the parties intended to be bound by all terms of the section.

3. Whenever § 6.1-330.84 is applicable, the Bureau will interpret the term "scheduled payment dates" in the final paragraph as monthly anniversary dates, rather than literally. This is consistent with what is seen as mere legislative endorsement of the practice of "rounding off" any part of a month to a whole month, so as not to require calculation of odd days interest. The use of "anniversary dates" rather than literal "scheduled" payment dates is apparently now the prevalent practice among banks and will not be criticized by the Bureau so long as it is applied consistently by a bank, without resort to literal "scheduled" payment dates when doing so would result in a smaller rebate.

Reissued by the Commissioner of Financial Institutions July 1, 1990. Original effective date: January 7, 1980, as Circular 1-80.

Reference: §§ 6.1-330.84; 6.1-330.85, 6.1-330.86 and 6.1-330.89 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 1301. Application for Permission to Acquire Voting Shares of a Virginia Financial Institution.**

Statutory Authority: § 6.1-383.1 of the Code of Virginia.

Effective Date: October 31, 1990.

The application must be filed pursuant to Title 6.1, Chapter 13 of the Code of Virginia. Generally it must be filed by: (a) any company which seeks to acquire control, directly or indirectly, of a Virginia financial institution or a Virginia financial institution holding company, and (b) any Virginia financial institution holding company seeking to acquire more than 5 percent of any Virginia financial institution or of any Virginia financial institution holding company. Additional information and documents must be submitted on 8-1/2" X 11" paper.

The application and all supporting documents should be submitted in duplicate and be accompanied by the following:

1. A check for $7,000, payable to the Treasurer of Virginia.

2. Related applications and documents filed or to be filed with federal agencies.

3. A proxy statement, if available.

4. A personal financial report (on forms provided by the Bureau of Financial Institutions) of each proposed new director and officer of the Virginia financial institution or Virginia financial institution holding company to be acquired. (Only one statement with original signature should be submitted. The financial reports are considered confidential.)

5. Financial statements for the last three years of the applicant and of the financial institution or holding company to be acquired. Furnish audited statements, if available.

6. A statement giving details of the nature and scope of the proposed acquisition.

7. An executed consent to service of process through service of process on the Secretary of the Commonwealth. This item does not apply to an applicant which is a Virginia Corporation or a foreign corporation which has been issued a certificate qualifying it to do business in Virginia.

All documents filed, with the exception of personal financial reports, will become part of the public record unless the applicant makes a written request for confidential treatment of some particular document or information. The final determination as to the confidentiality of such information will rest with the Commissioner of Financial Institutions.

Once the application and supporting documents are received by the Bureau, they will be reviewed for completeness. When it is determined that a substantially complete application has been received, the Bureau will notify the applicant and the sixty-day investigation period will commence.

Inquiries concerning the preparation and filing of the application should be directed to the Bureau of Financial Institutions, Post Office Box 2AE, Richmond, Virginia 23205. [Telephone: (804) 786-4690]

Revised: October 31, 1990.

Reference: § 6.1-383.1 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 1501. Application to Acquire a Virginia Bank Holding Company of Virginia Bank.**

Statutory Authority: § 6.1-399 of the Code of Virginia.

Effective Date: October 31, 1990.

The application is designed to elicit the minimum information needed by the State Corporation Commission of Virginia to determine whether an out-of-state bank holding company ought to be given permission to acquire a Virginia bank holding company or Virginia bank pursuant to the provisions of Title 6.1, Chapter 15 of t

ode of Virginia. Additional information may be required in some cases, and the right to request such information is hereby reserved. The form is not intended to limit the presentation of the proposal, and the applicant may submit any information it considers pertinent. When space allowed is insufficient, a separate page should be used. Additional information and documents must be submitted on 8-1/2" X 11" paper.

A check for $10,000 payable to the Treasurer of Virginia must accompany the application. Copies of the following documents, as well as the application, must be filed in triplicate:

1. Related applications and documents filed or to be filed with federal and other state agencies.

2. Proxy statement(s), if available.

3. The executed acquisition agreement or executed merger plan. If not available, a description of the proposed transaction.

4. The applicant's articles of incorporation certified as true by the public officer having custody of the original. A certified copy of the applicant's bylaws.

5. Most recent reports filed with the Securities and Exchange Commission for the applicant and the institution to be acquired. Copies of annual financial statements for the last three years for both the applicant and its parent, if any, and for the institution to be acquired and its parent, if any. Furnish audited statements, if available.

6. Pro-forma balance sheet of the resultant institution, using the most recent quarterly balance sheets of the applicant and of the institution to be acquired.

7. Deposit and income statement projections of the resultant institution for the first, second, and third twelve-month periods following the proposed acquisition.

8. A resume of the chief executive officer of the resultant institution.

9. A personal financial report (on forms provided by the Bureau of Financial Institutions) of each director and principal officer of the applicant and each proposed new director and principal officer of the resultant institution. (Only one report, with an original signature, should be submitted. Personal financial reports are considered confidential.)

10. Evidence that all banks to be acquired, directly or indirectly, have been in existence and continuously operating for more than two years, if applicable.

11. Copies of the law of the state where the applicant has its principal place of business, which law authorizes interstate bank acquisitions or mergers.

12. An opinion that the laws of the state in which the applicant has its principal place of business: (a) permit Virginia bank holding companies to acquire banks and bank holding companies in that state, and (b) would permit the applicant to be acquired by a Virginia bank holding company or a Virginia bank, specifying any conditions, restrictions, requirements or other limitations that would apply for such acquisition. Indicate any restrictions or limitations in such state law that would apply to an interstate acquisition but not to an intrastate acquisition.

13. A statement of the basis for applicant's belief that it is a "regional bank holding company" as defined in § 6.1-398 of the Virginia Code. For this purpose show the corporate structure of the applicant, listing all parent companies, affiliates and subsidiaries, with their addresses. Indicate which entities accept deposits and the amount of deposits held by each, per state, at the end of the last calendar year. If the applicant claims any exception to the 80 percent deposit requirement, please specify.

14. A statement of facts or a study which demonstrates that the proposed acquisition will be in the public interest.

Some of the requested documents and information may be contained in federal or other state applications. The applicant may refer to such application(s) and document(s) by document and page number.

All documents filed, with the exception of personal financial statements, will become part of the public record unless the applicant makes a written request for confidential treatment of some particular document or information. Final determination as to the confidentiality of such information will rest with the Virginia Commissioner of Financial Institutions.

Once an application and supporting documents are received by the Bureau, they will be reviewed for completeness. When it is determined that a substantially complete application has been received, the Bureau will notify the applicant and the ninety-day investigation period will commence.

Inquiries concerning the preparation and filing of the application should be directed to the Bureau of Financial Institutions, Post Office Box 2AE, Richmond, Virginia 23205. [Telephone: (804) 786-4690].

Revised: October 31, 1990.

Reference: § 6.1-399 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 1502. Notice of**

Intent to Acquire a Bank Outside Virginia.

Statutory Authority: § 6.1-406 of the Code of Virginia.

Effective Date: October 31, 1990.

The notice is to be filed when either (a) a Virginia bank holding company, or (b) a regional bank holding company that controls a Virginia bank seeks to acquire a bank outside Virginia by any of the means allowed by § 6.1-398 of the Virginia Code. The Virginia State Corporation Commission is directed to disapprove such proposed acquisition if, within a 30-day period (which may be extended to 45 days), it determines that the acquisition could affect detrimentally the safety or soundness of a Virginia bank.

The form is designed to elicit the minimum information needed by the Commission to make such a determination. Additional information may be required in some cases, and the right to request such information is hereby reserved. The form is not intended to limit the presentation of the proposals, and the applicant may submit any additional information it considers pertinent. Additional information and documents must be submitted on 8-1/2" X 11" paper.

A check for $7,000 payable to the Treasurer of Virginia must accompany the notice. Copies of the following documents, as well as the notice, must be filed in triplicate:

1. Related applications and documents filed or to be filed with federal and other state agencies.

2. Proxy statement(s), if available.

3. The executed acquisition or merger agreement. If not available, a description of the proposed transaction.

4. Most recent reports filed with the Securities and Exchange Commission for the applicant and the institution to be acquired. Copies of annual financial statements for the last three years for both the applicant and its parent, if any, and of the bank to be acquired and its parent, if any. Furnish audited statements, if available.

All documents filed will become part of the public record unless the applicant makes a written request for confidential treatment of some particular document or information. Final determination as to the confidentiality of such information will rest with the Virginia Commissioner of Financial Institutions.

Inquiries concerning the preparation and filing of the notice should be directed to the Bureau of Financial Institutions, Post Office Box 2AE, Richmond, Virginia 23205 [Telephone: (804) 786-4690].

Revised: October 31, 1990.

Reference: § 6.1-406 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 1601. Mortgage Brokers as Named Payee on Mortgage Loan Notes.**

Statutory Authority: § 6.1-409 of the Code of Virginia.

Effective Date: March 15, 1990; reissued February 28, 1991.

Section 6.1-409 of the Code of Virginia defines various terms used in the Virginia Mortgage Lender and Broker Act (the Act), including the terms "mortgage lender" and "mortgage broker". The language used to define these two terms is intended to describe the separate functions performed in either line of business in connection with mortgage loan transactions. The distinction between these functions is reinforced by the prohibition, under § 6.1-422(B)(3), against receipt of compensation for brokering a mortgage loan by the person who made the same loan.

It is the position of the Bureau of Financial Institutions that the payee named in a mortgage loan note is presumed to be the mortgage lender in that transaction. Otherwise, there would appear to be no legal consideration for a borrower's promise to repay a third party who ha made no loan to the borrower. The Bureau is informe however, that some mortgage lenders require mortgag brokers to "close mortgage loans in their (the mortgage brokers') name", with the result that mortgage brokers are named as payee on mortgage loan notes and are identified as the creditor in such transactions.

Engaging in this practice obscures the identity of the actual lender, and may be a means of evasion of the mortgage lender licensing requirements of the Act. Moreover, mortgage brokers, as such, do not extend consumer credit. Identification of a mortgage broker as the creditor on a disclosure statement given to a borrower pursuant to Federal Reserve Board Regulation Z would, therefore, violate that Regulation.

Mortgage lenders participating in such violations will be deemed to have failed to comply with § 6.1-422(A)(6) of the Act and will be cited by Bureau examiners for resulting violations of the Act and Regulation Z. Mortgage brokers participating in this practice in connection with more than ten mortgage loans in any period of twelve consecutive months must obtain a mortgage lender license under the Act.

Reissued February 28, 1991, as amended, by the Commissioner of Financial Institutions. Original effective date: March 15, 1990, as Mortgage Lender and Broker Circular 90-1.

Reference: § 6.1-409 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 1602. Application for Permission to Acquire Control of a Mortgage Lender/Broker Licensee.**

Statutory Authority: § 6.1-416.1 of the Code of Virginia.

Effective Date: July 1, 1988.

The application is required by Section 6.1-416.1 of the Code of Virginia. Generally, an application must be filed by any person seeking to acquire twenty-five percent or more of the voting shares of a corporation or a twenty-five percent or more ownership interest in any other entity licensed to conduct business under Chapter 16 of Title 6.1 of the Virginia Code. Any additional information and documents, if any, must be provided on 8-1/2" by 11" paper.

The application and all supporting documents should be submitted in duplicate and be accompanied by the following:

1. A check for $250, payable to the Treasurer of Virginia.

2. A list of the directors, senior officers, partners and principal owners of the applicant, showing their address and the percentage of ownership.

3. A list of every proposed new director, senior officer, partner and principal owner of the mortgage lender/broker licensee to be acquired, showing their address and percentage of ownership.

4. A current personal financial statement of each director, senior officer, partner and principal owner (persons owning 10% or more) of the applicant and of each proposed new director, senior officer, partner and principal owner of the mortgage lender/broker licensee to be acquired on form CCB-1123 (Rev. 5/87) provided by the Bureau of Financial Institutions. Senior officers are those individuals who are not more than three levels of management removed from the Chief Executive Officer of the applicant. Financial and biographical information is required from only the top ten senior officers. Proposed outside directors (those who will not be paid employees of the mortgage lender/broker licensee to be acquired or its parent and who will not own 10% or more of the stock of the mortgage lender/broker licensee to be acquired or its parent) may elect to use the limited financial report form No. CCB-1143 (Rev. 1/88). Only one statement with an original signature should be submitted. Personal financial statements are considered confidential.

5. Financial statements of the applicant (if a corporation or other entity) and of the mortgage lender/broker to be acquired. Please furnish the most recent audited statements available. Also, furnish the most current statements.

6. A statement giving details of the nature and scope of the proposed acquisition.

7. An executed consent to service of process through service on the Secretary of the Commonwealth. This item does not apply to an applicant which is a Virginia corporation or a foreign corporation that has been issued a certificate qualifying it to do business in Virginia.

All documents filed, with the exception of personal financial statements, will become part of the public record unless the applicant makes a written request for confidential treatment of some particular document or information. The final determination as to the confidentiality of such information will rest with the Commissioner of Financial Institutions.

Once the application and supporting documents are received by the Bureau, they will be reviewed for completeness. When it is determined that a substantially complete application has been received, the Bureau will notify the applicant that the application is accepted, and the sixty-day investigation period will commence.

Inquiries concerning the preparation and filing of this application should be directed to the Bureau of Financial Institutions, Post Office Box 2AE, Richmond, Virginia 23205 [Telephone: (804) 786-4690]

Effective July 1, 1988.

Reference: § 6.1-416.1 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 1603. Compensating, or Offering to Compensate, Unlicensed Mortgage Brokers.**

Statutory Authority: § 6.1-409 of the Code of Virginia.

Effective Date: July 3, 1990.

The Mortgage Lender and Broker Act, at Virginia Code § 6.1-409, defines a "mortgage broker" as "...any person who directly or indirectly negotiates, places or finds mortgage loans for others, or offers to negotiate, place or find mortgage loans for others." Virginia Code § 6.1-410 forbids engaging in business without a license, and Virginia Code § 6.1-429 declares that any person not exempt from licensing who acts as a mortgage broker without having obtained a license is guilty of a Class 6 felony.

It is the position of the Bureau of Financial Institutions that any "person" who, for compensation, refers individuals who are seeking a "mortgage loan" (as the terms "person" and "mortgage loan" are defined in the

Act) to a lender or lenders is engaged in business as a mortgage broker, and must be licensed unless exempt under Virginia Code § 6.1-411. The identity of the person compensating the mortgage broker, and the form of compensation, do not affect the licensing requirement. When the Bureau has evidence that an unlicensed person is acting as a mortgage broker, appropriate action will be taken.

As the Bureau understands the criminal laws of Virginia, a person who is an accessory to the commission of a felony, or who solicits the commission of a felony, is subject to criminal liability. Lenders compensating, or offering to compensate, unlicensed mortgage brokers may, in certain circumstances, face criminal prosecution. When the Bureau has evidence that a lender has engaged in such activity, appropriate action will be taken.

The Bureau will provide confirmation, upon inquiry, of the current licensed or unlicensed status of any specific mortgage broker.

Issued by the Commissioner of Financial Institutions July 3, 1990, as Mortgage Lender & Broker Circular 90-2.

Reference: § 6.1-409 of the Code of Virginia.

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Title of Regulation: **Administrative Ruling 1604. Funds Available to Licensed Mortgage Lenders for Business Operation.**

Statutory Authority: §§ 6.1-415 and 6.1-425 of the Code of Virginia.

Effective Date: March 21, 1991.

Virginia Code § 6.1-415 provides, in part, that in order to qualify for a license to engage in business as a mortgage lender, an applicant must have at least $200,000 available for the operation of the business. Further, Code § 6.1-425 authorizes the State Corporation Commission to suspend or revoke a license to engage in business as a mortgage lender if it finds that circumstances or conditions exist which would constitute grounds for denial of a license. The Bureau of Financial Institutions concludes, therefore, that failure to maintain not less than $200,000 continuously for the operation of business by a mortgage lender will be deemed to be grounds for license suspension or revocation.

The Mortgage Lender and Broker Act does not specify what is to be required or acceptable as evidence that an applicant for a Mortgage Lender's license or a licensee has $200,000 available for business operation. For various reasons, it has been determined that (1) evidence of ownership of funds on deposit in a bank or other depository institution, (2) evidence of established lines of credit from a bank or other depository institution or (3) some combination of (1) and (2) will be acceptable.

Neither letters of credit nor lines of credit from sources other than a bank or other depository institution will satisfy this requirement.

Issued by the Commissioner of Financial Institutions March 21, 1991.

Reference: §§ 6.1-415 and 6.1-425 of the Code of Virginia.

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NOTICE: The forms used in administering the regulations and administrative rulings of the Bureau of Financial Institutions are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the State Corporation Commission, Jefferson Building, 1220 Bank Street, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Application of a New Bank or New Savings Institution for a Certificate of Authority to Begin Business in Virginia - CCB-1121(Rev. 6/87)1C

Oaths of Directors - CCB-1122(Rev. 1/85)1M

Oath of Director - CCB-1122a(8901)2c

Application of a Bank for a Certificate of Authority to Begin Business (Supplemental Sheet) CCB-1117(Rev.7/87)50

Financial Report - CCB-1123(Rev. 5/87)1M

Application by an Out-of-State Institution to Acquire a Virginia Bank Pursuant to Chapter 14 of Title 6.1 of the Virginia Code - CCB-1124(Rev.8/88)30

Application to Establish a Branch - CCB-1125(Rev.6/87)2C

Application to Change the Location of Main Office or Branch - CCB-1125(Rev.7/87)1C

Application to Engage in the Trust Business - CCB-1127(Rev.7/87)25

Application for Approval of Merger Pursuant to § 6.1-44 or § 6.1-194.39 of the Virginia Code - CCB-1128(Rev.7/87)1C

Application of a Subsidiary Trust Company for a Certificate of Authority to Begin Business Pursuant to Article 3.1, Chapter 2, of Title 6.1 of the Code of Virginia - CCB-1129(Rev.7/87)25

Application of an Interim Institution to Begin Business in Virginia - CCB-1131(Rev.7/87)1C

Application for an EFT Terminal - CCB-1133(Rev.4/89)50

Application for Permission to Acquire Voting Shares of

Virginia Financial Institution Pursuant to Section 6.1-383.1 of the Virginia Code - CCB-1137(Rev.10/90)1C

Consent to Service of Process - CCB-1137a(Rev.12/90)

Notice of Intent to Acquire a Bank Outside Virginia Pursuant to Section 6.1-460 of the Virginia Code - CCB-1138(Rev.10/90)1C

Application to Acquire a Virginia Bank Holding Company or Virginia Bank Pursuant to Chapter 15 of Title 6.1 of the Virginia Code - CCB-1139(Rev.10/90)1C

Oath of Office of Organizing Bank Directors - CCB-1140(Rev.7/87)50

Limited Financial Report and Biographical Information - CCB-1143(Rev.1/88)2C

Notice of Intent to Establish a Non-Depository Office by a Savings Institution Pursuant to § 6.1-194.26 of the Virginia Code - CCB-2213(7/85)50

Notice of Proposed Change of Location of a Main Office or Branch of a Savings Institution Pursuant to § 6.1-194.28B of the Code of Virginia - CCB-2212(7/85)

Notice of Intent to Acquire a Savings Institution Outside Virginia Pursuant to Section 6.1-194.105 of the Virginia Code - CCB-2211(Rev.10/90)1C

Application to Acquire a Virginia Savings Institution Holding Company or Virginia Savings Institution Pursuant to Chapter 3.01, Article 11 of Title 6.1 of the Virginia Code - CCB-2210(Rev.10/90)1C

Application by an Out-of-State Mutual Savings Institution to Transact a Savings Institution Business in Virginia Pursuant to Article 5, Chapter 3.01, Title 6.1 of the Virginia Code - CCB-2209(Rev.12/90)20

Application of a Savings Institution Holding Company for Acquisition of Control Pursuant to Section 6.1-194.87 of the Virginia Code - CCB-2207(Rev.9/88)

Application of a Savings Institution for a Certificate of Authority to Begin Business - CCB-2206(Rev.10/85)

Application of a Credit Union to Maintain a Service Facility Pursuant to § 6.1-225.20 of the Code of Virginia - CCB-3307(12/90)

Application for Approval of Merger of Credit Unions Pursuant to Section 6.1-225.27 of the Virginia Code - CCB-3306(Rev.12/90)25

Application by an Out-of-State Credit Union to Conduct Business as a Credit Union in Virginia Pursuant to § 6.1-25.61 of the Code of Virginia - CCB-3305(Rev.12/90)

Consent to Service of Process (Insurer of Shares) - CCB-3304(Rev.12/90)

Statement of Director (Credit Unions) - CCB-3301(12/90)

Application for Permission to Establish and Operate a Credit Union Pursuant to § 6.1-225.14 of the Virginia Code - CCB-3302(Rev.12/90)

Notice of Intent to Change the Location of a Consumer Finance Office - CCB-4406(Rev.6/90)1C

Application to Conduct Finance Business and Other Business at the Same Location - CCB-4403(Rev.10/85)1C

Application for a Consumer Finance License - CCB-4402(Rev.6/90)1C

Application for a License to Sell Money Orders Pursuant to Chapter 12 of Title 6.1 of the Virginia Code - CCB-5500(Rev.7/90)50

Surety Bond - CCB-5501(Rev.12/87)25

Application for Renewal of License to Engage in the Business of Selling and Issuing Checks, Money Orders, other Payment Instruments or Similar Payment Papers under Chapter 12, Title 6.1, Code of Virginia - CCB-5504

Application to Engage in the Business of a Nonprofit Debt Conseling Agency Pursuant to Chapter 10 of Title 6.1 of the Virginia Code - CCB-7700(Rev.7/90)25

Application of a Nonprofit Debt Counseling Agency for an Additional Location Pursuant to Chapter 10.1 of Title 6.1 of the Virginia Code - CCB-7702(Rev.7/90)25

Application for an Additional Office or the Relocation of an Existing Office Pursuant to the Mortgage Lender and Broker Act - CCB-8809(6/90)3C

Application for Permission to Acquire Control of a Mortgage Lender/Broker Licensee Pursuant to Section 6.1-416.1 of the Virginia Code - CCB-8808(7/88)1C

Application for a Mortgage Lender and/or Mortgage Broker License Pursuant to Chapter 16 of Title 6.1 of the Virginia Code - CCB-8804(Rev.6/90)3C

Bond - CCB-8802(7/87)3C

EXECUTIVE ORDER NUMBER THIRTY-ONE (91)

FEDERAL LIMIT ON TAX CREDITS FOR LOW INCOME HOUSING

By virtue of the authority vested in me as Governor by the Code of Virginia and the Tax Reform Act of 1986, and subject always to my continuing and ultimate authority and responsibility to act in such matters and to reserve powers, I hereby proclaim that all of the State Housing Credit Ceiling for the Commonwealth, as determined in accordance with the Tax Reform Act of 1986, shall be allocated for the period of January 1, 1991, through September 30, 1991, to the Virginia Housing Development Authority as the Housing Credit Agency for the Commonwealth.

The Tax Reform Act of 1986 ("the Act"), which was adopted by the Congress of the United States and signed by the President of the United States, provides for new tax credits that may be claimed by owners of residential rental projects that provide housing for low income residents. The Act imposes a ceiling, called the State Housing Credit Ceiling, on the aggregate amount of tax credits which may be allocated during each calendar year to qualified housing projects within each state. The Act also provides for an allocation of the State Housing Credit Ceiling to the "Housing Credit Agency" of each state, but permits each state's Governor to proclaim a different formula for allocating the State Housing Credit Ceiling.

Designation of the Virginia Housing Development Authority as the Housing Credit Agency for the Commonwealth for the above-specified period will assure the efficient and beneficial utilization of the tax credits for residential rental projects that provide housing for low income residents of Virginia.

In its role as the Commonwealth's Housing Credit Agency for the low income housing tax credits program authorized by the Act, the Virginia Housing Development Authority is hereby required to consult with the Virginia Department of Housing and Community Development, the Commonwealth's local housing authorities and with other interested parties and to hold at least one public hearing to obtain public comments on the proposed rules for the program.

This Executive Order is effective upon its signing, validates all acts consistent with Executive Order Thirty-Six (87) occurring on or after January 1, 1991, and will remain in full force and effect until September 30, 1991, unless rescinded or amended by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 17th day of May, 1991.

/s/ Lawrence Douglas Wilder
Governor

EXECUTIVE ORDER NUMBER THIRTY-TWO (91)

CONTINUING THE GOVERNOR'S COMMISSION ON PHYSICAL FITNESS AND SPORTS

By virtue of the authority vested in me as Governor by Sections 2.1-51.36 and 2.1-51.37 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby continue Executive Order Number 7 (90), relating to the Commission On Physical Fitness and Sports.

This Executive Order will become effective on the expiration of Executive Order 7 (90) and will remain in full force and effect until April 11, 1992, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 7th day of May, 1991.

/s/ Lawrence Douglas Wilder
Governor

EXECUTIVE ORDER NUMBER THIRTY-THREE (91)

DELEGATION OF AUTHORITY FOR CERTAIN ACTIONS AFFECTING MANAGEMENT OF THE COMMONWEALTH

By virtue of the authority vested in me by Secti 2.1-39.1 of the Code of Virginia and subject to t provisions stated herein, I hereby affirm and delegate to the individuals holding appointments in the positions named herein, the authority to take those actions or to sign, in my stead, those documents referenced herein by subject matter in the cited Code of Virginia sections, in accordance with the following conditions:

1. The delegations stated herein are subject always to my continuing, ultimate authority and responsibility to act in such matters.

2. All major policy issues shall be approved by the Governor's Policy Office and by the Governor. Thereafter, each Secretary shall provide policy guidance to those persons under the Secretary's supervision who are authorized to take such actions set forth in this Executive Order and shall be advised by such persons of any proposed actions which may be in conflict with such guidance.

3. Should conflicts arise among agencies within a Secretarial area concerning any action authorized by this Executive Order, that Secretary is hereby authorized to resolve them. Should conflicts arise among agencies in more than one Secretarial area concerning any action authorized by this Executive Order, the matter shall be resolved by the Governor.

4. All reports and recommendations that by law are required from any entity to be presented to t

Governor must first be given to the Secretary to whom the entity is assigned. Except as specifically delegated, however, the Governor retains the responsibility for the submission of reports and recommendations to the General Assembly.

5. All authority given to the Governor pertaining to emergencies, military affairs, appointments and membership in all organizations shall be retained by the Governor unless explicitly delegated by Executive Order.

6. In the event that the Secretary delegated herein is not available, I hereby affirm and delegate to the Chief of Staff such powers and duties during the Secretary's absence as may be required.

Part 1: Delegation of Authority to Officials Within the Office of Administration

A. To the Director, Department of General Services

Authorizing Section	Subject Matter of Authority Delegated
2.1-11.1	Designate certain officers to give surety bonds, fix penalties. Require new or additional bonds.
2.1-46	Assign and reassign rooms and space in public buildings at the seat of government.
2.1-48	Approve transfer of surplus passenger vehicles among state agencies.
2.1-132	Assign office space for Attorney General and supporting personnel.
2.1-154	Fix surety bond penalty for Auditor of Public Accounts. Determine Auditor's employees who should be bonded and approve their penalties fixed by the Auditor.
2.1-451	Order the purchase of materials, equipment, supplies, and nonprofessional services otherwise exempted, through Division of Purchases and Supply.
2.1-456	Issue notices to state agencies to desist from violations of centralized purchasing provisions.
2.1-457(B)	Order the transfer or sale of surplus supplies or equipment under certain conditions.
2.1-466	Instruct Division of Purchases and Supply to edit state agencies' annual reports, solely to condense the size of such reports.
2.1-488.4 (A and C)	Approve and accept works of art and their location.
and 2.1-488.5	
2.1-488.4(B)	Disapprove design in structures and fixtures placed on or extending over state property.
2.1-491	Approve buildings and property as to their conformance with approved site plan.
2.1-496	Approve purchase of furniture and repairs, including funding, required for certain buildings within master site plan of Capitol Square.
2.1-498	Designate buildings for contract of utility services.
2.1-503	Approve lease of state-owned property in the state site plan or lying near Capitol Square and prescribe rental period.
2.1-531	Approve use of state-owned property for parking.
3.1-22.8	Fix penalty for surety bonds required to be posted by certain officials of Chippokes Plantation Farm Foundation.
4-4 (D)	Fix penalty and approve surety bonds for Alcoholic Beverage Control Board members.
5.1-1.3	Fix surety bond penalty for Director, Department of Aviation.
7.1-33	Regulate size and dimensions of state flag.
10.1-2006	Fix surety bond penalty for members of the Board of Trustees of the Virginia Museum of Natural History.
10.1-2401	Fix surety bond penalty for members of the Board of Trustees of the Virginia Historic Preservation Foundation.
11-39	Provide written determination of public interest where federal grant transaction requirements do not conform to Virginia Public Procurement Act.
11-46.1	Establish written procedures for debarment under Virginia Public Procurement Act.
11-55	Approve modifications to fixed-price contracts under stated conditions. Revise restrictions, if necessary, on contract modifications.
15.1-374	Approve location and maintenance of sewerage and surface drainage on or through state property or property of Confederate Memorial Association.

15.1-1350 Fix penalty on surety bonds for members of Transportation District Commissions. Approve surety or guaranty company for such bonding.

18.2-139 Consent to cut down or otherwise destroy trees growing on Capitol grounds.

21-163 Fix surety bond penalties for members of sanitation district commissions and approve surety or guaranty company for such bonding.

22.1-133 Answer requests of school boards for a flag of the Commonwealth for each new public school.

23-247 Fix penalty on corporate surety bonds for Board of Trustees, Science Museum of Virginia.

28.1-7 Approve surety bond of Commissioner of Marine Resources.

33.1-9 Fix surety bond penalty for Commonwealth Transportation Board.

36-111 Fix surety bond penalty for State Building Code Technical Review Board.

37.1-44 Fix surety bond penalty for Commissioner of Mental Health, Mental Retardation and Substance Abuse Services.

42.1-16 Approve surety bond of State Librarian.

42.1-86 Prescribe, with State Library Board, place and manner of preserving security copies of public records.

44-21 Approve surety bonds of Adjutant General and fiscal clerks in Department of Military Affairs.

44-136 Authorize Adjutant General to lease vacant armories under specified conditions.

46.2-202 Fix surety bond penalty for Commissioner, Department of Motor Vehicles.

52-3 Fix surety bond penalty for Superintendent of State Police.

53.1-11 Fix corporate surety bond penalty for Director, Department of Corrections.

54.1-305 Fix surety bond penalty for Director, Department of Commerce.

58.1-201 Fix surety bond penalty for State Tax Commissioner.

58.1-212 Provide offices for State Tax Commissioner.

60.2-109 Fix penalty for surety bond for Commissioner, Virginia Employment Commission

63.1-6 Fix surety bond penalty for Commissioner of Social Services.

63.1-19 Fix surety bond penalty for Board of Social Services.

B. To the Director, Department of Information Technology

Authorizing Section	Subject Matter of Authority Delegated
42.1-32.6	Approve Library Board's plan for communications centers and networking services.

C. To the Director, Department of Personnel and Training

Authorizing Section	Subject Matter of Authority Delegated
2.1-29	Establish office hours for executive department agencies at the seat of government.
2.1-114.2:1	Establish rules to regulate athletic leaves of absence for state employees.
2.1-116 A(11)	Exempt certain laborers and temporary and hourly employees from provisions of Virginia Personnel Act.
4-7 (i)	Approve all salaries or remuneration of more than $1,000 per year to Alcoholic Beverage Control employees.
14.1-73.1:2	Provide Compensation Board with salary range for correctional officers and regulations for pay system for state employees administered by Department of Personnel and Training.
21-177	Approve salaries or remuneration of more than $1,200 per year to agents or employees of sanitation district commissions.

Part 2: Delegation of Authority to Officials within the Office of Economic Development

A. To the Director, Department of Mines, Minerals and Energy

Authorizing Section	Subject Matter of Authority Delegated

45.1-382 Serve as assistant representative to Interstate Compact to Conserve Oil and Gas.

B. To the Director, Department of Housing and Community Development

15.1-1412(A) Receive budget requests from planning district commissions.

Part 3: Delegation of Authority to Officials within the Office of Education

A. To the Superintendent of Public Instruction

Authorizing Section	Subject Matter of Authority Delegated
23-38.62	Designate state agency to accredit vocational schools, if necessary, so students can qualify for loans from State Education Assistance Authority.

Part 4: Delegation of Authority to Officials within the Office of Finance

A. To the Director, Department of Planning and Budget

Authorizing Section	Subject Matter of Authority Delegated
2.1-224	Approve quarterly estimates of planned expenditures prior to release of appropriation.
2.1-373(4)	Approve application for and/or expenditure of grants, gifts or bequests by Department for the Aging.
2.1-402	Adopt budget classifications.
2.1-493	Approve transfer of funds to Department of General Services from appropriations to other agencies for construction, alteration, reconstruction, and repair of buildings or acquisition of land for their use.
2.1-526.5 C	Approve allotments from State Insurance Reserve Trust Fund for damage or loss of state-owned structures or contents.
3.1-22.20	Allocate monies to Farmers Major Disaster Fund.
3.1-188.27 B	Approve funds for cooperative pest control efforts in adjacent states.
4-22	Approve amount of quarterly sums allowed for reserve fund of Department of Alcoholic Beverage Control.
6.1-98	Approve increase in appropriation to State Corporation Commission for examination of banks and trust companies.
9-95.3	Notify State Comptroller of availability of funds for expenditure by Virginia Korean-Vietnam War History Commission.
10.1-709 B	Approve allocations from Special Emergency Assistance Fund in time of disaster under provisions of Public Beach Conservation and Development Act (after consultation with Secretary of Natural Resources).
23-9.9	Receive biennial budget requests from higher education institutions and budget recommendations from State Council of Higher Education.
23-19(b) and (d)	Receive higher education institutions' proposals for capital projects to be financed by bonds of the institution of higher education, for inclusion in the budget. Approve conditions of grants from federal government for capital projects. In developing recommendations for the Governor as to which capital projects proposed to be financed by bonds should be approved, DPB shall consult with the Department of General Services and State Council of Higher Education.
23-100.1	Approve, at request of Virginia Military Institute or its Board, acceptance of gifts, grants, devises, and bequests.
23-218	Approve acceptance of grants or contributions of money or property by State Board for Community Colleges.
28.1-196	Approve solicitation, acceptance and use of public or private funds by Virginia Institute of Marine Science.
33.1-285.1	Include in budget reported to presiding officer of each house of the General Assembly a sum that may be required to restore the Commonwealth of Virginia Transportation funds.
36-55.41	Include in budget reported to presiding officer of each house of the General Assembly a sum that may be required to restore capital reserve fund of Housing Development Authority.
37.1-42.1	Approve Commissioner's acceptance, on behalf of Department of Mental Health, Mental Retardation and Substance Abuse

	Services of donations, gifts and bequests; and acceptance, execution and administration of any trust in which the Department may have an interest.
42.1-57	Approve Library Board's acceptance of federal grants for libraries and allocation of such funds.
44-146.28	Expend and allot sufficient funds to carry out disaster service missions and responsibilities.
45.1-152	Authorize transfer of funds to Virginia Fuel Commission from state treasury.
51.1-145 K	Include in biennial appropriation bill contributions from state treasury to the retirement allowance account.
53.1-10	Approve acceptance of gifts, donations and bequests on behalf of Department of Corrections.
60.2-506	Designate method of financing unemployment benefits for state employees.
63.1-36	Approve receipt of grants-in-aid funds and gifts by Department of Social Services to alleviate, treat or prevent poverty, delinquency or other social problems.

B. To the State Comptroller

Authorizing Section	Subject Matter of Authority Delegated
3.1-62	Examine records, books and accounts of produce market authorities.

C. To the State Treasurer

Authorizing Section	Subject Matter of Authority Delegated
2.1-185	Invest funds deposited in state treasury in excess of amount currently needed.
3.1-22.18	Approve farm disaster loans and increase or decrease maximum amount of loans.
3.1-68 through 3.1-70	Authorize loans from Produce Market Loan Fund. Prescribe manner in which principal and interest shall be secured.
15.1-225	Investigate alleged defaults on local general obligation bonds. Withhold payment of state funds to local government in default and order payment to bond holders by State Comptroller. Give notice (as soon as practicable) of such defaults and of the availability of funds with the paying agent or the State Comptroller by a one-time publication in a daily paper of general circulation in the City of Richmond or by registered mail to the owners of registered bonds.
21-200 and 21-280	Accept filing of instrument(s) from bondholders in cases of default on sanitation district commission bonds for tidal and/or nontidal waters in order to have trustee appointed to represent bondholders.
22.1-168	Receive petition from Virginia Public School Authority or trustee to secure payment of sums necessary to cover default on bonds held by Authority or trustee.
23-19 (h)	Approve educational institutions' deposit of securities as collateral for federal loans for capital projects.
23-20	Receive bondholder certification of default on bonds issued by educational institutions.
62.1-209 B (11)	Accept petition from Virginia Resources Authority or trustees regarding default on local obligations owned by Authority or held by trustees.

Part 5: Delegation of Authority to Officials within the Office of Health and Human Resources

A. To the Commissioner, Department of Social Services

Authorizing Section	Subject Matter of Authority Delegated
63.1-44	Approve establishment of welfare districts consisting of two or more cities and/or counties.
63.1-56.1	Approve establishment of facilities for children (or contracts for services) by local boards of welfare.
63.1-292	Authorize up to five counties or cities to develop and implement pilot programs for delivery of human services.
63.1-294	Promulgate rules and regulations for counties and cities desiring to establish pilot programs for human services delivery.

Part 6: Delegation of Authority to Officials within the Office of Natural Resources

A. To the Commissioner, Marine Resources Commission

Authorizing Section	Subject Matter of Authority Delegated
28.1-203	Receive copy of annual budget of Potomac River Fisheries Commission and place funds in state budget for the Commission.

B. To the Director, State Water Control Board

Authorizing Section	Subject Matter of Authority Delegated
21-179	Receive reports of sanitation district commissions.

C. To the Director, Department of Waste Management

Authorizing Section	Subject Matter of Authority Delegated
10.1-1411	Designate regional boundaries for solid waste management.

Part 7: Delegation of Authority to Officials within the Office of Public Safety

A. To the Adjutant General, Department of Military Affairs

Authorizing Section	Subject Matter of Authority Delegated
44-43	Convene general courts-martial of the National Guard.
44-112	Make requisition of Secretary of Defense for federal funds to support the militia.
44-116	Have printed and distributed Code of Virginia copies of military laws of Virginia and Uniform Code of Military Justice of the United States, as deemed necessary.

B. To the State Coordinator, Department of Emergency Services

Authorizing Section	Subject Matter of Authority Delegated
44-146.27	Approve acceptance of services, supplies, materials, equipment, or funds from federal government or private sector to the state or through the state to any political subdivision, for emergency services purposes.

C. To the Superintendent, Department of State Police

Authorizing Section	Subject Matter of Authority Delegated
52-16	Establish and maintain radio and teletype system to aid local law enforcement personnel and Department of State Police.
52-17	Negotiate with localities for sharing cost of communications system.
52-18	Designate districts for communications system.
52-19	Issue rules and regulations for communications system.

Part 8: Delegation of Authority to Officials Within the Office of Transportation

A. To the Commissioner, Department of Transportation

Authorizing Section	Subject Matter of Authority Delegated
2.1-47	Promulgate rules and regulations for the purchase, use, maintenance, and repair of state-owned vehicles. Perform certain administrative functions.
2.1-48	Approve purchase of motor vehicles by state agencies.

B. To the Commissioner, Department of Motor Vehicles

Authorizing Section	Subject Matter of Authority Delegated
2.1-51.6	Administer highway safety program.
46.2-661	Extend, at his discretion, reciprocal privileges to vehicle owners residing in other states or in foreign countries.

Part 9: Delegation of Authority to the Secretary of the Commonwealth

Authorizing Section	Subject Matter of Authority Delegated
2.1-639.13	Prepare annually a list of officials and positions coming under Virginia Comprehensive Conflict of Interests Act. Notify officials of need to comply with the Act.
54.1-2012	Notify specified organizations of vacancies, caused by other than expiration of a term, on Real Estate Appraiser Board.

This Executive Order supersedes and rescinds Executive Order Number 79 (89) Delegation of Authority For Certain Actions Affecting Management of the Commonwealth, issued December 21, 1989.

This Executive Order is effective upon the expiration of Executive Order 79 (89). This Executive Order will remain in full force and effect until October 1, 1994, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 15th day of May, 1991.

/s/ Lawrence Douglas Wilder
Governor

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **VR 460-04-8.10. Long-Stay Acute Care Hospitals.**

Governor's Comment:

I concur with the form and content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: May 29, 1991

VIRGINIA RACING COMMISSION

Title of Regulation: **VR 662-05-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Standardbred Racing.**

Governor's Comment:

These regulations are intended to establish adequate conditions under which Standardbred racing would be conducted at race meetings licensed by the Virginia Racing Commission. Pending public comment, I recommend approval of the regulations.

/s/ Lawrence Douglas Wilder
Governor
Date: May 14, 1991

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THIS ISSUE . . .

The Virginia Coal and Energy Commission

◆

May 20, 1991
Richmond

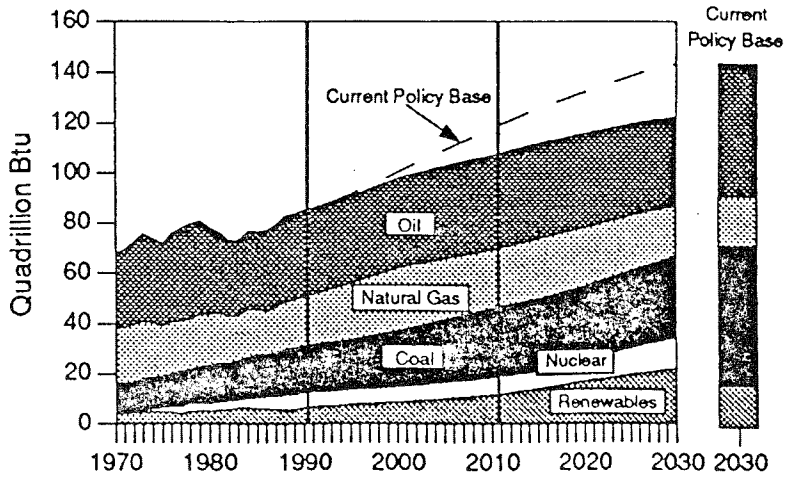
At its first meeting of 1991, the Virginia Coal and Energy Commission was briefed on the Bush Administration's new national energy strategy and its potential impacts on Virginia. John Randolph, director of the Virginia Center for Coal and Energy Research at Virginia Tech, reviewed the numerous goals of this complex strategy and the Administration's recommended approaches for accomplishing these goals.

National Energy Strategy Goals

According to Mr. Randolph, the new national energy strategy emphasizes:

- Developing new, marketable, and commercially viable technologies to increase energy efficiency in the residential, commercial, and industrial sectors.
- Reducing transportation energy demand by cost-effectively improving fleet fuel efficiency and improving transportation energy supply through the use of alternative transportation fuels.
- Reducing U.S. vulnerability to petroleum supply disruptions by expanding U.S. and worldwide oil and gas production capacity and strategic stocks, while ensuring a proper balance between energy security and environmental protection.
- Maintaining coal's competitiveness while meeting environmental, health, and safety requirements; creating a favorable export climate for U.S. coal and coal technology.

Primary Energy Consumption by Fuel
National Energy Strategy Scenario



Source: *National Energy Strategy*, First Edition, 1991/1992, Washington, D.C., Feb. 1991.

■ Increasing the production of nuclear power while maintaining exacting safety and design standards, reducing economic and regulatory risk, and establishing an effective high-level nuclear waste program.

■ Encouraging the efficient production of natural gas in an environmentally sound manner; establishing a more efficient and accessible natural gas transportation and distribution system.

■ Encouraging increased production of energy from renewable resources (e.g., solar, wind, and biomass).

■ Improving environmental quality through the Clean Air Act, use of alternative vehicles and fuels, transportation technology research and development, industrial energy efficiency, integrated resource planning, expanded nuclear energy production, and natural gas reform.

The Strategy's Impact on Virginia

Although Mr. Randolph believes it highly unlikely that all of the goals of the new national energy strategy will be realized, he predicted that Congressional action on legislation implementing portions of the strategy will affect the Commonwealth as follows:

Coal — Central Appalachia coal production will probably increase under the Clean Air Act due to a greater demand for low sulfur coal. Employment opportunities in Virginia's coalfields should also increase.

Natural Gas — Combined incentives for unconventional natural gas will enhance production in Virginia (e.g., coalbed methane gas).

Alternative Fuels — While alternative fuels will be an important part of the new strategy, little emphasis will be placed on the coal-based alternative liquid fuels with which Virginia has experience. The Commonwealth may also have difficulty reviving its ethanol industry.

Electricity — The emphasis placed on generation competition and demand-side options will offer Virginia opportunities for continued experimentation in both areas.

Renewable Energy — If the new strategy provides incentives, there may be increased opportunities for renewable energy in Virginia.

Assessing Energy-Related Programs in Virginia

Following Mr. Randolph's presentation, the Commission determined that its Energy Preparedness Subcommittee should review the current status of energy-related programs and efforts in the Commonwealth. The subcommittee was requested to report its findings and any recommended improvements to the Commission prior to the 1992 Session of the General Assembly.

Methanol Fuel

Because the new national energy strategy emphasizes the increased production and use of alternative fuels, the Commission also heard a presentation on methanol from Glyn D. Short of ICI General Chemicals. Mr. Short explained that as a transportation fuel, methanol is the next best alternative to gasoline because of its cleaner emissions, the abundance of feed-stocks from which it is produced, and its performance in engines. While a new more cost-effective process has been developed for producing this fuel from coal, methanol will still be more expensive than gasoline. Consequently, to encourage the production of methanol fuel from coal, Mr. Short suggested that a subsidy and regional approach (Tennessee, West Virginia, and Virginia) should be considered. Noting that a great deal of federal funding is now available for the development and production of alternative fuels, Mr. Short explained that Virginia would be a prime location for a large coal-to-methanol production facility. Such a facility would use up to seven million tons of coal annually.

Clean Coal Technology Project Proposal

Dr. Richard Wolfe of Coal Technologies, Inc., informed the Commission that his firm, in combination with two other companies, had recently submitted a proposal to the U.S. Department of Energy to build a $124.5 million facility in Wise, Virginia. The proposed facility will convert coal into coal liquids and metallurgical coke, use approximately 1,500 tons of Virginia coal per day, and provide 200 new jobs. Use of a new technology will allow the facility to produce coke in a much shorter period of time than is currently possible. Proposed funding for the project is split 50/50 between industry and the federal government. Dr. Wolfe informed the Commission that this is one of the largest capital investment projects ever proposed for Southwest Virginia. The Department of Energy is expected to issue its decision on the proposal by September of this year.

Future Meetings

Chairman Bird announced that the Commission will hold its next meeting during the fall. He stated that Commission members should be prepared to elect a new chairman at that time.

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The Honorable Daniel W. Bird, Jr., *Chairman*
The Honorable A. Victor Thomas, *Vice Chairman*

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John T. Heard, *Senior Staff Attorney*
Arlen K. Bolstad, *Senior Staff Attorney*
Division of Legislative Services

SJR 118: Commission on Health Care for All Virginians

◆

May 14, 1991

General Assembly Building, Richmond

The Commission's agenda at its initial meeting of 1991 included review of the status of the health care initiatives adopted by the 1989, 1990, and 1991 Sessions of the General Assembly and presentation of the Commission's 1991 work plan, including Chairman Walker's appointment of subcommitees and task forces. Additionally, the Commission received briefings on current health care research periodicals, community health decisions projects and the Oregon proposal to provide health insurance for all residents by 1994. Richard D. Lamm, former governor of Colorado and presently director of the Center for Public Policy and Contemporary Issues of the University of Denver, addressed the Commission on problems within the present health care system in the United States.

Commission-Sponsored Legislation

Pursuant to SJR 118, enacted in the 1990 Session, the Joint Subcommittee on Health Care for All Virginians, originally established by SJR 99 in the 1988 Session, was continued as the Commission on Health Care for All Virginians. The Joint Subcommittee and the Commission will be referred to here as the Commission.

The Commission has faced the dilemma of attempting simultaneously to improve the quality of health care, expand access to health care, and control the cost of health care. An estimated 880,000 Virginians do not have any health insurance from any source, public or private. Lack of access to primary care is also a major problem for the uninsured, especially in isolated areas of Virginia. The number of primary care physicians in these areas is inadequate, and about 12 hospitals in isolated areas are experiencing financial difficulties.

The initiatives proposed by the Commission have sought to ensure that the Commonwealth, as provider and regulator, adopts the most cost-effective and efficient means of delivery of its health care services, so that the greatest number of Virginians receive quality health care. Among those initiatives are:

■ Establishment of the Virginia Indigent Health Care Trust Fund, a program which equalizes the burden of uncompensated charity care among private acute care hospitals through a public/private partnership of general funds and hospital contributions. The total estimated payment from the trust fund for 1991 will be $10 million, of which $4 million will be generated from hospital contributions and $6 million from the general fund. The Technical Advisory Panel of the trust fund is currently reviewing proposals to broaden the role of the trust fund in serving the more than 880,000 uninsured Virginians.

■ Authorization of a low-cost insurance product with limited mandated benefits available to individuals who have not had health insurance for the previous 12 months. To date, Blue Cross/Blue Shield is the only insurance carrier with an approved policy. Two other carriers have made filings with the Bureau of Insurance regarding similar products but have not yet gained approval.

■ Revisions to the Virginia Medical Facilities Certificate of Public Need (COPN) Program to improve outcomes and limit costs. Currently, the sunset deadline for the expiration of COPN requirements for hospitals and ambulatory surgery centers has been extended for two years; the nursing home moratorium has been extended until June 30, 1993; a schedule of fees for applications for certificates to be applied to COPN's administrative and operational expenses has been established; and registration requirements have been added for equipment and services of $400,000 in obstetrics, neonatal special care, and heart, lung, and kidney transplantation. The Department of Health is currently drafting regulations to implement approved changes.

■ Revisions to the State-Local Hospitalization (SLH) Program to require mandatory participation by all localities, converting fixed local match to sliding scale based upon ability to pay. The Department of Medical Assistance Services has administered the SLH Program since July 1990. Utilization of SLH increased dramatically in fiscal year 1991: claims for services through April 30 increased by 102%; the total value of the claims for this period increased by 68%, from $10.4 million to $17.5 million.

■ Primary care initiatives to increase access and availability of primary care services to Virginians. The $4.2 million appropriation from the general fund was reduced to $2.1 million in fiscal year 1990; $1.5 million supports primary care grants to Portsmouth, Hampton, Roanoke, and Fairfax County for FY 1991. All eighteen medical scholarships for 1991 have been awarded. The federal Area Health Education Center (AHEC) grant has been awarded to Virginia for the period October 1, 1991, through September 30, 1994. In FY 1992, $150,000 from the state will generate $470,000 from the federal government. The Virginia AHEC system will focus on developing educational programs in designated health manpower shortage areas and medically underserved areas of the state and enhance the supply and availability of primary care services.

■ Enhancements for long-term care for the elderly in Virginia. Three long-term case management pilot programs will be established in Fairfax County, Southwest Virginia, and the Peninsula Agency on Aging. SB 608 enacted recommendations of the JLARC study on Homes for Adults; residents of these homes are those Virginia citizens who are mentally or physically disabled or elderly and in need of supervision and maintenance of care.

The Commission also received updates on other initiatives, including the managed care pilot programs for Medicaid patients, the development of regulations for granting limited prescriptive authority for certain licensed nurse practitioners, the patient-level data base study, and JLARC's study of the Virginia Medicaid program and the indigent care appropriations to the state teaching hospitals and the Medical College of Hampton Roads.

1991 Work Plan

Senator Walker appointed subcommittees to offer findings and recommendations on health care cost containment, medical technology/health outcome review, and business participation/insurance reform.

Senator Dudley J. Emick, Jr., was appointed to chair the cost containment subcommittee in its exploration of ways to reduce health care costs within the Commonwealth. The subcommittee will review health plans in other countries and states and analyze strategies being tested in the public and private sectors within Virginia. Emphasis will be placed on differentiating between those options that lead to cost containment and those that lead to cost shifting.

Issues to be addressed by the medical technology/health outcome reviews subcommittee, chaired by Delegate J. Samuel Glasscock, are improving access to health care while simultaneously reducing costs and reviewing outcomes of various services. In addition, the contribution of medical technology to health care costs will be examined through a case study of magnetic resonance imaging (MRI) availability and expenditures in Virginia over the past several years.

Delegate Robert B. Ball, Sr., will chair the subcommittee on business participation/insurance reform. The subcommittee's primary goal is to assess current business attitudes toward health care and to develop public/private partnerships to contain costs while providing more working Virginians and families with health insurance.

Senator Walker also named several task forces to report to the subcommittees and the Commission on additional health care issues, including disease prevention and health promotion, uncompensated care, managed care guidelines and the preferred provider organization (PPO) statute, trauma centers, experimental procedures, the health insurance industry, and establishment of a priority benefit package.

During the next three months, the Commission will develop a mechanism for involving the public in the discussion of health policy in Virginia, possibly through the community health decisions projects, which are state-level organizations that involve citizens in the development of health care policy.

Governor Lamm

Governor Lamm's research and teaching focus has been in the health policy area with a special emphasis on generational health care issues and the allocation of health care resources. Among the issues being studied by the Center for Public Policy and Contemporary Issues are the legal, ethical, and financial questions of making health care affordable to all Americans.

According to Governor Lamm, excessive facilities, medical technologies, specialists, unnecessary procedures, and administrative costs, as well as an explosion of bureaucracy in the practice of medicine, directly affect the escalating cost of health care. Malpractice concerns of physicians who subsequently practice "defensive medicine" to avoid lawsuits are also contributing factors to the price of health care. The public's unrealistic expectations of medicine and access to all available procedures—expectations unique to this culture, according to Governor Lamm—are other underlying causes of the expense of health care.

Following his address, Governor Lamm responded to questions from Commission members. In answering Senator Walker's query for specific areas for the Commission to explore for greater health cost containment in Virginia, Governor Lamm suggested an examination of malpractice issues and tort reform and means to reduce the bureauracy of medicine.

The Commission's next meeting is scheduled for June 11 at 10:00 a.m. in the General Assembly Building, Richmond. Subcommittees will meet after the Commission's meeting.

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The Honorable Stanley C. Walker, *Chairman*
The Honorable Ford C. Quillen,
Vice Chairman

◆

Lillian W. Raible, *Special Assistant*
Norma E. Szakal, *Senior Attorney*
Joan E. Putney, *Staff Attorney*
Division of Legislative Services

Jane N. Kusiak, *Deputy Staff Director*
House Appropriations Committee Staff

Stephen W. Harms, *Analyst*
Senate Finance Committee Staff

HJR 300: Southside Economic Development Commission

◆

May 23, 1991

Ferrum College

The second 1991 meeting of the HJR 300 Southside Economic Development Commission followed morning task force meetings. Welcoming the Commission to Ferrum was Jerry M. Boone, president of Ferrum College, who pledged the college's support for the Commission's efforts and briefly described economic development efforts at Ferrum, such as the agriculture program, which includes a 130-acre model farm three miles from campus.

The Commission reviewed its recommendation that the Virginia Congressional delegation support shifting the administrative responsibility for environmental permits in Virginia from the EPA's Division III Regional Office in Philadelphia to the Division IV Regional Office in Atlanta. The Office of Management and Budget has informally stated that there is no process for states to appeal for a change in their regional status. EPA's Office of Air Quality Planning and Standards has indicated that the volume of Virginia applications for cogeneration facility permits, the likelihood of adverse environmental impact, and active citizen opposition may contribute to delayed responses from what EPA described as an already overburdened staff.

Task Force Reports

Task force summaries of issues and potential recommendations followed. Delegate Paul Councill, chairman of the task force on agriculture, forestry, and natural resources, stated that the task force expects to focus its efforts on five areas: (1) research and technical assistance to farmers; (2) diversification, value-added processing and marketing of agricultural products; (3) promotion of growth in the forestry products industry; (4) tourism and recreational development; and (5) achievement of a balanced regulatory environment.

Also under review are efforts to increase use of farmers' markets by providing funding for diversification capital and including aquaculture in market produce. The possible use of

WIC vouchers and food stamps at farmers' markets is also being explored. The development of a timber bridge initiative, exploration of private development of state parks, and increased coordination among regulatory agencies to avoid duplication and overly complicated regulation will be included in the work of the task force as well.

Representing the task force on education, training, and the workforce, Senator Onico Barker stated that the Southside Business and Education Commission, established pursuant to legislation proposed by the HJR 300 Commission, may ultimately coordinate many of the region's efforts to enhance educational opportunities and economic development. Recognizing the critical need to coordinate public and private efforts to improve the quality of Southside educational opportunities, the task force is exploring a variety of concerns, including the improvement of the breadth and quality of course offerings in Southside public schools; enhanced teacher recruitment and retention; incentives for the improvement of student performance and achievement levels; and the establishment of a regional multi-site school, combining aspects of Governor's Schools and magnet schools, to provide special learning opportunities for Southside students. The task force is also reviewing the need for additional engineering programs in Southside, job training efforts by community colleges, and continued support for private colleges through the Tuition Assistance Grant program.

Delegate Willard Finney, vice chairman of the task force on financing, marketing, and incentives, described 13 preliminary recommendations focusing on a wide range of issues. Adjusting the current corporate income tax formula, providing funds for regional promotion through local assessments, establishing an entity to promote the region and to attract development prospects, and continuing efforts to encourage regional cooperation by cities and counties were among the potential recommendations of the task force. The task force has explored the creation of a $25 million no- or low-interest loan pool to provide water, sewer, gas, and other infrastructure needs to assist in business prospect locations. A manufacturing research center, an industrial modernization outreach program, the possible local use of a portion of cigarette taxes to support economic development, and a Virginia Tobacco Development Authority are also receiving task force consideration.

The work of the infrastructure task force was summarized by Senator Virgil Goode, chairman. Congressman Payne will address the full Commission and members of the infrastructure task force in June regarding the potential construction of a "super airport" in western Tidewater; Route 58 might link this transportation center to Southside. The task force is examining water-selling authorities, the development of an advertising program to promote industrial location in rural areas as well as the entire Commonwealth, and a $3 million grant pool to assist poorer communities utilizing the Department of Economic Development's certification program. Also under consideration by the infrastructure task force is the establishment of a public policy that no legislation be enacted that promotes urban growth through the artificial transfer of the state's natural resources. Finally, the task force endorses the continued support of the Route 58 development program.

A June 17 Commission meeting is planned for Altavista. Task forces are scheduled to meet on June 27; on July 26, task forces will meet to finalize and submit recommendations to the Commission. A draft Commission report will be circulated to members and the public in early August, and public comment will be solicited in late August.

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The Honorable A.L. Philpott, Speaker, House of Delegates, *Chairman*
The Honorable Whittington W. Clement, *Vice Chairman*
The Honorable Howard P. Anderson, *Vice Chairman*

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Kathleen G. Harris, *Staff Attorney*
John A. Garka, *Division Manager*
Nancy L. Roberts, *Division Manager*
Division of Legislative Services

Robert M. de Voursney
Sim Ewing
University of Virginia
Center for Public Service

HR 58: Education Subcommittee Studying Teacher Contracts

◆

April 2, 1991

General Assembly Building, Richmond

By way of introduction, Delegate L. Karen Darner, patron of HR 58, stated that the intent of the resolution was to explore restraint of professional educators when they seek advancement. She voiced her concern regarding the practice of not allowing teachers to seek jobs without first obtaining permission from their school divisions.

The subcommittee heard testimony from Delegate Shirley F. Cooper, who illustrated her familiarity with the issue, having been a teacher in three school systems. She opined that teachers who want to advance to other positions should be allowed to do so without jeopardizing their present positions.

Teacher Contracts

Norma Szakal, senior staff attorney, then presented a review of the present law concerning teacher contracts. Pursuant to § 22.1-304 of the *Code of Virginia*, school boards are required to notify all teachers of renewal or nonrenewal of their contracts by April 15 of each year. Probationary teachers must accept or reject the contract within 15 days after receiving the notice (i.e., by April 30). Teachers who have completed the probationary period (continuing contract teachers) must likewise receive and give notice of nonrenewal by April 15; otherwise the contract continues in effect.

Ms. Szakal further explained that teacher resignations after April 15 must be submitted in writing at least two weeks prior to the date of resignation, set forth the reasons, and be approved by the school board. The school board has the option of refusing a resignation given after April 15. If a teacher decides to breach his contract because the resignation was refused, the Board of Education has the authority to revoke the teacher's certificate.

Budgetary Impact

The issues relating to resignations are tied to the budgetary processes and economic conditions in the school divisions. Division superintendents are required to submit school board budgets to their governing bodies by April 1 of each year. Counties must prepare and approve their education budgets by May 1, and cities by May 15. Yet, the local governing body may wait until July 1 to approve its entire budget. Because contracts must be issued before the budgets are finalized, every school division must base the budget on outstanding contracts and other projected expenses.

Concluding her presentation, Ms. Szakal stated that it is not uncommon for teachers to resign after April 15. She explained that those school divisions offering good salaries and desirable locations have a sufficient pool of applicants to offer flexibility; they may have informal rules allowing individuals to resign after the deadline. However, in school divisions experiencing recruitment difficulties — those located in rural areas or those having lower salary schedules — the integrity of the contract is of great importance to fiscal and educational planning for the upcoming year.

The next speaker was Mr. Bradford A. King, governmental relations officer for the Virginia School Boards Association. Mr. King commented that once a contract is signed, it is binding, although there may be legitimate reasons for breaking it. He voiced his concern about smaller school divisions, which may be continually losing teachers without having enough applicants to fill the vacancies.

Edward W. Carr, assistant superintendent for public affairs and human resources, Department of Education, assured the subcommittee that the Board of Education does not like to pursue revocation of certificate for breach of contract. The more frequently taken action is suspension of the contract for a limited time.

The secretary/treasurer of the Virginia Association of School Personnel Administrators, Winston Odom, also testified. Mr. Odom stated that VASPA's position is to honor the integrity of the contract. VASPA supports a teacher's right to apply and interview for other positions, but also affirms its responsibility to ensure that contracts are not offered to individuals who have not been released from their current contracts.

Finally, Richard Pulley, director of governmental relations, Virginia Education Association, commented that this issue revolves around the problems of the use of "gentlemen's agreements," the concern that teachers should be allowed to interview regardless of their contractual status, and the April 15 deadline for contract renewal, which teachers would be reluctant to change.

The subcommittee plans to meet again in June, at which time results of a survey to school divisions regarding the issue will be released.

◆

The Honorable Joan H. Munford, *Chairman*

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Norma E. Szakal, *Senior Staff Attorney*

Cheryl L. Jackson, *Intern*

Division of Legislative Services

Reminder

Subcommittee and Commission Chairmen planning July and August meetings may want to avoid dates that conflict with the following conferences:

Southern Legislative Conference
New Orleans, July 20-24

National Conference of State Legislatures
Orlando, August 11-15

The Legislative Record summarizes the activities of all Virginia legislative study commissions and joint subcommittees. Published monthly in Richmond, Virginia, by the Division of Legislative Services, an agency of the General Assembly of Virginia.

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The Legislative Record is also published monthly in *The Virginia Register of Regulations*, available from the Virginia Code Commission, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219.
Notices of upcoming meetings of all legislative study commissions and joint subcommittees appear in the Calendar of Events in *The Virginia Register of Regulations*.

Legislative

DRAWING the LINE

1991 Redistricting in Virginia

Number 5 May 1991

General Assembly Completes Actions on State Legislative Districts

On May 21, 1991, the General Assembly met for the third time during its continuing special session and completed actions to redraw House of Delegates and State Senate district lines.

House of Delegates. The General Assembly adopted a plan for House of Delegates districts on April 9, during the first special session meeting, and the Governor approved the plan on April 19. A bill correcting two minor technical errors was passed on April 30 and signed by the Governor on May 10. The Attorney General's office delivered the plan and voluminous accompanying documentation (24 volumes requiring 7 feet of shelf space) to the Department of Justice on May 17 to set in motion the Voting Rights Act Section 5 preclearance process.

Senate. Governor Wilder vetoed the Senate plan that had been adopted on April 9 because it did not contain five black majority districts. The General Assembly enacted a new Senate plan at its second special session meeting on April 30. The new plan included five black majority districts and realigned Northern Virginia districts to provide nine seats in that region.

On May 10, the Governor sent the Senate a substitute plan, which retained the five black majority districts and revised the Northern Virginia districts to provide more representation for that area. The General Assembly agreed to the Governor's substitute proposal on May 21, and Governor Wilder signed the bill on May 23. The Attorney General's office submitted the Senate plan to the Department of Justice for preclearance on May 29.

Public Comment. Complete duplicate copies of the House and Senate submissions to the Department of Justice are available for public inspection at the Division of Legislative Services Library from 9:00 a.m. until 4:30 p.m. on weekdays. Public comment on the plans is invited. Comments should be mailed to J. Gerald Hebert, Acting Chief, Voting Section, United States Justice Department, 320 First Street, NW, Room 716, Washington, DC 20001.

Challenges. At least two challenges to the General Assembly plans have been announced. Republican spokesmen indicate that they will challenge the House plan on the basis that the plan is politically gerrymandered. Southside Virginians have announced plans to challenge the 18th Senatorial district, which embraces territory from Halifax to Portsmouth, for violating state constitutional compactness requirements.

Primary Date. On May 21, the General Assembly acted to shift the 1991 September primary date ahead one day to Wednesday, September 11, 1991, so that the primary would not conflict with the Jewish New Year, Rosh Hashanah. The legislation does not change the remainder of the previously enacted primary schedule and filing deadlines. A revised schedule is printed on page 12.

General Assembly redistricting plans:

For Senate Districts:
Senate Clerk's Office
Monta Wray
State Capitol
Richmond, Virginia 23219
(804) 786-3838

For House Districts:
House Clerk's Office
Bruce Jamerson or George Bishop
P.O. Box 406
Richmond, Virginia 23203
(804) 786-7248

DIVISION OF LEGISLATIVE SERVICES

Vol. 7, Issue 19 *Monday, June 17, 1991*

1991 House of Delegates Districts

1990 Census Population

IDEAL DISTRICT = 61,874

District		Total	Black	
1.	Lee	24,496	91	Deviation: 0.74%
	Scott	23,204	143	Black: 0.98%
	Wise (pt.)	14,634	375	
		62,334	609	
2.	Norton	4,247	269	Deviation: 3.98%
	Dickenson	17,620	68	Black: 1.44%
	Wise (pt.)	24,939	338	
	Russell (pt.)	17,528	252	
		64,334	927	
3.	Buchanan	31,333	63	Deviation: 3.66%
	Russell (pt.)	11,139	63	Black: 0.23%
	Tazewell (pt.)	21,668	20	
		64,140	146	
4.	Washington	45,887	682	Deviation: 3.94%
	Bristol	18,426	1,063	Black: 2.71%
		64,313	1,745	
5.	Smyth	32,370	660	Deviation: 2.49%
	Grayson (pt.)	6,753	172	Black: 3.17%
	Tazewell (pt.)	24,292	1,176	
		63,415	2,008	
6.	Bland	6,514	230	Deviation: 0.20%
	Wythe	25,466	880	Black: 3.07%
	Galax	6,670	387	
	Grayson (pt.)	9,525	314	
	Carroll (pt.)	13,821	91	
		61,996	1,902	
7.	Pulaski	34,496	2,004	Deviation: - 1.08%
	Radford	15,942	957	Black: 5.07%
	Giles (pt.)	10,768	140	
		61,206	3,101	
8.	Salem	23,756	1,065	Deviation: -2.97%
	Montgomery (pt.)	18,276	442	Black: 2.78%
	Roanoke (pt.)	18,007	165	
		60,039	1,672	
9.	Floyd	12,005	292	Deviation: 0.00%
	Franklin (pt.)	33,837	3,808	Black: 13.34%
	Bedford (pt.)	2,836	287	
	Pittsylvania (pt.)	13,199	3,866	
		61,877	8,253	
10.	Patrick	17,473	1,263	Deviation: - 1.76%
	Carroll (pt.)	12,773	18	Black: 15.36%
	Henry (pt.)	20,298	5,814	
	Pittsylvania (pt.)	10,243	2,243	
		60,787	9,338	
11.	Martinsville	16,162	5,954	Deviation: 3.20%
	Franklin (pt.)	5,712	423	Black: 23.46%
	Henry (pt.)	36,644	7,341	
	Pittsylvania (pt.)	5,339	1,260	
		63,857	14,978	

District		Total	Black	
12.	Giles (pt.)	5,598	144	Deviation: - 1.04%
	Montgomery (pt.)	55,635	2,399	Black: 4.15%
		61,233	2,543	
13.	Prince William (pt.)	63,213	4,255	Deviation: 2.16%
				Black: 6.73%
14.	Craig	4,372	8	Deviation: - 3.69%
	Roanoke (pt.)	33,961	935	Black: 2.34%
	Botetourt (pt.)	12,560	345	
	Bedford (pt.)	8,699	105	
		59,592	1,393	
15.	Page	21,690	442	Deviation: 4.48%
	Rockingham (pt.)	9,367	18	Black: 1.98%
	Shenandoah (pt.)	16,543	196	
	Warren (pt.)	14,078	544	
	Frederick (pt.)	2,971	83	
		64,649	1,283	
16.	Roanoke (pt.)	15,248	415	Deviation: - 0.46%
	Roanoke City (pt.)	46,344	14,550	Black: 24.30%
		61,592	14,965	
17.	Roanoke (pt.)	12,116	506	Deviation: 0.48%
	Roanoke City (pt.)	50,053	8,845	Black: 15.04%
		62,169	9,351	
18.	Bath	4,799	251	Deviation: 1.22%
	Covington	6,991	969	Black: 6.59%
	Alleghany	13,176	329	
	Clifton Forge	4,679	695	
	Lexington	6,959	811	
	Highland	2,635	3	
	Botetourt (pt.)	990	96	
	Rockbridge (pt.)	11,053	224	
	Augusta (pt.)	11,349	751	
		62,631	4,129	
19.	Bedford City	6,073	1,338	Deviation: 1.25%
	Buena Vista	6,406	282	Black: 9.32%
	Botetourt (pt.)	11,442	680	
	Bedford (pt.)	34,121	3220	
	Rockbridge (pt.)	4,603	319	
		62,645	5,839	
20.	Danville	53,056	19,431	Deviation: 2.07%
	Pittsylvania (pt.)	10,096	2,347	Black: 34.49%
		63,152	21,778	
21.	Virginia Beach (pt.)	64,446	10,322	Deviation: 4.16%
				Black: 16.02%
22.	Pittsylvania (pt.)	13,472	3,742	Deviation: 4.38%
	Campbell (pt.)	36,481	4,227	Black: 14.77%
	Lynchburg (pt.)	14,630	1,568	
		64,583	9,537	

1991 House of Delegates Districts

1990 Census Population, continued

IDEAL DISTRICT = 61,874

District		Total	Black	
23.	Amherst (pt.)	9,959	2,193	Deviation: - 0.80 %
	Lynchburg (pt.)	51,419	15,877	Black: 29.44%
		61,378	18,070	
24.	Staunton	24,461	3,081	Deviation: 4.10%
	Amherst (pt.)	18,619	3,565	Black: 11.25%
	Rockbridge (pt.)	2,694	31	
	Augusta (pt.)	18,636	570	
		64,410	7,247	
25.	Waynesboro	18,549	1,749	Deviation: - 0.47%
	Augusta (pt.)	24,692	685	Black: 4.57%
	Rockingham (pt.)	18,343	379	
		61,584	2,813	
26.	Harrisonburg	30,707	2,018	Deviation: 2.86%
	Rockingham (pt.)	17,843	57	Black: 3.52%
	Shenandoah (pt.)	15,093	163	
		63,643	2,238	
27.	Chesterfield (pt.)	64,450	10,802	Deviation: 4.16%
				Black: 16.76%
28.	Culpeper (pt.)	412	41	Deviation: - 2.54%
	Stafford (pt.)	59,888	4,166	Black: 6.98%
		60,300	4,207	
29.	Winchester	21,947	2,199	Deviation: 4.57%
	Frederick (pt.)	42,752	749	Black: 4.56%
		64,699	2,948	
30.	Madison	11,949	1,697	Deviation: 4.22%
	Orange	21,421	3,079	Black: 15.21%
	Greene (pt.)	3,738	289	
	Culpeper (pt.)	27,379	4,742	
		64,487	9,807	
31.	Rappahannock	6,622	491	Deviation: 2.53%
	Warren (pt.)	12,064	748	Black: 9.87%
	Fauquier (pt.)	44,752	5,022	
		63,438	6,261	
32.	Loudoun (pt.)	55,962	4,148	Deviation: - 0.83%
	Fairfax (pt.)	5,400	209	Black: 7.10%
		61,362	4,357	
33.	Clarke	12,101	1,054	Deviation: - 3.28%
	Fauquier (pt.)	3,989	440	Black: 6.74%
	Loudoun (pt.)	30,167	2,020	
	Fairfax (pt.)	13,585	521	
		59,842	4,035	
34.	Fairfax (pt.)	61,214	2,811	Deviation: - 1.07%
				Black: 4.59%
35.	Fairfax (pt.)	55,815	1,826	Deviation: - 0.97%
	Fairfax City (pt.)	5,457	209	Black: 3.32%
		61,272	2,035	
36.	Fairfax (pt.)	64,582	5,765	Deviation: 4.38%
				Black: 8.93%

District		Total	Black	
37.	Fairfax (pt.)	49,884	2,076	Deviation: 3.52%
	Fairfax City (pt.)	14,165	757	Black: 4.42%
		64,049	2,833	
38.	Falls Church	9,578	298	Deviation: 1.48%
	Fairfax (pt.)	53,214	3,478	Black: 6.01%
		62,792	3,776	
39.	Fairfax (pt.)	60,901	3,944	Deviation: - 1.57%
				Black: 6.48%
40.	Fairfax (pt.)	60,632	2,557	Deviation: - 2.01%
				Black: 4.22%
41.	Fairfax (pt.)	60,428	2,694	Deviation: - 2.34%
				Black: 4.46%
42.	Fairfax (pt.)	62,646	10,467	Deviation: 1.25%
				Black: 16.71%
43.	Fairfax (pt.)	62,798	7,121	Deviation: 1.49%
				Black: 11.34%
44.	Fairfax (pt.)	61,632	12,059	Deviation: - 0.39%
				Black: 19.57%
45.	Fairfax (pt.)	9,063	859	Deviation: - 3.93%
	Alexandria (pt.)	50,381	13,129	Black: 23.53%
		59,444	13,988	
46.	Alexandria (pt.)	60,802	11,210	Deviation: - 1.73%
				Black: 18.44%
47.	Fairfax (pt.)	11,135	1,052	Deviation: - 0.11%
	Arlington (pt.)	50,672	4,237	Black: 8.56%
		61,807	5,289	
48.	Fairfax (pt.)	2,619	51	Deviation: 0.18%
	Arlington (pt.)	59,365	3,827	Black: 6.26%
		61,984	3,878	
49.	Arlington (pt.)	60,899	9,876	Deviation: - 1.58%
				Black: 16.22%
50.	Manassas	27,957	2,889	Deviation: 2.55%
	Manassas Park	6,734	490	Black: 8.60%
	Prince William (pt.)	28,758	2,079	
		63,449	5,458	
51.	Prince William (pt.)	61,631	9,412	Deviation: - 0.39%
				Black: 15.27%
52.	Prince William (pt.)	62,084	9,332	Deviation: 0.34%
				Black: 15.03%
53.	Fairfax (pt.)	63,416	2,991	Deviation: 2.49%
				Black: 4.72%
54.	Fredericksburg	19,027	4,115	Deviation: 1.94%
	Spotsylvania (pt.)	44,048	4,032	Black: 12.92%
		63,075	8,147	

1991 House of Delegates Districts

1990 Census Population, continued

IDEAL DISTRICT = 61,874

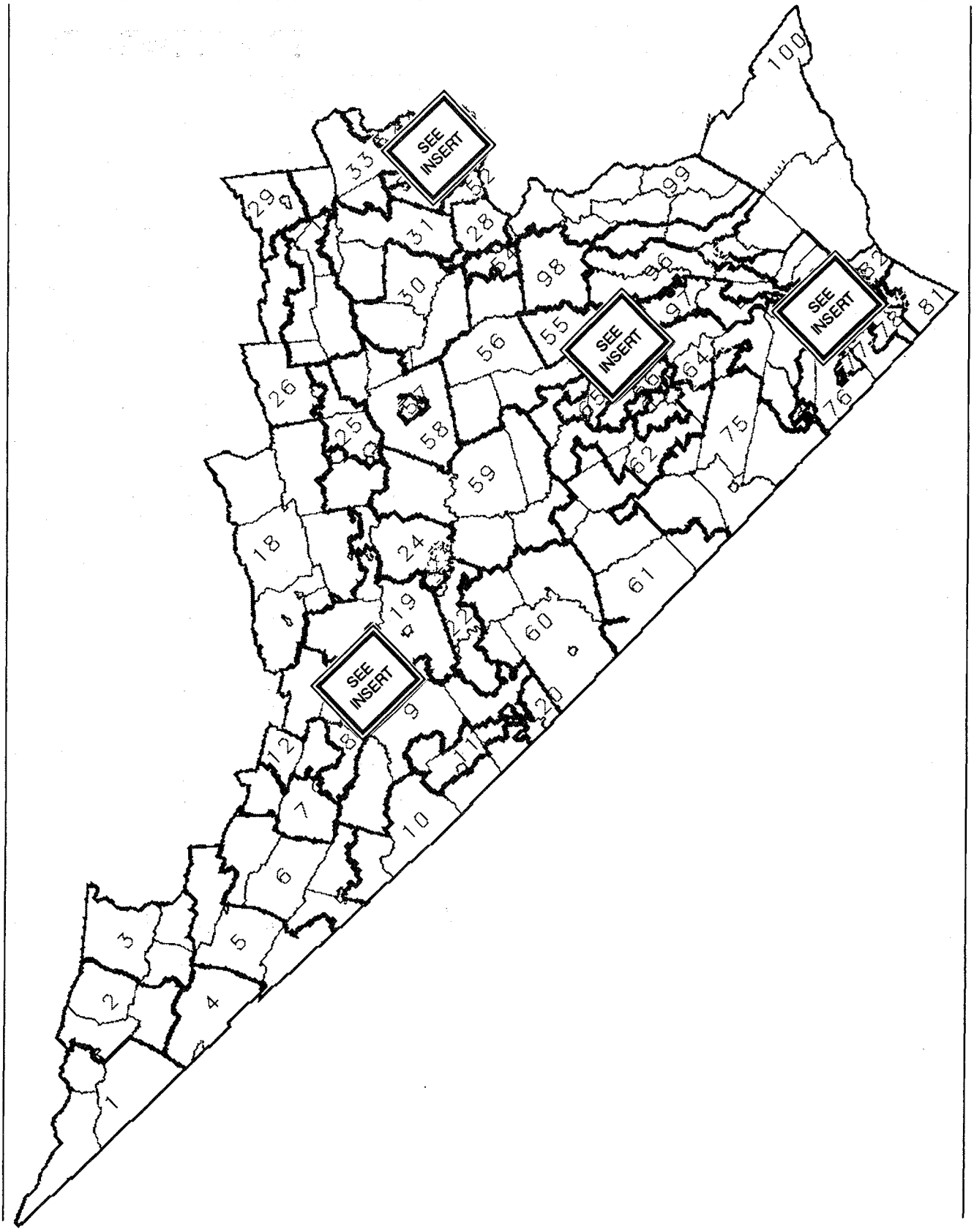
District		Total	Black	
55.	Hanover	63,306	6,405	Deviation: 2.31% Black: 10.12%
56.	Fluvanna	12,429	2,846	Deviation: - 2.59%
	Louisa	20,325	5,233	Black: 23.95%
	Goochland	14,163	4,210	
	Spotsylvania (pt.)	13,355	2,146	
		60,272	14,435	
57.	Charlottesville	40,341	8,561	Deviation: 4.09%
	Albemarle (pt.)	24,065	2,469	Black: 17.13%
		64,406	11,030	
58.	Albemarle (pt.)	43,975	4,355	Deviation: 0.95%
	Rockingham (pt.)	11,929	415	Black: 8.24%
	Greene (pt.)	6,559	375	
		62,463	5,145	
59.	Appomattox	12,298	2,816	Deviation: - 1.37%
	Buckingham	12,873	5,259	Black: 30.60%
	Nelson	12,778	2,406	
	Cumberland	7,825	3,027	
	Prince Edward (pt.)	15,255	5,168	
		61,029	18,676	
60.	Halifax	29,033	11,393	Deviation: 0.39%
	South Boston	6,997	2,569	Black: 35.96%
	Charlotte	11,688	4,263	
	Pittsylvania (pt.)	3,306	1,461	
	Campbell (pt.)	11,091	2,649	
		62,115	22,335	
61.	Mecklenburg	29,241	11,226	Deviation: - 1.18%
	Lunenburg (pt.)	9,999	3,382	Black: 38.70%
	Nottoway (pt.)	13,805	5,649	
	Prince Edward (pt.)	2,065	1,097	
	Amelia (pt.)	1,893	394	
	Brunswick (pt.)	4,143	1,915	
		61,146	23,663	
62.	Hopewell	23,101	5,910	Deviation: 2.82%
	Nottoway (pt.)	1,188	506	Black: 31.14%
	Amelia (pt.)	6,894	2,428	
	Dinwiddie (pt.)	7,822	3,505	
	Powhatan (pt.)	9,365	2,764	
	Chesterfield (pt.)	2,767	485	
	Prince George (pt.)	12,480	4,215	
		63,617	19,813	
63.	Petersburg	38,386	27,688	Deviation: - 3.00%
	Chesterfield (pt.)	10,930	5,734	Black: 59.85%
	Dinwiddie (pt.)	10,701	2,501	
		60,017	35,923	
64.	Charles City	6,282	3,969	Deviation: 1.68%
	Southampton (pt.)	5,569	1,882	Black: 35.96%
	Prince George (pt.)	14,914	3,757	
	Surry (pt.)	5,354	2,893	
	Franklin City (pt.)	2,486	642	
	Isle of Wight (pt.)	18,343	6,134	
	Newport News (pt.)	9,967	3,350	
		62,915	22,627	
65.	Powhatan (pt.)	5,963	526	Deviation: 3.19%
	Chesterfield (pt.)	57,883	4,420	Black: 7.75%
		63,846	4,946	
66.	Colonial Heights	16,064	129	Deviation: 4.54%
	Chesterfield (pt.)	48,617	4,728	Black: 7.51%
		64,681	4,857	
67.	Fairfax (pt.)	59,620	2,844	Deviation: - 3.64% Black: 4.77%
68.	Henrico (pt.)	33,762	5,195	Deviation: 1.21%
	Richmond City (pt.)	28,858	1,516	Black: 10.72%
		62,620	6,711	
69.	Richmond City (pt.)	62,603	37,994	Deviation: 1.18% Black: 60.69%
70.	Henrico (pt.)	13,921	4,317	Deviation: - 1.21%
	Richmond City (pt.)	47,206	35,538	Black: 65.20%
		61,127	39,855	
71.	Henrico (pt.)	4,280	3,595	Deviation: 4.71%
	Richmond City (pt.)	60,511	36,344	Black: 61.64%
		64,791	39,939	
72.	Chesterfield (pt.)	24,627	1,027	Deviation: 2.86%
	Henrico (pt.)	39,018	1,545	Black: 4.04%
		63,645	2,572	
73.	Henrico (pt.)	59,019	4,168	Deviation: 1.65%
	Richmond City (pt.)	3,878	730	Black: 7.79%
		62,897	4,898	
74.	Henrico (pt.)	61,759	24,076	Deviation: - 0.19% Black: 38.98%
75.	Greensville	8,853	4,916	Deviation: - 4.62%
	Sussex	10,248	5,955	Black: 57.03%
	Emporia	5,306	2,420	
	Brunswick (pt.)	11,844	7,434	
	Lunenburg (pt.)	1,420	910	
	Dinwiddie (pt.)	2,437	1,465	
	Southampton (pt.)	11,981	5,986	
	Surry (pt.)	791	518	
	Franklin City (pt.)	5,378	3,557	
	Isle of Wight (pt.)	758	497	
		59,016	33,658	
76.	Isle of Wight (pt.)	5,952	1,294	Deviation: - 3.81%
	Suffolk (pt.)	33,931	9,891	Black: 24.45%
	Chesapeake (pt.)	19,635	3,369	
		59,518	14,554	
77.	Suffolk (pt.)	13,022	11,286	Deviation: 2.92%
	Chesapeake (pt.)	50,659	25,624	Black: 57.96%
		63,681	36,910	
78.	Chesapeake (pt.)	59,374	7,266	Deviation: - 4.04% Black: 12.24%

1991 House of Delegates Districts

1990 Census Population, continued

IDEAL DISTRICT = 61,874

District		Total	Black	
79.	Suffolk (pt.)	5,188	2.068	Deviation: - 4.31%
	Chesapeake (pt.)	8,130	1,801	Black: 27.92%
	Portsmouth (pt.)	45,890	12,661	
		59,208	16,530	
80.	Chesapeake (pt.)	1,007	6	Deviation: - 4.61%
	Portsmouth (pt.)	58,017	36,519	Black: 61.88%
		59,024	36,525	
81.	Virginia Beach (pt.)	59,127	8,931	Deviation: - 4.44%
				Black: 15.10%
82.	Virginia Beach (pt.)	60,094	2,871	Deviation: - 2.88%
				Black: 4.78%
83.	Virginia Beach (pt.)	64,535	12,324	Deviation: 4.30%
				Black: 19.10%
84.	Virginia Beach (pt.)	59,895	9,563	Deviation: - 3.20%
				Black: 15.97%
85.	Virginia Beach (pt.)	63,558	6,091	Deviation: 2.72%
				Black: 9.58%
86.	Norfolk (pt.)	59,039	13,183	Deviation: - 4.58%
				Black: 22.33%
87.	Norfolk (pt.)	47,129	9,062	Deviation: - 4.89%
	Virginia Beach (pt.)	11,722	2,081	Black: 18.93%
		58,851	11,143	
88.	Norfolk (pt.)	59,206	14,100	Deviation: - 4.31%
				Black: 23.82%
89.	Chesapeake (pt.)	5,225	1,029	Deviation: - 3.38%
	Norfolk (pt.)	54,557	37,071	Black: 63.73%
		59,782	38,100	
90.	Chesapeake (pt.)	7,946	2,567	Deviation: - 4.75%
	Norfolk (pt.)	41,298	28,596	Black: 57.10%
	Virginia Beach (pt.)	9,692	2,488	
		58,936	33,651	
91.	Hampton (pt.)	54,979	11,365	Deviation: - 4.33%
	Poquoson (pt.)	4,215	49	Black: 19.28%
		59,194	11,414	
92.	Hampton (pt.)	59,181	36,715	Deviation: - 4.35%
				Black: 62.04%
93.	Newport News (pt.)	60,509	11,053	Deviation: - 2.21%
				Black: 18.27%
94.	Newport News (pt.)	59,150	11,219	Deviation: - 4.40%
				Black: 18.97%
95.	Newport News (pt.)	40,419	31,455	Deviation: - 2.94%
	Hampton (pt.)	19,633	3,901	Black: 58.88%
		60,052	35,356	
96.	King William	10,913	3,310	Deviation: - 0.16%
	King and Queen	6,289	2,633	Black: 21.79%
	York (pt.)	30,806	6,021	
	Gloucester (pt.)	13,767	1,496	
		61,775	13,460	
97.	New Kent	10,445	2,151	Deviation: 1.75%
	James City	34,859	6,460	Black: 17.94%
	Williamsburg	11,530	1,754	
	Henrico (pt.)	6,122	931	
		62,956	11,296	
98.	Caroline	19,217	7,244	Deviation: 2.40%
	Middlesex	8,653	2,131	Black: 20.89%
	Essex (pt.)	6,564	2,152	
	York (pt.)	11,616	592	
	Gloucester (pt.)	10,522	1,081	
	Poquoson (pt.)	6,790	35	
		63,362	13,235	
99.	Westmoreland	15,480	5,104	Deviation: - 1.13%
	King George	13,527	2,734	Black: 28.89%
	Richmond	7,273	2,194	
	Lancaster	10,896	3,289	
	Northumberland	10,524	3,098	
	Essex (pt.)	2,125	1,118	
	Stafford (pt.)	1,348	138	
		61,173	17,675	
100.	Mathews	8,348	1,175	Deviation: - 4.72%
	Northampton	13,061	6,035	Black: 32.10%
	Accomack	31,703	10,938	
	Gloucester (pt.)	5,842	777	
		58,954	18,925	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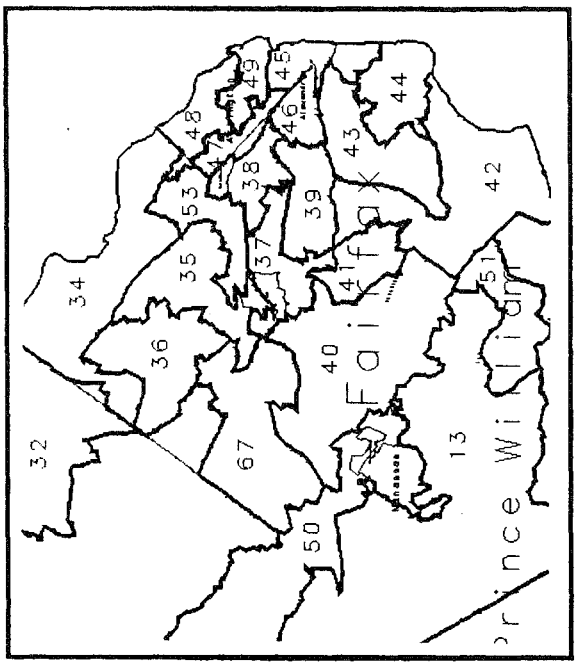
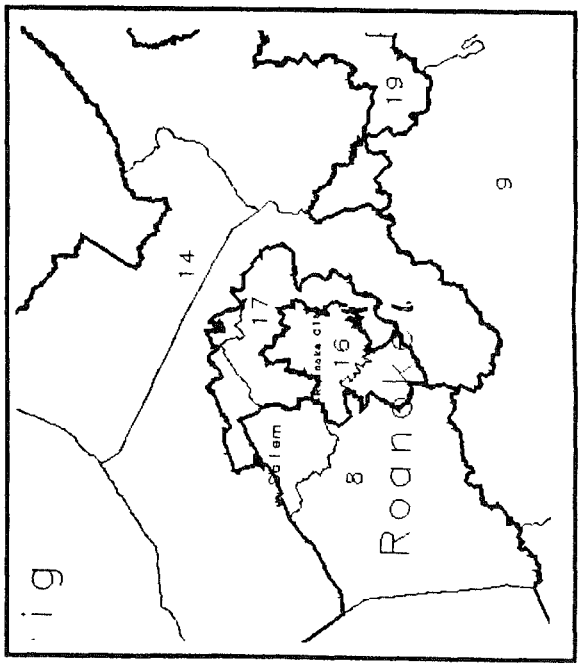
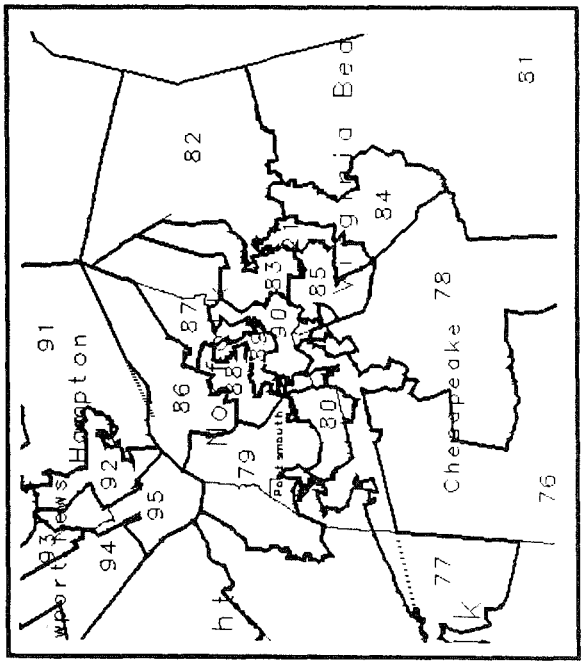


Northern Virginia



Roanoke Area



Tidewater Area

1991 State Senate Districts
1990 Census Population

IDEAL DISTRICT = 154,684

District		Total	Black	
1.	Poquoson	11,005	84	Deviation: 1.26%
	York (pt.)	14,362	2,426	Black: 14.86%
	Newport News (pt.)	55,433	6,605	
	Hampton (pt.)	75,837	14,162	
		156,637	23,277	
2.	Newport News (pt.)	89,147	45,116	Deviation: - 4.90%
	Hampton (pt.)	57,956	37,819	Black: 56.38%
		147,103	82,935	
3.	James City	34,859	6,460	Deviation: 2.90%
	Williamsburg	11,530	1,754	Black: 22.55%
	Northampton	13,061	6,035	
	Accomack	31,703	10,938	
	York (pt.)	28,060	4,187	
	Gloucester (pt.)	14,490	1,170	
	Newport News (pt.)	25,465	5,356	
		159,168	35,900	
4.	Hanover	63,306	6,405	Deviation: 2.64%
	Caroline	19,217	7,244	Black: 20.59%
	New Kent	10,445	2,151	
	King William	10,913	3,310	
	King and Queen	6,289	2,633	
	Essex	8,689	3,270	
	Richmond	7,273	2,194	
	Middlesex	8,653	2,131	
	Mathews	8,348	1,175	
	Gloucester (pt.)	15,641	2,184	
		158,774	32,697	
5.	Chesapeake (pt.)	26,606	17,657	Deviation: - 4.05%
	Norfolk (pt.)	121,820	74,540	Black: 62.12%
		148,426	92,197	
6.	Norfolk (pt.)	139,409	27,472	Deviation: 0.13%
	Virginia Beach (pt.)	15,473	5,438	Black: 21.25%
		154,882	32,910	
7.	Virginia Beach (pt.)	154,657	20,052	Deviation: - 0.02%
				Black: 12.97%
8.	Virginia Beach (pt.)	157,394	20,269	Deviation: 1.75%
				Black: 12.88%
9.	Henrico (pt.)	45,145	25,450	Deviation: - 4.22%
	Richmond City (pt.)	103,018	68,730	Black: 63.57%
		148,163	94,180	
10.	Powhatan	15,328	3,290	Deviation: - 2.77%
	Chesterfield (pt.)	75,044	6,877	Black: 9.88%
	Henrico (pt.)	13,480	789	
	Richmond City (pt.)	46,542	3,898	
		150,394	14,854	
11.	Amelia	8,787	2,822	Deviation: - 1.56%
	Colonial Heights	16,064	129	Black: 13.20%
	Chesterfield (pt.)	122,399	16,045	
	Dinwiddie (pt.)	5,021	1,108	
		152,271	20,104	

District		Total	Black	
12.	Goochland (pt.)	5,652	966	Deviation: - 2.23%
	Henrico (pt.)	145,575	13,968	Black: 9.88%
		151,227	14,934	
13.	Surry	6,145	3,411	Deviation: - 4.37%
	Prince George (pt.)	14,917	3,757	Black: 25.73%
	Hopewell (pt.)	14,129	1,766	
	Isle of Wight (pt.)	14,952	4,938	
	Suffolk (pt.)	18,881	6,358	
	Chesapeake (pt.)	22,056	4,426	
	Portsmouth (pt.)	56,839	13,397	
		147,919	38,053	
14.	Chesapeake (pt.)	93,907	14,424	Deviation: 3.08%
	Virginia Beach (pt.)	65,545	8,912	Black: 14.64%
		159,452	23,336	
15.	Charlotte	11,688	4,263	Deviation: - 1.90%
	Appomattox	12,298	2,816	Black: 34.63%
	Lunenburg	11,419	4,292	
	Nottoway	14,993	6,155	
	Prince Edward	17,320	6,265	
	Sussex	10,248	5,955	
	Mecklenburg (pt.)	16,711	6,448	
	Dinwiddie (pt.)	12,130	4,321	
	Greensville (pt.)	3,398	1,334	
	Southampton (pt.)	8,619	2,816	
	Emporia (pt.)	3,548	839	
	Prince George (pt.)	1,294	184	
	Franklin City (pt.)	4,082	729	
	Isle of Wight (pt.)	9,343	2,490	
	Suffolk (pt.)	14,661	3,646	
		151,752	52,553	
16.	Charles City	6,282	3,969	Deviation: - 4.55%
	Petersburg	38,386	27,688	Black: 60.46%
	Dinwiddie (pt.)	3,809	2,042	
	Chesterfield (pt.)	11,831	4,274	
	Henrico (pt.)	13,681	3,620	
	Prince George (pt.)	11,183	4,031	
	Hopewell (pt.)	8,972	4,144	
	Richmond City (pt.)	53,496	39,494	
		147,640	89,262	
17.	Buckingham	12,873	5,259	Deviation: - 1.49%
	Cumberland	7,825	3,027	Black: 21.03%
	Fluvanna	12,429	2,846	
	Louisa	20,325	5,233	
	Spotsylvania	57,403	6,178	
	Fredericksburg	19,027	4,115	
	Orange (pt.)	13,981	2,140	
	Goochland (pt.)	8,511	3,244	
		152,374	32,042	

1991 State Senate Districts

IDEAL DISTRICT = 154,684

1990 Census Population, continued

District		Total	Black	
18.	Halifax	29,033	11,393	Deviation: 3.63%
	South Boston	6,997	2,569	Black: 60.17%
	Brunswick	15,987	9,349	
	Mecklenburg (pt.)	12,530	4,778	
	Greensville (pt.)	5,455	3,582	
	Southampton (pt.)	8,931	5,052	
	Emporia (pt.)	1,758	1,581	
	Franklin City (pt.)	3,782	3,470	
	Isle of Wight (pt.)	758	497	
	Suffolk (pt.)	18,599	13,241	
	Chesapeake (pt.)	9,407	5,155	
	Portsmouth (pt.)	47,068	35,783	
		160,305	96,450	
19.	Pittsylvania	55,655	14,919	Deviation: - 1.63%
	Danville	53,056	19,431	Black: 27.04%
	Campbell (pt.)	43,446	6,794	
		152,157	41,144	
20.	Patrick	17,473	1,263	Deviation: 0.14%
	Floyd	12,005	292	Black: 16.08%
	Henry	56,942	13,155	
	Franklin	39,549	4,231	
	Martinsville	16,162	5,954	
	Carroll (pt.)	12,773	18	
		154,904	24,913	
21.	Roanoke City	96,397	23,395	Deviation: 0.90%
	Roanoke (pt.)	59,678	1,567	Black: 15.99%
		156,075	24,962	
22.	Giles	16,366	284	Deviation: 1.14%
	Radford	15,942	957	Black: 4.73%
	Craig	4,372	8	
	Salem	23,756	1,065	
	Botetourt	24,992	1,121	
	Bath	4,799	251	
	Covington	6,991	969	
	Alleghany	13,176	329	
	Clifton Forge	4,679	695	
	Pulaski (pt.)	21,715	1,261	
	Roanoke (pt.)	19,654	454	
		156,442	7,394	
23.	Bedford	45,656	3,612	Deviation: - 2.72%
	Bedford City	6,073	1,338	Black: 18.76%
	Amherst	28,578	5,758	
	Lynchburg	66,049	17,445	
	Campbell (pt.)	4,126	82	
		150,482	28,235	
24.	Rockbridge	18,350	574	Deviation: 1.17%
	Augusta	54,677	2,006	Black: 5.83%
	Lexington	6,959	811	
	Buena Vista	6,406	282	
	Highland	2,635	3	
	Staunton	24,461	3,081	
	Waynesboro	18,549	1,749	
	Rockingham (pt.)	24,462	615	
		156,499	9,121	

District		Total	Black	
25.	Nelson	12,778	2,406	Deviation: - 1.61%
	Albemarle	68,040	6,824	Black: 13.89%
	Greene	10,297	664	
	Charlottesville	40,341	8,561	
	Madison	11,949	1,697	
	Orange (pt.)	7,440	939	
	Rappahannock (pt.)	1,343	54	
		152,188	21,145	
26.	Harrisonburg	30,707	2,018	Deviation: 2.65%
	Culpeper	27,791	4,783	Black: 7.67%
	Page	21,690	442	
	Rockingham (pt.)	33,020	254	
	Rappahannock (pt.)	5,279	437	
	Fauquier (pt.)	28,665	3,361	
	Stafford (pt.)	11,624	881	
		158,776	12,176	
27.	Shenandoah	31,636	359	Deviation: 1.90%
	Warren	26,142	1,292	Black: 4.97%
	Frederick	45,723	832	
	Winchester	21,947	2,199	
	Clarke	12,101	1,054	
	Fauquier (pt.)	20,076	2,101	
		157,625	7,837	
28.	Westmoreland	15,480	5,104	Deviation: 1.63%
	King George	13,527	2,734	Black: 16.67%
	Lancaster	10,896	3,289	
	Northumberland	10,524	3,098	
	Stafford (pt.)	49,612	3,423	
	Prince William (pt.)	57,167	8,559	
		157,206	26,207	
29.	Manassas	27,957	2,889	Deviation: 1.63%
	Manassas Park	6,734	490	Black: 10.70%
	Prince William (pt.)	122,512	13,438	
		157,203	16,817	
30.	Alexandria	111,183	24,339	Deviation: 0.46%
	Fairfax (pt.)	30,225	3,411	Black: 19.07%
	Arlington (pt.)	13,985	1,890	
		155,393	29,640	
31.	Falls Church	9,578	298	Deviation: 0.41%
	Arlington (pt.)	145,735	15,843	Black: 10.39%
		155,313	16,141	
32.	Fairfax (pt.)	144,541	5,028	Deviation: 0.69%
	Arlington (pt.)	11,216	207	Black: 3.36%
		155,757	5,235	
33.	Loudoun	86,129	6,168	Deviation: 2.48%
	Fairfax (pt.)	72,390	6,176	Black: 7.79%
		158,519	12,344	
34.	Fairfax (pt.)	142,582	9,682	Deviation: 1.19%
	Fairfax City (pt.)	13,947	691	Black: 6.63%
		156,529	10,373	

1991 State Senate Districts

IDEAL DISTRICT = 154,684

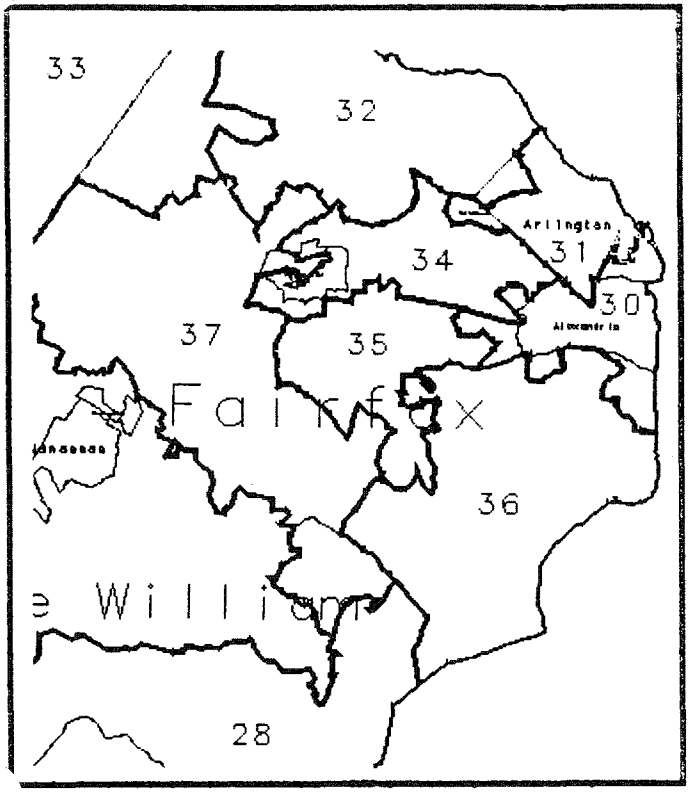
1990 Census Population, continued

District		Total	Black	
35.	Fairfax (pt.)	156,278	6,568	Deviation: 1.03% Black: 4.20%
36.	Fairfax (pt.)	157,740	27,525	Deviation: 1.98% Black: 17.45%
37.	Prince William (pt.)	36,007	3,081	Deviation: 1.18%
	Fairfax (pt.)	114,828	4,935	Black: 5.30%
	Fairfax City (pt.)	5,675	275	
		156,510	8,291	
38.	Russell	28,667	315	Deviation: - 1.88%
	Buchanan	31,333	63	Black: 1.98%
	Tazewell	45,960	1,196	
	Bland	6,514	230	
	Wythe	25,466	880	
	Washington (pt.)	13,830	316	
		151,770	3,000	

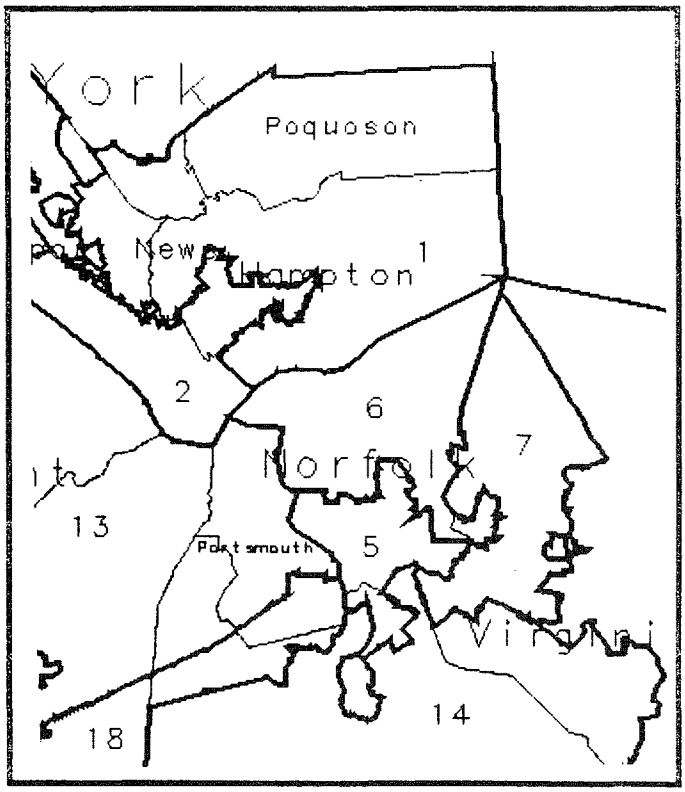
District		Total	Black	
39.	Grayson	16,278	486	Deviation: 0.74%
	Smyth	32,370	660	Black: 3.34%
	Montgomery	73,911	2,841	
	Galax	6,670	387	
	Carroll (pt.)	13,821	91	
	Pulaski (pt.)	12,781	743	
		155,831	5,208	
40.	Lee	24,496	91	Deviation: 3.19%
	Scott	23,204	143	Black: 1.70%
	Wise	39,573	713	
	Norton	4,247	269	
	Dickenson	17,620	68	
	Bristol	18,426	1,063	
	Washington (pt.)	32,057	366	
		159,623	2,713	

1991 State Senate Districts

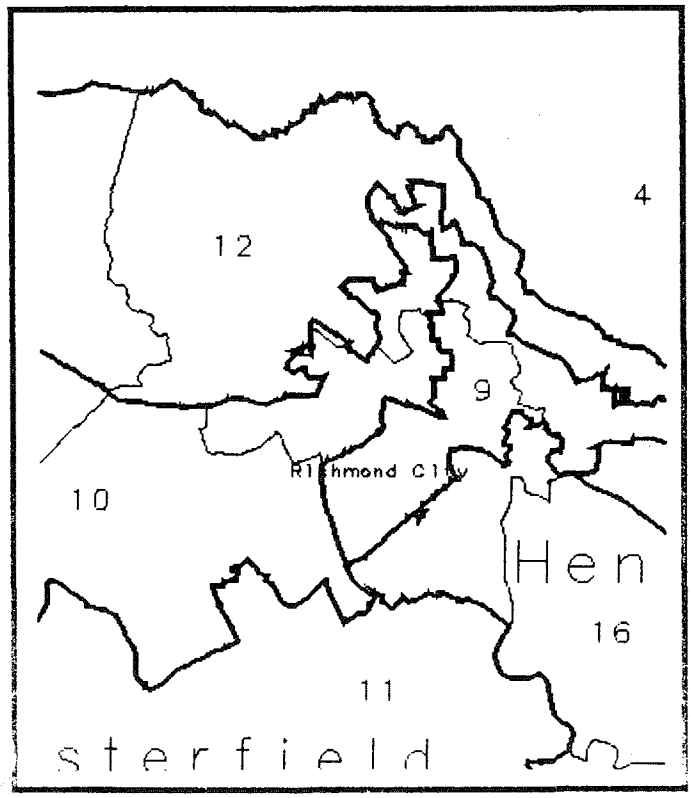
1990 Census Population



Northern Virginia



Tidewater Area



Richmond Area

Drawing the Line reports periodically on significant developments in the ongoing redistricting process in Virginia. Published by the Division of Legislative Services, an agency of the General Assembly of Virginia

E.M. Miller, Jr., Director

For information, contact
Special Projects
Division of Legislative Services
910 Capitol Street, 2nd Floor
Richmond, Virginia 23219
Phone (804)786-3591

Revised 1991 Primary and Election Schedule

Early in the 1991 regular session, the General Assembly passed House Bill 182 to move the 1991 primary date from June 11 to September 10. On May 21, the General Assembly moved the date ahead one day to **Wednesday, September 11.**

The primary schedule applies to all November 5, 1991, elections: the State Senate, House of Delegates, boards of supervisors, and constitutional officers. Candidate information packets with forms and information on the election schedule may be obtained from the State Board of Elections, (800) 552-9745.

Monday, July 22	Deadline for parties to notify State Board of Elections of decision to hold a primary.
Noon, Monday, July 22 to 5:00 p.m., Friday, August 2	Period for candidates to file for the primary.
Tuesday, August 6	Deadline for party chairmen to give electoral boards and State Board the names of primary candidates.
Wednesday, August 21 (or as soon thereafter as practicable)	Deadline for printing primary ballots.
Friday, August 23 and completed by 7:00 p.m. Wednesday, September 11	Period for party nominations by any means other than a primary.
Tuesday, August 27	Deadline for registrars to mail notices to voters of new precincts and districts in localities holding primaries.
Wednesday, September 11	PRIMARY/ Deadline for filings for November ballot by independent candidates and party candidates selected by any means other than a primary.
Friday, October 4 (or as soon thereafter as practicable)	Deadline for printing November ballots.
Monday, October 21	Deadline for registrars to mail notices to voters of new precincts and districts before the November election.
Tuesday, November 5	ELECTION DAY

Division of Legislative Services
910 Capitol Street, 2nd Floor
Richmond, Virginia 23219

Symbol Key †
† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Pesticide Control Board

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Pesticide Control Board intends to consider amending regulations entitled: **VR 115-04-20. Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services under the Virginia Pesticide Control Act.** The purpose of the proposed action is to establish a single product registration fee, to provide for the payment of certification fees biennially, and to delete the provision which allows applicants to furnish affidavits certifying that they have not engaged in the application of pesticides classified for restricted use in Virginia.

The Pesticide Control Board is of the opinion that the current two-tiered product registration fee has not had the desired effect, and that a single product registration fee would be more equitable and easier to administer. The implementation of a single tier system may cause an increase in fees currently paid by some registrants.

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Written comments may be submitted until 5 p.m., July 18, 1991.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, P.O. Box 1163, Rm. 401, 1100 Bank St., Richmond, VA 23209, telephone (804) 371-6558.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Alcoholic Beverage Control Board intends to consider amending regulations entitled: **VR 125-01-01. Public Participation Guidelines, VR 125-01-02. Advertising, VR 125-01-03. Tied House, VR 125-01-05. Retail Operations, VR 125-01-06. Manufacturers and Wholesalers Operations, and VR 125-01-07. Other Provisions.** The purpose of the proposed action is to receive information from industry, the general public and licensees of the board concerning adopting, amending and repealing the board's regulations.

Pursuant to the Public Participation Guidelines contained in VR 125-01-1 § 5.1, the board intends to consider proposals to amend the regulations as set forth below and will conduct a public meeting on such proposals as indicated below:

1. VR 125-01-1 § 5.1. Public participation guidelines in regulation development; applicability; initiation of rulemaking; rulemaking procedures.

a. Subject of Proposal: To require the Department of Alcoholic Beverage Control ("A.B.C.") to initiate rulemaking procedures at least once every two years, rather than once a year, unless regulatory changes are otherwise necessitated by virtue of legislative mandate or by "special" or "emergency" requirements.

b. Entities Affected: A.B.C., A.B.C. licensees and the public.

c. Purpose of Proposal: To reduce the amount of time, expense and resources devoted by A.B.C., the public and A.B.C. licensees to an annual review of A.B.C. regulations which often includes redundant consideration of the same regulatory proposals.

d. Issue: Initiation of rulemaking procedures at least once every two years rather than every year.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-103(b), 4-98.14, and Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

f. Proposed By: Virginia Beer Wholesalers Association, Inc.

2. VR 125-01-1 § 5.1. Public participation guidelines in regulation development; applicability; initiation of rulemaking; rulemaking procedures.

a. Subject of Proposal: To make it discretionary rather than mandatory that an ad hoc advisory panel be selected to make recommendations on proposed regulations and to formulate draft language.

b. Entities Affected: A.B.C. and the public.

c. Purpose of Proposal: To allow the board the discretion to streamline the rulemaking procedures.

d. Issue: Board discretion to appoint, or not appoint,

an ad hoc advisory panel.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-103(b), 4-98.14, and Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

3. VR 125-01-2 § 1. Advertising; generally; cooperative advertising; federal laws; beverages and cider; restrictions.

a. Subject of Proposal: (1) To clarify that if federal advertising regulations pertaining to alcoholic beverages conflict with more restrictive state regulations, then state regulations shall be followed; (2) to permit individuals who are of legal drinking age to order alcoholic beverages by mail from Virginia retail licensees; (3) to repeal subdivision F 8 so that sale prices for alcoholic beverages will no longer be required to "significantly conform in size, prominence and content to the advertising of nonalcoholic merchandise"; and (4) to clarify that a manufacturer may require the purchase of alcoholic beverages for a refund.

b. Entities Affected: A.B.C., A.B.C. licensees and the public.

c. Purpose of Proposal: (1) and (4) clarification; (2) to allow Virginia farm wineries and Virginia retail licensees to receive mail orders for alcoholic beverages; phone orders for alcoholic beverages are currently permitted; and (3) to repeal subdivision F 8 because discount chains currently advertise a page of alcoholic beverages at their every day low prices without being required to advertise nonalcoholic merchandise.

d. Issues: (1) Clarification that more restrictive state regulations pertaining to alcoholic beverages shall be followed when they conflict with federal regulations pertaining to alcoholic beverages; (2) allowing adults 21 years or older to order alcoholic beverages by mail from Virginia retail licensees; (3) less restrictive advertising for alcoholic beverages; and (4) clarification that a manufacturer may require the purchase of alcoholic beverages for a refund.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

4. VR 125-01-2 § 2. Advertising; interior; retail licensees; show windows.

a. Subject of Proposal: (1) To allow neon illuminated alcoholic beverage advertising inside licensed retail establishments; and (2) to clari. "works of art."

b. Entities Affected: Restaurant and bar owners (retail licensees).

c. Purpose of Proposal: (1) By opening up the regulations on materials used for advertising, more personal control will be given to the owners of establishments to decorate, interest clients, market products, and establish decor which should be the right of owners who depend on a business to make a living in a very competitive market. Government control of this type serves nothing but to make enforcement more expensive on taxpayers and reduce the rights of business professionals. As long as local building and safety codes are met, this area should be opened up to all types of display including neon lighting and clay reproductions as examples. (2) Insofar as the regulation concerning art work, this regulation leaves the subject open to opinion which will vary from one person to another. This can have great financial impact on products purchased as art for display when A.B.C. decides these products are not "works of art." This again is over regulation on the part of the government and should be clarified.

d. Issues: (1) Usage of neon illuminated alcoholic beverage advertising inside licensed retai' establishments; and (2) clarification of the ter "works of art."

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-60(a), 4-60(i), 4-69, 4-69.2, 4-98.10(w), and 4-98.14 of the Code of Virginia.

f. Proposed By: Paul Roxenberg, President of Paul Roxy Inc. t/a Graphic Neon.

5. VR 125-01-2 § 2. Advertising; interior; retail licensees; show windows.

a. Subject of Proposal: (1) To repeal all interior advertising requirements for alcoholic beverage advertising including size, material, mechanical and illumination limitations, as long as alcoholic beverage advertising is purchased at the normal wholesale price and is not displayed so that it can be seen from the exterior of the premises. Retail licensees may purchase alcoholic beverage advertising and service items, from any source, including manufacturers and wholesalers; (2) to permit retail licensees to advertise any brand of alcoholic beverages inside their licensed establishments; (3) to repeal subsection C which restates § 4-79.1; and (4) to move subsection D. on show windows to § 3, exterior advertising.

b. Entities Affected: A.B.C., manufacturers, wholesalers, retailers and the public.

c. Purpose of Proposal: (1) and (2) To make interior advertising less restrictive; (3) to repeal a subsection which restates statute; and (4) to move show window advertising under § 3, exterior advertising, because it faces the exterior rather than the interior of a licensed establishment.

d. Issues: (1) and (2) less restrictive interior advertising requirements for alcoholic beverages; (3) the repeal of subsection C which restates the tied house statute; and (4) under what section should show windows be placed - § 2 (interior advertising) or § 3 (exterior advertising).

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-60(i), 4-69, 4-69.2, 4-98.10(w), 4-98.14 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

6. VR 125-01-2 § 3. Advertising; exterior; signs; trucks; uniforms.

a. Subject of Proposal: (1) To allow vehicles with alcoholic beverage advertising to appear in parades and promotions; (2) to permit billboard advertising within stadiums or coliseums who have professional or semiprofessional athletic events; (3) to allow the terms "bar," "bar room," "saloon" and "speakeasy" to be used on exterior advertising if these terms are part of the licensee's trade name; (4) to clarify that an exterior sign may contain only one reference to the words and terms appearing on the face of the license; and (5) to create a new subsection for show windows which is currently under § 2 D of this regulation.

b. Entities Affected: Manufacturers, wholesalers, and retailers.

c. Purpose of Proposal: (1) To permit vehicles with alcoholic beverage advertising, which are not used exclusively in the business of a manufacturer or wholesaler, to appear in parades or promotions; (2) to allow billboard advertising within stadiums or coliseums which have professional or semiprofessional athletic events; (3) to allow prohibited terms to be used on exterior signs if they are part of the licensee's trade name; (4) clarification; and (5) to move show window advertising under exterior advertising because it faces the exterior rather than the interior of a licensed establishment.

d. Issues: (1) Allowing vehicles with alcoholic beverage advertising, which are not used exclusively in the business of a manufacturer or wholesaler, to appear in parades or promotions; (2) allowing billboard advertising within stadiums or coliseums; (3) usage of the terms "bar," "bar room," "saloon" and "speakeasy" when they are part of the licensee's trade name; (4) clarification; and (5) under what section should show windows be placed - § 2 (interior advertising) or § 3 (exterior advertising).

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), and 4-98.14 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

7. VR 125-01-2 § 3. Advertising; exterior; signs; trucks; uniforms.

a. Subject of Proposal: To allow outdoor (i.e., billboard) advertising for nonalcoholic beers.

b. Entities Affected: Manufacturers, wholesalers, advertisers of nonalcoholic beers and the driving public.

c. Purpose of Proposal: There are two specific reasons why the current regulation warrants changing 8 (1) radio and television are currently allowed to promote these items and (2) the main reasoning for outdoor advertising's prohibition is that the brewery's logo on the board is regarded as a "subliminal stimulation."

d. Issues: Outdoor (i.e., billboard) advertising of nonalcoholic beer.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), and 4-98.14 of the Code of Virginia.

f. Proposed By: Greg Franz, Lamar Advertising Company.

8. VR 125-01-2 § 3. Advertising; exterior; signs; trucks; uniforms.

a. Subject of Proposal: To allow the word "saloon" to be used on exterior signs for a licensed retail establishment.

b. Entities Affected: Retail licensees.

c. Purpose of Proposal: There are currently two Lone Star Steakhouses under construction in the State of Virginia. One of which will be operated by Lone Star Steakhouse of Richmond, Inc., and the other by Lone Star Steakhouse of Virginia Beach, Inc. Except for the prohibition contained in the above referenced section, both restaurants would be operated as "Lone Star Steakhouse and Saloon" rather than "Lone Star Steakhouse." There are currently three Lone Star Steakhouse and Saloon restaurants operating in North Carolina with another under construction. In addition, there are Lone Star Steakhouse and Saloon restaurants under construction in both Delaware and Indiana. It is the

company's intention to develop a number of these restaurants throughout the country and it is of great benefit to them to be able to operate under one trade name nationwide regarding customer recognition, and the preparation and purchasing of advertising, paper goods including menus, uniforms and signage.

In addition, it seems that is discriminatory to allow some license holders to utilize the words "bar" and "tavern" in their trade names and not to allow the use of the word "saloon" in the trade name of other license holders. It is the position of Lone Star Steakhouse of Richmond, Inc., that either all descriptive words of similar import should be allowed, or prohibited, so that all license holders receive equal treatment and to avoid confusion by the public.

d. Issues: Usage of the word "saloon" on exterior signs for a licensed retail establishment.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), and 4-98.14 of the Code of Virginia.

f. Proposed By: Lone Star Steakhouse of Richmond, Inc.

9. VR 125-01-2 § 4. Advertising; newspaper; magazines, radio, television, trade publications, etc.

a. Subject of Proposal: To allow the word "saloon" to be used in print or electronic media when advertising beer, wine and mixed beverages.

b. Entities Affected: Retail licensees.

c. Purpose of Proposal: There are currently two Lone Star Steakhouses under construction in the State of Virginia. One of which will be operated by Lone Star Steakhouse of Richmond, Inc., and the other by Lone Star Steakhouse of Virginia Beach, Inc. Except for the prohibition contained in the above referenced section, both restaurants would be operated as "Lone Star Steakhouse and Saloon" rather than "Lone Star Steakhouse." There are currently three Lone Star Steakhouse and Saloon restaurants operating in North Carolina with another under construction. In addition, there are Lone Star Steakhouse and Saloon restaurants under construction in both Delaware and Indiana. It is the company's intention to develop a number of these restaurants throughout the country and it is of great benefit to them to be able to operate under one trade name nationwide regarding customer recognition, and the preparation and purchasing of advertising, paper goods including menus, uniforms and signage.

In addition, it seems that is discriminatory to allow some license holders to utilize the words "bar" and "tavern" in their trade names and not to allow th use of the word "saloon" in the trade name of other license holders. It is the position of Lone Star Steakhouse of Richmond, Inc., that either all descriptive words of similar import should be allowed, or prohibited, so that all license holders receive equal treatment and to avoid confusion by the public.

d. Issues: Usage of the word "saloon" when advertising beer, wine and mixed beverages in the print or electronic media.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-79(a) repealed by Acts 1989, 4-98.10(w) and 4-98.14 of the Code of Virginia.

f. Proposed By: Lone Star Steakhouse of Richmond, Inc.

10. VR 125-01-2 § 4. Advertising; newspaper; magazines, radio, television, trade publications, etc.

a. Subject of Proposal: (i) To allow the terms "bar," "bar room," "saloon" and "speakeasy" to be used in print or electronic media if they are part of the licensee's trade name; (2) to clarify subdivision B 2 which allows manufacturers, bottlers and wholesalers to advertise in the trade publications of associations of retail licensees; and (3) to define the term "general circulation" as it relates to publicatio which are distributed or intended to be distributed primarily to persons under 21 years of age.

b. Entities Affected: Manufacturers, wholesalers, retailers and publications not of general circulation which are distributed primarily to persons under 21 years of age.

c. Purpose of Proposal: (1) To conform with proposed amendments for VR 125-01-2 § 3 2 b; (2) clarification; and (3) to define "general circulation."

d. Issues: (1) Usage of the terms "bar," "bar room," "saloon" and "speakeasy" in the print or electronic media when they are part of the licensee's trade name; and (2) and (3) clarification.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-79(a) repealed by Acts 1989, 4-98.10(w) and 4-98.14 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

11. VR 125-01-2 § 4. Advertising; newspaper; magazines, radio, television, trade publications, etc.

a. Subject of Proposal: To repeal all restrictions on alcoholic beverage advertising in college student publications.

b. Entities Affected: Manufacturers, wholesalers, retailers and college student publications.

c. Purpose of Proposal: To remove illegal constraints on the college press and allow A.B.C. to explore more effective ways of enforcing the minimum drinking age law.

d. Issue: The repeal of all restrictions on alcoholic beverage advertising in college student publications.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-79(a) repealed by Acts 1989, 4-98.10(w) and 4-98.14 of the Code of Virginia.

f. Proposed By: Laurel Wissinger, 1990-91 editor of The Breeze, James Madison University.

12. VR 125-01-2 § 5. Advertising; newspaper; magazines, programs; distilled spirits.

a. Subject of Proposal: (1) To amend § 5.1 C requiring "information on contrasting background in no smaller than eight-point size type" to "Any written, printed or graphic advertisement shall be in lettering or type size sufficient to be conspicuous and readily legible"; and (2) to repeat the prohibition against statements that refer to "bonded," age and religion.

b. Entities Affected: Manufacturers, importers and wholesalers of distilled spirits.

c. Purpose of Proposal: (1) To delete the eight-point size type; and 92) to repeal the prohibition against statements dealing with "bonded", age and religion.

d. Issues: (1) Deletion of eight-point size type; and 92) repeal of the prohibition against statements that refer to "bonded", age and religion in distilled spirits advertising in the print media.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

13. VR 125-01-2 § 6. Advertising; novelties and specialties.

a. Subject of Proposal: (1) To increase the wholesale value limit from $2.00 to $5.00 on novelty items to be given away; and (2) to increase from one to ten the number of novelty and specialty items that may be given to a retailer and each of his employees.

b. Entities Affected: Manufacturers, importers, brokers, wholesalers and retail licensees.

c. Purpose of Proposal: (1) The increase of the wholesale value of novelties from $2.00 to $5.00 would allow for a greater variety of items to be given to the retail licensees at the same time preserving the low monetary value of the item; and (2) the increase in the number of advertising specialties from one to ten per retailer and per employee per visit would provide parity between the retail establishment with one employee and the larger establishments with ten or more employees.

d. Issues: (1) The increase of wholesale value limits on novelty items to be given away; and (2) the increase of the number of items to be given away to a retailer and his employees.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w) and 4-98.14 of the Code of Virginia.

f. Proposed By: Virginia Distilled Spirits Representatives Association.

14. VR 125-01-2 § 7. Advertising; fairs and trade shows; wine and beer displays.

a. Subject of Proposal: To allow the display of distilled spirits and the distribution of distilled spirits informational brochures and novelty and specialty items at fairs and trade shows.

b. Entities Affected: Manufacturers and wholesalers of distilled spirits.

c. Purpose of Proposal: To allow distilled spirits to be advertised in the same manner that wine and beer are advertised at fairs and trade shows.

d. Issue: Permitting the display of distilled spirits and the distribution of distilled spirits informational brochures and novelty and specialty items at fairs and trade shows.

e. Applicable Laws: §§ 4-7(1), 4-11(a) and 4-69 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

15. VR 125-01-2 § 9. Advertising; coupons.

a. Subject of Proposal: (1) To permit off-premises retail licensees to redeem wine and beer coupons; (2) to delete the requirement in subdivision B 4 that "(c)oupons offered by retail licensees shall appear in an advertisement with nonalcoholic merchandise and conform in size and content to the advertising of such merchandise"; and (3) to clarify that a manufacturer or wholesaler may furnish coupons or materials regarding coupons to retailers.

b. Entities Affected: Manufacturers, wholesalers and retailers.

c. Purpose of Proposal: (1) To make it convenient for consumers to redeem alcoholic beverage coupons at the time of purchase rather than requiring consumers to mail their coupons to the manufacturer or its designated agent; (2) to conform with proposed amendments to VR 125-01-2 § 1 F I 8; and (3) clarification.

d. Issues: (1) Redemption of alcoholic beverage coupons by retailers; (2) less restrictive advertising requirements for retail licensee coupons; and (3) clarification.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w), 4-98.14 and 4-103(b) and (c) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

16. VR 125-01-2 § 10. Advertising; sponsorship of public events; restrictions and conditions.

a. Subject of Proposal: (1) To repeal the prohibition against an entire season of athletic or sporting events, such as a football season; and (2) to delete the word "program" from § 10 B 1 which prohibits the sponsorship of any public event on a college, high school or younger age level.

b. Entities Affected: Manufacturers and wholesalers.

c. Purpose of Proposal: (1) To permit manufacturers of alcoholic beverages to sponsor an entire season of athletic or sporting events; (2) to prevent any confusion concerning the use of the word "program" in § 10 B 1, which is prohibited and in § 10 B 6 which is allowed.

d. Issues: (1) Permitting the sponsorship of an entire season of athletic and sporting events by manufacturers; and (2) clarification.

e. Applicable Laws: §§ 4-7(1), 4-11(a) and 4-69 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

17. VR 125-01-3 § 1. Rotation and exchange of stocks of retailers by wholesalers; permitted and prohibited acts.

a. Subject of Proposal: (1) To repeal the prohibition that wholesalers may not merchandise wine and beer on Sundays; (2) to delete the term "malt beverage" and substitute "beer" in § 1 A 5; (3) to allow nationally discontinued products to be replaced by a wholesaler; and (4) to repeal § 1 B 3 f which permits a wholesaler to exchange wine or beer on an identical quantity, brand or package basis for quality control purposes because it is repetitious.

b. Entities Affected: A.B.C., wholesaler and retailer.

c. Purpose of Proposal: (1) To allow wholesalers to decide whether or not they will merchandise wine and beer on Sundays. Currently wholesalers may accept orders for wine and beer and deliver wine and beer to banquet licensees and ships sailing from a port of call outside the Commonwealth on Sundays; (2) to standardize terms used throughout the regulations; (3) to permit wholesalers to replace nationally discontinued products; and (4) to avoid repetition.

d. Issues: (1) The prohibition against wholesalers merchandising wine and beer on Sundays; (2) standardization of terminology; (3) allowing wholesalers to replace nationally discontinued products; and (4) repetition.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-22.1, 4-33(d), 4-37(e), 4-79.1, 4-103(b) and 4-115 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

18. VR 125-01-3 § 2. Manner of compensation of employees of retail licensees.

a. Subject of Proposal: To move § 2 from VR 125-01-3 to VR 125-01-5.

b. Entities Affected: Retail licensees.

c. Purpose of Proposal: Section 2, dealing with the manner of compensation that employees of retail licensees may receive from their employers, is not a tied house issue.

d. Issues: Under what regulation should compensation of employees of retail licensees be placed - VR 125-01-3 (Tied House) or VR 125-01-5 (Retail Operations).

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-98.10(t) and 4-103(b) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

19. VR 125-01-3 § 5. Certain transactions to be for cash; "cash" defined; checks and money orders; reports by sellers; payments to the board.

a. Subject of Proposal: To permit electronic fund transfers.

b. Entities Affected: Wholesalers and retailers.

c. Purpose of Proposal: To eliminate the requirement that cash or checks for the payment

the purchase of alcoholic beverages be kept on the retail premises. Under the existing regulation, the retailer/purchaser has to grant check-writing authority or provide sufficient cash to permit a manager of retail licensed premises to purchase wine, beer and beverages and such checks and cash are subject to loss or theft while in the hands of the driver/salesman representing the distributor.

d. Issues: Use of electronic fund transfers for payment of alcoholic beverages by retailers to wholesalers.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-33, 4-44, 4-60(h) and (j), 4-98.11, 4-98.18, 4-98.19, 4-103(b) and 4-107 of the Code of Virginia.

f. Proposed By: Rite Aid Corporation.

20. VR 125-01-3 § 5. Certain transactions to be for cash; "cash" defined; checks and money orders; reports by sellers; payments to the board.

a. Subject of Proposal: To include within the definition of "cash" payments made by retailers via wholesaler-initiated electronic fund transfers for purchases of wine, beer and beverages when such payments are made pursuant to (i) a written agreement between the wholesale and retail licensees and (ii) clearly defined conditions and requirements established by A.B.C.

b. Entities Affected: Wholesalers and retailers.

c. Purpose of Proposal: Some A.B.C. retail licensees desire to utilize electronic fund transfers as a means of payment to wholesale licensees for purchases of wine, beer or beverages. Current regulations require that payment for such transactions be made in "cash" which is defined to mean legal tender, money order or checks.

d. Issues: Use of electronic fund transfers for payment of alcoholic beverages by retailers to wholesalers.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-33, 4-44, 4-60(h) and (j), 4-98.11, 4-98.18, 4-98.19, 4-103(b) and 4-107 of the Code of Virginia.

f. Proposed By: Virginia Beer Wholesalers Association, Inc.

21. VR 125-01-3 § 5. Certain transactions to be for cash; "cash" defined; checks and money orders; reports by sellers; payments to the board.

a. Subject of Proposal: (1) To repeal the requirement for monthly reporting to A.B.C. of all invalid checks received by wholesalers from retail licensees for the payment of wine, beer or beverages; (2) to require wholesalers to report to A.B.C. all invalid checks received from retail licensees for the payment of wine, beer or beverages that are not satisfied within seven days after notice of the invalid check is given to the wholesaler, and to report all retail licensees who have given them a certain number of invalid checks within a specified time period; (3) to require wholesalers to keep records of all invalid checks received from retail licensees for the payment of wine, beer or beverages on their licensed premises; and (4) to amend subsection E to "Licensee payments to the board shall be for cash as defined in subsection B" and to delete § 5 E 1-6.

b. Entities Affected: A.B.C. wholesalers and retailers.

c. Purpose of Proposal: (1), (2) and (3) to prevent regulatory agents from having to investigate every invalid check report including those checks that have been satisfied; and (4) to condense subsection E.

d. Issues: (1) Agent's time spent on investigation of invalid checks; and (2) condensation of subsection E.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-33, 4-44, 4-60(h) and (j), 4-98.11, 4-98.18, 4-98.19, 4-103(b) and 4-107 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

22. VR 125-01-3 § 7. Solicitation of licensees by wine, beer and beverage solicitor salesman or representatives.

a. Subject of Proposal: To clarify that solicitation and promotion of educational programs regarding distilled spirits and mixed drinks is allowed if a distilled spirits solicitor's permit has been obtained.

b. Entities Affected: Wine, beer and beverage solicitor salesmen.

c. Purpose of Proposal: To clarify that wine, beer and beverage solicitor salesmen may solicit and promote distilled spirits and mixed beverages after first obtaining a distilled spirits solicitor's permit.

d. Issues: Clarification.

e. Applicable Laws: §§ 4-98.14 and 4-98.16 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

23. VR 125-01-3 § 8. Inducements to retailers; tapping equipment; bottle or can openers; banquet licensees; paper, cardboard or plastic advertising materials; clip-ons and

table tents.

a. Subject of Proposal: (1) to repeal all size requirements for paper, cardboard and plastic advertising materials which are displayed inside licensed retail establishments; and (2) to define the business relationships between manufacturers and wholesalers on the one hand and retailers on the other concerning the sale of nonalcoholic merchandise to retailers by wholesalers and manufacturers.

b. Entities Affected: A.B.C., manufacturers, wholesalers, and retailers.

c. Purpose of Proposal: (1) To conform with proposed amendments for interior advertising (VR 125-01-2 § 2); and (2) to allow manufacturers and wholesalers to engage in activities with retail licensees which are not related to the alcoholic beverage business of the retailer.

d. Issues: (1) Repeal of size restrictions for paper, cardboard and plastic advertising materials displayed inside licensed retail premises; and (2) the definition of business relationship between manufacturers, wholesalers and retailers when dealing with nonalcoholic merchandise.

e. Applicable Laws: §§ 4-11(a), 4-69.2, 4-79(f) and (h) repealed by Acts 1989, and 4-98.14 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

24. VR 125-01-5 § 3. Restricted hours, exceptions.

a. Subject of Proposal: To restrict the sale of alcoholic beverages from 2 a.m. to 6 a.m. for all on-premises licensees and from 1 a.m. to 6 a.m. for all off-premises licensees.

b. Entities Affected: A.B.C. and retailers.

c. Purpose of Proposal: To standardize restricted hours statewide for all licensees.

d. Issue: Increasing the number of hours a licensee may sell alcoholic beverages.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-36, 4-98.14, 4-103(b) and 4-114.1 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

25. VR 125-01-5 § 8. Entreating, urging or enticing patrons to purchase prohibited.

a. Subject of Proposal: To clarify that alcoholic beverages placed in containers of ice (i.e., "ice beer/wine to go") by off-premises licensees is a violation of this section.

b. Entities Affected: Retailers and the public.

c. Purpose of Proposal: To place retail off-premises licensees on notice that alcoholic beverages placed in containers of ice are an enticement to purchase alcoholic beverages.

d. Issue: The placement of alcoholic beverages in containers of ice near cash registers and doors by off-premises licensees as an enticement to purchase alcoholic beverages.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-69, 4-69.2, 4-98.14, 4-103(b) and (c) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

26. VR 125-01-5 § 10. Definitions and qualifications for retail off-premises wine and beer licenses and off-premises beer licenses; exceptions; further conditions; temporary licenses.

a. Subject of Proposal: (1) Minimum monthly sales and inventory costs for retail off-premises wine and beer licensees will be decreased to $2,000 for drugstores and $1,000 for specialty shops; (2) minimum monthly sales and inventory costs for retail off-premises beer licenses will be decreased to $1,000 for drugstores and increased to $1,000 for marina stores; and (3) creation of a category for off-premises wine and beer licenses and beer licenses that does not require minimum monthly food sales.

b. Entities Affected: A.B.C., retailers and the public.

c. Purpose of Proposal: (1) and (2) To standardize monthly sales and inventory costs for most licensees; and (3) to expand the types of businesses eligible for off-premises licensee category that does not require minimum monthly food sales.

d. Issues: (1) and (2) The increase and decrease of minimum monthly sales and inventory costs for retail off-premises licenses; and (3) the creation of an off-premises licensee category that does not require minimum monthly food sales.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-25, and 4-31(a) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

27. VR 125-01-5 § 11. Definitions and qualifications for retail on-premises and on- and off-premises license

enerally; mixed beverage licensee requirements; exceptions; temporary licenses.

a. Subject of Proposal: (1) Minimum monthly sales for retail on- and off-premises wine and beer licenses will be standardized at $2,000; (2) minimum monthly sales for retail on- and off-premises beer licenses will be standardized at $2,000; (3) minimum monthly sales for mixed beverage licenses will be decreased to $4,000; (4) the amount of monthly food sales for mixed beverage licensees which must be in the form of meals with entrees will be decreased to $2,000; (5) to clarify the definition of "designated room"; (6) to repeal the requirements that (a) the seating area of a designated room shall not exceed the seating area of the required dining room and (b) the seating capacity of such room shall not be included in determining eligibility qualifications; (7) to include the seating capacity of an outside terrace or patio which is used continually during seasonal operation when determining eligibility qualifications; (8) to clarify that the definition of a "table" includes a counter or booth; and (9) to repeal § 11 D 6 b which deals with counters.

b. Entities Affected: Retail on- and off-premises licensees and on-premises licensees.

c. Purpose of Proposal: (1) and (2) To standardize minimum monthly sales for retail on-premises beer licensees and on- and off-premises wine and beer licensees; (3) and (4) to decrease minimum monthly sales and the amount of monthly food sales which must be in the form of meals with entrees for mixed beverage licensees in order to make it easier for small mixed beverage licensees to meet qualifications; (5) clarification; (6) and (7) to make eligibility qualifications less restrictive; and (8) and (9) to allow counters to be considered tables for meeting the minimum seating requirements.

d. Issues: (1) and (2) The standardization of minimum monthly sales; (3), (4), (6) and (7) less restrictive eligibility qualifications for mixed beverage licenses; (5) clarification; and (8) and (9) less restrictive seating requirements for mixed beverage licensees.

e. Applicable Laws: §§ 4-2(8), 4-7(1), 4-11(a), 4-25, 4-98.2 and 4-98.14 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

28. VR 125-01-5 § 13. Clubs; applications; qualifications; reciprocal arrangements; changes; financial statements.

a. Subject of Proposal: (1) To clarify that nonmembers using club premises must be individuals, organizations or groups who qualify for banquet or banquet special events licenses; and (2) to require a club to prepare and keep its financial statement on the licensed premises for three years rather than submitting it annually to A.B.C.

b. Entities Affected: A.B.C. and clubs.

c. Purpose of Proposal: (1) Clarification; and (2) reduction of paperwork required to be filed with A.B.C.

d. Issues: (1) Clarifying nonmember qualifications for using club premises; and (2) requiring financial statements to be kept on club premises for three years rather than requiring annual submission of financial statements to A.B.C.

e. Applicable Laws: §§ 4-2(6), 4-7(1), 4-11(a), 4-61.1, 4-98.2, 4-98.14 and 4-118.1 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

29. VR 125-01-5 § 17. Caterer's license.

a. Subject of Proposal: To decrease the monthly gross sales average from $5,000 to $4,000.

b. Entities Affected: Caterers.

c. Purpose of Proposal: To conform with proposed amendments for qualifications of mixed beverage licensees (VR 125-01-5 § 11).

d. Issue: Decreasing the monthly gross sales average for a caterer.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-98.2(e), 4-98.7, 4-98.11 and 4-98.18 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

30. VR 125-01-5 § 19. Bed and breakfast licenses.

a. Subject of Proposal: To repeal the minimum number of bedrooms that an establishment must have to qualify for a bed and breakfast license.

b. Entities Affected: Bed and breakfast establishments.

c. Purpose of Proposal: To comply with 1991 statutory changes involving § 4-2 of the Code of Virginia.

d. Issue: Compliance with statutory law.

e. Applicable Laws: §§ 4-2, 4-7(1), 4-11(a), 4-25, 4-33, 4-38, 4-98.14 and 4-103 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage

Control.

31. VR 125-01-6 § 2. Wines; purchase orders generally; wholesale wine distributors.

a. Subject of Proposal: (1) To repeal the prohibition against peddling wine to retail licensees; and (2) to repeal § 6 B 5 dealing with repossession of wine.

b. Entities Affected: Wholesalers and retailers.

c. Purpose of Proposal: (1) To allow wholesalers to peddle wine to retail licensees; and (2) to repeal outdated subdivisions.

d. Issues: (1) The peddling of wine by wholesalers; and (2) the repeal of outdated subdivisions.

e. Applicable Laws: §§ 4-7(a), (b) and (1), 4-11(a), 4-22.1 and 4-84(b) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

32. VR 125-01-6 § 6. Wine or beer importer licenses; conditions for issuance and renewal.

a. Subject of Proposal: To comply with 1991 amendments to § 4-25 D of the Code of Virginia.

b. Entities Affected: A.B.C., importers, wholesalers and brand owners of wine and beer imported into the Commonwealth.

c. Purpose of Proposal: To comply with 1991 statutory changes involving §§ 4-25, 4-118.4 and 4-118.43 of the Code of Virginia.

d. Issue: Compliance with statutory law.

e. Applicable Laws: §§ 4-7(b) and (1), 4-11, 4-2, 4-118.4 and 4-118.43 of the Code of Virginia.

f. Proposed By: Virginia Beer Wholesalers Association, Inc.

33. VR 125-01-6 § 8. Solicitation of mixed beverage licensees by representatives of manufacturers, etc., of distilled spirits.

a. Subject of Proposal: To repeal § 8 C which requires distilled spirits solicitor permittees to keep complete and accurate records of the solicitation of any mixed beverage licensee for two years.

b. Entities Affected: Distilled spirits solicitor permittees and mixed beverage licensees.

c. Purpose of Proposal: The original purpose of VR 125-01-6 § 8 C (requiring permittees to keep detailed records of solicitation of any mixed beverage licensee for a period of two years) was to monitor the compliance with the new regulations. Since this purpose has been achieved, the detailed reporting is no longer necessary.

d. Issue: Detailed record keeping of solicitation of any mixed beverage licensee by distilled spirits solicitor permittees.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-98.14 and 4-98.16 of the Code of Virginia.

f. Proposed By: Virginia Distilled Spirits Representatives Association.

34. VR 125-01-6 § 8. Solicitation of mixed beverage licensees by representatives of manufacturers, etc., of distilled spirits.

a. Subject of Proposal: To repeal the prohibition against soliciting mixed beverage licensees on Sundays except at conventions, trade association meetings and similar gatherings.

b. Entities Affected: Distilled spirits solicitor permittees and mixed beverage licensees.

c. Purpose of Proposal: To allow distilled spirits solicitor permittees to solicit mixed beverage licensees on Sundays.

d. Issue: The solicitation of mixed beverage licensees on Sundays.

e. Applicable Laws: §§ 4-7(1), 4-11(a), 4-98.14 and 4-98.16 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

35. VR 125-01-6 § 9. Sunday deliveries by wholesalers prohibited; exceptions.

a. Subject of Proposal: To repeal § 9.

b. Entities Affected: A.B.C., wholesalers and retailers.

c. Purpose of Proposal: To allow wholesalers to deliver wine and beer to retailers on Sundays.

d. Issue: Sunday delivery of beer and wine to retailers.

e. Applicable Laws: §§ 4-7(1), 4-11(a) and 4-103(b) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

36. VR 125-01-7 § 4. Alcoholic beverages for culina

urposes; permits; purchases; restrictions.

a. Subject of Proposal: (1) To delete the term "dining room" and substitute "an establishment where food is prepared on the premises"; and (2) to allow a culinary permittee, who does not have a license to purchase alcoholic beverages from a wholesaler, to purchase alcoholic beverages from a retailer; however, a culinary permittee who only has a beer license may purchase wine from a retailer.

b. Entities Affected: Culinary permittees and applicants for culinary permits.

c. Purpose of Proposal: (1) To allow individuals who do not have a dining room, but prepare food on their business premises, to be eligible for a culinary permit; and (2) to incorporate current policy.

d. Issues: (1) Expansion of the types of businesses eligible for culinary permits; and (2) incorporation of current policy.

e. Applicable Laws: §§ 4-7(a), (b) and (1), 4-11(a) and 4-61.2 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

37. VR 125-01-7 § 7. Procedures for owners having lcoholic beverages distilled from grain, fruit, fruit products or other substances lawfully grown or produced by such person; permits and limitations thereon.

a. Subject of Proposal: To clarify that an owner who contracts with a distiller to manufacture distilled spirits from products that the owner has lawfully grown or produced must obtain a board permit before removing the distilled spirits from the distillery's premises.

b. Entities Affected: Owners of distilled spirits manufactured from products that the owners have lawfully grown or produced.

c. Purpose of Proposal: Clarification.

d. Issue: Clarification.

e. Applicable Laws: §§ 4-7(a), (b) and (1), 4-11(a) and 4-89(b) and (e) of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

38. VR 125-01-7 § 8. Manufacture, sale, etc., of "sterno," and similar substances for fuel purposes.

a. Subject of Proposal: To repeal § 8.

b. Entities Affected: A.B.C.

c. Purpose of Proposal: To repeal an outdated regulation involving "Sterno," canned heat and similar substances intended for fuel purposes.

d. Issue: The repeal of § 8.

e. Applicable Laws: §§ 4-7(1), 4-11(a) and 4-48 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

39. VR 125-01-7 § 13. Special mixed beverage licenses; location; special privileges; taxes on licenses.

a. Subject of Proposal: To remove the sale of beer and wine from the determination of the 45% food to 55% alcoholic beverage ratio.

b. Entities Affected: Special mixed beverage licensees.

c. Purpose of Proposal: To comply with § 4-98.7 of the Code of Virginia.

d. Issue: Compliance with statutory law.

e. Applicable Laws: §§ 4-98.2, 4-98.14 and 7.1-21.1 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

40. VR 125-01-7 § 16. Alcoholic Beverage Control Board.

a. Subject of Proposal: To repeal § 16.

b. Entities Affected: A.B.C.

c. Purpose of Proposal: To repeal a regulation which is a restatement of § 4-6.1 of the Code of Virginia (i.e. Whenever the word "Commission" shall appear and the clear context of the meaning is intended to refer to the A.B.C. Commission, it shall be taken to mean the A.B.C. Board).

d. Issue: The repeal of § 16.

e. Applicable Laws: §§ 4-3 and 4-6.1 of the Code of Virginia.

f. Proposed By: Department of Alcoholic Beverage Control.

41. Regulations are adopted by the board pursuant to authority contained in §§ 4-7(1), 4-11(a), 4-98.14, 4-103(b) and 9-6.14:1 et seq. of the Code of Virginia.

42. The board requests that all persons interested in the above described subject please submit comments in writing by 10 a.m. June 20, 1991, to the undersigned, P. O. Box

27491, Richmond, Virginia 23261, or attend the public meeting scheduled below. Comments may also be faxed to (804) 367-8249 (if the original paperwork is also mailed).

43. The board will hold a public meeting and receive the comments or suggestions of the public on the above subjects. The meeting will be in the First Floor Hearing Room at 2901 Hermitage Road, Richmond, Virginia, at 10 a.m. on June 20, 1991.

44. Regarding the proposals as set forth above, all references to existing regulations that may be the subject of amendment or repeal, all references to proposed numbers for new regulations or to applicable laws or regulations are for purposes of information and guidance only, and are not to be considered as the only regulations or laws that may be involved or affected when developing draft language to carry out the purposes of any proposal. This notice is designed, primarily, to set forth the subject matter and objectives of each proposal. In developing draft language, it may be necessary to amend or repeal a number of existing regulations and/or adopt new regulations as may be deemed necessary by the board, and the references set forth above are not intended to be all inclusive.

45. Contact the undersigned, if you have questions, at the above address or by phone at (804) 367-0616.

Virginia Alcoholic Beverage Control Board

Robert N. Swinson
Secretary

Statutory Authority: §§ 4-7(1), 4-11, 4-36, 4-69, 4-69.2, 4-72.1, 4-98-14, 4-103(b) and 9-6.14:1 et seq. of the Code of Virginia.

Written comments may be submitted until 10 a.m. on June 20, 1991.

Contact: Robert N. Swinson, Secretary to the Board, P. O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

BOARD FOR COSMETOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Cosmetology intends to consider amending regulations entitled: **VR 235-01-02. Board for Cosmetology Regulations.** The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, adjustment of examination fees; establishment of a nail technician licensing program; and establishment of an esthetician licensing program.

Statutory Authority: §§ 54.1-201(5) and 54.1-113 the Code of Virginia.

Written comments may be submitted until July 7, 1991.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **VR 355-18-000. Waterworks Regulations.** The purpose of the proposed action is to make appropriate amendments to make state regulations as stringent as federal for Total Coliform Rule and Surface Water Treatment Rule, Lead and Copper Rule, Standardized Monitoring Rule, and Phase II (SOC & IOC).

Statutory Authority: § 32.1-170 of the Code of Virginia.

Written comments may be submitted until June 17, 1991.

Contact: Allen R. Hammer, P.E., Division Director, Virginia Department of Health - Division of Water Supply Engineering, P.O. Box 2448, Richmond, VA 23218 telephone (804) 786-5566.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider promulgating regulations entitled: **Sewage Collection and Treatment Regulations.** The purpose of the proposed action is to ensure that the design, construction and operation of sewerage systems and treatment works are consistent with the public health and water quality objectives of the Commonwealth of Virginia, through the issuance of construction and operation permits under the authority of the State Health Commissioner. The existing 1977 Sewerage Regulations would be repealed upon promulgation of this regulation.

Statutory Authority: §§ 62.1-44.19 and 32.1-164 of the Code of Virginia.

Written comments may be submitted until June 28, 1991.

Contact: C.M. Sawyer, P.E., Director, Division of Wastewater Engineering, Virginia Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755.

DEPARTMENT OF LABOR AND INDUSTRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider promulgating regulations entitled: **VR 425-01-81. Employment of Minors on Farms, in Gardens and in Orchards.** The purpose of the proposed regulation is to regulate certain child labor in the agricultural industry.

Statutory Authority: §§ 40.1-6(3), 40.1-100(A)(9), and 40.1-114 of the Code of Virginia.

Written comments may be submitted until June 24, 1991.

Contact: John J. Crisanti, Director, Enforcement Policy, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241-0064, telephone (804) 786-2384.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-04-4.1940:1. Nursing Home Payment System.** The purpose of the proposed action is to ensure appropriate interpretation of the Patient Intensity Rating System peer group ceiling calculation methodology in permanent regulations to supersede the current emergency regulations.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until July 1, 1991, to Joseph J. Beck, Hearing Officer, Division of Cost Settlement and Audit, DMAS, 600 East Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-09-01. Certification of Optometrists to Prescribe for and Treat Certain Diseases including Abnormal Conditions of Human Eye and its Adnexa with Certain Therapeutic Pharmaceutical Agents.** The purpose of the proposed action is to amend §§ 2.1 (3) and 6.1 to provide alternative pathways for graduates of optometric training to be eligible to sit for the certification examination to treat ocular diseases with therapeutic pharmaceutical agents.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until June 19, 1991.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-04-01. Mandatory Standards for Community Mental Health Programs.** The purpose of the proposed action is to repeal obsolete regulations that have been superseded by Medicaid procedures and assessments.

Statutory Authority: § 37.1-10 of the Code of Virginia.

Written comments may be submitted until July 1, 1991.

Contact: Rubyjean Gould, General Services Director, Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-04-02. Mandatory Standards for Community Programs for the Mentally Retarded.** The purpose of the proposed action is to repeal obsolete regulations that have been superseded by Medicaid procedures and assessments.

Statutory Authority: § 37.1-10 of the Code of Virginia.

Written comments may be submitted until July 1, 1991.

Contact: Rubyjean Gould, General Services Director, Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider repealing regulations entitled: **VR 470-05-01. Mandatory Standards for Community Substance Abuse Programs.** The purpose of the proposed action is to repeal obsolete regulations that have been superseded by Medicaid procedures and assessments.

Statutory Authority: § 37.1-10 of the Code of Virginia.

Written comments may be submitted until July 1, 1991.

Contact: Rubyjean Gould, General Services Director, Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider promulgating regulations entitled: **Certification of Case Management.** The purpose of the proposed action is to certify facilities for the provision of case management, therapeutic consultation and residential support services if these services are to be reimbursed by the Department of Medical Assistance Services.

Written comments may be submitted until July 5, 1991, to Ben Saunders, Jr., Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214.

Contact: Rubyjean Gould, General Services Director, Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

DEPARTMENT OF MOTOR VEHICLES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider repealing existing regulations entitled **VR 485-10-8401. Public Participation Guidelines** and to promulgate new regulations entitled **Public Participation Guidelines for Regulation Development and Promulgation.** The purpose of the proposed action is to establish guidelines for receiving input and participation from interested citizens in the development of any regulations which the department proposes.

Statutory Authority: § 46.2-203 of the Code of Virginia.

Written comments may be submitted until June 30, 1991, to Nancy G. LaGow, P.O. Box 27412, Richmond, Virginia 23269.

Contact: Bruce Gould, Planning Supervisor, P.O. Box 27412, Richmond, VA 23269, telephone (804) 367-0453.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider promulgate regulations entitled: **Administrative Disqualification Hearings for the Food Stamp Program.** The purpose of the proposed action is to implement § 63.1-124.23 of the Code of Virginia and federal regulations at 7 CFR 273.16, to implement administrative disqualification hearings to determine whether acts of intentional program violation have occurred.

Statutory Authority: § 63.1-25.2 of the Code of Virginia.

Written comments may be submitted until June 19, 1991, to Burt Richman, FSP Manager, VDSS, 8007 Discovery Drive, Richmond, Virginia.

Contact: Peggy Friedenberg, Legislative Analyst, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposed action is to modify the standards to ensure that water quality is protected, beneficial water uses are updated and obsolete standards are cancelled. To accomplish this the board will consider amendments which include but are not limited to updating the Outstanding State Resource Waters (VR 680-21-07.2) and Nutrient Enriched Waters (VR 680-21-07.3) sections; updating the River Basin Section Tables (VR 680-21-08) to include trout stream reclassifications and new public water supplies; and other amendments deemed necessary by staff based on previous comments received during the 1990 triennial review of the water quality standards.

Depending on the specific amendments proposed, these amendments could impact those existing and potential permittees that discharge or may discharge into waterbodies proposed for reclassification. The proposed action is authorized by the statute cited below and is governed by the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia), the Water Quality Standards (VR 680-21-00), the Permit Regulation (VR 680-14-01), ar

ection 303 of the Clean Water Act. For review or copies of applicable laws and regulations, contact Elleanore Daub at the address below.

Written comments may be submitted until 4 p.m. on Tuesday, June 18, 1991.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Contact: Elleanore Daub, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6418.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposed action is to establish a site-specific modification to the numerical water quality standard for copper in the section of the Clinch River that receives the discharge from Appalachian Power Company's facility at Carbo.

A change in the numerical standard for copper in this section of the Clinch River would impact Appalachian Power company's facility at Carbo by requiring upgrades to the existing treatment facilities. Applicable laws and regulations include the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia), Permit Regulation (VR 680-14-01), Water Quality Standards (VR 680-21-00), and the Clean Water Act. For review or copies of applicable laws and regulations contact Alex Barron at the address below.

Written comments may be submitted until 4 p.m. on Wednesday, June 19, 1991.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Contact: Alex Barron, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-0387.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards and VR 680-14-02. Nutrient Policy.** The purpose of the proposed action is to consider amending the Water Quality Standards and the Nutrient Policy. Several Northern Virginia jurisdictions and authorities have petitioned the board to revise the Potomac Embayment Standards. The revisions may include (i) amendments to the Water Quality Standards necessary to remove effluent limitations imposed on discharges to the Potomac Embayments in the water quality standards and (ii) amendments to the Nutrient Policy to impose controls on total phosphorus discharged to Potomac Embayments designated nurrient enriched in the Water Quality Standards. This proposed action will more appropriately allow for the development of necessary permit limitations through the Permit Regulation, with the exception of controls on the discharge of phosphorus through the Nutrient Policy. In addition, the proposal will include minor editorial amendments. No financial impact on the regulated community is expected from the proposed action. The proposed action is authorized by the statute cited below and is governed by the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia).

Written comments may be submitted until 4 p.m. on Wednesday, June 19, 1991.

Statutory Authority: §§ 62.1-44.15(3a) and 62.1-44.15(10) of the Code of Virginia.

Contact: James C. Adams, Regional Director, Northern Regional Office, State Water Control Board, 1519 Davis Ford Rd., Suite 14, Woodbridge, VA 22192, (703) 490-8922.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-16-05. York River Basin Water Quality Management Plan.** The purpose of the proposed action is to amend the York River Basin Water Quality Management Plan by removing American Oil, York and James City SD No. 1 and York Regional sewage treatment plants from the listing of wasteload allocations in Table 3.

Water quality management plans set forth measures for the board to implement in order to reach and maintain applicable water quality goals in general terms and also by establishing wasteload allocations for industrial and municipal discharges in critical water quality segments. Since the facilities do not discharge to a critical (water quality limited) segment, inclusion of these facilities in the original table was inapporopriate and unnecessary.

Federal and state laws require that Virginia Pollutant Discharge Elimination System permits comply with appropriate area or basin wide water quality management plans. The proposed removal of these facilities will have no adverse impact on the dischargers or water quality. The quality and quantity of the discharges will continue to be regulated by federal and state laws and the board's Permit Regulation (VR 680-14-01).

The proposed action is authorized by the statutes cited and is governed by the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia); Permit Regulation (VR 680-14-01); Water Quality Standards (VR 680-21-00); the Clean Water Act, 33 USCA Section 1251 et seq., and 40 CFR Parts 35 and 130. A copy of these documents may be reviewed or obtained by contacting Mr. Robert F. Jackson,

Jr., at the address below.

Written comments may be submitted until 4 p.m. on Wednesday, June 19, 1991.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Contact: Robert F. Jackson, Jr., Tidewater Regional Office, State Water Control Board, 287 Pembroke Office Park, Suite 310, Virginia Beach, VA 23462, telephone (804) 552-1840.

GENERAL NOTICES

VIRGINIA COASTAL RESOURCES MANAGEMENT PROGRAM

† Request for Public Participation

The 1990 reauthorization of the Coastal Zone Management Act (CZMA), as amended, established under § 309 a new Coastal Zone Enhancement Grants Program which sets aside from 10% to 20% of the states' federally-approved Coastal Zone Management funds to encourage the states to seek to achieve one or more of eight legislatively defined coastal management objectives. The states are to achieve these objectives by implementing changes to their coastal management programs; for instance, by amending their laws, regulations, or boundaries or by other means that improve management of their coastal resources.

As a first step in this process, the Council on the Environment is seeking to identify priority needs for Virginia from among those identified in the legislation. The Council is requesting the public to comment on the Commonwealth's most pressing coastal issues relating to the following objectives:

The protection, enhancement, or creation of coastal wetlands;

The prevention or significant reduction of threats to life and property through the control of coastal development and redevelopment in hazardous areas, and the anticipation and management of sea level rise;

The development of increased opportunities for public access;

The reduction of marine debris by managing uses and activities contributing to marine debris;

The development and adoption of procedures to address the cumulative and secondary impacts of coastal growth and development;

The preparation and implementation of special area management plans;

The development of plans for the use of ocean resources; and

The adoption of procedures and policies to facilitate the siting of energy facilities and government facilities as well as energy-related facilities and government activities which may be of greater than local significance.

In addition to determining the most pressing coastal management issues from the above list, the Council is seeking initial ideas on how best to address these issues. Using public input and other resources, the Council, with the assistance of its Coastal Resources Management Subcommittee, will undertake an assessment to determine its priority needs under this section of the CZMA. A draft of this assessment will be made available for public review. Following this assessment, a strategy for addressing the most important of these issues will be developed. The assessment and strategy will provide the basis by which the Council will apply for $309 grant funds from the National Oceanic and Atmospheric Administration for use under Virginia's Coastal Resources Management Program. The assessment will be complete by late fall and the strategy by the end of February, 1992.

In considering these issues, the Council suggests that individuals recognize that limited funds are available for this purpose (approximately $185,000 in the next grant year) and, therefore, that they concentrate 1) on issues which are clearly coastal, not state-wide, in their focus, and 2) on those issues not being fully addressed under other auspices.

To obtain more information on Virginia's Coastal Resources Management Program or this section, please contact:

Ann Dewitt Brooks
Assistant Administrator
Chesapeake Bay and Coastal Programs
Council on the Environment
202 N. 9th Street, Suite 900
Richmond, Virginia 23219
(804) 786-4500

Written comments may be sent to the above address by July 8, 1991, or individuals may present their ideas at the Council's quarterly meeting on June 25, 10 a.m. in House Room C, the General Assembly Building, Richmond.

DEPARTMENT OF HEALTH

† Maternal and Child Health Services Block Grant Application

Fiscal Year 1992

he Virginia Department of Health will transmit to the Federal Secretary of Health and Human Services by August 15, 1991, the Maternal and Child Health Services Block Grant Application for the period October 1, 1991 through September 30, 1992, in order to be entitled to receive payments for the purpose of providing Maternal and Child Health Services on a statewide basis. These services include:

Preventive and primary care services for pregnant women, mothers, and infants up to age 1.

Preventive and primary care services for children and adolescents.

Family-centered, community-based, coordinated care and the development of community-based systems of services for children with special health care needs.

The Maternal and Child Health Services Block Grant Application makes assurance to the Secretary of Health and Human Services that the Virginia Department of Health will adhere to all the requirements of Section 505, Title V-Maternal and Child Health Services Block Grant of the Social Security Act, as amended. To facilitate public comment, this notice is to announce a period from June 17 through July 16, 1991 for review and public comment on the Block Grant Application. Copies of the document will be available as of June 17, 1991, in the office of the Director of each county and city health department. Individual copies of the document may be obtained by contacting Ms. Kolesar and received by July 16, 1991 at the following address:

Virginia Department of Health
Family Health Services
1500 East Main Street, Room 141
Richmond, Virginia 23219
(804) 786-5214

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† Notice of Significant Change in Statewide Methods and Standards forSetting Payment Rates

(Title 42 Code of Federal Regulations 447.205)

State Plan for Medical Assistance

Regulation Title: Fee-for-Service Reimbursement for Home Health Services

Description: This amendment to the State Plan for Medical Assistance will provide the Department of Medical Assistance Services (DMAS) with the regulatory authority to reimburse providers according to a fee-for-service methodology rather than the current costs basis.

Estimate of Expected Changes in Annual Aggregate Expenditures: Effective for dates of service on and after July 1, 1991, DMAS will reimburse home health agencies (HHAs) at a flat rate per visit, based on the home health agency's geographic location, for each type of service rendered by HHAs (i.e., licensed nursing, physical therapy, occupational therapy, speech-language pathology services, and home health aide.) Reimbursement will be made based on the type of visit conducted (i.e., initial assessment, follow-up visit or complex visit (licensed nursing only). In addition, medical equipment and supplies left in the home and "extraordinary" transportation costs will be paid at specific rates.

Transportation costs to and from a Medicaid recipient's home that is not also covered by Medicare may be recovered by the home health agency if the recipient resides outside of a fifteen mile radius of the home health agency. If a visit is within the 15 mile radius, the transportation cost will be included in the visit rate; therefore, no additional reimbursement for transportation will be made.

Home health agencies will be required to file a "Final Medicaid Cost Report" based on their fiscal year ends between June 30, 1991, and May 31, 1992. DMAS will cost-settle providers' cost reports based upon the retrospective reimbursement methodology through June 30, 1991. Effective July 1, 1991, the agencies will be paid at rates established as outlined above.

DMAS' payment rates must not exceed the providers' charges (charge to the general public) or the Medicare upper limit rate, whichever is the lesser.

In FY 90, DMAS reimbursed home health agencies $10,401,738 for the care of 6,013 recipients (unduplicated). Assuming a 10 percent savings when the planned utilization review process is implemented, DMAS projects a cost savings of $1.0 M (500,000 General Funds; $500,000 Non-general Funds). For FY 92 General Funds savings are projected to be $500,000.

Why the Agency is Changing its Methods and Standards: DMAS is changing its method of reimbursing for home health services to better control utilization of this expanding service and the concomitant expenditures.

Availability of Proposed Changes and Address for Comments: Please request a copy of the regulations from and direct your written comments to: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219. Questions regarding the implementation of this policy may be directed to Mary Chiles, Manager, Long-Term Care Section at (804) 225–4220.

† Notice of Significant Change in Statewide Methods and Standards for Setting Payment Rates

(Title 42 Code of Federal Regulations 447.205)

State Plan for Medical Assistance

Regulation Titles:

A) Mortgage Debt Refinancing Incentive
B) OBRA 90 Inpatient Outlier Adjustment
C) Nursing Facility Rate Change

This public notice of significant change in statewide methods and standards for setting payment rates addresses these three issues: Mortgage Debt Refinancing Incentive; the OBRA 90 Inpatient Outlier Adjustment; Nursing Facility Rate Change. These changes to the State Plan for Medical Assistance (The Plan) are to become effective July 1, 1991.

Description:

A) Mortgage Debt Refinancing Incentive: This amendment to the Plan encourages nursing facilities to refinance mortgages when such arrangements would benefit the Commonwealth and the nursing facility (NF).

B) OBRA 90 Inpatient Outlier Adjustment: Section 4604 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90) requires that state plans which reimburse inpatient hospital services on a prospective basis provide for outlier adjustment payments for certain medically necessary inpatient hospital services. Specifically, these services involve exceptionally high costs or exceptionally long lengths of stay for (i) infants younger than one year of age in all hospitals, and (ii) children younger than six years of age in disproportionate share hospitals. The Plan (Attachment 4.19 A) currently provides for an outlier adjustment for exceptionally high costs for infants younger than one year of age in disproportionate share hospitals only.

C) Nursing Facility Rate Change: This amendment to the Plan provides the Department of Medical Assistance Services (DMAS) with the regulatory authority to adjust all Nursing Facilities operating rates, as contained in § 2.8 of the Patient Intensity Rating System, by a percentage factor which shall be calculated to produce a projected reduction of $2,500,000 in General Funds ($5,000,000 in total expenditures) during the period from July 1, 1991, through June 30, 1992.

Estimate of Expected Changes in Annual Aggregate Expenditures:

A) Effective for dates of service on and after July 1, 1991, DMAS will provide incentives to encourage nursing facilities to refinance mortgages when such refinancing would benefit both the Commonwealth and the Provider.

A review of information submitted by the nursing home community indicates that there are nine facilities where the refinancing would benefit both the facility and the Commonwealth. The estimated gross refinancing savings over a ten year period are approximately $8,000,000. After the application of the 83% weighted average Medicaid utilization rate for the nine facilities, DMAS has estimated refinancing savings of approximately $6,600,000. The Commonwealth will have savings of approximately $3,300,000 in General Funds over the ten year period. The estimated savings in General Funds for FY 92 net of incentive payments, is approximately $599,000.

B) DMAS projections for FY 92 for inpatient outlier adjustments in payments to all hospitals for exceptionally high costs for infants younger than one year of age are $146,206.

DMAS projections for FY 92 for inpatient outlier adjustments in payments amounts to disproportionate share hospitals for exceptionally high costs for children between one and six years of age $170,988.

C) The 1991 General Assembly mandated that the Secretary of Health and Human Resources achieve savings in fiscal year 1992 through an adjustment of Medicaid reimbursement policies or rates for NF cost. As a result, DMAS will adjust rates effective on or after July 1, 1991, for all NFs to produce a reduction of $2,500,000 in General Funds ($5,000,000 in total expenditures).

Why the Agency is Changing its Methods and Standards:

A) DMAS is changing its method of reimbursement of mortgage refinancing costs to encourage refinancing in those situations where the refinancing would benefit the Commonwealth and the provider.

B) DMAS is changing its method of paying inpatient outlier adjustments to bring the Plan into conformity with § 4604 of OBRA 90.

C) DMAS is reducing the FY 1992 operating rates for NFs in response to a mandate for the Secretary of Health and Human Resources from the 1991 General Assembly.

Availability of Proposed Changes and Address for Comments:

Please request a copy of the regulations from and direct your written comments to: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219. Questions regarding the implementation of this policy may be directed to N. Stanley Fields, Manager, Cost Settlement and Rate Setting Section (804) 225-4324.

DEPARTMENT OF WASTE MANAGEMENT

† Public Notice

Designation of Regional Solid Waste Management Planning Area

In accordance with the provision of § 10.1-1411 of the Code of Virginia, and Part V, Regulations for the Development of Solid Waste Management Plans, V

672-50-01, the Director of the Department of Waste Management intends to designate a solid waste management region for the local governments of the Thomas Jefferson Planning District Commission comprised of the Counties of Albemarle, Fluvanna, Greene, Louisa and Nelson, the Towns of Columbia, Scottsville, and Stanardsville and the City of Charlottesville. The Thomas Jefferson Planning District Commission will be designated contact for development and/or implementation of a regional solid waste management plan and programs for the recycling of solid waste generated within the designated region.

A petition has been received by the Department of Waste Management for the designation on behalf of the local governments.

Anyone wishing to comment on the designation of this region should respond in writing by 5 p.m. on July 19, 1991 to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor–Monroe Building, 101 North 14th Street, Richmond, VA 23219. FAX (804) 225-3753. TDD (804) 371-8737.

Immediately following the closing date for comments, the Director of the Department of Waste Management will notify the affected local governments of its approval as a region or of the need to hold a public hearing on the designation.

Any questions concerning this notice should be directed to Ms. Cheryl Cashman, Legislative Liaison, at 1-800-552-2075 or (804) 225-2667.

† Public Notice

Designation of Regional Solid Waste Management Planning Area

In accordance with the provision of § 10.1-1411 of the Code of Virginia, and Part V, Regulations for the Development of Solid Waste Management Plans, VR 672-50-01, the Director of the Department of Waste Management intends to designate a solid waste management region for the local governments of the County of Halifax and the Towns of Clover, Halifax, Scottsburg and Virgilina. The County of Halifax will be designated contact for development and/or implementation of a regional solid waste management plan and programs for the recycling of solid waste generated within the designated region.

A petition has been received by the Department of Waste Management for the designation on behalf of the local governments.

Anyone wishing to comment on the designation of this region should respond in writing by 5 p.m. on July 19, 1991 to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor–Monroe Building, 101 North 14th Street, Richmond, VA 23219. FAX (804) 225-3753. TDD (804) 371-8737.

Immediately following the closing date for comments, the Director of the Department of Waste Management will notify the affected local governments of its approval as a region or of the need to hold a public hearing on the designation.

Any questions concerning this notice should be directed to Ms. Cheryl Cashman, Legislative Liaison, at 1-800-552-2075 or (804) 225-2667.

NOTICE TO STATE AGENCIES

Change of Address: Our new mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you do not follow-up with a mailed in copy. Our FAX number is: 371-0169.

FORMS FOR FILING MATERIAL ON DATES FOR PUBLICATION IN THE VIRGINIA REGISTER OF REGULATIONS

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08
DEPARTMENT of PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained at the above address.

CALENDAR OF EVENTS

Symbols Key
† Indicates entries since last publication of the Virginia Register
♿ Location accessible to handicapped
☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

July 16, 1991 - 11 a.m. – Public Hearing
3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Accountancy intends to amend regulations entitled: **VR 105-01-02. Board for Accountancy Regulations.** The proposed regulations establish continuing professional education requirements for original licensure and license renewal.

Statutory Authority: § 54.1-201(5) of the Code of Virginia.

Written comments may be submitted until August 2, 1991.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

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July 16, 1991 - 11 a.m. – Public Hearing
3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Accountancy intends to adopt regulations entitled: **VR 105-01-03. Continuing Professional Education Sponsor Registration Rules and Regulations.** The proposed regulations establish entry requirements, renewal/reinstatement requirements and establish the standards of practice for continuing professional education sponsors.

Statutory Authority: §§ 54.1-201(5) and 54.1-2002(C) of the Code of Virginia.

Written comments may be submitted until August 2, 1991.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

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DEPARTMENT FOR THE AGING

June 26, 1991 - 10 a.m. – Public Hearing
The Massey Building, 4100 Chain Bridge Road, Fairfax, Virginia

A meeting to accept comments on the proposed State Plan for Aging Services developed pursuant to Title III of the Older Americans Act, as amended. Interested persons may submit data, views, and arguments, either orally or in writing, to the Department.

To receive a copy of the proposed State Plan and to obtain further information, write to or call the Department for the Aging.

See the General Notices section for additional information.

Contact: William H. McElveen, Deputy Commissioner, Virginia Department for the Aging, 700 East Franklin Street, 10th Floor, Richmond, Virginia 23219-2327, (804) 225-2271 or toll-free in Virginia 1-800-552-0446.

Long-Term Care Ombudsman Program Advisory Council

June 25, 1991 - 9 a.m. – Open Meeting
Virginia Health Care Association, 2112 West Laburnum Avenue, No. 206, Richmond, Virginia. ♿

Business will include discussion on legislative initiatives related to long-term care and the Long-Ter

Care Ombudsman Program.

Contact: Ms. Virginia Dize, State Ombudsman, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2271/TDD ☎ or toll-free 1-800-552-3402.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Pesticide Control Board

† **July 18, 1991 - 10 a.m.** – Open Meeting
Department of Agriculture and Consumer Services, Board Room No. 204, 1100 Bank Street, Richmond, Virginia. ♿

Pesticide Control Board committee meetings.

† **July 19, 1991 - 9 a.m.** – Open Meeting
Department of Agriculture and Consumer Services, Board Room No. 204, 1100 Bank Street, Richmond, Virginia. ♿

The Pesticide Control Board will conduct a general business meeting. The public will have an opportunity to comment on any matter not on the Pesticide Control Board's Agenda at 9 a.m.

Contact: Dr. Marvin A. Lawson, Program Manager, Department of Agriculture and Consumer Services, P.O. Box 1163, Room 401, Richmond, VA 23209, telephone (804) 371-6558.

ATHLETIC BOARD

June 28, 1991 - 10 a.m. – Open Meeting
3600 West Broad Street, Richmond, Virginia.

Annual meeting of the Virginia Athletic Board. Discussion of regulations pertaining to conduct of bout and license fees. BBContact: Doug Beavers, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507.

VIRGINIA AUCTIONEERS BOARD

June 18, 1991 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ♿

An open meeting to conduct regulatory review and other matters which require board action.

Contact: Mr. Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

† **June 27, 1991 - 11 a.m.** – Open Meeting
Council Chambers, City Hall Building, Court House Drive, Virginia Beach, Virginia.

The board will meet to conduct a formal hearing: File Numbers 89-01625 and 90-01827, Board for Auctioneers v. Joe L. Exum.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524.

VIRGINIA CATTLE INDUSTRY BOARD

† **July 11, 1991 - 8 a.m.** – Open Meeting
Blacksburg Marriott, Blacksburg, Virginia. ♿

A meeting to review FY 1990-91 projects and review research proposals presented by VPI staff.

Contact: Reginald B. Reynolds, Executive Director, P.O. Box 176, Daleville, VA 24083.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

June 20, 1991 - 10 a.m. – Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

The early part of the meeting will be a public hearing on proposed amended regulations: VR 173-02-01. Chesapeake Bay Preservation Area Designation and Management Regulations. Following the public hearing, other public comment will be heard, and the board will conduct general business, including awarding local assistance grants for fiscal year 1992. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by June 12.

Contact: Receptionist, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

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June 20, 1991 - 10 a.m. – Public Hearing
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Chesapeake Bay Local Assistance Board intends to amend regulations entitled: **VR 173-02-01. Chesapeake Bay Preservation Area Designation and Management Regulations.** This proposed regulation provides criteria for the identification, designation, and management of Chesapeake Bay Preservation Areas, clarifying the definition of public roads, changing the time limit for completion of some components of local programs, and substituting the date October 1, 1989, for the term

"Effective Date."

Statutory Authority: §§ 10.1-2103 and 10.1-2107 of the Code of Virginia.

Written comments may be submitted until July 5, 1991.

Contact: Scott Crafton, Chesapeake Bay Local Assistance Department, Room 701, 805 E. Broad St., Richmond, VA 23219, telephone (804) 371-7503 or toll-free 1-800-243-7229.

COUNCIL ON CHILD DAY CARE AND EARLY CHILDHOOD PROGRAMS

† **June 20, 1991 - 10 a.m.** – Open Meeting
Virginia Housing Development Authority, Conference Room 1, 601 South Belvidere Street, Richmond, Virginia.

Head Start Collaboration Grant. Information session on the Head Start program for interested persons. Public comments will be received at the meeting.

Contact: Linda Sawyers, Director, Virginia Council on Child Day Care and Early Childhood Programs, Suite 1116, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 371-8603.

INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

Coordinating Committee

June 21, 1991 - 8:30 a.m. – Open Meeting
July 19, 1991 - 8:30 a.m. – Open Meeting
Office of Coordinator, Interdepartmental Regulation, 1603 Santa Rosa Road, Tyler Building, Suite 208, Richmond, Virginia. ♿

Regularly scheduled meetings to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

Contact: John J. Allen, Jr., Coordinator, Interdepartmental Regulation, Office of the Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124.

BOARD FOR CONTRACTORS

Recovery Fund Committee

June 18, 1991 - 9 a.m. – Open Meeting
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to consider claims filed against Virginia Contractor Transaction Recovery Fund. Open to the public, however, a portion of the discussion may be conducted in Executive Session.

Contact: Vickie Brock, Recovery Fund Administrator, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2394.

† **June 20, 1991 - 10 a.m.** – Open Meeting
Marriott Hotel at Tysons Corner, 8028 Leesburg Pike, McLean Room, Vienna, Virginia.

The board will meet to conduct a formal hearing: File Nos. 89-00600, 89-01027, 89-01163, 89-01550 and 90-00387, Board for Contractors v. Edward C. DeLaVergne.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524.

STATE CORPORATION COMMISSION

Special Advisory Commission on Mandated Health Insurance Benefits

† **June 17, 1991 - 10:30 a.m.** – Public Hearing
General Assembly Building, Senate Room B, Richmond, Virginia. ♿

A public hearing to receive comments regarding a proposal to require health insurance policies to include coverage for physical rehabilitation services. The proposal was developed by the Commission on the Coordination of the Delivery of Services to Facilitate the Self-Sufficiency and Support of Persons with Physical and Sensory Disabilities chaired by Lieutenant Governor Donald S. Beyer, Jr.

Persons wishing to provide comments are encouraged to contact the State Corporation Commission's Bureau of Insurance at (804) 371-0388.

Contact: Anne Colley, Supervisor-Life/Health Research, State Corporation Commission, P.O. Box 1197, Richmond, VA 23209-1197, telephone (804) 786-6813.

BOARD OF CORRECTIONS

June 19, 1991 - 10 a.m. – Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ♿

A regular monthly meeting to consider such matters as may be presented.

Contact: Ms. Vivian Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

BOARD FOR COSMETOLOGY

June 17, 1991 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting to (i) review applications; (ii) review correspondence; (iii) review enforcement cases; (iv) conduct regulatory review; (v) discuss routine board business; and (vi) meet with cosmetology schools to explain new cosmetology practical examination.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

CRIMINAL JUSTICE SERVICES BOARD

June 17, 1991 - 11 a.m. – Open Meeting
General Assembly, House Room D, 910 Capitol Street, Richmond, Virginia. ♿

A meeting to consider matters related to the board's responsibilities for criminal justice training and improvement of the criminal justice system. Public comments will be heard before adjournment of the meeting.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

BOARD OF DENTISTRY

† **June 19, 1991 - 3 p.m.** – Open Meeting
University of Richmond, Wilton Center, Chapel Circle Road, Richmond, Virginia.

A formal hearing.

† **July 13, 1991 - 9 a.m.** – Open Meeting
Northern Virginia Community College, Provost Office, 8333 Little River Turnpike, Annandale, Virginia. ♿

Informal conferences will begin at 9 a.m. followed by a Regulatory Committee Meeting at 1 p.m.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9906.

STATE BOARD OF EDUCATION

† **June 27, 1991 - 8 a.m.** – Open Meeting
† **June 28, 1991 - 8 a.m.** – Open Meeting
† **July 25, 1991 - 8 a.m.** – Open Meeting
† **July 26, 1991 - 8 a.m.** – Open Meeting
August 14, 1991 - 7:30 a.m. – Open Meeting
James Monroe Building, Conference Rooms D & E, 101 North Fourteenth Street, Richmond, Virginia. ♿
(Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold its regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request. Public comment will not be received at the meeting.

Contact: Margaret Roberts, Executive Director, Board of Education, State Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540.

VIRGINIA EGG BOARD

June 28, 1991 - 4 p.m. – Open Meeting
Royal Princess Hotel, 91st Street, Ocean City, Maryland.

A meeting to discuss general business and financial matters pertaining to the egg board.

Contact: Cecilia Glembocki, Program Director, 911 Saddleback Court, McLean, VA 22102, telephone (703) 433-2451.

LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF PRINCE WILLIAM, CITY OF MANASSAS, AND CITY OF MANASSAS PARK

June 17, 1991 - 1:30 p.m. – Open Meeting
1 County Complex Court, Prince William, Virginia. ♿

Local Emergency Planning committee to discharge the provisions of SARA Title III.

Contact: Thomas J. Hajduk, Information Coordinator, 1 County Complex Court, Prince William, VA 22192-9201, telephone (703) 335-6800.

LOCAL EMERGENCY PLANNING COMMITTEE - SCOTT COUNTY

† **July 15, 1991 - 1:30 p.m.** – Open Meeting
County Office Building, 112 Water Street, Gate City, Virginia. ♿

Update of SARA, Title III for Scott County's LEPC.

Contact: Barbara Edwards, Public Information Officer, 112 Water St., Suite 1, Gate City, VA 24251, telephone (703) 386-6521.

VIRGINIA EMPLOYMENT COMMISSION

Advisory Board

† **July 17, 1991 - 10:30 a.m.** – Open Meeting
† **July 18, 1991 - 5:30 p.m.** – Open Meeting
Virginia Employment Commission, 703 East Main Street, Richmond, Virginia.

A regular meeting to conduct general business.

Contact: Nancy L. Munnikhuysen, 703 E. Main St., Richmond, VA 23219, telephone (804) 371-6004.

COUNCIL ON THE ENVIRONMENT

June 25, 1991 - 10 a.m. – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ♿

This is a quarterly meeting of the council. The council will consider issuing two regulations for public review and comment.

The first regulation to be considered will be entitled: VR 305-01-01. Public Participation Guidelines. The regulation will establish procedures for soliciting public participation when formulating and developing regulations.

The second regualtion to be considered will be entitled: VR 305-02-10. Guidelines for the Preparation of Environmental Impact Assessments for Oil or Gas Well Drilling Operations in Tidewater, Virginia. The regulation will establish criteria and procedures for preparing and reviewing environmental impact assessments for oil or gas well drilling operations proposed in Tidewater, Virginia. The council will also vote to release these guidelines for public review and comment.

Other business items may be scheduled for council consideration. The public will have an opportunity to comment on any matter related to environmental management during the Citizen Forum portion of the agenda. A preliminary meeting agenda will be available on June 3, 1991.

Contact: Hannah Crew, Assistant Administrator, 202 N. Ninth St., Suite 900, Richmond, VA 23219, telephone (804) 786-4500 or (804) 786-6152/TDD ☎

GOVERNOR'S ADVISORY BOARD ON MEDICARE AND MEDICAID

June 19, 1991 - 2 p.m. – Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

A meeting to discuss the board's direction through th identification of priority issues for the board's action.

Contact: Sue Jowdy, Executive Assistant, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8099 or toll-free 1-800-343-0634/TDD ☎

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STATE BOARD OF HEALTH

June 20, 1991 - 10 a.m. – Open Meeting
Virginia Commonwealth University, University Center, 101 North Harrison Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A work session will be held. At 7:30 p.m. ther willb e an informal dinner at Raddison Hotel.

June 21, 1991 - 9 a.m. – Open Meeting
Stuart Circle Hospital, 413 Stuart Circle, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A business meeting.

Contact: Susan R. Rowland, Policy Analyst Senior, Virginia Department of Health, P.O. Box 2448, Suite 214, Richmond, VA 23218, telephone (804) 786-3561.

DEPARTMENT OF HEALTH (STATE BOARD OF)

† **June 28, 1991 - 10 a.m.** – Public Hearing
3600 West Broad, 3rd Floor Conference Room, Richmond, Virginia.

† **July 10, 1991 - 10 a.m.** – Public Hearing
Roanoke City Health Department, 515 Eighth Street, S.W., Roanoke, Virginia.

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to amend regulations entitled: **VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia.** The purpose of the proposed regulation is to amend the hospital licensure regulations governing the provision of obstetric and newborn services in hospitals licensed in the Commonwealth.

STATEMENT

Basis, purpose, substance, issues and impact: The propose

regulations will amend existing regulations provided for in § 301.0 of the Commonwealth's hospital licensure regulations for general and special hospitals under the section, "Obstetrical and Newborn Services." They also amend existing hospital regulations provided for in §§ 613.0, 614.0 and 618.0 that specify the physical design, construction, and equipment criteria that hospitals must meet for areas within the hospital that physically house these services.

The proposed regulations specify the types of administrative management and clinical support services required of all licensed general and special hospitals that provide obstetric and newborn services, establish the requirements for the medical direction, physician coverage and nurse staffing of these services, delineate the types of written policies and procedures that each hospital must adopt for the management of the services, and designate the physical design criteria and equipment requirements for the obstetric service unit and the newborn service unit. The types of policies and procedures required of hospitals to maintain effective infection control in the units are also specified.

The proposed amendments to the existing regulations establish the basic levels of care that hospitals are expected to provide to all obstetric patients and newborns who come within the care of a hospital licensed under these regulations.

The proposed regulations address the changes in maternal and neonatal health care and are more specific than the existing regulations in terms of defining what is required of licensed hospitals that provide obstetric and newborn services. Because the existing regulations are fairly general, the opportunity is created under the current regulations for inconsistencies to exist in the basic level of care a patient might receive from one licensed hospital as compared to another in the Commonwealth. In this first phase of regulatory review and planned revision of the existing hospital regulations, the proposed regulations attempt to standardize the types of policies and procedures a licensed hospital with obstetric and newborn services must have. The existing regulations state only that service departments within a hospital, in addition to adhering to hospital by-laws, must maintain policies and procedures applicable to patient care rendered by that service. The proposed regulations specify the types of patient care issues that are to be addressed in the written policies and procedures of the obstetric and newborn services. Included among the issues that hospitals must address are the criteria for the identification of high-risk maternity patients and newborns, review of perinatal mortality and morbidity, staff assistance to patients in need of public health, nutrition, and social services, emergency resuscitation procedures for mothers and infants, the use of birthing rooms, infection control procedures specific to maternal and neonatal care, and combined obstetric and gynecologic services.

With the increased demand for obstetric and newborn services, it became apparent that each hospital needs to develop a service management plan to assure that obstetric and newborn services are coordinated and that methods to best use the facility's resources to provide a basic level of care as well as to ensure compliance with federal and state regulations that govern maternal and noenatal care are identified. The proposed regulations have a requirement for a service management plan.

There is also a need to ensure through the proposed regulations that nurse staffing is appropriate to the number and the medical condition of the obstetrics and newborn services patients; and that, should a hospital not have a physician on staff who is board-certified or board eligible to provide medical direction for the care of these patients, that the hospital has a written agreement with consulting physicians with these qualifications.

With advances in technology, revisions are required in the regulations to incorporate the basic types of medical equipment that each hospital should be required to maintain within the obstetrics and newborn service units and to ensure that the physical plant is constructed to accommodate alternatives to the traditional labor and recovery room suite if the hospital provides birthing/labor, delivery and recovery rooms.

By promulgating regulations that more clearly define what is required of each licensed facility, there is assured a more consistent basis for the state licensure inspections of hospitals. While a number of hospitals have already incorporated many of the items provided for in the proposed regulations in the management of their obstetrics and newborn services, the adoption of the proposed regulations would ensure that each licensed hospital conforms to the Commonwealth's expectations for the types of care that are to be provided obstetrics and newborn patients. The consequence of not adopting the proposed regulations is to neglect to recognize changes over the decade in what constitutes basic maternal and neonatal care and ensure that licensed hospitals provide that care.

The proposed regulations will impact all licensed general inpatient hospitals that provide obstetrics and newborn services, approximately 70 hospitals currently. Licensed general hospitals that do not provide obstetrics services and state hospitals that are exempt from licensure would not be required to comply with these regulations.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Written comments may be submitted until 5 p.m., August 16, 1991.

Contact: Stephanie A. Sivert, Assistant Director, Division of Licensure and Certification, Virginia Department of Health, Suite 216, 3600 W. Broad St., Richmond, VA 23230, telphone (804) 367-2104.

BOARD OF HEALTH PROFESSIONS

Administration and Budget Committee

June 19, 1991 - 10 a.m. – Open Meeting
Department of Health Professions, Conference Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ♿

A meeting to review the department's budget for 92-94 biennium.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9918.

Compliance and Discipline Committee

June 21, 1991 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 3, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

The committee will meet to continue its review of enforcement activities including implementation of Board of Health Professions' recommendations and resulting from the 1990 Review of Enforcement and Discipline in the Department of Health Professions.

Contact: Richard Morrison, Executive Directive, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9904.

Regulatory Research Committee

June 20, 1991 - 9 a.m. – Open Meeting
General Assembly Building, Conference Room 4 West, 910 Capitol Street, Richmond, Virginia. ♿

The committee will meet to (i) continue its review of the need to regulate therapeutic recreation specialists and activity professionals, (ii) review and comment on regulations proposed or adopted for promulgation by boards within the Department of Health Professions, and (iii) assess the need for Board of Health Professions' review of the regulation and supervision of dental hygienists and the regulation of marriage and family specialists.

Contact: Richard Morrison, Executive Director, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9904.

DEPARTMENT OF HEALTH PROFESSIONS

Task Force on the Need for Medication Technicians

June 20, 1991 - 2 p.m. – Public Hearing
State Capitol, House Room 1, Richmond, Virginia. ♿

An informational public hearing on the study of the need for and qualifications of medication technician in long-term and other health care facilities.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9918.

Task Force to Study Nurse Midwives and Providers of Obstetrical Care

† **June 24, 1991 - 2 p.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

An organizational meeting to begin a study of nurse midwives and providers of obstetrical care pursuant to HJR 431.

Consistent with the Virginia Freedom of Information Act, provision has been made to receive public comment at 3:30 p.m. This meeting is not a public hearing. An informational hearing will be scheduled later to receive general comment from interested parties.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☎

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

June 24, 1991 - 8:30 a.m. – Open Meeting
Blue Cross/Blue Shield of Virginia, The Virginia Room, 2015 Staples Mill Road, Richmond, Virginia. ♿

A meeting to review history, mission statement, and goals and objectives of the council.

† **June 25, 1991 - 9:30 a.m.** – Open Meeting
† **July 23, 1991 - 9:30 a.m.** – Open Meeting
Blue Cross/Blue Shield of Virginia, The Virginia Room, 2015 Staples Mill Road, Richmond, Virginia. ♿

Monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

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July 23, 1991 - noon – Public Hearing
Blue Cross/Blue Shield, Virginia Room, 2015 Staples Mill Road, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Healt

Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The proposed amendments deal with the Annual Charge Survey conducted by the council. The anticipated charges will reflect more accurately what information will be collected from nursing homes and hospitals. The amendments also clarify that health care institutions which are part of continuing care retirement centers, have licensed home for adult beds, or have licensed nursing home beds as part of a hospital, must segregate the patient care activities provided in its nursing home components from its nonpatient care activities when completing the report forms required by council.

Statutory Authority: §§ 9-158, 9-160 and 9-164 of the Code of Virginia.

Written comments may be submitted until July 20, 1991.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

+ **July 3, 1991 - 9 a.m.** – Open Meeting
Monroe Building, Council Conference Room, 9th Floor, Richmond, Virginia. ♿

A general business meeting. For more information contact the council.

Contact: Barry Dorsey, Deputy Director, 101 N. 14th St., 9th Floor, Monroe Bldg., Richmond, VA 23219, telephone (804) 225-2632.

BOARD OF HISTORIC RESOURCES

June 19, 1991 - 10:30 a.m. – Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A general business meeting.

Contact: Margaret Peters, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

DEPARTMENT OF HISTORIC RESOURCES

State Review Board

June 18, 1991 - 10 a.m. – Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A meeting to consider the nomination of the following properties to the Virginia Landmarks Register and the National Register of Historic Places.

CEDAR GROVE CEMETERY, City of Portsmouth (DHR 124-58)
FOLLY CASTLE HISTORIC DISTRICT (EXTENSION), Petersburg (DHR 123-96)
FOREST OAKS, Rockbridge County (DHR 81-207)
HANOVER MEETING HOUSE, Hanover County (44HN82)
LOCUST GROVE, Bedord County (DHR 09-153)
MOUNT ZION BAPTIST CHURCH, City of Charlottesville (DHR 104-181)
PORT MICOU, Essex County (DHR 28-274)
SAINT JOHN'S EPISCOPAL CHURCH, City of Roanoke (DHR 128-236)
SHILOH SCHOOL, Northumberland County (DHR 66-34)
SOUTH MARKET STREET HISTORIC DISTRICT, City of Petersburg (DHR 123-108)

Contact: Margaret T. Peters, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

July 15, 1991 - 10 a.m. – Public Hearing
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ♿

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-06. Virginia Statwide Fire Prevention Code/1990.** The proposed amendments are necessary to incorporate fees for explosive permits and blaster certification authorized by emergency regulations effective January 1, 1991.

Statutory Authority: § 27-97 of the Code of Virginia.

Written comments may be submitted until August 5, 1991.

Contact: Gregory H. Revels, Program Manager, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772.

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July 15, 1991 - 10 a.m. – Public Hearing
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1990.** The proposed amendments are necessary to incorporate provisions consistent with the National Flood Insurance Program relating to alterations and repairs of existing buildings located in a floodplain.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

CORRECTION TO WRITTEN COMMENT DATE:
Written comments may be submitted until August 5, 1991.

Contact: Gregory H. Revels, Program Manager, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772.

Regulatory Effectiveness Advisory Committee

† **August 8, 1991 - 8:30 a.m.** – Open Meeting
Virginia Housing Development Authority, Training Room, 601 Belvidere Street, Richmond, Virginia.

A meeting to develop positions relative to the challenges to the BOCA Committees actions on the 1991 proposed changes to the BOCA National Codes as presented in the Final Hearing Roster. REAC positions thus developed are forwarded as recommendations to the Board of Housing and Community Development (BHCD). Positions approved by the board will be presented at the BOCA Annual Conference in Indianapolis, Indiana, September 15 through 20, 1991.

Contact: Carolyn R. Williams, Building Code Supervisor, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

June 18, 1991 - 11 a.m. – Open Meeting
601 South Belvidere Street, Richmond, Virginia.

A regular meeting of the board to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as they may deem appropriate. Various committees of the board may also meet before or after the regular meeti and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

COUNCIL ON INFORMATION MANAGEMENT

† **June 21, 1991 - 9 a.m.** – Open Meeting
1100 Bank Street, Suite 901, Richmond, Virginia.

A regular business meeting. The council will consider adoption of Guideline on Imaging.

Contact: Linda Hening, Administrative Assistant, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD

VIRGINIA STATE LIBRARY AND ARCHIVES (LIBRARY BOARD)

June 18, 1991 - 10 a.m. – Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7. of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.1. Standards for the Microfilming of Public Records for Archival Retention.** The amendments update requirements that microfilm of public archival records meet various criteria to ensure the film's permanent retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

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June 18, 1991 - 10 a.m. – Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.2. Archival Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process.** The amendments update requirements that microfilms produced in a procedural microfilm process me

various criteria to ensure the film's permanent retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

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June 18, 1991 - 10 a.m. – Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.4. Standards for the Microfilming of Ended Law Chancery and Criminal Cases of the Clerks of the Circuit Courts Prior to Disposition.** The amendments update requirements that microfilm of ended cases in circuit court meet various criteria to ensure the film's permanent retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

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June 18, 1991 - 10 a.m. – Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.5. Standards for Computer Output Microfilm (COM) for Archival Retention.** The amendments update requirements that COM of public records meets various criteria to ensure the film's permanent retention.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

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June 18, 1991 - 10 a.m. – Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.6. Standards for Plats.** The amendments update criteria for plats which are to be recorded in the circuit court clerk's office.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

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June 18, 1991 - 10 a.m. – Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-01-137.7. Standards for Recorded Instruments.** The amendemts update criteria for instruments to be recorded in the circuit court clerk's office.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

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June 18, 1991 - 10 a.m. – Public Hearing
Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to consider adopting regulations entitled: **VR 440-01-137.8. Standards for Paper for Permanent Circuit Court Records.** The purpose of the proposed action is to establish criteria for the paper to be used for the permanent records stored in the circuit court clerk's office.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Dr. Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

LIBRARY BOARD

June 21, 1991 - 1 p.m. – Open Meeting
June 22, 1991 - 9 a.m. – Open Meeting
Williamsburg Hilton, 50 Kingsmill Road, Williamsburg, Virginia. ♿

Annual meeting to elect officers and to discuss administrative matters of the Virginia State Library and Archives.

Contact: Jean H. Taylor, Secretary to the State Librarian, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

COMMISSION ON LOCAL GOVERNMENT

July 22, 1991 - 7:30 p.m. – Public Hearing
Town of Orange, Orange County area - Site to be determined.

Public hearing regarding the Town of Orange, Orange County annexation issue.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860/TDD by July 15, 1991.

July 22, 1991 - 11 a.m. – Open Meeting
July 23, 1991 - 9 a.m. – Open Meeting
July 24, 1991 - (if needed) - Time to Be Announced – Open Meeting
Town of Orange, Orange County area - Site to be determined.

Oral presentations regarding the Town of Orange, Orange County annexation issue.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860/TDD by July 15, 1991.

August 19, 1991 - 11 a.m. – Open Meeting
August 20, 1991 - (if needed) - Time to be announced – Open Meeting
City of South Boston, Halifax County - Site to be determined.

Oral presentations regarding the proposed reversion of the City of South Boston to town status in Halifax County.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860 TDD by May 23, 1991.

August 20, 1991 - 7 p.m. – Public Hearing
City of South Boston, Halifax County area - Site to be determined.

Public hearing regarding the proposed reversion of the City of South Boston to town status in Halifax County.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices at (804) 786-6508 or (804) 786-1860 TDD by May 23, 1991.

Contact: Barbara W. Bingham, Administrative Assistant, 702 Eighth Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

LONGWOOD COLLEGE

Board of Visitors

† **July 28, 1991 - 4 p.m.** – Open Meeting
† **July 29, 1991 - 9 a.m.** – Open Meeting
Longwood College, Ruffner Building, Virginia/Prince Edward Rooms, Farmville, Virginia. ♿

Committee meetings (Finance Committee and Facilitie Committee). Meeting of full board to conduct routi business.

Contact: William F. Dorrill, President, Longwood College, Farmville, VA 23209, telephone (804) 395-2001.

STATE LOTTERY BOARD

June 24, 1991 - 11 a.m. – Open Meeting
State Lottery Department Regional Office, Conference Room, 3305 West Mercury Boulevard, Hampton, Virginia. ♿

A regular monthly meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Dept., 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

MARINE RESOURCES COMMISSION

June 25, 1991 - 9:30 a.m. – Open Meeting
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ♿ (Interpreter for deaf provided if requested)

The commission will hear and decide mari

environmental matters at 9:30 a.m.: permit application for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues.

The commission will hear and decide fishery management items at approximately 2 p.m.: regulatory proposals, fishery management plans, fishery conservation issues, licensing, shellfish leasing.

Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits, licensing. Public comments are taken on resource matters, regulatory issues, and items scheduled for public hearing.

The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Cathy W. Everett, Secretary to the Commission, P.O. Box 756, Room 1006, Newport News, VA 23007, telephone (804) 247-8088.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

July 5, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to adopt regulations entitled: **VR 460-05-3000. Drug Utilization Review in Nursing Facilities.** This program proposes to control the use of drugs by nursing facility residents to reduce inappropriate and perhaps hazardous drug use.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until July 5, 1991, to Betty Cochran, Director, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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July 19, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **VR 460-03-3.1102. Case Management for Mental Retardation Waiver Clients.** This action proposes to regulate the provision of case management services to mentally retarded persons who are receiving community based services.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until July 19, 1991, to Ann Cook, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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August 2, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **State Plan for Medical Assistance Relating to Estimated Acquisition Costs Pharmacy Reimbursement Methodology. VR 460-02-4.1920. Methods and Standards for Establishing Payments Rates–Other Types of Care** This regulation will supersede the existing emergency regulation relating to estimated acquisition cost pharmacy reimbursement methodology.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until August 2, 1991, to Betty Cochran, Director, Division of Quality Care Assurance, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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August 2, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **State Plan for Medical Assistance Relating to Enrollment of Psychologists Clinical. VR 460-03-3.1100. Amount, Duration, and Scope of Services.** This amendment proposes granting psychologists licensed by the Board of Psychology as psychologists clinical and eligible to enroll in the Virginia Medicaid Program as providers of Medicaid covered services.

Statutory Authority: § 32.1-324 of the Code of Virginia.

Written comments may be submitted until August 2, 1991, to C. M. Brankley, Director, Division of Client Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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August 2, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **VR 460-03-4.1921. Methods and Standards for Other Types of Services: Obstetric and Pediatric Payments.** This proposed regulation promulgates specific obstetric and pediatric maximum payment rates to become effective October 1, 1991.

Statutory Authority: § 32.1-324 of the Code of Virginia.

Written comments may be submitted until August 2, 1991, to C. M. Brankley, Director, Division of Client Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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† **August 16, 1991** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to adopt regulations entitled: **VR 460-04-8.12. Home and Community Based Services for Individuals with Mental Retardation.** The purpose of this proposal is to promulgate permanent regulations for the provision of home and community-based services for persons with mental retardation, to supersede the temporary emergency regulation which became effective on December 20, 1990.

STATEMENT

Basis and authority: Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance in lieu of board action pursuant to the board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:9, for this agency's promulgation of proposed regulations subject to the Department of Planning and Budget's and Governor's reviews. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, the agency intends to initiate the public notice and comment process as contained in Article 2 of the APA.

Chapter 972 of the 1990 Acts of Assembly directed the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) and the Department of Medical Assistance Services (DMAS) to provide Medicaid coverage for community mental health, mental retardation, and substance abuse services in Virginia. As a part of this initiative, DMAS was instructed to seek a waiver to offer community-based services to deinstitutionalize and divert mentally retarded individuals from more costly institutional care into community care. This action enables the Commonwealth to realize cost savings and provide services in less restrictive environments which promote more individual growth and development.

Summary and analysis: This regulatory action affects the Home and Community-Based Services regulations (VR 460-04-8.12) providing for services to persons with mental retardation.

Virginia has received approval from the Health Care Financing Administration (HCFA) for two waivers under § 1915(c) of the Social Security Act. These waivers allow Virginia to provide home and community-based services to mentally retarded and developmentally disabled individuals who require the level of care provided in nursing facilities (NF) for mentally retarded individuals, the cost of which would be reimbursed under the State Plan for Medical Assistance.

DMHMRSAS has identified 1,770 persons who either currently reside in intermediate care facilities for mentally retarded persons or in the community receiving state-funded community services, or are expected to require such services over the three-year period of the requested waiver. In addition, a waiver has been requested to provide community-based services to approximately 200 persons currently residing in NFs who have been identified through an annual resident review process, mandated by the Omnibus Budget Reconciliation Act of 1987, as requiring care in intermediate care facilities for the mentally retarded (ICF/MR). These individuals, in the absence of a community-based care waiver alternative, would be transferred to an ICF/MR facility.

The services to be provided by these waivers are residential support, day support, habilitation, and therapeutic consultation services. All individuals served through these waivers must also receive case management services as a supportive service which enables the efficient and effective delivery of waiver services. Case management services are not included in the waiver but will be reimbursed as State Plan optional targeted ca

management services.

All Medicaid eligible individuals must be assessed according to a standardized assessment instrument and determined to meet the criteria for nursing facilities for mentally retarded persons (ICF/MR level of care criteria, VR 460-04-8.2) prior to development of a plan of care for waiver services.

Case managers employed by the community services boards are responsible for completing assessments and developing plans of care for those individuals found to meet ICF/MR criteria. The case manager may then recommend approval of the plan of care for waiver services to a care coordinator employed by DMHMRSAS. The care coordinator must give authorization for waiver services prior to implementation of waiver services and DMAS reimbursement.

DMAS is the single state authority responsible for supervision of the administration of the waiver services. DMAS will contract with those providers of services which meet all licensing and certification criteria required in these regulations and which are willing to adhere to DMAS' policies and procedures. Both DMHMRSAS and DMAS are responsible for periodically reevaluating all individuals authorized for waiver services to assure they continue to meet the ICF/MR criteria and that the community services are sufficient to promote their continued health and well-being.

The service definitions, provider requirements and qualifications, and utilization review requirements included in the current emergency regulation and this subsequent proposed regulation were developed by a task force of DMAS, DMHMRSAS, and local community services board representatives.

These proposed regulations are identical to the emergency regulations which they are intended to replace.

Impact: This initiative is required by Chapter 972 of the 1990 Acts of Assembly and is funded in the current appropriations. Home and community-based care services are expected to be a cost-effective alternative to NF care for persons with mental retardation. In addition, cost savings to the Commonwealth will be generated by obtaining federal match for state funds transferred from DMHMRSAS to DMAS for Medicaid waiver reimbursement for services previously reimbursed through general funds.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until 4:30 p.m., August 16, 1991, to Chris Pruett, Division of QCA, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Technical Advisory Panel

† **June 25, 1991 - 2 p.m.** – Open Meeting
600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ♿

A meeting to review the progress and operation of the Trust Fund.

Contact: Dan Barry, Health Programs Analyst, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

BOARD OF MEDICINE

† **June 19, 1991 - 9 a.m.** – Open Meeting
† **June 28, 1991 - 9 a.m.** – Open Meeting
† **July 9, 1991 - 9 a.m.** – Open Meeting
† **July 26, 1991 - 10 a.m.** – Open Meeting
† **August 6, 1991 - 9 a.m.** – Open Meeting
Sheraton-Fredericksburg Resort and Conference Center, I-95 & Route 3, Fredericksburg, Virginia. ♿

The Informal Conference Committee will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received.

Contact: Karen D. Waldron, Deputy Executive Director, Disc., 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

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June 24, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-02-01. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture.** These amendments pertain to licensure by examination; examination, general; licensure by endorsement; and fees required by the board.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until June 24, 1991, to Hilary H. Connor, M.D., Executive Director, 1601 Rolling Hills Drive, Richmond, Virginia.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9925.

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June 24, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to adopt regulations entitled: **VR 465-03-01. Regulations Governing the Practice of Physical Therapy.** The purpose of the proposed amendments is to establish education and training requirements for foreign-trained physical therapist assistants, redefine passing grade on licensure exam, traineeships, and reinstatement examination.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until June 24, 1991, to Hilary H. Connor, M.D., Executive Director, 1601 Rolling Hills Drive, Richmond, Virginia.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9925.

Advisory Committee On Acupuncture

July 12, 1991 - 4 p.m. – Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ♿

A meeting to review and act upon the draft report in response to HJR No. 478. The committee will not entertain public comments.

July 12, 1991 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ♿

The board will conduct an informational fact-gathering hearing in response to HJR 478, to gather information regarding utilizing acupuncture as a possible treatment for substance abuse. Public comment will be received.

Credentials Committee

† **June 22, 1991 - 8:15 p.m.** – Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ♿

The committee will meet to conduct general business, intereview and review medical credentials of applicants applying for licensure in Virginia in open and executive session and discuss any other items which may come before the committee. The committee will not receive public comments.

Advisory Board on Physical Therapy

August 23, 1991 - 9 a.m. – Open Meeting
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ♿

A meeting to review and discuss regulations, bylaws, procedural manuals, and to receive reports and other items which may come before the advisory board. The advisory board will not receive public comments.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

June 19, 1991 - 10 a.m. – Open Meeting
James Madison Building, 13th Floor Conference Room, Richmond, Virginia. ♿

A regular monthly meeting. The agenda will be published on June 12, and may be obtained by calling Jane Helfrich.

Tuesday: Informal Session - 6 p.m.
Wednesday: Committee Meetings - 8:45 a.m.
Wednesday: Regular Session - 10 a.m.

See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3912.

† **June 26, 1991 - 1 p.m.** – Public Hearing
Rockingham County Administration Center, 20 East Gay Street, Harrisonburg, Virginia. (Sign up phone: (703) 434-1941 or (703) 433-3997/TDD ☎)

† **June 26, 1991 - 7 p.m.** – Public Hearing
Albemarle County Office Building, Auditorium, Charlottesville, Virginia. (Sign up phone: (804) 972-1802 or (804) 972-1715/TDD ☎)

† **June 26, 1991 - 1 p.m.** – Public Hearing
Salem Civic Center, Community Room, Salem, Virginia. (Sign up phone: (703) 345-9841 or (703) 345-6090/TDD ☎)

† **June 26, 1991 - 7 p.m.** – Public Hearing
Wytheville Community College, Bland Auditorium, Wytheville, Virginia. (Sign up phone: (703) 228-2158 or (703) 223-1721/TDD ☎)

† **June 26, 1991 - 1 p.m.** – Public Hearing
Averett College, Dining Hall, Danville, Virginia. (Sign up phone: (804) 799-0456 or (804) 793-4931/TDD ☎)

June 26, 1991 - 7 p.m. – Public Hearing
Central Virginia Community College, 2123 Amherst Building, Lynchburg, Virginia. (Sign up phone: (804) 847-8050 or (804) 847-8062/TDD ☎)

† **June 26, 1991 - 1 p.m.** – Public Hearing
Hampton University, Little Theater, Hampton, Virginia. (Sign up phone: (804) 826-6714/TDD ☎)

† **June 26, 1991 - 7 p.m.** – Public Hearing
Christopher Newport College, Gaines Theater, Newport News, Virginia. (Sign up phone: (804) 826-6714/TDD ☎)

† **June 27, 1991 - 1 p.m.** – Public Hearing
† **June 27, 1991 - 7 p.m.** – Public Hearing
Woodson High School, 9525 Main Street, Fairfax, Virginia. (Sign up phone: (703) 281-6420 or (703) 591-6312/TDD ☎)

† **June 27, 1991 - 1 p.m.** – Public Hearing
Norton Holiday Inn, Oak/Pine Room, Norton, Virginia. (Sign up phone: (703) 523-2562/TDD ☎)

† **June 27, 1991 - 7 p.m.** – Public Hearing
Virginia Highlands Community College, Learning/Resources Business Technologies Building, Abingdon, Virginia. (Sign up phone: (703) 669-3179 or (703) 628-9504/TDD ☎)

† **June 27, 1991 - 1 p.m.** – Public Hearing
Anderson Education Center, 3101 Homestead Drive, Petersburg, Virginia. (Sign up phone: (804) 861-3700)

† **June 27, 1991 - 7 p.m.** – Public Hearing
Henderson Middle School, 4319 Old Brook Road, Richmond, Virginia. (Sign up phone: (804) 780-5876 or (804) 780-4714/TDD ☎)

† **June 27, 1991 - 1 p.m.** – Public Hearing
Virginia Wesleyan College, Boyd Dining Center, Norfolk, Virginia. (Sign up phone: (804) 441-2620 or (804) 583-6522/TDD ☎)

† **June 27, 1991 - 7 p.m.** – Public Hearing
Virginia Beach Pavilion, Virginia Beach, Virginia. (Sign up phone: (804) 473-5667)

The board will be holding public hearings throughout the state to hear comments on the DMHMRSAS Draft Comprehensive State Plan which outlines the need for services to the mentally ill, mentally retarded, and substance abusing citizens of the Commonwealth. Copies of the plan are available at local community services boards' offices.

Contact: William C. Armistead, Senior Planner, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3904 or (804) 371-8977/TDD ☎

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

† **June 27, 1991 - 7 p.m.** – Open Meeting
† **August 1, 1991 - 7 p.m.** – Open Meeting
502 South Main Street, No. 4, Culpeper, Virginia.

From 7 p.m. until 7:30 p.m. the Board of Directors will hold a business meeting to discuss DOC contract, budget, and other related business. Then the CCRB will meet to review cases before for eligibility to participate with the program. It will review the previous month's operation (budget and program related business).

Contact: Lisa Ann Peacock, Program Director, 502 S. Main St., No. 4, Culpeper, VA 22701, telephone (703) 825-4562.

DEPARTMENT OF MINES, MINERALS AND ENERGY

† **June 26, 1991 - 1 p.m.** – Public Hearing
AML Conference Room, 622 Powell Avenue, Big Stone Gap, Virginia. ♿

The purpose of this public meeting is to give interested persons an opportunity to be heard in regard to the FY 1991 Virginia Abondoned Mine Land Emergency Grant and the Abandoned Mine Land Post Act Reclamation Grant applications to be submitted to the Federal Office of Surface Mining.

Contact: Roger L. Williams, Abandoned Mine Land Manager, P.O. Drawer U, 622 Powell Ave., Big Stone Gap, VA 24219, telephone (703) 523-8206.

Virginia Gas and Oil Board

June 18, 1991 - 9 a.m. – Open Meeting
July 16, 1991 - 9 a.m. – Open Meeting
Southwest Virginia 4-H Center, Dickenson Conference Center, Route 609, Hillman Highway, Abingdon, Virginia. ♿

A regularly scheduled meeting.

Contact: B. Thomas Fulmer, Virginia Gas and Oil Inspector, Department of Mines, Minerals and Energy, Division of Gas and Oil, P.O. Box 1416, 230 Charwood Drive, Abingdon, VA 24210, telephone (703) 628-8115, SCATS 676-5501 or 1-800-552-3831/TDD ☎

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July 16, 1991 - 9 a.m. – Public Hearing
Southwest Virginia 4-H Center, Dickenson, Conference Center, Route 609, Hillman Highway, Abingdon, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Gas and Oil Board intends to adopt regulations entitled: **VR**

480-05-22.2. Virginia Gas and Oil Board Regulations. The proposed regulations will govern conservation of gas and oil resources and protection of correlative rights of gas and oil owners.

Statutory Authority: § 45.1-361.15 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: B. Thomas Fulmer, Virginia Gas and Oil Inspector, Department of Mines, Minerals and Energy, Division of Gas and Oil, P.O. Box 1416, 230 Charwood Dr., Abingdon, VA 24210, telephone (703) 628-8115, SCATS 676-5501 or 1-800-552-3831/TDD ☎

OLD DOMINION UNIVERSITY

Board of Visitors

† **June 20, 1991 - 3 p.m.** – Open Meeting
Old Dominion University Campus, Athletic Administration Building, Norfolk, Virginia. ♿

A meeting to discuss various issues pertaining to the university and to hear standing committee reports. The agenda will be available at least five working days prior to the meeting.

Contact: Donna W. Meeks, Secretary to the Board, Old Dominion University, Norfolk, VA 23529-0029, telephone (804) 683-3072.

BOARD OF OPTOMETRY

July 18, 1991 - 10 a.m. – Public Hearing
1601 Rolling Hills Dr., Conference Room 1, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Optometry intends to amend regulations entitled: **VR 510-01-1. Regulations of the Virginia Board of Optometry.** The purpose of this action is to amend the regulations for purpose of fee changes, clarification of licensing, examinations, renewal, reinstatement procedures, clarification of unprofessional conduct, and continuing education requirements.

Statutory Authority: § 54.1-2400 and Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1 of the Code of Virginia.

Written comments may be submitted until July 18, 1991.

Contact: Lisa J. Russell, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9915 or SCATS (804) 662-9910.

VIRGINIA OUTDOORS FOUNDATION

June 24, 1991 - 10:30 a.m. – Open Meeting
Little River Inn, Aldie, Virginia. ♿

A general business meeting.

Contact: Tyson B. Van Auken, Executive Director, 221 Governor St., Richmond, VA 23229, telephone (804) 786-5539.

COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

August 7, 1991 - 10 a.m. – Open Meeting
August 8, 1991 - 10 a.m. – Open Meeting
Fredericksburg-Sheraton, Fredericksburg, Virginia.

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a recorded message about committee meeting agendas.

Contact: Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Bldg., Suite 519-B, 910 Capitol St., Richmond, VA 23219, telephone (804) 371-4949.

Executive Committee

July 8, 1991 - afternoon – Open Meeting
General Assembly Building, 5 West Conference Room, Richmond, Virginia.

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a recorded message about committee meeting agendas.

Contact: Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Bldg., Suite 519-B, 910 Capitol St., Richmond, VA 23219, telephone (804) 371-4949.

Finance Committee

June 19, 1991 - 10 a.m. – Open Meeting
CHANGE OF LOCATION: General Assembly Building, 6th Floor Conference Room, 910 Capitol Street, Richmond, Virginia. ♿

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a recorded message about committee meeting agendas.

Contact: Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Bldg., Suite 519-B, 910 Capitol St., Richmond, VA 23219, telephone (804) 371-4949.

Governance Committee

June 27, 1991 - 10 a.m. – Open Meeting
CHANGE OF LOCATION: General Assembly Building, 6th Floor Conference Room, 910 Capitol Street, Richmond, Virginia. ♿

Detailed agendas will be available at the committee meeting. If you would like to know more about a particular meeting you can call (804) 371-4950 for a recorded message about committee meeting agendas.

Contact: Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Bldg., Suite 519-B, 910 Capitol St., Richmond, VA 23219, telephone (804) 371-4949.

BOARD OF PROFESSIONAL COUNSELORS

June 20, 1991 - 8:30 a.m. – Open Meeting
Kogerama Building, 1501 Santa Rosa Road, Richmond, Virginia. ♿

Informal conferences. Public comments will not be heard.

† **June 21, 1991 - 8:30 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ♿

A formal hearing not open for public comment.

June 21, 1991 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ♿

A board meeting to (i) conduct general business, (ii) receive committee reports, and (iii) conduct regulatory review. Public comment will not be heard.

Contact: Evelyn B. Brown, Executive Director or Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9912.

BOARD OF PSYCHOLOGY

Examination Committee

June 28, 1991 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ♿

A regular meeting of the committee. Public comment will not be received.

Contact: Evelyn Brown, Executive Director, 1601 Rolling Hills Drive, Suite 200, Richmond, VA 23229-5005, telephone (804) 662-9913 or (804) 662-7197/TDD ☎

VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

June 20, 1991 - 10 a.m. – Open Meeting
Central Virginia Educational Telecommunications Corporation, (WCVE) 23, Sesame Street, Richmond, Virginia.

A quarterly board meeting to consider approval of grants/allocations, budget requests for 1992-94, and staff updates of various projects in progress.

Contact: Mamie White, Administrative Assistant, 110 S. Seventh St., 1st Floor, Richmond, VA 23219, telephone (804) 344-5522.

REAL ESTATE APPRAISER BOARD

† **June 25, 1991 - 11 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A general meeting. Application processing procedures will be considered.

Contact: Demetra Y. Kontos, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2175.

REAL ESTATE BOARD

† **June 21, 1991 - 9 a.m.** – Open Meeting
Marriott Hotel at Tysons Corner, McLean Room, 8028 Leesburg Pike, Vienna, Virginia.

The board will meet to conduct a formal hearing: File No. 90-00620, Real Estate Board v. Rudolph, Roy W.

† **June 21, 1991 - 11 a.m.** – Open Meeting
Marriott Hotel at Tysons Corner, McLean Room, 8028 Leesburg Pike, Vienna, Virginia.

The board will meet to conduct a formal hearing: File No. 90-02316, Real Estate Board v. Rodney Burket and Guy J. Battiste, II.

† **July 10, 1991 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Fifth Floor, Conference Room 2, Richmond, Virginia.

The board will meet to conduct a formal hearing: File No. 90-00149, Real Estate Board v. Henry W. Weatherford, Jr.

† **July 11, 1991 - 10 a.m.** – Open Meeting
Roanoke City Circuit Court, 315 West Church Avenue, Court Room 1, Roanoke, Virginia.

The board will meet to conduct a formal hearing: File No. 88-00865, Real Estate Board v. Donald Hall and

Julia Mawyer.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, (804) 367-8524.

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† **July 17, 1991 - 1 p.m.** – Public Hearing
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Real Estate Board intends to adopt regulations entitled: **VR 585-01-05. Real Estate Board Fair Housing Regulations.** The board proposes to promulgate fair housing regulations in support of the Virginia Fair Housing Law, Chapter 5.1 (§ 36-96.1 et seq.) of Title 36 of the Code of Virginia effective July 1, 1991.

STATEMENT

Preliminary statement of basis, purpose, and impact. Pursuant to §§ 36-94(d) and 36-96.20(C) of the Code of Virginia (effective July 1, 1991) the Real Estate Board proposes to promulgate fair housing regulations. These regulations apply to all persons in the Commonwealth who seek or provide housing.

The purpose of these regulations is to implement and clarify the enforcement of Virginia's fair housing law and ensure that Virginia continues to be certified as a substantially equivalent state by the U.S. Department of Housing and Urban Development. The Virginia fair housing law and these regulations closely follow the federal fair housing law and regulations which are presently in effect nationwide. Maintenance of substantial equivalency will enable Virginia to continue to receive and process fair housing complaints received by HUD from those seeking housing in the Commonwealth of Virginia. In addition, HUD provides reimbursement for processing these cases and moneys for training of department fair housing staff. Substantial equivalency prevents the public and housing providers from being subjected to two different investigations and, potentially, two different conclusions and remedies. In addition, substantially equivalent agencies are eligible to apply for federal grants for other activities such as outreach and education.

The proposed fair housing regulations contain procedural and substantive information which expands on the Virginia fair housing law. Clarifying the law is their only purpose. Individuals will not be cited for a violation of these regulations; any violations cited will be of the law. Because many of these provisions already exist in federal law and regulation or in the Virginia fair housing law, additional financial impact on housing providers will not occur except in specific sections where specifically noted in this document. Although these regulations also specify some work to be performed by staff at the office of the Attorney General, these requirements are already imposed by the Virginia fair housing law. The regulations will, therefore, have no additional impact on the office of the Attorney General.

Statutory Authority: §§ 36-94(d) and 36-96.20(C) of the Code of Virginia.

Written comments may be submitted until August 16, 1991.

Contact: Susan Scovill, Fair Housing Administrator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8530

BOARD OF REHABILITATIVE SERVICES

† **June 27, 1991 - 11 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

The board will receive department reports, consider regulatory matters and conduct the regular business of the board.

Finance Committee

† **June 27, 1991 - 10 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

The committee will review monthly financial reports and budgetry projections.

Legislation and Evaluation Committee

† **June 27, 1991 - 10 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

Legislative update.

Program Committee

† **June 27, 1991 - 10 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

Develop FY 92 board/committee calendars.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0319, (804) 367-0280/TDD ☎ or toll-free 1-800-552-5019/TDD ☎

BOARD OF SOCIAL SERVICES

† **June 19, 1991 - 2 p.m.** – Open Meeting
† **June 20, 1991 - 9 a.m. (if necessary)** – Open Meeting
Department of Social Services, 8007 Discovery Drive, Richmond, Virginia. ♿

A work session and formal business meeting of the board.

Contact: Phyllis Sisk, Staff Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9236, toll-free 1-800-552-3431 or toll-free 1-800-552-7096/TDD ☎

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

July 18, 1991 - 10 a.m. – Public Hearing
Wythe Building, Conference Room A, 1604 Santa Rosa Road, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to amend regulations entitled: **VR 615-08-01. Virginia Energy Assistance Program.** The proposed amendments to the Fuel Assistance Component will (i) ensure that all eligible individuals who apply for Fuel Assistance during the application period will receive a benefit; (ii) ensure compliance with Public Law 97-35 relative to providing the highest benefit to those with the lowest income and the highest energy costs.

The proposed amendments to the Crisis Assistance component will assist in meeting the needs of needy households, who, due to unforeseen changes in circumstances, find themselves in a heating emergency situation during January, February or March.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until July 19, 1991, to Charlene H. Chapman, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia.

Contact: Peggy Friedenberg, Legislative Analyst, Bureau of Governmental Affairs, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

BOARD OF SOCIAL WORK

† **June 28, 1991 - 8:30 a.m.** – Open Meeting
1601 Rolling Hills Drive, Suite 200, Richmond, VA ♿

A meeting to (i) administer oral examinations; (ii) conduct general board business; and (iii) certify oral examinations. No public comment will be received.

Contact: Evelyn B. Brown, Executive Director, 1601 Rolling Hills Dr., Suite 200, Richmond, VA 23229, telephone (804) 662-9914.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

June 17, 1991 - 10 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ♿

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

COMMONWEALTH TRANSPORTATION BOARD

June 19, 1991 - 2 p.m. – Open Meeting
Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ♿

A working session of the board and the Department of Transportation staff.

June 20, 1991 - 10 a.m. – Open Meeting
Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ♿

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Public comment will be received at the outset of the meeting, on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves to right to amend these conditions.

Contact: John G. Milliken, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6670.

DEPARTMENT OF TRANSPORTATION

† **July 8, 1991 - 7 p.m.** – Public Hearing
Virginia Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia.

† **July 10, 1991 - 7 p.m.** – Public Hearing
Norfolk City Council Chambers, Norfolk City Hall, 11th Floor, 810 Union Street, Norfolk, Virginia.

A public meeting is being held to obtain comments from Virginia residents, business leaders, and state and local officials on the Virginia Department of Transportation's study of the Allocation Formula for the Transportation Trust Fund as mandated by the 1991 General Assembly. The study has three major goals: (i) to consider whether the way funds are currently allocated in the Code are equitable, (ii) to consider the changing roles of state, local, and federal governments in funding transportation needs, and (iii) to consider the special needs of freight and passenger

rail.

Contact: Mary Lynn Tischer, Ph.D., 1401 E. Broad St., Room 403, Richmond, VA 23219, telephone (804) 225-4698.

TRANSPORTATION SAFETY BOARD

† **August 16, 1991 - 10 a.m.** – Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ♿

A meeting to discuss several topics which pertain to transportation safety.

Contact: W. H. Leighty, Deputy Commissioner for Transportation Safety, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23219-0001, telephone (804) 367-6614 or (804) 367-1752/TDD ☎

TREASURY BOARD

June 19, 1991 - 9 a.m. – Open Meeting
James Monroe Building, 3rd Floor, Treasury Board Conference Room, 101 North 14th Street, Richmond, Virginia. ♿

A regular meeting of the board.

Contact: Laura Wagner-Lockwood, Senior Debt Manager, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23219, telephone (804) 225-4931.

DEPARTMENT OF THE TREASURY (TREASURY BOARD)

July 19, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Treasury Board intends to amend regulations entitled: **VR 640-02. Security for Public Deposits Act Regulations.** The purpose of the proposed amendments is to provide adequate protection for public funds on deposit in financial institutions in light of recent changes within financial institutions and in types of securities pledged.

Statutory Authority: § 2.1-364 of the Code of Virginia.

Written comments may be submitted until July 19, 1991.

Contact: Susan F. Dewey, Director of Financial Policy, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-2142.

VIRGINIA RACING COMMISSION

June 19, 1991 - 9:30 a.m. – Open Meeting
VSRS Building, 1204 East Main Street, Richmond, Virginia. ♿

A regular meeting including a review of proposed regulations pertaining to participants, claiming races and standardbred racing.

June 19, 1991 - 9:30 a.m. – Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia. ♿

A public hearing will be conducted on the application by the Wetmoreland-Davis Foundation for a limited license to conduct one day of jump racing with pari-mutuel wagering in Leesburg, Virginia, on October 12, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. – Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-03-03. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Stewards.** The purpose of the proposed amendments is to establish the duties, responsibilities and powers of stewards.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. – Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-03-04. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Commission Veterinarian.** The regulation establishes the duties and responsibilities of the Commission Veterinarian.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. – Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-03-05. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Formal Hearings.** The regulation establishes the procedure for appealing decisions of the stewards.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. – Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-04-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Horses.** The regulation establishes conditions under which horses may be identified, determined eligible for racing and may be barred from racing.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. – Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-04-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Entries.** The purpose of the proposed amendments is to establish procedures and conditions under which entries will be taken for horse races with pari-mutuel wagering.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until June 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. – Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-05-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Flat Racing.** The regulation establishes the conditions under which flat racing will be conducted.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. – Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-05-03. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Jump Racing.** The regulation establishes the conditions under which jump racing will be conducted.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

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June 19, 1991 - 9:30 a.m. – Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-05-04. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Conduct of Quarter Horse Racing.** This regulation establishes the

conditions under which quarter horse racing will be conducted.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 22, 1991.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

VIRGINIA RESOURCES AUTHORITY

July 9, 1991 - 10 a.m. – Open Meeting
The Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia.

The board will meet to (i) approve minutes of the meeting of June 11, 1991; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

† **August 13, 1991 - 10 a.m.** – Open Meeting
The Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia.

The board will meet to (i) approve minutes of the meeting of July 9, 1991; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Mutual Building, 909 East Main Street, Suite 707, Richmond, VA 23219, telephone (804) 644-3100 or FAX Number (804) 644-3109.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

July 20, 1991 - 11 a.m. – Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

The committee meets quarterly to advise the Virginia Board for the Visually Handicapped on matters related to services for blind and visually impaired citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary, 39. Azalea Ave., Richmond, VA 23227, telephone (804) 371-3350, toll-free 1-800-622-2155 or (804) 371-3140/TDD ☎

VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

June 20, 1991 - 10 a.m. – Open Meeting
Hyatt Richmond, West Broad Street and I-64, Richmond, Virginia.

10 a.m. until 12 noon: General session
1:30 p.m. until 3:30 p.m.: Council will participate with the Department of Education in an awards program recognizing outstanding business partnerships and advisory councils/committees.

Contact: George S. Orr, Jr., Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Rd., Richmond, VA 23237, telephone (804) 275-6218.

DEPARTMENT OF WASTE MANAGEMENT

June 17, 1991 - 10 a.m. – Public Hearing
Hampton City Library, Meeting Room A, 4207 Victoria Boulevard, Hampton, Virginia. ♿

June 19, 1991 - 1 p.m. – Public Hearing
Manassas City Hall, City Council Chambers, 1st Floor, 9027 Center Street, Manassas, Virginia. ♿

July 22, 1991 - 10 a.m. – Public Hearing
The Wagner Building, Multipurpose Room, 9502 Lucy Corr Drive, Chesterfield, Virginia. ♿

July 24, 1991 - 2 p.m. – Public Hearing
Virginia Tech., Litton-Reaves Hall, Room 1870, West Campus Drive at Washington Street, Blacksburg, Virginia. ♿

A public hearing will be held to receive comments on proposed regulation VR 672-50-11. The proposed regulation establishes criteria for the certification of recycling machinery and equipment, as well as the procedure for applying for certification.

This certification would allow the owners of the equipment to apply for personal property tax exemptions as authorized by local ordinances.

Contact: G. Stephen Coe, Equipment Certification Officer, Department of Waste Management, 11th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-0044, toll-free 1-800-533-7488 or (804) 374-8737/TDD ☎

June 20, 1991 - 7 p.m. – Public Hearing
City Council Chambers, Second Floor, City Hall, 497 Cumberland Street, Bristol, Virginia.

A public hearing on the draft permit amendme

proposed by the City of Bristol to combine the city's debris (permit 500) and the sanitary (permit 498) landfills into a single sanitary site. The public comment period will extend until July 1, 1991 at 5 p.m. A copy of the proposed draft permit amendment may be obtained from Russel McAvoy, Jr., Department of Waste Management, Sixth Floor, Monroe Building, 101 North Fourteenth Street, Richmond, Virginia.

Contact: Hassan Vakili, Technical Services Administrator, Department of Waste Management, Eleventh Floor, Monroe Building, 101 North Fourteenth Street, Richmond, VA 23219, telephone (804) 786-3063 or toll-free 1-800-552-2075.

June 21, 1991 - 2 p.m. – Open Meeting
James Monroe Building, Conference Room C, 101 North 14th Street, Richmond, Virginia.

An informational meeting on the initial draft of the proposed "Yard Waste Composting Facility Regulation." The purpose of this regulation is to replace VR 672-20-31, "Yard Waste Composting Regulation" which is an emergency regulation.

Contact: Michael P. Murphy, Environmental Program Manager, 11th Floor, Monroe Building, 101 North Fourteenth Street, Richmond, VA 23219, telephone (804) 371-0044, toll-free 1-800-533-7488 or (804) 371-8737/TDD

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

June 17, 1991 - 10 a.m. – Public Hearing
Hampton Public Library, Meeting Room A, 4207 Victoria Boulevard, Hampton, Virginia.

June 19, 1991 - 1 p.m. – Public Hearing
Manassas City Hall, City Council Chambers, 1st Floor, 9027 Center Street, Manassas, Virginia.

July 22, 1991 - 10 a.m. – Public Hearing
The Wagner Building, 9502 Lucy Corr Drive, Chesterfield, Virginia.

July 24, 1991 - 2 p.m. – Public Hearing
Virginia Tech, Room 1870, Litton-Reaves Hall, West Campus Drive at Washington Street, Blacksburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to adopt regulations entitled: **VR 672-50-11. Regulations for the Certification of Recycling Machinery and Equipment for Tax Examption Purposes.** This regulation establishes criteria for recycling machinery and equipment. The regulation would allow owners of machinery and equipment used primarily to process recyclable material for markets or to incorporate recycled material into a production process to seek a recycling certification for such equipment from the Virginia Department of Waste Management. Once certified, the owner could apply for a local personal property tax exemption offered for such recycling machinery or equipment.

Statutory Authority: §§ 10.1-1411 and 58.1-3661 of the Code of Virginia.

Written comments may be submitted until August 7, 1991, to Equipment Certification Officer, Department of Waste Management, 101 N. 14th St., 11th Floor, Monroe Bldg., Richmond, VA 23219.

Contact: G. Stephen Coe, Equipment Certification Officer, Department of Waste Management, 11th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-0044, toll-free 1-800-533-7488 or (804) 374-8737/TDD

STATE WATER CONTROL BOARD

June 17, 1991 - 7 p.m. – Public Hearing
Gordon Barber Elementary School, Baker Street, Gordonsville, Virginia.

A public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0021105 for Rapidan Service Authority, Town of Gordonsville, P.O. Box 148, Ruckersville, Virginia 22968. The purpose of the hearing is to receive comments on the proposed reissuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Lori A. Freeman, Hearings Reporter, State Water Control Board, Office of Policy Analysis, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 367-6815.

June 24, 1991 - 10 a.m. – Public Hearing
Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) permit issuance for Simonson Seafood, Ltd., P.O. Box 248, Warsaw, Virginia 22575. Simonson Seafood, Ltd., will discharge into Morattico Creek in Richmond County. The purpose of this hearing is to receive comments on the proposed issuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

June 24, 1991 - 10 a.m. – Public Hearing
Innsbrook Corporate Center, Room 1000, 4900 Cox Road, Glen Allen, Virginia.

A formal evidentiary hearing to consider revocation of Ballast Point Seafood's Virginia Pollutant Discharge Elimination System Permit (VPDES) No. VA0005037

Reference: § 6.1-225.36(2) of the Code of Virginia, which replaced former § 6.1-211(2).

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Title of Regulation: **VR 225-01-0402. Schedule Prescribing Annual Fees Paid for Examination, Supervision, and Regulation of State Chartered Credit Unions.**

Statutory Authority: § § 6.1-225.5 of the Code of Virginia.

Effective Date: December 22, 1981; amended January 1, 1991.

Pursuant to the requirement of § 6.1-225.5 of the Code of Virginia, state-chartered credit unions shall pay annual fees for their examination, supervision and regulation in accordance with the following schedule:

SCHEDULE

Total Assets	FEE
$25,000 or less	$4 per $1,000 but not less than $20
Over $25,000 through $100,000	$100 plus $1.75 per $1,000 for assets in excess of $25,000
Over $100,000 through $1,000,000	$231.25 plus $.75 per $1,000 for assets in excess of $100,000
Over $1,000,000 through $5,000,000	$906.25 plus $.60 per $1,000 for assets in excess of $1,000,000
Over $5,000,000 through $10,000,000	$3,306.25 plus $.30 per $1,000 for assets in excess of $5,000,000
Over $10,000,000	$4,806.25 plus $.20 per $1,000 of assets in excess of $10,000,000

(These fees are to be applied to even thousand-dollar units, with fractional parts of $1,000 dropped.)

The assessment shall be computed on the basis of the credit union's total assets as shown by its Report of Condition as of the close of business for the preceding year (December 31), as filed with the Bureau of Financial Institutions on or before the first day of February.

By order of the State Corporation Commission dated December 22, 1981. The regulation has been updated to refer to Virginia Code § 6.1-225.5, which was effective January 1, 1991.

Reference: § 6.1-225.5 of the Code of Virginia, which replaced former § 6.1-221.1.

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Title of Regulation: **VR 225-01-0501. Disclosure on Debt Instruments: Minimum Amount and Maturity.**

Statutory Authority: § 6.1-227.1 of the Code of Virginia.

Effective Date: February 6, 1975.

No bond, debenture, or other evidence of debt, however described, shall be offered, nor shall any such instrument be issued for offer to the general public by advertisement or solicitation, unless such instrument states on its face in a prominent manner the words:

> "This instrument is not a deposit. It is not insured or guaranteed by any governmental agency or private insurance company."

No such evidence of debt shall mature less than one year from its issuance, nor shall any such instrument be issued for an amount less than one thousand dollars ($1,000).

By order of the State Corporation Commission dated February 6, 1975.

Reference: § 6.1-227.1 of the Code of Virginia.

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Title of Regulation: **VR 225-01-0502. Surety Bond Upon All Active Officers.**

Staturory Authority: § 6.1-235 of the Code of Virginia.

Effective Date: February 27, 1981.

1. Every industrial loan association as defined in Chapter 5 of Title 6.1 of the Code shall obtain and keep in force upon all its active officers a bond or bonds in a surety company authorized to do business in this State in the penalty of whatever amount deemed appropriate by its Board of Directors;

2. No bond given pursuant to this order may be cancelled without first giving the Commissioner of Financial Institutions ten days written notice of such cancellation, and every such bond shall contain a provision to that effect.

By order of the State Corporation Commission dated February 27, 1981.

Reference: § 6.1-235 of the Code of Virginia.

* * * * * * * *

Title of Regulation: **VR 225-01-0503. Schedule Prescribing Annual Fees Paid for Examination, Supervision, and Regulation of Industrial Loan Associations.**

Statutory Authority: § 6.1-237 of the Code of Virginia.

Effective Date: July 1, 1990.

Pursuant to the provision of Section 6.1-237 of the Code of Virginia, the State Corporation Commission hereb'

proposed by the City of Bristol to combine the city's debris (permit 500) and the sanitary (permit 498) landfills into a single sanitary site. The public comment period will extend until July 1, 1991 at 5 p.m. A copy of the proposed draft permit amendment may be obtained from Russel McAvoy, Jr., Department of Waste Management, Sixth Floor, Monroe Building, 101 North Fourteenth Street, Richmond, Virginia.

Contact: Hassan Vakili, Technical Services Administrator, Department of Waste Management, Eleventh Floor, Monroe Building, 101 North Fourteenth Street, Richmond, VA 23219, telephone (804) 786-3063 or toll-free 1-800-552-2075.

June 21, 1991 - 2 p.m. – Open Meeting
James Monroe Building, Conference Room C, 101 North 14th Street, Richmond, Virginia. ♿

An informational meeting on the initial draft of the proposed "Yard Waste Composting Facility Regulation." The purpose of this regulation is to replace VR 672-20-31, "Yard Waste Composting Regulation" which is an emergency regulation.

Contact: Michael P. Murphy, Environmental Program Manager, 11th Floor, Monroe Building, 101 North Fourteenth Street, Richmond, VA 23219, telephone (804) 371-0044, toll-free 1-800-533-7488 or (804) 371-8737/TDD ☎

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

June 17, 1991 - 10 a.m. – Public Hearing
Hampton Public Library, Meeting Room A, 4207 Victoria Boulevard, Hampton, Virginia.

June 19, 1991 - 1 p.m. – Public Hearing
Manassas City Hall, City Council Chambers, 1st Floor, 9027 Center Street, Manassas, Virginia.

July 22, 1991 - 10 a.m. – Public Hearing
The Wagner Building, 9502 Lucy Corr Drive, Chesterfield, Virginia.

July 24, 1991 - 2 p.m. – Public Hearing
Virginia Tech, Room 1870, Litton-Reaves Hall, West Campus Drive at Washington Street, Blacksburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to adopt regulations entitled: **VR 672-50-11. Regulations for the Certification of Recycling Machinery and Equipment for Tax Examption Purposes.** This regulation establishes criteria for recycling machinery and equipment. The regulation would allow owners of machinery and equipment used primarily to process recyclable material for markets or to incorporate recycled material into a production process to seek a recycling certification for such equipment from the Virginia Department of Waste Management. Once certified, the owner could apply for a local personal property tax exemption offered for such recycling machinery or equipment.

Statutory Authority: §§ 10.1-1411 and 58.1-3661 of the Code of Virginia.

Written comments may be submitted until August 7, 1991, to Equipment Certification Officer, Department of Waste Management, 101 N. 14th St., 11th Floor, Monroe Bldg., Richmond, VA 23219.

Contact: G. Stephen Coe, Equipment Certification Officer, Department of Waste Management, 11th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-0044, toll-free 1-800-533-7488 or (804) 374-8737/TDD ☎

STATE WATER CONTROL BOARD

June 17, 1991 - 7 p.m. – Public Hearing
Gordon Barber Elementary School, Baker Street, Gordonsville, Virginia. ♿

A public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0021105 for Rapidan Service Authority, Town of Gordonsville, P.O. Box 148, Ruckersville, Virginia 22968. The purpose of the hearing is to receive comments on the proposed reissuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Lori A. Freeman, Hearings Reporter, State Water Control Board, Office of Policy Analysis, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 367-6815.

June 24, 1991 - 10 a.m. – Public Hearing
Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia. ♿

A public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) permit issuance for Simonson Seafood, Ltd., P.O. Box 248, Warsaw, Virginia 22575. Simonson Seafood, Ltd., will discharge into Morattico Creek in Richmond County. The purpose of this hearing is to receive comments on the proposed issuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

June 24, 1991 - 10 a.m. – Public Hearing
Innsbrook Corporate Center, Room 1000, 4900 Cox Road, Glen Allen, Virginia. ♿

A formal evidentiary hearing to consider revocation of Ballast Point Seafood's Virginia Pollutant Discharge Elimination System Permit (VPDES) No. VA0005037

because the permittee allegedly no longer owns or conducts business from the permitted facility. This hearing is being held pursuant to §§ 9-6.14:12 and 62.1-44.25 of the Code of Virginia, as well as the board's Procedural Rule No. 1 and VR 680-14-01 (Permit Regulation).

Contact: Doneva A. Dalton, Hearings Reporter, State Water Control Board, Office of Policy Analysis, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 367-6829.

June 24, 1991 10 a.m. – Open Meeting
June 25, 1991 9 a.m. – Open Meeting
State Water Control Board Offices, Room 1000 (Board Room), Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, Office of Policy Analysis, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6829.

THE COLLEGE OF WILLIAM AND MARY IN VIRGINIA

Board of Visitors

June 28, 1991 - 10 a.m. – Open Meeting
Richard Bland College, Petersburg, Virginia.

A regularly scheduled meeting to act on those resolutions that are presented by the administrations of William and Mary and Richard Bland College.

An informational release will be available four days prior to the board meeting for those individuals or organizations who request it.

Contact: William N. Walker, Director, Office of University Relations, James Blair Hall, Room 101C, College of William and Mary, Williamsburg, VA 23185, telephone (804) 221-1004.

VIRGINIA WINEGROWERS ADVISORY BOARD

July 8, 1991 - 10 a.m. – Open Meeting
State Capitol, House Room 1, Capitol Square, Richmond, Virginia.

The board will vote on the new chairman and vice chairman. The board will also hear committee and project monitor reports, review old and new business and discuss any new proposals.

Contact: Annette C. Ringwood, Secretary, 1100 Bank Street, Suite 1010, Richmond, VA 23219, telephone (804) 371-7685.

VIRGINIA DEPARTMENT OF YOUTH & FAMILY SERVICES
Youth Begins With You.

BOARD OF YOUTH AND FAMILY SERVICES

July 11, 1991 - 10 a.m. – Open Meeting
700 Centre Building, 4th Floor, 7th & Franklin Sts., Richmond, Virginia.

A general business meeting.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, 700 Centre, 4th Floor, 7th & Franklin St., Richmond, VA 23219, telephone (804) 371-0692.

DEPARTMENT OF YOUTH AND FAMILY SERVICES (STATE BOARD OF)

July 10, 1991 - 4 p.m. – Public Hearing
Department of Youth and Family Services, 7th & Franklin Sts., Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Youth and Family Services intends to adopt regulations entitled: **VR 690-20-001. Pre and Post Dispositional Group Home Standards.** The proposed regulation establishes board standards for the operation of pre and post dispositional group homes.

Statutory Authority: §§ 66-10 and 16.1-311 of the Code of Virginia.

Written comments may be submitted until August 2, 1991.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, 700 Centre, 4th Floor, 7th & Franklin St., Richmond, VA 23219, telephone (804) 371-0692.

LEGISLATIVE

JOINT SUBCOMMITTEE ASSESSING THE LONG-RANGE FINANCIAL STATUS OF THE GAME PROTECTION FUND

† **June 25, 1991 - 1 p.m.** – Open Meeting
State Capitol, House Room 2, Capitol Square, Richmond, Virginia.

A subcommittee will meet for initial organizational and informational briefing session. (HJR 293)

Contact: John Heard, Staff Attorney, Division of Legislative Services, 910 Capitol Street, Second Floor, Richmond, VA

.3219, telephone (804) 786-3591.

STATE WATER COMMISSION

June 26, 1991 - 1 p.m. – Open Meeting
Christopher Newport College, Room cc150, Campus Center, 50 Shoe Lane, Newport News, Virginia.

The commission will review proposal for elimination of the grand fathering of wells in ground water management areas and HJR 460 and SJR 264 from '91 session.

Contact: Marty Farber, Research Associate, Division of Legislative Services, 910 Capitol St., General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

June 17
Cosmetology, Board for
Criminal Justice Services Board
Emergency Planning Committee, Local - County of Prince William, City of Manassas, and City of Manassas Park
Soil Scientists, Board for Professional

June 18
Auctioneers Board, Virginia
Contractors, Board for
Gas and Oil Board, Virginia
Historic Resources, Department of
- State Review Board
Housing Development Authority, Virginia

June 19
Corrections, Board of
† Dentistry, Board of
Governor's Advisory Board on Medicare and Medicaid
Health Professions, Board of
- Administrative and Budget Committee
Historic Resources, Board of
† Medicine, Board of
Mental Health, Mental Retardation and Substance Abuse Services Board, State
Population Growth and Development, Commission on
- Finance Committee
Racing Commission, Virginia
† Social Services, Board of
Transportation Board, Commonwealth
Treasury Board

June 20
Chesapeake Bay Local Assistance Board
† Child Day Care and Early Childhood Programs, Council on
† Contractors, Board for
Health, State Board of
Health Professions, Board of
- Regulatory Research Committee
† Old Dominion University
† - Board of Visitors
Professional Counselors, Board of
Public Telecommunications Board, Virginia
† Social Services, Board of
Transportation Board, Commonwealth
Vocational Education, Virginia Council on

June 21
Children, Interdepartmental Regulation of Residential Facilities for
- Coordinating Committee
Health, State Board of
Health Professions, Board of
- Compliance and Discipline Committee
† Information Management, Council on
Library Board
Professional Counselors, Board of
† Real Estate Board
Waste Management, Department of

June 22
Library Board
† Medicine, Board of
† - Credentials Committee

June 24
† Health Professions, Department of
† - Task Force to Study Nurse Midwives and Providers of Obstetrical Care
Health Services Cost Review Council, Virginia
Lottery Board, State
Outdoors Foundation, Virginia
Water Control Board, State

June 25
Aging, Department for the
- Long-Term Care Ombudsman Program Advisory Council
Environment, Council on the
† Health Services Cost Review Council, Virginia
† Long-Range Financial Status of the Game Protection Fund, Joint Subcommittee Assessing the
Marine Resources Commission
† Medical Assistance Services, Department of
† - Technical Advisory Panel
† Real Estate Appraiser Board
Water Control Board, State

June 26
Water Commission, State

June 27
† Auctioneers Board
† Education, State Board of
† Middle Virginia Board of Directors and the Middle

Virginia Community Corrections Resources Board
Population Growth and Development, Commission on
- Governance Committee
† Rehabilitative Services, Board of
† - Finance Committee
† - Legislation and Evaluation Committee
† - Program Committee

June 28
Athletic Board
† Education, State Board of
Egg Board, Virginia
† Medicine, Board of
Psychology, Board of
- Examination Committee
† Social Work, Board of
William and Mary in Virginia, The College of
- Board of Visitors

July 3
† Higher Education for Virginia, State Council of

July 8
Population Growth and Development, Commission on
- Executive Committee
Winegrowers Advisory Board, Virginia

July 9
† Medicine, Board of
Virginia Resources Authority

July 10
† Real Estate Board

July 11
† Cattle Industry Board, Virginia
† Real Estate Board
Youth and Family Services, Board of

July 12
Medicine, Board of
- Advisory Committee on Acupuncture

July 13
Dentistry, Board of

July 15
† Emergency Planning Committee, Local - Scott County

July 16
Gas and Oil Board, Virginia

July 17
† Employment Commission, Virginia
† - Advisory Board

July 18
† Agriculture and Consumer Services, Department of
- Pesticide Control Board
† Employment Commission, Virginia
† - Advisory Board

July 19
† Agriculture and Consumer Services, Department of
- Pesticide Control Board
Children, Interdepartmental Regulation of Residential Facilities for
- Coordinating Committee

July 20
Visually Handicapped, Department for the
- Advisory Committee on Services

July 22
Local Government, Commission on

July 23
† Health Services Cost Review Council, Virginia
Local Government, Commission on
Medicine, Board of
- Advisory Committee on Acupuncture

July 24
Local Government, Commission on

July 25
† Education, State Board of

July 26
† Education, State Board of
† Medicine, Board of

July 28
† Longwood College
† - Board of Visitors

July 29
† Longwood College
† - Board of Visitors

August 1
† Middle Virginia Board of Directors and the Middle Virginia Community Corrections Resources Board

August 6
† Medicine, Board of

August 7
Population Growth and Development, Commission on

August 8
† Housing and Community Development, Department of
† - Regulatory Effectiveness Advisory Committee
Population Growth and Development, Commission on

August 13
† Virginia Resources Authority

August 14
† Education, State Board of

August 16
† Transportation Safety Board

August 19
Local Government, Commission on

August 20
Local Government, Commission on

August 23
Medicine, Board of
- Advisory Board on Physical Therapy

PUBLIC HEARINGS

June 17
† Corporation Commission, State
† - Special Advisory Commission on Mandated Health Insurance Benefits
Waste Management, Department of
Water Control Board, State

June 18
Library and Archives, Virginia State

June 19
Health Professions, Department of
- Task Force on the Need for Medication Technicians
Waste Management, Department of
Racing Commission, Virginia

June 20
Chesapeake Bay Local Assistance Board
Waste Management, Department of

June 24
Water Control Board, State

June 26
Aging, Department for the
† Mental Health, Mental Retardation and Substance Abuse Services Board, State
† Mines, Minerals and Energy, Department of

June 27
† Mental Health, Mental Retardation and Substance Abuse Services Board, State

June 28
† Health, Department of

July 8
† Transportation, Department of

July 10
Youth and Family Services, Department of
† Transportation, Department of

July 15
Housing and Community Development, Department of

July 16
Accountancy, Board for
Gas and Oil Board, Virginia

July 17
† Real Estate Board

July 18
Optometry, Board of
Social Services, Department of

July 19
Racing Commission, Virginia

July 22
Local Government, Commission on
Waste Management, Department of

July 23
Health Services Cost Review Council, Virginia

July 24
Waste Management, Department of

August 20
Local Government, Commission on

Calendar of Events