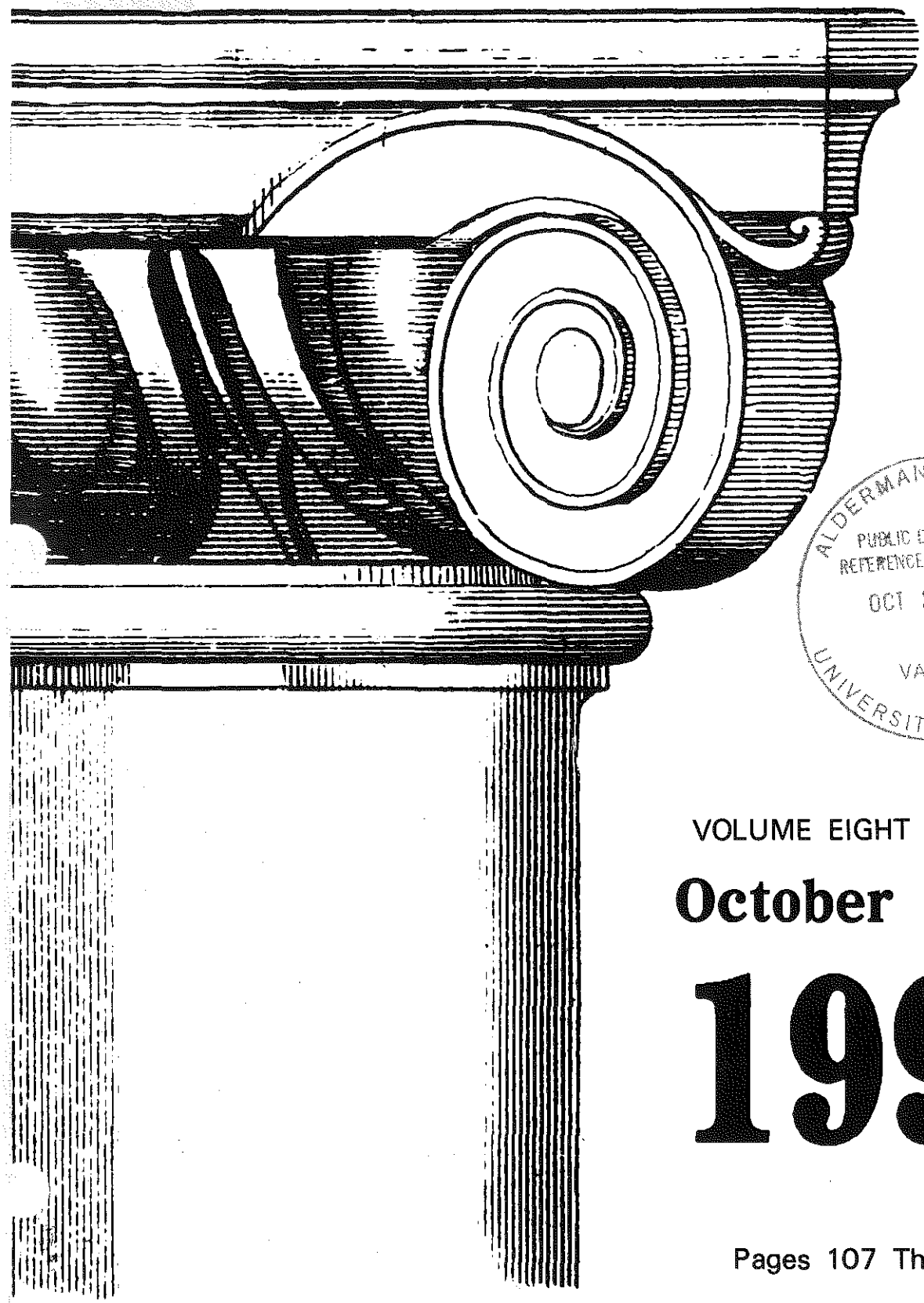
THE VIRGINIA REGISTER

OF REGULATIONS



VOLUME EIGHT • ISSUE TWO

October 21, 1991

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Pages 107 Through 332

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 review the proposed regulations. The Governor will transmit his comments 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 withdrawn, 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. **1:3 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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The Virginia Register of Regulations is published pursuant to Article 7 of Chapter 1.1:1 (§ 9-6.14:2 et seq.) of the Code of Virginia. Individual copies are available for $4 each from the Registrar of Regulations.

VIRGINIA REGISTER OF REGULATIONS

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July 1991 though September 1992

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† Indicates entries since last publication of the Virginia Register

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the proposed standards (Rule 4-4, Appendix P) is to require the owner/operator of a specified source to limit VOC and NOx emissions to a level resultant from the use of reasonably available control technology and necessary for the protection of public health and welfare. The purpose of the proposed reporting regulation (§ 120-02-31) is to require the owner/operator to report the levels of emissions from the source in order to assess compliance with emission and air quality standards.

A public meeting will be held on November 13, 1991, at 10 a.m. in House Committee Room 1, State Capitol Building, Richmond, Virginia, to receive input on the development of the proposed regulation.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Written comments may be submitted until November 13, 1991, to Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240.

Contact: Ellen P. Snyder, Policy Analyst, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240, telephone (804) 786-0177.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the proposed amendment to Part VIII is to require the owner of the proposed new or expanded facility to provide such information as may be needed to enable the agency to conduct a preconstruction review in order to determine compliance with applicable new source performance standards and to assess the impact of the emissions from the facility on air quality. The amendment also provides the basis for the agency's final action (approval or disapproval) on the permit depending upon the results of the preconstruction review.

A public meeting will be held on December 10, 1991, at 10 a.m. in House Committee Room 1, State Capitol Building, Richmond, Virginia, to receive input on the development of the proposed regulation.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Written comments may be submitted until December 10, 1991, to Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240.

Contact: Nancy S. Saylor, Policy Analyst, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the proposed amendment to Rule 4-37 is to require the owner/operator of a petroleum liquid storage and transfer facility to install and operate a vapor control and recovery system for VOC emissions, such that resultant ozone concentrations in the ambient air may be reduced to levels which are necessary for the protection of public health and welfare.

A public meeting will be held on December 11, 1991, at 10 a.m. in House Committee Room 1, State Capitol Building, Richmond, Virginia, to receive input on the development of the proposed regulation.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Written comments may be submitted until December 11, 1991, to Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240.

Contact: Ellen P. Snyder, Policy Analyst, Division of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240, telephone (804) 786-0177.

DEPARTMENT OF CORRECTIONS (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 Corrections intends to consider amending regulations

entitled: **VR 230-30-005. Guide for Minimum Standards in Design and Construction of Jail Facilities.** The purpose of the proposed action is to establish minimum standards for jail construction and renovation in order to qualify for state reimbursement of allowable construction costs.

Statutory Authority: §§ 53.1-5 and 53.1-68 of the Code of Virginia.

Written comments may be submitted until November 1, 1991.

Contact: Mike Howerton, Chief of Operations, Community Corrections, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3251.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider amending regulations entitled: **VR 230-30-008. Regulations for State Reimbursement of Local Correctional Facility Construction Costs.** The purpose of the proposed action is to establish guidelines in the evaluation of local correctional facilities request for state reimbursement of facility construction costs and to establish priorities for construction funds available.

Statutory Authority: §§ 53.1-5 and 53.1-80 of the Code of Virginia.

Written comments may be submitted until November 1, 1991.

Contact: Mike Howerton, Chief of Operations, Community Corrections, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3251.

DEPARTMENT FOR THE DEAF AND HARD OF HEARING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Deaf and Hard of Hearing intends to consider amending regulations entitled: **VR 245-02-01. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment.** The purpose of the proposed action is to ensure department ownership of telecommunications equipment which individually has a value or cost of $5,000 or more as per criteria established by the State Comptroller's Office and the Department of Accounts and to update regulations as needed. Consideration is being given to including an expanded range of telecommunications equipment.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until October 23, 1991.

Contact: Kathy E. Vesley, Deputy Director, Department for the Deaf and Hard of Hearing, Washington Building, Capitol Square, 1100 Bank Street, 12th Floor, Richmond, VA 23219-3640, telephone (804) 225-2570 or toll-free 1-800-552-7917/TDD ☎

DEPARTMENT OF EDUCATION (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 Education intends to consider amending regulations entitled: **VR 270-01-0012. Standards for Accrediting Public Schools in Virginia.** The purpose of the proposed action is to provide minimum standards to give guidance and direction to assist schools in their continuing efforts to offer educational programs to meet the needs, interests, and aspirations of all students. The amendments are necessary to reflect changes in the missions of the Board of Education and the Department of Education. The board is also adopting new goals as part of the Standards of Quality.

Statutory Authority: §§ 22.1-19 and 22.1-253.13:3 (B) of the Code of Virginia.

Written comments may be submitted until December 30, 1991.

Contact: Ms. Lin Corbin-Howerton, Lead Policy Analysts, Virginia Department of Education, P.O. Box 6Q, Richmond, Virginia 23216, telephone (804) 225-2092, (804) 225-2543 or toll-free 1-800-292-3820.

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 State Board of Health intends to consider amending regulations entitled: **Regulations Governing the Newborn Screening and Treatment Program.** The purpose of the proposed action is to include diseases of newborn infants as specified in § 32.1-65 of the Code of Virginia, and to conform with the latest medical and public health standards.

Statutory Authority: § 32.1-12 and Article 7 (§ 32.1-65 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia.

Written comments may be submitted until November 8, 1991.

Contact: Cecilia E. Barbosa, Director of Planning and Evaluation, Division of Maternal and Child Health, Virginia

Department of Health, 1500 East Main Street, Room 137, Richmond, VA 23218, telephone (804) 786-7367.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The purpose of the proposed action is to (i) amend § 6.1 of the rules and regulations to waive requirement of the submission of a certified audited financial statement when a mitigating circumstance exists; (ii) amend §§ 6.2 and 6.3 to state that neither a health care institution's annual budget submission nor any proposed modification to the annually filed schedule of charges will be accepted for review by the Council until the institution's historical filings and certified audited financial statement have been filed with the Council; (iii) amend § 6.3.1 to include that information regarding the annual survey of rates charged must be provided for each individual health care institution; and (iv) allow for the waiver of the $10 per working day penalty for failure of a health care institution to file a certified audited financial statement if a mitigating circumstance exists.

Statutory Authority: §§ 9-158(C), 9-163 and 9-164(2) of the Code of Virginia.

Written comments may be submitted until November 21, 1991.

Contact: G. Edward Dalton, Deputy Director, 805 East Broad Street, 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

DEPARTMENT OF LABOR AND INDUSTRY

Apprenticeship Council

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Apprenticeship Council intends to consider amending regulations entitled: **VR 425-01-27. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia.** The purpose of the proposed action is to clarify and strengthen the involuntary deregistration procedure of apprenticeship programs by the Virginia Apprenticeship Council.

Statutory Authority: § 40.1-118 of the Code of Virginia.

Written comments may be submitted until November 25, 1991.

Contact: R. S. Baumgardner, Director of Apprenticeship, Department of Labor and Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2381.

MARINE RESOURCES COMMISSION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Marine Resources Commission intends to consider promulgating regulations entitled: **Guidelines for Siting and Evaluating Sand and Gravel Mining Operations in State-owned Subaqueous Beds.** The purpose of the proposed regulations is to develop guidelines to be used by the public and regulatory agencies in siting and reviewing sand and gravel mining operations where the materials will be extracted from state-owned subaqueous beds.

Statutory Authority: §§ 62.1-3, 62.1-4 and 62.1-13.4 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Robert W. Grabb, Division Chief, Virginia Marine Resources Commission, Habitat Management Division, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2252.

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 460-03-4.1940:1. Nursing Home Payment System (PIRS): Special Care Services.** The purpose of the proposed action is to promulgate permanent regulations to provide a comprehensive description of the methods and standards used to establish rates for special care services.

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

Written comments may be submitted until 4:30 p.m., November 4, 1991, to Scott Crawford, Reimbursement Consultant, Department of Medical Assistance Services, Division of Policy and Research, 600 E. Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

† 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: **Reimbursement Methodologies for All Provider Types: Provider Appeals and Date of Acquisition (Attachments 4.19 A, B, and D.)** The purpose of the proposed action is to (i) adopt a procedure to permit state-owned or operated facilities to appeal their reimbursement rates; (ii) define the "date of acquisition" for revaluation of assets after a change of ownership of a nursing facility.

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

Written comments may be submitted until 4:30 p.m., November 4, 1991, to Shelley Platt, Appeals Officer, Department of Medical Assistance Services, Division of Cost Settlement and Audit, 600 E. Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad Street, 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 promulgating regulations entitled: **VR 465-11-01. Regulations Governing the Practice of Acupuncturists.** The purpose of the proposed action is to comply with the mandate of the 1991 General Assembly's request to develop proposed regulations for the licensure of acupuncturists in conformance with the provisions of the 1991 Act, by December 1, 1992.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until November 21, 1991, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia 23229.

Contact: Eugenia K. Dorson, Deputy Executive Director of Licensure, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (BOARD OF)

† Notice of Withdrawal

The department is withdrawing the Notices of Intended Regulatory Action published in 5:10 VA.R. 1369-1373 February 13, 1989, for the following regulations:

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-13. Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities.

† 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 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for psychiatric hospitals in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-03, Rules and Regulations for the Licensure of Private Psychiatric Hospitals, became effective on May 1, 1978. They serve as the licensure regulations for institutions such as psychiatric hospitals, mental hospitals, psychiatric centers, psychiatric institutes, psychiatric units in general hospitals, inpatient psychiatric units in community mental health centers and other privately operated facilities serving persons requiring inpatient psychiatric care.

These regulations are comprised of the following issues which have impact on facilities subject to licensure:

Licensure procedure; rights of patients and residents; physical facility and safety regulations; organization and management; psychiatric facility - general; psychiatric facility services; personnel practices; medical staff; admissions; diagnosis and treatment; emergency services; nursing services; social work service; psychological service; religious services; laboratory service; radiological service; pharmacy; medical records; education program; orientation and

education; dietary department.

It is the intention of the department to repeal: VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

† 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 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for hospital based, medical detoxification facilities, inpatient substance abuse facilities, and similar inpatient facilities in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-05, Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities, became effective on January 1, 1980. On July 1, 1988, they were repealed with respect to their applicability to all programs except for inpatient hospital based substance

treatment programs.

These regulations are comprised of the following issues which have impact on facilities subject to licensure:

Definitions; classification of facilities, licensure procedures; patient rights; health and safety regulations; space usage; sanitary, health and special medical requirements; personnel practices; program and services; special residential facility requirements; record keeping; organization and management; methadone facilities requirements.

It is the intention of the department to repeal: VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

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November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

† 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 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for correctional psychiatric facilities in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing

care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-07, Rules and Regulations for the Licensure of Correctional Psychiatric Facilities, became effective on April 30, 1986. They serve as the licensure regulations for psychiatric units in correctional facilities under the management and control of the Department of Corrections.

These regulations are comprised of the following issues which have impact on facilities subject to licensure:

Definitions; legal base; licensing procedures; client rights; physical facility and safety; health and safety regulations; organization and management; psychiatric facility - general; psychiatric facility services; personnel practices; rehabilitation service (when provided); personnel practices; professional staff; admissions to psychiatric facility; diagnosis and treatment; emergency services; nursing services; social work service; psychological service; religious services; laboratory service; radiological service; pharmacy service; medical records; dietary department (food service).

It is the intention of the department to repeal: VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

† 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

470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities. The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for supported residential programs and residential respite care/emergency services facilities in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-08, Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities, became effective on July 1, 1988. They serve as the licensure regulations for supported residential programs providing placement and residential and supportive services to clients in supervised apartments, specialized foster homes and independent living settings. They also serve as the licensure regulations for residential respite care facilities and residential emergency service facilities.

These regulations are comprised of the following issues which have impact on facilities subject to licensure:

Definitions; licensure procedures; organization and administration; personnel; residential environment; programs and services; and disaster or emergency plans.

It is the intention of the department to repeal: VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22

991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

† 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 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for outpatient facilities in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-09, Rules and Regulations for the Licensure of Outpatient Facilities, became effective on July 1, 1988. They serve as the licensure regulations for outpatient facilities which provide a variety of treatment interventions generally of less than three consecutive hours duration for mentally ill, mentally retarded, or substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting to individuals, groups and families and include but are not limited to emergency services, crisis intervention, diagnosis and evaluation, counseling, psychotherapy, behavior management, chemotherapy, ambulatory detoxification, and methadone detoxification and maintenance.

These regulations are comprised of the following issues which have impact on facilities subject to licensure:

Definitions; licensure procedures; organization and administration; personnel; physical environment; programs and services; disaster or emergency plans; outpatient methadone facilities.

It is the intention of the department to repeal: VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

† 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 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for day support programs in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-10, Rules and Regulations for the Licensure of Day Support Programs, became effective on July 1, 1988. They serve as the licensure regulations for publicly or privately operated facilities which provide a planned program of treatment or training interventions generally of more than three consecutive hours duration to mentally ill, mentally retarded, or substance abusing persons. Day support program services may include the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. Day Support Programs are provided in a nonresidential setting and focus on the treatment of pathological conditions or on the training or strengthening of client abilities to deal with everyday life. The term "day support program" does not include entities whose primary function is to provide extended sheltered employment or work activity programs, supported or transitional employment programs, educational programs, or recreational programs.

These regulations are comprised of the following issues which have impact on facilities subject to licensure:

Definitions; licensure procedures; organization and administration; personnel; physical environment; programs and services; disaster or emergency plans; and methadone treatment facilities.

It is the intention of the department to repeal: VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirement

organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

† 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 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum licensure requirements for residential facilities in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-02-11, Rules and Regulations for the Licensure of Residential Facilities, became effective on July 1, 1988. They serve as the licensure regulations for any publicly or privately owned facility or institution by whatever name or designation which provides 24-hour domiciliary or residential care or treatment for four or more mentally ill, mentally retarded, or substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility.

These regulations are comprised of the following issues which have impact on facilities subject to licensure:

Definitions; licensure procedures; organization and administration; personnel; residential environment; programs and services; disaster or emergency plans; and residential methadone treatment facilities.

It is the intention of the department to repeal: VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities, as well as the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive

regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

† 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: **VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.** The purpose of the proposed action is to establish the minimum licensure requirements for all facilities and program types in order to protect the health and safety of clients in such facilities and to assure they receive services appropriate to meet their identified needs.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

The Department has nine sets of licensure regulations in effect at this time. Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

It is the intention of the department to repeal the following regulations:

VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and other Psychiatric Facilities.

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons. 1

This new regulation will govern the licensure of al

facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

† 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 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities.** The purpose of the proposed action is to repeal these regulations whose purpose is to establish the minimum requirements and program structures to assure the rights of patients of private psychiatric hospitals and other psychiatric facilities.

Under current definitions in the Code of Virginia (37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to persons with problems of mental illness, mental retardation and substance abuse.

VR 470-03-01, Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities, became effective on August 1, 1980. They serve as the human rights regulations for facilities and institutions licensed pursuant to VR 470-02-03, Rules and Regulations for the Licensure of Private Psychiatric Hospitals. They apply to such facilities as privately operated psychiatric hospitals, mental hospitals, psychiatric centers, psychiatric institutes, psychiatric units in general hospitals, inpatient psychiatric units in community mental health centers and other privately operated facilities serving persons requiring inpatient psychiatric care.

These regulations are comprised of the following issues which have impact on facilities and their clients:

Applicability; Policy; Definitions; Rights including: legal rights, prompt evaluation and treatment, treatment with dignity, not be subjected to research without written consent, consultation with private physician, hazardous treatment, irreversible surgical procedures, aversive conditioning, least restrictive conditions, send and receive sealed letter mail, access to and confidentiality of patient records, and participation in work activities; Review process; and Informing patients about their rights and remedies.

It is the intention of the department to repeal: VR 470-03-01. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities, as well as the following regulations:

VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals.

VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Because these regulations were promulgated at different times since 1978, they differ greatly in structure, procedural requirements, generic content, clarity of requirements, and especially in their congruence with currently accepted standards of care and practice for the types of facilities regulated. In an effort to improve the efficiency and effectiveness of the department's licensure

program, the State Mental Health, Mental Retardation and Substance Abuse Services Board has mandated a comprehensive review, revision and reorganization of the department's licensure regulations, excluding the interdepartmental licensure regulations governing residential facilities for children.

To replace the above regulations, it is the intention of the department to promulgate a single comprehensive regulation:

VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded and Substance Abusing Persons.

This new regulation will govern the licensure of all facilities and programs currently licensed pursuant to the regulations intended for repeal listed above and may be expanded to include new facilities and programs. The new regulation will provide generic/core requirements applicable to all facility types and special requirements organized into modules applicable to specific facility types.

In accordance with this department's public participation guidelines, written comments on this proposal are welcome. To assist in identifying problems and issues in the current regulations and in the current licensure process, the department will distribute a survey instrument by mail to currently licensed facilities and other interested parties at the time of this notice. Oral and written comments may also be presented at the following three public meetings:

November 5, 1991, 10 a.m. - 1 p.m., Virginia Power No. VA Headquarters, 12316 Lee Jackson Highway, Fairfax, VA.

November 7, 1991, 10 a.m. - 1 p.m., City Council Chamber, Room 450, 4th Floor, Municipal Building, 215 Church Avenue, S.W., Roanoke, VA.

November 12, 1991, 10 a.m. - 1 p.m., Auditorium, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA.

Statutory Authority: §§ 37.1-10 and 37.1-182 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Barry P. Craig, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229, telephone (804) 786-3473.

DEPARTMENT OF MINORITY BUSINESS ENTERPRISE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Minority Business Enterprise intends to consider promulgating regulations entitled: **Regulations to Govern the Certification of Minority Business Enterprise.** The purpose of the proposed action is to establish requirements for the certification of a for profit business entity as a bonafide minority business enterprise.

Statutory Authority: § 2.1-64.35:8 of the Code of Virginia.

Written comments may be submitted until October 24, 1991.

Contact: Garland W. Curtis, Deputy Director, Department of Minority Business Enterprise, 200-202 N. 9th Street, 11th Floor, Richmond, Virginia 23219, telephone (804) 786-5560 or toll-free 1-800-223-0671.

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 promulgating regulations entitled: **Child Day Care Policy.** The purpose of the proposed action is to provide the Department of Social Services with basic policy and operating principles in the provisions of child day care services.

Statutory Authority: §§ 63.1-33.17, 63.1-33.24, 63.1-55 and 63.1-148 of the Code of Virginia.

Written comments may be submitted until October 31, 1991, to Bennet Greenberg, Program Manager, Child Day Care, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenberg, Legislative Analyst, Department of Social Services, Bureau of Governmental Affairs, 8007 Discovery Dr., 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 promulgating regulations entitled: **VR 680-14-09. Virginia Pollutant Discharge Elimination System (VPDHS) General Permit Regulation for Domestic Sewage Discharges Less Than or Equal to 1,000 Gallons Per Day.** The purpose of the proposed action is to promulgate the emergency regulations which became effective on July 12, 1991, as permanent regulations.

General permits may be issued for categories of dischargers that (i) involve the same or similar types of

operations; (ii) discharge the same or similar types of wastes; (iii) require the same effluent limitations or operating conditions; and (iv) require the same or similar monitoring. This general permit will cover the category of small domestic sewage treatment plants which are designed to treat up to 1,000 gallons per day. These treatment plants are typically installed at individual homes when central sewer is not available and the soil conditions prohibit the use of septic tanks and drainfields. They may also be installed to treat domestic sewage from duplexes, churches, gas stations, etc., where sewage flow is low and other treatment alternative are not available. These treatment plants have minimal impact on water quality.

As with an individual permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharge. Also, no discharge would be covered by the general permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances.

Adoption of these regulations as permanent regulations will allow for the continuation of the benefits derived from the emergency regulations. There are approximately 1,000 individual VPDES permits in effect for discharges in this category. These permittees could qualify for coverage under the proposed general permit. Coverage under the general permit would reduce the paper work, time and expense involved in obtaining a permit for the dischargers in this category. Adoption of the proposed regulations would also reduce the manpower needed by the Water Control Board for permitting these discharges. This would allow the agency to devote more resources to permitting other sources with greater potential for adverse water quality impacts.

The agency is soliciting comments from the regulated community on the specific impact of the proposed regulatory actions.

A public meeting will be held to receive views and comments and to answer questions of the public (See Calendar of Events Section).

Applicable laws and regulations include the State Water Control Law, the Clean Water Act, and the Permit Regulation (VR 680-14-01).

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until November 8, 1991.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

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 promulgating regulations entitled: **VR 680-14-10. Virginia Pollutant Discharge Elimination System (VPDHS) General Permit Regulation for Discharges from Molluscan Shellfish and Crustacea Processing Establishments.** The purpose of the proposed action is to adopt a general permit to cover the category of discharges which are generated by seafood packing houses.

General permits may be issued for categories of dischargers that (i) involve the same or similar types of operations; (ii) discharge the same or similar types of wastes; (iii) require the same effluent limitations or operating conditions; and (iv) require the same or similar monitoring. As with an individual permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharge. Also, no discharge would be covered by the general permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances.

Under this proposal the category, or series of categories, of discharges to be covered by proposed general permit regulations is the category of discharges which are generated by seafood packing houses. The facilities covered by this general permit may produce a variety of final products; however, their wastes are similar in nature and can be covered by the same general permit. The covered facilities would be those processors of various shellfish and crustacean seafoods which produce minimal volumes of wastewaters and whose wastes are not considered to be significant threats to water quality. Seafood processing discharges which are believed to impact water quality would be required to obtain individual VPDES permits, rather than be covered by this general permit. This permit would only cover industrial wastes associated with the operation of small facilities. Discharges of sanitary wastes would not be authorized by this permit.

The State Water Control Board recognizes the potential for developing general permits for other categories of discharges which are currently required to obtain individual VPDES permits. The board is also soliciting comments from the public on specific categories which the public feels are more appropriately covered by a general permit.

Adoption of these regulations will allow for the streamlining of the VPDES permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work and expense of obtaining a permit for the dischargers in these categories. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The seafood processors must have a valid permit from the State Water Control Board prior to receiving Certificates of Inspection from the State Health Department. Delays in issuance of a permit from the board may have serious economic impacts on this industrial category. Adoption of

the proposed regulation would reduce the manpower needed by the State Water Control Board for permitting these discharges. This would allow the agency to devote more resources to permitting other sources with greater potential for adverse water quality impacts.

In addition, the agency is soliciting comments from the regulated community on the specific impact of the proposed regulatory actions.

The board will hold a public meeting to receive views and comments and to answer questions of the public (See Calendar of Events Section).

Applicable laws and regulations include the State Water Control Law, the Clean Water Act, § 6 2 of the Permit Regulation (VR 680-14-01).

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until November 8, 1991.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

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 promulgating regulations entitled: **VR 680-14-11. Corrective Action Plan General Permit for Underground Storage Tanks.** The purpose of the proposed action is to adopt a general permit to establish standard language for the various methods of remediation associated with underground storage tank releases.

Whenever a release from an underground storage tank system is identified, certain activities are required of the owners and operators of the system. These activities are governed by VR 680-13-02, Underground Storage Tanks: Technical Standards and Corrective Action Requirements. Among the required activities are immediate pollution abatement steps, a site assessment, a risk assessment and a remediation assessment. Based on the information gathered, the board may require the owner and operator to submit a corrective action plan for responding to the pollution situation. Owners and operators are then required to obtain a Corrective Action Plan (CAP) Permit in order to implement the remediation activities of the corrective action plan.

The intent of these proposed general permit regulations is to establish standard language for the various methods of remediation associated with underground storage tank releases. Final remediation goals will be established through the corrective action plan for the individual site. Those corrective action plans are not intended to be specified in these regulations. They would be incorporated by reference into the CAP General Permit. This would involve a separate public participation requirement in accordance with the UST Regulation (VR 680-13-02).

The remediation activities needed to restore the environment at these sites will be determined on a case-by-case basis. Some of them will require a permit to discharge treated ground water to surface waters. The proposed general permit will establish effluent limitations and monitoring requirements for these discharges of treated ground water. As with an individual VPDES permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharge. Remediation at other sites may involve pollution management activities which do not result in surface water discharges. Those treatment technologies and applicable monitoring requirements would also be established in the general permit.

Adoption of these regulations will allow for the streamlining of the permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work and expense of obtaining a permit for the owners and operators in this category. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. This could be of some environmental significance when delays in obtaining a CAP permit result in delays in the initiation of ground water remediation efforts. Of the over 60,000 registered underground storage tanks in Virginia, up to 9,000 are expected to report some sort of leak during their lifetimes. The Water Control Board currently is working with owners of approximately 2,500 leaking underground storage tanks and the number of sites is growing at the rate of over 50 per month. Adoption of the proposed regulation would reduce the manpower needed by the State Water Control Board for permitting these discharges.

In addition, the agency is soliciting comments from the regulated community on the specific impact of the proposed regulatory actions.

The board will hold a public meeting will be held to receive views and comments and to answer questions of the public (See Calendar of Events Section).

Applicable laws and regulations include the State Water Control Law, Clean Water Act, Permit Regulation (VR 680-14-01), and Underground Storage Tanks: Technical Standards and Corrective Action Plan Requirements (VR 680-13-02).

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until November 8, 1991.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

For information concerning Proposed Regulations, see information page.

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.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

NOTICE: The amendments to (i) §§ 6.1 and 6.2 requiring certain health care facilities to segregate patient care activities provided in its nursing home component from its nonpatient care activities when completing report forms, and (ii) § 6.3.1 relating to the annual charge survey were published in 8:1 VA.R 70 October 7, 1991, to become effective January 1, 1992. The amendments are being shown as stricken and italicized language in this proposed regulatory action since the amendments are not yet effective.

Title of Regulation: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.**

Statutory Authority: §§ 9-158 and 9-164 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted until January 15, 1991.
(See Calendar of Events section for additional information)

Summary:

The proposed changes amend and update the regulation which deals with the required submission of an audit by health care institutions. The current regulation requires that a certified audited financial statement be submitted following the conclusion of a health care institution's fiscal year. However, there is no limitation regarding when it must be submitted. The proposed regulatory changes would require that the certified audited financial statement be submitted within 120 days and would provide for a late charge of $10 per working day if the audit was filed past the due date.

VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

PART I.
DEFINITIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning:

"Adjusted patient days" means inpatient days divided by the percentage of inpatient revenues to total patient revenues.

"Aggregate cost" means the total financial requirements of an institution which shall be equal to the sum of:

1. The institution's reasonable current operating costs, including reasonable expenses for operating and maintenance of approved services and facilities, reasonable direct and indirect expenses for patient care services, working capital needs and taxes, if any;

2. Financial requirements for allowable capital purposes, including price level depreciation for depreciable assets and reasonable accumulation of funds for approved capital projects;

3. For investor-owned institutions, after tax return on equity at the percentage equal to two times the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for the months in a provider's reporting period, but not less, after taxes, than the rate or weighted average of rates of interest borne by the individual institution's outstanding capital indebtedness. The base to which the rate of return determined shall be applied is the total net assets, adjusted by paragraph 2 of this section, without deduction of outstanding capital indebtedness of the individual institution for assets required in providing institutional health care services;

4. For investor-owned institutions organized as proprietorships, partnerships, or S-corporations an imputed income tax, for fiscal years ending July 1, 1989, or later, at a combined federal and state income tax rate equal to the maximum tax rates for federal and state income taxes. The combined rate for 1989 is equal to 34% for individuals and 40% for corporations. Such tax computation shall be exclusive of net operating loss carryforwards prior to July 1, 1989. Operating losses incurred after July 1, 1989, may be carried forward no more than five years but may not be carried back prior years. The schedule of imputed income taxes shall be reported as a note to the financial statements or as a supplemental schedule of the certified audited financial statements submitted to the Virginia Health Services Cost Review Council by the institution.

"Certified nursing facility" means any skilled nursing facility, skilled care facility, intermediate care facility, nursing or nursing care facility, or nursing home, whether freestanding or a portion of a freestanding medical care facility, that is certified as a Medicare or Medicaid provider, or both, pursuant to § 32.1-137.

"Council" means the Virginia Health Services Cost Review Council.

"Consumer" means any person (i) whose occupation is other than the administration of health activities or the provision of health services (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.

"Health care institution" means (i) a general hospital, ordinary hospital, or outpatient surgical hospital, nursing home or certified nursing facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, (ii) a mental or psychiatric hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 and (iii) a hospital operated by the University of Virginia or Virginia Commonwealth University. In no event shall such term be construed to include any physician's office, nursing care facility of a religious body which depends upon prayer alone for healing, independent laboratory or outpatient clinic.

"Hospital" means any facility licensed pursuant to §§ 32.1-123, et seq. or 37.1-179 et seq. of the Code of Virginia.

"Late charge" means a fee that is assessed a health care institution that files its budget, annual report, or charge schedule with the council past the due date.

"Nursing home" means any facility or any identifiable component of any facility licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing or nursing care facilities.

"Voluntary cost review organization" means a nonprofit association or other nonprofit entity which has as its function the review of health care institutions' costs and charges but which does not provide reimbursement to any health care institution or participate in the administration of any review process under Chapter 4 of Title 32.1 of the Code of Virginia.

"Patient day" means a unit of measure denoting lodging facilities provided and services rendered to one inpatient, between census-taking-hour on two successive days. The day of admission but not the day of discharge or death is counted a patient day. If both admission and discharge or death occur on the same day, the day is considered a day of admission and counts as one patient day. For purposes of filing fees to the council, newborn patient days would be added. For a medical facility, such as an ambulatory surgery center, which does not provide inpatient services, each patient undergoing surgery during any one 24-hour period will be the equivalent to one patient day.

PART II.
GENERAL INFORMATION.

§ 2.1. Authority for regulations.

The Virginia Health Services Cost Review Council, created by §§ 9-156 through 9-166 of the Code of Virginia, is required to collect, analyze and make public certain financial data and findings relating to hospitals which operate within the Commonwealth of Virginia. Section 9-164 of the Code of Virginia directs the council from time to time to make such rules and regulations as may be necessary to carry out its responsibilities as prescribed in the Code of Virginia.

§ 2.2. Purpose of rules and regulations.

The council has promulgated these rules and regulations to set forth an orderly administrative process by which the council may govern its own affairs and require compliance with the provisions of §§ 9-156 through 9-166 of the Code of Virginia.

§ 2.3. Administration of rules and regulations.

These rules and regulations are administered by the Virginia Health Services Cost Review Council.

§ 2.4. Application of rules and regulations.

These rules and regulations have general applicability throughout the Commonwealth. The requirements of the Virginia Administrative Process Act, codified as § 9-6.14:1, et seq. of the Code of Virginia applied to their promulgation.

§ 2.5. Effective date of rules and regulations.

These rules and regulations or any subsequent amendment, modification, or deletion in connection with these rules and regulations shall become effective 30 days after the final regulation is published in the Virginia Register.

§ 2.6. Powers and procedures of regulations not exclusive.

The council reserves the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provision set forth herein and the provisions of § 9-156 et seq. of the Code of Virginia.

PART III.
COUNCIL PURPOSE AND ORGANIZATION.

§ 3.1. Statement of mission.

The council is charged with the responsibility to

promote the economic delivery of high quality and effective institutional health care services to the people of the Commonwealth and to create an assurance that the charges are reasonably related to costs.

The council recognizes that health care institutional costs are of vital concern to the people of the Commonwealth and that it is essential for an effective cost monitoring program to be established which will assist health care institutions in controlling their costs while assuring their financial viability. In pursuance of this policy, it is the council's purpose to provide for uniform measures on a statewide basis to assist in monitoring the costs of health care institution's without sacrifice of quality of health care services and to analyze the same to determine if charges and costs are reasonable.

§ 3.2. Council chairman.

The council shall annually elect one of its consumer members to serve as chairman. The chairman shall preside at all meetings of the council and shall be responsible for convening the council.

§ 3.3. Vice-chairman.

The council shall annually elect from its membership a vice-chairman who shall assume the duties of the chairman in his absence or temporary inability to serve.

§ 3.4. Expense reimbursement.

Members of the council shall be entitled to be reimbursed in accordance with state regulations for necessary and proper expenses incurred in the performance of their duties on behalf of the council.

§ 3.5. Additional powers and duties.

The council shall exercise such additional powers and duties as may be specified in the Code of Virginia.

PART IV.
VOLUNTARY COST REVIEW ORGANIZATIONS.

§ 4.1. Application.

Any organization desiring approval as a voluntary rate review organization may apply for approval by using the following procedure:

1. Open application period. A voluntary cost review organization may apply for designation as an approved voluntary cost review organization to be granted such duties as are prescribed in § 9-162 of the Code of Virginia.

2. Contents of application. An application for approval shall include:

a. Documentation sufficient to show that the applicant complies with the requirements to be a voluntary cost review organization, including evidence of its nonprofit status. Full financial reports for the one year preceding its application must also be forwarded. If no financial reports are available, a statement of the projected cost of the applicant's operation with supporting data must be forwarded;

b. If any of the organization's directors or officers have or would have a potential conflict of interests affecting the development of an effective cost monitoring program for the council, statements must be submitted with the application to fully detail the extent of the other conflicting interest;

c. A detailed statement of the type of reports and administrative procedures proposed for use by the applicant;

d. A statement of the number of employees of the applicant including details of their classification; and

e. Any additional statements or information which is necessary to ensure that the proposed reporting and review procedures of the applicant are satisfactory to the council.

§ 4.2. Review of application.

A. Designation.

Within 45 calendar days of the receipt of an application for designation as a voluntary cost review organization, the council shall issue its decision of approval or disapproval. Approval by the council shall take effect immediately.

B. Disapproval.

The council may disapprove any application for the reason that the applicant has failed to comply with application requirements, or that the applicant fails to meet the definition of a cost review organization, or fails to meet the specifications cited in paragraph A above concerning application contents or that the cost and quality of the institutional reporting system proposed by the applicant are unsatisfactory.

C. Reapplication.

An organization whose application has been disapproved by the council may submit a new or amended application to the council within 15 calendar days after disapproval of the initial application. An organization may only reapply for approval on one occasion during any consecutive 12-month period.

§ 4.3. Annual review of applicant.

A. By March 31 of each year, any approved voluntary cost review organization for the calendar year then in

progress which desires to continue its designation shall submit an annual review statement of its reporting and review procedures.

B. The annual review statement shall include:

1. Attestation by the applicant that no amendments or modifications of practice contrary to the initially approved application have occurred; or

2. Details of any amendments or modifications to the initially approved application, which shall include justifications for these amendments or modifications.

C. The council may require additional information from the applicant supporting that the applicant's reports and procedures are satisfactory to the council.

§ 4.4. Revocation of approval.

The council may revoke its approval of any cost review organization's approval when the review procedures of that organization are no longer satisfactory to the council or for the reason that the voluntary cost review organization could be disapproved under § 4.2.B of these regulations.

§ 4.5. Confidentiality.

A voluntary cost review organization approved as such by the council shall maintain the total confidentiality of all filings made with it required by these regulations or law. The contents of filings or reports summaries and recommendations generated in consequence of the council's regulations may be disseminated only to members of the council, the council's staff and the individual health care institution which has made the filings or which is the subject of a particular report.

PART V.
CONTRACT WITH VOLUNTARY COST REVIEW ORGANIZATION.

§ 5.1. Purpose.

It is the intention of the council to exercise the authority and directive of § 9-163 of the Code of Virginia whereby the council is required to contract with any voluntary cost review organization for services necessary to carry out the council's activities where this will promote economy and efficiency, avoid duplication of effort, and make best use of available expertise.

§ 5.2. Eligibility.

In order for a voluntary cost review organization to be eligible to contract with the council, it shall have met all other requirements of §§ 4.1 and 4.5 of these regulations relating to voluntary cost review organization and have been approved as such an organization.

§ 5.3. Contents of contract.

The written agreement between the council and any voluntary cost review organization shall contain such provisions which are not inconsistent with these regulations or law as may be agreed to by the parties. Any such contract shall be for a period not to exceed five years.

PART VI.
FILING REQUIREMENTS AND FEE STRUCTURE.

§ 6.1. Each health care institution shall file an annual report of revenues, expenses, other income, other outlays, assets and liabilities, units of service, and related statistics as prescribed in § 9-158 of the Code of Virginia on forms provided by the council together with the certified audited financial statements (or equivalents) as prescribed in § 9-159 of the Code of Virginia ~~, which~~ *. The annual report and the certified audited financial statement* shall be received by the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. Extensions of filing times *for the annual report or the certified audited financial statement* may be granted for extenuating circumstances upon a health care institution's written application for a 30-day extension. Such request for extension shall be filed no later than 120 days after the end of a health care institution's fiscal year. *Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the annual report filed with the council. The cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for findings submitted to the council.*

§ 6.2. Each health care institution shall file annually a projection (budget) of annual revenues and expenditures as prescribed in § 9-161 B of the Code of Virginia on forms provided by the council The institution's projection (budget) shall be received by the council no later than 60 days before the beginning of its respective applicable fiscal year. This regulation shall be applicable to nursing homes or certified nursing facilities for each fiscal year starting on or after June 30, 1990. *Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the budget filed with the council. The cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for findings submitted to the council.*

§ 6.3. Each health care institution shall file annually a schedule of charges to be in effect on the first day of such fiscal year, as prescribed in § 9-161 D of the Code of Virginia. The institution's schedule of charges shall b

received by the council within 10 days after the beginning of its respective applicable fiscal year or within 15 days of being notified by the council of its approval of the charges, whichever is later.

Any subsequent amendment or modification to the annually filed schedule of charges shall be filed at least 60 days in advance of its effective date, together with supporting data justifying the need for the amendment. Changes in charges which will have a minimal impact on revenues are exempt from this requirement.

§ 6.3:1. ~~Each health care institution shall file annually, but no later than April 30, a survey of rates charged. The survey shall consist of up to 30 of the most frequently used services, including semiprivate and private room rates.~~ *Each health care institution shall file annually a survey of rates charged. For hospitals, the survey shall consist of up to 30 select charges, including semi-private and private room rates. The survey shall also consist of charges of the most frequently occurring diagnoses or procedures for inpatient and outpatient treatment. The charges shall be calculated by taking an average for one month of all patient bills where the requested CPT or ICD-9 code numbers are indicated as the principal diagnosis or procedure. This information shall be received by the council from each hospital no later than April 30 of each year.*

The annual charge survey for nursing homes shall include up to 30 select charges, including semi-private and private room rates. The select charges shall reflect the rates in effect as of the first day of a sample month to be chosen by the council. This information shall be provided to the council no later than March 31 of each year.

§ 6.3:2 Each hospital or any corporation that controls a hospital shall respond to a survey conducted by the council to determine the extent of commercial diversification by such hospitals in the Commonwealth. The survey shall be in a form and manner prescribed by the council and shall request the information specified in subdivision a, f, g, h and i below on each hospital or such corporation and, with respect to any tax-exempt hospital or controlling corporation thereof, the information specified in subdivision a through i below for each affiliate of such hospital or corporation, if any:

a. The name and principal activity;

b. The date of the affiliation;

c. The nature of the affiliation;

d. The method by which each affiliate was acquired or created;

e. The tax status of each affiliate and, if tax-exempt, its Internal Revenue tax exemption code number;

f. The total assets;

g. The total revenues;

h. The net profit after taxes, or if not-for-profit, its excess revenues; and

i. The net quality, or if not-for-profit, its fund balance.

§ 6.3:3. The information specified in § 6.3:2 shall relate to any legal controls that exist as of the 1st of July of each calendar year in which the survey is required to be submitted.

§ 6.3:4. Each hospital or any corporation that controls a hospital and that is required to respond to the survey specified in § 6.3:2 shall complete and return the survey to the council by the 31st day of August of each calendar year or 120 days after the hospital's fiscal year end, whichever is later, in which the survey is required to be submitted.

§ 6.3:5. Each hospital that reports to the council or any corporation which controls a hospital that reports to the council shall submit an audited consolidated financial statement to the council which includes a balance sheet detailing its total assets, liabilities and net worth and a statement of income and expenses and includes information on all such corporation's affiliates.

§ 6.4. All filings prescribed in § 6.1, § 6.2 and § 6.3:2 of these regulations will be made to the council for its transmittal to any approved voluntary cost review organization described in Part IV of these regulations.

§ 6.5. A filing fee based on an adjusted patient days rate shall be set by the council, based on the needs to meet annual council expenses. The fee shall be established and reviewed at least annually and reviewed for its sufficiency at least annually by the council. All fees shall be paid directly to the council. The filing fee shall be no more than 11 cents per adjusted patient day for each health care institution filing. Prior to the beginning of each new fiscal year, the council shall determine a filing fee for hospitals and a filing fee for nursing homes based upon the council's proportionate costs of operation for review of hospital and nursing home filings in the current fiscal year, as well as the anticipated costs for such review in the upcoming year.

§ 6.6. Fifty percent of the filing fee shall be paid to the council at the same time that the health care institution files its budget under the provisions of § 6.2 of these regulations. The balance of the filing fee shall be paid to the council at the same time the health care institution files its annual report under the provisions of § 6.1 of these regulations. When the council grants the health care institution an extension, the balance of the filing fee shall be paid to the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. During the year of July 1, 1989, through June 30, 1990, each nursing home and certified nursing facility

shall pay a fee of 7 cents per adjusted patient day when it files its annual report in order to comply with subdivisions A1 and A2 of § 9-159 of the Code of Virginia. Following June 30, 1990, all nursing homes and certified nursing facilities shall submit payment of the filing fees in the amount and manner as all other health care institutions.

§ 6.7. A late charge of $10 per working day shall be paid to the council by a health care institution that files its budget ~~or~~ , annual report *or certified audited financial statement* past the due date.

§ 6.8. A late charge of $50 shall be paid to the council by the health care institution that files the charge schedule past the due date.

§ 6.9. A late charge of $25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 6.3:2 or file the audited consolidated financial statement required by § 6.3:5 or both.

§ 6.10. A late charge of $25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 6.3:1.

PART VII.
WORK FLOW AND ANALYSIS.

§ 7.1. The annual report data filed by health care institutions as prescribed in § 6.1 of these regulations shall be analyzed as directed by the council. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations, may be published and disseminated as determined by the council. The health care institution which is the subject of any summary, report, recommendation or comment shall received a copy of same at least 10 days prior to the meeting at which the same is to be considered by the council.

§ 7.2. The annual schedule of charges and projections (budget) of revenues and expenditures filed by health care institutions as prescribed in § 6.2 of these regulations shall be analyzed as directed by the council. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations will be published and disseminated by the council. Amendments or modifications to the annually filed schedule of charges shall be processed in a like manner and reviewed by the council no later than 50 days after receipt of properly filed amendments or modifications. Any health care institution which is the subject of summaries and findings of the council shall be given upon request an opportunity to be heard before the council.

PART VIII.
PUBLICATION AND DISSEMINATION OF INFORMATION RELATED TO HEALTH CARE INSTITUTIONS.

§ 8.1. The staff findings and recommendations and related council decisions on individual health care institutions' annual historical data findings will be kept on file at the council office for public inspection. However, the detailed annual historical data filed by the individual health care institutions will be excluded from public inspection in accordance with § 9-159 B, of the Code of Virginia.

§ 8.2. Periodically, but at least annually, the council will publish the rates charged by each health care institution in Virginia for up to 30 of the most frequently used services in Virginia, including each institution's average semiprivate and private room rates. The data will be summarized by geographic area in Virginia, and will be kept on file at the council office for public inspection and made available to the news media. In addition, annual charge schedules and subsequent amendments to these schedules filed under the provisions of § 6.3 of these rules and regulations will be kept on file at the council office for public inspection. Staff findings and recommendations and related council decisions on changes to health care institutions' rates and charges will also be kept on file at the council office for public inspection and available to the news media.

§ 8.3. Periodically, but at least annually, the council will publish an annual report which will include, but not be limited to the following: cost per admission comparison, cost per patient day comparison, percentage increase in cost per patient day, budget and historical reports reviewed, interim rate changes, excess operating expenses, revenue reduction recommendations, operating profits and losses, deductions from revenue (contractuals, bad debts, and charity care) and hospital utilization.

§ 8.3:1. The council will also periodically publish and disseminate information which will allow consumers to compare costs and services of hospitals, nursing homes and certified nursing facilities.

§ 8.4. The staff findings and recommendations and related council decisions on individual health care institutions' annual budget and related rate filings will be kept on file at the council office for public inspection. However, the detailed annual budget data filed by the individual health care institutions will be excluded from public inspection.

§ 8.5. The council may release historical financial and statistical data reported by health care institutions to state or federal commissions or agencies based on individual, specific requests, and the merit of such requests. Requests must list the purpose for which the requested data is to be used to permit the council to reach a valid decision on whether or not the data requested will fit the need and should, therefore, be made available. Under no circumstances will data be released which contains

'personal information" as defined in § 2.1-379(2) of the Code of Virginia.

§ 8.6. The council shall not release prospective (budgeted) financial and statistical data reported by health care institutions to anyone, except for the staff findings and recommendations as provided for in § 8.4 of these regulations.

§ 8.7. No data, beyond that specified in §§ 8.1 through 8.4 of these regulations will be released to other nongovernmental organizations and entities, except that data deemed pertinent by the council in negotiations with third-party payors such as Blue Cross/Blue Shield, commercial insurors, etc. Such pertinent data may be released and used on an exception, as needed, basis.

§ 8.8. Except for data specified in §§ 8.1 through 8.4 of these regulations available to anyone, the council shall have a right to furnish data, or refuse to furnish data, based on merit of the request and ability to furnish data based on data and staff time availability. The council may levy a reasonable charge to cover costs incurred in furnishing any of the data described in this section of the rules and regulations.

NOTICE: The forms used in administering the Virginia Health Services Cost Review Council Regulations 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 Virginia Health Services Cost Review Council, 805 East Broad Street, 6th Floor, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Budget Submission for Acute Care Facilities
Budget Submission for Long Term Care Facilities
Budget Submission for Outpatient Surgical Hospitals
Historical Submission for Acute Care Facilities
Historical Submission for Long Term Care Facilities
Historical Submission for Outpatient Surgical Hospitals

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 400-01-0001. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority.**

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

Public Hearing Date: N/A – Written comments may be submitted until November 15, 1991.
(See Calendar of Events section for additional information)

Summary:

The proposed amendments to the rules and regulations - general provisions for programs of the Virginia Housing Development Authority ("rules and regulations") will delete the income limit of seven times annual rent and utilities for units in developments financed by mortgage loans approved by the authority on or after November 19, 1991, and permit the income limits for such developments to be established, as a percentage of area median income, by other rules and regulations of the authority or by resolution of the board of the authority.

VR 400-01-0001. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority.

§ 1. Definitions.

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

"Act" means the Virginia Housing Development Authority Act, being Chapter 1.2 (§ 36-55.24, et seq.) of Title 36 of the Code of Virginia.

"Adjusted family income" means the total annual income of a person or all members of a family residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings, less the total of the credits applicable to such person or family, computed in accordance with the following: (i) a credit in an amount equal to $1,000 for each dependent family member other than such a family member qualifying under (vi) below; (ii) a credit in an amount equal to the lesser of $1,000 or 10% of such total annual income; (iii) a credit in an amount equal to all income of such person or any such family member of an unusual or temporary nature and not related to such person's or family member's regular employment, to the extent approved by the executive director; (iv) a credit in an amount equal to all earnings of any family member who is a minor under 18 years of age or who is physically or mentally handicapped, as determined on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director; (v) a credit in an amount equal to such person or family's medical expenses, not compensated for or covered by insurance, in excess of 3.0% of such total annual income; and (vi) a credit in an amount equal to 1/2 of the total annual income of all family members over 18 years of age who are secondary wage earners in the family, provided, however, that such credit shall not exceed the amount of $2,500. If federal law or rules and regulations impose limitations on the incomes of the persons or families who may own or occupy a single family dwelling unit or multi-family residential housing development, the authority

may provide in its rules and regulations that the adjusted family income shall be computed, for the purpose of determining eligibility for ownership or occupancy of such single family dwelling unit or the dwelling units in such multi-family residential housing development (or, if so provided in the applicable rules and regulations of the authority, only those dwelling units in such development which are subject to such federal income limitations), in the manner specified by such federal law or rules and regulations (subject to such modifications as may be provided in or authorized by the applicable rules and regulations of the authority) rather than in the manner provided in the preceding sentence.

"Applicant" means an individual, corporation, partnership, limited partnership, joint venture, trust, firm, association, public body or other legal entity or any combination thereof, making application to receive an authority mortgage loan or other assistance under the Act.

"Application" means a request for an authority mortgage loan or other assistance under the Act.

"Authority" means the Virginia Housing Development Authority.

"Authority mortgage loan" or *"mortgage loan"* means a loan which is made or financed or is to be made or financed, in whole or in part, by the authority pursuant to these rules and regulations and is secured or is to be secured by a mortgage.

"Board" means the Board of Commissioners of the authority.

"Dwelling unit" or *"unit"* means a unit of living accommodations intended for occupancy by one person or family.

"Executive director" means the executive director of the authority or any other officer or employee of the authority who is authorized to act on his behalf or on behalf of the authority pursuant to a resolution of the board.

"Family" means, in the context of the financing of a single family dwelling unit, two or more individuals related by blood, marriage or adoption, living together on the premises as a single nonprofit housekeeping unit. In all contexts other than the financing of a single family dwelling unit, "family" means two or more individuals living together in accordance with law.

"FHA" means the Federal Housing Administration and any successor entity.

"For-profit housing sponsor" means a housing sponsor which is organized for profit and may be required by the authority to agree to limit its profit in connection with the sponsorship of authority financed housing in accordance with the terms and conditions of the Act and these rules and regulations and subject to the regulatory powers of the authority.

"Gross family income" means the combined annualized gross income of all persons residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings. For the purpose of this definition, annualized gross income means gross monthly income multiplied by 12. Gross monthly income is the sum of monthly gross pay; plus any additional income from overtime, part-time employment, bonuses, dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income; plus other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments).

"Multi-family dwelling unit" means a dwelling unit in multi-family residential housing.

"Nonprofit housing sponsor" means a housing sponsor which is organized not for profit and may be required by the authority to agree not to receive any limited dividend distributions from the ownership and operation of a housing development.

"Person" means:

1. An individual who is 62 or more years of age;

2. An individual who is handicapped or disabled, as determined by the executive director on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director; or

3. An individual who is neither handicapped nor disabled nor 62 or more years of age; provided that the board may from time to time by resolution (i) limit the number of, fix the maximum number of bedrooms contained in, or otherwise impose restrictions and limitations with respect to single family dwelling units that may be financed by the authority for occupancy by such individuals and (ii) limit the percentage of multi-family dwelling units within a multi-family residential housing development that may be made available for occupancy by such individuals or otherwise impose restrictions and limitations with respect to multi-family dwelling units intended for occupancy by such individuals.

"Rent" means the rent or other occupancy charge applicable to a dwelling unit within a housing development operated on a rental basis or owned and operated on a cooperative basis.

"Reservation" means the official action, as evidenced in writing, taken by the authority to designate a specified amount of funds for the financing of a mortgage loan on a single family dwelling unit.

"Single family dwelling unit" means a dwelling unit in single family residential housing.

The foregoing words and terms, when used in any other rules and regulations of the authority, shall have the same meaning as set forth above, unless otherwise defined in such rules and regulations. Terms defined in the Act and used and not otherwise defined herein shall have the same meaning ascribed to them in the Act.

§ 2. Eligibility for occupancy.

A. The board shall from time to time establish, by resolution or by rules and regulations, income limitations with respect to single family dwelling units financed or to be financed by the authority. Such income limits may vary based upon the area of the state, type of program, the size and circumstances of the person or family, the type and characteristics of the single-family dwelling unit, and any other factors determined by the board to be necessary or appropriate for the administration of its programs. Such resolution or rules and regulations shall specify whether the person's or family's income shall be calculated as adjusted family income or gross family income. To be considered eligible for the financing of a single family dwelling unit, a person or family shall not have an adjusted family income or gross family income, as applicable, which exceeds the applicable limitation established by the board. It shall be the responsibility of each applicant for the financing of a single family dwelling unit to report accurately and completely his adjusted family income or gross family income, as applicable, family composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the authority with verification thereof.

B. To be considered eligible for occupancy of a multi-family dwelling unit financed by an authority mortgage loan, a person or family shall not have an adjusted family income greater than *(i) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan prior to November 19, 1991,* seven times the total annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the board may from time to time establish, by resolution or by rules and regulations, lower income limits for occupancy of such dwelling unit; and provided further that in the case of any dwelling unit for which no amounts are payable by or on behalf of such person or family or the amounts payable by or on behalf of such person or family are deemed by the board not to be rent, the income limits shall be established by the board by resolution or by rules and regulations *; or (ii) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan on or after November 19, 1991, such percentage of the area median income as the board may from time to time establish by resolution or by rules and regulations for occupancy of such dwelling unit. In the case of a multi-family dwelling unit described in (i) above, the mortgagor and the authority may agree to apply an income limit established pursuant to (ii) above in lieu of the income limit set forth in (i) above .*

C. It shall be the responsibility of the housing sponsor to examine and determine the income and eligibility of applicants for occupancy of multi-family dwelling units, report such determinations to the authority in such form as the executive director may require, reexamine and redetermine the income and eligibility of all occupants of such dwelling units every two years or at more frequent intervals if required by the executive director, and report such redeterminations to the authority in such form as the executive director may require. It shall be the responsibility of each applicant for occupancy of a multi-family dwelling unit, and of each occupant of such dwelling units, to report accurately and completely his adjusted family's income, family composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the housing sponsor and the authority with verification thereof at the times of examination and reexamination of income and eligibility as aforesaid.

D. With respect to a person or family occupying a multi-family dwelling unit, if a periodic reexamination and redetermination of the adjusted family's income and eligibility as provided in subsection C of this section establishes that such person's or family's adjusted family income then exceeds the maximum limit for occupancy of such dwelling unit applicable at the time of such reexamination and redetermination, such person or family shall be permitted to continue to occupy such dwelling unit; provided, however, that during the period that such person's or family's adjusted family income exceeds such maximum limit, such person or family may be required by the executive director to pay such rent, carrying charges or surcharge as determined by the executive director in accordance with a schedule prescribed or approved by him. If such person's or family's adjusted family income shall exceed such maximum limit for a period of six months or more, the executive director may direct or permit the housing sponsor to terminate the tenancy or interest by giving written notice of termination to such person or family specifying the reason for such termination and giving such person or family not less than 90 days (or such longer period of time as the authority shall determine to be necessary to find suitable alternative housing) within which to vacate such dwelling unit. If any person or family residing in a housing development which is a cooperative is so required to be removed from the housing development, such person or family shall be discharged from any liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed for all sums paid by such person or family to the housing sponsor on account of the purchase of stock or debentures as a condition of occupancy in such cooperative and any additional sums payable to such person or family in accordance with a schedule prescribed or approved by the authority, subject however to the terms of any instrument or agreement relating to such cooperative or the occupancy thereof.

§ 3. Forms.

Forms of documents, instruments and agreements to be employed with respect to the processing of applications, the making or financing of loans under these rules and regulations, the issuance and sale of authority notes and bonds, and any other matters relating to such loans and the implementation and administration of the authority's programs shall be prepared, revised and amended from time to time under the direction and control of the executive director.

§ 4. Interest rates.

The executive director shall establish the interest rate or rates to be charged to the housing sponsor or person or family in connection with any loan made or financed under these rules and regulations. To the extent permitted by the documents relating to the loan, the executive director may adjust at any time and from time to time the interest rate or rates charged on such loan. Without limiting the foregoing, the interest rate or rates may be adjusted if such adjustment is determined to be necessary or appropriate by the executive director as a result of any allocation or reallocation of such loan to or among the authority's note or bond funds or any other funds of the authority. Any interest rate or rates established pursuant to this § 4 shall reflect the intent expressed in subdivision 3 of subsection A of § 36-55.33:1 of the Code of Virginia.

§ 5. Federally assisted loans.

When a housing development or dwelling unit financed by a loan under these rules and regulations or otherwise assisted by the authority is subject to federal mortgage insurance or is otherwise assisted or aided, directly or indirectly, by the federal government or where the authority assists in the administration of any federal program, the applicable federal law and rules and regulations shall be controlling over any inconsistent provision hereof.

§ 6. Administration of state and federal programs; acceptance of aid and guarantees.

A. The board by resolution may authorize the authority to operate and administer any program to provide loans or other housing assistance for persons and families of low and moderate income and, in furtherance thereof, to enter into agreements or other transactions with the federal government, the Commonwealth of Virginia or any governmental agency thereof, any municipality or any other persons or entities and to take such other action as shall be necessary or appropriate for the purpose of operating and administering, on behalf of or in cooperation with any of the foregoing, any such program.

B. The board by resolution may authorize the acceptance by the authority of gifts, grants, loans, contributions or other aid, including insurance and guarantees, from the federal government, the Commonwealth of Virginia or any agency thereof, or any other source in furtherance of the purposes of the Act, do any and all things necessary in order to avail itself of such aid, agree and comply with such conditions upon which such gifts, grants, loans, contributions, insurance, guarantees or other aid may be made, and authorize and direct the execution on behalf of the authority of any instrument or agreement which it considers necessary or appropriate to implement any such gifts, grants, loans, contributions, insurance guarantees or other aid.

C. Without limitation on the provisions of subsection B of this section, the board by resolution may authorize the acceptance by the authority of any insurance or guarantee or commitment to insure or guarantee its bonds or notes and any grant with respect to such bonds or notes, whether insured, guaranteed or otherwise, and may authorize and direct the execution on behalf of the authority of any instrument or agreement which it considers necessary or appropriate with respect thereto.

§ 7. Assistance of mortgage lenders.

The authority may, at its option, utilize the assistance and services of mortgage lenders in the processing, originating, disbursing and servicing of loans under these rules and regulations. The executive director is authorized to take such action and to execute such agreements and documents as he shall deem necessary or appropriate in order to procure, maintain and supervise such assistance and services. In the case of authority mortgage loans to be financed from the proceeds of obligations issued by the authority pursuant to § 36-55.37:1 of the Code of Virginia, the authority shall be required to utilize such assistance and services of mortgage lenders in the origination and servicing of such authority mortgage loans.

§ 8. Purchase of mortgage loans.

A. The authority may from time to time, pursuant and subject to its rules and regulations, purchase mortgage loans from mortgage lenders. In furtherance thereof, the executive director may request mortgage lenders to submit offers to sell mortgage loans to the authority in such manner, within such time period and subject to such terms and conditions as he shall specify in such request. The executive director may take such action as he shall deem necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to mortgage lenders, advertising in newspapers or other publications and any other methods of public announcement which he may select as appropriate under the circumstances. The executive director may also consider and accept offers for sale of individual mortgage loans submitted from time to time to the authority without any solicitation therefor by the authority.

B. The authority shall require as a condition of the purchase of any mortgage loans from a mortgage lender pursuant to this section that such mortgage lender within 180 days from the receipt of proceeds of such purchas

shall enter into written commitments to make, and shall thereafter proceed as promptly as practical to make and disburse from such proceeds, residential mortgage loans in the Commonwealth of Virginia having a stated maturity of not less than 20 years from the date thereof in an aggregate principal amount equal to the amount of such proceeds.

C. At or before the purchase of any mortgage loan pursuant to this section, the mortgage lender shall certify to the authority that the mortgage loan would in all respects be a prudent investment and that the proceeds of the purchase of the mortgage loan shall be invested as provided in subsection B of this section or invested in short-term obligations pending such investment.

D. The purchase price for any mortgage loan to be purchased by the authority pursuant to this section shall be established in accordance with subdivision (2) of § 36-55.35 of the Code of Virginia.

§ 9. Waiver.

The executive director may for good cause in any particular case waive or vary any of the provisions of these rules and regulations to the extent not inconsistent with the Act or with other applicable provisions of law .

§ 10. Amendment.

These rules and regulations may be amended and supplemented by the board at such times and in such manner as it may determine, to the extent not inconsistent with the Act or with other applicable provisions of law.

§ 11. Separability.

If any clause, sentence, paragraph, section or part of these rules and regulations shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

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Title of Regulation: **VR 400-02-0001. Rules and Regulations for Multi-Family Housing Developments.**

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

Public Hearing Date: N/A – Written comments may be submitted until November 15, 1991.
(See Calendar of Events section for additional information)

Summary:

The proposed amendments to the rules and regulations for multi-family housing developments ("rules and regulations") will make certain changes in the income limits for the occupants of multi-family rental housing developments financed by mortgage loans approved by the authority on or after November 19, 1991.

VR 400-02-0001. Rules and Regulations for Multi-Family Housing Developments.

§ 1. Purpose and applicability.

The following rules and regulations will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to mortgagors to provide the construction and/or permanent financing of multi-family housing developments (including any such developments to be owned and operated on a cooperative basis) intended for occupancy by persons and families of low and moderate income ("development" or "developments"). These rules and regulations shall be applicable to the making of such mortgage loans directly by the authority to mortgagors, the purchase of such mortgage loans, the participation by the authority in such mortgage loans with mortgage lenders and any other manner of financing of such mortgage loans under the Act These rules and regulations shall not, however, apply to any developments which are subject to any other rules and regulations adopted by the authority. If any mortgage loan is to provide either the construction or permanent financing (but not both) of a development, these rules and regulations shall be applicable to the extent determined by the executive director to be appropriate for such financing. If any development is subject to federal mortgage insurance or is otherwise assisted or aided, directly or indirectly, by the federal government, the applicable federal rules and regulations shall be controlling over any inconsistent provision. Furthermore, if the mortgage loan on any development is to be insured by the federal government, the provisions of these rules and regulations shall be applicable to such development only to the extent determined by the executive director to be necessary in order to (i) protect any interest of the authority which, in the judgment of the executive director, is not adequately protected by such insurance or by the implementation or enforcement of the applicable federal rules, regulations or requirements or (ii) to comply with the Act or fulfill the authority's public purpose and obligations thereunder. Developments shall include housing intended to be owned and operated on a cooperative basis. The term "construction", as used herein, shall include the rehabilitation, preservation or improvement of existing structures.

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any development to waive or modify any provision herein

where deemed appropriated by him for good cause, to the extent not inconsistent with the Act and covenants and agreements with the holders of its bonds.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority, the mortgagor, the contractor or other members of the development team under the initial closing documents as described in § 7 of these rules and regulations.

These rules and regulations are intended to provide a general description of the authority's processing requirements and not intended to include all actions involved or required in the processing and administration of mortgage loans under the authority's multi-family housing programs. 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 with respect to any particular development or developments or any multi-family housing program or programs.

§ 2. Income limits and general restrictions.

Under the authority's rules and regulations, to be eligible for occupancy of a multi-family dwelling unit, a person or family shall not have an adjusted family income (as defined therein) greater than *(i) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan prior to November 19, 1991,* seven times the ~~total~~ annual rent, including utilities except telephone, applicable to such dwelling unit ~~.~~ ~~The~~ *; provided, however, that the* authority's rules and regulations authorize its board to establish from time to time by resolution and by rules and regulations lower income limits for initial occupancy *; or (ii) in the case of a multi-family dwelling unit for which the board has approved the mortgage loan on or after November 19, 1991, such percentage of the area median income as the board may from time to time establish by resolution or by rules and regulations for occupancy of such dwelling unit. In the case of a multi-family dwelling unit described in (i) above, the mortgager and the authority may agree to apply an income limit established pursuant to (ii) above in lieu of the income limit set forth in (i) above. Income limits are established below in these rules and regulations in addition to the limit set forth in (i) above and in implementation of the provisions of (ii) above .*

In the case of developments for which the authority has agreed to permit the mortgagor to establish and change rents without the prior approval of the authority (as described in *, and subject to the provisions of,* §§ 11 and 14 of these rules and regulations), at least 20% of the units in each such development shall be occupied or held available for occupancy by persons and families whose adjusted family incomes (at the time of their initial occupancy) do not exceed 80% of the area median income as determined by the authority, and the remaining units shall be occupied or held available for occupancy by persons and families whose adjusted family incomes (at the time of their initial occupancy) do not exceed *(i) in the case of units for which the board has approved the mortgage loan prior to November 19, 1991,* 150% of such area median income as so determined *or (ii) in the case of units for which the board has approved the mortgage loan on or after November 19, 1991, 115% of such area median income as so determined. The income limits applicable to persons and families at the time of reexamination and redetermination of their adjusted family incomes and eligibility subsequent to their initial occupancy of such units shall be as set forth in (i) or (ii), as applicable, in the preceding sentence (or, in the case of units described in (i) in the preceding sentence, such lesser income limit equal to seven times the annual rent, including utilities except telephone, applicable to such dwelling units).*

The board may establish, in the resolution authorizing any mortgage loan to finance a development under these rules and regulations, income limits lower than those provided herein or in the authority's rules and regulations for the occupants of the units in such development.

Furthermore, in the case of developments which are subject to federal mortgage insurance or assistance or are financed by notes or bonds exempt from federal income taxation, federal regulations may establish lower income limitations which in effect supersede the authority's income limits as described above.

If federal law or rules and regulations impose limitations on the incomes of the persons or families who may occupy all or any of the units in a development, the adjusted family incomes of applicants for occupancy of all of the units in the development shall be computed, for the purpose of determining eligibility for occupancy thereof hereunder and under the authority's rules and regulations, in the manner specified in such federal law and rules and regulations, subject to such modifications as the executive director shall require or approve in order to facilitate processing, review and approval of such applications.

Notwithstanding anything to the contrary herein, all developments and the processing thereof under the terms hereof must comply with (i) the Act ; (ii) the applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued by the authority to finance such developments; (iii) in the case of developments subject to federal mortgage insurance or other assistance, all applicable federal laws and regulations relating thereto; and (iv) the requirements set forth in the resolutions pursuant to which the notes or bonds are issued by the authority to finance the developments. Copies of the authority's note and bond resolutions are available upon request.

§ 3. Terms of mortgage loans.

The authority may make or finance mortgage loans secured by a lien on real property or, subject to certain limitations in the Act, a leasehold estate in order to finance development intended for occupancy by persons and families of low and moderate income. The term of the mortgage loan shall be equal to (i) if the mortgage loan is to finance the construction of the proposed development, the period determined by the executive director to be necessary to: (1) complete construction of the development, (2) achieve sufficient occupancy to support the development and (3) consummate the final closing of the mortgage loan; plus (ii) if the mortgage loan is to finance the ownership and operation of the proposed development, an amortization period set forth in the mortgage loan commitment but not to exceed 45 years. The executive director may require that such amortization period not extend beyond the termination date of any federal insurance, assistance or subsidy.

Mortgage loans may be made to: (i) for-profit housing sponsors in original principal amounts not to exceed the lesser of the maximum principal amount specified in the mortgage loan commitment or such percentage of the housing development costs of the development as is established in such commitment, but in no event to exceed 95%; and (ii) nonprofit housing sponsors in original principal amounts not to exceed the lesser of the minimum principal amount specified in the mortgage loan commitment or such percentage of the housing development costs of the development as is established in such commitment, but in no event to exceed 100%.

The maximum principal amount and percentage of housing development costs specified or established in the mortgage loan commitment shall be determined by the authority in such manner and based upon such factors as it deems relevant to the security of the mortgage loan and fulfillment of its public purpose. Such factors may include the fair market value of the proposed development as completed, the economic feasibility and marketability of the proposed development at the rents necessary to pay the debt service on the mortgage loan and the operating expenses of the proposed development, and the income levels of the persons and families who would be able to afford to pay such rents.

The categories of cost which shall be allowable by the authority in the acquisition and construction of a development financed under these rules and regulations shall include the following: (i) construction costs, including equipment, labor and materials furnished by the mortgagor, contractor or subcontractors, general requirements for job supervision, an allowance for office overhead of the contractor, building permit, bonds and letters of credit to assure completion, water, sewer and other utility fees, and a contractor's profit or a profit and risk allowance in lieu thereof; (ii) architectural and engineering fees; (iii) interest on the mortgage loan; (iv) real estate taxes, hazard insurance premiums and mortgage insurance premiums; (v) title and recording expenses; (vi) surveys; (vii) test borings; (viii) the authority's financing fees; (ix) legal and accounting expenses; (x) in the case of a nonprofit housing sponsor, organization and sponsor expenses, consultant fees, and a reserve to make the development operational; (xi) off-site costs; (xii) the cost or fair market value of the land and any improvements thereon to be used in the development; (xiii) tenant relocation costs; (xiv) operating reserves to be funded from proceeds of the mortgage loan; (xv) and such other categories of costs which the executive director shall determine to be reasonable and necessary for the acquisition and construction of the development. The extent to which costs in any of such categories shall be allowable in respect of a specific development and includable in the housing development costs thereof as determined by the authority at final closing shall be governed by the terms of the authority's cost certification guide for mortgagors, contractors and certified public accountants (the "cost certification guide"). The executive director is authorized to prepare and from time to time revise the cost certification guide. Copies of such guide shall be available upon request. Upon completion of the acquisition and construction of the development, the total of the housing development costs shall be certified to the authority in accordance with these rules and regulations and the cost certification guide, subject to the review and determination of the authority. In lieu of such certification of housing development costs, the executive director may require such other assurances of housing development costs as he shall deem necessary to enable the authority to determine with reasonable accuracy the actual amount of such housing development costs.

The interest rate on the mortgage loan shall be established at the initial closing and may be thereafter adjusted in accordance with the authority's rules and regulations and terms of the deed of trust note. The authority shall charge a financing fee equal to 2.5% of the mortgage loan amount, unless the executive director shall for good cause require the payment of a different financing fee. Such fee shall be payable at such times as hereinafter provided or at such other times as the executive director shall for good cause require.

§ 4. Solicitation of proposals.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit proposals for the financing of developments. 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 proposals and the selection of developments as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and

conditions under which available funds of the authority are to be allocated and such other matters as he shall deem appropriate relating to the selection of proposals. The authority may also consider and approve proposals for financing of developments submitted from time to time to the authority without any solicitation therefor on the part of the authority.

§ 5. Application and acceptance for processing.

Application for a mortgage loan 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, together with such documents and additional information as may be requested by the authority, including, but not limited to: initial site, elevation and unit plans; information with respect to the status of the proposed development site and the surrounding community; any option or sales contract to acquire the site; an evaluation of the need and effective demand for the proposed development in the market area of such site; information regarding the legal, business and financial status and experience of the members of the applicant's proposed development team and of the principals in any entity which is a member thereof, including current financial statements (which shall be audited in the case of a business entity) for the mortgagor (if existing), the general contractor and the principals therein; information regarding amenities and services proposed to be offered to the tenants; a preliminary estimate of the housing development costs and the individual components thereof; the proposed schedule of rents; a preliminary estimate of the annual operating budget and the individual components thereof; the estimated utility expenses to be paid by the tenants of dwelling units in the proposed development; and the amount of any federal insurance, subsidy or assistance which the applicant is requesting for the proposed development.

The authority's staff shall review each application and any additional information submitted by the applicant or obtained from other sources by the authority in its review of each proposed development. Such review shall be performed in accordance with subdivision 2 of subsection D of § 36-55.33:1 of the Code of Virginia and shall include, but not be limited to, the following:

1. An analysis of the site characteristics, surrounding land uses, available utilities, transportation, employment opportunities, recreational opportunities, shopping facilities and other factors affecting the site;

2. An evaluation of the ability, experience and financial capacity of the applicant and general contractor and the qualifications of the architect, management agent and other members of the proposed development team;

3. A preliminary evaluation of the estimated construction costs and the proposed design and structure of the proposed development;

4. A preliminary review of the estimated operating expenses and proposed rents and a preliminary evaluation of the adequacy of the proposed rents to sustain the proposed development based upon the assumed occupancy rate and estimated construction and financing costs; and

5. A preliminary evaluation of the marketability of the proposed development.

Based on the authority's review of the applications, documents and any additional information submitted by the applicants or obtained from other sources by the authority in its review of the proposed developments, the executive director shall accept for processing those applications which he determines best satisfy the following criteria:

1. The vicinity of the proposed development is and will continue to be a residential area suitable for the proposed development and is not now, nor is it likely in the future to become, subject to uses or deterioration which could cause undue depreciation in the value of the proposed development or which could adversely affect its operation, marketability or economic feasibility.

2. There are or will be available on or before the estimated completion date (i) direct access to adequate public roads and utilities and (ii) such public and private facilities (such as schools, churches, transportation, retail and service establishments, parks, recreational facilities and major public and private employers) in the area of the proposed development as the executive director determines to be necessary or desirable for use and enjoyment by the contemplated residents.

3. The characteristics of the site (such as its size, topography, terrain, soil and subsoil conditions, vegetation, and drainage conditions) are suitable for the construction and operation of the proposed development, and the site is free from any defects which would have a materially adverse effect on such construction and operation.

4. The location of the proposed development will promote and enhance the marketability of the units to the person and families intended for occupancy thereof.

5. The applicant either owns or leases the site of the proposed development or has the legal right to acquire or lease the site in such manner, at such time and subject to such terms as will permit the applicant to process the application and consummate the initial closing.

6. The design of the proposed development is attractive and esthetically appealing, will contribute to the marketability of the proposed development, makes

use of materials to reduce energy and maintenance costs, provides for a proper mix of units for the residents intended to be benefitted by the authority's program, provides for units with adequate, well-designed space, includes equipment and facilities customarily used or enjoyed in the area by the contemplated residents, and will otherwise provide a safe, habitable and pleasant living environment for such residents.

7. Subject to further review and evaluation by the authority's staff under § 6 of these rules and regulations, the estimated construction costs and operating expenses appear to be complete, reasonable and comparable to those of similar developments.

8. Subject to further review and evaluation by the authority's staff under § 6 of these rules and regulations, the proposed rents appear to be at levels which will: (i) be affordable by the persons and families intended to be assisted by the authority; (ii) permit the successful marketing of the units to such persons and families; and (iii) sustain the operation of the proposed development.

9. The applicant and general contractor have the experience, ability and financial capacity necessary to carry out their respective responsibilities for the acquisition, construction, ownership, operation, marketing, maintenance and management of the proposed development.

10. The architect, management agent and other members of the proposed development team have the qualifications necessary to perform their respective functions and responsibilities.

11. The application and proposed development conform to the requirements, limitations and conditions, if any, imposed by the executive director pursuant to § 4 of these rules and regulations.

12. The proposed development will contribute to the implementation of the policies and programs of the authority in providing decent, safe and sanitary rental housing for low and moderate income persons and families who cannot otherwise afford such housing and will assist in meeting the need for such housing in the market area of the proposed development.

13. It appears that the proposed development and applicant will be able to meet the requirements for feasibility and commitment set forth in § 6 of these rules and regulations and that the proposed development will otherwise continue to be processed through initial closing and will be completed and operated, all in compliance with the Act, the documents and contracts executed at initial closing, applicable federal laws, rules and regulations, and the provisions of these rules and regulations and without unreasonable delay, interruptions or expense.

If only one application is being reviewed for acceptance for processing, the executive director shall accept such application for processing if he determines that such application adequately satisfies the foregoing criteria.

In the selection of an application or applications for processing, the executive director may take into account the desirability of allocating funds to different sponsors throughout the Commonwealth of Virginia.

Nothing contained herein shall require the authority to select any application which, in the judgment of the executive director, does not adequately satisfy the foregoing criteria.

The executive director's determinations with respect to the above criteria shall be based only on the documents and information received or obtained by him at that time and are subject to modification or reversal upon his receipt of additional documents or information at a later time. In addition, the application shall be subject to further review in accordance with § 6 of these rules and regulations.

The executive director may impose such terms and conditions with respect to acceptance for processing as he shall deem necessary or appropriate. If any proposed development is so accepted for processing, the executive director shall notify the sponsor of such acceptance and of any terms and conditions imposed with respect thereto and may require the payment by the sponsor of a nonrefundable processing fee of 0.25% of the estimated mortgage loan amount. Such fee shall be applied at initial closing toward the payment of the authority's financing fee.

If the executive director determines that a proposed development to be accepted for processing does not adequately satisfy one or more of the foregoing criteria, he may nevertheless accept such proposed development for processing subject to satisfaction of the applicable criteria in such manner and within such time period as he shall specify in his notification of acceptance. If the executive director determines not to accept any proposed development for processing, he shall so notify the sponsor.

§ 6. Feasibility and commitment.

In order to continue the processing of the application, the applicant shall file, within such time limit as the executive director shall specify, such forms, documents and information as the executive director shall require with respect to the feasibility of the proposed development, including without limitation the following:

1. Any additions, modifications or other changes to the application and documents previously submitted as may be necessary or appropriate to make the information therein complete, accurate and current;

2. Architectural and engineering plans, drawings and

specifications in such detail as shall be necessary or appropriate to determine the requirements for construction of the proposed development;

3. The applicant's (i) best estimates of the housing development costs and the components thereof; (ii) proposed mortgage loan amount; (iii) proposed rents; (iv) proposed annual operating budget and the individual components thereof; (v) best estimates of the monthly utility expenses and other costs for each dwelling unit if paid by the resident; and (vi) amount of any federal insurance, subsidy or assistance that the applicant is requesting for the proposed development. The applicant's estimates shall be in such detail and with such itemization and supporting information as shall be requested by the executive director;

4. The applicant's proposed tenant selection plan which shall include, among other information that the executive director may require from time to time, the following: (i) the proposed rent structure; (ii) the utilization of any subsidy or other assistance from the federal government or any other source; (iii) the proposed income levels of tenants; (iv) any arrangements contemplated by the applicant for tenant referrals or relocations from federal, state or local government agencies or community organizations; and (v) any criteria to be used for disapproving tenant applications and for establishing priorities among eligible tenant applicants.

5. The applicant's management and marketing plans, including description and analysis of strategies, techniques and procedures to be followed in marketing and managing the units; and

6. Any documents required by the authority to evidence compliance with all conditions and requirements necessary to acquire, own, construct, operate and manage the proposed development, including local governmental approvals, proper zoning status, availability of utilities, licenses and other legal authorizations necessary to perform requisite functions and any easements necessary for the construction and operation of the development.

The executive director may for good cause permit the applicant to file one or more of the foregoing forms, documents and information at a later time, and any review, analysis, determination or other action by the authority or the executive director prior to such filing shall be subject to the receipt, review and approval by the executive director of such forms, documents and information.

An appraisal of the land and any improvements to be retained and used as a part of the development will be obtained at this time or as soon as practical thereafter from an independent real estate appraiser selected by the authority. The authority may also obtain such other reports, analyses, information and data as the executive director deems necessary or appropriate to evaluate the proposed development.

If at any time the executive director determines that the applicant is not processing the application with due diligence and best efforts or that the application cannot be successfully processed to commitment and initial closing within a reasonable time, he may, in his discretion, terminate the application and retain any fees previously paid to the authority.

The authority staff shall review and evaluate the documents and information received or obtained pursuant to this § 6. Such review and evaluation shall include, but not be limited to, the following:

1. An analysis of the estimates of construction costs and the proposed operating budget and an evaluation as to the economic feasibility of the proposed development;

2. A market analysis as to the present and projected demand for the proposed development in the market area, including: (i) an evaluation of existing and future market conditions; (ii) an analysis of trends and projections of housing production, employment and population for the market area; (iii) a site evaluation (such as access and topography of the site, neighborhood environment of the site, public and private facilities serving the site and present and proposed uses of nearby land); and (iv) an analysis of competitive projects;

3. A review of the management, marketing and tenant selection plans, including their effect on the economic feasibility of the proposed development and their efficacy in carrying out the programs and policies of the authority;

4. A final review of the (i) ability, experience and financial capacity of the applicant and general contractor; and (ii) the qualifications of the architect, management agent and other members of the proposed development team.

5. An analysis of the architectural and engineering plans, drawings and specifications, including the functional use and living environment for the proposed residents, the marketability of the units; the amenities and facilities to be provided to the proposed residents; and the management, maintenance and energy conservation characteristics of the proposed development.

Based upon the authority staff's analysis of such documents and information and any other information obtained by the authority in its review of the proposed development, the executive director shall prepare a recommendation to the board that a mortgage loan commitment be issued to the applicant with respect to the

proposed development only if he determines that all of the following criteria have been satisfied:

1. Based on the data and information received or obtained pursuant to this § 6, no material adverse change has occurred with respect to compliance with the criteria set forth in § 5 of these rules and regulations.

2. The applicant's estimates of housing development costs: (i) include all costs necessary for the development and construction of the proposed development; (ii) are reasonable in amount; (iii) are based upon valid data and information; and (iv) are comparable to costs for similar multi-family rental developments; provided, however, that if the applicant's estimates of such costs are insufficient in amount under the foregoing criteria, such criteria may nevertheless be satisfied if, in the judgment of the executive director, the mortgagor will have the financial ability to pay any costs estimated by the executive director to be in excess of the total of the applicant's estimates of housing development costs.

3. Subject to review by the authority at final closing, the categories of the estimated housing development costs to be funded from the proceeds of the mortgage loan are eligible for such funding under the authority's cost certification guide or under such other requirements as shall be agreed to by the authority.

4. Any administrative, community, health, nursing care, medical, educational, recreational, commercial or other nonhousing facilities to be included in the proposed development are incidental or related to the proposed development and are necessary, convenient or desirable with respect to the ownership, operation or management of the proposed development.

5. All operating expenses (including replacement and other reserves) necessary or appropriate for the operation of the proposed development are included in the proposed operating budget, and the estimated amounts of such operating expenses are reasonable, are based on valid data and information and are comparable to operating expenses experienced by similar developments.

6. Based upon the proposed rents and projected occupancy level required or approved by the executive director, the estimated income from the proposed development is reasonable. The estimated income may include: (i) rental income from commercial space within the proposed development if the executive director determines that a strong, long-term market exists for such space; and (ii) income from other sources relating to the operation of the proposed development if determined by the executive director to be reasonable in amount and comparable to such income received on similar developments.

7. The estimated income from the proposed development, including any federal subsidy or assistance, is sufficient to pay when due the estimates of the debt service on the mortgage loan, the operating expenses, and replacement and other reserves required by the authority.

8. The units will be occupied by persons and families intended to be served by the proposed development and qualified hereunder and under the Act , the authority's rules and regulations, and any applicable federal laws, rules and regulations. Such occupancy of the units will be achieved in such time and manner that the proposed development will (i) attain self-sufficiency (i.e., the rental and other income from the development is sufficient to pay all operating expenses, debt service and replacement and other required reserves and escrows) within the usual and customary time for a development for its size, nature, location and type, and without any delay in the commencement of amortization; and (ii) will continue to be self-sufficient for the full term of the mortgage loan.

9. The estimated utility expenses and other costs to be paid by the residents are reasonable, are based upon valid data and information and are comparable to such expenses experienced by similar developments, and the estimated amounts of such utility expenses and costs will not have a materially adverse effect on the occupancy of the units in accordance with item 8 above.

10. The architectural drawings, plans and specifications shall demonstrate that: (i) the proposed development as a whole and the individual units therein shall provide safe, habitable, and pleasant living accommodations and environment for the contemplated residents; (ii) the dwelling units of the proposed housing development and the individual rooms therein shall be furnishable with the usual and customary furniture, appliances and other furnishings consistent with their intended use and occupancy; and (iii) the proposed housing development shall make use of measures promoting environmental protection, energy conservation and maintenance and operating efficiency to the extent economically feasible and consistent with the other requirements of this § 6.

11. The proposed development includes such appliances, equipment, facilities and amenities as are customarily used or enjoyed by the contemplated residents in similar developments.

12. The management plan includes such management procedures and requirements as are necessary for the proper and successful operations, maintenance and management of the proposed development in accordance with these rules and regulations.

13. The marketing and tenant selection plans

submitted by the applicant shall comply with these rules and regulations and shall provide for actions to be taken such that: (i) the dwelling units in the proposed development will be occupied in accordance with item 8 above and any applicable federal laws, rules and regulations by those eligible persons and families who are expected to be served by the proposed development; (ii) the residents will be selected without regard to race, color, religion, creed, sex or national origin; and (iii) units intended for occupancy by handicapped and disabled persons will be adequately and properly marketed to such persons and such persons will be given priority in the selection of residents for such units. The tenant selection plan shall describe the requirements and procedures (including any occupancy criteria and priorities established pursuant to § 11 of these rules and regulations) to be applied by the mortgagor in order to select those residents who are intended to be served by the proposed development and who are best able to fulfill their obligation and responsibilities as residents of the proposed development.

14. In the case of any development to be insured or otherwise assisted or aided by the federal government, the proposed development will comply in all respects with any applicable federal laws, rules and regulations, and adequate federal insurance, subsidy, or assistance is available for the development and will be expected to remain available in the due course of processing with the applicable federal agency, authority or instrumentality.

15. The proposed development will comply with: (i) all applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued or to be issued by the authority to finance the proposed development; and (ii) all requirements set forth in the resolutions pursuant to which such notes or bonds are issued or to be issued.

16. The prerequisites necessary for the members of the applicant's development team to acquire, own, construct or rehabilitate, operate and manage the proposed development have been satisfied or can be satisfied prior to initial closing. These prerequisites include, but are not limited to obtaining: (i) site plan approval; (ii) proper zoning status; (iii) assurances of the availability of the requisite public utilities; (iv) commitments by public officials to construct such public improvements and accept the dedication of streets and easements that are necessary or desirable for the construction and use of the proposed development; (v) licenses and other legal authorizations necessary to permit each member to perform his or its duties and responsibilities in the Commonwealth of Virginia; (vi) building permits; and (vii) fee simple ownership of the site, a sales contract or option giving the applicant or mortgagor the right to purchase the site for the proposed development and obtain fee simple title, or a leasehold interest of the time period required by the Act (any such ownership or leasehold interest acquired or to be acquired shall be free of any covenants, restrictions, easements, conditions, or other encumbrances which would adversely affect the authority's security or the construction or operation of the proposed development).

17. The proposed development will comply with all applicable state and local laws, ordinances, regulations, and requirements.

18. The proposed development will provide valid and sound security for the authority's mortgage loan and will contribute to the fulfillment of the public purposes of the authority as set forth in its Act.

19. Subject to a final determination by the board, the financing of the proposed development will meet the applicable requirements set forth in § 36-55.39 of the Code of Virginia.

If the executive director determines that the foregoing criteria are satisfied and that he will recommend approval of the application and issuance of the commitment, he shall present his analysis and recommendations to the board. If the executive director determines that one or more of the foregoing criteria have not been adequately satisfied, he may nevertheless in his discretion recommend to the board that the application be approved and that a mortgage loan commitment be issued subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate. Prior to the presentation of his recommendations to the board, the executive director may require the payment by the applicant of a nonrefundable processing fee in an amount equal to 0.5% of the then estimated mortgage loan amount less any processing fees previously paid by the applicant. Such fee shall be applied at initial closing toward the payment of the authority's financing fee.

The board shall review and consider the analysis and recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the application and authorize the mortgage loan and the issuance of a commitment therefor, subject to such terms and conditions as the board shall require in such resolution.

The term of the mortgage loan, the amortization period, the estimated housing development costs, the principal amount of the mortgage loan, the terms and conditions applicable to any equity contribution by the applicants, any assurances of successful completion and operational stability of the proposed development, and other terms and conditions of such mortgage loan shall be set forth in the board's resolution authorizing such mortgage loan or in the commitment issued on behalf of the authority pursuant to such resolution. The resolution or commitment shall also include such terms and conditions as the authority considers appropriate with respect to the construction of

the proposed development, the marketing and occupancy of the proposed development (including any income limits or occupancy restrictions other than those set forth in these rules and regulations), the disbursement and repayment of the mortgage loan, and other matters related to the construction and the ownership, operation and occupancy of the proposed development. Such resolution or commitment may include a financial analysis of the proposed development, setting forth the initial schedule of rents, the approved initial budget for operation of the proposed development and a schedule of the estimated housing development costs. Such a resolution authorizing a mortgage loan to a for-profit housing sponsor shall prescribe the maximum annual rate, if any, at which distributions may be made by such for-profit housing sponsor with respect to the development, expressed as a percentage of such for-profit housing sponsor's equity in such development (such equity being established in accordance with § 9 of these rules and regulations), which rate, if any, shall not be inconsistent with the provisions of the Act. In connection with the establishment of any such rates, the board shall not prescribe differing or discriminatory rates with respect to substantially similar developments. The resolution shall specify whether any such maximum annual rate of distributions shall be cumulative or noncumulative and shall establish the manner, if any, for adjusting the equity in accordance with § 9 of these rules and regulations.

A mortgage loan shall not be authorized by the board unless the board by resolution shall make the applicable findings required by § 36-55.39 of the Code of Virginia; provided, however, that the board may in its discretion authorize the mortgage loan without making the finding, if applicable, required by subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the financing of the mortgage loan.

If the executive director determines not to recommend approval of the application and issuance of a commitment, he shall so notify the applicant. If any application is not so recommended for approval, the executive director may select for processing one or more applications in its place.

§ 7. Initial closing.

Upon issuance of the commitment, the applicant shall direct its attorney to prepare and submit the legal documentation (the "initial closing documents") required by the commitment within the time period specified. When the initial closing documents have been submitted and approved by the authority staff and all other requirements in the commitment have been satisfied, the initial closing of the mortgage loan shall be held. At this closing, the initial closing documents shall be, where required, executed and recorded, and the mortgagor will pay to the authority the balance owed on the financing fee, will make any initial equity investment required by the initial closing documents and will fund such other deposits, escrows and reserves as required by the commitment. The initial disbursement of mortgage loan proceeds will be made by the authority, if appropriate under the commitment and the initial closing documents.

The actual interest rate on the mortgage loan shall be established by the executive director at the time of the execution of the deed of trust note at initial closing and may thereafter be altered by the executive director in accordance with the authority's rules and regulations and the terms of such note.

The executive director may require such accounts, reserves, deposits, escrows, bonds, letters of credit and other assurances as he shall deem appropriate to assure the satisfactory construction, completion, occupancy and operation of the development, including without limitation one or more of the following: working capital deposits, construction contingency funds, operating reserve accounts, payment and performance bonds or letters of credit, latent construction defect escrows, replacement reserves, and tax and insurance escrows. The foregoing shall be in such amounts and subject to such terms and conditions as the executive director shall require and as shall be set forth in the initial closing documents.

§ 8. Construction.

The construction of the development shall be performed in accordance with the initial closing documents. The authority shall have the right to inspect the development as often as deemed necessary or appropriate by the authority to determine the progress of the work and compliance with the initial closing documents and to ascertain the propriety and validity of mortgage loan disbursements requested by the mortgagor. Such inspections shall be made for the sole and exclusive benefit and protection of the authority. A disbursement of mortgage loan proceeds may only be made upon a determination by the authority that the terms and conditions of the initial closing documents with respect to any such disbursement have been satisfied; provided, however, that in the event that such terms and conditions have not been satisfied, the executive director may, in his discretion, permit such disbursement if additional security or assurance satisfactory to him is given. The amount of any disbursement shall be determined in accordance with the terms of the initial closing documents and shall be subject to such retainage or holdback as is therein prescribed.

§ 9. Completion of construction and final closing.

The initial closing documents shall specify those requirements and conditions that must be satisfied in order for the development to be deemed to have attained final completion. Upon such final completion of the development, the mortgagor, general contractor, and any other parties required to do so by the initial closing documents shall each diligently commence, complete and submit to the authority for review and approval their cost certification in accordance with the authority's cost

certification guide or in accordance with such other requirements as shall have been agreed to by the authority.

Prior to or concurrently with final closing, the mortgagor, general contractor and other members of the development team shall perform all acts and submit all contracts and documents required by the initial closing documents in order to attain final completion, make the final disbursement of mortgage loan proceeds, obtain any federal insurance, subsidy or assistance and otherwise consummate the final closing.

At the final closing, the authority shall determine the following in accordance with the initial closing documents:

1. The total development costs, the final mortgage loan amount, the balance of mortgage loan proceeds to be disbursed to the mortgagor, the equity investment of the mortgagor and, if applicable, the maximum amount of annual limited dividend distributions;

2. The interest rate to be applied initially upon commencement of amortization, the date for commencement and termination of the monthly amortization payments of principal and interest, the amount of such monthly amortization payments, and the amounts to be paid monthly into the escrow accounts for taxes, insurance, replacement reserves, or other similar escrow items; and

3. Any other funds due the authority, the mortgagor, general contractor, architect or other parties that the authority requires to be disbursed or paid as part of the final closing.

Unless otherwise agreed to by the authority, the mortgagor and contractor shall, within such period of time as is specified in the authority's cost certification guide, submit supplemental cost certifications, and the authority shall have the right to make such adjustments to the foregoing determinations as it shall deem appropriate as a result of its review of such supplemental cost certification.

The equity investment of the mortgagor shall be the difference between the total housing development costs of the development as finally determined by the authority and the final principal amount of the mortgage loan as to such development. If the mortgage loan commitment and initial closing documents so provide and subject to such terms and conditions as shall be set forth therein, the equity shall be adjusted subsequent to final closing to an amount equal to the difference, as of the date of adjustment, between the fair market value of the development and the outstanding principal balance of the mortgage loan.

§ 10. Mortgage loan increases.

Prior to initial closing, the principal amount of the mortgage loan may be increased, if such an increase is justified by an increase in the estimated costs of the proposed development, is necessary or desirable to effect the successful construction and operation of the proposed development, can be funded from available proceeds of the authority's notes or bonds, and is not inconsistent with the provisions of the Act or these rules and regulations. Any such increase shall be subject to such terms and conditions as the authority shall require.

Subsequent to initial closing, the authority will consider and, where appropriate, approve a mortgage loan increase to be financed from the proceeds of the authority's notes or bonds in the following instances:

1. Where cost increases are incurred as the direct result of (i) changes in work required or requested by the authority or (ii) betterments to the development approved by the authority which will improve the quality or value of the development or will reduce the costs of operating or maintaining the development;

2. Where cost increases are incurred as a direct result of a failure by the authority during processing of the development to properly perform an act for which the authority is solely responsible;

3. Where a mortgage loan increase is determined by the authority, in its sole and absolute discretion, to be in the best interests of the authority in protecting its security for the mortgage loan; or

4. Where the authority has entered into an agreement with the mortgagor prior to initial closing to provide a mortgage loan increase if certain cost overruns occur in agreed line items, but only to the extent set forth in such agreement.

In the event that a person or entity acceptable to the authority is prepared to provide financing on a participation basis on such terms and conditions as the authority may require, the authority will consider and, where appropriate, approve an increase in its mortgage loan subsequent to initial closing to the extent of the financing by such person or entity in any of the following instances:

1. One or more of the instances set forth in subdivision 1 through 4 above; or

2. Where costs are incurred which are:

a. In excess of the original total contract sum set forth in the authority's mortgage loan commitment;

b. The direct result of necessary and substantial changes approved by the authority in the original plans and specifications;

c. Evidenced by change orders in accordance with the original contract documents or by other

documentation acceptable to the authority; and

d. Approved by the authority for inclusion within the total development cost in accordance with the Act, these rules and regulations and the authority's cost certification guide.

Any such mortgage loan increase to be financed on a participation basis shall be granted only to the extent that such costs cannot be funded from mortgage loan proceeds, any income from the operation of the development approved by the authority for application thereto, and other moneys of the mortgagor available therefor. As used herein, the term "other moneys of the mortgagor" shall include moneys received or to be received as a result of the sale or syndication of limited partnership interest in the mortgagor. In the event that any limited dividend mortgagor shall have sold or syndicated less than 90% of the partnership interests, such term shall include the amount, as determined by the authority, which would have been received upon the sale or syndication of 90% of such interest under usual and customary circumstances.

Any such increase in the mortgage loan subsequent to initial closing may be subject to such terms and conditions as the authority shall require, including (but not limited to) one or more of the following:

1. The ability of the authority to sell bonds to finance the mortgage loan increase in amounts, at rates and under terms and conditions satisfactory to the authority (applicable only to a mortgage loan to be financed from the proceeds of the authority's notes or bonds).

2. The obtaining by the owner of additional federal subsidy (if the development is to receive such subsidy) in amounts necessary to fund the additional debt service to be paid as a result of such mortgage loan increase. The provision of such additional subsidy shall be made subject to and in accordance with all applicable federal regulations.

3. A determination by the authority that the mortgage loan increase will have no material adverse effect on the financial feasibility or proper operation and maintenance of the development.

4. A determination by the authority that the mortgage loan, as increased, does not exceed such percentage of the total development cost (as certified in accordance with the authority's cost certification guide and as approved by the authority) as is established in the resolution authorizing the mortgage loan in accordance with § 3 of these rules and regulations.

5. Such terms and conditions as the authority shall require in order to protect the security of its interest in the mortgage loan, to comply with covenants and agreements with the holders of its bonds issued to finance the mortgage loan, to comply with the Act and these rules and regulations, and to carry out its public purpose.

The executive director may, without further action by the board, increase the principal amount of the mortgage loan at any time by an amount not to exceed 2.0% of the maximum principal amount of the mortgage loan set forth in the commitment, provided that such increase is consistent with the Act and these rules and regulations. Any increase in excess of such 2.0% shall require the approval of the board.

Nothing contained in this § 10 shall impose any duty or obligation on the authority to increase any mortgage loan, as the decision as to whether to grant a mortgage loan increase shall be within the sole and absolute discretion of the authority.

§ 11. Operation, management and marketing.

The development shall be subject to a regulatory agreement entered into at initial closing between the authority and the mortgagor. Such regulatory agreement shall govern the rents, operating budget, occupancy, marketing, management, maintenance, operation, use and disposition of the development and the activities and operation of the mortgagor, as well as the amount of assets or income of the development which may be distributed to the mortgagor. The mortgagor shall execute such other documents with regard to the regulation of the development and the mortgagor as the executive director may determine to be necessary or appropriate to protect the interests of the authority and to permit fulfillment of the authority's duties and responsibilities under the Act and these rules and regulations.

Except as otherwise agreed by the authority pursuant to § 14 hereof, only rents established or approved on behalf of the authority pursuant to the regulatory agreement may be charged for dwelling units in the development. Notwithstanding the foregoing, in the case of any developments financed subsequent to January 1, 1986, the authority may agree with the mortgagor that the rents may be established and changed by the mortgagor without the prior approval of the authority, subject to such restrictions in the regulatory agreement as the authority shall deem necessary to assure that the rents shall be affordable to persons and families intended to be served by the development and subject to compliance by the mortgagor with the provisions in § 2 of these rules and regulations.

Any costs for supportive services not generally included in the rent for similar developments shall not be funded from the rental income of the development.

If the mortgagor is a partnership, the general partner or partners shall be required to retain at least a 10% interest in the net proceeds from any sale, refinancing or other disposition of the development during the life of the mortgage loan.

The mortgagor shall lease the units in the development only to persons and families who are eligible for occupancy thereof as described in § 2 of these rules and regulations. The mortgagor shall comply with the provisions of the authority's rules and regulations regarding: (i) the examination and determination of the income and eligibility of applicants for initial occupancy of the development; and (ii) the periodic reexamination and redetermination of the income and eligibility of residents of the development.

In addition to the eligibility requirements of the authority, the executive director may establish occupancy criteria and priorities based on the following:

1. The age, family size, financial status, health conditions (including, without limitation, any handicaps or disabilities) and other circumstances of the applicants for the dwelling units;

2. The status and physical condition of the housing then occupied by such applicants; and

3. Any other factors or matters which the executive director deems relevant to the effectuation of the public purposes of the authority.

In selecting eligible residents, the mortgagor shall comply with such occupancy criteria and priorities and with the tenant selection plan approved by the authority pursuant to § 6 of these rules and regulations.

The executive director is authorized to prepare and from time to time revise a housing management handbook which shall set forth the authority's procedures and requirements with respect to the management of developments. Copies of the housing management handbook shall be available upon request.

The management of the development shall also be subject to a management agreement entered into at initial closing between the mortgagor and its management agent, or where the mortgagor and the management agent are the same entity, between the authority and the mortgagor. Such management agreement shall govern the policies, practices and procedures relating to the management, marketing and operation of the development. The mortgagor and its management agent (if any) shall manage the development in accordance with the Act, these rules and regulations, the regulatory agreement, the management agreement, the authority's housing management handbook, and the management plan approved by the authority.

The authority shall have the power to supervise the mortgagor and the development in accordance with § 36-55.34:1 of the Code of Virginia and the terms of the initial closing documents or other agreements relating to the mortgage loans. The authority shall have the right to inspect the development, conduct audits of all books and records of the development and to require such reports as the authority deems reasonable to assure compliance with this § 11.

§ 12. Transfers of ownership.

A. It is the authority's policy to evaluate requests for transfers of ownership on a case-by-case basis. The primary goal of the authority is the continued existence of low and moderate income rental housing stock maintained in a financially sound manner and in safe and sanitary condition. Any changes which would, in the opinion of the authority, deterimentally affect this goal will not be approved.

The provisions set forth in this § 12 shall apply only to transfers of ownership to be made subject to the authority's deed of trust and regulatory agreement. Such provisions shall not be applicable to transfers of ownership of developments subject to FHA mortgage insurance, it being the policy of the authority to consent to any such transfer approved by FHA and permitted by the Act and applicable note or bond resolutions.

For the purposes hereof, the terms "transfer of ownership" and "transfer" shall include any direct or indirect transfer of a partnership or other ownership interest (including, without limitation, the withdrawal or substitution of any general partner) or any sale, conveyance or other direct or indirect transfer of the development or any interest therein; provided, however, that if the owner is not then in default under the deed of trust or regulatory agreement, such terms shall not include: (i) any sale, transfer, assignment or substitution of limited partnership interests prior to final closing of the mortgage loan or; (ii) any sale, transfer, assignment or substitution of limited partnership interests which in any 12 month period constitute in the aggregate 50% or less of the partnership interests in the owner. The term "proposed ownership entity," as used herein, shall mean: (i) in the case of a transfer of a partnership interest, the owner of the development as proposed to be restructured by such transfer; and (ii) in the case of a transfer of the development, the entity which proposes to acquire the development.

B. The proposed ownership entity requesting approval of a transfer of ownership must initially submit a written request to the authority. This request should contain (i) a detailed description of the terms of the transfer; (ii) all documentation to be executed in connection with the transfer; (iii) information regarding the legal, business and financial status and experience of the proposed ownership entity and of the principals therein, including current financial statements (which shall be audited in the case of a business entity); (iv) an analysis of the current physical and financial condition of the development, including a current audited financial report for the development; (v) information regarding the experience and ability of any proposed management agent; and (vi) any other information and documents requested by the authority relating to the transfer. The request will be reviewed and

evaluated in accordance with the following criteria:

1. The proposed ownership entity and the principals therein must have the experience, ability and financial capacity necessary to own, operate and manage the development in a manner satisfactory to the authority.

2. The development's physical and financial condition must be acceptable to the authority as of the date of transfer or such later date as the authority may approve. In order to assure compliance with this criteria, the authority may require any of the following:

a. The performance of any necessary repairs and the correction of any deferred or anticipated maintenance work;

b. The addition of any improvements to the development which, in the judgment of the authority, will be necessary or desirable for the successful marketing of the development, will reduce the costs of operating or maintaining the development, will benefit the residents or otherwise improve the liveability of the development, or will improve the financial strength and stability of the development;

c. The establishment of escrows to assure the completion of any required repairs, maintenance work, or improvements;

d. The establishment of such new reserves and/or such additional funding of existing reserves as may be deemed necessary by the authority to ensure or preserve the financial strength and stability or the proper operation and maintenance of the development; and

e. The funding of debt service payments, accounts payable and reserve requirements such that the foregoing are current at the time of any transfer of ownership.

3. The management agent, if any, to be selected by the proposed ownership entity to manage the development on its behalf must have the experience and ability necessary to manage the development in a manner satisfactory to the authority. The management agent must satisfy the qualifications established by the authority for approval thereof.

If the development is subsidized or otherwise assisted by the U.S. Department of Housing and Urban Development or any successor entity ("HUD"), the approval by HUD may be required. Any and all documentation required by HUD must be submitted by the proposed ownership entity in conjunction with its request.

C. The authority will charge the proposed ownership entity a fee of $5,000 or such higher fee as the executive director may for good cause require. This fee is to be paid at the closing.

D. The amount and terms of any secondary financing (i.e., any portion of the purchase price is to be paid after closing of the transfer of ownership) shall be subject to the review and approval of the authority. Secondary financing which would require a lien on the development is prohibited by the authority's bond resolution and, therefore, will not be permitted or approved. The authority will not provide a mortgage loan increase or other financing in connection with the transfer of ownership. The authority will also not approve a rent increase in order to provide funds for the repayment of any secondary financing. Cash flow (other than dividend distributions) shall not be used to repay the secondary financing. Any proposed secondary financing must not, in the determination of the authority, have any material adverse effect on the operation and management of the development, the security of the mortgage loan, the interests of the authority as lender, or the fulfillment of the authority's public purpose under the Act. The authority may impose such conditions and restrictions (including, without limitation, requirements as to sources of payment for the secondary financing and limitations on the remedies which may be exercised upon a nonpayment of the secondary financing) with respect to the secondary financing as it may deem necessary or appropriate to prevent the occurrence of any such adverse effect.

E. In the case of a transfer from a nonprofit owner to a proposed for-profit owner, the authority may require the proposed for-profit owner to deposit and/or expend funds in such amount and manner and for such purposes and to take such other actions as the authority may require in order to assure that the principal amount of the mortgage loan does not exceed the limitations specified in the Act and these rules and regulations or otherwise imposed by the authority. No transfer of ownership from a nonprofit owner to a for-profit owner shall be approved if such transfer would, in the judgment of the authority, affect the tax-exemption of the notes or bonds issued by the authority to finance the development. The authority will not approve any such transfer of ownership if any loss of property tax abatement as a result of such transfer will, in the determination of the authority, adversely affect the financial strength or security of the development.

At the closing of the transfer of the ownership, the total development cost and the equity of a proposed for-profit owner shall be determined by the authority. The resolution of the board approving the transfer of ownership shall include a determination of the maximum annual rate, if any, at which distributions may be made by the proposed for-profit owner pursuant to these rules and regulations. The proposed for-profit owner shall execute and deliver such agreements and documents as the authority may require in order to incorporate the then existing policies, requirements and procedures relating to developments owned by for-profit owners. The role of the nonprofit owner in the ownership, operation and management of the

development subsequent to the transfer of ownership shall be subject to the review and approval of the authority. The authority may require that any cash proceeds received by the nonprofit owner (after the payment of transaction costs and the funding of any fees, costs, expenses, reserves or escrows required or approved by the authority) be used for such charitable or other purposes as the authority may approve.

F. A request for transfer of ownership shall be reviewed by the executive director. If the executive director determines to recommend approval thereof, he shall present his analysis and recommendation to the board. The board shall review and consider the analysis and recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the request and authorize the executive director to consent thereto, subject to such terms and conditions as the board shall require in such resolution.

Notwithstanding the foregoing, if any proposed transfer of a partnership interest is determined by the executive director to be insubstantial in effect and to have no material detrimental effect on the operation and management of the development or the authority's interest therein as lender, such transfer may be approved by him without approval of the board.

After approval of the request, an approval letter will be issued to the mortgagor consenting to the transfer. Such letter shall be contingent upon the delivery and execution of any and all closing documents required by the authority with respect to the transfer of ownership and the fulfillment of any special conditions required by the resolution of the board. The partnership agreement of the proposed ownership entity shall be subject to review by the authority and shall contain such terms and conditions as the authority may require.

The authority may require that the proposed ownership entity execute the then current forms of the authority's mortgage loan documents in substitution of the existing mortgage loan documents and/or to execute such amendments to the existing mortgage loan documents as the authority may require in order to cause the provisions of such documents to incorporate the then existing policies, procedures and requirements of the authority. At the closing of the transfer, all documents required by the approval letter shall be, where required, executed and recorded; all funds required by the approval letter will be paid or deposited in accordance therewith; and all other terms and conditions of the approval letter shall be satisfied. If deemed appropriate by the executive director, the original mortgagor shall be released from all liability and obligations which may thereafter arise under the documents previously executed with respect to the development.

In the case of a development which is in default or which is experiencing or is expected by the authority to experience financial, physical or other problems adversely affecting its financial strength and stability or its proper operation, maintenance or management, the authority may waive or modify any of the requirements herein as it may deem necessary or appropriate in order to assist the development and/or to protect the authority's interest as lender.

§ 13. Prepayments.

It shall be the policy of the authority that no prepayment of a mortgage loan shall be made without its prior written consent for such period of time set forth in the note evidencing the mortgage loan as the executive director shall determine, based upon his evaluation of then existing conditions in the financial and housing markets, to be necessary to accomplish the public purpose of the authority. The authority may prohibit the prepayment of mortgage loans during such period of time as deemed necessary by the authority to assure compliance with applicable note and bond resolutions and with federal laws and regulations governing the federal tax exemption of the notes or bonds issued to finance such mortgage loans. Requests for prepayment shall be reviewed by the executive director on a case-by-case basis. In reviewing any request for prepayment, the executive director shall consider such factors as he deems relevant, including without limitation the following: (i) the proposed use of the development subsequent to prepayment; (ii) any actual or potential termination or reduction of any federal subsidy or other assistance; (iii) the current and future need and demand for low and moderate housing in the market area of the development; (iv) the financial and physical condition of the development; (v) the financial effect of prepayment on the authority and the notes or bonds issued to finance the development; and (vi) compliance with any applicable federal laws and regulations governing the federal tax exemption of such notes or bonds. As a precondition to its approval of any prepayment, the authority shall have the right to impose restrictions, conditions and requirements with respect to the ownership, use, operation and disposition of the development, including without limitation any restrictions or conditions required in order to preserve the federal tax exemption of notes or bonds issued to finance the development. The authority shall also have the right to charge a prepayment fee in an amount determined in accordance with the terms of the resolutions authorizing the notes or bonds issued to finance the development or in such other amount as may be established by the executive director in accordance with the terms of the deed of trust note and such resolutions. The provisions of this § 13 shall not be construed to impose any duty or obligation on the authority to approve any prepayment, as the executive director shall have sole and absolute discretion to approve or disapprove any prepayment based upon his judgment as to whether such prepayment would be in the best interests of the authority and would promote the goals and purposes of its programs and policies. The provisions of this § 13 shall be subject to modification pursuant to § 14 hereof.

§ 14. Modification of regulatory controls and mortgage

loan.

If the executive director determines that (i) the mortgagor of any development is not receiving a sufficient financial return from the operation thereof as a result of a reduction in the amount of federal tax benefits available to the development (generally, at least 10 years, in the case of new construction, or five years, in the case of substantial rehabilitation, after the date of initial occupancy), (ii) the reserves of such development are and, after any action taken pursuant to this section, will continue to be adequate to assure its proper operation and maintenance and (iii) the rental and other income is and, after any action taken pursuant to this section, will continue to be sufficient to pay the debt service on the mortgage loan and the operating expenses of the development (including required payments to reserve accounts), then he may agree to one or more of the following modifications to the regulatory controls of the authority:

1. Rents may be thereafter established and changed by the mortgagor without the prior approval of the authority, subject to (i) such restrictions as he shall deem necessary to assure that the rents shall be affordable to persons and families to be served by the development, (ii) compliance by the mortgagor with the provisions in § 2 of these rules and regulations, and (iii) such limitations on rent increases to existing residents as he shall deem necessary to prevent undue financial hardship to such residents;

2. Subject to prior approval by the board, any limitation on annual dividend distributions may be increased or eliminated, as determined by him to be necessary to provide an adequate financial return to the mortgagor without adversely affecting the financial strength or proper operation and maintenance of the development; and

3. The mortgagor may be given the right to prepay the mortgage loan on the date 20 years after the date of substantial completion of the development as determined by the executive director (or such later date as shall be necessary to assure compliance with federal laws and regulations governing the tax exemption of the notes or bonds issued to finance the mortgage loan), provided that the mortgagor shall be required to pay a prepayment fee in an amount described in § 13 of these rules and regulations, and provided further that such right to prepay shall be granted only if the prepayment pursuant thereto would not, in the determination of the executive director, result in a reduction in the amount or term of any federal subsidy or assistance for the development. The executive director may require that the mortgagor grant to the authority (i) a right of first refusal upon a proposed sale of the development which would result in an exercise by the mortgagor of its right, as described above, to prepay the mortgage loan and (ii) an option to purchase the development upon an election by the mortgagor otherwise to exercise its right, as described above, to prepay the mortgage loan, which right of first refusal and option to purchase shall be effective for such period of time and shall be subject to such terms and conditions as the executive director shall require.

The foregoing modifications shall be made only to the extent permissible under and consistent with applicable federal laws and regulations and any agreements governing federal subsidy, assistance or mortgage insurance.

Upon a determination by the executive director as described in (i), (ii) and (iii) above in this section, the authority may also approve an increase in the principal amount of its mortgage loan or a restructuring of such mortgage loan (such as a modification of the mortgage loan by conversion thereof into an obligation guaranteed by a federal agency or instrumentality), subject to such terms and conditions as the authority shall require, including (but not limited to) one or more of the following:

1. Compliance with the conditions and limitations in the Act and the authority's rules and regulations and with any applicable federal law and regulations and any agreements governing federal subsidy, assistance or mortgage insurance;

2. The ability of the authority to sell bonds to finance any mortgage loan increase in amounts, at rates and under terms and conditions satisfactory to the authority (applicable only if any such mortgage loan increase is to be financed by the authority from proceeds of its bonds);

3. A determination by the authority that the rents shall remain affordable to persons and families of low and moderate income to be served by the development and that the mortgage loan increase or restructuring and any increase in debt service will have no material adverse effect on the financial security of its mortgage loan or proper operation and maintenance of the development;

4. If the development receives federal subsidy or assistance or is subject to federal mortgage insurance, assurances satisfactory to the authority that such mortgage loan increase or restructuring and any increase in debt service are permissible under applicable federal law and regulations and will not adversely affect the term or amount of any federal subsidy or assistance or the coverage of any mortgage insurance and that any federal subsidy or assistance may be applied to pay any increase in debt service;

5. Such terms and conditions as the authority shall require in order to protect the security of its mortgage loan; to reimburse the authority for costs and expenses that may result from such mortgage loan increase or restructuring; to comply with

convenants and agreements with, and otherwise to protect the interests of, the holders of its bonds issued to finance the mortgage loan or any increase thereof; and to carry out its public purpose.

Upon a determination as described in (i), (ii) and (iii) above in this section, the executive director may also approve a release of moneys held in the reserve funds of the development in such amount as he shall determine to be in excess of the amount required to assure the proper operation and maintenance of the development.

The executive director may require that all or a portion of the proceeds from any increase or restructuring of the mortgage loan or from any release of reserve funds be applied, in such manner and amount and on such terms and conditions as he shall deem necessary or appropriate, for improvements to the development or for providing additional housing for persons and families of low and moderate income.

The authorizations in this section for modifications of regulatory reserve funds shall be cumulative and shall not be exclusive of each other. Accordingly, the authority, in its discretion, may elect to exercise for any development one or more or all of such authorizations.

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Title of Regulation: **VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.**

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

Public Hearing Date: N/A – Written comments may be submitted until November 15, 1991.
(See Calendar of Events section for additional information)

NOTE: Documents and forms referred to herein as exhibits have not been adopted by the authority as a part of the Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income but are attached thereto for reference and informational purposes. Accordingly, such documents and forms have not been included in the amendments to the foregoing Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income. Copies of such documents and forms are available upon request at the office of the authority.

Summary:

The proposed amendments to the authority's rules and regulations applicable to its single family mortgage loan program will (i) permit redevelopment and housing authorities to originate and process applications for mortgage loans, (ii) authorize the use of field originators to accept applications for mortgage loans, (iii) authorize the authority to service certain of its mortgage loans, (iv) modify the authority's maximum sales prices, (v) clarify the authority of the executive director with respect to the implementation of increases in income limits and with respect to any waiver of income limits and maximum sales prices, and (vi) eliminate certain restrictions and reporting and monitoring requirements applicable to condominiums.

VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

PART I.
GENERAL.

§ 1.1. General.

The following rules and regulations will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to persons and families of low and moderate income for the acquisition (and, where applicable, rehabilitation), ownership and occupancy of single family housing units.

In order to be considered eligible for a mortgage loan hereunder, a "person" or "family" (as defined in the authority's rules and regulations) must have a "gross family income" (as determined in accordance with the authority's rules and regulations) which does not exceed the applicable income limitation set forth in Part II hereof. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit set forth in Part II hereof. The term "sales price," with respect to a mortgage loan for the combined acquisition and rehabilitation of a single family dwelling unit, shall include the cost of acquisition, plus the cost of rehabilitation and debt service for such period of rehabilitation, not to exceed three months, as the executive director shall determine that such dwelling unit will not be available for occupancy. In addition, each mortgage loan must satisfy all requirements of federal law applicable to loans financed with the proceeds of tax-exempt bonds as set forth in Part II hereof.

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any mortgage loan hereunder to waive or modify any provisions of these rules and regulations where deemed appropriate by him for good cause, to the extent not inconsistent with the Act.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations shall be made for the sole and exclusive benefit and protection of

the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority or the mortgagor under the agreements and documents executed in connection with the mortgage loan.

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 originating and administration of mortgage loans under the authority's single family housing program. 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.

§ 1.2. ~~Originating and servicing agents~~ *Origination and servicing of mortgage loans* .

A. Approval/definitions.

The originating of mortgage loans and the processing of applications for the making or financing thereof in accordance herewith shall , *except as noted in subsection G of this § 1.2,* be performed through commercial banks, savings and loan associations ~~and~~ , private mortgage bankers , *redevelopment an housing authorities, and agencies of local government* approved as originating agents ("originating agents") of the authority. The servicing of mortgage loans shall , *except as noted in subsection H of this § 1.2,* be performed through commercial banks, savings and loan associations and private mortgage bankers approved as servicing agents ("servicing agents") of the authority.

To be initially approved as an originating agent or as a servicing agent, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;

2. Have a net worth equal to or in excess of $250,000 or such other amount as the executive director shall from time to time deem appropriate , *except that this qualification requirement shall not apply to redevelopment and housing authorities and agencies of local government* ;

3. Have a staff with demonstrated ability and experience in mortgage loan origination and processing (in the case of an originating agent applicant) or servicing (in the case of a servicing agent applicant); and

4. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each originating agent approved by the authority shall enter into an originating agreement ("originating agreement"), with the authority containing such terms and conditions as the executive director shall require with respect to the origination and processing of mortgage loans hereunder. Each servicing agent approved by the authority shall enter into a servicing agreement with the authority containing such terms and conditions as the executive director shall require with respect to the servicing of mortgage loans.

An applicant may be approved as both an originating agent and a servicing agent ("originating and servicing agent"). Each originating and servicing agent shall enter into an originating and servicing agreement ("originating and servicing agreement") with the authority containing such terms and conditions as the executive director shall require with respect to the originating and servicing of mortgage loans hereunder.

For the purposes of these rules and regulations, the term "originating agent" shall hereinafter be deemed to include the term "originating and servicing agent," unless otherwise noted. Similarly, the term "originating agreement" shall hereinafter be deemed to include the term "originating and servicing agreement," unless otherwise noted. The term "servicing agent" shall continue to mean an agent authorized only to service mortgage loans. The term "servicing agreement" shall continue to mean only the agreement between the authority and a servicing agent.

Originating agents and servicing agents shall maintain adequate books and records with respect to mortgage loans which they originate and process or service, as applicable, shall permit the authority to examine such books and records, and shall submit to the authority such reports (including annual financial statements) and information as the authority may require. The fees payable to the originating agents and servicing agents for originating and processing or for servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the originating agreements and servicing agreements applicable to such originating agents and servicing agents.

B. Allocation of funds.

The executive director shall allocate funds for the making or financing of mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to mortgage loan applicants on a first-come, first-serve or other basis, (ii) to originating agents and state and local government agencies and instrumentalities for the origination of mortgage loans to qualified applicants and/or (iii) to builders for the permanent financing of residences constructed or rehabilitated or to be constructed or or rehabilitated by them and to be sold to qualified applicants. In determining how to so allocate the funds,

the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and disbursement of such funds for mortgage loans;

2. The need and demand for the financing of mortgage loans with such funds in the various geographical areas of the Commonwealth;

3. The cost and difficulty of administration of the allocation of funds;

4. The capability, history and experience of any originating agents, state and local governmental agencies and instrumentalities, builders, or other persons and entities (other than mortgage loan applicants) who are to receive an allocation; and

5. Housing conditions in the Commonwealth.

In the event that the executive director shall determine to make allocations of funds to builders as described above, the following requirements must be satisfied by each such builder:

1. The builder must have a valid contractor's license in the Commonwealth;

2. The builder must have at least three years' experience of a scope and nature similar to the proposed construction or rehabilitation; and

3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. 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 as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

C. Originating guide and servicing guide.

The originating guide attached hereto as Part II is incorporated into and made a part of these rules and regulations. All exhibits and other documents referenced in the originating guide are not included in, and shall not be deemed to be a part of, these rules and regulations. The executive director is authorized to prepare and from time to time revise a servicing guide which shall set forth the accounting and other procedures to be followed by all originating agents and servicing agents responsible for the servicing of mortgage loans under the applicable originating agreements and servicing agreements. Copies of the servicing guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the originating guide and the servicing guide.

D. Making and purchase of new mortgage loans.

The authority may from time to time (i) make mortgage loans directly to mortgagors with the assistance and services of its originating agents and (ii) agree to purchase individual mortgage loans from its originating agents or servicing agents upon the consummation of the closing thereof. The review and processing of applications for such mortgage loans, the issuance of mortgage loan commitments therefor, the closing and servicing (and, if applicable, the purchase) of such mortgage loans, and the terms and conditions relating to such mortgage loans shall be governed by and shall comply with the provisions of the applicable originating agreement or servicing agreement, the originating guide, the servicing guide, the Act and these rules and regulations.

If the applicant and the application for a mortgage loan meet the requirements of the Act and these rules and regulations, the executive director may issue on behalf of the authority a mortgage loan commitment to the applicant for the financing of the single family dwelling unit, subject to the approval of ratification thereof by the board. Such mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the mortgage loan commitment. The original principal amount and term of such mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth or incorporated in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

E. Purchase of existing mortgage loans.

The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's originating agents and servicing agents for the sale and

purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The sales prices of the single family housing units financed by such mortgage loans, the gross family incomes of the mortgagors thereof, and the original principal amounts of such mortgage loans shall not exceed such limits as the executive director shall establish, subject to approval or ratification by resolution of the board. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to originating agents and servicing agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the selected originating agents and servicing agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the applicable originating agreement or servicing agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the Act and the authority's rules and regulations.

F. Delegated underwriting.

The executive director may, in his discretion, delegate to one or more originating agents the responsibility for issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director determines to make any such delegation, he shall establish criteria under which originating agents may qualify for such delegation. If such delegation has been made, the originating agents shall submit all required documentation to the authority after closing of each mortgage loan. If the executive director determines that a mortgage loan does not comply with the processing guide, the applicable originating agreement, the Act or these rules and regulations, he may require the originating agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

G. Field originators.

The authority may utilize financial institutions, mortgage brokers and other private firms and individuals and governmental entities ("field originators") approved by the authority for the purpose of receiving applications for mortgage loans. To be approved as a field originator, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;

2. Have made any necessary filings or registrations and have received any and all necessary approvals or licenses in order to receive applications for mortgage loans in the Commonwealth of Virginia;

3. Have the demonstrated ability and experience in the receipt and processing of mortgage loan applications; and

4. Have such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each field originator approved by the authority shall enter into such agreement as the executive director shall require with respect to the receipt of applications for mortgage loans. Field originators shall perform such of the duties and responsibilities of originating agents under these rules and regulations as the authority may require in such agreement.

Field originators shall maintain adequate books and records with respect to mortgage loans for which they accept applications, shall permit the authority to examine such books and records, and shall submit to the authority such reports and information as the authority may require. The fees to the field originators for accepting applications shall be payable in such amount and at such time as the executive director shall determine.

In the case of mortgage loans for which applications are received by field originators, the authority may process and originate the mortgage loans; accordingly, unless otherwise expressly provided, the provisions of these rules and regulations requiring the performance of any action by originating agents shall not be applicable to the origination and processing by the authority of such mortgage loans, and any or all of such actions may be performed by the authority on its own behalf.

H. Servicing by the authority.

The authority may service mortgage loans for which the applications were received by field originators or any mortgage loan which, in the determination of the authority, originating agents and servicing agents will not service on terms and conditions acceptable to the authority or for which the originating agent or servicing agent has agreed to terminate the servicing thereof.

PART II.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY PROCESSING GUIDE.

Article I.
Eligibility Requirements.

§ 2.1. Eligible persons and families.

A. Person.

A one-person household is eligible.

B. Family.

A single family loan can be made to more than one person only if all such persons to whom the loan is made are related by blood, marriage or adoption and are living together in the dwelling as a single nonprofit housekeeping unit.

C. Citizenship.

Each applicant for an authority mortgage loan must either be a United States citizen or have a valid and current alien registration card (U.S. Department of Immigration Form 1-551 or U.S. Department of Immigration Form 1-151).

§ 2.2. Compliance with certain requirements of the Internal Revenue Code of 1986, as amended (hereinafter "the tax code").

The tax code imposes certain requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds. In order to comply with these federal requirements and restrictions, the authority has established certain procedures which must be performed by the originating agent in order to determine such eligibility. The eligibility requirements for the borrower and the dwelling are described below as well as the procedures to be performed. The originating agent will certify to the performance of these procedures and evaluation of a borrower's eligibility by completing and signing the " Originating Agent's Checklist for Certain Requirements of the Tax Code" (Exhibit A(1)) prior to the authority's approval of each loan. No loan will be approved by the authority unless all of the federal eligibility requirements are met as well as the usual requirements of the authority set forth in other parts of this guide.

§ 2.2.1. Eligible borrowers.

A. General.

In order to be considered an eligible borrower for an authority mortgage loan, an applicant must, among other things, meet all of the following federal criteria:

The applicant:

1. May not have had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan documents. (See § 2.2.1.B Three-year requirement);

2. Must agree to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabilitation loan as defined in § 2.17) after the date of the closing of the mortgage loan. (See § 2.2.1.C Principal residence requirement);

3. Must not use the proceeds of the mortgage loan to acquire or replace an existing mortgage or debt, except in the case of certain types of temporary financing. (See § 2.2.1.D New mortgage requirement);

4. Must have contracted to purchase an eligible dwelling. (See § 2.2.2 Eligible dwellings);

5. Must execute an affidavit of borrower (Exhibit E) at the time of loan application;

6. Must not receive income in an amount in excess of the applicable federal income limit imposed by the tax code (See § 2.5 Income requirements);

7. Must agree not to sell, lease or otherwise transfer an interest in the residence or permit the assumption of his mortgage loan unless certain requirements are met. (See § 2.10 Loan assumptions) ; and

8. Must be over the age of 18 years or have been declared emancipated by order or decree of a court having jurisdiction.

B. Three-year requirement.

An eligible borrower does not include any borrower who, at any time during the three years preceding the date of execution of the mortgage loan documents, had a "present ownership interest" (as hereinafter defined) in his principal residence. Each borrower must certify on the affidavit of borrower that at no time during the three years preceding the execution of the mortgage loan documents has he had a present ownership interest in his principal residence. This requirement does not apply to residences located in "targeted areas" (see § 2.3 Targeted areas); however, even if the residence is located in a "targeted area," the tax returns for the most recent taxable year (or the letter described in 3 below) must be obtained for the purpose of determining compliance with other requirements.

1. Definition of present ownership interest. "Present ownership interest" includes:

a. A fee simple interest,

b. A joint tenancy, a tenancy in common, or a tenancy by the entirety,

c. The interest of a tenant shareholder in a cooperative,

d. A life estate,

e. A land contract, under which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some later time, and

f. An interest held in trust for the eligible borrower (whether or not created by the eligible borrower) that would constitute a present ownership interest if held directly by the eligible borrower.

Interests which do not constitute a present ownership interest include:

a. A remainder interest,

b. An ordinary lease with or without an option to purchase,

c. A mere expectancy to inherit an interest in a principal residence,

d. The interest that a purchaser of a residence acquires on the execution of an accepted offer to purchase real estate, and

e. An interest in other than a principal residence during the previous three years.

2. Persons covered. This requirement applies to any person who will execute the mortgage document or note and will have a present ownership interest (as defined above) in the eligible dwelling.

3. Prior tax returns. To verify that the eligible borrower meets the three-year requirement, the originating agent must obtain copies of signed federal income tax returns filed by the eligible borrower for the three tax years immediately preceding execution of the mortgage documents (or certified copies of the returns) or a copy of a letter from the Internal Revenue Service stating that its Form 1040A or 1040EZ was filed by the eligible borrower for any of the three most recent tax years for which copies of such returns are not obtained. If the eligible borrower was not required by law to file a federal income tax return for any of these three years and did not so file, and so states on the borrower affidavit, the requirement to obtain a copy of the federal income tax return or letter from the Internal Revenue Service for such year or years is waived.

The originating agent shall examine the tax returns particularly for any evidence that the eligible borrower may have claimed deductions for property taxes or for interest on indebtedness with respect to real property constituting his principal residence.

4. Review by originating agent. The originating agent must, with due diligence, verify the representations in the affidavit of borrower (Exhibit E) regarding the applicant's prior residency by reviewing any information including the credit report and the tax returns furnished by the eligible borrower for consistency, and certify to the authority that on the basis of its review, it is of the opinion that each borrower has not had present ownership interest in a principal residence at any time during the three-year period prior to the anticipated date of the loan closing.

C. Principal residence requirement.

1. General. An eligible borrower must intend at the time of closing to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan. Unless the residence can reasonably be expected to become the principal residence of the eligible borrower within 60 days (90 days in the case of a purchase and rehabilitation loan) of the mortgage loan closing date, the residence will not be considered an eligible dwelling and may not be financed with a mortgage loan from the authority. An eligible borrower must covenant to intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan on the affidavit of borrower (to be updated by the verification and update of information form) and as part of the attachment to the deed of trust.

2. Definition of principal residence. A principal residence does not include any residence which can reasonably be expected to be used: (i) primarily in a trade or business, (ii) as an investment property, or (iii) as a recreational or second home. A residence may not be used in a manner which would permit any portion of the costs of the eligible dwelling to be deducted as a trade or business expense for federal income tax purposes or under circumstances where any portion of the total living area is to be used primarily in a trade or business.

3. Land not to be used to produce income. The land financed by the mortgage loan may not provide, other than incidentally, a source of income to the eligible borrower. The eligible borrower must indicate on the affidavit of borrower that, among other things:

a. No portion of the land financed by the mortgage loan provides a source of income (other than incidental income);

b. He does not intend to farm any portion (other than as a garden for personal use) of the land financed by the mortgage loan; and

c. He does not intend to subdivide the property.

4. Lot size. Only such land as is reasonably necessary to maintain the basic liveability of the residence may be financed by a mortgage loan. The financed land must not exceed the customary or usual lot in the area. Generally, the financed land will not be permitted to exceed two acres, even in rural areas. However, exceptions may be made to permit lots larger than two acres, but in no event in excess of five acres : (i) if the land is owned free and clear and is not being financed by the loan, (ii) if difficulty is encountered locating a well or septic field, the lot may include the additional acreage needed, and (iii) local city and county zoning ordinances which require more acreage will be taken into consideration.

5. Review by originating agent. The affidavit of borrower (Exhibit E) must be reviewed by the originating agent for consistency with the eligible borrower's federal income tax returns and the credit report in order to support an opinion that the eligible borrower is not engaged in any employment activity or trade or business which has been conducted in his principal residence. Also, the originating agent shall review the appraiser report (Exhibit H) of an authority approved appraiser and the required photographs to determine based on the location and the structural design and other characteristics of the dwelling that the residence is suitable for use as a permanent residence and not for use primarily in a trade or business or for recreational purposes. Based on such review, the originating agent shall certify to the authority its findings and certain opinions in the checklist for certain requirements of the tax code (Exhibit A(1)) at the time the loan application is submitted to the authority for approval.

6. Post-closing procedures. The originating agent shall establish procedures to (i) review correspondence, checks and other documents received from the borrower during the 120-day period following the loan closing for the purpose of ascertaining that the address of the residence and the address of the borrower are the same and (ii) notify the authority if such addresses are not the same. Subject to the authority's approval, the originating agent may establish different procedures to verify compliance with this requirement.

D. New mortgage requirement.

Mortgage loans may be made only to persons who did not have a mortgage (whether or not paid off) on the eligible dwelling at any time prior to the execution of the mortgage. Mortgage loan proceeds may not be used to acquire or replace an existing mortgage or debt for which the eligible borrower is liable or which was incurred on behalf of the eligible borrower, except in the case of construction period loans, bridge loans or similar temporary financing which has a term of 24 months or less.

1. Definition of mortgage. For purposes of applying the new mortgage requirement, a mortgage includes deeds of trust, conditional sales contracts (i.e. generally a sales contract pursuant to which regular installments are paid and are applied to the sales price), pledges, agreements to hold title in escrow, a lease with an option to purchase which is treated as an installment sale for federal income tax purposes and any other form of owner-financing. Conditional land sale contracts shall be considered as existing loans or mortgages for purposes of this requirement.

2. Temporary financing. In the case of a mortgage loan (having a term of 24 months or less) made to refinance a loan for the construction of an eligible dwelling, the authority shall not make such mortgage loan until it has determined that such construction has been satisfactorily completed.

3. Review by originating agent. Prior to closing the mortgage loan, the originating agent must examine the affidavit of borrower (Exhibit E), the affidavit of seller (Exhibit F), and related submissions, including (i) the eligible borrower's federal income tax returns for the preceding three years, and (ii) credit report, in order to determine whether the eligible borrower will meet the new mortgage requirements. Upon such review, the originating agent shall certify to the authority that the agent is of the opinion that the proceeds of the mortgage loan will not be used to repay or refinance an existing mortgage debt of the borrower and that the borrower did not have a mortgage loan on the eligible dwelling prior to the date hereof, except for permissible temporary financing described above.

E. Multiple loans.

Any eligible borrower may not have more than one outstanding authority mortgage loan.

§ 2.2.2. Eligible dwellings.

A. In general.

In order to qualify as an eligible dwelling for which an authority loan may be made, the residence must:

1. Be located in the Commonwealth;

2. Be a one-family detached residence, a townhouse or one unit of an authority approved condominium; and

3. Satisfy the acquisition cost requirements set forth below.

B. Acquisition cost requirements.

1. General rule. The acquisition cost of an eligible

dwelling may not exceed certain limits established by the U.S. Department of the Treasury in effect at the time of the application. Note: In all cases for new loans such federal limits equal or exceed the authority's sales price limits shown in § 2.3. Therefore, for new loans the residence is an eligible dwelling if the acquisition cost is not greater than the authority's sales price limit. In the event that the acquisition cost exceeds the authority's sales price limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling.

2. Acquisition cost requirements for assumptions. To determine if the acquisition cost is at or below the federal limits for assumptions, the originating agent or, if applicable, the servicing agent must in all cases contact the authority see § 2.10 below.

3. Definition of acquisition cost. Acquisition cost means the cost of acquiring the eligible dwelling from the seller as a completed residence.

a. Acquisition cost includes:

(1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the benefit of the eligible borrower) to the seller (or a related party or for the benefit of the seller) as consideration for the eligible dwelling. Such amounts include amounts paid for items constituting fixtures under state law, but not for items of personal property not constituting fixtures under state law. (See Exhibit R for examples of fixtures and items of personal property.)

(2) The reasonable costs of completing or rehabilitating the residence (whether or not the cost of completing construction or rehabilitation is to be financed with the mortgage loan) if the eligible dwelling is incomplete or is to be rehabilitated. As an example of reasonable completion cost, costs of completing the eligible dwelling so as to permit occupancy under local law would be included in the acquisition cost. A residence which includes unfinished areas (i.e. an area designed or intended to be completed or refurbished and used as living space, such as the lower level of a tri-level residence or the upstairs of a Cape Cod) shall be deemed incomplete, and the costs of finishing such areas must be included in the acquisition cost. (See Acquisition Cost Worksheet, Exhibit G, Item 4 and Appraiser Report, Exhibit H).

(3) The cost of land on which the eligible dwelling is located and which has been owned by the eligible borrower for a period no longer than two years prior to the construction of the structure comprising the eligible dwelling.

b. Acquisition cost does not include:

(1) Usual and reasonable settlement or financing costs. Such excluded settlement costs include title and transfer costs, title insurance, survey fees and other similar costs. Such excluded financing costs include credit reference fees, legal fees, appraisal expenses, points which are paid by the eligible borrower, or other costs of financing the residence. Such amounts must not exceed the usual and reasonable costs which otherwise would be paid. Where the buyer pays more than a pro rata share of property taxes, for example, the excess is to be treated as part of the acquisition cost.

(2) The imputed value of services performed by the eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence.

4. Acquisition cost worksheet (Exhibit G) and Appraiser Report (Exhibit H). The originating agent is required to obtain from each eligible borrower a completed acquisition cost worksheet which shall specify in detail the basis for the purchase price of the eligible dwelling, calculated in accordance with this subsection B. The originating agent shall assist the eligible borrower in the correct completion of the worksheet. The originating agent must also obtain from the appraiser a completed appraiser's report which may also be relied upon in completing the acquisition cost worksheet. The acquisition cost worksheet of the eligible borrower shall constitute part of the affidavit of borrower required to be submitted with the loan submission. The affidavit of seller shall also certify as to the acquisition cost of the eligible dwelling on the worksheet.

5. Review by originating agent. The originating agent shall for each new loan determine whether the acquisition cost of the eligible dwelling exceeds the authority's applicable sales price limit shown in § 2.4. If the acquisition cost exceeds such limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling for a new loan. (For an assumption, the originating agent or, if applicable, the servicing agent must contact the authority for this determination in all cases - see section 2.10 below). Also, as part of its review, the originating agent must review the acquisition cost worksheet submitted by each mortgage loan applicant, and the appraiser report, and must certify to the authority that it is of the opinion that the acquisition cost of the eligible dwelling has been calculated in accordance with this subsection B. In addition, the originating agent must compare the information contained in the acquisition cost worksheet with the information contained in the affidavit of seller and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

6. Independent appraisal. The authority reserves the right to obtain an independent appraisal in order to establish fair market value and to determine whether a dwelling is eligible for the mortgage loan requested.

§ 2.2.3. Targeted areas.

A. In general.

In accordance with the tax code, the authority will make a portion of the proceeds of an issue of its bonds available for financing eligible dwellings located in targeted areas for at least one year following the issuance of a series of bonds. The authority will exercise due diligence in making mortgage loans in targeted areas by advising originating agents and certain localities of the availability of such funds in targeted areas and by advising potential eligible borrowers of the availability of such funds through advertising and/or news releases. The amount, if any, allocated to an originating agent exclusively for targeted areas will be specified in a forward commitment agreement between the originating agent and the authority.

B. Eligibility.

Mortgage loans for eligible dwellings located in targeted areas must comply in all respects with the requirements in this § 2.2 and elsewhere in this guide for all mortgage loans, except for the three-year requirement described in § 2.2.1.B. Notwithstanding this exception, the applicant must still submit certain federal income tax records. However, they will be used to verify income and to verify that previously owned residences have not been used in a trade or business (and not to verify nonhomeownership), and only those records for the most recent year preceding execution of the mortgage documents (rather than the three most recent years) are required. See that section for the specific type of records to be submitted.

1. Definition of targeted areas.

a. A targeted area is an area which is a qualified census tract, as described in b below, or an area of chronic economic distress, as described in c below.

b. A qualified census tract is a census tract in the Commonwealth in which 70% or more of the families have an income of 80% or less of the state-wide median family income based on the most recent "safe harbor" statistics published by the U.S. Treasury.

c. An area of chronic economic distress is an area designated as such by the Commonwealth and approved by the Secretaries of Housing and Urban Development and the Treasury under criteria specified in the tax code. PDS agents will be informed by the authority as to the location of areas so designated.

§ 2.3. Sales price limits.

~~A. For reservations made on or after March 1, 1989.~~

A. The authority's maximum allowable sales price for ~~new~~ loans ~~for which reservations are taken by the authority~~ *which are closed* on or after ~~March 1, 1989~~ *December 1, 1991* , shall be as follows:

~~MAXIMUM ALLOWABLE SALES PRICES~~

~~Applicable to All New Loans for which Reservations are Taken by the Authority On or after March 1, 1989~~

~~AREA~~	~~NEW CONSTRUCTION/ EXISTING/ SUBSTANTIAL REHABILITATION~~
~~Washington, DC-MD-VA MSA (Virginia Portion) 1/~~	~~$120,000~~
~~Norfolk-Virginia Beach-Newport News MSA 2/~~	~~$ 81,500~~
~~Richmond-Petersburg MSA 3/~~	~~$ 79,500~~
~~Charlottesville MSA 4/~~	~~$ 77,000~~
~~Fauquier County~~	~~$ 77,000~~
~~Spotsylvania and King George Counties~~	~~$ 75,500~~
~~Balance of State~~	~~$ 75,500~~

~~1/ Includes: Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City, Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.~~

~~2/ Includes: Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.~~

~~3/ Includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.~~

~~4/ Includes: Albemarle County, Charlottesville City, Fluvanna County, Greene County.~~

Area	*New Construction*	*Existing and Substantial Rehab.*
1. Washington		

	DC-MD-VA MSA [1]		
	''inner areas''	$131,790	$131,790
2.	''outer areas''	$124,875	$124,875
3.	Norfolk-Va. Beach Newport News MSA [2]	$ 81,500	$ 81,500
4.	Richmond Petersburg MSA [3]	$ 79,500	$ 79,500
5	Charlottesville MSA [4]	$ 95,450	$ 79,530
6.	Clarke County	$ 90,250	$ 79,530
7.	Culpeper County	$ 84,050	$ 79,530
8.	Fauquier County	$101,670	$ 79,530
9.	Frederick County and Winchester City	$ 92,150	$ 79,530
10.	Isle of Wight County	$ 81,500	$ 79,530
11.	King George County	$ 89,300	$ 79,530
12.	Madison County	$ 76,000	$ 76,000
13.	Orange County	$ 77,900	$ 77,900
14.	Spotsylvania County and Fredericksburg City	$102,700	$ 79,530
15.	Warren County	$ 83,600	$ 79,530
16.	Balance of State [5]	$ 75,500	$ 75,500

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[1] *Washington DC-Maryland-Virginia MSA Virginia Portion: "Inner Areas" - Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City; "Outer Areas" - Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.*

[2] *Norfolk-Virginia Beach-Newport News MSA Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.*

[3] *Richmond-Petersburg MSA Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.*

[4] *Charlottesville MSA Albemarle County, Charlottesville City, Fluvanna County, Green County.*

[5] *Balance of State All areas not listed above.*

.....

The executive director may from time to time waive the foregoing maximum allowable sales prices with respect to such mortgage loans as he may designate if he determines that such waiver will enable the authority to assist the state in achieving its economic and housing goals and policies, provided that, in the event of any such waiver, the sales price of the residences to be financed by any mortgage loans so designated shall not exceed the applicable limits imposed by the U.S. Department of the Treasury pursuant to the federal tax code or such lesser limits as the executive director may establish. Any such waiver shall not apply upon the assumption of such mortgage loans.

B. Effect of solar grant.

The applicable maximum allowable sales price for new construction shall be increased by the amount of any grant to be received by a mortgagor under the authority's Solar Home Grant Program in connection with the acquisition of a residence.

§ 2.4. Net worth.

To be eligible for authority financing, an applicant cannot have a net worth exceeding $20,000 plus an additional $1,000 of net worth for every $5,000 of income over $20,000. (The value of furniture and household goods shall not be included in determining net worth.) In addition, the portion of the applicant's liquid assets which are used to make the down payment and to pay closing costs, up to a maximum of 25% of the sale price, will not be included in the net worth calculation.

Any income producing assets needed as a source of income in order to meet the minimum income requirements for an authority loan will not be included in the applicant's net worth for the purpose of determining whether this net worth limitation has been violated.

§ 2.5. Income requirements.

A. Maximum gross income.

As provided in § 2.2.1.A.6 the gross family income of an applicant for an authority mortgage loan may not exceed the applicable income limitation imposed by the U.S. Department of the Treasury. Because the income limits of the authority imposed by this subsection A apply to all loans to which such federal limits apply and are in all cases below such federal limits, the requirements of § 2.2.1.A.6 are automatically met if an applicant's gross family income does not exceed the applicable limits set forth in this subsection.

For the purposes hereof, the term "gross family income" means the combined annualized gross income of all persons residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings. For the purpose of this definition, annualized gross income means gross monthly income multiplied by 12. "Gross monthly income" is, in turn, the sum of monthly gross pay plus any additional dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income plus other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments).

For reservations made on or after March 1, 1989, the maximum gross family incomes for eligible borrowers shall be determined or set forth as follows:

(1) MAXIMUM GROSS FAMILY INCOME

Applicable only to loans for which reservations are taken by the authority on or after March 1, 1989, except loans to be guaranteed by the Farmers Home Administration ("FmHA").

The maximum gross family income for each borrower shall be a percentage (based on family size) of the

applicable median family income (as defined in Section 143(f)(4) of the Internal Revenue Code of 1986, as amended (the "Median Family Income"), with respect to the residence of such borrower, which percentages shall be as follows:

Family Size	Percentage of applicable Median Family Income (regardless of whether residence is new construction, existing or substantially rehabilitated)
1 person	70%
2 persons	85%
3 or more persons	100%

The authority shall from time to time inform its originating agents and servicing agents by written notification thereto of the foregoing maximum gross family income limits expressed in dollar amounts for each area of the state , *as established by the executive director,* and each family size. ~~The effective dates of such limits shall be determined by the executive director.~~ *Any adjustments to such income limits shall be effective as of such date as the executive director shall determine, and authority is reserved to the executive director to implement any such adjustments on such date or dates as he shall deem necessary or appropriate to best accomplish the purposes of the program.*

The executive director may from time to time waive the foregoing income limits with respect to such mortgage loans as he may designate if he determines that such waiver will enable the authority to assist the state in achieving its economic and housing goals and policies, provided that, in the event of any such waiver, the income of the borrowers to receive any mortgage loans so designated shall not exceed the applicable limits imposed by the U.S. Department of the Treasury pursuant to the federal tax code or such lesser limits as the executive director may establish. Any such waiver shall not apply upon the assumption of such mortgage loans.

(2) FmHA MAXIMUM GROSS FAMILY INCOME

Applicable only to loans to be guaranteed by FmHA.

The maximum gross family income for each borrower shall be the lesser of the amount determined in accordance with § 2.5 A (1) or FmHA income limits in effect at the time of the application.

B. Minimum income (not applicable to applicants for loans to be insured or guaranteed by the Federal Housing Administration, the Veterans Administration or FmHA (hereinafter referred to as "FHA, VA or FmHA loans").

An applicant satisfies the authority's minimum income requirement for financing if the monthly principal and interest, tax, insurance ("PITI") and other additional monthly fees such as condominium assessments (60% of the monthly condominium assessment shall be added to the PITI figure), townhouse assessments, etc. do not exceed 32% of monthly gross income and if the monthly PITI plus outstanding monthly installment loans with more than six months duration do not exceed 40% of monthly gross income (see Exhibit B). However, with respect to those mortgage loans on which private mortgage insurance is required, the private mortgage insurance company may impose more stringent requirements.

§ 2.6. Calculation of maximum loan amount.

Single family detached residence and townhouse (fee simple ownership) Maximum of 95% (or, in the case of a FHA, VA or FmHA loan, such other percentage as may be permitted by FHA, VA or FmHA) of the lesser of the sales price or appraised value, except as may otherwise be approved by the authority.

Condominiums - Maximum of 95% (or, in the case of a FHA, VA or FmHA loan, such other percentage as may be permitted by FHA, VA or FmHA) of the lesser of the sales price or appraised value, except as may be otherwise approved by the authority.

For the purpose of the above calculations, the value of personal property to be conveyed with the residence shall be deducted from the sales price. (See Exhibit R for examples of personal property.) The value of personal property included in the appraisal shall not be deducted from the appraised value. (See Appraiser Report, Exhibit H)

In the case of a FHA, VA or FmHA loan, the FHA, VA or FmHA insurance fees or guarantee fees charged in connection with such loan (and, if a FHA loan, the FHA permitted closing costs as well) may be included in the calculation of the maximum loan amount in accordance with applicable FHA, VA or FmHA requirements; provided, however, that in no event shall this revised maximum loan amount which includes such fees and closing costs be permitted to exceed the authority's maximum allowable sales price limits set forth herein.

§ 2.7. Mortgage insurance requirements.

Unless the loan is an FHA, VA or FmHA loan, the borrower is required to purchase at time of loan closing full private mortgage insurance (25% to 100% coverage, as the authority shall determine) on each loan the amount of which exceeds 80% of the lesser of sales price or appraised value of the property to be financed. Such insurance shall be issued by a company acceptable to the authority. The originating agent is required to escrow for annual payment of mortgage insurance. If the authority requires FHA, VA or FmHA insurance or guarantee, the loan will either, at the election of the authority, (a) be closed in the authority's name in accordance with the procedures and requirements herein or (b) be closed in the originating agent's name and purchased by the authority once the FHA Certificate of Insurance, VA Guaranty or FmHA Guarantee has been obtained. In the

event that the authority purchases an FHA or, VA or FmHA loan, the originating agent must enter into a purchase and sale agreement on such form as shall be provided by the authority. For assumptions of conventional loans (i.e., loans other than FHA, VA or FmHA loans), full private mortgage insurance as described above is required unless waived by the authority.

§ 2.8. Underwriting.

A. Conventional loans.

The following requirements must be met in order to satisfy the authority's underwriting requirements. However, additional or more stringent requirements may be imposed by private mortgage insurance companies with respect to those loans on which private mortgage insurance is required.

1. Employment and income.

a. Length of employment. The applicant must be employed a minimum of six months with present employer. An exception to the six-month requirement can be granted by the authority if it can be determined that the type of work is similar to previous employment and previous employment was of a stable nature.

b. Self-employed applicants. Note: Under the tax code, the residence may not be expected to be used in trade or business. (See § 2.2.1.C Principal residence requirement.) Any self-employed applicant must have a minimum of two years of self-employment with the same company and in the same line of work. In addition, the following information is required at the time of application:

(1) Federal income tax returns for the two most recent tax years.

(2) Balance sheets and profit and loss statements prepared by an independent public accountant.

In determining the income for a self-employed applicant, income will be averaged for the two-year period.

c. Income derived from sources other than primary employment.

(1) Alimony and child support. A copy of the legal document and sufficient proof must be submitted to the authority verifying that alimony and child support are court ordered and are being received. Child support payments for children 15 years or older are not accepted as income in qualifying an applicant for a loan.

(2) Social security and other retirement benefits. Social Security Form No. SSA 2458 must be submitted to verify that applicant is receiving social security benefits. Retirement benefits must be verified by receipt or retirement schedules. VA disability benefits must be verified by the VA. Educational benefits and social security benefits for dependents 15 years or older are not accepted as income in qualifying an applicant for a loan.

(3) Part-time employment. Part-time employment must be continuous for a minimum of six months. Employment with different employers is acceptable so long as it has been uninterrupted for a minimum of six months. Part-time employment as used in this section means employment in addition to full-time employment.

Part-time employment as the primary employment will also be required to be continuous for six months.

(4) Overtime, commission and bonus. Overtime earnings must be guaranteed by the employer or verified for a minimum of two years. Bonus and commissions must be reasonably predictable and stable and the applicant's employer must submit evidence that they have been paid on a regular basis and can be expected to be paid in the future.

2. Credit.

a. Credit experience. The authority requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be rejected. Satisfactory credit references are considered to be one of the most important requirements in order to obtain an authority loan.

b. Bankruptcies. An applicant will not be considered for a loan if the applicant has been adjudged bankrupt within the past two years and has a poor credit history. If longer than two years, the applicant must submit a written explanation giving details surrounding the bankruptcy and poor credit history. The authority has complete discretion to decline a loan when a bankruptcy and poor credit is involved.

c. Judgments. An applicant is required to submit a written explanation for all judgments. Judgments must be paid before an applicant will be considered for an authority loan.

3. Appraisals. The authority reserves the right to obtain an independent appraisal in order to establish the fair market value of the property and to determine whether the dwelling is eligible for the mortgage loan requested.

B. FHA loans only.

1. In general. The authority will normally accept FHA underwriting requirements and property standards for FHA loans. However, most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. Mortgage insurance premium. Applicant's mortgage insurance premium fee may be included in the FHA acquisition cost and may be financed provided that the final loan amount does not exceed the authority's maximum allowable sales price. In addition, in the case of a condominium, such fee may not be paid in full in advance but instead is payable in annual installments.

3. Closing fees. The FHA allowable closing fees may be included in the FHA acquisition cost and may be financed provided the final loan amount does not exceed the authority's maximum allowable sales price.

4. Appraisals. FHA appraisals are acceptable. VA certificates of reasonable value (CRV's) are acceptable if acceptable to FHA.

C. VA loans only.

1. In general. The authority will normally accept VA underwriting requirements and property guidelines for VA loans. However, most of the authority's basic eligibility requirements (including those described in §§ 2.1 through 2.5 hereof) remain in effect due to treasury restrictions or authority policy.

2. VA funding fee. 1.0% funding fee can be included in loan amount provided final loan amount does not exceed the authority's maximum allowable sales price.

3. Appraisals. VA certificates of reasonable value (CRV's) are acceptable.

D. FmHA loans only.

1. In general. The authority will normally accept FmHA underwriting requirements and property standards for FmHA loans. However, most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. Guarantee fee. 1.0% FmHA guarantee fee can be included in loan amount provided final loan amount does not exceed the authority's maximum allowable sales price.

E. FmHA Interest Assistance Program.

Borrowers with low income, as determined by FmHA, are eligible for interest assistance payments. FmHA will make monthly payments to the authority to reduce the effective interest rate, depending on the borrower's income. However, no borrower will pay less than 20% of adjusted income, as determined by FmHA, for principal, interest, taxes, and insurance. Interest assistance payments will be recalculated by the authority at such times as are required by FmHA. All interest assistance by FmHA is subject to recapture by FmHA at the time the property is sold. In the event the authority intends to sell the FmHA Interest Assistance Program loans to the Federal National Mortgage Association ("FNMA"), each such loan must satisfy all of the applicable guidelines, requirements, terms and conditions imposed by FNMA.

F. FHA and VA buydown program.

With respect to FHA and VA loans, the authority permits the deposit of a sum of money (the "buydown funds") by a party (the "provider") with an escrow agent, a portion of which funds are to be paid to the authority each month in order to reduce the amount of the borrower's monthly payment during a certain period of time. Such arrangement is governed by an escrow agreement for buydown mortgage loans (see Exhibit V) executed at closing (see § 2.15 for additional information). The escrow agent will be required to sign a certification (Exhibit X) in order to satisfy certain FHA requirements. For the purposes of underwriting buydown mortgage loans, the reduced monthly payment amount may be taken into account based on FHA guidelines then in effect (see also subsection B or C above, as applicable).

G. Interest rate buydown program.

Unlike the program described in subsection F above which permits a direct buydown of the borrower's monthly payment, the authority also from time to time permits the buydown of the interest rate on a conventional, FHA or VA mortgage loan for a specified period of time.

§ 2.9. Funds necessary to close.

A. Cash (Not applicable to FHA, VA or FmHA loans).

Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. The authority does not permit the applicant to borrow funds for this purpose, except where (i) the loan amount is less than or equal to 80% of the lesser of the sales price or the appraised value, or (ii) the loan amount exceeds 80% of the lesser of the sales price or the appraised value and the applicant borrows a portion of the funds from their employer with the approval of the private mortgage insurer and the applicant pays in cash from their own funds an amount equal to at least 3.0% of the lesser of the sales price or the appraised value. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

B. Gift letters.

A gift letter is required when an applicant proposes to obtain funds as a gift from a third party. The gift letter must confirm that there is no obligation on the part of the borrower to repay the funds at any time. The party making the gift must submit proof that the funds are available. This proof should be in the form of a verification of deposit.

C. Housing expenses.

Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed carefully to determine if there is a substantial increase. If there is a substantial increase, the applicant must demonstrate his ability to pay the additional expenses.

§ 2.10. Loan assumptions.

A. Requirements for assumptions.

VHDA currently permits assumptions of all of its single family mortgage loans provided that certain requirements are met. For all loans closed prior to January 1, 1991, except FHA loans which were closed during calendar year 1990, the maximum gross family income for those assuming a loan shall be 100% of the applicable Median Family Income. For such FHA loans closed during 1990, if assumed by a household of three or more persons, the maximum gross family income shall be 115% of the applicable Median Family Income (140% for a residence in a targeted area) and if assumed by a household of less than three persons, the maximum gross family income shall be 100% of the applicable Median Family Income (120% for a residence in a targeted area). For all loans closed after January 1, 1991, the maximum gross family income for those assuming loans shall be as set forth in § 2.5 A of these regulations. The requirements for each of the two different categories of mortgage loans listed below (and the subcategories within each) are as follows:

1. Assumptions of conventional loans.

a. For assumptions of conventional loans financed by the proceeds of bonds issued on or after December 17, 1981, the requirements of the following sections hereof must be met:

(1) Maximum gross family income requirement in this § 2.10 A

(2) § 2.2.1.C (Principal residence requirement)

(3) § 2.8 (Authority underwriting requirements)

(4) § 2.2.1.B (Three-year requirement)

(5) § 2.2.2.B (Acquisition cost requirements)

(6) § 2.7 (Mortgage insurance requirements).

b. For assumptions of conventional loans financed by the proceeds of bonds issued prior to December 17, 1981, the requirements of the following sections hereof must be met:

(1) Maximum gross family income requirement in this § 2.10 A

(2) § 2.2.1.C (Principal residence requirements)

(3) § 2.8 (Authority underwriting requirements)

(4) § 2.7 (Mortgage insurance requirements).

2. Assumptions of FHA, VA or FmHA loans.

a. For assumptions of FHA, VA or FmHA loans financed by the proceeds of bonds issued on or after December 17, 1981, the following conditions must be met:

(1) Maximum gross family income requirement in this § 2.10.A

§ 2.2.1.C (Principal residence requirement)

(3) § 2.2.1.B (Three-year requirement)

(4) § 2.2.2.B (Acquisition cost requirements).

In addition, all applicable FHA, VA or FmHA underwriting requirements, if any, must be met.

b. For assumptions of FHA, VA or FmHA loans financed by the proceeds of bonds issued prior to December 17, 1981, only the applicable FHA, VA or FmHA underwriting requirements, if any, must be met.

B. Authorization to process assumptions/requirement that the authority to contacted.

Although the requirements listed in subsection A above are generally those that only originating agents are responsible for determining compliance with, in the case of assumptions, servicing agents are also authorized to make such determinations. More generally, for the purposes of this § 2.10, servicing agents may process assumption requests provided that they do so in accordance with all the requirements hereof, including those otherwise the exclusive reponsibility of originating agents. Accordingly, references are made within this section to "originating agents or servicing agents" in order to reflect this additional role of servicing agents.

The originating agent or servicing agent must in each case of a request for assumption of a mortgage loan contact the authority in order to determine which category of loans described in subsection A above applies to the loan and whether or not the requirements of the applicable category are satisfied. (For example, in cases of assumptions, the originating agent or servicing agent may

not rely - as it may for new loans - on the fact that the acquisition cost of the dwelling is less than the authority's sales price limits to satisfy the acquisition cost requirement. It is therefore essential that the authority be contacted in each case.)

C. Application package for assumptions.

Once the originating agent or servicing agent has contacted the authority and it has been determined which of the categories described in subsection A above applies to the loan, the originating agent or servicing agent must submit to the authority the information and documents listed below for the applicable category:

1. Assumption package for conventional loans:

a. Conventional loans financed by the proceeds of bonds issued on or after December 17, 1981:

(1) Affidavit of borrower (Exhibit E).

(2) Affidavit of seller (Exhibit F).

(3) Acquisition cost worksheet (Exhibit G).

(4) Appraiser's report (Exhibit H).

(5) Three year's tax returns.

(6) Originating agent's checklist (Exhibit A(1)).

(7) 4506 form (Exhibit Q).

(8) Originating agent's loan submission cover letter (Exhibit 0(1).

(9) Authority's completed application (Exhibit D).

(10) Verification of employment (VOE's) (and other income related information).

(11) Verification of deposit (VOD's).

(12) Credit report.

(13) Sales contract.

(14) Truth-in-Lending (Exhibit K) and estimate of charges.

(15) Equal Credit Opportunity Act (ECOA) /Recapture Tax/RESPA notice (Exhibit I).

(16) Authority underwriting qualification sheet (Exhibit B(1)).

(17) All other requirements of state and federal law must be met.

b. Conventional loans financed by the proceeds of bonds issued prior to December 17, 1981:

(1) Authority's completed application (Exhibit D).

(2) Verification of employment (VOE's) (and other income related information).

(3) Verification of deposit (VOD's).

(4) Credit report.

(5) Sales contract.

(6) Truth-in-Lending (Exhibit K) and estimate of charges.

(7) Equal Credit Opportunity Act (ECOA) /Recapture Tax/RESPA notice (Exhibit I).

(8) Authority underwriting qualification sheet (Exhibit B(2)).

(9) All other requirements of state and federal law must be met.

2. Assumption package for FHA, VA or FmHA loans.

a. FHA, VA or FmHA loans financed by the proceeds of bonds issued on or after December 17, 1981:

(1) Affidavit of borrower (Exhibit E).

(2) Affidavit of seller (Exhibit F).

(3) Acquisition cost worksheet (Exhibit G).

(4) Appraiser's Report (Exhibit H).

(5) Three years' tax returns.

(6) Originating agent's checklist (Exhibit A(1)).

(7) 4506 form (Exhibit Q).

(8) Originating agent's loan submission cover letter (Exhibit 0(2) or (3).

(9) Authority's completed application (Exhibit D).

(10) Sales contract.

(11) Copy of the executed FHA mortgage credit analysis worksheet if the original borrowers are to be released from liability.

(12) Equal Credit Opportunity Act (ECOA)/Recapture Tax/RESPA notice (Exhibit I).

(13) Truth-in-Lending (Exhibit K) and estimate of charges if original borrowers are to be released

from liability.

(14) A copy of the FHA Notice to Homeowner, if the original borrowers will not be released from liability.

(15) In addition, all applicable requirements, if any, of FHA, VA or FmHA and those under state and federal law must be met.

b. FHA, VA or FmHA loans financed by the proceeds of bonds issued prior to December 17, 1981: The applicable requirements, if any, of FHA, VA or FmHA and those under state and federal law must be met.

D. Review by the authority/additional requirements.

Upon receipt from an originating agent or servicing agent of an application package for an assumption, the authority will determine whether or not the applicable requirements referenced above for assumption of the loan have been met and will advise the originating agent or servicing agent of such determination in writing. The authority will further advise the originating agent or servicing agent of all other requirements necessary to complete the assumption process. Such requirements may include but are not limited to the submission of satisfactory evidence of hazard insurance coverage on the property, approval of the deed of assumption, satisfactory evidence of mortgage insurance or mortgage guaranty including, if applicable, pool insurance, submission of an escrow transfer letter and execution of a Recapture Requirement Notice (VHDA Doc. R-1).

§ 2.11. Leasing, loan term, and owner occupancy.

A. Leasing.

The owner may not lease the property without first contacting the authority.

B. Loan term.

Loan terms may not exceed 30 years.

C. Owner occupancy.

No loan will be made unless the residence is to be occupied by the owner as the owner's principal residence.

§ 2.12. Reservations/fees.

A. Making a reservation.

The authority currently reserves funds for each mortgage loan on a first come, first serve basis. Reservations are made by specific originating agents *or field originators* with respect to specific applicants and properties. No substitutions are permitted. Similarly, locked-in interest rates (see subdivision 5 below) are also nontransferable. In order to make a reservation of funds for a loan, the originating agent *or field originator* shall:

1. First make a determination based on the information then made available to it by the applicant or otherwise that neither the applicant nor the property appears to violate any of the authority's eligibility requirements for a new loan.

2. Collect a $100 nonrefundable reservation fee (or such other amount as the authority may require).

3. Determine what type of mortgage insurance or guarantee will be required; specifically, whether the loan will be a conventional loan, an FHA loan, a VA loan or an FmHA loan.

4. Complete a reservation sheet (Exhibit C(1)).

5. Call the authority (after completing the four preceding requirements) between 9 a.m. and 5 p.m. Monday through Friday for the assignment of a reservation number for the loan, the interest rate which shall be locked in for the reserved funds and an expiration date for the reservation, all of which will be assigned after the originating agent *or field originator* gives to the authority the following information:

a. Name of primary applicant

b. Social security number of applicant

c. Estimated loan amount

d. ~~PDS~~ *Originating* agent's *or field originator's* servicer number

e. Gross family income of applicant and family, if any

f. Location of property (city or county)

g. Verification of receipt of the reservation fee

h. Type of mortgage insurance to be used (if conventional, the authority will assign the loan a suffix "C"; if FHA, the suffix will be "F"; if VA, it will be "V" ; and if FmHA, it will be "FM").

6. Complete the reservation card by filling in the reservation number, interest rate, expiration date and by executing it (only an authorized representative of the originating agent *or field originator* may sign the reservation card) and, in addition, complete a lock-in disclosure (Exhibit C(2)) and have the applicant execute it prior to submitting it with the application package.

7. Submit the complete application package to the authority (see § 2.13) along with evidence of receipt

of the reservation fee within 60 days after the authority assigns the reservation number to the loan (i.e., takes the reservation) , *provided that in the case of an application received by a field originator, the field originator will submit to the authority the reservation fee and such portion of the application package as the authority may require* . Funds will not be reserved longer than 60 days unless the originating agent requests and receives an additional one-time extension prior to the 60-day deadline.

B. More than one reservation.

An applicant may request a second reservation if the first has expired, but in no case may the interest rate be reduced without the authority's prior approval. In addition, a second reservation fee must be collected for a second reservation.

C. The reservation fee.

Under no circumstances is this fee refundable. ~~If~~ *Reservation fees paid to field originators shall be submitted to and retained by the authority. Reservation fees paid to originating agents will, if* the loan closes, ~~it will~~ be retained by the originating agent as part of its 1.0% origination fee. If (i) the application is not submitted prior to the expiration of the reservation, or (ii) the authority determines at any time that the loan will not close, ~~this~~ *any such* reservation fee *paid to an originating agent* must be submitted to the authority within 30 days after such expiration or such determination by the authority, as applicable. If, in such cases, the fee is not received by the authority within such 30-day period, the originating agent shall be charged a penalty fee of $50 in addition to the reservation fee (see subsection D for other fees). No substitutions of applicants or properties are permitted.

D. Other fees.

1. Commitment fee. The originating agent must collect at the time of the issuance of a commitment by the authority an amount equal to 1.0% of the loan amount less the amount of the reservation fee already collected (such that the total amount received by the originating agent at that point equals 1.0% of the loan amount - please also note that for FHA loans the loan amount for the purpose of this computation is the base loan amount only). If the loan closes, the originating agent retains such 1.0% fee as its original fee. If the loan does not close the origination fee (which includes the reservation fee) must be submitted to the authority when the failure to close is due to the fault of the applicant. On the other hand, if the failure to close is not due to the fault of the applicant, then the collected commitment fee less the reservation fee may at the option of the authority be refunded to the applicant. (The reservation fee, as required in subsection C above is always submitted to the authority when a loan fails to close.)

2. Discount point. The originating agent must collect at the time of closing an amount equal to 1.0% of the loan amount from the seller. This fee is to be remitted to the authority by the originating agent.

§ 2.13. Preparation of application package for new loans.

A. Conventional loans.

The application package submitted to the authority for approval of a conventional loan must contain the following original documents:

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)).

2. Application - the application must be made on the authority's approved application form. (Exhibit D)

3. Preliminary underwriting form. (Exhibit B)

4. Credit report issued by local credit bureau and miscellaneous information as applicable explanation of bankruptcies, etc., (and any additional documentation).

5. Verification of employment (and any additional documentation).

6. Verification of other income.

7. Verification of deposits (and any additional documentation).

8. Gift letters (and verification).

9. Sales contract - contract must be signed by seller and all parties entering into the contract and state which parties are paying points and closing costs.

10. Appraisal (FHLMC No. 70) should be the Federal National Mortgage Association ("FNMA") or Federal Home Loan Mortgage Corporation ("FHLMC") form and should be completed by an appraiser who has been approved by FHLMC or a private mortgage insurer acceptable to the authority or who has a certification from a trade organization approved by the authority (photos and required supporting documentation).

11. Loan submission cover letter. (Exhibit O(1))

12. Appraiser's report. (Exhibit H)

13. Acquisition cost worksheet. (Exhibit G)

14. Affidavit of seller. (Exhibit F)

15. Affidavit of borrower. (Exhibit E)

16. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by

Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1.B.3 hereof, such letter must be enclosed instead).

17. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))

18. Signed request for copy of tax returns. (Exhibit Q)

19. U.S. Department of Housing and Urban Development ("HUD") information booklet acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulations Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

20. Equal Credit Opportunity Act ("ECOA") /Recapture Tax/RESPA notice, with borrower's acknowledgement of receipt. (Exhibit I)

21. Truth-in-Lending Disclosure. (Exhibit K)

22. RESPA Disclosure Statement (Exhibit AA).

23. Quality Control Disclosure and Authorization (Exhibit Y).

B. FHA loans.

The application package submitted to the authority for approval of an FHA loan must contain the following items (please note that items 13 through 18 and 20 and 21 are authority forms and must be submitted as originals, not copies):

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)).

2. Application - must be on the authority's form and can be handwritten if legible (Exhibit D).

3. Copy the HUD application (FHA form 92900).

4. Copy of the Mortgage Credit Analysis Worksheet (HUD form 92900-ws).

5. Copy of the credit report.

6. Copy of verification of employment and current pay stubs.

7. Copy of verification of other income.

8. Copy of verification of deposits.

9. Copy of gift letters (and verification).

10. Copy of sales contract.

11. Assignment letter - this must reference the case number, name of applicant.

12. Copy of appraisal - this must be on a form acceptable to FHA and must contain all supporting documentation necessary for valuation.

13. FHA Notice to Buyers (Document F-9)

14. Loan submission cover letter. (Exhibit O(2))

15. Appraiser's report. (Exhibit H)

17. Affidavit of seller. (Exhibit F)

18. Affidavit of borrower. (Exhibit E)

19. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1.B.3 hereof, such letter must be enclosed instead).

20. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))

21. Signed request for copy of tax returns (Exhibit Q)

22. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

23. Equal Credit Opportunity Act ("ECOA") /Recapture Tax/RESPA notice, with borrower's acknowledgement of receipt. (Exhibit I)

24. Truth-in-Lending Disclosure. (Exhibit K)

25. RESPA Disclosure Statement. (Exhibit AA)

26. Quality Control Disclosure and Authorization. (Exhibit Y)

C. VA loans.

The application package submitted to the authority for approval of a VA loan must contain the following items (please note that items 15 through 18 and 20 and 21 are authority forms and must be submitted as originals, not copies:

1. Reservation sheet (Exhibit C(1) and lock-in disclosure (Exhibit C(2)).

2. Application - must be on the authority's form and can be handwritten if legible (Exhibit D).

3. Copy the VA application (VA form 26-1802A).

4. Copy of the Loan Analysis Worksheet (VA form 6393).

5. Copy of VA certificate of eligibility.

6. Copy of VA benefits and related indebtedness letter.

7. Copy of the credit report.

8. Copy of verification of employment (if active duty, include current LES form).

9. Copy of verification of other income.

10. Copy of verification of deposits.

11. Copy of gift letters (and verification).

12. Copy of sales contract.

13. Copy of appraisal - this must be on a form acceptable to VA and must contain all supporting documentation necessary for valuation.

14. Loan submission cover letter. (Exhibit O(3))

15. Appraiser's report. (Exhibit H)

16. Acquisition cost worksheet. (Exhibit G)

17. Affidavit of seller. (Exhibit F)

18. Affidavit of borrower. (Exhibit E)

19. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1.B.3 hereof, such letter must be enclosed instead).

20. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))

21. Signed request for copy of tax returns (Exhibit Q)

22. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

23. Equal Credit Opportunity Act ("ECOA") /Recapture Tax/RESPA notice, with borrower's acknowledgement of receipt. (Exhibit I)

24. Truth-in-Lending Disclosure. (Exhibit K)

25. RESPA Disclosure Statement. (Exhibit AA)

26. Quality Control Disclosure and Authorization. (Exhibit Y)

D. FmHA loans.

The application package submitted to the authority for approval of an FmHA loan must contain the following items (please note that items 13 through 18 and 20 and 21 are authority forms and must be submitted as originals, not copies):

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)).

2. Application - must be on the authority's form and can be handwritten if legible. (Exhibit D)

3. Copy of the HUD application (FHA form 92900).

4. Copy of the credit report.

5. Copy of verification of employment and current pay stubs.

6. Copy of verification of other income.

7. Copy of verification of deposits.

8. Copy of gift letters (and verification).

9. Copy of sales contract.

10. Copy of appraisal - this must be on a form acceptable to FmHA and must contain all supporting

documentation necessary for valuation.

11. Privacy Act Statement (Form FmHA 410-9).

12. Loan submission cover letter. (Exhibit O(2))

13. Appraiser's report. (Exhibit H)

14. Acquisition cost worksheet. (Exhibit G)

15. Affidavit of seller. (Exhibit F)

16. Affidavit of borrower. (Exhibit E)

17. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof. (NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to § 2.2.1.B.3 hereof, such letter must be enclosed instead).

18. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))

19. Signed request for copy of tax returns. (Exhibit Q)

20. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-in-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

21. Equal Credit Opportunity Act ("ECOA")/Recapture Tax/RESPA notice, with borrower's acknowledgement of receipt. (Exhibit I)

22. Truth-in-Lending Disclosure. (Exhibit K)

23. RESPA Disclosure Statement. (Exhibit AA)

24. Quality Control Disclosure and Authorization. (Exhibit Y)

25. Other items which FmHA requires. The authority will advise ~~you~~ *the originating agent* of such additional requirements, if any.

E. Delivery of package to the authority.

After the application package has been completed, it should be forwarded to:

Single Family Division
Originations Department
Virginia Housing Development Authority
601 South Belvidere Street
Post Office Box 5206
Richmond, VA. 23220-8206

§ 2.14. Commitment. (Exhibit J)

A. In general.

Upon approval of the applicant, the authority will send a mortgage loan commitment to the borrower in care of the originating agent. Also enclosed in this package will be other documents necessary for closing. The originating agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the originating agent, along with the 1.0% commitment fee, within 15 days after the date of the commitment. If the borrower does so indicate his acceptance of the commitment, the originating agent shall retain the fee in accordance with § 2.1.2.D.1. above. If the borrower fails to so indicate his acceptance of the commitment, either by failing to return an executed original thereof or by failing to submit the fee, or both, the originating agent shall, within 20 days after the date of the commitment, notify the authority in writing of such failure. If the originating agent does not do so, the authority shall deem that commitment to have been duly accepted, and the originating agent shall be liable to the authority for the uncollected commitment fee based on the loan's failure to close as described in § 2.1.2.D.1. above.

A commitment must be issued in writing by an authorized officer of the authority and signed by the applicant before a loan may be closed. The term of a commitment may be extended in certain cases upon written request by the applicant and approved by the authority. Generally, no more than one commitment will be issued to an applicant in any calendar year. However, if an applicant who received a commitment fails to close the mortgage loan transaction through no fault of his own, that borrower may be considered for one additional commitment upon proper reapplication to the authority within the one year period from the cancellation or expiration of the original commitment; provided, however, that the interest rate offered in the additional commitment, if issued, may be higher than the rate offered in the original commitment. Such new rate and the availability of funds therefor shall in all cases be determined by the authority in its discretion.

B. Loan rejection.

If the application fails to meet any of the standards, criteria and requirements herein, a loan rejection letter will be issued by the authority (see Exhibit L). In order to have the application reconsidered, the applicant must resubmit the application within 30 days after loan rejection. If the application is so resubmitted, the credit documentation cannot be more than 90 days old and the appraisal not more than six months old.

§ 2.15. Loan settlement.

A. Loan closing.

1. In general. Upon the borrower's acceptance of the mortgage loan commitment, the originating agent will send the authority's letter and closing instructions (see Exhibits M and N) and the closing papers to the closing attorney. The originating agent should thoroughly familiarize himself with the closing instructions and should fill in all blanks such as per diem interest, appraisal fee, credit report charges to be collected at closing, and any special requirements of the commitment before the closing instructions are forwarded to the closing attorney. The authority will provide the originating agent with the documents which the closing attorney is required to complete.

Once the attorney completes the preclosing package, it should be mailed to:

Single Family Division
Pre-Closing Section
Virginia Housing Development Authority
601 South Belvidere Street
Post Office Box 4593
Richmond, VA 23220-8593

After the authority reviews the closing attorney's preliminary work and has been advised by the originating agent in the case of an FHA, VA or FmHA loan that all applicable FHA, VA or FmHA requirements have been met, it will approve closing and, a loan proceeds check will be sent to the closing attorney or firm named in the title insurance commitment or binder as approved under the issuing company's insured closing service, along with additional closing instructions. The closing attorney may disburse loan proceeds only after he has conducted the loan closing and recorded all necessary documents, including the deed of trust securing repayment of the loan to the authority and in all other respects is in a position to disburse proceeds in accordance with the authority's letter authorizing the closing, the commitment and the instructions previously issued by the originating agent. It is the originating agent's responsibility to see that all documents and checks are received immediately after loan closings and that they are completed in accordance with the authority's requirements, Regulation Z and ECOA.

2. Special note regarding checks for buy-down points (this applies to both the monthly payment buydown program described in § 2.8.D above and the interest rate buydown program described in § 2.8.E). A certified or cashier's check made payable to the authority is to be provided at loan closing for buy-down points, if any. Under the tax code, the original proceeds of a bond issue may not exceed the amount necessary for the "governmental purpose" thereof by more than 5.0%. If buy-down points are paid out of mortgage loan proceeds (which are financed by bonds), then this federal regulation is violated because bond proceeds have in effect been used to pay debt service rather than for the proper "governmental purpose" of making mortgage loans. Therefore, it is required that buy-down fees be paid from the seller's own funds and not be deducted from loan proceeds. Because of this requirement, buy-down funds may not appear as a deduction from the seller's proceeds on the HUD-1 Settlement Statement.

B. Post-closing requirements.

All post-closing documents, including the post-closing cover letter (Exhibit P), should be forwarded as follows to:

Single Family Division
Post-Closing Section
Virginia Housing Development Authority
601 South Belvidere Street
Post Office Box 5427
Richmond, VA 23220-8427

Within 10 days after the closing of the loan, the originating agent must forward the fees, interest and any other money due the authority, a repayment of the authority's outstanding construction loan, if any, private mortgage insurance affidavit and all closing documents except the original recorded deed of trust and title insurance policy and hazard insurance policy.

Within 90 days after loan closing, the originating agent shall forward to the authority the original recorded deed of trust, "final mortgage title insurance policy and FHA certification of insurance, VA guaranty or FmHA guarantee. Within 55 days after loan closing the originating agent shall forward to the authority the original hazard insurance policy.

During the 120-day period following the loan closing the originating agent shall review correspondence, checks and other documents received from the borrower for the purpose of ascertaining that the address of the property and the address of the borrower are the same, and also to ascertain any change of address during such period and shall notify the authority if such addresses are not the same or if there is any such change of address. Subject to the authority's approval, the originating agent may establish different procedures to verify compliance with the principal residence requirement in § 2.2.1.C. In the event that the originating agent receives information at any time that any item noted on the originating agent's checklist for certain requirements of the tax code may not be correct or proper, the originating agent shall immediately notify the authority.

§ 2.16. Property guidelines.

A. In general.

For each application the authority must make the determination that the property will constitute adequate security for the loan. The determination shall in turn be based solely upon a real estate appraisal's determination of the value and condition of the property.

In addition, manufactured housing (mobile homes) may be financed only if it is new construction and insured 100% by FHA (see subsection C). Existing manufactured housing is not eligible for authority financing.

B. Conventional loans.

1. Existing housing and new construction. The following requirements apply to both new construction and existing housing to be financed by a conventional loan: (i) all property must be located on a state maintained road (easements or rights-of-way to state maintained roads are not acceptable as access to properties); (ii) any easements which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis to determine whether such easements will be acceptable to the authority; (iii) property with available water and sewer hookups must utilize them; and (iv) property without available water and sewer hookups may have their own well and septic system; provided that joint ownership of a well and septic system will be considered on a case-by-case basis to determine whether such ownership is acceptable to the authority.

2. Additional requirements for new construction. New construction financed by a conventional loan must also meet Uniform Statewide Building Code and local code.

C. FHA, VA or FmHA loans.

1. Existing housing and new construction. Both new construction and existing housing financed by an FHA, VA or FmHA loan must meet all applicable requirements imposed by FHA, VA or FmHA.

2. Additional requirements for new construction. If such homes being financed by FHA loans are new manufactured housing they must meet federal manufactured home construction and safety standards, satisfy all FHA insurance requirements, be on a permanent foundation to be enclosed by a perimeter masonry curtain wall conforming to standards of the Uniform Statewide Building Code, be permanently affixed to the site owned by the borrowers and be insured 100% by FHA under its section 203B program. In addition, the property must be classified and taxed as real estate and no personal property may be financed.

§ 2.17. Substantially rehabilitated.

For the purpose of qualifying as substantially rehabilitated housing under the authority's maximum sales price limitations, the housing unit must meet the following definitions:

1. Substantially rehabilitated means improved to a condition which meets the authority's underwriting/property standard requirements from a condition requiring more than routine or minor repairs or improvements to meet such requirements. The term includes repairs or improvements varying in degree from gutting and extensive reconstruction to cosmetic improvements which are coupled with the cure of a substantial accumulation of deferred maintenance, but does not mean cosmetic improvements alone.

2. For these purposes a substantially rehabilitated housing unit means a dwelling unit which has been substantially rehabilitated and which is being offered for sale and occupancy for the first time since such rehabilitation. The value of the rehabilitation must equal at least 25% of the total value of the rehabilitated housing unit.

3. The authority's staff will inspect each house submitted as substantially rehabilitated to ensure compliance with our underwriting-property standards. An appraisal is to be submitted after the authority's inspection and is to list the improvements and estimate their value.

4. The authority will only approve rehabilitation loans to eligible borrowers who will be the first resident of the residence after the completion of the rehabilitation. As a result of the tax code, the proceeds of the mortgage loan cannot be used to refinance an existing mortgage, as explained in § 2.2.1.D (New mortgage requirement). The authority will approve loans to cover the purchase of a residence, including the rehabilitation:

a. Where the eligible borrower is acquiring a residence from a builder or other seller who has performed a substantial rehabilitation of the residence; and

b. Where the eligible borrower is acquiring an unrehabilitated residence from the seller and the eligible borrower contracts with others to perform a substantial rehabilitation or performs the rehabilitation work himself prior to occupancy.

§ 2.18. Condominium requirements.

A. Conventional loans.

~~1.~~ The originating agent must provide evidence that the condominium is approved by any two of the following: FNMA, FHLMC or VA. The originating agent must submit evidence at the time the borrower's application is submitted to the authority for approval.

2. At the time the borrower's loan application is submitted for the financing of a unit in any condominium in which the authority has not previously financed the purchase of any units, Exhibit S, providing basic information about the condominium, must be completed by the Unit Owners Association. The most recent financial statement and operating budget of the condominium (or, in the case of a newly constructed or converted condominium, a copy of the projected operating budget and a copy of the most recent financial statement, if any) must also be submitted. The authority will review the above described form and financial information. If on the basis of such review the authority finds the condominium to be acceptable, the condominium will be approved and the individual loan application will be processed. Exhibit S requires that the Unit Owners Association agree to submit to the authority upon its request, the condominium's annual financial statements, operating budget and other information as the authority may require. The association is also required to agree that the authority shall have a right to inspect the condominium and its records. The form states that failure to comply with the foregoing shall be grounds for the authority's termination of its approval of the condominium.

3. Each year the authority will send Exhibit T to the Unit Owners Association requesting information concerning the condominium including a statement as to the status of the approvals of VA, FNMA and FHLMC, as applicable, and a copy of the condominium's financial statement and operating budget. The association will be advised that if the request for information is not received within 90 days from the date of the request, the authority may terminate its approval of the condominium. The authority will review the financial statement and operating budget and the questionnaire and if the condominium remains in satisfactory condition, the authority will continue to make mortgage loans on the units subject to the limitations in paragraph 4 below. In the event the authority determines a condominium is not in satisfactory condition, the Unit Owners Association will be given 60 days to correct the deficiencies. If the deficiencies are not corrected to the satisfaction of the authority, the condominium will no longer be approved for financing. The requirements and procedures in this section will also apply to condominiums previously approved by the authority.

4. If a condominium is approved by FNMA, the authority will make mortgage loans on no more than 50% of the units in the condominium. If the condominium is not approved by FNMA, the authority will make mortgage loans on no more than 25% of the units in the condominium. If a condominium is to be phased, the foregoing percentage limits will be applied to each phase until all phases are completed. If the condominium has been previously approved by the authority and exceeds the foregoing percentage limitations, the authority will make no further mortgage loans for the purchase of the units in the condominium until such time as its percentage limits are no longer violated.

B. FHA, VA or FmHA loans.

The authority will accept a loan to finance a condominium if the condominium is approved by FHA, in the case of an FHA loan, by VA, in the case of a VA loan or by FmHA, in the case of an FmHA loan.

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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.

Public Hearing Date: N/A – Written comments may be submitted until November 8, 1991.
(See Calendar of Events section for additional information)

Summary:

The proposed amendments to the rules and regulations for allocation of low-income housing tax credits ("federal credits") available under § 42 of the Internal Revenue Code ("IRC") will (i) permit VHDA to enter into binding commitments with current applicants reserving federal credits from the state's federal credit ceiling of a specified later taxable year and (ii) set forth the procedure VHDA will follow in monitoring for noncompliance with the provisions of § 42 of the IRC.

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 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 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 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 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, 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 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 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 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, the state code and these rules and regulations 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, (ii) lease of such site by the applicant 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 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 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 such 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 or characteristics of housing, construction, financing, owners, or occupants; or any other factors deemed appropriate by 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 a general partnership interest in the development which shall constitute not less than 51% of all of the general partnership interests of the ownership entity thereof (such that the qualified nonprofit organizations have at least a 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 51% of 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 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 federal credits are later made available (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. 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 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. Approval by local authorities of the plan of

development for the proposed development or written evidence satisfactory to the authority that such approval is not required (15 points), proper zoning for such site or 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);

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. The executive director may treat a reservation of funds from the Virginia Housing Partnership Fund as a firm financing commitment. 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 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.

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);

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 3 multiplied by the number of such ranking);

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 (20 points multiplied by the percentage of such units in the proposed development);

6. The percentage by which the total of the amount of federal credits and 50% of the amount of state 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);

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);

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, the following:

> "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). Accordingly, (name of locality) supports the allocation of federal housing tax credits requested by (name of applicant) for that development." (20 points)

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 (5 points);

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

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 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 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 190 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. Commitment by the applicant to 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) 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

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 building by any person who will continue to operate the low-income portion thereof as a qualified low-income building (2 points for each full year in such commitment beyond such compliance period - maximum 30 points).

In the event of a tie in the number of points assigned to two or more 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 therein the authority shall 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 application shall be assigned to a pool or subpool and shall be ranked within such pool or subpool. Those applications assigned more points shall be ranked higher than those applications 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 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, 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 applications without firm financing commitments (as defined hereinabove) at fixed interest rates, debt service on the proposed mortgage loan.

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 *(i)* 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 *or (ii), for projects which meet the requirements of § 42(h)(i)(E) of the IRC only, reserve additional federal credits from the Commonwealth's annual state housing credit ceiling for the following year in such an amount necessary for the financial feasibility of the proposed development* . 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. *The reservation of federal credits from the Commonwealth's annual state housing credit ceiling for the following year shall be made only to proposed developments that rank high enough to receive some federal credits from the state housing credit ceiling for the current year. However, any such reservation shall be in the sole discretion of the executive director if he determines it to be in the best interest of the Plan. In the event a reservation or an allocation of federal credits from the current year or a prior year is reduced, terminated or cancelled, the executive director may substitute such federal credits for any federal credits reserved from the following year's annual state housing credit ceiling.*

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 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 distributed to each of such pools or subpools so designated by the executive director with excess applications divided by the total amount originally distributed to all such designated pools or subpools with excess applications. Such redistributions may continue to be made until either all of the federal credits are reserved or all applications have received reservations.

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), these rules and regulations 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 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 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 any or all of the buildings in the development which were to become qualified low-income buildings will not 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 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 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, 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), 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, allocate, or carry over as applicable, such federal credits 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 to those applications (i) to which federal credits have been reserved or (ii) 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 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. 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 applications therein eligible for state credits hereunder have received reservations for state credits. Any amounts in any pools or subpools not reserved to 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 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 applications divided by the total amount originally allocated to all such

pools or subpools with such excess applications. Such reallocations shall continue to be made until either all of the state credits are reserved or all 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 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, 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 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 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 director shall also determine, in accordance with the IRC and upon timely request by the owner thereof, for such buildings or development (and, in addition, 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 permitted 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 building by any person who will continue to operate the low-income portion thereof as a qualified low-income building . 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 prior to the end of the second calendar year after the calendar year 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.

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 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 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.

In the event that 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, allocate or carry over, as applicable, such federal credits 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 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 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 application under § 7. If the amount of state credits so allocated to the buildings or development under this § 9 is less than the amount of state credits reserved to the 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 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 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 reserved state credits, allocate state credits to the 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 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 of 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 other 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 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. Monitoring for IRS compliance.

All applicants who receive an allocation of federal credits are responsible for complying with § 42 of the IRC.

The federal law requires that the Commonwealth monitor projects receiving federal credits for noncompliance with the provisions of § 42 of the IRC and notify the IRS of such noncompliance with which it becomes aware.

Unless additional procedures are required by the Internal Revenue Service, applicants must submit to the authority copies of reports satisfying the reporting requirements of syndicators or public lenders such as the authority, FmHA or HUD which are involved in the project. For those projects which do not have reporting requirements imposed by a public lender or a syndicator, the authority will require the sponsor to file an annual certification of compliance with the authority.

~~11.~~ *§ 12.* 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.

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Title of Regulation: **VR 400-02-0013. Rules and Regulations for Multi-Family Housing Developments for Mentally Disabled Persons.**

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

Public Hearing Date: N/A – Written comments may be submitted until November 15, 1991.
(See Calendar of Events section for additional information)

Summary:

The proposed amendments to the rules and regulations for multi-family housing developments for mentally disabled persons ("rules and regulations") will reduce the income limit for occupants of multi-family rental housing developments financed by mortgage loans approved by the authority on or after November 19, 1991.

VR 400-02-0013. Rules and Regulations for Multi-Family Housing Developments for Mentally Disabled Persons.

§ 1. Definitions.

"Closing" means the time of execution by the mortgagor of the documents evidencing the M/D loan, including the deed of trust note, deed of trust and other documents required by the authority. (In the case of a construction loan, "closing" means the initial closing of the M/D loan.)

"Construction" means construction of new structures and the rehabilitation, preservation or improvement of existing structures.

"DMHMR" means the Department of Mental Health, Mental Retardation and Substance Abuse Services of the Commonwealth of Virginia.

"Final closing" means, for a construction loan, the time of final disbursement of the M/D loan proceeds after satisfaction by the mortgagor of all of the authority's requirements therefor.

"M/D development" means a multi-family housing development intended for occupancy by persons of low and moderate income who are mentally disabled.

"M/D loan" means a mortgage loan made by the authority to finance the development, construction, rehabilitation and/or the ownership and operation of an M/D development.

"Seed loan" means a mortgage loan made by the authority to finance preconstruction or other related costs approved by the authority and the financing of which by the authority is determined by the authority to be necessary to the mortgagor's ability to obtain an M/D loan for the construction of an M/D development.

§ 2. Purpose and applicability.

The following rules and regulations will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to mortgagors to provide the construction and/or permanent financing of M/D developments. These rules and regulations shall be applicable to the making of such M/D loans directly by the authority to mortgagors, the purchase of such M/D loans, the participation by the authority in such M/D loans with mortgage lenders and any other manner of financing of such M/D loans under the Act. These rules and regulations shall not, however, apply to any M/D developments which are subject to any other rules and regulations adopted by the authority. If any M/D loan is to provide either the construction or permanent financing (but not both) of an M/D development, these rules and regulations shall be applicable to the extent determined by the executive director to be appropriate for such financing. In addition, notwithstanding the foregoing, the executive director may, in his discretion, determine that any M/D loan should be processed under the authority's Rules and Regulations for Multi-Family Housing Developments, whereupon the application for such M/D loan and any other information related thereto shall be transferred to the authority's multi-family division for processing under the aforementioned multi-family rules and regulations.

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any M/D development to waive or modify any provision herein where deemed appropriate by him for good cause, to the extent not inconsistent with the Act and covenants and agreements with the holders of its bonds.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority, the mortgagor, the contractor or other members of the development team under the closing documents as described in § 8 of these rules and regulations.

These rules and regulations 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 M/D loans under the authority's multi-family housing programs for M/D developments. 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 with respect to any particular development or developments or any multi-family housing program or programs for M/D developments.

§ 3. Income limits and general restrictions.

The amounts payable, if any, by persons occupying M/D developments are deemed not to be rent. As a result, the authority's income limit set forth under its rules and regulations limiting a person's or family's adjusted family income to an amount not greater than seven times the total annual rent is inapplicable ; ~~instead,~~ . In accordance with the authority's rules and regulations, the income

limits for persons occupying such developments shall be as follows: All units of each M/D development, with the sole exception of those units occupied by an employee or agent of the mortgagor, shall be occupied or held available for occupancy by persons *who are mentally disabled and* who have adjusted family incomes (as defined in the authority's rules and regulations and as determined at the time of their initial occupancy *of such units and at the time of reexamination and redetermination of such person's adjusted family incomes and eligibility subsequent to their initial occupancy of such units*) which do not exceed *(i) in the case of units in a M/D development for which the board approved the mortgage loan prior to November 19, 1991,* 150% of the applicable area median income as determined by the authority *and (ii) in the case of units in a M/D development for which the board approved the mortgage loan on or after November 19, 1991, 115% of the applicable area median income as determined by the authority* ~~and who are mentally disabled~~ .

The board may establish, in the resolution authorizing any mortgage loan to finance an M/D development under these rules and regulations, income limits lower than those provided herein for the occupants of the units in such M/D development.

If federal law or rules and regulations impose limitations on the incomes of the persons or families who may occupy all or any of the units in an M/D development, the occupancy of the M/D development shall comply with such limitations, and the adjusted family incomes (as defined in the authority's rules and regulations) of applicants for occupancy of all of the units in the M/D development shall be computed, for the purpose of determining eligibility for occupancy thereof under these rules and regulations in the manner specified in such federal law and rules and regulations, subject to such modifications as the executive director shall require or approve in order to facilitate processing, review and approval of such applications.

Notwithstanding anything to the contrary herein, all M/D developments and the processing thereof under the terms hereof must comply with (i) the Act and the authority's rules and regulations, (ii) the applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued by the authority to finance such M/D developments, and (iii) the requirements set forth in the resolutions pursuant to which the notes or bonds, if any, are issued by the authority to finance the M/D developments. Copies of the authority's applicable note and bond resolutions, if any, are available upon request.

§ 4. Terms of mortgage loans.

The authority may make or finance mortgage loans secured by a lien on real property or, subject to certain limitations in the Act, a leasehold estate in order to finance M/D developments. The term of the mortgage loan shall be equal to (i) if the M/D loan is to finance the construction of the proposed M/D development, the period determined by the executive director to be necessary to: (1) complete construction of the M/D development, and (2) consummate the final closing of the M/D loan; plus (ii) if the M/D loan is to finance the ownership and operation of the proposed M/D development, an amortization period set forth in the M/D loan commitment but not to exceed 45 years. The executive director may require that such amortization period not extend beyond the termination date of any assistance or subsidy.

M/D loans may be made to (i) for-profit housing sponsors in original principal amounts not to exceed the lesser of the maximum principal amount specified in the M/D loan commitment (which amount shall in no event exceed 95% of the fair market value of the property as determined by the authority) or such percentage of the housing development costs of the M/D development as is established in such commitment, but in no event to exceed 95%, and (ii) nonprofit housing sponsors in original principal amounts not to exceed the lesser of the maximum principal amount specified in the M/D loan commitment (which amount shall in no event exceed 100% of the fair market value of the property as determined by the authority in those cases in which the nonprofit sponsor is the Commonwealth of Virginia or any agency or instrumentality thereof, and which shall in no event exceed 95% of the fair market value of the property as determined by the authority in those cases in which the nonprofit sponsor is not the Commonwealth of Virginia or an agency or instrumentality thereof) or such percentage of the housing development costs of the M/D development as is established in such commitment, but in no event to exceed 100%.

The maximum principal amount and percentage of housing development costs specified or established in the M/D loan commitment shall be determined by the authority in such manner and based upon such factors as it deems relevant to the security of the M/D loan and the fulfillment of its public purpose. Such factors may include the economic feasibility of the proposed M/D development in terms of its ability to pay the projected debt service on the M/D loan and the projected operating expenses of the proposed M/D development.

The categories of cost which shall be allowable by the authority in the acquisition and construction of an M/D development financed under these rules and regulations shall include all reasonable, ordinary and necessary costs and expenses (including, without limitations, those categories of costs set forth in the authority's rules and regulations for multi-family housing developments) which are incurred by the mortgagor in the acquisition and construction of the M/D development. Upon completion of the acquisition and construction of the M/D development, the total of housing development costs shall be certified to the authority in accordance with these rules and regulations, subject to the review and determination of the authority. In lieu of such certification of housing development costs, the executive director may require

such other assurances of housing development costs as he shall deem necessary to enable the authority to determine with reasonable accuracy the actual amount of such housing development costs.

The interest rate on the M/D loan shall be established at the closing and may be thereafter adjusted in accordance with the authority's rules and regulations and the terms of the deed of trust note. The authority shall charge a financing fee equal to 1.5% of the M/D loan amount, unless the executive director shall for good cause require the payment of a different financing fee. Such fee shall be payable at such times as hereinafter provided or at such other times as the executive director shall for good cause require.

§ 5. Solicitation of proposals.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit proposals for the financing of M/D developments. 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 proposals and the selection of M/D developments as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which available funds of the authority are to be allocated and such other matters as he shall deem appropriate relating to the selection of proposals. The authority may also consider and approve proposals for financing of M/D developments submitted from time to time to the authority without any solicitation therefor on the part of the authority.

§ 6. Application and review.

A. Information to be submitted.

Application for an M/D loan 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, together with such documents and additional information as may be requested by the authority, including, but not limited to:

1. Information with respect to the status of the proposed development site and the surrounding community;

2. Any option or sales contract to acquire the site;

3. An evaluation of the need and effective demand for the proposed M/D development in the market area of such site;

4. Information regarding the legal, business and financial status and experience of the applicant;

5. Information regarding amenities and services proposed to be offered to the tenants;

6. A determination by DMHMR on such form or forms as the executive director may from time to time prescribe to the effect that (i) the mortgagor has the intent and ability to provide the services deemed necessary by DMHMR for the success of a housing development intended for occupancy by persons of low and moderate income who are mentally disabled, (ii) that the proposed location and type of housing are suitable for the contemplated residents and that there exists a need in the area of the proposed location for housing for the mentally disabled, and (iii) that the development is economically feasible to the extent that it is projected to have or receive funds in an amount sufficient to pay the debt service on the proposed M/D loan and to pay for all of the requisite services deemed necessary by DMHMR for the success of such a development (for those M/D developments which are to receive funding other than that directly from the mortgagor, a breakdown of the source and amount of such funding upon which DMHMR relied in making its determination must be included);

7. Architectural and engineering plans, drawings and specifications in such detail as shall be necessary or appropriate to determine the requirements for construction of the proposed development.

8. The applicant's (i) best estimates of the housing development costs and the components thereof, (ii) proposed M/D loan amount, (iii) proposed annual operating budget and the individual components thereof, (iv) best estimates of the monthly utility expenses and other costs for each dwelling unit if paid by the resident, and (v) amount of any subsidy or assistance, including any described in item 6 above, that the applicant is requesting for the proposed M/D development. The applicant's estimates shall be in such detail and with such itemization and supporting information as shall be requested by the executive director;

9. The applicant's proposed tenant selection plan which shall include, among other information that the executive director may require from time to time, the following: (i) any proposed fees to be charged to the tenants; (ii) the utilization of any subsidy or other assistance from the federal government or any other source; (iii) the proposed income levels of tenants; (iv) any arrangements contemplated by the applicant for tenant referrals or relocations from federal, state or local government agencies or community organizations; and (v) any criteria to be used for disapproving tenant applications and for establishing priorities among eligible tenant applicants.

10. Any documents required by the authority to evidence compliance with all conditions and requirements necessary to acquire, own, construct, operate and manage the proposed M/D development, including local governmental approvals, proper zoning status, availability of utilities, licenses and other legal authorizations necessary to perform requisite functions and any easements necessary for the construction and operation of the M/D development; and

11. A nonrefundable processing fee equal to 0.5% of the proposed M/D loan amount. Such fee shall be applied at closing toward the payment of the authority's financing fee.

In the selection of an application or applications for processing, the executive director may take into account the desirability of allocating funds to different sponsors throughout the Commonwealth of Virginia.

The executive director may for good cause permit the applicant to file one or more of the foregoing forms, documents and information at a later time, and any review, analysis, determination or other action by the authority or the executive director prior to such filing shall be subject to the receipt, review and approval by the executive director of such forms, documents and information.

An appraisal of the land and any improvements to be retained and used as a part of the M/D development will be obtained at this time or as soon as practical thereafter from an independent real estate appraiser selected by the authority. Such appraisal shall not be obtained until the authority has received the processing fee required by § 6.A.11 above. The authority may also obtain such other reports, analyses, information and data as the executive director deems necessary or appropriate to evaluate the proposed M/D development.

If at any time the executive director determines that the applicant is not processing the application with due diligence and best efforts or that the application cannot be successfully processed to commitment and closing within a reasonable time, he may, in his discretion, terminate the application and retain any fees previously paid to the authority.

B. Review of the application.

The authority's staff shall review each application and any additional information submitted by the applicant or obtained from other sources by the authority in its review of each proposed M/D development. Such review shall be performed in accordance with subdivision 2 of subsection D of § 36-55.33:1 of the Code of Virginia and shall include, but not be limited to, the following:

1. An analysis of the site characteristics, surrounding land uses, available utilities, transportation, recreational opportunities, shopping facilities and other factors affecting the site;

2. An evaluation of the ability, experience and financial capacity of the applicant;

3. An analysis of the estimates of construction costs and the proposed operating budget and an evaluation as to the economic feasibility of the proposed M/D development;

4. A review of the tenant selection plans, including its effect on the economic feasibility of the proposed M/D development and its efficacy in carrying out the programs and policies of the authority;

5. An analysis of the drawings and specifications, the marketability of the units, the amenities and facilities to be provided to the proposed residents, and the management and maintenance characteristics of the proposed M/D development.

C. Requirement that application satisfy certain criteria.

Based upon the authority staff's analysis of such documents and information and any other information obtained by the authority in its review of the proposed M/D development, the executive director may issue a commitment for an M/D loan to the applicant with respect to the proposed M/D development provided that he has determined that all of the following criteria have been satisfied:

1. The vicinity of the proposed M/D development is and will continue to be a residential area suitable for the proposed M/D development and is not now, nor is it likely in the future to become, subject to uses or deterioration which could cause undue depreciation in the value of the proposed M/D development or which could adversely affect its operation, marketability or economic feasibility.

2. There are or will be available on or before the estimated completion date (i) direct access to adequate public roads and utilities and (ii) such public and private facilities (such as schools, churches, transportation, retail and service establishments, parks and recreational facilities) in the area of the proposed M/D development as the executive director determines to be necessary or desirable for use and enjoyment by the contemplated residents.

3. The applicant either owns or leases the site of the proposed M/D development or has the legal right to acquire or lease the site in such manner, at such time and subject to such terms as will permit the applicant to process the application and consummate the initial closing.

4. The applicant and general contractor have the experience, ability and financial capacity necessary to carry out their respective responsibilities for the

acquisition, construction, ownership, operation, maintenance and management of the proposed M/D development.

5. The application and proposed M/D development conform to the requirements, limitations and conditions, if any, imposed by the executive director pursuant to § 4 of these rules and regulations.

6. The proposed M/D development will assist in meeting the need for such housing in the market area of the proposed M/D development.

7. The applicant's estimates of housing development costs (i) include all costs necessary for the development and construction of the proposed M/D development, (ii) are reasonable in amount, (iii) are based upon valid data and information, and (iv) are comparable to costs for similar multi-family rental developments; provided, however, that if the applicant's estimates of such costs are insufficient in amount under the foregoing criteria, such criteria may nevertheless be satisfied if, in the judgment of the executive director, the mortgagor will have the financial ability to pay any costs estimated by the executive director to be in excess of the total of the applicant's estimates of housing development costs.

8. Subject to review by the authority, in the case of construction loans at final closing or in the case of permanent loans at closing, the categories of the estimated housing development costs to be funded from the proceeds of the mortgage loan are eligible for such funding under the closing documents or under such other requirements as shall be agreed to by the authority.

9. Any administrative, community, health, nursing care, medical, educational, recreational, commercial or other nonhousing facilities to be included in the proposed M/D development are incidental or related to the proposed M/D development and are necessary, convenient or desirable with respect to the ownership, operation or management of the proposed development.

10. The estimated income from the proposed M/D development, including any estimated subsidy or assistance, is sufficient to pay when due the estimates of the debt service on the mortgage loan, the operating expenses, and replacement and other reserves required by the authority.

11. The drawings and specifications shall demonstrate that the proposed M/D development as a whole and the individual units therein shall provide safe and habitable living accommodations and environment for the contemplated residents.

12. The tenant selection plans submitted by the applicant shall comply with these rules and regulations and shall be satisfactory to the authority.

13. The proposed M/D development will comply with (i) all applicable federal laws and regulations governing the federal tax exemption of the notes or bonds, if any, issued or to be issued by the authority to finance the proposed M/D development and (ii) all requirements set forth in the resolutions, if any, pursuant to which such notes or bonds are issued or to be issued.

14. The prerequisites necessary for the applicant to acquire, own, construct or rehabilitate, operate and manage the proposed M/D development have been satisfied or can be satisfied prior to initial closing. These prerequisites include, but are not limited to obtaining (i) site plan approval, (ii) proper zoning status, (iii) assurances of the availability of the requisite public utilities, (iv) commitments by public officials to construct such public improvements and accept the dedication of streets and easements that are necessary or desirable for the construction and use of the proposed M/D development, (v) building permits, and (vi) fee simple ownership of the site, a sales contract or option giving the applicant or mortgagor the right to purchase the site for the proposed M/D development and obtain fee simple title, or a leasehold interest of the time period required by the Act (any such ownership or leasehold interest acquired or to be acquired shall be free of any covenants, restrictions, easements, conditions, or other encumbrances which would adversely affect the authority's security or the construction or operation of the proposed M/D development).

15. The proposed M/D development will comply with all applicable state and local laws, ordinances, regulations, and requirements.

16. The proposed M/D development will contribute to the fulfillment of the public purposes of the authority as set forth in its Act.

17. Subject to a final determination by the board, the financing of the proposed M/D development will meet the applicable requirements set forth in § 36-55.39 of the Code of Virginia. For the purposes of satisfying subsection B of the aforementioned code section, the term "substantial rehabilitation" means the repair or improvement of an existing housing unit, the value of which repairs or improvements equals at least 25% of the total value of the rehabilitated housing unit.

In addition, the executive director is authorized to make allocations of funds for M/D Loans to various types of housing sponsors and developments as he deems necessary or desirable to promote and accomplish the purposes set forth herein and in the Act. Any such allocation of funds may be made based upon such conditions as the executive director may require, including without limitation, one or both of the following: (i) DMHMR agrees, subject to terms

and limitations acceptable to the authority, to provide funds for the developments in an amount sufficient to pay the operating costs thereof, including debt service with respect to the M/D Loan or loans applicable thereto; and (ii) the authority shall be able to finance the developments by the issuance of bonds in such amount and under such terms and conditions as the authority deems satisfactory.

§ 7. Commitment.

If the executive director determines that the foregoing criteria set forth in § 6.C above are satisfied and that he will recommend approval of the application and issuance of the commitment therefor, he shall either (i) present his recommendations to the board or (ii) if the maximum principal amount of the M/D loan does not exceed $300,000, issue the commitment subject to the approval and ratification of the board. If the executive director determines that one or more of the foregoing criteria have not been adequately satisfied, he may nevertheless in his discretion either (i) in the case of an M/D loan application for which the board's approval is sought in advance of the issuance of the commitment therefor, recommend to the board that the application be approved and that a commitment be issued subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate or (ii) in the case of a commitment to be issued by the executive director subject to ratification by the board all in accordance with these rules and regulations, issue such commitment subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate.

The board shall review and consider the recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the application and authorize or ratify, as applicable, the M/D loan and the issuance of a commitment therefor, subject to such terms and conditions as the board shall require in such resolution.

The term of the M/D loan, the amortization period, the estimated housing development costs, the principal amount of the M/D loan, the terms and conditions applicable to any equity contribution by the applicant, any assurances of successful completion and operational stability of the proposed M/D development, and other terms and conditions of such M/D loan shall be set forth in the board's resolution authorizing or ratifying such M/D loan or in the commitment therefor. The resolution or the commitment shall also include such terms and conditions as the authority considers appropriate with respect to the construction of the proposed M/D development, the marketing and occupancy of such M/D development (including any income limits or occupancy restrictions other than those set forth in these rules and regulations), the disbursement and repayment of the loan, and other matters related to the construction and the ownership, operation and occupancy of the proposed M/D development. Such resolution or commitment may include a financial analysis of the proposed M/D development, setting forth the approved initial budget for the operation of the M/D development and a schedule of the estimated housing development costs. Such a resolution authorizing an M/D loan to a for-profit housing sponsor shall prescribe the maximum annual rate, if any, at which distributions may be made by such for-profit housing sponsor with respect to the M/D development, expressed as a percentage of such for-profit housing sponsor's equity in such M/D development (such equity being established in accordance with § 10 of these rules and regulations), which rate, if any, shall not be inconsistent with the provisions of the Act. In connection with the establishment of any such rates, the board shall not prescribe differing or discriminatory rates with respect to substantially similar M/D developments. The resolution shall specify whether any such maximum annual rate of distributions shall be cumulative or noncumulative. the board by resolution shall make the applicable findings required by § 36-55.39 of the Code of Virginia; provided, however, that the board may in its discretion authorize or ratify the M/D loan without making the finding, if applicable, required by subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the financing of the M/D loan.

If the executive director determines not to recommend approval of the application and issuance of a commitment, he shall so notify the applicant. If any application is not so recommended for approval, the executive director may select for processing one or more applications in its place.

§ 8. Closing.

Upon issuance of the commitment, the applicant shall direct its attorney to prepare and submit the legal documentation (the "closing documents") required by the commitment within the time period specified. When the closing documents have been submitted and approved by the authority staff, the board has approved or ratified the commitment and has determined that the financing of the proposed M/D development meets all the applicable requirements of § 36-55.39 of the Code of Virginia, and all other requirements in the commitment have been satisfied, the closing of the M/D loan shall be held. At this closing, the closing documents shall be, where required, executed and recorded, and the mortgagor will pay to the authority the balance owed on the financing fee, will make any equity investment required by the closing documents and will fund such other deposits, escrows and reserves as required by the commitment. The initial disbursement of M/D loan proceeds will be made by the authority, if appropriate under the commitment and the closing documents.

The actual interest rate on the M/D loan shall be established by the executive director at the time of the execution of the deed of trust note at closing and may thereafter be altered by the executive director in accordance with the authority's rules and regulations and

the terms of such note.

The executive director may require such accounts, reserves, deposits, escrows, bonds, letters of credit and other assurances as he shall deem appropriate to assure the satisfactory construction, completion, occupancy and operation of the M/D development, including without limitation one or more of the following: working capital deposits, construction contingency funds, operating reserve accounts, payment and performance bonds or letters of credit, latent construction defect escrows, replacement reserves, and tax and insurance escrows. The foregoing shall be in such amounts and subject to such terms and conditions as the executive director shall require and as shall be set forth in the initial closing documents.

§ 9. Construction.

In the case of construction loans, the construction of the M/D development shall be performed in accordance with the closing documents. The authority shall have the right to inspect the M/D development as often as deemed necessary or appropriate by the authority to determine the progress of the work and compliance with the closing documents and to ascertain the propriety and validity of M/D loan disbursements requested by the mortgagor. Such inspections shall be made for the sole and exclusive benefit and protection of the authority. A disbursement of M/D loan proceeds may only be made upon compliance with the terms and conditions of the closing documents with respect to any such disbursement; provided, however, that in the event that such terms and conditions have not been satisfied, the executive director may, in his discretion, permit such disbursement if additional security or assurance satisfactory to him is given. The amount of any disbursement shall be determined in accordance with the terms of the initial closing documents and shall be subject to such retainage or holdback as is therein prescribed.

§ 10. Completion of construction and final closing.

In the case of construction loans, the closing documents shall specify those requirements and conditions that shall be satisfied in order for the M/D development to be deemed to have attained final completion. Upon such final completion of the M/D development, the mortgagor, general contractor, and any other parties required to do so by the closing documents shall each diligently commence, complete and submit to the authority for review and approval their cost certification in accordance with the closing documents or in accordance with such other requirements as shall have been agreed to by the authority.

Prior to or concurrently with final closing, the mortgagor, general contractor and other members of the development team shall perform all acts and submit all contracts and documents required by the closing documents in order to attain final completion, make the final disbursement of M/D loan proceeds, obtain any subsidy or assistance and otherwise consummate the final closing.

At the final closing, the authority shall determine the following in accordance with the closing documents:

1. The total development costs, the final mortgage loan amount, the balance of M/D loan proceeds to be disbursed to the mortgagor, the equity investment of the mortgagor and, if applicable, the maximum amount of annual limited dividend distributions;

2. The interest rate to be applied initially upon commencement of amortization, the date for commencement and termination of the monthly amortization payments of principal and interest, the initial amount of such monthly amortization payments, and the initial amounts to be paid monthly into the escrow accounts for taxes, insurance, replacement reserves, or other similar escrow items; and

3. Any other funds due the authority, the mortgagor, general contractor, architect or other parties that the authority requires to be disbursed or paid as part of the final closing.

The equity investment of the mortgagor shall be the difference between the total housing development costs of the M/D development as finally determined by the authority and the final principal amount of the M/D loan as to such M/D development.

§ 11. Seed money loans.

Notwithstanding anything herein to the contrary, the executive director may, in his discretion, approve an application on such forms as he may prescribe for a seed money loan and issue a commitment therefor subject to ratification by the board.

§ 12. M/D loan increases.

Prior to closing, the principal amount of the M/D loan may be increased, if such an increase is justified by an increase in the estimated costs of the proposed M/D development, is necessary or desirable to effect the successful construction and operation of the proposed M/D development, can be funded from available proceeds of the authority's notes or bonds or other available funds of the authority, and is not inconsistent with the provisions of the Act or these rules and regulations. Any such increase shall be subject to such terms and conditions as the authority shall require.

Subsequent to closing, the authority will consider and, where appropriate, approve an M/D loan increase to be financed from the proceeds of the authority's notes or bonds in the following instances:

1. Where cost increases are incurred as the direct result of (i) changes in work required or requested by

the authority or (ii) betterments to the M/D development approved by the authority which will improve the quality or value of the M/D development or will reduce the costs of operating or maintaining the M/D development;

2. Where cost increases are incurred as a direct result of a failure by the authority during processing of the M/D development to properly perform an act for which the authority is solely responsible;

3. Where an M/D loan increase is determined by the authority, in its sole and absolute discretion, to be in the best interests of the authority in protecting its security for the mortgage loan; or

4. Where the authority has entered into an agreement with the mortgagor prior to closing to provide an M/D loan increase if certain cost overruns occur in agreed line items, but only to the extent set forth in such agreement.

Any such increase in the M/D loan subsequent to closing may be subject to such terms and conditions as the authority shall require, including (but not limited to) one or more of the following:

1. The ability of the authority to sell bonds to finance the M/D loan increase in amounts, at rates and under terms and conditions satisfactory to the authority (applicable only to an M/D loan to be financed from the proceeds of the authority's notes or bonds).

2. The obtaining by the owner of additional subsidy (if the M/D development is to receive such subsidy) in amounts necessary to fund the additional debt service to be paid as a result of such M/D loan increase. The provision of such additional subsidy shall be made subject to and in accordance with all applicable federal regulations.

3. A determination by the authority that the M/D loan increase will have no material adverse effect on the financial feasibility or proper operation and maintenance of the M/D development.

4. A determination by the authority that the M/D loan, as increased, does not exceed such percentage of the total development cost (as certified in accordance with the closing documents as approved by the authority) as is established in the resolution authorizing the M/D loan in accordance with § 4 of these rules and regulations.

5. Such terms and conditions as the authority shall require in order to protect the security of its interest in the M/D loan, to comply with covenants and agreements with the holders of its bonds issued to finance the mortgage loan, to comply with the Act and these rules and regulations, and to carry out its public purpose.

The executive director may, without further action by the board, increase the principal amount of the M/D loan at any time by an amount not to exceed 2.0% of the maximum principal amount of the M/D loan set forth in the commitment, provided that such increase is consistent with the Act and these rules and regulations. Any increase in excess of such 2.0% shall require the approval of the board.

Nothing contained in this § 12 shall impose any duty or obligation on the authority to increase any M/D loan, as the decision as to whether to grant an M/D loan increase shall be within the sole and absolute discretion of the authority.

§ 13. Operation and management.

The M/D development shall be subject to certain regulatory covenants in closing documents entered into at closing between the authority and the mortgagor. Such regulatory covenants shall govern the occupancy, maintenance, operation, use and disposition of the M/D development and the activities and operation of the mortgagor. The mortgagor shall execute such other documents with regard to the regulation of the M/D development as the executive director may determine to be necessary or appropriate to protect the interests of the authority and to permit the fulfillment of the authority's duties and responsibilities under the Act and these rules and regulations.

The mortgagor shall lease the units in the M/D development only to persons who are eligible for occupancy thereof as described in § 3 of these rules and regulations. The mortgagor shall comply with the provisions of the authority's rules and regulations regarding (i) the examination and determination of the income and eligibility of applicants for initial occupancy of the M/D development and (ii) the periodic reexamination and redetermination of the income and eligibility of residents of the M/D development.

In selecting eligible residents, the mortgagor shall comply with such occupancy criteria and priorities and with the tenant selection plan approved by the authority pursuant to § 6 of these rules and regulations.

The authority shall have the power to supervise the mortgagor and the M/D development in accordance with § 36-55.34:1 of the Code of Virginia and the terms of the closing documents or other agreements relating to the M/D loans. The authority shall have the right to inspect the M/D development, conduct audits of all books and records of the M/D development and to require such reports as the authority deems reasonable to assure compliance with this § 13.

§ 14. Transfers of ownership.

A. It is the authority's policy to evaluate requests for transfers of ownership on a case-by-case basis. The

primary goal of the authority is the continued existence of low and moderate income rental housing stock maintained in a financially sound manner and in safe and sanitary condition. Any changes which would, in the opinion of the authority, detrimentally affect this goal will not be approved.

The provisions set forth in this § 14 shall apply only to transfers of ownership to be made subject to the authority's deed of trust.

For the purposes hereof, the terms "transfer of ownership" and "transfer" shall include any direct or indirect transfer of a partnership or other ownership interest (including, without limitation, the withdrawal or substitution of any general partner) or any sale, conveyance or other direct or indirect transfer of the M/D development or any interest therein; provided, however, that if the owner is not then in default under the deed of trust or regulatory agreement, such terms shall not include (i) any sale, transfer, assignment or substitution of limited partnership interests prior to final closing of the M/D loan or, (ii) any sale, transfer, assignment or substitution of limited partnership interests which in any 12-month period constitute in the aggregate 50% or less of the partnership interests in the owner. The term "proposed ownership entity," as used herein, shall mean (i) in the case of a transfer of a partnership interest, the owner of the M/D development as proposed to be restructured by such transfer, and (ii) in the case of a transfer of the M/D development, the entity which proposes to acquire the M/D development.

B. The proposed ownership entity requesting approval of a transfer of ownership must initially submit a written request to the authority. This request should contain (i) a detailed description of the terms of the transfer, (ii) all documentation to be executed in connection with the transfer, (iii) information regarding the legal, business and financial status and experience of the proposed ownership entity and of the principals therein, including current financial statements (which shall be audited in the case of a business entity), (iv) an analysis of the current physical and financial condition of the M/D development, including a current audited financial report for the M/D development, (v) information regarding the experience and ability of any proposed management agent, and (vi) any other information and documents requested by the authority relating to the transfer. The request will be reviewed and evaluated in accordance with the following criteria:

1. The proposed ownership entity and the principals therein must have the experience, ability and financial capacity necessary to own, operate and manage the M/D development in a manner satisfactory to the authority.

2. The M/D development's physical and financial condition shall be acceptable to the authority as of the date of transfer or such later date as the authority may approve. In order to assure compliance with this criteria, the authority may require any of the following:

a. The performance of any necessary repairs and the correction of any deferred or anticipated maintenance work;

b. The addition of any improvements to the M/D development which, in the judgment of the authority, will be necessary or desirable for the successful marketing of the M/D development, will reduce the costs of operating or maintaining the M/D development, will benefit the residents or otherwise improve the liveability of the M/D development, or will improve the financial strength and stability of the M/D development;

c. The establishment of escrows to assure the completion of any required repairs, maintenance work, or improvements;

d. The establishment of such new reserves and/or such additional funding of existing reserves as may be deemed necessary by the authority to ensure or preserve the financial strength and stability or the proper operation and maintenance of the M/D development; and

e. The funding of debt service payments, accounts payable and reserve requirements such that the foregoing are current at the time of any transfer of ownership.

3. The management agent, if any, to be selected by the proposed ownership entity to manage the M/D development on its behalf must have the experience and ability necessary to manage the M/D development in a manner satisfactory to the authority. The management agent must satisfy the qualifications established by the authority for approval thereof.

C. The authority will charge the proposed ownership entity a fee of $5,000 or such higher fee as the executive director may for good cause require. This fee is to be paid at the closing.

D. In the case of a transfer from a nonprofit owner to a proposed for-profit owner, the authority may require the proposed for-profit owner to deposit and/or expend funds in such amount and manner and for such purposes and to take such other actions as the authority may require in order to assure that the principal amount of the M/D loan does not exceed the limitations specified in the Act and these rules and regulations or otherwise imposed by the authority. No transfer of ownership from a nonprofit owner to a for-profit owner shall be approved if such transfer would, in the judgment of the authority, affect the tax-exemption of the notes or bonds, if any, issued by the authority to finance the development. The authority will not approve any such transfer of ownership if any loss of

property tax abatement as a result of such transfer will, in the determination of the authority, adversely affect the financial strength or security of the M/D development.

The authority may require that any cash proceeds received by the nonprofit owner (after the payment of transaction costs and the funding of any fees, costs, expenses, reserves or escrows required or approved by the authority) be used for such charitable or other purposes as the authority may approve.

E. A request for tansfer of ownership shall be reviewed by the executive director and may be approved by him subject to such terms and conditions as he may require.

After approval of the request, an approval letter will be issued to the mortgagor consenting to the transfer. Such letter shall be contingent upon the delivery and execution of any and all closing documents required by the authority with respect to the transfer of ownership and the fulfillment of any special conditions required by the executive director.

The authority may require that the proposed ownership entity execute the then current forms of the authority's M/D loan documents in substitution of the existing M/D loan documents and/or to execute such amendments to the existing M/D loan documents as the authority may require in order to cause the provisions of such documents to incorporate the then existing policies, procedures and requirements of the authority. At the closing of the transfer, all documents required by the approval letter shall be, where required, executed and recorded; all funds required by the approval letter will be paid or deposited in accordance therewith; and all other terms and conditions of the approval letter shall be satisfied. If deemed appropriate by the executive director, the original mortgagor shall be released from all liability and obligations which may thereafter arise under the documents previously executed with respect to the M/D development.

In the case of an M/D development which is in default or which is experiencing or is expected by the authority to experience financial, physical or other problems adversely affecting its financial strength and stability or its proper operation, maintenance or management, the authority may waive or modify any of the requirements herein as it may deem necessary or appropriate in order to assist the M/D development and/or to protect the authority's interest as lender.

§ 15. Prepayments.

It shall be the policy of the authority that no prepayment of an M/D loan shall be made without its prior written consent for such period of time set forth in the note evidencing the M/D loan as the executive director shall determine, based upon his evaluation of then existing conditions in the financial and housing markets, to be necessary to accomplish the public purpose of the authority. The authority may also prohibit the prepayment of M/D loans during such period of time as deemed necessary by the authority to assure compliance with applicable note and bond resolutions and with federal laws and regulations governing the federal tax exemption of the notes or bonds, if any, issued to finance such mortgage loans. Requests for prepayment shall be reviewed by the executive director on a case-by-case basis. In reviewing any request for prepayment, the executive director shall consider such factors as he deems relevant, including without limitation the following (i) the proposed use of the M/D development subsequent to prepayment, (ii) any actual or potential termination or reduction of any subsidy or other assistance, (iii) the current and future need and demand for low and moderate housing for mentally disabled persons in the market area of the development, (iv) the financial and physical condition of the M/D development, (v) the financial effect of prepayment on the authority and the notes or bonds, if any, issued to finance the M/D development, and (vi) compliance with any applicable federal laws and regulations governing the federal tax exemption of such notes or bonds. As a precondition to its approval of any prepayment, the authority shall have the right to impose restrictions, conditions and requirements with respect to the ownership, use, operation and disposition of the M/D development, including without limitation any restrictions or conditions required in order to preserve the federal tax exemption of notes or bonds issued to finance the M/D development. The authority shall also have the right to charge a prepayment fee in an amount determined in accordance with the terms of the resolutions authorizing the notes or bonds issued to finance the M/D development or in such other amount as may be established by the executive director in accordance with the terms of the deed of trust note and such resolutions. The provisions of this § 15 shall not be construed to impose any duty or obligation on the authority to approve any prepayment, as the executive director shall have sole and absolute discretion to approve or disapprove any prepayment based upon his judgment as to whether such prepayment would be in the best interests of the authority and would promote the goals and purposes of its programs and policies.

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Title of Regulation: **VR 400-02-0014. Rules and Regulations for the Acquisition of Multi-Family Housing Developments.**

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

Public Hearing Date: N/A – Written comments may be submitted until November 15, 1991.
(See Calendar of Events section for additional information)

Summary:

The proposed amendments to the rules and regulations for the acquisition of multi-family housing

developments ("rules and regulations") will make certain changes in the income limits for occupants of multi-family rental housing developments for which the board of the authority has approved the acquisition on or after November 19, 1991.

VR 400-02-0014. Rules and Regulations for the Acquisition of Multi-Family Housing Developments.

§ 1. Purpose and applicability.

The following rules and regulations will be applicable to the acquisition, ownership and operation by the authority or by any entity formed by the authority, on its own behalf or in conjunction with other parties, of multi-family housing developments intended for occupancy by persons and families of low and moderate income ("development" or "developments"). The developments to be acquired pursuant to these rules and regulations may be existing developments or may be developments to be constructed prior to acquisition. If the authority is to acquire an existing development, the provision of these rules and regulations relating to construction shall, to the extent determined by the executive director, not be applicable to such development. These rules and regulations shall also be applicable to the making of mortgage loans by the authority (i) to finance the construction of such developments prior to the acquisition thereof by the authority (such mortgage loans are referred to herein as construction loans) and (ii) to finance the acquisition and ownership of such developments by entities formed by the authority as described herein. If any development is to be subject to federal mortgage insurance or is otherwise to be assisted or aided, directly or indirectly, by the federal government, the applicable federal rules and regulations shall be controlling over any inconsistent provision herein. Furthermore, if the development is to be subject to mortgage insurance by the federal government, the provisions of these rules and regulations shall be applicable to such development only to the extent determined by the executive director to be necessary in order to (i) protect any interest of the authority which, in the judgment of the executive director, is not adequately protected by such insurance or by the implementation or enforcement of the applicable federal rules, regulations or requirements or (ii) to comply with the Act or fulfill the authority's public purpose and obligations thereunder. The term "construct" or "construction," as used herein, shall include the rehabilitation, preservation or improvement of existing structures.

Developments may be acquired pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any development to waive or modify any provision herein where deemed appropriate by him for good cause, to the extent not inconsistent with the Act and convenants and agreements with the holders of its bonds.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority, the applicant, any mortgagor, or any contractor or other members of the development team under the initial closing documents as described in § 7 of these rules and regulations.

These rules and regulations 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 proposals for the authority to acquire developments or to provide financing for such developments under the authority's multi-family housing acquisition program. 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.

§ 2. Income limits and general restrictions.

In order to be eligible for occupancy of a multi-family dwelling unit, a person or family shall not have an adjusted family income (as defined in the authority's rules and regulations) greater than *(i) in the case of a multi-family dwelling unit for which the board has approved the acquisition prior to November 19, 1991,* seven times the annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the foregoing shall not be applicable if no amounts are payable by or on behalf of such person or family or if amounts payable by such person or family are deemed by the board not to be rent *or (ii) in the case of a multi-family dwelling unit for which the board has approved the acquisition on or after November 19, 1991, such percentage of the area median income as the board may from time to time establish in these rules and regulations or by resolution for occupancy of such dwelling unit. In the case of a multi-family dwelling unit described in (i) above, the authority may, subsequent to November 19, 1991, determine to apply an income limit established pursuant to (ii) above in lieu of the income limit set forth in (i) above. The income limits established below in these rules and regulations are in addition to the limit set forth in (i) above and in implementation of the provisions of (ii) above* .

~~In addition to the foregoing,~~ At least 20% of the units in each development shall be occupied or held available for occupancy by persons and families whose annual adjusted family incomes (at the time of their initial occupancy of such units) do not exceed 80% of the area median income as determined by the authority, and the remaining units shall be occupied or held available for occupancy by persons and families whose annual adjusted family incomes (at the time of their initial occupancy of such units) do not exceed *(i) in the case of units for which the*

board has approved the acquisition prior to November 19, 1991, 150% of such area median income as so determined *or (ii) in the case of units for which the authority has approved the acquisition on or after November 19, 1991, 115% of such area median income as so determined. The income limits applicable to persons and families at the time of reexamination and redetermination of their adjusted family incomes and eligibility subsequent to their initial occupancy of such units shall be as set forth in (i) and (ii), as applicable, in the preceding sentence (or, in the case of units described in (i) in the preceding sentence, such lesser income limit, if applicable, equal to seven times the annual rent, including utilities except telephone, applicable to such dwelling units).*

The board may establish, in the resolution authorizing the acquisition of any development under these rules and regulations, income limits lower than those provided herein for occupancy of the units in such development.

Furthermore, in the case of developments which are subject to federal mortgage insurance or assistance or are financed by notes or bonds exempt from federal income taxation, federal regulations may establish lower income limitations which in effect supersede the authority's income limits as described above. If federal law or rules and regulations impose limitations on the incomes of the persons or families who may occupy all or any of the units in a development, the adjusted family incomes (as defined in the authority's rules and regulations) of applicants for occupancy of all of the units in the development shall be computed, for the purpose of determining eligibility for occupancy thereof under these rules and regulations, in the manner specified in such federal law and rules and regulations, subject to such modifications as the executive director shall require or approve in order to facilitate processing, review and approval of such applications.

Notwithstanding anything to the contrary herein, all developments and the processing thereof under the terms hereof must comply with (i) the Act, (ii) the applicable federal laws and regulations governing the federal tax exemption of the notes or bonds, if any, issued by the authority to finance such developments, (iii) in the case of developments subject to federal mortgage insurance or other assistance, all applicable federal laws and regulations relating thereto and (iv) the requirements set forth in the resolutions pursuant to which the notes or bonds are issued by the authority to finance the developments. Copies of the authority's note and bond resolutions are available upon request.

§ 3. Terms of acquisition and construction loan.

The purchase price for a development to be acquired by the authority pursuant hereto shall be determined by the authority in such manner and shall be based upon such factors (including the fair market value of the development based on an appraisal thereof as well as on the estimated costs of the construction of the development, if applicable) as it deems relevant to the security of its ownership interest in the development and the fulfillment of its public purpose. The terms and conditions of such acquisition shall be contained in the commitment described in § 6 hereof and in the contract, if any, to acquire the development described in § 7 hereof.

With respect to any development which the authority contracts to acquire, the authority may assign all of its right, title and interest under such contract to acquire such developments to an entity (a "successor entity") formed by the authority, on its own behalf or in conjunction with other parties, to serve as the housing sponsor for such development pursuant to § 36-55.33:2 of the Code of Virginia and may provide a mortgage loan to such entity to finance the acquisition and ownership of the development.

In addition to the acquisition of developments, the authority may make or finance construction mortgage loans secured by a lien on real property or, subject to certain limitations in the Act, a leasehold estate in order to finance the construction of such developments. The term of such a construction loan shall be equal to the period determined by the executive director to be necessary to complete construction of the development and to consummate the acquisition thereof by the authority. Such construction loans shall be made on such other terms and conditions as the authority shall prescribe in (i) the commitment described in § 6 hereof and (ii) any other applicable initial closing documents, described in § 7 hereof. Such construction loans may be made to: (i) for-profit housing sponsors in original principal amounts not to exceed the lesser of the maximum principal amount specified in the commitment or such percentage of the estimated housing development costs of the development as is established in such commitment, but in no event to exceed 95%, and (ii) nonprofit housing sponsors in original principal amounts not to exceed the lesser of the maximum principal amount specified in the commitment or such percentage of the estimated housing development costs of the development as is established in such commitment, but in no event to exceed 100%. The maximum principal amount and percentage of estimated housing development costs specified or established in the commitment shall be determined by the authority in such manner and based upon such factors as it deems relevant to the security of the mortgage loan and the fulfillment of its public purpose. Such factors may include the fair market value of the proposed development as completed. In determining the estimated housing development costs, the categories of costs which shall be includable therein shall be those set forth in the authority's rules and regulations for multi-family housing developments to the extent deemed by the executive director to be applicable to the proposed development. The interest rate on the construction loan shall be established at the initial closing and may be thereafter adjusted in accordance with the authority's rules and regulations and the terms of the deed of trust note. The authority shall charge a financing fee equal to 1.0% of the construction loan amount, unless the

executive director shall for good cause require the payment of a different financing fee. Such fee shall be payable at initial closing or at such other times as the executive director shall for good cause require.

§ 4. Solicitation of proposals.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit proposals for the authority's acquisition and, if applicable, construction financing of developments. 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 proposals and the selection of developments for acquisition and, if applicable, construction financing as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which available funds of the authority are to be allocated for such acquisitions and financings and such other matters as he shall deem appropriate relating to the selection of proposals. The authority may also consider and approve proposals for acquisition and, if applicable, construction financing of developments submitted from time to time to the authority without any solicitation therefor on the part of the authority.

§ 5. Application and acceptance for processing.

Application for consideration of each proposal for the authority to acquire a development and, if applicable, to finance the construction thereof 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, together with such documents and additional information as may be requested by the authority, including, but not limited to: initial site, elevation and unit plans; information with respect to the status of the proposed development site and the surrounding community; any option or sales contract to acquire the site; an evaluation of the need and effective demand for the proposed development in the market area of such site; information regarding the legal, business and financial status and experience of the members of the applicant's proposed development team and of the principals in any entity which is a member thereof, including current financial statements (which shall be audited in the case of a business entity) for the owner (if existing), the general contractor and the principals therein; information regarding amenities and services proposed to be offered to the tenants; a preliminary estimate of the housing development costs and the individual components thereof; the proposed schedule of rents; a preliminary estimate of the annual operating budget and the individual components thereof; the estimated utility expenses to be paid by the tenants of dwelling units in the proposed development; and the amount of any federal insurance, subsidy or assistance which the applicant is requesting for the proposed development.

The authority's staff shall review each application and any additional information submitted by the applicant or obtained from other sources by the authority in its review of each proposed development. Such review shall be performed in accordance with subdivision 2 of subsection D of § 36-55.33:1 of the Code of Virginia, if applicable, and shall include, but not be limited to, the following:

1. An analysis of the site characteristics, surrounding land uses, available utilities, transportation, employment opportunities, recreational opportunities, shopping facilities and other factors affecting the site;

2. An evaluation of the ability, experience and financial capacity of the applicant and general contractor and the qualifications of the architect, management agent and other members of the proposed development team;

3. A preliminary evaluation of the estimated construction costs and the proposed design and structure of the proposed development;

4. A preliminary review of the estimated operating expenses and proposed rents and a preliminary evaluation of the adequacy of the proposed rents to sustain the proposed development based upon the assumed occupancy rate and estimated purchase price and financing costs; and

5. A preliminary evaluation of the marketability of the proposed development.

Based on the authority's review of the applications, documents and any additional information submitted by the applicants or obtained from other sources by the authority in its review of the proposed developments, the executive director shall accept for processing those applications which he determines best satisfy the following criteria:

1. The vicinity of the proposed development is and will continue to be a residential area suitable for the proposed development and is not now, nor is it likely in the future to become, subject to uses or deterioration which could cause undue depreciation in the value of the proposed development or which could adversely affect its operation, marketability or economic feasibility.

2. There are or will be available on or before the estimated completion date (i) direct access to adequate public roads and utilities and (ii) such public and private facilities (such as schools, churches, transportation, retail and service establishments, parks, recreational facilities and major public and private employers) in the area of the proposed development

as the executive director determines to be necessary or desirable for the use and enjoyment by the contemplated residents.

3. The characteristics of the site (such as its size, topography, terrain, soil and subsoil conditions, vegetation, and drainage conditions) are suitable for the construction and operation of the proposed development, and the site is free from any defects which would have a materially adverse effect on such construction and operation.

4. The location of the proposed development will promote and enhance the marketability of the units to the persons and families intended for occupancy thereof.

5. The applicant either owns or leases the site of the proposed development or has the legal right to acquire or lease the site in such manner, at such time and subject to such terms as will permit the applicant to process the application and consummate the initial closing.

6. The design of the proposed development is functional and appropriate for its intended use, will contribute to the marketability of the proposed development, makes use of materials to reduce energy and maintenance costs, provides for a proper mix of units for the residents intended to be benefited by the authority's program, provides for units with adequate, well-designed space, includes equipment and facilities customarily used or enjoyed in the area by the contemplated residents, and will otherwise provide a safe, habitable and pleasant living environment for such residents.

7. Subject to further review and evaluation by the authority's staff under § 6 of these rules and regulations, the estimated construction costs and operating expenses appear to be complete, reasonable and comparable to those of similar developments.

8. Subject to further review and evaluation by the authority's staff under § 6 of these rules and regulations, the proposed rents appear to be at levels which will (i) be affordable by the persons and families intended to be assisted by the authority, (ii) permit the successful marketing of the units to such persons and families, and (iii) sustain the operation of the proposed development.

9. The applicant and general contractor have the experience, ability and financial capacity necessary to carry out their respective responsibilities for the construction and, prior to acquisition thereof by the authority, the ownership, operation, marketing, maintenance and management of the proposed development.

10. The architect, management agent and other members of the proposed development team have the qualifications necessary to perform their respective functions and responsibilities.

11. The application and proposed development conform to the requirements, limitations and conditions, if any, imposed by the executive director pursuant to § 4 of these rules and regulations.

12. The proposed development will contribute to the implementation of the policies and programs of the authority in providing decent, safe and sanitary rental housing for low and moderate income persons and families who cannot otherwise afford such housing and will assist in meeting the need for such housing in the market area of the proposed development.

13. It appears that the proposed development and applicant will be able to meet the requirements for feasibility and commitment set forth in § 6 of these rules and regulations and that the proposed development will otherwise continue to be processed through initial closing and will be completed and conveyed to the authority all in compliance with the Act, the documents and contracts executed at initial closing, applicable federal laws, rules and regulations, and the provisions of these rules and regulations and without unreasonable delay, interruptions or expense.

If only one application is being reviewed for acceptance for processing, the executive director shall accept such application for processing if he determines that such application adequately satisfies the foregoing criteria.

In the selection of an application or applications for processing, the executive director may take into account the desirability of acquiring developments from different sponsors throughout the Commonwealth of Virginia.

Applications shall be selected only to the extent that the authority has or expects to have funds available from the sale of its notes or bonds to finance the acquisition of and, if applicable, the construction loan for the proposed developments.

Nothing contained herein shall require the authority to select any application which, in the judgment of the executive director, does not adequately satisfy the foregoing criteria.

The executive director's determinations with respect to the above criteria shall be based only on the documents and information received or obtained by him at that time and are subject to modification or reversal upon his receipt of additional documents or information at a later time. In addition, the application shall be subject to further review in accordance with § 6 of these rules and regulations.

The executive director may impose such terms and conditions with respect to acceptance for processing as he

shall deem necessary or appropriate. If any proposed development is so accepted for processing, the executive director shall notify the sponsor of such acceptance and of any terms and conditions imposed with respect thereto.

If the executive director determines that a proposed development to be accepted for processing does not adequately satisfy one or more of the foregoing criteria, he may nevertheless accept such proposed development for processing subject to satisfaction of the applicable criteria in such manner and within such time period as he shall specify in his notification of acceptance. If the executive director determines not to accept any proposed development for processing, he shall so notify the sponsor.

§ 6. Feasibility and commitment.

In order to continue the processing of the application, the applicant shall file, within such time limit as the executive director shall specify, such forms, documents and information as the executive director shall require with respect to the feasibility of the proposed development, including without limitation the following:

1. Any additions, modifications or other changes to the application and documents previously submitted as may be necessary or appropriate to make the information therein complete, accurate and current;

2. Architectural and engineering plans, drawings and specifications in such detail as shall be necessary or appropriate to determine the requirements for construction of the proposed development;

3. The applicant's best estimates of (i) the housing development costs and the components thereof, (ii) proposed construction loan amount (if applicable), (iii) proposed rents, (iv) proposed annual operating budget and the individual components thereof, (v) best estimates of the monthly utility expenses and other costs for each dwelling unit if paid by the resident, and (vi) amount of any federal insurance, subsidy or assistance that the applicant is requesting for the proposed development. The applicant's estimates shall be in such detail and with such itemization and supporting information as shall be requested by the executive director;

4. The proposed tenant selection plan which shall include, among other information that the executive director may require from time to time, the following: (i) the proposed rent structure; (ii) the utilization of any subsidy or other assistance from the federal government or any other source; (iii) the proposed income levels of tenants; (iv) any arrangements contemplated by the applicant for tenant referrals or relocations from federal, state or local governmental agencies of community organizations; and (v) any criteria to be used for disapproving tenant applications and for establishing priority among eligible tenant applicants for occupancy of the proposed development.

5. The applicant's marketing plan, including description and analysis of strategies, techniques and procedures to be followed in marketing the units prior to acquisition of the development by the authority; and

6. Any documents required by the authority to evidence compliance with all conditions and requirements necessary to construct, and, prior to the acquisition by the authority of the development, to own, operate and manage the proposed development, including local governmental approvals, proper zoning status, availability of utilities, licenses and other legal authorizations necessary to perform requisite functions and any easements necessary for the construction and operation of the development.

The executive director may for good cause permit the applicant to file one or more of the foregoing forms, documents and information at a later time, and any review, analysis, determination or other action by the authority or the executive director prior to such filing shall be subject to the receipt, review and approval by the executive director of such forms, documents and information.

An appraisal of the proposed development will be obtained at this time or as soon as practical thereafter from an independent real estate appraiser selected by the authority. The authority may also obtain such other reports, analyses, information and data as the executive director deems necessary or appropriate to evaluate the proposed development.

If at any time the executive director determines that the applicant is not processing the application with due diligence and best efforts or that the application cannot be successfully processed to commitment and initial closing within a reasonable time, he may, in his discretion, terminate the application and retain any fees previously paid to the authority.

The authority staff shall review and evaluate the documents and information received or obtained pursuant to this § 6. Such review and evaluation shall include, but not be limited to, the following:

1. An analysis of the estimates of construction costs and the proposed operating budget and an evaluation as to the economic feasibility of the proposed development;

2. A market analysis as to the present and projected demand for the proposed development in the market area, including: (i) an evaluation of existing and future market conditions; (ii) an analysis of trends and projections of housing production, employment and population for the market area; (iii) a site evaluation (such as access and topography of the site, neighborhood environment of the site, public and private facilities serving the site and present and proposed uses of nearby land); and (iv) an analysis of

competitive projects;

3. A review of the marketing and tenant selection plans, including their effect on the economic feasibility of the proposed development and their efficacy in carrying out the programs and policies of the authority;

4. A final review of the (i) ability, experience and financial capacity of the applicant and general contractor and (ii) the qualifications of the architect, management agent and other members of the proposed development team.

5. An analysis of the architectural and engineering plans, drawings and specifications, including the functional use and living environment for the proposed residents, the marketability of the units, the amenities and facilities to be provided to the proposed residents, and the management, maintenance and energy conservation characteristics of the proposed development.

Based upon the authority staff's analysis of such documents and information and any other information obtained by the authority in its review of the proposed development, the executive director shall prepare a recommendation to the board that a commitment of the authority to enter into a contract with the applicant for the acquisition of the development by the authority and, if applicable, to make a construction loan for the development be issued to the applicant only if he determines that all of the following criteria have been satisfied:

1. Based on the data and information received or obtained pursuant to this § 6, no material adverse change has occurred with respect to compliance with the criteria set forth in § 5 of these rules and regulations.

2. The applicant's estimates of housing development costs (i) include all costs necessary for the development and construction of the proposed development, (ii) are reasonable in amount, (iii) are based upon valid data and information, and (iv) are comparable to costs for similar multi-family rental developments; provided, however, that if the applicant's estimates of such costs are insufficient in amount under the foregoing criteria, such criteria may nevertheless be satisfied if, in the judgment of the executive director, the applicant will have the financial ability to pay any costs estimated by the executive director to be in excess of the total of the applicant's estimates of housing development costs.

3. Any administrative, community, health, nursing care, medical, educational, recreational, commercial or other nonhousing facilities to be included in the proposed development are incidental or related to the proposed development and are necessary, convenient or desirable with respect to the ownership, operation or management of the proposed development.

4. All operating expenses (including replacement and other reserves) necessary or appropriate for the operation of the proposed development are included in the proposed operating budget, and the estimated amounts of such operating expenses are reasonable, are based on valid data and information and are comparable to operating expenses experienced by similar developments.

5. Based upon the proposed rents and projected occupancy level required or approved by the executive director, the estimated income from the proposed development is reasonable. The estimated income may include (i) rental income from commercial space within the proposed development if the executive director determines that a strong, long-term market exists for such space and (ii) income from other sources relating to the operation of the proposed development if determined by the executive director to be reasonable in amount and comparable to such income received on similar developments.

6. The estimated income from the proposed development, including any federal subsidy or assistance, is sufficient to pay when due the estimates of the debt service on the notes or bonds issued by the authority to acquire the development (plus such additional amounts as the authority shall determine to be appropriate as compensation for its administrative costs and its risks as owner of the development), the operating expenses, and replacement and other reserves required by the authority.

7. The units will be occupied by persons and families intended to be served by the proposed development and eligible under the Act, these rules and regulations, and under any applicable federal laws, rules and regulations. Such occupancy of the units will be achieved in such time and manner that the proposed development (i) will attain self-sufficiency (i.e., the rental and other income from the development is sufficient to pay all operating expenses, replacement and other reserves required by the authority, and debt service on the notes or bonds issued by the authority to acquire the development, plus such additional amounts as the authority shall determine to be appropriate as compensation for its administrative costs and its risks as owner of the development) within the usual and customary time for a development for its size, nature, location and type and (ii) will continue to be self-sufficient for the full term of such notes or bonds.

8. The estimated utility expenses and other costs to be paid by the residents are reasonable, are based upon valid data and information and are comparable to such expenses experienced by similar developments, and the estimated amounts of such utility expenses

and costs will not have a materially adverse effect on the occupancy of the units in accordance with paragraph 7 above.

9. The architectural drawings, plans and specifications shall demonstrate that: (i) the proposed development as a whole and the individual units therein shall provide safe, habitable, and pleasant living accommodations and environment for the contemplated residents; (ii) the dwelling units of the proposed housing development and the individual rooms therein shall be furnishable with the usual and customary furniture, appliances and other furnishings consistent with their intended use and occupancy; and (iii) the proposed housing development shall make use of measures promoting environmental protection, energy conservation and maintenance and operating efficiency to the extent economically feasible and consistent with the other requirements of this § 6.

10. The proposed development includes such appliances, equipment, facilities and amenities as are customarily used or enjoyed by the contemplated residents in similar developments.

11. The marketing and tenant selection plans submitted by the applicant shall comply with these rules and regulations and shall provide for actions to be taken prior to acquisition of the development by the authority such that (i) the dwelling units in the proposed development will be occupied in accordance with paragraph 7 above and any applicable federal laws, rules and regulations by those eligible persons and families who are expected to be served by the proposed development, (ii) the residents will be selected without regard to race, color, religion, creed, sex or national origin and (iii) units intended for occupancy by handicapped and disabled persons will be adequately and properly marketed to such persons and such persons will be given priority in the selection of residents for such units. The tenant selection plan shall describe the requirements and procedures (including any occupancy criteria and priorities established pursuant to § 11 of these rules and regulations) to be applied by the owner in order to select those residents who are intended to be served by the proposed development and who are best able to fulfill their obligation and responsibilities as residents of the proposed development.

12. In the case of any development to be subject to mortgage insurance or otherwise to be assisted or aided by the federal government, the proposed development will comply in all respects with any applicable federal laws, rules and regulations, and adequate federal insurance, subsidy, or assistance is available for the development and will be expected to remain available in the due course of processing with the applicable federal agency, authority or instrumentality.

13. The proposed development will comply with: (i) all applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued or to be issued by the authority to finance the acquisition and, if applicable, the construction of the proposed development and (ii) all requirements set forth in the resolutions pursuant to which such notes or bonds are issued or to be issued.

14. The prerequisites necessary for the members of the applicant's development team to construct and, prior to the acquisition thereof by the authority, to operate and manage the proposed development have been satisfied or can be satisfied prior to initial closing. These prerequisites include, but are not limited to obtaining: (i) site plan approval, (ii) proper zoning status, (iii) assurances of the availability of the requisite public utilities, (iv) commitments by public officials to construct such public improvements and accept the dedication of streets and easements that are necessary or desirable for the construction and use of the proposed development, (v) licenses and other legal authorizations necessary to permit each member to perform his or its duties and responsibilities in the Commonwealth of Virginia, (vi) building permits, and (vii) fee simple ownership of the site, a sales contract or option giving the applicant the right to purchase the site for the proposed development and obtain fee simple title, or a leasehold interest of the time period required by the Act (any such ownership or leasehold interest acquired or to be acquired shall be free of any covenants, restrictions, easements, conditions, or other encumbrances which would adversely affect the construction or the authority's ownership or operation of the proposed development).

15. The proposed development will comply with all applicable state and local laws, ordinances, regulations and requirements.

16. The proposed development will provide valid and sound security for the authority's notes or bonds and will contribute to the fulfillment of the public purposes of the authority as set forth in its Act.

17. Subject to a final determination by the board, the acquisition and financing of the proposed development will meet the requirements set forth in §§ 36-55.33:2 and 36-55.39 of the Code of Virginia, as applicable.

If the executive director determines that the foregoing criteria are satisfied and that he will recommend approval of the application and issuance of a commitment to acquire the development and, if applicable, to finance the construction of the development, he shall present his analysis and recommendations to the board. If the executive director determines that one or more of the foregoing criteria have not been adequately satisfied, he may nevertheless in his discretion recommend to the board that the application be approved and that a

commitment be issued subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate.

The board shall review and consider the analysis and recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the application and authorize the issuance of a commitment to acquire the development and, if applicable, to finance the construction thereof, subject to such terms and conditions as the board shall require in such resolution.

If the development is to be acquired by a successor entity formed by the authority as described in § 9 hereof, the resolution shall authorize (i) the assignment to such successor entity of the authority's interest in the contract to acquire the development and (ii), if applicable, the making of a permanent loan to such successor entity in an amount set forth therein to finance the acquisition cost of the development and such other costs relating to the acquisition and ownership of the development and to the financing thereof as the authority shall deem necessary or appropriate.

The purchase price for the development, the term and principal amount of any construction loan, the terms and conditions applicable to any equity contribution by the applicant for any construction loan, any assurances of successful completion of the development, and other terms and conditions of the acquisition and construction loan shall be set forth in the board's resolution or in the commitment issued pursuant to the resolution. The resolution or commitment shall also include such terms and conditions as the authority considers appropriate with respect to the development and construction, if applicable, and the acquisition of the proposed development, the disbursement and repayment of the construction loan, if applicable, and other matters related to the development and construction, if applicable, and, prior to the acquisition thereof by the authority, the ownership, operation, marketing and occupancy (including any income limits or occupancy restrictions other than those set forth in these rules and regulations) of the proposed development. Such resolution or commitment may include a financial analysis of the proposed development, setting forth the initial schedule of rents, the approved initial budget for operation of the development and a schedule of the estimated housing development costs.

If the development is to be acquired by a successor entity which is a for-profit housing sponsor, the board may in its resolution prescribe, in accordance with the authority's rules and regulations for multi-family housing developments, the maximum annual rate at which distributions may be made.

Neither an acquisition by the authority of a development nor a construction or permanent loan for such development pursuant to these rules and regulations shall be authorized unless the board by resolution shall make the applicable findings required by §§ 36-55.33:2 and 35-55.39, as applicable, of the Code of Virginia; provided, however, that the board may in its discretion authorize the acquisition or the construction or permanent loan in advance of the issuance of the commitment therefor in accordance herewith without making the finding, if applicable, required by subsection A of § 36-55.33:2 and subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the authority's acquisition of the development and, if applicable, the financing of the construction or permanent loan for such development.

If the executive director determines not to recommend approval of an application and issuance of a commitment, he shall so notify the applicant. If any application is not so recommended for approval, the executive director may select for processing one or more applications in its place.

§ 7. Initial closing.

Upon issuance of the commitment, the applicant shall direct its attorney to prepare and submit the legal documentation (the "initial closing documents") required by the commitment within the time period specified. When the initial closing documents have been submitted and approved by the authority staff and all other requirements in the commitment have been satisfied, the authority shall execute and deliver to the applicant a contract to acquire the development; provided, however, that in the case of the acquisition of any existing development, the applicant shall convey the development to the authority at the initial closing, and the authority shall pay the purchase price therefor to the applicant, all in accordance with the terms of the commitment. Also at the initial closing, the initial closing documents (including, in the case of an existing development, a housing management agreement between the authority and the management agent proposed by the authority or, in the case of a development to be constructed, an agreement between the authority and such agent to enter into a housing management agreement at final closing) shall be, where required, executed and recorded, and the applicant will make any initial equity investment required by the commitment and the initial closing documents and will fund such other deposits, escrows and reserves as required by the commitment. If the authority is to provide construction financing for the development, the closing of the construction loan shall also be held at this time, the financing fee of 1.0% of the construction loan amount shall be paid to the authority, and the initial disbursement of construction loan proceeds will be made by the authority, if appropriate under the commitment and the initial closing documents. The actual interest rate on the construction loan shall be established by the executive director at initial closing and may thereafter be altered by the executive director in accordance with the authority's rules and regulations and the terms of the deed of trust note.

If a successor entity as described in § 9 hereof is to acquire an existing development, the sale and conveyance

of such development and the making of any permanent mortgage loan to such entity by the authority, all as set forth in § 9 hereof, shall be consummated at the initial closing.

The executive director may require such accounts, reserves, deposits, escrows, bonds, letters of credit and other assurances as he shall deem appropriate to assure the satisfactory construction and, prior to acquisition by the authority, completion, occupancy and operation of the development, including without limitation one or more of the following: working capital deposits, construction contingency funds, operating reserve accounts, payment and performance bonds or letters of credit and latent construction defect escrows. The foregoing shall be in such amounts and subject to such terms and conditions as the executive director shall require and as shall be set forth in the initial closing documents.

§ 8. Construction.

The construction of the development shall be performed in accordance with the initial closing documents. The authority shall have the right to inspect the development as often as deemed necessary or appropriate by the authority to determine the progress of the work and compliance with the initial closing documents and to ascertain the propriety and validity of any construction loan disbursements requested by the mortgagor. Such inspections shall be made for the sole and exclusive benefit and protection of the authority. If the authority is providing construction financing, a disbursement of construction loan proceeds may only be made upon a determination by the authority that the terms and conditions of the initial closing documents with respect to any such disbursement have been satisfied; provided, however, that in the event that such terms and conditions have not been satisfied, the executive director may, in his discretion, permit such disbursement if additional security or assurance satisfactory to him is given. The amount of any disbursement by the authority shall be determined in accordance with the terms of the initial closing documents and shall be subject to such retainage or holdback as is therein prescribed.

§ 9. Completion of construction and final closing.

The initial closing documents shall specify those requirements and conditions that must be satisfied in order for the development to be deemed to have attained final completion.

Prior to or concurrently with final closing, the applicant, the owner, the general contractor, the management agent and other members of the development team shall perform all acts and submit all contracts and documents required by the initial closing documents (including the contract to acquire the development) in order to attain final completion, obtain any federal insurance, subsidy or assistance and otherwise consummate the acquisition and the final closing. The owner shall deliver to the authority a fully executed deed conveying to the authority fee simple title to the development in accordance with the contract and shall execute and deliver such other final closing documents as the authority may prescribe. The authority shall pay to the owner the purchase price specified in the contract to acquire the development. The management agreement shall be executed by the authority and the management agent at the final closing. If the authority had provided the construction loan, such loan shall be repaid in full at final closing.

Prior to or concurrently with final closing, the executive director shall, if authorized by the resolution, assign its interest in the contract to acquire the development to a successor entity formed by the authority, on its own behalf or in conjunction with other parties, pursuant to the Act. Any reference to the authority in these rules and regulations with respect to the conveyance to or the acquisition, ownership or operation by the authority of a development shall be deemed to refer also to any such successor entity of the authority. Such successor entity shall purchase the development at final closing and otherwise perform the obligations of the authority as purchaser under the contract. The applicant shall convey title to the development to such successor entity and shall perform all of its other obligations as seller under such contract. Furthermore, if authorized by the resolution, the authority shall at final closing provide to such successor entity a permanent mortgage loan secured by a first lien on the development to finance the acquisition and ownership thereof. The making of such permanent mortgage loan shall take place at final closing upon the execution, delivery and recordation of such documents as the executive director shall require. Such permanent loan shall bear such interest rate and shall be subject to such terms and conditions as the executive director shall prescribe pursuant to and in accordance with the commitment. For the purpose of determining any maximum annual dividend distributions by any such successor entity and the maximum principal amount of the permanent mortgage loan to such successor entity permissible under the Act, the total development costs shall be the cost of the acquisition as determined by the authority and such other costs relating to such acquisition, the financing of the permanent mortgage loan and the ownership and operation of the development as the authority shall determine to be reasonable and necessary. The equity investment of any such successor entity shall be the difference between such total development costs and the principal amount of the permanent mortgage loan.

At the final closing, the authority shall determine in accordance with the initial closing documents any funds due the authority, the applicant, the owner, general contractor, the architect or other parties that the authority requires to be disbursed or paid as part of the final closing.

§ 10. Construction loan and purchase price increases.

Prior to initial closing, the purchase price or the

principal amount of any construction loan or both may be increased, if such an increase is justified by an increase in the estimated costs of the proposed development, is necessary or desirable to effect the successful construction of the proposed development, will not have a material adverse effect on the financial feasibility or proper operation and maintenance of the development or on the security of the authority's construction loan or ownership interest in the development, can be funded from available proceeds of the authority's notes or bonds, and will not result in noncompliance with the provisions of the Act or these rules and regulations (including, without limitation, the criteria set forth in § 6 hereof). Any such increase shall be subject to such terms and conditions as the authority shall require.

Subsequent to initial closing, the authority will consider and, where appropriate, approve an increase in the purchase price or principal amount of the construction loan or both in the following instances:

1. Cost increases are incurred as the direct result of (i) changes in work required or requested by the authority or (ii) betterments to the development approved by the authority which will improve the quality or value of the development or will reduce the costs of operating or maintaining the development;

2. An increase is determined by the authority, in its sole and absolute discretion, to be in the best interests of the authority in protecting its security for the construction loan or its ownership interest to be acquired in the development; or

3. The authority has entered into an agreement with the mortgagor prior to initial closing to provide an increase if certain cost overruns occur, but only to the extent set forth in such agreement.

Any such increase in the construction loan or purchase price subsequent to initial closing may be subject to such terms and conditions as the authority shall require, including (but not limited to) one or more of the following, as applicable:

1. The ability of the authority to sell bonds to finance the increase in amounts, at rates and under terms and conditions satisfactory to the authority (applicable only to an increase to be financed from the proceeds of the authority's notes or bonds).

2. The obtaining by the owner of additional federal subsidy (if the development is to receive such subsidy) in amounts necessary to fund the additional debt service on the authority's notes and bonds to be paid as a result of any such increase in the purchase price, plus such additional amounts as the authority shall determine to be appropriate as compensation for its administrative costs and its risks as owner of the development. The provision of such additional subsidy shall be made subject to and in accordance with all applicable federal regulations.

3. A determination by the authority that the increase in the purchase price will have no material adverse effect on the financial feasibility or proper operation and maintenance of the development or on the security of the authority's ownership interest to be acquired in the development.

4. A determination by the authority that the construction loan, as increased, does not exceed such percentage of the estimated total development cost as is established in the resolution authorizing the construction loan, as applicable, in accordance with § 3 of these rules and regulations.

5. Such terms and conditions as the authority shall require in order to protect the security of its interest in the construction loan and its ownership interest to be acquired in the development, to comply with covenants and agreements with the holders of its bonds, if any, issued to finance the construction loan or the acquisition of the development, to comply with the Act and these rules and regulations, and to carry out its public purpose.

In the event of any increase in the purchase price pursuant hereto, the authority may also increase the principal amount of any permanent mortgage loan to be provided to any successor entity.

The executive director may, without further action by the board, increase the purchase price, the principal amount of the construction loan or the principal amount of the permanent loan at any time by an amount not to exceed 2.0% thereof, provided that such increase is consistent with the Act and these rules and regulations. Any increase in excess of such 2.0% shall require the approval of the board.

Nothing contained in this § 10 shall impose any duty or obligation on the authority to increase any purchase price or the principal amount of any construction loan or permanent loan, as the decision as to whether to grant a purchase price, construction loan or permanent loan increase shall be within the sole and absolute description of the authority.

§ 11. Operation, management and marketing.

The authority shall establish the rents to be charged for dwelling units in the development. Units in the development shall only be leased to persons and families who are eligible for occupancy thereof as described in § 2 of these rules and regulations. The authority (or any successor entity acquiring the development pursuant to § 9 hereof) shall examine and determine the income and eligibility of applicants for their initial occupancy of the dwelling units of the development and shall reexamine and redetermine the income and eligibility of all occupants of such dwelling units every two years following such initial

occupancy or at more frequent intervals if required by the executive director. It shall be the responsibility of each applicant for occupancy of such a dwelling unit, and of each occupant thereof, to report accurately and completely his adjusted family's income, family composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the authority (or any such successor entity) with verification thereof at the times of examination and reexamination of income and eligibility as aforesaid.

With respect to a person or family occupying a multi-family dwelling unit, if a periodic reexamination and redetermination of the adjusted family's income and eligibility as provided in this section establishes that such person's or family's adjusted family income then exceeds the maximum limit for occupancy of such dwelling unit applicable at the time of such reexamination and redetermination, such person or family shall be permitted to continue to occupy such dwelling unit; provided, however, that during the period that such person's or family's adjusted family income exceeds such maximum limit, such person or family may be required by the executive director to pay such rent, carrying charges or surcharge as determined by the executive director in accordance with a schedule prescribed or approved by him. If such person's or family's adjusted family income shall exceed such maximum limit for a period of six months or more, the authority (or any such successor entity) may terminate the tenancy or interest by giving written notice of termination to such person or family specifying the reason for such termination and giving such person or family not less than 90 days (or such longer period of time as the authority shall determine to be necessary to find suitable alternative housing) within which to vacate such dwelling unit.

In addition to the eligibility requirements of the authority, the executive director may establish occupancy criteria and priorities based on the following:

1. The age, family size, financial status, health conditions (including, without limitation, any handicaps or disabilities) and other circumstances of the applicants for the dwelling units;

2. The status and physical condition of the housing then occupied by such applicants; and

3. Any other factors or matters which the executive director deems relevant to the effectuation of the public purposes of the authority.

The authority (or any successor entity as described in § 9 hereof) shall develop a tenant selection plan for tenants eligible to occupy the development. Such tenant selection plan shall include, among other information that the executive director may require from time to time, the following: (i) the proposed rent structure; (ii) the utilization of any subsidy or other assistance from the federal government or any other source, (iii) the proposed income levels of tenants; (iv) any arrangements contemplated by the authority or such successor entity for tenant referrals or relocations from federal, state or local governmental agencies of community organizations; and (v) any criteria to be used for disapproving tenant applications and for establishing priority among eligible tenant applicants for occupancy of the proposed development. In selecting eligible residents, the authority (or any such successor entity) shall comply with such occupancy criteria and priorities and with the tenant selection plan.

The executive director is authorized to prepare and from time to time revise a housing management handbook which shall set forth the authority's procedures and requirements with respect to the management of developments by management agents. Copies of the housing management handbook shall be available upon request.

The management of the development shall also be subject to a management agreement by and between the management agent and the authority (or any successor entity). Such management agreement shall govern the policies, practices and procedures relating to the management, marketing and operation of the development. The term of the management agreement shall be as prescribed by the executive director, and upon the expiration of such term the authority may renew or extend such management agreement or may contract with a different management agent on such terms and conditions as the executive director shall require. The development shall be managed in accordance with the Act, these rules and regulations, the management agreement and the authority's housing management handbook, if applicable.

If any successor entity formed pursuant to § 9 hereof is not within the exclusive control of the authority, the executive director may require that such entity and the development owned by and mortgage loan made to such entity be subject to such of the provisions of the authority's rules and regulations for multi-family housing developments as he shall require to protect its security for the mortgage loan, to protect its interest in such entity and to fulfill its public purpose under the Act.

REAL ESTATE APPRAISER BOARD

Title of Regulation: **VR 583-01-03. Real Estate Appraiser Board Regulations.**

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Public Hearing Dates:
November 12, 1991
November 19, 1991
November 20, 1991
December 10, 1991
(See Calendar of Events section for additional information)

Summary:

Pursuant to Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 of the Code of Virginia and in accordance with Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia, the Real Estate Appraiser Board proposes to promulgate a new regulation governing real estate appraisers to replace its existing emergency regulation which will expire March 14, 1992.

These new regulations establish the qualifications for licensure of real estate appraisers in Virginia. The regulation outlines the educational, experience and examination requirements necessary for the licensure and renewal of licenses issued to certified general, certified residential and licensed residential real estate appraisers. Further, the regulation sets forth the standards of conduct and standards of practice that shall be maintained by licensed appraisers.

VR 583-01-03. Real Estate Appraiser Board Regulations.

PART I.
GENERAL.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Accredited colleges, universities, junior and community colleges" means those accredited institutions of higher learning approved by the Virginia Council of Higher Education or listed in the Transfer Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers.

"Adult distributive or marketing education programs" means those programs offered at schools approved by the Virginia Department of Education or any other local, state, or federal government agency, board or commission to teach adult education or marketing courses.

"Appraisal Foundation" means the foundation incorporated as an Illinois Not for Profit Corporation on November 30, 1987, to establish and improve uniform appraisal standards by defining, issuing and promoting such standards.

"Appraiser Qualification Board" means the board created by the Appraisal Foundation to establish appropriate criteria for the certification and recertification of qualified appraisers by defining, issuing and promoting such qualification criteria; to disseminate such qualification criteria to states, governmental entities and others; and to develop or assist in the development of appropriate examinations for qualified appraisers.

"Business entity" means for the purpose of these regulations any corporation, partnership, association or other organization under which appraisal services are performed.

"Certified general real estate appraiser" means an individual who meets the requirements for licensure that relate to the appraisal of all types of real estate and real property and is licensed as a certified general real estate appraiser.

"Certified residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of any residential real estate or real property of one to four residential units regardless of transaction value or complexity. Certified residential real estate appraisers may also appraise nonresidential properties with a transaction value up to $250,000.

"Classroom hour" means 50 minutes out of each 60-minute segment. The prescribed number of classroom hours includes time devoted to tests which are considered to be part of the course.

"Experience" as used in these regulations includes but is not limited to experience gained in the performance of traditional appraisal assignments, or in the performance of the following: fee and staff appraisals, ad valorem tax appraisal, review appraisal, appraisal analysis, real estate counseling, highest and best use analysis, feasibility analysis/study, and teaching of appraisal courses.

For the purpose of these regulations experience has been divided into five major categories: (i) fee and staff appraisal, (ii) ad valorem appraisal, (iii) review appraisal, (iv) real estate consulting, and (v) teaching of real estate courses.

1. "Fee/staff appraiser experience": Fee/staff appraiser experience means experience acquired as either a sole appraiser or as a cosigner.

Sole appraiser experience is experience obtained by an individual who makes personal inspections of real estate, assembles and analyzes the relevant facts, and by the use of reason and the exercise of judgment, forms objective opinions and prepares reports as to the market value or other properly defined value of identified interests in said real estate.

Cosigner appraiser experience is experience obtained by an individual who signs an appraisal report prepared by another, thereby accepting full responsibility for the content and conclusions of the appraisal.

To qualify for fee/staff appraiser experience, an individual must have prepared written appraisal reports which meet minimum standards. For appraisal reports dated prior to July 1, 1991, these minimum standards include the following, where applicable:

a. An adequate identification of the real estate and the interests being appraised;

b. The purpose of the report, date of value, and date of report;

c. A definition of the value being appraised;

d. A determination of highest and best use;

e. An estimate of land value;

f. The usual valuation approaches for the property type being appraised or the reason for excluding any of these approaches;

g. A reconciliation and conclusion as to the property's value;

h. Disclosure of assumptions or limiting conditions, if any; and

i. Signature of appraiser.

For appraisal reports dated subsequent to July 1, 1991, the minimum standards for written appraisal reports are those as prescribed in Standard 2 of the Uniform Standards of Professional Appraisal Practice in the 1990 edition or the edition in effect at the time of the reports' preparation.

2. "Ad valorem appraisal experience" means experience obtained by an individual who assembles and analyzes the relevant facts, and who correctly employs those recognized methods and techniques that are necessary to produce and communicate credible appraisals within the context of the real property tax laws. Ad valorem appraisal experience may be obtained either through individual property appraisals or through mass appraisals as long as applicants under this category of experience can demonstrate that they are using techniques to value real property similar to those being used by fee/staff appraisers and that they are effectively utilizing the appraisal process.

To qualify for ad valorem appraisal experience for individual property appraisals, an individual must have prepared written appraisal reports which meet minimum standards. For appraisal reports dated prior to July 1, 1991, these minimum standards include the following, where applicable:

a. An adequate identification of the real estate and the interests being appraised;

b. The effective date of value;

c. A definition of the value being appraised if other than fee simple;

d. A determination of highest and best use;

e. An estimate of land value;

f. The usual valuation approaches for the property type being appraised or the reason for excluding any of these approaches;

g. A reconciliation and conclusion as to the property's value;

h. Disclosure of assumptions or limiting conditions, if any.

For appraisal reports dated subsequent to July 1, 1991, the minimum standards for written appraisal reports are those as prescribed in the Uniform Standards of Professional Appraisal Practice in the 1990 edition or the edition in effect at the time of the reports' preparation.

To qualify for ad valorem appraisal experience for mass appraisals, an individual must have prepared mass appraisals or have documented mass appraisal files which meet minimum standards. For mass appraisals dated prior to July 1, 1991, these minimum standards include the following, where applicable:

a. An adequate identification of the real estate and the interests being appraised;

b. The effective date of value;

c. A definition of the value being appraised if other than fee simple;

d. A determination of highest and best use;

e. An estimate of land value;

f. Those recognized methods and techniques that are necessary to produce a credible appraisal.

For mass appraisal reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 6 of the Uniform Standards of Professional Appraisal Practice in the 1990 edition or the edition in effect at the time of the reports' preparation.

In addition to the preceding, to qualify for ad valorem appraisal experience, the applicant's experience log must be attested to by the applicant's supervisor.

3. "Reviewer experience" means experience obtained by an individual who examines the reports of appraisers to determine whether their conclusions are consistent with the data reported and other generally known information. An individual acting in the capacity of a reviewer does not necessarily make

personal inspection of real estate, but does review and analyze relevant facts assembled by fee/staff appraisers, and by the use of reason and exercise of judgment, forms objective conclusions as to the validity of fee/staff appraisers' opinions. In cases where reviewer experience is the sole category of experience being claimed by an individual, at least 25% of the required 2,000 hours (500 hours) must be in field review wherein the individual has personally inspected the real estate which is the subject of the review.

To qualify for reviewer experience, an individual must have prepared written reports recommending the acceptance, revision, or rejection of the fee/staff appraiser's opinions, which written reports must meet minimum standards. For appraisal reviews dated prior to July 1, 1991, these minimum standards include the following, where applicable:

a. An identification of the report under review, the real estate and real property interest being appraised, the effective date of the opinion in the report under review, and the date of the review;

b. A description of the review process undertaken;

c. An opinion as to the adequacy and appropriateness of the report being reviewed, and the reasons for any disagreement;

d. An opinion as to whether the analyses, opinions, and conclusions in the report under review are appropriate and reasonable, and the development of any reasons for any disagreement;

e. Signature of reviewer.

For appraisal review reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 3 of the Uniform Standards of Professional Appraisal Practice in the 1990 edition or the edition in effect at the time of the reports' preparation.

Signing as "Review Appraiser" on an appraisal report prepared by another will not qualify an individual for experience in the reviewer category. Experience gained in this capacity will be considered under the Cosigner subcategory of Fee/staff appraiser experience.

4. "Real estate counseling experience" means experience obtained by an individual who assembles and analyzes the relevant facts and by the use of reason and the exercise of judgment, forms objective opinions concerning matters other than value estimates relating to real estate. Real estate counseling experience includes, but is not necessarily limited to, the following:

Absorption Study	Ad Valorem Tax Study
Annexation Study	Assemblage Study
Assessment Study	Condominium Conversion Study
Cost-Benefit Study	Cross Impact Study
Depreciation/Cost Study	Distressed Property Study
Economic Base Analysis	Economic Impact Study
Economic Structure Analysis	Eminent Domain Study
Feasibility Study	Highest and Best Use Study
Impact Zone Study	Investment Analysis Study
Investment Strategy Study	Land Development Study
Land Suitability Study	Land Use Study
Location Analysis Study	Market Analysis Study
Market Strategy Study	Market Turning Point Analysis
Marketability Study	Portfolio Study
Rehabilitation Study	Remodeling Study
Rental Market Study	Right of Way Study
Site Analysis Study	Utilization Study
Urban Renewal Study	Zoning Study

To qualify for real estate counseling experience, an individual must have prepared written reports which meet minimum standards. For real estate counseling reports dated prior to July 1, 1991, these minimum standards include the following, where applicable:

a. A definition of the problem;

b. An identification of the real estate under consideration (if any);

c. Disclosure of the client's objective;

d. The effective date of the consulting assignment and date of report;

e. The information considered, and the reasoning that supports the analyses, opinions, and conclusions;

f. Any assumptions and limiting conditions that affect the analyses, opinions, and conclusions;

g. Signature of real estate counselor.

For real estate counseling reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 4 of the Uniform Standards of Professional Appraisal Practice in the 1990 edition or the edition in effect at the time of the reports' preparation. Real estate counseling shall not constitute more than 1,000 hours of experience for any type of appraisal license.

5. "Teaching experience" means experience obtained by an individual in the instruction of real estate appraisal or real estate related seminars/courses as well as in the authorship of real estate appraisal and analysis publications. Experience in these areas will be considered on the following basis:

a. Seminar and course instructions: The number of approved hours is based on the published number of classroom hours stated in the official college catalog or similar publication of other educational bodies or professional organizations.

b. Authorship: Authorship of published books, journal articles and theses may count toward an applicant's experience credit as follows:

(1) Topic must relate to real estate valuation or analysis;

(2) A book will be credited 150 hours, a journal article will be credited 20 hours, and a thesis will be credited 50 hours.

Credit may be earned only once for instruction of courses having substantially equivalent content. In cases where there is more than one instructor, credit will be pro-rated based on each instructor's participation.

"Licensed residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of any noncomplex, residential real estate or real property of one to four residential units, including federally related transactions, where the transaction value is less than $1 million. Licensed residential real estate appraisers may also appraise noncomplex, nonresidential properties with a transaction value up to $250,000.

"Licensee" means any individual holding a license issued by the Real Estate Appraiser Board to act as a certified general real estate appraiser, certified residential, or licensed residential real estate appraiser as defined, respectively, in § 54.1-2009 of the Code of Virginia and in these regulations.

"Local, state or federal government agency, board or commission" means an entity established by any local, federal or state government to protect or promote the health, safety and welfare of its citizens.

"Proprietary school" means a privately owned school offering appraisal or appraisal related courses approved by the board.

"Provider" means accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations.

"Real estate appraisal or real estate related organization" means any appraisal or real estate related organization formulated on a national level, where its membership extends to more than one state or territory of the United States.

"Registrant" means any corporation, partnership, association or other business entity which provides appraisal services and which is registered with the Real Estate Appraiser Board in accordance with § 54.1-2011 E of the Code of Virginia.

"Substantially equivalent" is a description for any educational course or seminar, experience, or examination taken in this or another jurisdiction which is equivalent in classroom hours, course content and subject, and degree of difficulty, respectively, to those requirements outlined in these regulations and Chapter 20.1 of Title 54.1 of the Code of Virginia for licensure and renewal.

"Transaction value" means the monetary amount of a transaction which may require the services of a certified or licensed appraiser for completion. The transaction value is not always equal to the market value of the real property interest involved. For loans or other extensions of credit, the transaction value equals the amount of the loan or other extensions of credit. For sales, leases, purchases and investments in or exchanges of real property, the transaction value is the market value of the real property interest involved. For the pooling of loans or interests in real property for resale or purchase, the transaction value is the amount of the loan or the market value of real property calculated with respect to each such loan or interest in real property.

"Uniform Standards of Professional Appraisal Practice" means those standards promulgated by the Appraisal Standards Board of the Appraisal Foundation for use by all appraisers in the preparation of appraisal reports.

PART II.
ENTRY.

§ 2.1. Requirement for registration.

A business entity seeking to provide appraisal services shall register with the board by completing an application furnished by the board describing the location, nature and operation of its practice, and the name and address of the registered agent, an associate, or a partner of the business entity. Along with a completed application form, domestic corporations shall provide a copy of the Certificate of Incorporation as issued by the State Corporation Commission, foreign (out-of-state) corporations shall provide a copy of the Certificate of Authority from the State Corporation Commission, partnerships shall provide a copy of the certified Partnership Certificate, and other business entities trading under a fictitious name shall provide a copy of the certificate filed with the clerk of the court where business is to be conducted.

§ 2.2. General qualifications for licensure.

Every applicant to the Real Estate Appraiser Board for a certified general, certified residential, or licensed residential real estate appraiser license shall meet the following qualifications:

1. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a licensed real estate appraiser in such a manner as to safeguard the interests of the public.

2. The applicant shall meet the current educational

and experience requirements and submit a license application to the Department of Commerce or its agent prior to the time the applicant is approved to take the licensing examination. Applications received by the department or its agent must be complete within 12 months of the date of the receipt of the license application and fee by the Department of Commerce or its agent.

3. The applicant shall be in good standing as a real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification which was suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

4. The applicant may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

5. The applicant shall be at least 18 years old.

6. Applicants for licensure who do not meet the requirements set forth in subdivisions 3 and 4 of this section may be approved for licensure following consideration of their application by the board.

§ 2.3. Additional qualifications for licensure of licensed residential real estate appraisers.

An applicant for a license as a licensed residential real estate appraiser shall meet the following educational, experience and examination requirements in addition to those set forth in § 2.2 of these regulations:

1. The applicant shall have successfully completed 75 classroom hours of approved real estate appraisal courses from accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations.

2. The applicant shall have a minimum of two calendar years and 2,000 hours experience as an appraiser. The maximum number of appraisal credit hours which may be awarded in one calendar year is 1,000 hours. Hours may be treated as cumulative in order to achieve the necessary 2,000 hours of appraisal experience. The applicant shall execute an affidavit as a part of the application for licensure attesting to his experience in the field of real estate appraisal. This experience must be supported by adequate written reports or file memoranda which shall be made available to the board upon request.

3. Within 12 months after being approved by the board to take the licensed residential real estate appraiser examination, the applicant shall have registered for and passed a written examination provided by the board or by a testing service acting on behalf of the board.

§ 2.4. Additional qualifications for licensure for certified residential real estate appraisers.

An applicant for a license as a certified residential real estate appraiser shall meet the following educational, experience and examination requirements in addition to those set forth in § 2.2 of these regulations:

1. The applicant shall have successfully completed 105 classroom hours of approved real estate appraisal courses from accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations or other providers approved by the board. The 105 classroom hours may include the 75 classroom hours required for the licensed residential real estate appraiser.

After January 1, 1994, applicants must complete 165 classroom hours of real estate appraisal courses which shall include coverage of required subjects.

2. The applicant shall have a minimum of two calendar years and 2,000 hours experience as a real estate appraiser. The maximum number of appraisal credit hours which may be awarded in one calendar year is 1,000 hours. Hours may be treated as cumulative in order to achieve the necessary 2,000 hours of appraisal experience. The applicant shall execute an affidavit as a part of the application for licensure attesting to his experience in the field of real estate appraisal. This experience must be supported by adequate written reports or file memoranda which shall be made available to the board upon request.

3. Within 12 months after being approved by the board to take the certified residential real estate appraiser examination, the applicant shall have registered for and passed a written examination provided by the board or by a testing service acting on behalf of the board.

§ 2.5. Additional qualifications for licensure for certified general real estate appraisers.

An applicant for a license as a certified general real estate appraiser shall meet the following educational,

experience, and examination requirements in addition to those set forth in § 2.2 of these regulations:

1. The applicant shall have successfully completed 165 classroom hours of approved real estate appraisal courses from accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations. The 165 classroom hours may include the 75 classroom hours required for the licensed residential real estate appraiser, or the 105 classroom hours required for the certified residential real estate appraiser.

All applicants for licensure as a certified general real estate appraiser must complete an advanced level appraisal course of at least 30 classroom hours in the appraisal of nonresidential properties.

2. The applicant shall have a minimum of two calendar years and 2,000 hours experience as a real estate appraiser. The maximum number of appraisal credit hours which may be awarded in one calendar year is 1,000 hours. Hours may be treated as cumulative in order to achieve the necessary 2,000 hours of appraisal experience. For all applicants for a certified general real estate appraiser license, at least 50% of the appraisal experience required (1,000 hours) must be in nonresidential appraisal assignments.

The applicant shall execute an affidavit as a part of the application for licensure attesting to his experience in the field of real estate appraisal. This experience must be supported by adequate written reports or file memoranda which shall be made available to the board upon request.

3. Within 12 months after being approved by the board to take the certified general real estate appraiser examination, the applicant shall have registered for and passed a written examination provided by the board or by a testing service acting on behalf of the board.

§ 2.6. Qualifications for licensure by reciprocity.

Every applicant to the Real Estate Appraiser Board for a license by reciprocity shall have met the following qualifications:

1. An individual who is currently licensed or certified as a real estate appraiser in another jurisdiction may obtain a Virginia real estate appraiser license by providing documentation that the applicant has met educational, experience and examination requirements that are substantially equivalent to those required in Virginia for the appropriate level of licensure. All reciprocal applicants shall be required to pass the Virginia appraiser law and regulation section of the licensing examination prior to licensure.

2. The applicant shall be at least 18 years of age.

3. The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the Virginia real estate appraiser license law and the regulations of the Real Estate Appraiser Board.

4. The applicant shall be in good standing as a licensed or certified real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification as a real estate appraiser which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

5. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a licensed real estate appraiser in such a manner as to safeguard the interests of the public.

6. The applicant may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

7. Applicants for licensure who do not meet the requirements set forth in subdivisions 4 and 6 of this section may be approved for licensure following consideration by the board.

§ 2.7. Qualifications for temporary licensure as a certified general real estate appraiser, certified residential real estate appraiser or licensed residential real estate appraiser.

An individual who is currently licensed or certified as a real estate appraiser in another jurisdiction may obtain a temporary Virginia real estate appraiser's license as required by Section 1121 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989.

The appraiser's certification or license issued by another state shall be recognized as equivalent to a Virginia license provided that:

1. The appraiser's business is of a temporary nature, and is limited to one specific assignment.

2. The education, experience and general examination completed in the jurisdiction of original licensure is

deemed to be substantially equivalent to those required for the appropriate level of licensure in Virginia.

3. The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the Virginia real estate appraiser license law and the regulations of the Real Estate Appraiser Board.

4. The applicant shall be in good standing as a licensed or certified real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification as a real estate appraiser which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

5. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a real estate appraiser in such a manner as to safeguard the interest of the public.

6. The applicant may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

7. Applicants for licensure who do not meet the requirements set forth in subdivisions 4 and 6 of this section may be approved for licensure following consideration by the board.

8. The applicant shall be at least 18 years of age.

Applicants for temporary licensure shall verify the above information on an application form provided by the board. A temporary license cannot be renewed.

§ 2.8. Requirement for the certification of appraisal education instructors.

Pursuant to the mandate of Title 11 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, and § 54.1-2013 of the Code of Virginia, instructing appraisal educational offerings to satisfy the prelicensure education qualifications for licensure of real estate appraisers shall be certified by the board. Instructors employed or contracted by accredited colleges, universities, junior and community colleges, or adult distributive or marketing education programs are not required to be certified by the board.

§ 2.9. Qualifications for the certification of instructors.

Qualifications for certification:

1. Baccalaureate degree in real estate, economics, finance or business, and have satisfied the state appraisal licensing educational requirements for the level being instructed; or

2. Baccalaureate degree and a current appraisal license for the level being instructed; or

3. Seven years of discipline-free active experience acquired in the appraisal field in the past 10 years and a current appraisal license for the level being instructed.

§ 2.10. Application and registration fees.

All application fees for licenses and registrations are nonrefundable.

1. Application fees for registrations, certificates and licenses are as follows:

Registration of business entity

Certified General Real Estate Appraiser

Temporary Certified General Real Estate Appraiser

Certified Residential Real Estate Appraiser

Temporary Certified Residential Real Estate Appraiser

Licensed Residential Real Estate Appraiser

Temporary Licensed Residential Real Estate Appraiser

Certification of licensure

Instructor Certification

2. Examination fees. Examination fees are identical for all appraiser licensing examinations.

Examination fee to take the General or Residential section, and the State Laws and Regulations section $95

Examination fee to take the General or Residential section only $85

Examination fee to take the State Rules and Regulations section only $50

3. National Registry Fee Assessment for all permanent license applicants $50

To be assessed of each applicant in accordance with Section 1109 of the Financial Institutions Reform,

Recovery, and Enforcement Act of 1989. If the applicant fails to qualify for licensure, then this assessment fee will be refunded.

National Registry Fee Assessment for all temporary license applicants $25

To be assessed of each temporary appraiser license applicant in accordance with Section 1109 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. If the applicant fails to qualify for licensure, then this assessment fee will be refunded.

PART III.
RENEWAL OF
LICENSE/REGISTRATION/CERTIFICATION.

§ 3.1. Renewal required.

Licenses issued under these regulations for certified general real estate appraisers, certified residential real estate appraisers and licensed residential real estate appraisers and registrations issued for business entities shall expire two years from the last day of the month in which they were issued, as indicated on the license or registration. Certifications issued under these regulations for instructors shall expire two years from the last day of the month in which they were issued, as indicated on the certification.

§ 3.2. Qualifications for renewal.

A. Continuing education requirements.

As a condition of renewal, and under § 54.1-2014 of the Code of Virginia, all certified general real estate appraisers, certified residential real estate appraisers, and licensed residential real estate appraisers, resident or nonresident, shall be required to complete continuing education courses satisfactorily within each licensing term.

1. Continuing education requirements for certified general real estate appraisers.

a. Certified general real estate appraisers must satisfactorily complete continuing education courses or seminars offered by accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations of not less than 20 classroom hours during each licensing term.

b. Certified general real estate appraisers may also satisfy continuing education requirements by participation other than as a student in educational processes and programs approved by the board to be substantially equivalent for continuing education purposes including, but not limited to teaching, program development, or authorship of textbooks.

c. Three of the classroom hours completed to satisfy the continuing education requirements shall be a course approved by the board on recent developments in federal, state and local real estate appraisal law and regulation.

2. Continuing education requirements for certified residential real estate appraisers.

a. Certified residential real estate appraisers must satisfactorily complete continuing education courses or seminars offered by accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations of not less than 20 classroom hours during each licensing term.

b. Certified residential real estate appraisers may also satisfy continuing education requirements by participation other than as a student in educational processes and programs approved by the board to be substantially equivalent for continuing education purposes including but not limited to teaching, program development, or authorship of textbooks.

c. Three of the classroom hours completed to satisfy the continuing education requirements shall be a course approved by the board on recent developments in federal, state and local real estate appraisal law and regulation.

3. Continuing education requirements for licensed residential real estate appraisers.

a. Licensed residential real estate appraisers must satisfactorily complete continuing education courses or seminars offered by accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organization of not less than 20 classroom hours during each licensing term.

b. Licensed residential real estate appraisers may also satisfy continuing education requirements by participation other than as a student in educational processes and programs approved by the board to be substantially equivalent for continuing education purposes including, but not limited to teaching, program development, or authorship of textbooks.

c. Licensed residential real estate appraisers must satisfactorily complete a three classroom hour

continuing education course approved by the board on recent developments in federal, state and local real estate appraisal law and regulation.

B. Applicants for renewal of a license shall meet the standards for entry as set forth in subdivisions 1, 3 and 4 of § 2.2 of these regulations.

C. Applicants for the renewal of a registration shall meet the requirement for registration as set forth in § 2.1.

D. Applicants for the renewal of a certificate shall meet the standards for entry as set forth in § 2.9.

§ 3.3. Procedures for renewal.

A. The board will mail a renewal application form to the licensee and certificate holder at the last known home address and to the registered firm or at the last known business address. This form shall outline the procedures for renewal. Failure to receive the renewal application form shall not relieve the licensee, certificate holder or the registrant of the obligation to renew.

B. Prior to the expiration date shown on the license or registration, each licensee, certificate holder or registrant desiring to renew the license or registration shall return to the board the completed renewal application form and the appropriate renewal and registry fees as outlined in § 3.4 of these regulations.

C. The date on which the renewal application form and the appropriate fees are received by the Department of Commerce or its agent will determine whether the licensee, certificate holder or registrant is eligible for renewal. If either the renewal application form or renewal fee, including the registry fee, is received by the Department of Commerce or its agent after the expiration date, the license, certification or registration cannot be renewed and the licensee, certificate holder, or registrant shall reapply for licensure as a new applicant, meeting current education, examination and experience requirements.

§ 3.4. Fees for renewal.

A. National registry fee assessment.

In accordance with the requirements of Section 1109 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, $50 of the biennial renewal fee assessed for all certified general real estate appraisers, certified residential and licensed residential real estate appraisers shall be submitted to the Appraisal Subcommittee. All remaining fees for renewal are nonrefundable.

B. Renewal fees are as follows:

Certified general real estate appraiser

Certified residential real estate appraiser

Licensed residential real estate appraiser

Registered business entity

Certified instructor

§ 3.5. Board discretion to deny renewal.

The board may deny renewal of a license, certification or registration for the same reasons as it may refuse initial licensure or registration or discipline a current licensee or registrant.

PART IV.
STANDARDS.

§ 4.1. Grounds for disciplinary action.

The board has the power to fine any licensee, registrant or certificate holder, and to suspend or revoke any license, registration or certification issued under the provisions of Chapter 20.1 of Title 54.1 of the Code of Virginia and the regulations of the board, in accordance with §§ 54.1-201(7), 54.1-202 and the provisions of the Administrative Process Act, Chapter 1.1:1 of Title 9 of the Code of Virginia, when any licensee, registrant or certificate holder has been found to have violated or cooperated with others in violating any provision of Chapter 20.1 of Title 54.1 of the Code of Virginia, any relevant provision of the Uniform Standards of Professional Appraisal Practice as developed by the Appraisal Standards Board of the Appraisal Foundation[1], or any regulation of the board.

§ 4.2. Standards of ethical conduct.

In obtaining a real estate appraiser license and performing a real estate appraisal, a licensee shall comply with the Ethics Provisions of the Uniform Standards of Professional Appraisal Practice and the following standards of ethical conduct:

1. All applicants for licensure shall follow all rules established by the board with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any instruction communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the board or a testing service acting on behalf of the board with regard to conduct at the examination shall be grounds for denial of a license.

2. A licensee, certificate holder or registrant shall not obtain a license, certification or pregistration by false or fraudulent representation.

3. A licensee, registrant or certificate holder shall not make any misrepresentation.

§ 4.3. Standards of professional practice.

A. Maintenance of licenses.

1. Change of address.[2]

a. Certified general real estate appraisers, certified residential real estate appraisers and licensed residential real estate appraisers shall at all times keep the board informed in writing of their current home address.

b. Registered real estate appraisal business entities shall at all times keep the board informed in writing of their current business address.

c. Certified instructors as defined in §§ 2.8 and 2.9 of these regulations, shall at all times keep the board informed in writing of their current home address.

2. Change of name.[3]

a. Certified general real estate appraisers, certified residential real estate appraisers, licensed residential real estate appraisers and certified instructors shall promptly notify the board in writing and provide appropriate written legal verification of any change of name.

b. Registered real estate appraisal business entities shall promptly notify the board of any change of name or change of business structure in writing. In addition to written notification, corporations shall provide a copy of the Certificate of Amendment from the State Corporation Commission, partnerships shall provide a copy of a certified Partnership Certificate, and other business entities trading under a fictitious name shall provide a copy of the certificate filed with the clerk of the court where business is to be conducted.

3. Upon the the change of name or address of the registered agent, associate, or partner, or sole proprietor designated by a real estate appraisal business entity, the business entity shall notify the board in writing of the change within 30 days of such event.

4. No license, certification or registration issued by the board shall be assigned or otherwise transferred.

5. All licensees, certificate holders and registrants shall operate under the name in which the license or registration is issued.

6. All certificates of licensure, registration or certification in any form are the property of the Real Estate Appraiser Board. Upon death of a licensee, dissolution or restructure of a registered business entity, or change of a licensee's, registrant's, or certificate holder's name or address, such licenses, registrations, or certificates must be returned with proper instructions and supplemental material to the board within 30 days of such event.

7. All appraiser licenses issued by the board shall be visibly displayed.

B. Use of seal.

1. The authorized application of a licensed appraiser's seal shall indicate that the licensee has exercised complete direction and control over the appraisal. Therefore, no licensee shall affix his seal to any appraisal which has been prepared by an unlicensed person unless such work was performed under the direction and supervision of the licensee in accordance with § 54.1-2011 C of the Code of Virginia.

2. All original appraisal reports shall be issued under seal and signed by the licensed appraiser. Such signature and seal shall appear on any page containing the final estimate or conclusion of value. All temporary licensed real estate appraisers shall sign and affix their temporary license to the appraisal report for which they obtained the license to authenticate such report.

a. An appraiser may provide written reports, market analysis studies or valuations, which do not constitute appraisals, provided, that such reports, studies or evaluations shall contain a conspicuous statement that such reports, studies or valuations are not an appraisal as defined in § 54.1-2009 of the Code of Virginia.

b. Application of the seal and signature indicates acceptance of responsibility for work shown thereon.

c. The seal shall conform in detail and size to the design illustrated below:

**The number on the seal shall be the number on the license issued by the board.*

C. Development of appraisal.

In developing a real property appraisal, an appraiser shall comply with the provisions of Standard I of the Uniform Standards of Professional Appraisal Practice (USPAP).[4]

D. Appraisal report requirements.

In reporting a real property appraisal, an appraiser shall meet the requirements of Standard II of the Uniform Standards of Professional Appraisal Practice.

E. Reviewing an appraisal.

In performing a review appraisal, a licensee shall comply with the requirements of Standard III of the Uniform Standards of Professional Appraisal Practice.

F. Real estate consulting services.

In performing real estate consulting services, a licensee shall comply with the requirements of Standard IV of the Uniform Standards of Professional Appraisal Practice.

G. Mass appraisals.

In developing and reporting a mass appraisal for ad valorem tax purposes, a licensee shall comply with the requirements of Standard VI of the Uniform Standards of Professional Appraisal Practice.

H. Record keeping requirements.

1. A licensee or registrant of the Real Estate Appraiser Board shall, upon request or demand, promptly produce to the board or any of its agents any document, book, or record in a licensee's possession concerning any appraisal which the licensee performed, or for which the licensee is required to maintain records for inspection and copying by the board or its agents. These records shall be made available at the licensee's place of business during regular business hours.

2. Upon the completion of an assignment, a licensee or registrant shall return to the rightful owner, upon demand, any document or instrument which the licensee possesses.

I. Disclosure requirements.

A licensee appraising property in which he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest, has any interest shall disclose, in writing, to any client such interest in the property and his status as a real estate appraiser licensed in the Commonwealth of Virginia. As used in the context of this regulation, "any interest" includes but is not limited to an ownership interest in the property to be appraised or in an adjacent property or involvement in the transaction, such as deciding whether to extend credit to be secured by such property.

J. Competency.

A licensee shall abide by the Competency Provision as stated in the Ethics Provision of the Uniform Standards of Professional Appraisal Practice.

K. Unworthiness.

1. A licensee shall act as a certified general real estate appraiser, certified residential real estate appraiser or licensed residential real estate appraiser in such a manner as to safeguard the interests of the public, and shall not engage in improper, fraudulent, or dishonest conduct.

2. A licensee may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of the United States of a misdemeanor involving moral turpitude or of any felony there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.

3. A licensee shall inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty, regardless of adjudication, of any felony or of a misdemeanor involving moral turpitude.

4. A licensee may not have had a license or certification as a real estate appraiser which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction.

5. A licensee shall inform the board in writing within 30 days of the suspension, revocation or surrender of an appraiser license or certification in connection with a disciplinary action in any other jurisdiction, and a licensee shall inform the board in writing within 30 days of any appraiser license or certification which has been the subject of discipline in any jurisdiction.

§ 4.4. Standards of conduct for certified appraiser education instructors.

A. Instructors shall maintain a record for each student which shall included the student's name and address, the course name, the course hours and dates given, and the date the course was passed.

B. The instructor shall not solicit information from any person for the purpose of discovering past licensing examination questions or questions which may be used in future licensing examinations.

C. The instructor shall not distribute to any person copies of license examination questions, or otherwise communicate to any person license examination questions, without receiving the prior written approval of the copyright owner to distribute or communicate those questions.

D. The instructor shall not, through an agent or otherwise, advertise its services in a fraudulent, deceptive or misrepresentative manner.

E. Instructors shall not take any appraiser licensing examination for any purpose other than to obtain a license as a real estate appraiser.

PART V.
EDUCATIONAL OFFERINGS.

§ 5.1. Requirement for the approval of appraisal educational offerings.

Pursuant to the mandate of Title 11 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, § 54.1-2013 of the Code of Virginia, and the qualifications criteria set forth by the Appraisal Qualifications Board of the Appraisal Foundation, all educational offerings submitted for prelicensure and continuing education credit shall be approved by the board. Although educational offerings which have been approved by the Appraisal Foundation's Educational Offering Review Panel may be considered to have met the standards for approval set forth in these regulations, all educational offerings must be approved by the board.

§ 5.2. Standards for the approval of appraisal educational offerings for prelicensure credit.

A. Content.

1. Prior to licensure, the applicant shall have successfully completed coverage of the Uniform Standards of Professional Appraisal Practice either as a portion of a qualified course of at least 15 classroom hours, or in a single, qualified course of at least 15 classroom hours. After July 1, 1992, applicants shall have successfully completed a 15 classroom hour course in the Uniform Standards of Professional Appraisal Practice.

2. While various appraisal courses may be credited toward the classroom requirement specified for each level of licensure, all applicants for licensure as a licensed residential or a certified residential real estate appraiser must demonstrate that their course work included coverage of all the topics listed below.

Appraisal standards and ethics
Influences on real estate value
Legal considerations in appraisal
Types of value
Land economic principles
Real estate markets and analysis
Valuation process
Property description and analysis
Highest and best use analysis
Appraisal statistical concepts
Sales comparison approach
Site valuation
Cost approach
Income approach
Valuation of partial interests

3. All appraisal and appraisal-related offerings presented for prelicensure credit must have a final, written examination.

4. Credit toward the classroom hour requirement to satisfy the educational requirement prior to licensure shall be granted only where the length of the educational offering is at least 15 classroom hours.

B. Instruction.

With the exception of courses taught at accredited colleges, universities, junior and community colleges, or adult distributive or marketing education programs, all other prelicensure educational offerings given after April 1, 1992, must be taught by instructors certified by the board.

§ 5.3. Standards for the approval of appraisal educational offerings for continuing education credit.

A. Content.

1. The content of courses, seminars, workshops or conferences which may be accepted for continuing education credit includes, but is not limited to those topics listed in § 5.2 A 2 and below.

Ad valorem taxation
Arbitrations
Business courses related to the practice of real estate appraisal
Construction estimating
Ethics and Uniform Standards of Professional Appraisal Practice
Land use planning, zoning, and taxation
Property development
Real estate appraisal (valuations/evaluations)
Real estate financing and investment
Real estate law

Real estate related computer applications
Real estate securities and syndication
Real property exchange

2. Courses, seminars, workshops or conferences submitted for continuing education credit must indicate that the licensee participated in an educational program that maintained and increased his knowledge, skill and competency in real estate appraisal.

3. Credit toward the classroom hour requirement to satisfy the continuing education requirements shall be granted only where the length of the educational offering is at least two hours and the licensee participated in the full length of the program.

4. As outlined in Part III of these regulations all certified general real estate appraisers, certified residential real estate appraisers, and licensed residential real estate appraisers shall complete 20 classroom hours prior to the renewal of any license. Three classroom hours shall cover recent developments in federal, state and local real estate appraisal law and regulation.

B. Instruction.

Although continuing education offerings are not required to be taught by board certified instructors, these offerings must meet the standards set forth in § 5.3 A of these regulations.

§ 5.7. Procedures for awarding prelicense and continuing education credits.

A. Course credits shall be awarded only once for courses having substantially equivalent content.

B. Proof of completion of such course, seminar, workshop or conference may be in the form of a transcript, certificate, letter of completion or in any such written form as may be required by the board. All courses, seminars and workshops submitted for prelicensure and continuing education credit must indicate the number of classroom hours.

C. Information which may be requested by the board in order to further evaluate course content includes, but is not limited to, course descriptions, syllabi or textbook references.

D. All transcripts, certificates, letters of completion or similar documents submitted to verify completion of seminars, workshops or conferences for continuing education credit must indicate successful completion of the course, seminar, workshop or conference. Applicants must furnish written proof of having received a passing grade in all prelicensure and continuing education courses submitted.

E. Credit may be awarded for prelicensure courses completed by challenge examination without classroom attendance, if such credit was granted by the course provider prior to July 1, 1990, and provided that the board is satisfied with the quality of the challenge examination that was administered by the course provider.

F. All courses seminars, workshops, or conferences, submitted for satisfaction of continuing education requirements must be satisfactory to the board.

G. Correspondence courses, video and remote TV educational offerings may be acceptable to meet the classroom hour requirements for prelicensure and continuing education courses provided each course or offering is approved by the board and has been presented by an accredited college, university, junior or community college; the student passes a written examination administered at a location by an official approved by the college or university; the subject matter was appraisal related; and that the course or offering is a minimum of 15 classroom hours in length.

§ 5.8. Course approval fees.

Course Approval Fee

§ 5.9. Re-approval of courses required.

Approval letters issued under these regulations for educational offerings shall expire two years from the last day of the month in which they were issued, as indicated in the approval letter.

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Footnotes

[1] The Uniform Standards of Professional Appraisal Practice ("USPAP") Copyright (c) 1987, 1990 are published by the Appraisal Foundation. All rights reserved. Copies of the Uniform Standards of Professional Appraisal Practice are available from the Appraisal Foundation, 1029 Vermont Avenue, NW, Suite 900, Washington D.C. 20005. The cost is $25.

Some of the provisions contained in the Uniform Standards of Professional Appraisal Practice are inapplicable to real estate appraisals, and therefore are not applicable to Virginia Appraiser Board licensees. For example, the USPAP includes standards for the performance of personal property appraisals and a license is not required to perform such appraisals.

[2] The board shall not be responsible for the licensee's/registrant's failure to receive notices, communications and correspondence caused by the licensee's/registrant's failure to promptly notify the board of any change of address.

[3] The board shall not be responsible for the

licensee's/registrant's failure to receive notices, communications and correspondence caused by the licensee's/registrant's failure to promptly notify the board of any change of name.

[4] Application of the Departure Provision of USPAP is not allowed for all federally related transactions requiring the services of an appraiser.

Real Estate
Appraiser Business
Registration Application
Form No. REA2 (12-27-91)
Lic. No
Date
Code
Initials
INSTRUCTIONS
• USE #2 PENCIL
• MAKE DARK MARKS
INSTRUCTIONS:
Print your business name on the top column of boxes. For each letter, mark the bubble containing the appropriate letter.
BUSINESS NAME
1. Business Name
2. Trading-as Name
3. Tax I.D. Number (not required)
4. Business Type
5. BUSINESS ADDRESS – Street Name
6. BUSINESS ADDRESS – P.O. BOX NUMBER ONLY
7. City
8. Zip Code – 4
10. Telephone
10276

Address Continued on the Next Page.

Real Estate Appraiser
License Application Form

Form No. REAL (10-2-91)

INSTRUCTIONS

1. Last Name
2. First Name
3. MI
4. Generation
5. Social Security No. (not required)
6. Date of Birth (mm/dd/yy or dd/mm/yy)
7. Telephone
8. Home Address
9. ADDRESS – P.O. BOX NUMBER ONLY
10. City
11. State
12. Zip Code + 4
13. Application Type
14. License Type
15. If you are applying for a temporary license, identify the specific assignment below by type and location.
15a. Project Termination Date
16. Have you had a real estate appraiser license or certification which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction? If yes, see page two of the instructions accompanying this application.
17. Have you ever been convicted, found guilty or plead guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude or of any felony? If yes, see page two of the instructions accompanying this application.

18. Have you ever been issued a real estate appraiser license or certification in any other jurisdiction(s)?

○ Yes If yes, please name those jurisdictions below:

○ No

19. Have you ever been issued a real estate appraiser license in Virginia?

○ Yes If yes, please give date(s) and license number(s) below:

○ No

20. All applicants must complete this section:

I hereby certify that I have attained the number of years and hours of experience as a real estate appraiser as defined in the regulations of the Real Estate Appraiser Board for the type of license for which I am applying. I understand that the Real Estate Appraiser Board may request proof of this experience in the form of written reports or file memoranda which shall be made available to the Board upon request.

I also hereby certify that I have met the educational requirements as set forth in the Real Estate Appraiser Board regulations for the type of license for which I am applying. I understand that in order to receive credit for this education I must present official transcripts, certificates of completion or certified true copies of such as set forth in regulation.

Further, if my address listed on this application or at any time in the future is not within the state of Virginia, I do hereby irrevocably consent that suits and legal actions may be commenced against me in the proper courts of the state of Virginia in accordance with the provisions of Chapter 20, Title 54.1, Section 54.1-2018.1 of the Code of Virginia.

I hereby certify by my signature that the statements contained in this application are true, that I have not suppressed any information that might affect this application, and that I have read and I understand the Real Estate Appraiser Board Regulations, the Uniform Standards of Professional Appraisal Practice, Virginia license laws and this statement.

Signature of applicant Date

02296

Real Estate Appraiser Board Experience Log

Name: _____

Social Security Number: (not required) _____

Page _____ of _____

TYPE OF LICENSE (mark one)
- Certified General
- Licensed Residential
- Certified Residential

YEAR	ASSIGNMENT IDENTIFICATION	TYPE OF PROPERTY	RANGE OF VALUE	TYPE OF INVOLVEMENT	HOURS ON ASSIGNMENT	FOR REAB USE ONLY
1 19__		1 7 2 8 3 9 4 10 5 11 6 12	1 2 3 4 5	Fee/Staff Appraiser Sole appraiser Co-signer Ad valorem Reviewer Real Estate counseling Teaching	100 200 300 400 500 600 700 800 900 10 20 30 40 50 60 70 80 90 1 2 3 4 5 6 7 8 9	
2 19__		1 7 2 8 3 9 4 10 5 11 6 12	1 2 3 4 5	Fee/Staff Appraiser Sole appraiser Co-signer Ad valorem Reviewer Real Estate counseling Teaching	100 200 300 400 500 600 700 800 900 10 20 30 40 50 60 70 80 90 1 2 3 4 5 6 7 8 9	
3 19__		1 7 2 8 3 9 4 10 5 11 6 12	1 2 3 4 5	Fee/Staff Appraiser Sole appraiser Co-signer Ad valorem Reviewer Real Estate counseling Teaching	100 200 300 400 500 600 700 800 900 10 20 30 40 50 60 70 80 90 1 2 3 4 5 6 7 8 9	
4 19__		1 7 2 8 3 9 4 10 5 11 6 12	1 2 3 4 5	Fee/Staff Appraiser Sole appraiser Co-signer Ad valorem Reviewer Real Estate counseling Teaching	100 200 300 400 500 600 700 800 900 10 20 30 40 50 60 70 80 90 1 2 3 4 5 6 7 8 9	
5 19__		1 7 2 8 3 9 4 10 5 11 6 12	1 2 3 4 5	Fee/Staff Appraiser Sole appraiser Co-signer Ad valorem Reviewer Real Estate counseling Teaching	100 200 300 400 500 600 700 800 900 10 20 30 40 50 60 70 80 90 1 2 3 4 5 6 7 8 9	
6 19__		1 7 2 8 3 9 4 10 5 11 6 12	1 2 3 4 5	Fee/Staff Appraiser Sole appraiser Co-signer Ad valorem Reviewer Real Estate counseling Teaching	100 200 300 400 500 600 700 800 900 10 20 30 40 50 60 70 80 90 1 2 3 4 5 6 7 8 9	
7 19__		1 7 2 8 3 9 4 10 5 11 6 12	1 2 3 4 5	Fee/Staff Appraiser Sole appraiser Co-signer Ad valorem Reviewer Real Estate counseling Teaching	100 200 300 400 500 600 700 800 900 10 20 30 40 50 60 70 80 90 1 2 3 4 5 6 7 8 9	
8 19__		1 7 2 8 3 9 4 10 5 11 6 12	1 2 3 4 5	Fee/Staff Appraiser Sole appraiser Co-signer Ad valorem Reviewer Real Estate counseling Teaching	100 200 300 400 500 600 700 800 900 10 20 30 40 50 60 70 80 90 1 2 3 4 5 6 7 8 9	
9 19__		1 7 2 8 3 9 4 10 5 11 6 12	1 2 3 4 5	Fee/Staff Appraiser Sole appraiser Co-signer Ad valorem Reviewer Real Estate counseling Teaching	100 200 300 400 500 600 700 800 900 10 20 30 40 50 60 70 80 90 1 2 3 4 5 6 7 8 9	
10 19__		1 7 2 8 3 9 4 10 5 11 6 12	1 2 3 4 5	Fee/Staff Appraiser Sole appraiser Co-signer Ad valorem Reviewer Real Estate counseling Teaching	100 200 300 400 500 600 700 800 900 10 20 30 40 50 60 70 80 90 1 2 3 4 5 6 7 8 9	

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TYPE OF PROPERTY

1 Single family residential
2 Multifamily, 2-3 units
3 Vacant lots, 1-4
4 Farms (non income producing)
5 Multifamily, more than 5 units
6 Commercial
7 Industrial
8 Hotel, motel
9 Office
10 Subdivision projects
11 Land
12 Other

VALUE RANGE

1 $0 - $100,000
2 $100,001 - $250,000
3 $250,001 - $1,000,000
4 $1,000,001 - $5,000,000
5 Over $5,000,000

MARKING INSTRUCTIONS

- Use a NO. 2 PENCIL only.
- Darken the oval completely.
- Erase cleanly any marks you wish to change.
- Do not make any stray marks on this form.

PROPER MARK:

IMPROPER MARKS:

COURSE IDENTIFICATION FORM

NAME ____________________

ADDRESS ____________________

SOCIAL SECURITY NUMBER (Not required) ____________

TYPE OF LICENSE: ____ LICENSED RESIDENTIAL ____ CERTIFIED GENERAL ____ TEMPORARY LICENSED RESIDENTIAL ____ TEMPORARY CERTIFIED GENERAL

COURSE IDENTIFICATION FORM

Course Title/Number	
Name of Provider	
Address of Provider	
Classification of Provider	
Location of Course	
Beginning Date	
Completion Date	
Classroom Hours	

**Evidence of passing grade, i.e. transcript, certificate of completion, etc., should be attached

COURSE IDENTIFICATION FORM

Course Title/Number	
Name of Provider	
Address of Provider	
Classification of Provider	
Location of Course	
Beginning Date	
Completion Date	
Classroom Hours	

**Evidence of passing grade, i.e. transcript, certificate of completion, etc., should be attached

COURSE IDENTIFICATION FORM

Course Title/Number	
Name of Provider	
Address of Provider	
Classification of Provider	
Location of Course	
Beginning Date	
Completion Date	
Classroom Hours	

**Evidence of passing grade, i.e. transcript, certificate of completion, etc., should be attached

COURSE IDENTIFICATION FORM

NAME______________________________

ADDRESS______________________________

SOCIAL SECURITY NUMBER (Not required)______________

TYPE OF LICENSE: ____LICENSED RESIDENTIAL ____CERTIFIED GENERAL

____TEMPORARY LICENSED RESIDENTIAL ____TEMPORARY CERTIFIED GENERAL

COURSE IDENTIFICATION FORM

Course Title/Number	
Name of Provider	
Address of Provider	
Classification of Provider	
Location of Course	
Beginning Date	
Completion Date	
Classroom Hours	

**Evidence of passing grade, i.e. transcript, certificate of completion, etc., should be attached

COURSE IDENTIFICATION FORM

Course Title/Number	
Name of Provider	
Address of Provider	
Classification of Provider	
Location of Course	
Beginning Date	
Completion Date	
Classroom Hours	

**Evidence of passing grade, i.e. transcript, certificate of completion, etc., should be attached

COURSE IDENTIFICATION FORM

Course Title/Number	
Name of Provider	
Address of Provider	
Classification of Provider	
Location of Course	
Beginning Date	
Completion Date	
Classroom Hours	

**Evidence of passing grade, i.e. transcript, certificate of completion, etc., should be attached

C O U R S E T I T L E / N U M B E R - S U B J E C T F O R M

NAME ______________________________

ADDRESS ______________________________

SOCIAL SECURITY NUMBER______________

TYPE OF APPRAISER LICENSE: ___LICENSED RESIDENTIAL ___CERTIFIED GENERAL

___TEMPORARY LICENSED RESIDENTIAL ___ TEMPORARY CERTIFIED GENERAL

	REQUIRED APPRAISAL SUBJECTS														
COURSE TITLE/NUMBER	Influences on real estate value	Legal considerations in appraisal	Types of value	Land economic principles	Real estate markets and analysis	Valuation process	Property description	Highest and best use analysis	Appraisal math & statistical concepts	Sales comparison approach	Site valuation	Cost approach	Income approach	Valuation of partial interests	Appraisal standards and ethics

REAL ESTATE BOARD

Title of Regulation: **VR 585-01-1. Virginia Real Estate Board Licensing Regulations.**

Statutory Authority: §§ 54.1-113, 54.1-201 and 54.1-2105 of the Code of Virginia.

Public Hearing Date: November 21, 1991 - 2 p.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulations apply directly to approximately 13,000 brokers, 54,000 salespersons, 3,100 firms, 30 rental location agents and 50 proprietary schools either licensed or registered by the board in Virginia.

The proposed regulations provide for the licensing of sole proprietorships owned by nonbrokers under the licensing of real estate firms whereas this category was not previously provided for. A change to the maintenance of escrow accounts provides that accounts must be maintained only if the firm is to hold escrow funds. The amended regulation regarding advertising no longer requires sizes of individuals names to be smaller than that of the firm, but simply that the firm name must appear in the advertisement and be legible. The amended regulation on disclosure of interest provides that disclosure must be made in sales and lease situations; this regulation incorrectly deleted leases during the 1989 revision. The amended regulation on Disclosure of Agency Relationships provides for a more relaxed disclosure in the leasing of property and exempts vacation-type leases from disclosure. The amended regulation on Principal Broker responsibility provides that a supervising broker may be held responsible. Lastly, in the regulations regarding schools, changes are proposed to expand those who may be approved to teach real estate courses at proprietary schools. The proposed regulations also seek to confirm the emergency regulations which were effective on May 15, 1991. All other changes are clarifying in nature.

VR 585-01-1. Virginia Real Estate Board Licensing Regulations.

PART I.
GENERAL.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Actively engaged" means employment by or affiliation as an independent contractor with a licensed real estate firm or sole proprietorship in performing those activities as defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia for an average of at least 20 hours per week.

"Associate broker" means any individual licensee of the board holding a broker's license other than one who has been designated as the principal broker.

"Firm" means any partnership, association, or corporation, other than a sole proprietorship, which is required by § 2.1 B of these regulations to obtain a separate brokerage firm license.

"Inactive status" refers to any broker or salesperson who is not under the supervision of a principal broker or supervising broker, not affiliated with a firm or sole proprietorship and who is not performing any of the activities defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia.

"Licensee" means any person, partnership, association, or corporation holding a license by the Real Estate Board to act as a real estate broker or real estate salesperson, as defined, respectively, in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia.

"Principal" means a party who has engaged a real estate broker to perform real estate purchases, sales or rental services in a principal-agent relationship.

"Principal broker" means the individual broker who shall be designated by each firm to assure compliance with Title 54.1, Chapter 21 of the Code of Virginia, and these regulations, and to receive communications and notices from the board which may affect the firm or any licensee employed by or affiliated with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the principal broker. The principal broker shall have responsibility for the activities of the firm and all its licensees.

"Principal to a transaction" means a party to a real estate transaction in the capacity of a seller, buyer, lessee or lessor, or having some other direct contractual connection to such transaction.

"Sole proprietor" means any individual broker, not a corporation, who is trading under the broker's own name, or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"Supervising broker" means the individual associate broker who shall be designated by the firm to supervise the activities of any one of its offices.

PART II.
ENTRY.

§ 2.1. Necessity for license or registration.

It shall be unlawful for any person, partnership, association or corporation, to act as a real estate broker, real estate salesperson, or rental location agent or to advertise or assume to act as such real estate broker, real estate salesperson, or rental location agent without a salesperson or broker license or rental location agent registration issued by the Real Estate Board. No partnership, association or corporation shall be granted a license unless every member, and officer of such partnership, association or corporation, who actively participates in its brokerage business shall hold a license as a real estate broker, and unless every employee and every independent contractor who acts as a salesperson for such partnership, association or corporation shall hold a license as a real estate salesperson; provided, however, that a person who holds a license as a real estate broker may act as a salesperson for another real estate broker.

A. Individual license.

A real estate broker's license shall not be issued to an individual trading under an assumed or fictitious name, that is, a name other than the individual's full name, until the individual signs and acknowledges a certificate provided by the board, setting forth the name under which the business is to be organized and conducted, the address of the individual's residence, and the address of the individual's place of business. Each certificate must be attested by the Clerk of Court of the county or jurisdiction wherein the business is to be conducted. The attention of all applicants and licensees is directed to §§ 59.1-69 through 59.1-76 of the Code of Virginia.

B. *Sole proprietor (nonbroker owner),* partnership, association, or corporation.

Every *sole proprietor (nonbroker owner),* partnership, association, or corporation must secure a real estate license for its brokerage firm before transacting real estate business. Application for such license shall disclose, and the license shall be issued to, the name under which the applicant intends to do or does business and holds itself out to the public. This license is separate and distinct from the individual broker license required of each partner, associate, and officer of a corporation who is active in the brokerage business.

1. Sole proprietor (nonbroker owner). Each sole proprietor (nonbroker owner) acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of the owner; the name and type of the firm; and the address of the office of the real estate entity. Each change in the information contained on the certificate filed with the board must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

~~1.~~ *2.* Partnership. Each partnership acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the partnership; the name and style of the firm; the address of the Virginia office of the firm; the length of time for which it is to continue; and the percentage or part of the partnership owned by each partner. Every change in the partnership must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

~~2.~~ *3.* Association. Each association acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the association; the name and style of the firm; the address of the Virginia office of the firm; the length of time for which it is to continue; and the percentage of part of the association owned by each associate. Every change in the association must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

~~3.~~ *4.* Corporation. Each corporation acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each officer of the corporation the name and style of the corporation; the address of the Virginia office of the firm; the corporation's place of business, and the names and addresses of the members of the Board of Directors.

a. Every change of officers must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

b. The board will not consider the application of any corporation or its officers, employees, or associates until the corporation is authorized to do business in Virginia.

C. Branch office license.

If a real estate broker maintains more than one place of business within the state, a branch office license shall be issued for each branch office maintained. Application for the license shall be made on forms provided by the board and shall reveal the name of the firm, the location of the branch office, and the name of the supervising broker for that branch office. Only the branch office license shall be maintained at the branch office location.

§ 2.2. Qualifications for licensure.

Every applicant to the Real Estate Board for a sales person's or broker's license shall have the following qualifications:

1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate broker or a real estate salesperson in such a manner as to safeguard the interests of the public.

2. The applicant shall meet the current educational requirements by achieving a passing grade in all required courses of § 54.1-2105 of the Code of Virginia prior to the time the applicant sits for the licensing examination and applies for licensure. See § 7.6 of these regulations for educational requirements for salespersons.

3. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

4. The applicant shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

5. The applicant shall be at least 18 years old.

6. The applicant, within 12 months prior to making application for a license, shall have passed a written examination provided by the board or by a testing service acting on behalf of the board. Complete applications must be received within the 12-month period.

7. The applicant shall follow all rules established by the board with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the board and the testing service with regard to conduct at the examination shall be grounds for denial of application.

§ 2.3. Additional qualifications for brokers.

An applicant for a license as a real estate broker shall meet the following requirements in addition to those set forth in § 2.2 of these regulations:

A. New broker applicants.

1. The applicant shall meet the current educational requirements of § 54.1-2105 of the Code of Virginia.

2. The applicant shall have been actively engaged as defined in § 1.1 of these regulations as a real estate salesperson for a period of 36 of the 48 months immediately preceding application.

B. Previous brokers.

Any person who has previously held a Virginia real estate broker's license which license was not revoked, suspended or surrendered in connection with a disciplinary action may be issued a broker's license without first having to meet the experience requirements of § 2.3 A 2 of these regulations by:

1. Completing the current educational requirements of § 54.1-2105 of the Code of Virginia; and

2. Passing a written examination provided by the board or by a testing service selected by the board.

§ 2.4. Concurrent licenses.

Concurrent licenses shall be issued by the board to brokers active in more than one separate legal entity upon receipt of a concurrent license form and written affidavits stating that written notice of the applicant's concurrent licensure status has been provided to the principal broker of each firm with which the applicant has been associated. Payment will be required for each license.

§ 2.5. Qualifications for licensure by reciprocity.

Every applicant to the Real Estate Board for a license by reciprocity shall have the following qualifications, except that § 2.4 A 5 shall only be applicable for salesperson applicants:

A. An individual who is currently licensed as a real estate salesperson or broker in another jurisdiction may obtain a Virginia real estate license without taking the Virginia written licensing examination by meeting the following requirements:

1. The applicant shall be at least 18 years of age.

2. The applicant shall have received the salesperson or broker's license by virtue of having passed in the jurisdiction of original licensure a written examination deemed to be substantially equivalent to the Virginia examination.

3. The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the Virginia real estate license law and the regulations of the Real Estate Board.

4. The applicant shall be in good standing as a licensed real estate broker or salesperson in every

jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

5. At the time of application for a salesperson's license, the applicant must have been actively engaged in real estate for 12 of the preceding 36 months or have met educational requirements that are substantially equivalent to those required in Virginia.

6. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate salesperson or broker in such a manner as to safeguard the interests of the public.

7. The applicant shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

B. Additional qualifications for reciprocal licensure as a broker.

An individual who is currently licensed as a real estate broker in another jurisdiction may obtain a Virginia real estate broker's license without taking a written examination by meeting the following requirements in addition to those set forth in § 2.5 A 1 through A 4, A 6 and A 7.

1. The applicant shall have been licensed as a real estate broker and actively engaged as a real estate broker or salesperson in the current jurisdiction of licensure for at least 36 of the 48 months immediately prior to making application in Virginia. (See § 1.1 of these regulations for the definition of "actively engaged.")

2. The applicant shall have met broker educational requirements that are substantially equivalent to those required in Virginia.

§ 2.6. Activation of license.

A. Any inactive licensee may affiliate that license with a licensed real estate firm or sole proprietorship by completing an activate form prescribed by the board. Continuing education pursuant to § 54.1-2105 of the Code of Virginia shall be completed within two years prior to activation of a license.

B. Any inactive licensee may affiliate that license with a licensed real estate firm or sole proprietorship by completing an activate form prescribed by the board. Further, any licensee who has not been actively licensed with a licensed real estate firm or sole proprietorship for a period of greater than three years shall be required to meet the educational requirements for a salesperson or broker in effect at the time the license activate form for issuance of such license is filed with the board.

§ 2.7. Rental location agent.

An applicant for registration as a rental location agent need not be employed by or affiliated with a real estate broker, but shall apply in writing upon forms provided by the board, and shall meet the following requirements:

1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a rental location agent as defined in § 54.1-2102 of the Code of Virginia.

2. The applicant shall be at least 18 years old.

3. A rental location agent shall not be concurrently registered with more than one rental location agency.

4. The applicant shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

§ 2.8. Rental location agency.

A. Each business operating as a rental location agency, whether in the form of a sole proprietorship, association, partnership, or corporation, shall obtain from the board a firm registration as a rental location agency.

B. Every rental location agency shall be supervised by a supervising rental location agent designated by the agency and registered with the board. The supervising rental location agent shall have responsibility for supervising the activities of the agency and all its registrants.

C. Each rental location agent registration shall be issued only to the agency where the agent is affiliated or employed. The supervising rental location agent shall keep such registrations in his custody and control for the duration of the agent's employment or association with that agency.

D. When any rental location agent is discharged or i

any way terminates his employment or affiliation with an agency, it shall be the duty of the supervising rental location agent to notify the board of the termination by returning the registration by certified mail to the board within 10 calendar days. The supervising rental location agent shall indicate on the registration the date of termination, and shall sign the registration before returning it.

§ 2.9. Application and registration fees.

All application fees for licenses and registrations are nonrefundable *and the date of receipt by the board or its agent is the date which will be used to determine whether or not it is on time .*

A. Application fees for original licenses or registrations are as follows:

Salesperson by education and examination	$50
Salesperson by reciprocity	$ 75
Broker by education and examination	$ 70
Broker by reciprocity	$ 100
Broker concurrent license	$60
Rental location agent	$ 60
Rental location agency	$ 100
Firm license	$ 100
Branch office license	$ 50
Transfer application	$ 35
Activate application	$ 35
Certification of licensure	$ 35

B. Examination fees are as follows:

~~Preregistration for sales and brokers~~	~~$15~~
~~Late registration for sales and brokers~~	~~$25~~
~~Walk-in registration for sales and brokers~~	~~$27~~
Registration for sales and brokers	*$68.50*
Additional fee for phone or "fax" registrations	*$ 5.00*

PART III.
RENEWAL OF LICENSE/REGISTRATION.

§ 3.1. Renewal required.

Licenses issued under these regulations for salespersons, brokers, and firms shall expire two years from the last day of the month in which they were issued, as indicated on the license. Registrations issued under these regulations for rental location agents and rental location agencies shall expire every two years on June 30.

§ 3.2. Qualification for renewal.

A. Continuing education requirements.

As a condition of renewal, and pursuant to § 54.1-2105 of the Code of Virginia, all *active* brokers and salespersons ~~either active or inactive~~ , resident or nonresident, *except those called to active duty in the Armed Forces of the United States,* shall be required to satisfactorily complete a course of not less than six classroom hours during each licensing term. *Active licensees called to active duty in the Armed Forces of the United States may complete this course within six months of their release from active duty. Inactive brokers and salespersons are not required to complete the continuing education course as a condition of renewal (see § 2.16, Activation of license).*

1. Schools and instructors shall be those as required under § 54.1-2105 of the Code of Virginia, and § 7.2 of these regulations.

2. The specific course content and curriculum shall be prescribed and approved by the board. The course curriculum shall be provided to each school in final form prior to the course offering and updated periodically to reflect recent developments in federal, state, and local real estate law, regulations and case decisions.

a. Continuing education courses offered in other jurisdictions must meet Virginia's statutory requirements and must conform to the board's specifically prescribed course content and curriculum as described in § 54.1-2105 of the Code of Virginia. Such courses must be approved in advance of offering to be certified for course credit for licenses.

b. Correspondence courses will not be approved for credit for continuing education.

3. Attendance. Credit for continuing education course completion is to be given only for attendance in its entirety. It will be the instructor's responsibility to ensure compliance with this regulation.

4. Certification of course completion. It shall be the responsibility of the licensee to provide continuing education course completion certification. Proof of course completion shall be made on a form prescribed by the board. Failure to provide course completion certification will result in the license not being renewed and reinstatement will therefore be required.

5. Credit earned by instructors. Instructors who are also licensees of the board may earn continuing education credit for teaching continuing education courses. Verification of instructor compliance with the continuing education course required must be verified by the director or dean of the school at which the course was taught.

B. Applicants for renewal of a license shall meet the standards for entry as set forth in §§ *2.2 1,* 2.2 3 and 2.2 4 of these regulations.

§ 3.3. Procedures for renewal.

A. The board will mail a renewal application form to the licensee or registrant at the last known home address. The board will mail a firm renewal notice to the business address of the firm. These notices shall outline the procedures for renewal. The board will notify the firm 30 days after the expiration of the licenses of salespersons and brokers associated with the firm. Failure to receive these notices shall not relieve the licensee or the registrant of the obligation to renew.

B. Prior to the expiration date shown on the license or registration, each licensee or registrant desiring to renew his license or registration shall return to the board the renewal application forms and the appropriate fee as outlined in § 3.4 of these regulations.

§ 3.4. Fees for renewal.

All fees for renewals are nonrefundable *, and the date of receipt by the board or its agent is the date which will be used to determine whether or not it is on time,* and are as follows:

Salesperson	$ 50
Broker	$ 70
Concurrent broker	~~$50~~ *$70*
Firm	$ 100
Rental location agent	$ 60
Rental location agency	$ 100
Branch office	$ 50

§ 3.5. Board discretion to deny renewal.

The board may deny renewal of a license for the same reasons as it may refuse initial licensure or discipline an extant license.

PART IV.
REINSTATEMENT.

§ 4.1. Failure to renew; reinstatement required.

A. All applicants for reinstatement must meet all requirements set forth in §§ 3.2 A and 3.2 B of these regulations. Applicants for reinstatement *of an active license* must have completed the continuing education requirement ~~prior to the license expiration date. If the continuing education requirement was not completed during that licensing term, then the individual is not eligible for reinstatement and must reapply as a new applicant~~ *in order to reinstate the license. Applicants for reinstatement of an inactive license are not required to complete the continuing education requirement for license reinstatement* .

B. ~~Additional fees for reinstatement are required as follows:~~

~~1.~~ If the renewal fee is not received by the board within 30 days of the expiration date noted on the license or registration, a reinstatement fee ~~equal to twice the renewal fee is required~~ *of $200 is required* .

~~2. If the reinstatement fee is not received by the board within 180 days of the expiration date noted on the license or registration, a reinstatement fee equal to four times the renewal fee is required.~~

C. After 12 months, reinstatement is not possible under any circumstances and the applicant must meet all current educational and examination requirements and apply as a new applicant.

D. While a license may be reinstated with additional fee for up to one year following expiration, any real estate activity conducted subsequent to the expiration shall constitute unlicensed activity and may be subject to prosecution under Chapter 1 of Title 54.1 of the Code of Virginia.

§ 4.2. Board discretion to deny reinstatement.

The board may deny reinstatement of a license for the same reasons as it may refuse initial licensure or discipline an extant license.

PART V.
STANDARDS OF PRACTICE.

§ 5.1. Place of business.

A. Within the meaning and intent of § 54.1-2110 of the Code of Virginia, a place of business shall be an office where:

1. The principal broker, either through his own efforts or through the efforts of his employees or associates, regularly transacts the business of a real estate broker as defined in § 54.1-2100 of the Code of Virginia; and

2. The principal broker and his employees or associates can receive business calls and direct business calls to be made.

B. No place of business shall be in a residence unless it is separate and distinct from the living quarters of the residence and is accessible by the public.

C. Each place of business and each branch office shall be supervised and personally managed by an on-premises real estate broker who shall supervise only that office and shall be at the office or within easy access during regular business hours.

D. Every individual, partnership, association, or corporation acting as a real estate broker may display signage on the outside of each place of business maintained in the Commonwealth for the purpose of transacting business as a real estate broker. If displayed, the sign shall state the name of such individual, partnership, association, or corporation, as set forth in the license issued by the board, and contain the words "real estate," "realty" or other words or phrases designating a member of a generally recognized association or organization of real estate brokers, whichever is applicable.

E. Every principal broker shall have readily available in the firm's main place of business his license and the license of every salesperson and broker associated with or employed by the firm. The licenses shall be displayed together, not individually, in such a manner that the public can readily determine the names of the licensees.

F. Notice in writing, accompanied by all the current licenses, shall be given to the board in the event of any change of business name or location. Such notice shall be mailed to the board within 10 days of the change of name or location, whereupon the board shall reissue the license for the unexpired period.

§ 5.2. Maintenance of licenses.

A. Salespersons and individual brokers shall at all times keep the board informed of their current home address. The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board of any change of address. *A licensee shall notify the board in a written form acceptable to the board within 10 days of any change in the licensee's name in which they do business.*

B. Salespersons and brokers shall only be issued a license to the place of business of the sole proprietorship or firm with which the salesperson or broker is affiliated or at which such licensee is employed. The license shall be issued after the sole proprietor or principal broker files a written request on a form supplied by the board.

C. Salespersons and brokers on inactive status shall receive written acknowledgement of payment from the board at the time they renew their license, but no license shall be issued since they are not affiliated with a sole proprietorship or firm.

D. When any salesperson or broker is discharged or in any way terminates his employment or affiliation with a sole proprietorship or firm, it shall be the duty of the sole proprietor or principal broker to return the license by certified mail to the board so that it is received within 10 calendar days of the date of termination. The sole proprietor or principal broker shall indicate on the license the date of termination, and shall sign the license before returning it.

E. The board, upon receipt of a transfer application or request for placement of a license on inactive status from a salesperson or associate broker, will notify the former principal broker of the licensee's change of affiliation or status at the firm's address of record. If the license has not been received by the board by the date on which above notification is issued, then it shall be the duty of the former principal broker to return the license by certified mail to the board so that it is received within 10 calendar days of the date of the above notification.

F. All certificates of licensure in any form are the property of the Real Estate Board. Upon termination of a licensee, closing of a firm, death of a licensee, change of licensee name or address such licenses must be returned with proper instruction to the board within 10 days.

§ 5.3. Maintenance and management of escrow accounts and financial records.

A. Maintenance of escrow accounts.

1. *If money is to be held in escrow,* each firm or sole proprietorship shall maintain in the name by which it is licensed one or more separate escrow accounts in a federally insured depository in Virginia into which all down payments, earnest money deposits, money received upon final settlement, rental payments, rental security deposits, money advanced by a buyer or seller for the payment of expenses in connection with the closing of real estate transactions, money advanced by the broker's principal or expended on behalf of the principal, or other escrow funds received by him or his associates on behalf of his principal or any other person shall be deposited unless all parties to the transaction have agreed otherwise in writing. The principal broker shall and the supervising broker may be held responsible for these accounts. All such accounts *, checks and bank statements* shall be labeled "escrow" and the account(s) shall be designated as "escrow" accounts with the financial institution where such accounts are established.

2. Funds to be deposited in the escrow account will necessarily include moneys which shall ultimately belong to the licensee, but such moneys shall be separately identified in the escrow account records and shall be paid to the firm by a check drawn on the escrow account when the funds become due to the licensee. The fact that an escrow account contains money which may ultimately belong to the licensee

does not constitute "commingling of funds" as set forth by § 6.12 5 of these regulations, provided that there are periodic withdrawals of said funds at intervals of not more than six months, and that the licensee can at all times accurately identify the total funds in that account which belong to the licensee and the firm.

3. If escrow funds are used to purchase a certificate of deposit, the pledging or hypothecation of such certificate, or the absence of the original certificate from the direct control of the principal or supervising broker, shall constitute commingling as prohibited by § 6.12 5 of these regulations.

B. Disbursement of funds from escrow accounts.

1. Upon acceptance of a contract (ratification), earnest money deposits and down payments received by the principal or supervising broker or his associates shall be placed in an escrow account and shall remain in that account until the transaction has been consummated or terminated. In the event the transaction is not consummated, the principal or supervising broker shall hold such funds in escrow until (i) all ~~parties~~ *principals* to the transaction have agreed in writing as to their disposition, or (ii) a court of competent jurisdiction orders such disbursement of the funds, or (iii) the broker can pay the funds to the ~~party~~ *principal to the transaction* who is entitled to receive them in accordance with the clear and explicit terms of the contract which established the deposit. In the latter event, prior to disbursement, the broker shall give written notice to each ~~party~~ *principal to the transaction* by either (i) hand delivery receipted for by the addressee, or (ii) by regular and certified mail, that this payment will be made unless a written protest from that ~~party~~ *principal to the transaction* is received by the broker within 30 days of the delivery or mailing, as appropriate, of that notice. A broker who has carried out the above procedure shall be construed to have fulfilled the requirements of this regulation.

2. Unless otherwise agreed in writing by all ~~parties~~ *principals* to the transaction, a licensee shall not be entitled to any part of the earnest money deposit or to any other money paid to the licensee in connection with any real estate transaction as part of the licensee's commission until the transaction has been consummated.

3. On funds placed in an account bearing interest, written disclosure at contract *or lease* writing shall be made to the principals involved in the transaction regarding the disbursement of interest.

4. A licensee shall not disburse or cause to be disbursed moneys from ~~a~~ *an escrow or* property management *escrow* account unless sufficient money is on deposit in that account to the credit of the individual client or property involved.

5. Unless otherwise agreed in writing by all ~~parties~~ *principals* to the transaction, expenses incidental to closing a transaction, e.g., fees for appraisal, insurance, credit report, etc., shall not be deducted from a deposit or down payment.

C. Maintenance of financial records.

1. A complete record of financial transactions conducted under authority of the principal broker's Virginia license or the rental location agent's registration shall be maintained in the principal broker's place of business, or in a designated branch office, or in the office of the rental location agency. When the principal broker's office or the main office of the rental location agency is located outside of Virginia and the firm has a branch office in Virginia, these records shall be maintained in the Virginia office. These records shall show, in addition to any other requirements of the regulations, the following information: from whom money was received; the date of receipt; the place of deposit; the date of deposit; and, after the transaction has been completed, the final disposition of the funds.

2. The principal broker shall maintain a bookkeeping system which shall accurately and clearly disclose full compliance with the requirements outlined in § 5.3 of these regulations. Accounting records which are in sufficient detail to provide necessary information to determine such compliance shall be maintained.

§ 5.4. Advertising by licensees.

The name under which the broker does business and the manner in which the broker advertises shall not imply that the property listed or marketed by the broker for others is "for sale by owner." A broker shall not advertise in any newspaper, periodical, or sign to sell, buy, exchange, rent, or lease property in a manner indicating that the offer to sell, buy, exchange, rent, or lease such property is being made by a person not licensed as a real estate broker. No advertisement shall be inserted in any publication where only a post office box number, telephone number, or street address appears. Every broker, when advertising real estate in any newspaper or periodical, shall affirmatively and unmistakably indicate that the party advertising is a real estate broker.

A. Definitions.

The following definitions apply unless a different meaning is plainly required by the context:

"Advertising" means any communication, whether oral or written, between a licensee or an entity acting on behalf of one or more licensees and any other person or business entity. It shall include, but is not limited to, telephonic communications, insignias, business cards,

advertisements, telephone directory, listing agreements, contracts of sale, billboards, signs, letterheads, as well as radio, television, magazine, and newspaper advertisements; and

"Institutional advertising" means advertising in which neither the licensed name nor any other identification of any licensed individual is disclosed, no real property is identified, and a service mark is identified.

"Service mark" means the trade name, service mark, or logo, whether or not registered under any federal or state law, which is owned by an entity other than the licensee and which the licensee has obtained permission to use through agreement, license, franchise, or otherwise;

B. Every ~~salesperson or associate broker~~ *licensee* is prohibited from advertising and marketing under the licensee's own name *(except for sole proprietors trading under the principal broker's own name)* in any manner offering on behalf of others to buy, sell, exchange, rent, or lease any real property. All advertising and marketing must be under the direct supervision of the principal broker or supervising broker and in the name of the firm. The ~~name of the firm~~ *firm's licensed name* must be *clearly and legibly* displayed on all display signs and other types of advertising and marketing ~~and must be printed in a size equal to or greater than the size of the name of the salesperson or broker~~ .

C. Notwithstanding the above restrictions, where a ~~salesperson or associate broker~~ *licensee* is the owner of or has any ownership interest in the property being advertised, the licensee shall advertise with the notice that the owner is a real estate licensee, but such advertisement must not indicate or imply that the licensee is operating a real estate brokerage business.

D. Service marks and institutional advertising.

1. All institutional advertising shall state that the service being advertised is real estate brokerage, and shall state, if applicable, that each licensed firm or sole proprietorship displaying or using the service mark is an independently owned and operated business.

2. Disclosure that the licensed firm or sole proprietorship is independently owned and operated shall not be required in the following categories of written noninstitutional advertising:

a. "For sale" and "for lease" signs located on the premises of specific property for sale or lease;

b. Advertising by a licensed firm or sole proprietorship in newspapers, magazines, or other publications of a single specific property for sale or lease when the advertisement occupies no more than 28 of the standard classified advertising lines of the newspaper, magazine, or other publications in which the advertisement is published;

c. Telephone directory advertisements disclosing that the licensed brokerage firm or sole proprietorship is independently owned and operated is required in "display" advertisements and in "in column informational" or "business card" advertisements, or their equivalent, appearing in telephone directories.

3. In oral, noninstitutional advertising, the speaker shall disclose affirmatively the licensee's name, and except in the case of telephone communication, shall disclose that the licensed firm or sole proprietorship is independently owned and operated.

PART VI.
STANDARDS OF CONDUCT.

§ 6.1. Grounds for disciplinary action.

The board has the power to fine any licensee or registrant, and to suspend or revoke any license or registration issued under the provisions of Title 54.1, Chapter 21 of the Code of Virginia, and the regulations of the board, ~~at any time after a hearing conducted pursuant to the provisions of the Administrative Process Act, Title 9, Chapter 1.1:1 of the Code of Virginia~~ where the licensee has been found to have violated or cooperated with others in violating any provision of Title 54.1, Chapter 21 of the Code of Virginia, or any regulation of the board.

§ 6.2. Disclosure of interest.

A. If a ~~selling agent or listing agent~~ *licensee* knows or should have known that he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest, is acquiring or attempting to acquire real property *through purchase or lease and the licensee is a party to the transaction* , the agent must disclose that information to the owner in writing in the ~~contract~~ *offer to purchase or lease* .

B. A licensee selling *or leasing* property in which he has any interest must disclose that he is a real estate licensee to any purchaser *or lessor* in writing in the ~~contract~~ *offer to purchase or lease* .

§ 6.3. Disclosure of agency relationships.

A. All licensees shall promptly disclose their agency relationship(s) to all actual and prospective buyers and sellers ; ~~lessors and lessees~~ and optionors and optionees in these ways:

~~A.~~ *1.* As soon as the licensee has substantive discussions about specific property(ies) with a principal or prospective principal, the licensee shall disclose to the principal or prospective principal the person(s) whom the licensee represents in a principal-agency relationship; and

~~B.~~ *2.* Further, this disclosure shall be made in writing at the earliest practical time, but in any case not later than the time when specific real estate assistance is first provided. This written disclosure shall be acknowledged by the principals.

B. All licensees shall promptly disclose their agency relationships to all actual and prospective lessors and lessees in the following way:

1. A disclosure statement shall be included in writing in all applications for lease or in the lease itself, whichever occurs first; and

2. The disclosure requirement shall not apply to lessors and lessees in single or multi-family residential units on leases of less than two months.

§ 6.4. Licensees dealing on own account.

Any licensee failing to comply with the provisions of Title 54.1, Chapter 21 of the Code of Virginia or the regulations of the Real Estate Board in performing any acts covered by §§ 54.1-2100 and 54.1-2101 of the Code of Virginia, may be charged with improper dealings, regardless of whether those acts are in the licensee's personal capacity or in his capacity as a real estate licensee.

§ 6.5. Provision of records to the board.

A licensee of the Real Estate Board shall upon request or demand, promptly produce to the board or any of its agents any document, book, or record in a licensee's possession concerning any real estate transaction in which the licensee was involved ~~as a broker or salesperson~~ , or for which the licensee is required to maintain records for inspection and copying by the board or its agents. ~~These records shall be made available at the licensee's place of business during regular business hours.~~

§ 6.6. Unworthiness and incompetence.

Actions constituting unworthy and incompetent conduct include:

1. Obtaining a license by false or fraudulent representation;

2. Holding more than one license as a real estate broker or salesperson in Virginia except as provided in these regulations;

3. As a currently licensed real estate salesperson, sitting for the licensing examination for a salesperson's license;

4. As a currently licensed real estate broker, sitting for a real estate licensing examination;

5. Having been convicted or found guilty regardless of adjudication in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt;

6. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury;

7. Having been found in a court or an administrative body of competent jurisdiction to have violated the Virginia Fair Housing Act, the Fair Housing Laws of any jurisdiction of the United States including without limitation Title VIII of the Civil Rights Act of 1968, or the Civil Rights Act of 1866, there being no appeal therefrom or the time for appeal having elapsed; and

8. Failing to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public, or otherwise engaging in improper, fraudulent, or dishonest conduct.

§ 6.7. Conflict of interest.

Actions constituting a conflict of interest include:

1. Being employed by, affiliated with or receiving compensation from a real estate broker other than the licensee's principal broker, without the written consent of the principal broker;

2. Acting for more than one party in a transaction without the written consent of all principals for whom the licensee acts;

3. Acting as an agent for any principal in a real estate transaction outside the licensee's brokerage firm(s) or sole proprietorship(s).

§ 6.8. Improper brokerage commission.

Actions resulting in an improper brokerage commission include:

1. Paying a commission or other valuable consideration to any person for acts or services performed in violation of Title 54.1, Chapter 21 of the Code of Virginia, or these regulations; provided, however, that referral fees and shared commissions may be paid to any real estate firm licensed in this or another jurisdiction, or to any referral firm in the United States, the members of which are broker

licensed in this or another jurisdiction and which only disburses commissions or referral fees to its licensed member brokers;

2. Notwithstanding the provisions of § 54.1-2102 of the Code of Virginia, accepting a commission or other valuable consideration, as a real estate salesperson or associate broker, for the performance of any of the acts specified in Title 54.1, Chapter 21 of the Code of Virginia or the regulations of the board, from any person except the licensee's principal broker at the time of the transaction;

3. Receiving a fee or portion thereof including a referral fee or a commission or other valuable consideration for services required by the terms of the real estate contract when such costs are to be paid by either one or both principals to the transaction unless such fact is revealed in writing to the principal(s) prior to the time of ordering or contracting for the services;

4. Offering or paying any money or other valuable consideration for services required by the terms of the real estate contract to any party other than the principals to a transaction which results in a fee being paid to the licensee; without such fact being revealed in writing to the principal(s) prior to the time of ordering or contracting for the services.

5. Making a listing contract or lease which provides for a "net" return to the seller/lessor, leaving the licensee free to sell or lease the property at any price he can obtain in excess of the "net" price named by the seller/lessor;

6. Charging money or other valuable consideration to or accepting or receiving money or other valuable consideration from any person or entity other than the licensee's principal for expenditures made on behalf of that principal without the written consent of the principal.

§ 6.9. Improper dealing.

Actions constituting improper dealing include:

1. Making an exclusive agency contract or an exclusive right-to-sell contract which does not have a definite termination date;

2. Offering real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;

3. Placing a sign on any property without the consent of the owner of the property or the owner's authorized agent;

4. Causing any advertisement for sale, rent, or lease to appear in any newspaper, periodical, or sign without including in the advertisement the name of the firm or sole proprietorship;

5. Acting in the capacity of settlement agent in a real estate closing by a salesperson, except:

a. When the salesperson is under the direct supervision of the principal/supervising broker;

b. When the salesperson is under the direct supervision of a licensed officer of the corporation or a licensed partner of the partnership under which the salesperson is licensed;

c. When the settlement agent is a member of the Virginia State Bar or a law firm, the members of which are members of the Virginia State Bar; or

d. When the settlement agent is a title insurance company or an agency thereof or a firm regularly engaged in the business or closing real estate transactions;

§ 6.10. Misrepresentation/omission.

Actions constituting misrepresentation or omission, or both, include:

1. Using "bait and switch" tactics by advertising or offering real property for sale or rent with the intent not to sell or rent at the price or terms advertised, unless the advertisement or offer clearly states that the property advertised is limited in specific quantity and the licensee or registrant did in fact have at least that quantity for sale or rent;

2. Failing to disclose in a timely manner to a prospective purchaser/licensee, or seller/lessor, any material information related to the property reasonably available to the licensee or registrant;

3. Failing as a licensee to promptly tender to the buyer and seller every written offer or counter-offer to purchase obtained on the property involved;

4. Failing to include the complete terms and conditions of the real estate transaction in any offer to purchase or rent, including identification of all those holding any deposits;

5. Knowingly making any false statement or report, or willfully misstating the value of any land, property, or security for the purpose of influencing in any way the action of any lender upon:

a. Applications, advance discounts, purchase agreements, repurchase agreements, commitments or loans;

b. Changes in terms or extensions of time for any of the items listed in § 6.10 5 whether by renewal, deferrment of action, or other means without the prior written consent of the principals to the transaction;

c. Acceptance, release, or substitution of security for any of the items listed in § 6.10 5 a without the prior written consent of the principals to the transaction.

6. Making any misrepresentation; and

7. Making a false promise through agents, salespersons, advertising, or other means.

§ 6.11. Delivery of instruments.

Actions constituting improper delivery of instruments include:

1. Failing to make prompt delivery to each party to a document, complete and legible copies of any written ~~or printed~~ listings, ~~contracts, residential leases, addenda or other agreements being negotiated by a salesperson or broker at the time such listings, contracts, residential leases, addenda or other agreements signed by the parties are secured~~ *offers to lease, offers to purchase, counteroffers, addenda and ratified agreements* ;

~~2. Failing to make prompt delivery of fully executed copies of the contract or lease, and addenda signed by the seller/lessor and purchaser/lessee, to both purchaser/lessee and seller/lessor after obtaining a proper acceptance of the offer to purchase or rent;~~

~~3.~~ *2.* Failing to provide in a timely manner to all parties to the transaction written notice of any material changes to the transaction;

~~4.~~ *3.* Failing to deliver to the seller and buyer, at the time a real estate transaction is completed, a complete and accurate statement of receipts and disbursements of moneys received by the licensee, duly signed and certified by the principal or supervising broker or his authorized agent; provided, however, if the transaction is closed by a settlement agent other than the licensee or his broker, and if the disbursement of moneys received by the licensee is disclosed on the applicable settlement statement, the licensee shall not be required to provide the separate statement of receipts and disbursements; and

~~5.~~ *4.* Refusing or failing without just cause to surrender to the rightful owner, upon demand, any document or instrument which the licensee possesses.

§ 6.12. Record keeping and escrow funds.

Actions constituting improper record keeping and maintenance of escrow funds include:

1. Failing, as a principal or supervising broker, to retain for a period of three years from the date of the closing a complete and legible copy of each contract and agreement, notice and closing statement related to a real estate transaction, and all other documents material to that transaction available and accessible to the broker;

2. Having received moneys on behalf of others and failed to maintain a complete and accurate record of such receipts and their disbursements for a period of three years from the date of the closing;

3. Failing, within a reasonable time, to account for or to remit any moneys coming into a licensee's possession which belong to others;

4. Accepting any note, nonnegotiable instrument, or anything of value not readily negotiable, as a deposit on a contract, offer to purchase, or lease, without acknowledging its acceptance in the agreement; and

5. Commingling the funds of any person by a principal or supervising broker or his employees or associates with his own funds, or those of his corporation, firm, or association; ~~or failure to deposit such funds in an account or accounts designated to receive only such funds as required by these regulations, see § 5.3 A 1.~~ *and*

6. Failure to deposit such funds in an account or accounts designated to receive only such funds as required by these regulations (see § 5.3 A 1).

§ 6.13. Rental location agents.

Actions constituting improper activities of a rental location agent include:

1. Accepting or agreeing to accept any fee as a rental location agent without giving the person paying or agreeing to pay such fee a contract or receipt in which the agent sets forth a definite termination date for the services to be provided. The termination date shall not be later than one year from the date of the original agreement or acceptance of a fee. The rental location agent shall agree in the contract or receipt to repay, upon request, within 10 days of the expiration date, any amount of fee collected over and above the sum of the service charge if no rental is obtained. The rental location agent shall further agree in the contract or receipt that if rental information provided by the agent is not current or accurate, the full fee shall be repaid upon request within 10 days of the delivery of the inaccurate rental information;

2. Referring, as a rental location agent, a prospective tenant to any property for which the agent has not verified the availability of the property within sever

working days prior to the referral; and

3. Failing, as a rental location agent, to maintain a written registry of all lists of rentals provided to customers and of all advertisements published or caused to be published by the agent, together with the address of the property listed or advertised, the date of verification of the availability, and the name, address, and telephone number, if any, of the party who offered the property for rent. This registry shall be kept for a period of three years from the date of the lists or the publication of any advertisement listed in it.

§ 6.14. Principal *or supervising* broker's responsibility for acts of licensees.

Any unlawful act or violation of any of the provisions of Title 54.1, Chapter 21 or of Title 36, Chapter 5 of the Code of Virginia or of the regulations of the board by any real estate salesperson, employee, partner or affiliate of a principal *or supervising* broker, may not be cause for disciplinary action against the principal *or supervising* broker unless it appears to the satisfaction of the board that the principal *or supervising* broker knew or should have known of the unlawful act or violation.

§ 6.15. Effect of disciplinary action on subordinate licensees.

Action by the board resulting in the revocation, suspension, or denial of renewal of the license of any principal broker or sole proprietor shall automatically result in an order that the licenses of any and all individuals affiliated with or employed by the affected firm be returned to the board until such time as they are reissued upon the written request of a sole proprietor or principal broker pursuant to § 5.2 B.

PART VII.
SCHOOLS.

§ 7.1. Definitions.

As used in these regulations, unless a different meaning is plainly required by the context:

"Accredited colleges, universities and community colleges," as used in § 54.1-2105 2 of the Code of Virginia, means those accredited institutions of higher learning approved by the Virginia Council of Higher Education or listed in the Transfer Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers.

"Classroom hour/clock hour" means 60 minutes.

"Equivalent course" means any course encompassing the principles and practices of real estate and approved by the board.

"Proprietary school" means a privately owned school, not under the authority of the Department of Education, but approved by the Real Estate Board to teach real estate courses.

§ 7.2. Proprietory school standards.

Every applicant to the Real Estate Board for a proprietary school certificate shall meet the following standards:

A. Educational environment.

All schools must be in a building conducive to academic purposes, with library facilities readily accessible to students at times other than their regularly scheduled class hours. Classroom arrangement should allow for workshop-type instruction and small-group activity. Facilities must meet necessary building code standards, fire safety standards, and sanitation standards.

B. Instructor qualifications.

Every applicant to the Real Estate Board for approval as an instructor shall have one of the following qualifications:

1. Baccalaureate degree in real estate, or in business with a concentration in real estate or a closely related field; or

2. Baccalaureate degree, a real estate license, and two years of discipline-free active real estate experience within the past five years; or

3. Seven years of discipline-free active experience acquired in the real estate field in the past 10 years and an active broker's license ~ ; *or*

4. Approval may be granted to an active Virginia licensed attorney whose primary area of practice is real estate law; or

5. Qualified experts in a specific field of real estate who will teach only in the area of their expertise. For example, a licensed real estate appraiser, with at least five years of active appraisal experience in Virginia, may be approved to teach Real Estate Appraisals. Such applicants will be required to furnish proof of their expertise including, but not limited to, educational transcripts, professional certificates and letters of reference which will verify the applicants expertise.

C. Courses.

All real estate courses must be acceptable to the board and are required to have a monitored, final written examination.

D. All schools must establish and maintain a record for

each student. The record shall include: the student's name and address; the course name and clock hours attended; and the date of successful completion. Records shall be available for inspection during normal business hours by authorized representatives of the board. *Schools must maintain all student and class records for a minimum of five years.*

§ 7.3. Fees.

A. The application fee for original certificate for a proprietary school shall be $100.

B. The renewal fee for proprietary school certificates expiring annually on June 30 shall be $50.

C. The Board in its discretion may deny renewal of a certificate. Upon such denial, the certificate holder may request that a hearing be held.

§ 7.4. Posting school certificate of approval and registration.

School certificates of approval and registration, and instructor certificates must be displayed in each approved school facility in a conspicuous place readily accessible to the public.

§ 7.5. Withdrawal of approval.

The board may withdraw approval of any school for the following reasons:

1. The school, instructors, or courses no longer meet the standards established by the board.

2. The school solicits information from any person for the purpose of discovering past examination questions or questions which may be used in future examinations.

3. The school distributes to any person copies of examination questions, or otherwise communicates to any person examination questions, without receiving the prior written approval of the copyright owner to distribute or communicate those questions.

4. The school, through an agent or otherwise, advertises its services in a fraudulent, deceptive or misrepresentative manner.

5. Officials, instructors or designees of the school sit for a real estate licensing examination for any purpose other than to obtain a license as a broker or salesperson.

§ 7.6. Course content of real estate principles and practices.

The following shall be included in the ~~three~~ *four* -semester-hour or ~~six~~ *seven* -quarter-hour course which shall not have less than ~~45~~ *60* classroom hours:

1. Economy and social impact of real estate

2. Real estate market and analysis

3. Property rights

4. Contracts

5. Deeds

6. Mortgages and deeds of trust

7. Types of mortgages

8. Leases

9. Liens

10. Home ownership

11. Real property and title insurance

12. Investment

13. Taxes in real estate

14. Real estate financing

15. Brokerage and agency contract responsibilities

16. Real estate marketing

17. Real property management

18. Search, examination, and registration of title

19. Title closing

20. Appraisal of residential and income producing property

21. Planning subdivision developments and condominiums

22. Regulatory statutes

23. Housing legislation

24. Fair housing statutes

25. Real Estate Board regulations

§ 7.7. Related subjects.

"Related subjects," as referred to in § 54.1-2105 of the Code of Virginia, shall be real estate related and shall include, but are not limited to, courses in property management, land planning and land use, business law, real estate economics, and real estate investments.

§ 7.8. Required specific courses.

Brokerage shall be a required specific course with three semester hours or six quarter hours constituting a complete course.

§ 7.9. Credit for broker-related courses.

No more than three semester hours or three quarter hours of broker-related courses shall be accepted in lieu of specific broker courses.

§ 7.10. Broker-related course approval procedure.

Schools intending to offer equivalent broker courses must submit to the board for approval a copy of the syllabus of the particular course with a cover letter requesting approval. In addition, the school must accompany these materials with a copy of a comparable course syllabus from an accredited university, college, or community college to establish equivalency.

NOTICE: The forms used in administering the Virginia Real Estate Board Licensing Regulations are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Commerce, 3600 West Broad Street, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

General Instructions for Completion of All Real Estate Application Forms
Real Estate Saleperson Application (RE9 - 10/2/89)
Real Estate Broker Application (RE11 - 10/2/89)
Real Estate Concurrent Broker Application (RE10 - 10/2/89)
Rental Location Agent Registration Application (RE8 - 10/2/89)
Rental Location Agency Application (RE5 - 10/2/89)
Real Estate Business License Application (RE7 - 10/2/89)
Real Estate Branch Office Application (RE12 - 10/11/89)
Real Estate Activate Application
Real Estate Transfer Application

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.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

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 Housing and Community Development will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **VR 394-01-06. Virginia Statewide Fire Prevention Code/1990.**

Statutory Authority: § 27-97 of the Code of Virginia.

Effective Date: December 1, 1991.

Summary:

This action incorporates new text of § 27-97 of the Code of Virginia into the Statewide Fire Prevention Code by creating an amendment to the BOCA National Fire Prevention Code, which has been adopted by reference for use in the statewide code. The new section is F-706.4 located in Addendum 1 of the regulation and requires an annual fire drill in all high-rise buildings. The amendment is pursuant to Chapter 53 of the 1991 Acts of Assembly.

VR 394-01-06. Virginia Statewide Fire Prevention Code/1990.

ARTICLE 1.
ADMINISTRATION AND ENFORCEMENT.

SECTION F-100.0.
GENERAL.

F-100.1. Title. These regulations shall be known as the Virginia Statewide Fire Prevention Code. Except as otherwise indicated, SFPC or code shall mean the 1990 edition of the Virginia Statewide Fire Prevention Code.

F-100.2. Authority. The SFPC is adopted according to regulatory authority granted the Board of Housing and Community Development by the Statewide Fire Prevention Code Act, Chapter 9, Title 27, §§ 27-94 through 27-101 of the Code of Virginia.

F-100.3. Adoption. The SFPC was adopted by order of the Board of Housing and Community Development on January 28, 1991. This order was prepared according to the requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development and is available for public inspection.

F-100.4. Effective date. The SFPC shall become effective on April 15, 1991.

F-100.5. Effect on other codes. The SFPC shall apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia. The SFPC shall supersede the fire prevention regulations previously adopted by local government or other political subdivisions. When any provision of this code is found to be in conflict with the Uniform Statewide Building Code, OSHA, or applicable laws of the Commonwealth, that provision of the SFPC shall become invalid. Wherever the words "building code" appear, it shall mean the building code in effect at the time of construction.

F-100.6. Purpose. The purpose of the SFPC is to provide statewide standards for optional local enforcement to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling and use of substances, materials and devices, including explosives and blasting agents, wherever located.

F-100.7. Application to post-Uniform Statewide Building Code (USBC) buildings. Egress facilities, fire protection, built-in fire protection equipment, and other fire safety features in such buildings shall be maintained in accordance with the requirements of the USBC in effect at the time the building or structure was constructed.

F-100.8. Application to pre-Uniform Statewide Building Code (USBC) buildings. Pre-USBC buildings are those buildings that were not subject to the USBC when constructed. Such buildings shall be maintained in accordance with the Virginia Public Building Safety Regulations (VR 394-01-05) which are hereby incorporated into this code by reference, and other applicable requirements of this code.

Note: The Virginia Public Building Safety Regulations (VR 394-01-05), which were formerly contained in Addendum 2 of this code, are available from the Professional Services Office (DHCD), 205 North Fourth Street, Richmond, VA 23219-1747.

F-100.9. Special provisions. The fire official shall require

at buildings subject to the requirements of Section 109.0 of the Uniform Statewide Building Code, Volume II - Building Maintenance Code, 1990 Edition, shall comply with the provisions of that section.

F-100.10. Exemptions for farm structures. Farm structures not used for residential purposes shall be exempt from the provisions of the SFPC.

SECTION F-101.0.
REFERENCED STANDARDS AND AMENDMENTS.

F-101.1. Adoption of model code. The following model code, as amended by Sections F-101.2 and F-101.3, is hereby adopted and incorporated in the SFPC.

The BOCA National Fire Prevention Code/1990 Edition, published by: Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60477.

F-101.2. Administrative and enforcement amendments to the referenced model code. All requirements of the referenced model code and standards that relate to administrative and enforcement matters are deleted and replaced by Article 1 of the SFPC.

F-101.3. Other amendments to the referenced model code. The amendments noted in Addendum 1 shall be made to the specified articles and sections of the BOCA National Fire Prevention Code/1990 Edition.

F-101.4. Limitation of application of model code. No provision of the model code shall affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure.

SECTION F-102.0.
ENFORCEMENT AUTHORITY.

F-102.1. Enforcement. Any local government may enforce the SFPC. The local governing body may assign responsibility for enforcement of the SFPC to the local agency or agencies of its choice. The State Fire Marshal shall have authority to enforce the SFPC in jurisdictions in which the local governments do not enforce the code. The State Fire Marshal's office shall be notified by the local government when the fire official has been appointed. The terms "enforcing agency" and "fire official" apply to the agency or agencies responsible for enforcement. The terms "building official" or "building department" apply only to the local building official or building department.

F-102.1.2. Modifications to the Virginia Public Building Safety Regulations. In those localities enforcing the SFPC, the fire official shall have the same authority to grant modifications of the Virginia Public Building Safety Regulations as is delegated to the Chief Fire Marshal.

F-102.2. Qualifications. The local government shall establish qualifications for the fire official and assistants.

Note: It is recommended that the fire official have at least five years of fire prevention experience. The certification programs offered by the Department of Housing and Community Development, Department of Fire Programs, and ETS/NFPA should be considered when establishing qualifications.

F-102.3. Maintenance inspections. The fire official may inspect all buildings, structures and premises to assure compliance with this code or any other ordinance affecting fire safety.

Exceptions:

1. Single family dwellings.

2. Dwelling units in multi-family dwellings.

F-102.4. Right of entry. The fire official may enter any structure or premises when there is reasonable cause to believe that an unsafe condition exists. Proper credentials shall be presented before entering occupied structures or premises. Legal assistance may be requested if entry is refused.

F-102.5. Coordinated inspections. The fire official shall coordinate inspections and administrative orders with any other state and local agencies having related inspection authority, and shall coordinate with the local building department on those inspections required by the USBC, Volume I, for new construction, when involving provisions of the BOCA National Fire Prevention Code, so that the owners and occupants will not be subjected to numerous inspections or conflicting orders. Whenever the fire official or an authorized representative observes an apparent or actual violation of the provisions of another law, ordinance or code, not within the inspector's authority to enforce, the inspector shall report the findings to the official having jurisdiction in order that such official may institute the necessary measures.

Note: Section 110.6 of the USBC, Volume I, requires the building official to coordinate those inspections with the local fire official.

F-102.6. Records. The local fire official shall keep records of fires, inspections, notices, orders issued, and other matters as directed by the local government. Fire records shall include information as to the cause, origin and the extent of damage. Records may be disposed of in accordance with the provisions of the Virginia Public Records Act, (a) after twenty years in the case of arson fires, (b) after five years in nonarson fires, and (c) after three years in the case of all other reports, notices, and orders issued.

F-102.7. Relief from personal responsibility. The local enforcing agency personnel shall not be personally liable for any damages sustained by any person in excess of the policy limits of errors and omissions insurance, or other equivalent insurance obtained by the locality to insure

against any action that may occur to persons or property as a result of any act required or permitted in the discharge of official duties while assigned to the department as an employee. The fire official or his subordinates shall not be personally liable for costs in any action, suit or proceedings that may be instituted in pursuance of the provisions of the SFPC as a result of any act required or permitted in the discharge of official duties while assigned to the enforcing agency as an employee, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee because of an act performed in the discharge of the SFPC may be defended by the enforcing agency's legal representative. The State Fire Marshal or his subordinates shall not be personally liable for damages or costs sustained by any person when the State Fire Marshal or his subordinates are enforcing this code as part of their official duties under Section F-102.1.

F-102.8. Local regulations. Local governments may adopt fire prevention regulations that are more restrictive or more extensive in scope than the SFPC provided such regulations are not more restrictive than the USBC and do not affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure.

F-102.9. Procedures or requirements. The local governing body may establish such procedures or requirements as may be necessary for the enforcement of the SFPC.

F-102.10. Control of conflict of interest. The minimum standards of conduct for officials and employees of the enforcing agency shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.

SECTION F-103.0.
DUTIES AND POWERS OF THE FIRE OFFICIAL.

F-103.1. General. The fire official shall enforce the provisions of the SFPC as provided herein and as interpreted by the State Building Code Technical Review Board in accordance with § 36-118 of the Code of Virginia.

F-103.2. Notices and orders. The fire official shall issue all necessary notices or orders to ensure compliance with the SFPC.

F-103.3. Delegation of duties and powers. The fire official may delegate duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with this code.

SECTION F-104.0.
PERMITS.

F-104.1. General. The fire official may require notification prior to activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; o to conduct processes which produce conditions hazardou to life or property; or to establish a place of assembly.

F-104.1.1. State permits. The State Fire Marshal will not issue permits under the SFPC except that annual permits shall be issued under Article 26, Explosives, Ammunition and Blasting Agents.

F-104.1.2. Local permits. In those jurisdictions that enforce the SFPC, the Fire Official shall issue permits as required by Article 26, Explosives, Ammunition and Blasting Agents.

F-104.2. Permits required. The local fire official may require permits to be obtained as specified in the model code. Permits shall be made available to the fire official upon request.

F-104.3. Application for permit. Application for a permit shall be made on forms prescribed by the local fire official.

F-104.4. Issuance of permits. Before a permit is issued, the local fire official shall make such inspections or tests as are necessary to assure that the use and activities for which application is made complies with the provisions of this code.

F-104.5. Conditions of permit. A permit shall constitute permission to store or handle materials, or to conduct processes in accordance with the SFPC and shall not b construed as authority to omit or amend any of th provisions of this code. Permits shall remain in effect until revoked, or for such period of time specified on the permit. Permits are not transferable.

F-104.6. Approved plans. Plans approved by the fire official are approved with the intent that they comply in all respects to this code. Any omissions or errors on the plans do not relieve the applicant of complying with all applicable requirements of this code.

F-104.7. Revocation of permit. The local fire official may revoke a permit or approval issued under the SFPC if conditions of the permit have been violated, or if the approved application, data or plans contain misrepresentation as to material fact.

F-104.8. Suspension of permit. A permit shall become invalid if the authorized activity is not commenced within six months after issuance of the permit, or if the authorized activity is suspended or abandoned for a period of six months after the time of commencement.

F-104.9. Fees. Fees may be levied by the enforcing agency in order to defray the cost of enforcement and appeals. The fees listed in Table F-104.9 shall be levied on those permits issued in accordance with F-104.1.1.

Table F-104.9.

FEE SCHEDULE FOR EXPLOSIVES PERMITS
ISSUED BY THE STATE FIRE MARSHAL

Type of Permit	Fee
To possess, store or dispose of explosives or blasting agents	$50.00 per year
To use explosives or blasting agents	$75.00 per year

SECTION F-105.0.
LOCAL BOARD OF APPEALS.

F-105.1. Local board of appeals. Each local government shall have a local board of appeals as required by § 27-98 of the Code of Virginia, or it shall enter into an agreement with the governing body of another county or municipality or with some other agency, or a state agency, approved by the Department of Housing and Community Development to act on appeals.

F-105.2. Membership. The local board of appeals shall consist of at least five members appointed by the local government. Members may be reappointed.

Note: In order to provide continuity, it is recommended that the terms of the local board members be staggered so that less than half of the terms expire in any one year.

F-105.3. Qualifications of board members. Board members shall be qualified by experience and training to rule on matters pertaining to building construction and fire prevention. Employees or officials of the local government appointing the board shall not serve as board members.

F-105.4. Officers of the board. The board shall select one of its members to serve as chairman. The agency enforcing the SFPC shall designate an employee from its agency to serve as secretary to the board. The secretary shall keep a detailed record of all proceedings in accordance with Section F-102.6.

F-105.5. Alternates and absence of members. The local government may appoint alternate members who may sit on the board in the absence of any regular members of the board and, while sitting on the board, shall have the full power and authority of the regular member. A procedure shall be established for use of alternate members in case of absence of regular members.

F-105.6. Control of conflict of interest. A member of the board shall not vote on any question involving their business or personal interests.

F-105.7. Notice of meeting. The board shall meet upon notice of the chairman or at stated periodic meetings if warranted by the volume of work. The board shall meet within 30 calendar days of the filing of an appeal.

F-105.8. Application for appeal. The owner or occupant of any building, structure or premises may appeal a decision of the fire official, by submitting written application within 10 calendar days of the decision, when it is claimed that:

1. The fire official has refused to grant a modification of the provisions of the code;

2. The intent of the code has been incorrectly interpreted;

3. The provisions of the code do not fully apply;

4. The use of a form of compliance that is equal to or better than that specified in the code has been denied.

F-105.9. Hearing open to public. All hearings shall be open to the public and conducted in accordance with the applicable provisions of the Administrative Process Act, § 9-6.14:1 of the Code of Virginia.

F-105.10. Postponement of hearing. When a quorum (over 50%) of the board, as represented by members or alternates, is not present to consider a specific appeal, either the appellant, the fire official or their representatives may, prior to the start of the hearing, request a single postponement of the hearing of up to 14 calendar days.

F-105.11. Decision. A vote equivalent to a majority of the quorum of the board is required to reverse or modify the decision of the fire official. Every action of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the fire official.

F-105.12. Enforcement of decision. The fire official shall take immediate action in accordance with the decision of the board.

SECTION F-106.0.
APPEAL TO THE STATE BUILDING CODE
TECHNICAL REVIEW BOARD.

F-106.1. Appeal to the State Building Code Technical Review Board. Any person aggrieved by a decision of the local Board of Appeals who was a party to the appeal may appeal to the State Building Code Technical Review Board. Application for review shall be made to the State Building Code Technical Review Board within 15 days of receipt of the decision of the local appeals board by the aggrieved party.

F-106.2. Appeal of decision of State Fire Marshal. Appeals concerning the application of the code by the State Fire Marshal shall be made directly to the State Building Code Technical Review Board.

F-106.3. Control of conflict of interests. A member of the board shall not vote on any question involving his business or personal interests.

F-106.4. Enforcement of decision. Upon receipt of the written decision of the State Building Code Technical Review Board, the fire official shall take immediate action in accordance with the decision.

F-106.5. Court review. Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board may be presented to the court of the original jurisdiction in accordance with the provisions of the Administrative Process Act, Article 4 (§ 9-6.14:15 et seq.) of Chapter 1.1:1 of Title 9 of the Code of Virginia.

SECTION F-107.0.
UNSAFE CONDITIONS.

F-107.1. General. The fire official shall order the following dangerous or hazardous conditions or materials to be removed or remedied in accordance with the SFPC:

1. Dangerous conditions which are liable to cause or contribute to the spread of fire in or on said premises, building or structure or endanger the occupants thereof.

2. Conditions which would interfere with the efficiency and use of any fire protection equipment.

3. Obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the egress of occupants or the operation of the fire department in case of fire.

4. Accumulations of dust or waste material in air conditioning or ventilating systems or grease in kitchen or other exhaust ducts.

5. Accumulations of grease on kitchen cooking equipment, or oil, grease or dirt upon, under or around any mechanical equipment.

6. Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible materials, or excessive storage of any combustible material.

7. Hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment or appliances.

8. Hazardous conditions arising from defective or improperly used or installed equipment for handling or using combustible, explosive or otherwise hazardous materials.

9. Dangerous or unlawful amounts of combustible, explosive or otherwise hazardous materials.

10. All equipment, materials, processes or operations which are in violation of the provisions and intent of this code.

F-107.2. Maintenance. The owner shall be responsible for the safe and proper maintenance of any building, structure, premises or lot. In all new and existing buildings and structures, the fire protection equipment, means of egress, alarms, devices and safeguards required by the USBC shall be maintained in a safe and proper operating condition.

Note: Also see Sections F-501.4 and F-501.4.1 of this code for further information.

F-107.3. Occupant responsibility. If an occupant of a building creates conditions in violation of this code, by virtue of storage, handling and use of substances, materials, devices and appliances, the occupant shall be held responsible for the abatement of said hazardous conditions.

F-107.4. Unsafe buildings. All buildings and structures that are or shall hereafter become unsafe or deficient in adequate exit facilities or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or by reason of illegal or improper use, occupancy or maintenance or which have sustained structural damage by reason of fire, explosion, or natural disaster shall be deemed unsafe buildings or structures. A vacant building, or portion of a building, unguarded or open at door or window shall be deemed a fire hazard and unsafe within the meaning of this code. Unsafe buildings shall be reported to the building or maintenance code official who shall take appropriate action under the provisions of the USBC, Volume I - New Construction Code or Volume II - Building Maintenance Code, to secure abatement by repair and rehabilitation or by demolition.

F-107.5. Evacuation. When, in the opinion of the fire official, there is actual and potential danger to the occupants or those in the proximity of any building, structure or premises because of unsafe structural conditions or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases or materials, the fire official may order the immediate evacuation of the building, structure or premises. All notified occupants shall immediately leave the building, structure or premises, and no person shall enter until authorized to do so by the fire official.

F-107.6. Unlawful continuance. It is deemed a violation of the SFPC for any person to refuse to leave, interfere with the evacuation of the other occupants or continue any operation after having been given an evacuation order except such work as that person is directed to perform to remove a violation or unsafe condition.

F-107.7. Notice of violation. Whenever the fire official observes a violation of this code or ordinance under the fire official's jurisdiction, the fire official shall prepare a written notice of the violation describing the condition deemed unsafe and specifying time limits for the required repairs or improvements to be made to render the

building, structure or premises safe and secure. The written notice of violation of this code shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the conditions under violation. Such notice of violation shall be served either by delivering a copy of same to such persons by mail to the last known post office address, by delivering it in person, by delivering it to and leaving it in the possession of any person in charge of the premises, or, in case such person is not found upon the premises, by affixing a copy thereof in a conspicuous place at the entrance door or avenue of access; such procedure shall be deemed the equivalent of personal notice.

F-107.8. Failure to correct violations. If the notice of violation is not complied with in the time specified by the fire official, the fire official shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate any notice of violation which is not complied with in the specified time or require removal or termination of the unlawful use of the building or structure. The local law enforcement agency of the jurisdiction shall be requested by the fire official to make arrests for any offense against this code or orders of the fire official affecting the immediate safety of the public when the fire official is not certified in accordance with § 27-34.2 of the Code of Virginia.

F-107.9. Issuing summons for violation. If certified in accordance with § 27-34.2 of the Code of Virginia, the fire official may issue a summons in lieu of the notice of violation.

F-107.10. Penalty for violation. Violations are a Class 1 misdemeanor in accordance with § 27-100 of the Code of Virginia. Each day that a violation continues, after a service of notice as provided for in this code, shall be deemed a separate offense.

F-107.11. Abatement of violation. Conviction of a violation of the SFPC shall not preclude the institution of appropriate legal action to require correction or abatement of the violation or to prevent other violations or recurring violations of the SFPC relating to use of the building or premises.

ADDENDUM 1.
AMENDMENTS TO THE BOCA NATIONAL FIRE PREVENTION CODE/1990 EDITION.

As provided in Section F-101.3 of the SFPC, the amendments noted in this addendum shall be made to the BOCA National Fire Prevention Code/1990 Edition for use as part of the SFPC.

ARTICLE 1.
ADMINISTRATION AND ENFORCEMENT.

1. Article 1, Administration and Enforcement, is deleted in its entirety and replaced with Article 1 of the SFPC.

ARTICLE 2.
DEFINITIONS.

1. Change Section F-200.3 to read:

F-200.3. Terms defined in the other codes. Where terms are not defined in this code and are defined in the USBC, they shall have the meanings defined by the USBC.

2. Change the following definitions in Section F-201.0, General Definitions, to read:

"Blasting agent" means any explosive material that has been tested and approved in accordance with the provisions of DOT 49 CFR which includes that the finished product, as mixed for use and shipment, cannot be detonated by a No. 8 test blasting cap when unconfined.

"Building code official" means the designated authority charged with the administration and enforcement of the USBC, Volume I - New Construction Code.

"Code official" means the designated authority charged with the administration and enforcement of the USBC, Volume II - Building Maintenance Code.

Note: When "code official" appears in the BOCA National Fire Prevention Code, it shall mean "fire official".

"Explosive" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion. The term "explosive" includes all materials classified as Class A, Class B, or Class C explosives by DOT regulations and includes, but is not limited to, dynamite, black powder, pellet powders, smokeless powder, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse igniters, fuse lighters, squibs, cordeau detonate fuse, instantaneous fuse, igniter cord and igniters.

"Fireworks" means any item known as firecracker, torpedo, skyrocket, or other substance or thing, of whatever form or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known, as fireworks and which explodes, rises into the air or travels laterally, or fires projectiles into the air. The term "fireworks" does not include auto flares, caps for pistols, pinwheels, sparklers, fountains or Pharaoh's Serpents provided, however, these permissible items may only be used, ignited or exploded on private property with the consent of the owner of such property.

"Structure" means an assembly of materials forming a construction for use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature. The word structure shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a

different meaning.

3. Add these new definitions to Section F-201.0, General Definitions:

"Agricultural blasting" means any blasting operation which is conducted on no less than five acres of real estate devoted to agricultural or horticultural use as defined in § 58.1-3230 of the Code of Virginia.

"Blaster" or "shot firer" means that qualified person in charge of, and responsible for, the loading and firing of an explosive or blasting agent.

"Building Code" means the building code in effect at the time of construction.

"Fire official" means the designated authority charged with the administration and enforcement of the SFPC.

"Peak particle velocity" means the maximum component of the three mutually perpendicular components of motion at a given point.

"Propellant-actuated power device" means any tool or special mechanized device or gas generator system which is actuated by a propellant or which releases and directs work through a propellant charge. (See special industrial explosive device.)

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight (and that of its own load) rests upon or is carried by another vehicle.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Transport" or "transportation" means any movement of property by any mode, and any packing, loading, unloading, identification, marking, placarding, or storage incidental thereto.

4. Delete the following definitions from Section F-201.0, General Definitions:

Liquefied petroleum gas (LP-gas or LPG)

Liquefied petroleum gas equipment

ARTICLE 3.
GENERAL PRECAUTIONS AGAINST FIRE.

1. Change Section F-301.1 to read:

F-301.1. General. Open burning shall be allowed in accordance with the laws and regulations set forth by the State Air Pollution Control Board, the Department of Forestry, and as regulated by the locality.

2. Delete Section F-318.0, Fire Safety During Construction, Alteration and Demolition.

ARTICLE 4.
HAZARD ABATEMENT IN EXISTING BUILDINGS.

1. Delete Article 4, Hazard Abatement in Existing Buildings, as it is covered by Sections F-100.7 and F-100.8 of the SFPC and Volume I and Volume II of the USBC.

ARTICLE 5.
FIRE PROTECTION SYSTEMS.

1. Add new Section F-518.0, Smoke Detectors for the Deaf and Hearing-impaired, to read:

SECTION F-518.0.
SMOKE DETECTORS FOR THE DEAF AND HEARING-IMPAIRED.

F-518.1. Audible and visual alarms. Audible and visual alarms, meeting the requirements of UL Standard 1638, and installed in accordance with NFPA/ANSI 72G, shall be provided in occupancies housing the hard of hearing, as required by § 36-99.5 of the Code of Virginia; however, all visual alarms shall provide a minimum intensity of 100 candela. Portable alarms meeting these requirements shall be acceptable.

ARTICLE 7.
EMERGENCY PLANNING AND PREPAREDNESS.

1. Add new Section F-706.4, Fire Exit Drills, to read:

F-706.4. Fire exit drills. Fire exit drills shall be conducted annually by building staff personnel or the owner of the building in accordance with the fire safety plan and shall not affect other current occupants.

ARTICLE 16.
OIL AND GAS PRODUCTION.

1. Delete Article 16, Oil and Gas Production, as it is covered by the Virginia Gas and Oil Act, Title 45.1, Chapter 22.1 of the Code of Virginia.

ARTICLE 26.
EXPLOSIVES, AMMUNITION AND BLASTING AGENTS.

1. Article 26, Explosives, Ammunition and Blasting Agents, is deleted in its entirety and replaced with Article 26 of the SFPC, as follows:

SECTION F-2600.0.
GENERAL.

F-2600.1. Scope. The equipment, processes and operations involving the manufacture, possession, storage, sale transportation and use of explosives and blasting agen

shall comply with the applicable requirements of this code and the provisions of this article and shall be maintained in accordance with NFiPA 495, NFiPA 498, and DOT 49CFR listed in Appendix A except as herein specifically exempted or where provisions of this article do not specifically cover conditions and operations, and with the Institute of Makers of Explosives (IME) Safety Library Publications, with Regulations Governing the Transportation of Hazardous Materials as promulgated by the Virginia Waste Management Board, and with the Virginia Motor Carrier Regulations.

F-2600.2. Exceptions. Nothing in this article shall be construed as applying to the following explosive uses:

1. The Armed Forces of the United States or of a state.

2. Explosives in forms prescribed by the official United States Pharmacopoeia.

3. The sale or use of fireworks which are regulated by Article 27.

4. Laboratories engaged in testing explosive materials.

5. The possession, storage and use of not more than five pounds (2.27 kg) of smokeless powder, black powder, and 1000 small arms primers for hand loading of small arms ammunition for personal use.

6. The manufacture, possession, storage and use of not more than five pounds (2.27 kg) of explosives or blasting agents in educational, governmental or industrial laboratories for instructional or research purposes when under the direct supervision of experienced, competent persons.

7. The transportation and use of explosives or blasting agents by the United States Department of Alcohol, Tobacco and Firearms, the United States Bureau of Mines, the Federal Bureau of Investigation, the United States Secret Service, the Virginia Department of State Police, or qualified fire and law enforcement officials acting in their official capacity in the discharge of their duties; nor to the storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia (Department of Mines, Minerals and Energy).

F-2600.3. Permit required. A permit shall be obtained from the code official for any of the following conditions or operations:

1. To possess, store, or otherwise dispose of explosives or blasting agents.

2. To use explosives or blasting agents:

a. A permit shall be issued for each project.

b. The permit shall specify the type of blasting and any special conditions. To the extent that blasting will occur within any waters of the Commonwealth or in any of the waters under its jurisdiction, evidence of a valid Marine Resources Commission permit, or "no permit necessary" authorization, will be required.

3. To operate a terminal for handling explosives or blasting agents.

4. To manufacture explosives or blasting agents, providing the following conditions are met:

a. Registration with the Department of Housing and Community Development;

b. Valid license from the Bureau of Alcohol, Tobacco and Firearms; and

c. Valid license to do business in the Commonwealth of Virginia.

5. To sell explosives and blasting agents, providing the following conditions are met:

a. Registration with the Department of Housing and Community Development;

b. Valid license from the Bureau of Alcohol, Tobacco and Firearms; and

c. Valid license to do business in the Commonwealth of Virginia.

Exception: Annual permits for the use of explosives shall be issued to any state regulated public utility.

F-2600.3.1. Prohibited permits. Permits as required above shall not be issued for:

1. Liquid nitroglycerin and nitrate esters.

2. Dynamite (except gelatin dynamite) containing over 60% of liquid explosive ingredient.

3. Leaking, damaged, or defective packages or containers of high explosives.

4. Nitrocellulose in a dry and uncompressed condition to be shipped or transported.

5. Fulminate of mercury in a dry condition and fulminate of all other metals in any condition.

Exception. Fulminate of metals which is a component of manufactured articles not otherwise forbidden.

6. Explosive compositions that ignite spontaneously or undergo marked decomposition, rendering the products or their use more hazardous, when subjected for 48

consecutive hours or less to a temperature of 167°F (75°C).

7. New explosives until approved by DOT 49CFR listed in Appendix A, except for permits issued to educational, governmental or industrial laboratories for instructional or research purposes.

8. Explosives forbidden by DOT 49CFR listed in Appendix A.

9. Explosives not packed or marked in accordance with the requirements of DOT 49CFR listed in Appendix A.

10. Explosives containing an ammonium salt and a chlorate.

F-2600.4. Certification required. The use of explosive materials shall be conducted or supervised on-site by blasters certified in accordance with Part IV of the Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen. The blaster shall carry proof of certification during the loading or firing of explosive materials.

Exception: Individuals conducting agricultural blasting operations on their own property.

F-2600.4.1. Certification fee. The Department of Housing and Community Development shall charge a $20 fee to applicants for certification as a blaster.

F-2600.5. Liability insurance. The company or individual applying for a permit to blast, manufacture, or sell explosives shall provide proof of insurance in an amount determined by the fire official but in no case less than $500,000.

Exception: Liability insurance shall not be required with an agricultural blasting permit when the blast is conducted on the applicant's personal property.

SECTION F-2601.0.
GENERAL REQUIREMENTS.

F-2601.1. Storage. The storage of explosives and blasting agents is prohibited within the legal geographic boundaries of any district where such storage is prohibited by the authority having jurisdiction.

Exception: Temporary storage for use in connection with approved blasting operations; provided, however, this prohibition shall not apply to wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive actuated power tools in quantities involving less than 500 pounds (227 kg) of explosive material.

F-2601.2. Sale and display. Explosives shall not be sold, given, delivered, or transferred to any person or company not in possession of a valid permit. A person shall not sell or display explosives or blasting agents on highways, sidewalks, public property or in places of public assembly or education.

SECTION F-2602.0.
STORAGE OF EXPLOSIVE MATERIALS.

F-2602.1. General. Explosives, including special industrial high explosive materials, shall be stored in magazines which meet the requirements of this article. This shall not be construed as applying to wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive-actuated power tools in quantities involving less than 500 pounds (227 kg) of explosive material. Magazines shall be in the custody of a competent person at all times who shall be at least 21 years of age, and who shall be held responsible for compliance with all safety precautions.

F-2602.2. Control in wholesale and retail stores. Explosive materials shall not be stored within wholesale or retail stores. The storage of explosives for wholesale and retail sales shall be in approved outdoor magazines except that not more than 50 pounds of black or smokeless powder may be stored in a Type 4 indoor magazine.

F-2602.3. Magazine clearances. Magazines shall be located away from inhabited buildings, passenger railways, public highways and other magazines in conformance with Table F-2602, except as provided in Section F-2602.2.

Table F-2602

TABLE OF DISTANCES FOR STORAGE OF EXPLOSIVES

		DISTANCES IN FEET			
QUANTITY OF EXPLOSIVE MATERIALS (Notes 1,2,3,4)		Inhabited Buildings (Note 9)		Public Highways Class A to D (Note 11)	
Pounds Over	Pounds Not Over	Barricaded (6,7,8)	Unbarricaded	Barricaded (6,7,8)	Unbarricaded
2	5	70	140	30	60
5	10	90	180	35	70
10	20	110	220	45	90
20	30	125	250	50	100
30	40	140	280	55	110
40	50	150	300	60	120
50	75	170	340	70	140
75	100	190	380	75	150
100	125	200	400	80	160

125	150	215	430	85	170
150	200	235	470	95	190
200	250	255	510	105	210
250	300	270	540	110	220
300	400	295	590	120	240
400	500	320	640	130	260
500	600	340	680	135	270
600	700	355	710	145	290
700	800	375	750	150	300
800	900	390	780	155	310
900	1,000	400	800	160	320
1,000	1,200	425	850	165	330
1,200	1,400	450	900	170	340
1,400	1,600	470	940	175	350
1,600	1,800	490	980	180	360
1,800	2,000	505	1,010	185	370
2,000	2,500	545	1,090	190	380
2,500	3,000	580	1,160	195	390
3,000	4,000	635	1,270	210	420
4,000	5,000	685	1,370	225	450
5,000	6,000	730	1,460	235	470
6,000	7,000	770	1,540	245	490
7,000	8,000	800	1,600	250	500
8,000	9,000	835	1,670	255	510
9,000	10,000	865	1,730	260	520
10,000	12,000	875	1,750	270	540
12,000	14,000	885	1,770	275	550
14,000	16,000	900	1,800	280	560
16,000	18,000	940	1,800	285	570
18,000	20,000	975	1,950	290	580
20,000	25,000	1,055	2,000	315	630
25,000	30,000	1,130	2,000	340	680
30,000	35,000	1,205	2,000	360	720
35,000	40,000	1,275	2,000	380	760
40,000	45,000	1,340	2,000	400	800
45,000	50,000	1,400	2,000	420	840
50,000	55,000	1,460	2,000	440	880
55,000	60,000	1,515	2,000	455	910
60,000	65,000	1,565	2,000	470	940
65,000	70,000	1,610	2,000	485	970
70,000	75,000	1,655	2,000	500	1,000
75,000	80,000	1,695	2,000	510	1,020
80,000	85,000	1,730	2,000	520	1,040
85,000	90,000	1,760	2,000	530	1,060
90,000	95,000	1,790	2,000	540	1,080
95,000	100,000	1,815	2,000	545	1,090
100,000	110,000	1,835	2,000	550	1,100
110,000	120,000	1,855	2,000	555	1,110
120,000	130,000	1,875	2,000	560	1,120
130,000	140,000	1,890	2,000	565	1,130
140,000	150,000	1,900	2,000	570	1,140
150,000	160,000	1,935	2,000	580	1,160
160,000	170,000	1,965	2,000	590	1,180
170,000	180,000	1,990	2,000	600	1,200
180,000	190,000	2,010	2,000	605	1,210
190,000	200,000	2,030	2,000	610	1,220
200,000	210,000	2,055	2,000	620	1,240
210,000	230,000	2,100	2,100	635	1,270
230,000	250,000	2,155	2,155	650	1,300
250,000	275,000	2,215	2,215	670	1,340
275,000	300,000	2,275	2,275	690	1,380

QUANTITY OF EXPLOSIVE MATERIALS (Notes 1,2,3,4)		Passenger Railways Public Highways with Traffic Volume of more than 3,000 Vehicles/Day (Notes 10,11)		Separation of Magazines (Note 12)	
Pounds Over	Pounds Not Over	Barricaded (6,7,8)	Unbarricaded	Barricaded (6,7,8)	Unbarricaded
2	5	51	102	6	12
5	10	64	128	8	16
10	20	81	162	10	20
20	30	93	186	11	22
30	40	103	206	12	24
40	50	110	220	14	28
50	75	127	254	15	30
75	100	139	278	16	32
100	125	150	300	18	36
125	150	159	318	19	38
150	200	175	350	21	42
200	250	189	378	23	46
250	300	201	402	24	48
300	400	221	442	27	54
400	500	238	476	29	58
500	600	253	506	31	62
600	700	266	532	32	64
700	800	278	556	33	66

800	900	289	578	35	70
900	1,000	300	600	36	72
1,000	1,200	318	636	39	78
1,200	1,400	336	672	41	82
1,400	1,600	351	702	43	86
1,600	1,800	366	732	44	90
1,800	2,000	378	756	45	90
2,000	2,500	408	816	49	98
2,500	3,000	432	864	52	104
3,000	4,000	474	948	58	116
4,000	5,000	513	1,026	61	122
5,000	6,000	546	1,092	65	130
6,000	7,000	573	1,146	68	136
7,000	8,000	600	1,200	72	144
8,000	9,000	624	1,248	75	150
9,000	10,000	645	1,290	78	156
10,000	12,000	687	1,374	82	164
12,000	14,000	723	1,446	87	174
14,000	16,000	756	1,512	90	180
16,000	18,000	786	1,572	94	188
18,000	20,000	813	1,626	98	196
20,000	25,000	876	1,752	105	210
25,000	30,000	933	1,866	112	224
30,000	35,000	981	1,962	119	238
35,000	40,000	1,026	2,000	124	248
40,000	45,000	1,068	2,000	129	258
45,000	50,000	1,104	2,000	135	270
50,000	55,000	1,140	2,000	140	280
55,000	60,000	1,173	2,000	145	290
60,000	65,000	1,206	2,000	150	300
65,000	70,000	1,236	2,000	155	310
70,000	75,000	1,263	2,000	160	320
75,000	80,000	1,293	2,000	165	330
80,000	85,000	1,317	2,000	170	340
85,000	90,000	1,344	2,000	175	350
90,000	95,000	1,368	2,000	180	360
95,000	100,000	1,392	2,000	185	370
100,000	110,000	1,437	2,000	195	390
110,000	120,000	1,479	2,000	205	410
120,000	130,000	1,521	2,000	215	430
130,000	140,000	1,557	2,000	225	450
140,000	150,000	1,593	2,000	235	470
150,000	160,000	1,629	2,000	245	490
160,000	170,000	1,662	2,000	255	510
170,000	180,000	1,695	2,000	265	530
180,000	190,000	1,725	2,000	275	550
190,000	200,000	1,755	2,000	285	570
200,000	210,000	1,782	2,000	295	590
210,000	230,000	1,836	2,000	315	630
230,000	250,000	1,890	2,000	335	670
250,000	275,000	1,950	2,000	360	720
275,000	300,000	2,000	2,000	385	770

Numbers in ( ) refer to explanatory notes

NOTE 1 - "Explosive materials" means explosives, blasting agents and detonators.

NOTE 2 - "Explosives" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. A list of explosives determined to be within the coverage of "18 U.S.C. Chapter 40, Importation, Manufacture, Distribution and Storage of Explosive Materials" is issued at least annually by the Director of the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury. For quantity and distance purposes, detonating cord of 50 grains per foot should be calculated as equivalent to eight pounds of high explosives per 1,000 feet. Heavier or lighter core loads should be rated proportionately.

NOTE 3 - "Blasting agents" means any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive, provided that the finished product, as mixed for use or shipment, cannot be detonated by means of a No. 8 test blasting cap when unconfined.

NOTE 4 - "Detonator" means any device containing any initiating or primary explosive that is used for initiating detonation. A detonator may not contain more than 10 grams of total explosives by weight, excluding ignition or delay charges. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and nonelectric instantaneous and delay blasting caps which use detonating cord, shock tube, or any other replacement for electric leg wires. All types of detonators in strengths through No. 8 cap should be rated at 1 1/2 lbs. of explosives per 1,000 caps. For strengths higher than No. 8 cap, consult the manufacturer.

NOTE 5 - "Magazine" means any building, structure, or container, other than an explosives manufacturing building, approved for the storage of explosive materials.

NOTE 6 - "Natural barricade" means natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare of leaves.

NOTE 7 - "Artificial barricade" means an artificial mound or revetted wall of earth of a minimum thickness of three feet.

NOTE 8 - "Barricaded" means the effective screening of a building containing explosive materials from the magazine or other building, railway, or highway by a natural or an artificial barrier. A straight line from the top of any sidewall of the building containing explosive materials to the eave line of any magazine or other building or to a point 12 feet above the center

of a railway or highway shall pass through such barrier.

NOTE 9 - "Inhabited building" means a building regularly occupied in whole or part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosive materials.

NOTE 10 - "Railway" means any steam, electric, or other railroad or railway which carriers passengers for hire.

NOTE 11 - "Highway" means any public street, public alley, or public road. "Public highways Class A to D" are highways with average traffic volume of 3,000 or less vehicles per day as specified in "American Civil Engineering Practice" (Abbett, Vol. 1, Table 46, Sec. 3-74, 1956 Edition, John Wiley and Sons).

NOTE 12 - When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways, and highways, and, in addition, they should be separated from each other by not less than the distances shown for "Separation of Magazines," except that the quantity of explosive materials contained in detonator magazines shall govern in regard to the spacing of said detonator magazines from magazines containing other explosive materials. If any two or more magazines are separated from each other by less than the specified "Separation of Magazines" distances, then such two or more magazines, as a group, must be considered as one magazine, and the total quantity of explosive materials stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group and must comply with the minimum of distances specified from other magazines, inhabited buildings, railways, and highways.

NOTE 13 - Storage in excess of 300,000 lbs. of explosive materials, in one magazine is generally not required for commercial enterprises.

NOTE 14 - This table applies only to the manufacture and permanent storage of commercial explosive materials. It is not applicable to transportation of explosives or any handling or temporary storage necessary or incident thereto. It is not intended to apply to bombs, projectiles, or other heavily encased explosives.

F-2602.4. Magazine construction. Magazines shall be constructed and maintained in accordance with IME publication No. 1.

Note: Refer to Section F-2600.4 for the use of magazines.

F-2602.4.1. Magazine heat and light. Magazines shall not be provided with artificial heat or light, except that if artificial light is necessary, an approved electric safety flashlight or safety lantern shall be used.

F-2602.5. Safety precautions. Smoking, matches, open flames, spark producing devices and firearms shall be prohibited inside or within 50 feet (15.24m) of magazines. Combustible materials shall not be stored within 50 feet (15.24m) of magazines.

F-2602.5.1. Surrounding terrain. The land surrounding magazines shall be kept clear of brush, dried grass, leaves, trash and debris for a distance of at least 25 feet (7.62 m).

F-2602.5.2. Locking security. Magazines shall be kept locked except when being inspected or when explosives are being placed therein or being removed therefrom.

F-2602.5.3. Magazine housekeeping. Magazines shall be kept clean, dry and free of grit, paper, empty packages or rubbish.

F-2602.5.4. Separation of detonators and explosives. Blasting caps, electric blasting caps, detonating primers and primed cartridges shall not be stored in the same magazine with other explosives.

F-2602.5.5. Explosive unpacking. Metal or wooden packages of explosives shall not be unpacked or repacked in a magazine nor within 50 feet (15.24m) of a magazine.

F-2602.5.6. Magazine contents. Magazines shall not be used for the storage of any metal tools or of any commodity except explosives, but this restriction shall not apply to the storage of blasting agents, blasting supplies and oxidizers used in compound blasting agents.

F-2602.6. Unstable explosives. When an explosive has deteriorated to an extent that it is in an unstable or dangerous condition, or if liquid leaks from any explosive, then the person in possession of such explosive shall immediately report that fact to the code official and upon his approval shall proceed to destroy such explosives and clean floors stained with nitroglycerin or other such liquids in accordance with the instructions of the manufacturer. Only qualified, experienced persons shall do the work of destroying explosives.

Note: Disposal of explosives as "waste" should be in accordance with the Department of Waste Management regulations.

F-2602.7. Class I magazine warnings. Property upon which Class I magazines are located shall be posted with signs reading "Explosives - Keep Off." Such signs shall be located so as to minimize the possibility of a bullet traveling in the direction of the magazine if anyone shoots at the sign.

F-2602.8. Class II magazine warnings. Class II magazines shall be painted red and shall bear lettering in white, on all sides and top at least three inches (76 mm) high, "Explosives - Keep Fire Away."

SECTION F-2603.0.
TRANSPORTATION OF EXPLOSIVES.

F-2603.1. General. The transportation of explosive materials shall comply with applicable provisions of the Regulations Governing the Transportation of Hazardous Materials as

promulgated by the Virginia Waste Management Board.

F-2603.2. Enforcement. The Department of State Police, together with all law enforcement and peace 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, and Office of Hazardous Materials Transportations, in federal safety regulations and safety inspections procedures pertaining to the transportation of hazardous materials, shall enforce the provisions of this section. Those officers shall annually receive in-service training in current federal safety standards and safety inspection procedures pertaining to the transportation of hazardous materials.

SECTION F-2604.0.
STORAGE OF BLASTING AGENTS AND SUPPLIES.

F-2604.1. General. Blasting agents or oxidizers, when stored in conjunction with explosives, shall be stored in the manner set forth in Section F-2602.0 for explosives. The quantity of blasting agents and one half the quantity of oxidizers shall be included when computing the total quantity of explosives for determining distance requirements.

F-2604.2. Storage location. Buildings used for storage of blasting agents separate from explosives shall be located away from inhabited buildings, passenger railways and public highways in accordance with Table F-2602.

F-2604.3. Storage housekeeping. The interior of buildings used for the storage of blasting agents shall be kept clean and free from debris and empty containers. Spilled materials shall be cleaned up promptly and safely removed. Combustible materials, flammable liquids, corrosive acids, chlorates, nitrates other than ammonium nitrate or similar materials shall not be stored in any building containing blasting agents unless separated therefrom by construction having a fire-resistance rating of not less than one hour. The provisions of this section shall not prohibit the storage of blasting agents together with nonexplosive blasting supplies.

F-2604.4. Trailer storage requirements. Semitrailers or full trailers used for temporarily storing blasting agents shall be located away from inhabited buildings, passenger railways and public highways, in accordance with Table F-2602. Trailers shall be provided with substantial means for locking and trailer doors shall be kept locked except during the time of placement or removal of blasting agents.

F-2604.5. Oxidizers and fuels. Piles of oxidizers and buildings containing oxidizers shall be adequately separated from readily combustible fuels.

F-2604.6. Oxidizer handling. Caked oxidizer, either in bags or in bulk, shall not be loosened by blasting.

SECTION F-2605.0.
HANDLING OF EXPLOSIVES.

F-2605.1. Mixing blasting agents. Buildings or other facilities used for mixing blasting agents shall be located away from inhabited buildings, passenger railways and public highways, in accordance with Table F-2602.

F-2605.2. Quantity of mixing agents. Not more than one day's production of blasting agents or the limit determined by Table F-2602, whichever is less, shall be permitted in or near the building or other facility used for mixed blasting agents. Larger quantities shall be stored in separate buildings or magazines.

F-2605.3. Compounding standards. Compounding and mixing of recognized formulations of blasting agents shall be conducted in accordance with NFiPA 495 and DOT 49CFR listed in Appendix A.

F-2605.4. Ignition protection. Smoking or open flames shall not be permitted within 50 feet (15.24m) of any building or facility used for the mixing of blasting agents.

F-2605.4.1. Unpacking tools. Tools used for opening packages of explosives shall be constructed of nonsparking materials.

Exception. Metal slitters may be used for opening paper and fiberboard containers.

F-2605.5. Waste disposal. Empty oxidizer bags shall be disposed of daily by burning in a safe manner (in an open area and at a safe distance from buildings or combustible materials).

F-2605.5.1. Packing material disposal. Empty boxes and paper and fiber packing materials which have previously contained high explosives shall not be used again for any purpose, but shall be destroyed by burning at an approved, isolated location out-of-doors, and any person shall not be closer than 100 feet (30.48 m) during the course of said burning.

F-2605.6. Control. Explosives shall not be abandoned.

SECTION F-2606.0.
BLASTING.

F-2606.1. Time. Blasting operations shall be conducted during daylight hours except when otherwise approved.

F-2606.2. Personnel. The handling and firing of explosives shall be performed by the person certified as a blaster under Section F-2600.2.3 of this code or by employees under that person's direct on-site supervision who are at least 21 years old.

1. A person shall not handle explosives while under the influence of intoxicants or narcotics.

2. A person shall not smoke or carry matches while handling explosives or while in the vicinity thereof.

3. An open flame light shall not be used in the vicinity of explosives.

F-2606.3. Clearance at site. At the site of blasting operations, Class II magazines shall be located as far away as practicable from neighboring inhabited buildings, railways, highways, and other magazines.

F-2606.4. Notice. Whenever blasting is being conducted within 200 feet of gas, electric, water, fire, alarm, telephone, telegraph or steam utilities, the blaster shall notify the appropriate representatives of such utilities at least 24 hours in advance of blasting, specifying the location and intended time of such blasting. Verbal notice shall be confirmed with written notice. This time limit shall not be waived except in an emergency as determined by the code official.

F-2606.5. Responsibility. Before a blast is fired, the person in charge shall make certain that all surplus explosives are in a safe place, all persons and vehicles are at a safe distance or under sufficient cover, and a warning signal has been sounded.

F-2606.6. Precautions. Due precautions shall be taken to prevent accidental discharge of electric blasting caps from current induced by radio or radar transmitters, lightning, adjacent power lines, dust storms or other sources of extraneous electricity. These precautions shall include:

1. Suspension of all blasting operations and removal of persons from the blasting area during the approach and progress of an electrical storm;

2. Posting of signs warning against the use of mobile radio transmitters on all roads within 350 feet (106.75m) of the blasting operations; and

3. Compliance with NFiPA 495 listed in Appendix A when blasting within 1-1/2 miles (2.41 km) of broadcast or highpower short wave radio transmitters.

4. Misfires shall be handled as directed by equipment manufacturers with no one entering the blasting site, except the blaster, until the loaded charges have been made to function or have been removed.

F-2606.7. Congested areas. As required by the fire official, when blasting is done in congested areas or in close proximity to a building, structure, railway, highway or any other installation susceptible to damage, the blast shall be covered before firing, with a mat or earth, or both, so that it is capable of preventing rock from being thrown into the air out of the blast area.

F-2606.8. Blast records. A record of each blast shall be kept and retained for at least three years and shall be available for inspection by the fire official. These records shall contain the following minimum data:

1. Name of contractor.

2. Location and time of blast.

3. Name of certified blaster in charge.

4. Type of material blasted.

5. Number of holes bored and spacing.

6. Diameter and depth of holes.

7. Type and amount of explosives.

8. Amount of explosives per delay of eight milliseconds or greater.

9. Method of firing and type of circuit.

10. Direction and distance in feet to nearest dwelling, public building, school, church, commercial or institutional building.

11. Weather conditions.

12. Whether or not mats or other precautions were used.

13. Type of detonators and delay periods.

14. Type and height of stemming.

15. Seismograph records where indicated.

SECTION F-2607.0.
STANDARDS FOR CONTROL OF AIRBLAST AND GROUND VIBRATION.

F-2607.1. Airblast. This section shall apply to airblast effects as recorded at the location of any private dwelling, public building, school, church, and community or institutional building not owned or leased by the person conducting or contracting for the blasting operation. If requested by a property owner registering a complaint and deemed necessary by the fire official, measurements of three consecutive blasts, using approved instrumentation, shall be made near the structure in question.

F-2607.1.1. Maximum airblast. The maximum airblast at any inhabited building, resulting from blasting operations, shall not exceed 130 decibels peak, or 140 decibels peak at any uninhabited building, when measured by an instrument having a flat frequency response (+3 decibels) over a range of at least six to 200 Hertz.

F-2607.2. Ground vibration. This section shall provide for limiting ground vibrations at structures that are neither owned nor leased by the person conducting or contracting for the blasting operation. Engineered structures may safely withstand higher vibration levels based on an

approved engineering study upon which the fire official may then allow higher levels for such engineered structures.

Note: Each Table, F-2607A to F-2607C, has an increasing degree of sophistication and each can be implemented either by the fire official as a result of complaints or by the contractor to determine site specific vibration limits. The criteria in Tables F-2607 A, B, and C and Section F-2607.3 are intended to protect low-rise structures including dwellings.

F-2607.2.1. Blasting without instrumentation. Where no seismograph is used to record vibration effects, the explosive charge weight per delay (eight milliseconds or greater) shall not exceed the limits shown in Table F-2607A. When charge weights per delay on any single delay period exceed 520 lbs., then ground vibration limits for structures shall comply with Tables F-2607B, F-2607C, or Section F-2607.3.

Table 2607 A(a)
CHARGE WEIGHT PER DELAY DEPENDENT ON DISTANCE

Distance to a Building		Weight of Explosives per Delay	Distance to a Building		Weight of Explosives per Delay
Feet over	Feet not over	Pounds	Feet over	Feet not over	Pounds
0	5	1/4	250	260	45
5	10	1/2	260	280	49
10	15	3/4	280	300	55
15	60	Note (b)	300	325	61
60	70	6	325	350	69
70	80	7 1/4	350	375	79
80	90	9	375	400	85
90	100	10 1/2	400	450	98
100	110	12	450	500	115
110	120	13 3/4	500	550	135
120	130	15 1/2	550	600	155
130	140	17 1/2	600	650	175
140	150	19 1/2	650	700	195
150	160	21 1/2	700	750	220
160	170	23 1/4	750	800	240
170	180	25	800	850	263
180	190	28	850	900	288
190	200	30 1/2	900	950	313
200	220	34	950	1000	340
220	240	39	1000	1100	375
240	250	42	1100	1200	435
			1200	1300	493

Note a. Over 60 feet this table is based upon the formula:

$W = D\ 1.5/90$

Note b. One tenth of the pound of explosive per foot of distance to a building.

F-2607.2.2. Monitoring with instrumentation. Where a blaster determines that the charge weights per delay given in Table F-2607A are too conservative, he may choose to monitor (at the closest conventional structure) each blast with an approved seismograph and conform to the limits set by Tables F-2607B, F-2607C, or Section F-2607.3.

Note: From this point on, the explosive charge weight per delay may be increased, but the vibration levels detailed in Tables F-2607B, F-2607C, or Section F-2607.3 shall not be exceeded.

F-2607.3. Response spectra. A relative velocity of 1.5 inches per second or less, within the 4 to 12 Hertz range of natural frequencies for low rise structures, shall be recorded as determined from an approved response spectra.

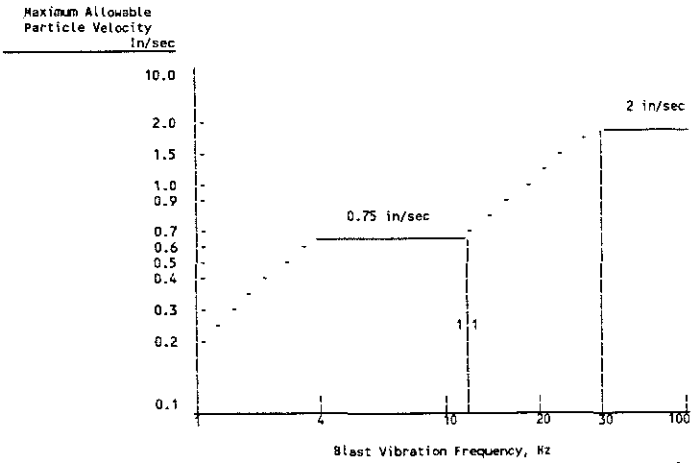
Table 2607 B
PEAK PARTICLE VELOCITY DEPENDENT ON DISTANCE

Distance		Peak Particle Velocity of Any One Component (a)
Feet over	Feet not over	Inches per second
0	100	2.00
100	500	1.50
500	1000	1.00
over	1000	0.75

Note a. The instrument's transducer shall be firmly coupled to the ground.

Table 2607 C
PARTICLE VELOCITY CRITERIA DEPENDENT ON FREQUENCY CONTENT

Note: This criteria is derived from the U.S. Bureau of Mines - RI 8507 (Appendix B) and provides a continuously variable particle velocity criteria dependent on the frequency content of the ground motion. The method of analysis shall be approved by the Fire Official and shall provide an analysis showing all the frequencies present over the 1 -50 Hertz range.



F-2607.4. Instrumentation. A direct velocity recording seismograph capable of recording the continuous wave form of the three mutually perpendicular components of motion, in terms of particle velocity, shall be used and shall have the following characteristics:

1. Each seismograph shall have a frequency response from two to 150 Hertz or greater and a velocity range from 0.0 to 2.0 inches per second or greater, and shall adhere to design criteria for portable seismographs outlined in U.S. Bureau of Mines RI 5708, RI 6487, and RI 8506.

2. All field seismographs shall be capable of internal dynamic calibration and shall be calibrated according to the manufacturers' specifications at least once per year.

3. All seismographs shall be operated by competent people trained in their correct use and seismographs records shall be analyzed and interpreted as may be required by the fire official.

F-2607.5. Seismographic records. A record of each blast shall be kept. All records, including seismograph reports, shall be retained for at least three years and shall be available for inspection. Records shall include the following information:

1. Name of company or contractor.

2. Location, date and time of blast.

3. Name, signature and social security number of blaster in charge.

4. Type of material blasted.

5. Number of holes bored and spacing.

6. Diameter and depth of holes.

7. Type of explosives used.

8. Total amount of explosives used.

9. Maximum amount of explosives per delay period of eight milliseconds or greater.

10. Method of firing and type of circuit.

11. Direction and distance in feet to nearest dwelling house, public building, school, church, commercial or institutional building neither owned nor leased by the person conducting the blasting.

12. Weather conditions including such factors as wind direction, etc.

13. Height or length of stemming.

14. Type of protection, such as mats, that were used to prevent flyrock.

15. Type of detonators used and delay period used.

16. The exact location of the seismograph and the distance of the seismograph from the blast.

17. Seismograph readings, where required, shall contain:

a. Name and signature of person operating the seismograph.

b. Name of person analyzing the seismograph records.

c. Seismograph reading.

18. The maximum number of holes per delay period of eight milliseconds or greater.

SECTION F-2608.0.
THEFT OR DISAPPEARANCE OF EXPLOSIVES.

F-2608.1. Reports of stolen explosives. Pursuant to § 27-97.1 of the Code of Virginia, any person holding a permit for the manufacture, storage, handling, use or sale of explosives issued in accordance with this code shall report to the State Police and the local law enforcement agency any theft or other disappearance of any explosives or blasting devices from their inventory. In addition, notification shall be made to the fire official having issued the permit.

F-2608.2. Reports of injuries or property damage. The fire official shall be immediately notified of injuries to any person or damage to any property as a result of the functioning of the explosive.

F-2608.3. Relationship of local fire official and State Fire Marshal. The local fire official shall relay information obtained from reports required by Sections F-2608.1 and F-2608.2 to the Office of the State Fire Marshal.

ARTICLE 27.
FIREWORKS.

1. Change Section F-2700.1 to read:

F-2700.1. Scope. The manufacture, transportation, display, sale or discharge of fireworks shall comply with the requirements of Chapter 11 of Title 59 of the Code of Virginia.

2. Delete Section F-2701.1, General.

3. Delete Section F-2701.3, Exemptions.

ARTICLE 28.
FLAMMABLE AND COMBUSTIBLE LIQUIDS.

1. Change Section F-2803.5 to read as follows:

F-2803.5. Fuel dispensing outside the building. Fuel dispensers outside the building shall be located a minimum of 10 feet (3048 mm) from the lot line and five feet (1524 mm) from any building opening. Where fuel is dispensed to motor vehicles, the motor vehicle being served shall be located on the premises.

ARTICLE 30.
LIQUEFIED PETROLEUM GASES.

1. Change Section F-3000.1 as follows and delete the remainder of Article 30:

F-3000.1 Scope. The equipment, processes and operation for storage, handling, transporting by tank truck or tank trailer, and utilizing LP gases for fuel purposes, and for odorization of LP gases shall comply with the Virginia Liquefied Petroleum Gas Regulations in effect at the time of construction as provided for in Chapter 7 of Title 27 of the Code of Virginia.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **State Plan for Medical Assistance Relating to Enrollment of Psychologists Clinical. VR 460-03-3.1100. Amount, Duration, and Scope of Services.**

Statutory Authority: § 32.1-324 of the Code of Virginia.

Effective Date: January 1, 1992.

Summary:

The regulations allow for the enrollment of psychologists, licensed by the Board of Psychology, as psychologists clinical and permit these psychologists to enroll in the Medical Assistance Program as providers of Medicaid covered services.

The Plan section affected by these amendments is VR 460-03-3.1100, Amount, Duration, and Scope of Services, Supplement 1, Attachment 3.1 A & B, pp. 6, 9 and 28.

There is no professional differentiation in psychologists licensed by the Board of Medicine and psychologists licensed by the Board of Psychology. Currently the State Plan allows board certified psychologists who have been licensed by the Board of Medicine to enroll as providers of Medicaid covered services. This amendment to the State Plan would allow board certified psychologists who are licensed by the Board of Psychology the same status with the Medicaid program.

NOTICE: As provided in § 9-6.14:22 of the Code of Virginia, this regulation is not being republished. The regulation was adopted as it was proposed in 7:18 VA.R. 2627-2634 June 3, 1991.

DEPARTMENT OF MINES, MINERALS AND ENERGY

REGISTRAR'S NOTICE: Due to its length, the regulation filed by the Department of Mines, Minerals and Energy is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the 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 o Mines, Minerals and Energy.

Title of Regulation: **VR 480-03-19. Chapter 19, Coal Surface Mining Reclamation Regulations.**

Statutory Authority: §§ 45.1-1.3 and 45.1-230 of the Code of Virginia.

Effective Date: November 20, 1991.

Summary:

The Department of Mines, Minerals and Energy is amending its Coal Surface Mining Reclamation Regulations to be consistent with changes in corresponding federal rules, as required by law to (i) clarify that certain decisions of the department may be appealed under the Virginia Administrative Process Act; (ii) establish a procedure for an operator who has forfeited a performance bond to regain his eligibility to obtain mining permits; (iii) revise the definition of fragile and historic lands; (iv) provide for the protection of historic resources; and (v) modify the revegetation standards for forestland. Also, the changes are to (i) clarify that drainage designs must be prepared and certified by a qualified professional; (ii) require a finding that remaining operations are allowed only on previously mined areas; (iii) provide for the protection of fish and wildlife; (iv) establish a process for assessing civil penalties against individual

who control operations in violation of the reclamation program; (v) clarify when a subsidence control plan is required; (vi) remove rules for the two-acre exemption; (vii) streamline the review of petitions to have an area designated as unsuitable for coal mining; (viii) clarify that abandoned mines do not need to be inspected as frequently as active mines; (ix) make local government notification of total or partial bond release in the pool bond fund the same as the notification required for release of other forms of bond; and (x) make nonsubstantive grammatical changes in the mountaintop removal mining requirements.

The U.S. Department of the Interior, Office of Surface Mining notified the Department on June 9, 1987, and October 28, 1988, of changes that had been made in the corresponding federal rules in these areas.

The effect of these changes will be to maintain the department's Coal Surface Mining Reclamation program in a manner consistent with the corresponding federal requirements and correct or clarify inconsistencies in the rules.

The regulation was adopted as proposed in 7:21 VA.R. 3181 July 15, 1991.

REAL ESTATE APPRAISER BOARD

Title of Regulation: **VR 583-01-01. Public Participation Guidelines.**

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Effective Date: November 21, 1991.

Summary:

The Real Estate Appraiser Board Public Participation Guidelines outline the procedures for the solicitation of input, written and oral, from interested parties in the formation and development of its regulations.

VR 583-01-01. Public Participation Guidelines.

§ 1. Guidelines.

Pursuant to §§ 9-6.14:7.1 and 54.1-2013 of the Code of Virginia, the Real Estate Appraiser Board will follow these public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations.

§ 2. Mailing list.

A. Maintenance of mailing list.

The Real Estate Appraiser Board (the agency) will maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. "Notice of Intended Regulatory Action" to promulgate or repeal regulations;

2. "Notice of Public Comment Period" and "Public Hearing," the subject of which is proposed or existing regulations; and

3. Notice that final regulations have been adopted.

B. Additions or deletions to mailing list.

Any person wishing to be placed on the mailing list may do so by writing the agency. In addition, the agency may, in its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Individuals and organizations on the list will be provided all information stated in subsection A of this section. Individuals and organizations may be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. When mail addressed to individuals and organizations on the mailing list is returned to the agency as undeliverable, those individuals and organizations shall be deleted from the list.

§ 3. Notice of intended regulatory action.

At least 30 days prior to publication of the notice of comment period and the proposed regulations as required by § 9-6.14:7.1 of the Code of Virginia, the agency will publish a "Notice of Intended Regulatory Action" in The Virginia Register of Regulations. This notice will contain a brief and concise statement of the proposed regulation or the problem the regulation would address and invite any person to provide written comment on the subject matter.

§ 4. Petition for rulemaking.

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

§ 5. Notice of comment period.

The agency shall file a "Notice of Comment Period" and its proposed regulations with the Registrar of Regulations as required by § 9-6.14:7.1. Such notice shall establish the date of the public hearing (informal proceeding), if any, and shall afford interested persons the opportunity to submit written data by a specific date, of views and arguments regarding the proposed regulations. Interested persons may make their public submissions in writing, orally at the public hearing, or both.

§ 6. Notice of formulation and adoption.

At any meeting of the board or any subcommittee or

advisory committee where it is anticipated the formulation of the regulation will occur, a notice of meeting indicating that formulation or adoption of regulations will occur shall be transmitted to the Registrar for inclusion in the Virginia Register of Regulations.

§ 7. Advisory committees.

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

§ 8. Applicability.

Sections 2 through 7 shall apply to all regulations promulgated through the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) except emergency regulations adopted in accordance with § 9-6.14:9 of the Code of Virginia.

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.

Effective Date: December 1, 1991.

Summary:

The final 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 final 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, o 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 [, insuring] 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 [the] policies and purposes of the Virginia Fair Housing Law. The board does not intend that a failure [by the board] 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~~ these] rules shall impose obligations, rights [;] and remedies [;] which are substantially equivalent to those provided by [the] federal [fair housing] 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~~ to be construed as broadly as possible

] . *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*~~ *or*] *national origin.*

7. Deny access to or membership or participation in, or to [~~*discrimination*~~ *discriminate*] *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 a income standards, application requirement 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

ot 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 [the] 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 connection therewith 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 [or at a conspicuous location] 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 mc

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. 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*~~ *6*] . *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 with 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.

[The term "residential real estate 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, insuring or appraising of residential real property.]

§ 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 i 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, 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 [is accessible within the meaning of this section] .

"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 streets 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 themselves,] 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~~ June 15] , 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 ag provided that all new occupants are persons 6. 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 refer services, [~~*and*~~ *an*] *accessible physical environme 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);* [*or*]

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 su

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~~ the] 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 i

§ [~~1.5~~ 2.15] 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 but 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, or 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. [*Human models include any depiction of a human being, paid or unpaid, resident or nonresident.*]

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~~ *of*] *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~~ investigative] 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. The 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 an

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.

Real Estate Board
Housing Discrimination Complaint

Fair Housing Office
Department of Commerce

Instructions

Read this form and the instructions on the reverse side carefully before completing. All questions should be answered unless you do not know the answer or a question is not applicable. Fill out as much of the form as you can. Your complaint should be signed and dated. Where more than one individual or organization is filing the same complaint, each additional individual or organization should complete items 1, 8 and 9 on a 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. Send complaints to the Fair Housing Office, Virginia Department of Commerce, 3600 West Broad Street, Richmond, Virginia 23230

Please type or print

1. **Name of person or organization filing the complaint** *(last name-first name-middle initial)* *(Mr. Mrs. Ms.)*

Telephone number *(home)* _____ Telephone number *(work)* _____

Street address, city, county, state and zip code

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

1.b. If in the process of relocating, list an individual having knowledge of your whereabouts and how you can be contacted. *(last name-first name-middle initial)*

Telephone number *(home)* _____ Telephone number*(work)* _____

Street address, city, county, state and zip code

2. **List the names and addresses of all people and or companies, etc. you feel discriminated against you.**

(last name-first name-middle initial) Telephone number _____

Street address, city, county, state and zip code *(if known)*

The party named above is a: *(check applicable boxes)*

01 ☐ Builder 03 ☐ Broker 05 ☐ Supt. or Manager 99 ☐ Other
02 ☐ Owner 04 ☐ Salesman 06 ☐ Bank, lender

☐ 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 other agency 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?**

01 ☐ Refuse to rent, sell, or deal with you
02 ☐ Discriminate 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)*
99 ☐ Other *(explain in box 8)*

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 next to the box checked)

01 ☐ Race or color _____
02 ☐ Religion _____
03 ☐ National origin _____
04 ☐ Sex _____
05 ☐ Familial status *(Children under 18 in the family or a pregnant female)*
06 ☐ Elderliness *(Age 55 or over)*
07 ☐ Handicap (specify) ☐ Physical ☐ Mental

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
99 ☐ 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**

01 ☐ being sold 02 ☐ or rented

What is the address of the house or property? *(Street address, city, county, state and 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.**

a. If you feel that others were treated differently than you, please explain.
b. If there were witnesses or others who have information concerning your complaint, give their names and addresses.

9. **I declare under penalty of perjury that the foregoing (including attachments) is true and correct.**

Date Signature

What does the Virginia Fair Housing Law provide?

The law (Chapter 5.1, 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, familial status, 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 protected 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 also prohibited

What can you do about violations of the Virginia Fair Housing Law?

The Virginia Fair Housing Law applies to discrimination based on race, religion, color, national origin, sex, familial status, 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 Real Estate Board by filing this form. The Real Estate Board 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. File complaints with the Real Estate Board and federal and or state Courts at the same time. In some cases, the Court may be able to give quicker, more effective relief than conciliation can provide.

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, as amended, 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.

You can obtain assistance in learning about the law or in filing a complaint by writing to: Fair Housing Office, Virginia Department of Commerce, 3600 West Broad Street, Richmond, Virginia 23230, or by telephoning (804) 367-8530.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

NOTICE: The final regulation entitled "Virginia Energy Assistance Program (VR 615-08-1)" which was published in 7:25 VA.R. 4064-4067 September 9, 1991, is being withdrawn and replaced with the following final regulation.

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

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

Effective Date: November 20, 1991.

Summary:

The amendments incorporate changes to the Fuel and Crisis Assistance Components due to a reduction in funding. Benefit levels will not be predetermined. Program design for Fuel Assistance will be based on an automated eligibility determination and benefit calculation process dependent on a point matrix system.

The Crisis Assistance Component will be expanded to provide assistance on a limited basis to households who did not receive Fuel Assistance in the current program year to purchase home heating fuel or to pay to prevent the disconnection of a primary utility heat source.

VR 615-08-1. Virginia Energy Assistance Program.

PART I.
DEFINITIONS.

§ 1.1. The following words and terms, when used herein, shall have the following meaning unless the context indicates otherwise:

"Department" means the Department of Social Services.

"Disabled person" means a person receiving Social Security disability, Railroad Retirement Disability, 100% Veterans Administration disability, Supplemental Security Income as disabled, or an individual who has been certified as permanently and totally disabled for Medicaid purposes.

"Elderly person" means anyone who is 60 years of age or older.

"Energy-related," "weather-related," or *"supply shortage emergency"* means a household has: no heat or an imminent utility cut-off; inoperable or unsafe heating equipment; major air infiltration of housing unit; or a need for air conditioning because of medical reasons.

[*"Fiscal year" means October 1 through September 30.*]

"Household" means an individual or group of individuals who occupies a housing unit and functions as an economic unit by: purchasing residential energy in common (share heat); or, making undesignated payments for energy in the form of rent (heat is included in the rent).

"Poverty guidelines" means the Poverty Income Guidelines as established and published annually by the Department of Health and Human Services.

"Primary heating system" means the system that is currently used to heat the majority of the house.

[*"Program year" means the specified timeframe established for each of the program components by the department.*]

"Resources" means cash, checking accounts, savings account, saving certificates, stocks, bonds, money market certificates, certificates of deposit, credit unions, Christmas clubs, mutual fund shares, promissory notes, deeds of trust, individual retirement accounts, prepaid funeral expenses in excess of $900, or any other similar resource which can be liquidated in not more than 60 days.

PART II.
FUEL ASSISTANCE.

§ 2.1. The purpose of the Fuel Assistance component is to provide heating assistance to eligible households to offset the costs of home energy that are excessive in relation to household income.

A. Eligibility criteria.

1. Income limits. Maximum income limits shall be at or below 130% of the Poverty Guidelines. In order to be eligible for Fuel Assistance, a household's income must be at or below the maximum income limits.

2. Resource limits. The resource limit for a household containing an elderly or disabled person shall be $3,000. The resource limit for all other households shall be $2,000. In order to be eligible for Fuel Assistance, a household's resources must be at or below the amount specified.

3. Alien status. Any alien who has obtained the status of an alien lawfully admitted for temporary residence is ineligible for a period of five years from the date such status was obtained. This shall not apply to a Cuban or Haitian entrant or to an alien who is an aged, blind or disabled individual.

B. Resource transfer.

Any applicant of fuel assistance shall be ineligible for that fuel season if he improperly transfers or otherwise improperly disposed of his legal or equitable interest in nonexempt liquid resources without adequate compensation within one year of application for Fuel Assistance.

Compensation that is adequate means goods, services or money that approximates the value of the resources.

This policy does not apply if any of the following occur:

1. The transfer was not done in an effort to become eligible for Fuel Assistance;

2. The resource was less than the allowable resource limit;

3. The disposition or transfer was done without the person's full understanding.

§ 2.2. Benefits.

Benefit levels shall be established based on income in relation to household size, fuel type, and geographic area, with the highest energy need.

Geographic areas are the six climate zones for Virginia recognized by the National Oceanic and Atmospheric Administration and the United States Department of Commerce. The six climate zones are: Northern, Tidewater, Central Mountain, Southwestern Mountain, Eastern Piedmont, and Western Piedmont.

Each year, the Division of Energy within the Department of Mines, Minerals and Energy will supply data on the average costs of various fuels.

Each year the benefit amounts for each ~~geographic area~~ *household* shall be determined by [*state computer using*] the following method:

A. ~~A projection will be made of the number of households who will apply for Fuel Assistance. The projection will be based on the number of households who applied the previous year increased by the additional number of people who applied the year before.~~ *The following factors for each household will be assigned a point value:*

Gross monthly income

Living arrangements

Primary heat type

Climate zone

Vulnerability

Person 60 years of age or older

Disabled person in HH

Child under 16

[*Point values will be determined by department staff.*]

B. ~~An average grant per household will be determined based on the estimated amount of funds that will be available for benefits.~~ *The total points of all households will be determined.*

~~$ available~~ = ~~average grant~~
~~no. of households~~

C. ~~The benefits for each geographic area will be determined by using the average grant as a base figure and obtaining the highest and lowest benefits by using a ratio for each area based on degree days and the cost of various fuel types.~~ *The available benefit dollars will be divided by the point total to determine a point value.*

D. ~~The generic benefit amount for statewide use will be determined by averaging the regional average benefit amounts for each fuel type.~~ *The household's benefit amount will be calculated by multiplying the household's point total by the value per point.*

[*§ 2.3. The application period for fuel assistance shall be the month of November.*]

PART III.
CRISIS ASSISTANCE.

§ 3.1. The purpose of the Crisis Assistance component is to assist households with energy-related, weather-related or supply shortage emergencies. This component is intended to meet energy emergencies that cannot be met by the Fuel Assistance component or other local resources.

A. Eligibility criteria.

In order to be eligible for Crisis Assistance, a household shall meet the following criteria:

1. All of the Fuel Assistance criteria as set forth in Part II, § 2.1;

2. Have an energy-related, weather-related or supply shortage emergency as defined in Part I;

3. Other resources cannot meet the emergency (including Fuel Assistance);

4. Did not receive Crisis Assistance during the current ~~federal~~ fiscal year : ~~November 1 - March 15.~~ ;

5. For assistance with primary heat source, did not receive Fuel Assistance in current program year.

B. Benefits.

An eligible household can receive no more than $200 for Crisis Assistance during any federal fiscal year, unless the assistance is for the rebuilding or replacement of heating equipment or purchase of heating equipment where none exists, in which case the maximum amount of assistance shall be $700.

The following forms of assistance shall be provided:

1. Repairs, replacement or rebuilding of inoperable or unsafe heating equipment.

2. Payment of electricity when it is needed to operate the primary heating equipment. Payment will be limited to $200 maximum. Assistance may be provided once every five years.

3. A one-time-only payment per fuel type of a heat-related utility security deposit.

4. Providing space heaters.

5. Providing emergency shelter.

6. [~~To~~] *Purchase* [~~of~~] *home heating fuel or* [*payment*] *to* [~~pay~~] *prevent the disconnection of a primary utility heat source. Assistance will be provided during a specified timeframe.*

PART IV.
COOLING ASSISTANCE.

§ 4.1. Cooling Assistance program is an optional component of the Energy Assistance Program that is designed to provide help to persons medically in need of cooling assistance due to the heat.

Local agencies who choose this option will be given a separate allocation that will be based on a percentage of their crisis allocation and will provide the assistance no earlier than ~~June 15~~ [~~July 1~~ *June 15*] through no later than August 31.

A. Eligibility criteria.

In order to be eligible for cooling assistance, a household must meet all of the fuel assistance eligibility criteria and must be in critical medical need of cooling.

B. Benefits.

The assistance is limited to: no more than $200 for repairing or renting a fan or air conditioner, purchasing a fan, or paying an electric bill or security deposit; or no more than $400 for purchasing an air conditioner.

PART V.
ADMINISTRATIVE COSTS.

§ 5.1. Local administrative expenditures for the implementation of the Energy Assistance Program shall not be reimbursed in excess of 7.0% of program grant allocation.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES

FUEL ASSISTANCE WORKSHEET/EVALUATION FORM

CASE NAME _____ CASE NUMBER _____ DATE APPL RECD _____

I. GENERAL INFORMATION

A. Living Arrangements
- ☐ Homeowner
- ☐ Renter
- ☐ Renter with Heat Included
- ☐ Roomer

B. Household Type
- ☐ Public Assistance
- ☐ Subsidized
- ☐ Other

If subsidized, state type of subsidy -
Date, method of verification _____

C. Person 60 yrs. of age or over?
___ Yes ___ No How Many? ___
Disabled person in HH?
___ Yes ___ No How many? ___
If disabled, state one, and method of verification obtained _____

D. V.A. Aid and Attendance or Community Based Care recipient?
___ Yes ___ No
Date, Method of verification _____

II. RESOURCES

		VERIFICATION METHOD AND DATE
Cash	$ _____	
Checking	$ _____	
Savings	$ _____	
Stocks/Bonds	$ _____	
Other	$ _____	
Prepaid Funeral	$ _____ (-$900)	
Total	$ _____	

Total Resources $ _____ Maximum Resource Level $ _____
Resource Eligible? ___ Yes ___ No

III. INCOME

(Computation Worksheet on Back)

Countable Unearned (A)	$ _____
Profit from Self-Employment (B)	+ _____
Countable Earned (C)	+ _____
Total Countable Income	_____
Minus	
Medical Deduction	- _____
Patient Pay	- _____
Countable Gross Income	$ _____

IV. BENEFIT CALCULATION

Countable Income $ _____ Fuel Type _____ Benefit Amt. _____

Household Size _____ Subsidized, Roomer (Circle as Applicable)

Income Level: Hi, Middle/Low Benefit Level: Full/Half/Quarter

V. RECOMMENDATION

Fuel Type _____ Benefit _____
Vendor(s) _____ Reason _____
Worker's Name _____ Worker's No. _____ Date _____
Supervisor's Signature _____ Date _____

DSS-[illegible]

I. INCOME COMPUTATION WORKSHEET

A. Unearned Income

Unearned Source	Verification Date/Method	Amount
		$ _____
		$ _____
		$ _____
		$ _____
		$ _____
	TOTAL UNEARNED INCOME	$ _____

A. Countable Unearned ▶ _____

Computations

B. Self-Employment

Verification Date and Method

Total Gross Income $ _____
Minus Expenses of Employment _____
Profit $ _____

B. Countable Profit ▶ _____

Computations

C. EARNED

Verification Date and Method

Date Received	Gross Amount
	$ _____
	$ _____
	$ _____
	$ _____
	$ _____
	$ _____
	$ _____
	$ _____
	$ _____
Total =	$ _____

Computations

(Income must be converted)
Avg. Amt. of pay stubs $ _____ Converted Amt. from Chart $ _____
Pay Frequency _____
C. Countable Earned Income ▶ _____
TOTAL INCOME ▶ _____

DATE SUMMARY OF CHANGES REPORTED/ACTION TAKEN

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

COMMONWEALTH OF VIRGINIA DEPARTMENT OF SOCIAL SERVICES

ENERGY ASSISTANCE - CASE INPUT DOCUMENT

Action Pres Loc: Case #: Year:

PART 1 — CLIENT DATA

Client Last: First: Middle:

Address Ln #1: Ln #2:

City: State: Zip Code: Phone:

SSN: Sex: Ethnic: Spouse SSN:

PART 2 — HOUSEHOLD DATA

Living Arrange: Any HH Person: 60 Over? Disabled? Under 16?

in HH: Prim Fuel: Mo Inc $ .00 Inc Types:

Resources $ .00 Rent w/Heat: $ .00 Weatherized? Rent Subsid?

PART 3 — FUEL ASSISTANCE

Fuel Appl Date: / / Disp Date: / / Disp Code:

Fuel Max. $ .00 Bill Ck Amt: $ Addtl Issued? N Check $

Fuel Type: Vendor #: Vendor Name:

Spec Inst: Acct #: Acct Name:

PART 4 — CRISIS/COOLING

Appl Date: / / Disp Date: / / Disp Code:

Max $ .00 Bill Ck Amt. $ Addtl Issued? N Check Date:

Type: Vendor #: Vendor Name:

Code: Acct. #: Acct. Name:

Svc Date: Heat Wdy Yrs: Begin: Cool Wdy Yrs: Begin:

Authorized Signature Date

COMMONWEALTH OF VIRGINIA
ENERGY ASSISTANCE PROGRAM

DATE:
WORKER #:
PHONE #:
CASE #:
CITY/COUNTY

CLIENT NOTICE OF ACTION

IF YOU DISAGREE WITH THE ACTION TAKEN, CONTACT YOUR WORKER FOR A CONFERENCE. THE PHONE # AND WORKER ID # ARE IN THE TOP RIGHT CORNER, OR . . . YOU MAY REQUEST A FAIR HEARING BEFORE THE VIRGINIA DEPARTMENT OF SOCIAL SERVICES. IF YOU DESIRE A FAIR HEARING, YOUR WRITTEN REQUEST MUST BE RECEIVED WITHIN 33 DAYS FROM THE DATE OF THIS NOTICE.

MAIL TO: CHIEF HEARINGS OFFICER
DEPT. OF SOCIAL SERVICES
8007 DISCOVERY DRIVE
RICHMOND, VA. 23229-8699

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES

ENERGY ASSISTANCE APPLICATION

CERTIFYING AGENCY ONLY:	COUNTY/CITY	WORKER'S NAME/NUMBER	DATE RECEIVED	CASE NUMBER

APPLICANT

Name (Last, First, Middle Initial)

Address

City, State, ZIP

SEX: ☐ M ☐ F

APPLICANT'S SOCIAL SECURITY NUMBER

SPOUSE'S SOCIAL SECURITY NUMBER

RACE:
☐ WHITE ☐ BLACK ☐ AMERICAN INDIAN OR ALASKAN NATIVE ☐ ASIAN OR PACIFIC ISLANDER ☐ HISPANIC ☐ OTHER

MILITARY ACTIVE DUTY? (Yes/No)

TELEPHONE

DIRECTIONS TO HOME

LIVING ARRANGEMENTS:
☐ OWN HOME OR LIFE RIGHTS
☐ GOVERNMENT ASSISTED RENT
☐ ROOMER
☐ RENT

HAS YOUR HOME BEEN WINTERIZED BY THE VIRGINIA WEATHERIZATION PROGRAM? ☐ YES ☐ NO

IS THERE A DISABLED PERSON IN THE HOME? ☐ YES ☐ NO

NAME (LIST ALL HOUSEHOLD MEMBERS INCLUDING YOURSELF)	RELATIONSHIP	AGE	DATE OF BIRTH	DOES THIS PERSON APPLY OR RECEIVE ANY MONEY? YES	NO	IF YES, COMPLETE THE FOLLOWING: GROSS AMOUNT	HOW OFTEN?
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

DO YOU OR DOES ANYONE IN YOUR HOUSEHOLD RECEIVE ANY OF THE FOLLOWING?

AID TO DEPENDENT CHILDREN? ☐ YES ☐ NO WHO? _____
FOOD STAMPS? ☐ YES ☐ NO WHO? _____
MEDICAID? ☐ YES ☐ NO WHO? _____
COMMUNITY MIXED CARE? ☐ YES ☐ NO WHO? _____

IF YOU OR ANYONE IN YOUR HOUSEHOLD HAVE ANY OF THE FOLLOWING RESOURCES LIST THE TYPE OWNED, THE PERSONS OWNING THE MONEY AND THE AMOUNT OWNED. (ANSWER YES OR NO TO ALL QUESTIONS.)

		TYPE/OWNER(S) NAME	NAME	AMOUNT
1. CASH	☐ YES ☐ NO			
2. CHECKING OR SAVINGS ACCOUNT(S)	☐ YES ☐ NO			
3. CHRISTMAS CLUB	☐ YES ☐ NO			
4. CREDIT UNION	☐ YES ☐ NO			
5. SAVINGS CERTIFICATES, MONEY MARKET CERTIFICATES, OR CERTIFICATES OF DEPOSIT	☐ YES ☐ NO			
6. STOCKS OR BONDS	☐ YES ☐ NO			
7. PROMISSORY NOTES OR DEEDS OF TRUST	☐ YES ☐ NO			
8. PREPAID BURIAL FUNDS	☐ YES ☐ NO			
9. OTHER	☐ YES ☐ NO			

IF YOU OR ANYONE IN YOUR HOUSEHOLD HAS GIVEN AWAY OR TRANSFERRED ANY RESOURCES (BANK ACCOUNTS, CASH, ETC.) IN THE PAST TWELVE MONTHS, LIST THE FOLLOWING:

AMOUNT, TO WHOM, WHY AND WHEN

SUPPLEMENT A
REQUEST FOR FUEL ASSISTANCE

DATE RECEIVED

HAVE YOU OR A MEMBER OF YOUR HOUSEHOLD RECEIVED OR APPLIED FOR FUEL ASSISTANCE THIS WINTER?
☐ YES ☐ NO
IF YES, WHICH? _____
WHERE? _____

DO YOU PAY FOR HEAT SEPARATE FROM YOUR RENT?
☐ YES ☐ NO
WHAT ARE THE NAME AND ADDRESS OF YOUR LANDLORD?
_____
_____
PHONE # _____

WHAT IS THE MAIN HEATING SOURCE IN YOUR HOME? CHECK ONLY ONE

☐ WOOD ☐ COAL

☐ ELECTRIC — VENDOR NAME _____ ADDRESS _____
ACCOUNT NUMBER _____ ACCOUNT NAME _____

☐ OIL (Fuel Oil #2) — VENDOR NAME _____ ADDRESS _____
TANK SIZE _____ UNPAID BILL AMOUNT? $ _____ SHOULD FUEL PAY? ☐ YES ☐ NO

☐ NATURAL GAS — VENDOR NAME _____ ADDRESS _____
ACCOUNT NUMBER _____ ACCOUNT NAME _____

☐ KEROSENE (Fuel Oil #1) — VENDOR NAME _____ ADDRESS _____
TANK SIZE _____ UNPAID BILL AMOUNT? $ _____ SHOULD FUEL PAY? ☐ YES ☐ NO

☐ BOTTLED GAS (Liquid Propane) — VENDOR NAME _____ ADDRESS _____
TANK SIZE _____ UNPAID BILL AMOUNT? $ _____ SHOULD FUEL PAY? ☐ YES ☐ NO

ARE YOU OUT OF FUEL OR DO YOU HAVE A CUT OFF NOTICE?
☐ YES ☐ NO
IF YES, HOW MANY DAYS BEFORE YOU RUN OUT OF FUEL OR BEFORE THE CUTOFF?
_____ DAYS

DO YOU HAVE ANOTHER HEATING SOURCE, SUCH AS KEROSENE OR ELECTRIC SPACE HEATER? ☐ YES ☐ NO IF YES, WHAT DO YOU HAVE AND HOW MANY?
_____
DO YOU HAVE RELATIVES OR FRIENDS YOU AND THE REST OF YOUR HOUSEHOLD COULD STAY WITH IF IT WAS COLD AND YOU HAD NO HEAT? ☐ YES ☐ NO IF YES, FOR HOW LONG?
_____

APPLICANT CERTIFICATION

I request assistance and certify that the above statements and attachments are true and correct to the best of my knowledge and belief.

I agree to let the Department of Social Services know immediately or the next working day of any changes that occur in my situation.

I understand that neither I nor a member of my household can sell any fuel purchased on my behalf through the program unless I have contacted the local Department of Social Services and received their permission to sell.

I understand that I have the right to file a complaint if I feel I have been discriminated against because of race, color, national origin, religion, sex, age, handicap or religious belief.

I understand that if I give false information, withhold information, or fail to report changes promptly, or on purpose, I may be breaking the law and could be prosecuted for perjury, larceny and/or welfare fraud.

I understand that if some error, or accident in completion has been for the applicant and/or aided or abetted the applicant to obtain assistance for which he is not eligible that I may be breaking the law and could be prosecuted.

I authorize to the fullest extent authorized the Department of Social Services or other agencies involved in the program to obtain any verifications necessary to establish my eligibility for assistance and to obtain cost and consumption data from my vendor for statistical purposes.

I understand that my signature on this form gives the local Social Service Agency permission to give information in my case records to other program personnel who have or may receive assistance.

APPLICANT'S SIGNATURE _____ DATE _____

WITNESS _____

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **State Plan for Medical Assistance Relating to Department of Education Services. VR 460-03-3.1100. Amount, Duration, and Scope of Services.**

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

Effective Dates: October 1, 1991 through September 30, 1992.

Summary:

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulation entitled Department of Education Services. This Department of Education Services policy will provide the regulatory authority to enroll local school divisions as Medicaid providers of physical, occupational and speech therapies.

2. RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action regarding Department of Education Services. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

Bruce U. Kozlowski
Director
Date: September 17, 1991

3. CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor
Date: September 27, 1991

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: September 30, 1991

DISCUSSION

6. BACKGROUND: The Task Force to Review Methods of Maximizing the Use of Medicaid Funds was convened on November 8, 1990, by the Secretary of Health and Human Resources. Its mission was to "review opportunities for using Medicaid as a funding source for programs that are currently funded with state only or state and local only dollars". On January 22, 1991, the Director of the Department of Medical Assistance Services (DMAS) reported the results of the Task Force's study to the Secretary. One of the recommendations contained in this report was implementation of the Department of Education's (DOE) project to establish Medicaid reimbursement for medical services presently provided or reimbursed by local school systems. This regulatory package amends the State Plan for Medical Assistance to permit local school divisions to enroll as Medicaid providers and bill for speech, physical, and occupational therapy.

These are services which the schools are required to provide under the provisions of the federal special education statutes. Many school divisions employ qualified therapists so that the therapeutic interventions are fully integrated into the child's individual educational plan and so that the child receives his therapy within the school setting.

The Task Force's study revealed that there is a significant potential for additional federal funding to increase the resources available to the local school divisions in meeting the needs of their students. However, school divisions do not have experience in billing third party payers like Medicaid. The transition to Medicaid reimbursement will require the adjustment of accounting procedures and the development of billing capabilities. To evaluate the impact of these changes and to devise solutions to the implementation problems which may arise, it was decided to begin with pilot programs in several school divisions. Participation in the pilot programs is voluntary.

During the 1991-1992 school year, DOE and DMAS will work closely with the participating school divisions and evaluate the desirability of opening the opportunity to be Medicaid providers to all school divisions in the 1992-1993 school year.

To enroll school divisions and reimburse them for speech, physical, and occupational therapies, it is necessary to amend the State Plan to include school divisions among the list of qualified providers and to clarify the qualifications of therapists. No new eligibles will be enrolled in Medicaid and the listed services are already covered in the State Plan when they are offered by hospitals, nursing facilities, home health agencies and rehabilitation agencies. This regulation will allow for Medicaid payment for these specified services rendered to eligible recipients when provided by school divisions employing qualified therapists.

7. AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-324, 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) § 9-6.14:4.1(C)(5), for an agency's adoption of emergency regulations subject to the Governor's prior approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, this agency intends to initiate the public notice and comment process

contained in Article 2 of the APA.

The Social Security Act § 1905(a) lists services which a state may include in its State Plan for Medical Assistance. Section 1905(a)(11) lists physical therapy and related services. The Code of Federal Regulations at Title 42 § 440.110 defines the related services as occupational therapy and services for individuals with speech, hearing, and language disorders.

Without an emergency regulation, this amendment to the State Plan cannot become effective until the publication and concurrent comment and review period requirements of the APA's Article 2 are met. Therefore, an emergency regulation is needed to meet the October 1, 1991, effective date so that maximum reimbursement for these services may be realized during the 1991-1992 school year.

8. FISCAL/BUDGETARY IMPACT: Pilot sites were selected in the cities of Richmond, Staunton, and Virginia Beach; and the counties of Augusta, Bland, Carroll, Grayson, Henrico, Scott, and Smyth. Discussions are underway for a pilot site in Newport News. The DOE estimates that 1,821 Medicaid eligible children receive speech, occupational or physical therapies in the schools in the selected localities. General Funds for the pilot period are provided through the DOE budget. DMAS' additional administrative costs are estimated to be $233,463 ($85,919 GF and $147,544 NGF) for FY 92. The DOE is providing the GF portion of the administrative costs to DMAS from existing appropriations.

It is estimated that the total costs of the therapy services will be $2,070,393. The school divisions are certifying to DMAS that the matching funds are in their budgets for each service billed to DMAS. DMAS will then pay the federal portion ($1,035,197 NGF) of the service fees to the participating school divisions.

9. RECOMMENDATION: Recommend approval of this request to take an emergency adoption action to become effective October 1, 1991. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to enroll school divisions as Medicaid providers.

10. Approval Sought for VR 460-03-3.1100.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

VR 460-03-3.1100. Amount, Duration, and Scope of Services.

D. The state agency may place appropriate limits on a service based on medical necessity, for utilization control, or both. Examples of service limitations are: examinations, prophylaxis, fluoride treatment (once/six months); space maintenance appliances; bitewing x-ray – two films (once/12 months); routine amalgam and composite restorations (once/three years); dentures (once per 5 years); extractions, orthodontics, tooth guidance appliances, permanent crowns, and bridges, endodontics, patient education and sealants (once).

E. Limited oral surgery procedures, as defined and covered under Title XVIII (Medicare), are covered for all recipients, and also require preauthorization by the state agency.

§ 11. Physical therapy and related services.

Physical therapy and related services shall be defined as physical therapy, occupational therapy, and speech-language pathology services. These services shall be prescribed by a physician and be part of a written plan of care. Any one of these services may be offered as the sole service and shall not be contingent upon the provision of another service. All practitioners and providers of services shall be required to meet state and federal licensing and/or certification requirements.

11a. Physical Therapy.

A. Services for individuals requiring physical therapy are provided only as an element of hospital inpatient or outpatient service, ~~skilled~~ nursing ~~home~~ *facility* service, home health service, *services provided by a local school division employing qualified therapists,* or when otherwise included as an authorized service by a cost provider wh provides rehabilitation services.

B. Effective July 1, 1988, the Program will not provide direct reimbursement to enrolled providers for physical therapy service rendered to patients residing in long term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing homes' operating cost.

C. Physical therapy services meeting all of the following conditions shall be furnished to patients:

1. Physical therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine;

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 physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and is under the direct supervision of a physical therapist licensed by the Board of Medicine. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit at least once every 30 days. This vi

shall not be reimbursable.

3. 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.

11b. Occupational therapy.

A. Services for individuals requiring occupational therapy are provided only as an element of hospital inpatient or outpatient service, ~~skilled~~ nursing ~~home~~ *facility* service, home health service, *services provided by a local school division employing qualified therapists,* or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

B. Effective August 2, 1990, Virginia Medicaid will not make direct reimbursement to providers for occupational therapy services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.

C. Occupational therapy services shall be those services furnished a patient which meet all of the following conditions:

1. Occupational therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board.

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 an occupational therapist registered and certified by the American Occupational Therapy Certification Board, a graduate of a program approved by the Council on Medical Education of the American Medical Association and engaged in the supplemental clinical experience required before registration by the American Occupational Therapy Association when under the supervision of an occupational therapist defined above, or an occupational therapy assistant who is certified by the American Occupational Therapy Certification Board under the direct supervision of an occupational therapist as defined above. When occupational therapy services are provided by a qualified occupational therapy assistant or a graduate engaged in supplemental clinical experience required before registration, such services shall be provided under the supervision of a qualified occupational therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

3. 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.

11c. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist; see Page 1, General and Page 12, Physical Therapy and Related Services.)

A. These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital inpatient or outpatient service, ~~skilled~~ nursing ~~home~~ *facility* service, home health service, *services provided by a local school division employing qualified therapists,* or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

B. Effective August 2, 1990, Virginia Medicaid will not make direct reimbursement to providers for speech-language pathology services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.

C. Speech-language pathology services shall be 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 designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology, or, if exempted from licensure by statute, meeting the requirements in 42 CFR 440.110(c);

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 or under the direction of a speech-language pathologist who meets the qualifications in number 1. The program shall meet the requirements of 42 CFR 405.1719(c). At least one qualified speech-language pathologist must be present at all times when speech-language pathology services are rendered; and

3. 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.

11d. Authorization for services.

A. Physical therapy, occupational therapy, and speech-language pathology services provided in outpatient settings of acute and rehabilitation hospitals, rehabilitation agencies, home health agencies or school divisions shall include authorization for up to 24 visits by each ordered

rehabilitative service within a 60-day period. A recipient may receive a maximum of 48 visits annually without authorization. The provider shall maintain documentation to justify the need for services.

B. The provider shall request from DMAS authorization for treatments deemed necessary by a physician beyond the number authorized. This request must be signed and dated by a physician. Authorization for extended services shall be based on individual need. Payment shall not be made for additional service unless the extended provision of services has been authorized by DMAS.

11e. Documentation requirements.

A. Documentation of physical therapy, occupational therapy, and speech-language pathology services provided by a hospital-based outpatient setting, home health agency, a school division, or a rehabilitation agency shall, at a minimum:

1. Describe the clinical signs and symptoms of the patient's condition;

2. Include an accurate and complete chronological picture of the patient's clinical course and treatments;

3. Document that a plan of care specifically designed for the patient has been developed based upon a comprehensive assessment of the patient's needs;

4. Include a copy of the physician's orders and plan of care;

5. Include all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response, and identify who provided care (include full name and title);

6. Describe changes in each patient's condition and response to the rehabilitative treatment plan;

7. (Except for school divisions) 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; and

8. In school divisions, include an individualized education program (IEP) which describes the anticipated improvements in functional level in each school year and the time frames necessary to meet these goals.

B. 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.

11f. Service limitations. The following general conditions shall apply to reimbursable physical therapy, occupational therapy, and speech-language pathology:

A. Patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his license.

B. Services shall be furnished under a written plan of treatment and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of treatment and must be related to the patient's condition.

C. A physician recertification shall be required periodically, must be signed and dated by the physician who reviews the plan of treatment, and may be obtained when the plan of treatment is reviewed. The physician recertification statement must indicate the continuing need for services and should estimate how long rehabilitative services will be needed.

D. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of care, and indicate the frequency and duration for services.

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 patient's medical record as having bee rendered shall be deemed not to have been rendered an no coverage shall be provided.

F. Physical therapy, occupational therapy and speech-language services are to be terminated regardless of the approved length of stay when further progress toward the established rehabilitation goal is unlikely or when the services can be provided by someone other than the skilled rehabilitation professional.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: **VR 615-53-01. Child Day Care Services Policy.**

Statutory Authority: § 63.1-55, 63.1-133.17, 63.1-133.24, and 63.1-248.6 of the Code of Virginia.

Effective Dates: October 1, 1991 through September 30, 1992.

Preamble:

The current regulation in place for child day care services expires on September 30, 1991 and the attached emergency regulation is needed in order for the department's child day care program to continue, and in order to provide for the changes needed to access new congressional funding for child day care services. The new funding includes the At-Risk Ch

Care program funded from Title IV-A, and the Child Care and Development Block Grant funded under Public Law 101-508. Both of these new programs will greatly expand the availability of child day care subsidy for low-income families needing child care in the Commonwealth, and will also provide funding to increase child day care resources and improve quality of care.

Summary:

1. REQUEST: The Governor is hereby requested to approve the emergency regulation entitled "Child Day Care Policy" pursuant to actions on August 14, 1991 by the State Board of Social Services.

2. PURPOSE OF THE REQUEST: The new regulation is needed to replace the current regulation which expires September 30, 1991, in order for the Department to utilize funding from two new federal child day care programs.

One of the new programs was enacted as Public Law 101-508 (from section 5082 of the Omnibus Budget Reconciliation Act of 1990) entitled the Child Care and Development Block Grant Act of 1990. The lead agency for the administration of this grant in Virginia is the Council on Child Day Care and Early Childhood Programs. The second federal legislation enacted is the At-risk Child Care program funded from Title IV-A of the Social Security Act. The lead agency for the administration of this grant is the Department of Social Services.

These programs significantly expand subsidized child day care for low-income families in the Commonwealth. They also provide funding to increase the availability and to improve the quality of child day care.

3. PERSONS AFFECTED BY THIS REGULATION: This regulation affects all persons who are eligible for child day care assistance from the Department of Social Services, including AFDC recipients, income eligible families, and persons active with the state's Food Stamp Employment and Training Program. The regulation establishes the procedures to be followed to determine eligibility for child day care services, and to provide child day care assistance.

This regulation affects all 124 local departments of social services by establishing the procedures they will use to deliver needed child day care services to eligible families in compliance with federal regulations.

This regulation affects providers of child day care services in the Commonwealth by establishing the methods to be used by local agencies to make payments for child day care for eligible customers.

4. BACKGROUND: On October 1, 1990, the Child Day Care policy emergency regulation 615-53-01 became effective. At the same time, it was simultaneously promulgated as a proposed regulation. This new policy was necessitated by federal Public Law 100-485, the Family Support Act, which mandated welfare reform. The proposed regulation, exactly the same as the emergency regulation, was withdrawn from the APA process in December 1990 due to the passage of new federal child day care legislation. It was recognized that the new federal initiatives would greatly impact the Department's day care program and would require further changes in the proposed regulation.

The current emergency regulation expires on September 30, 1991, and must be replaced by another regulation in order for the Department to continue operating its child day care programs. New and revised regulations are also necessary for the Department and the state to fully access the additional funding made available from the new federal legislation.

5. AUTHORITY TO ACT: The Code of Virginia, Sections 63.1-55, 63.1-133.17, 63.1-333.24, and 63.1-248.6, give authority to the Virginia Department of Social Services to promulgate regulations on how child day care services funded through the Department will be provided in the Commonwealth.

6. FISCAL IMPACT: These emergency regulations will bring Virginia's child day care policy into compliance with the statutory and regulatory requirements of the two major child care provisions enacted as part of the Omnibus Budget Reconciliation Act. The Department of Social Services will thus be able to draw down the federal funding and dramatically expand the funding available to support child care services for income eligible families.

The At-Risk Child Care program allocates $6,770.000 to Virginia each year to assist poor working families with their child day care needs through the Fee System Child Day Care Program. With the $4,300,000 in General Funds appropriated in FY 92 for a 40% State match and with the 10% local match requirement, the federal funding will expand the statewide program by more than 50% in FY 92 to $10,750,000. This amount of Fee System funding will provide child care to approximately 4,479 children in Virginia during FY 92. Furthermore, $1,395,000 of the federal funds will be available to help reimburse 50% of the program expenditures that some localities would otherwise be paying from local-only funds. The additional funds also permit the Department to implement a new allocation formula that more equitably allocates program funds to localities based upon target client populations and the cost of child care in the community.

The Council on Child Day Care and Early Childhood Programs, the State's designated lead agency for the

Child Care and Development Block Grant, has submitted Virginia's Plan for the utilization of those funds to the Department of Health and Human Services for approval. That Plan provides for the Department of Social Services to receive $6,000,000 of the total of $12,800,000 available to Virginia for the delivery of child care services. These funds will be allocated to local departments of social services to further expand the accessibility of child care for income eligible families and to permit local departments to implement quality enhancements in the child day care services available in their communities. These funds will provide child care to approximately 2,000 children in Virginia during the twelve months beginning October 1, 1991. There are no state or local funds required to match the Child Care and Development Block Grant funds.

7. FUTURE DEPARTMENT ACTION: Copies of the emergency regulation will be sent to persons and organizations who have been identified as interested parties. The Department plans to wait for receipt of public comment on the emergency regulation before initiating final proposed regulations. This will also allow receipt of the final federal regulations for the At-Risk Child Care program and the final rule for the Child Care and Development Block Grant. The federal government is currently receiving public comment on these interim regulations, and significant changes may be made that would impact the child day care regulation.

VR 615-53-01. Child Day Care Services Policy.

PART I.
PREAMBLE.

§ 1.0. Preamble.

The Department of Social Services and the State Board of Social Services set policy and supervise a child day care delivery system through local departments of social services. The goal of the child care programs governed by this policy is to provide developmentally appropriate care for children in low income families. To the maximum extent possible programs are developed with compatible eligibility requirements, payment rates, fees, child care providers, health and safety standards, and opportunities for parental choice and responsibilities.

The child care services are purchased by local departments on behalf of eligible families with a combination of federal, state and local funds and in accordance with different federal laws and their corresponding rules and regulations. This combination of statutes and regulations has resulted in differential federal requirements that prevent the child care delivery system from having congruence across all the programs involved. However, despite the different federal funding streams involved, the following child care policy strives to promote a locally based and comprehensive system that provides families with comparable choices available to other users of child care.

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:

"Aid to Families with Dependent Children" means a program established by Title IV-A of the Social Security Act and authorized in Virginia by Chapter 6 (§ 63.1-86 et seq.) of Title 63.1 of the Code of Virginia. This program provides benefits to needy children who are deprived of parental support or care.

"AFDC" means Aid to Families with Dependent Children program.

"Aid to Families with Dependent Children-Unemployed Parent" means the program authorized in Section 407 of the Social Security Act which provides aid to dependent children who are deprived of parental support or care by reason of the unemployment of the parent who is the principal wage earner.

"AFDC-UP" means Aid to Families with Dependent Children-Unemployed Parent program.

"Agency" means a local department of soci services/welfare.

"At-Risk Child Care" funding means the federal allocation to states from Title IV-A that provides for subsidized child care to eligible low-income working parents.

"Child" means an individual under 13 years of age, or children up to 18 years of age if they are physically or mentally incapable of caring for themselves or are subject to court supervision.

"Child care certificate" means a certificate or voucher that is issued directly to a parent who may use such certificate only as payment for child care services.

"Child Day Care and Development Block Grant" funding means the federal block grant for day care that was authorized under the Development Block Grant Act of 1990, section 5082 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508. The purpose of this block grant is to increase the availability, affordability, and quality of child care.

"Child day care services" means those activities that assist eligible families in the arrangement and/or purchase of day care for children.

"Day care center" means a facility operated for the purpose of providing care, protection, and guidance to group of children separated from their parents during

art of the day.

"Department" means the Virginia Department of Social Services.

"Developmental/Special needs day care" means day care provided for handicapped children, or children with physical, mental or emotional problems such as learning disabilities, behavior disorders, inability to adjust with family and peers, developmental delay, atypical development, diagnosed physical or mental conditions, or deficit in social functioning.

"Education leading to employment" means the pursuit of basic remedial instruction to achieve a basic literacy level, instruction in English as a second language, preparation for G.E.D. or Adult Education, the completion of high school, associate degree or certificate, work at the college level or bachelor degree from a college or university if the course of instruction is limited to a curriculum directly related to the fulfillment of an individual's educational goal to obtain useful employment in a recognized profession or occupation.

"Employment Services Program" means a program operated by the Department of Social Services which helps AFDC, AFDC-UP and GR recipients in securing employment or the training or education needed to secure employment as required by Chapter 6.2 (§ 63.1-133.12:1) of Title 63.1 of the Code of Virginia.

"ESP" means the Employment Services program.

"Family day care provider" means a person who is responsible for the supervision and care of children in the provider's home.

"Federal Title IV-A Funding" means funding provided to states from the federal government through the Social Security Act to fund the AFDC program, child day care for AFDC recipients, the transitional child day care program, and the At-Risk Child Care program.

"Fee System" means the program that provides child day care subsidy to low-income parents from the At-Risk Child Care funding and from the Child Care and Development Block Grant funding.

"FSET" means Virginia's Food Stamp Employment and Training Program, a program to provide non-AFDC able-bodied recipients of Food Stamps with employment and training services.

"Full-time employment" means regularly scheduled activities that engage a participant in employment for 30 or more hours per week.

"Good cause" means a valid reason why an unemployed parent in a two parent household cannot provide the needed child day care. The rationale for the agency's decision must be documented in the case record.

"Income eligible" means that eligibility is based on income and determined by measuring the family income and size against the state median income chart.

"In-home day care provider" means a person who is responsible for the supervision and care of children in the child's own home.

"IV-A earned income disregard" means the method by which the cost of child day care is handled in determining eligibility for and the amount of the benefit for working applicants and recipients of AFDC.

"JOBS" means the Job Opportunities and Basic Skills Training Program for AFDC, General Relief, and AFDC-UP recipients effective October 1, 1990.

"Job Search" means the activity whereby participants are required to make a certain number of employer contacts a week for a specific length of time.

"Market rate" means the percentile, selected by the State Board of Social Services at the recommendation of the Commissioner (not to exceed the 75th percentile), of the range of costs in a community for a particular type of child day care.

"Parent" means primary adult caretaker or guardian of a child.

"Parental access" means that parents may visit the day care setting at any time their child is in care.

"Part-time employment" means any regularly scheduled activity that engages a participant in employment for a minimum of eight hours but less than 30 hours per week.

"Postsecondary education" means any course of instruction beyond that of high school offered by an institution of higher education as determined by the Secretary of Education to meet the Higher Education Act of 1965.

"Purchase of Service Order" means a form sent to a vendor to authorize the delivery of services to a client.

"Registration" means a process by which unregulated providers supply basic information that enables the provider to be paid and to receive information on training, technical assistance, and other topics. Providers who meet these requirements shall be referred to as registered providers.

"Regulation" means a process by which a child day care provider becomes federally approved, state licensed, city approved, county approved, local agency approved, or has met the requirements of Small Family Child Care Home Voluntary Registration with the department. Providers who meet these requirements shall be referred to as regulated providers.

"Relative provider" means a child day care provider related to the parent or child by blood or marriage.

"Resource and referral services" means the provision of education regarding child day care choices and assistance with locating appropriate child day care placements, provided by a recognized referral resource or a local agency.

"Satisfactory progress" means that the participant in any educational or training activity is meeting, on a periodically measured basis of less than one year such as a term or quarter, a consistent standard of progress based on written policy developed by the educational institution or training agency and approved by the IV-A agency.

"Service plan" means the written, mutually agreed upon course of action determined by the parent and service worker.

"State median income" (SMI) means the level of income by family size which represents the mid point of income levels in Virginia.

"Training leading to employment" means the development of specific work attitudes, behaviors, or skills leading to job readiness as well as the development of specific technical or vocational skills that lead to employment in a recognized occupation and results in other than a baccalaureate or advanced degree.

"Transitional child day care services" means the day care services (up to 12 months) for which certain former recipients of AFDC are eligible after April 1, 1990.

"Unregulated provider" means any child day care provider who is not federally approved, state licensed, city approved, county approved or locally approved and is not subject to such licensure or approval.

"USDA Child and Adult Care Food Program" means the United States Department of Agriculture program to reimburse child care providers for nutritious meals and snacks served to children in care while parents work.

"Vendor" means a provider who can sell services.

"Voluntary Small Family Child Care Home Registration" means the procedures by which the department regulates small family day care homes (five or fewer children) on a voluntary basis using approved standards.

PART II.
POLICY.

Article 1.
Individuals To Be Served.

§ 2.1. Children To Be Served.

Child day care services shall be provided for eligible families with children who need day care and who are under age 13, or children up to 18 years of age if they are physically or mentally incapable of caring for themselves or subject to court supervision. Day care shall not be purchased for children who are eligible to attend kindergarten or for older children during that portion of a day when appropriate public education is available unless there are reasons the children must be out of school.

§ 2.2. Mandated Eligible Populations.

Child day care shall be guaranteed for the following groups.

A. Aid to Families with Dependent Children.

1. Children in an AFDC assistance unit are eligible for necessary child day care services to enable an AFDC eligible family member to participate in required Employment Services Programs (ESP/JOBS) activities. This includes those AFDC recipients referred to ESP/JOBS because they are in self-initiated education or training, and AFDC recipients in required education programs that are exempt from JOBS.

2. Children in an AFDC assistance unit are eligible for necessary child day care services to enable a non-ESP AFDC recipient to accept employment, remain employed or attend an approved education/training activity.

3. Child day care services shall be provided for children who would have been in the assistance unit if it were not for the receipt of SSI under Title XVI or foster care payments under IV-E when the eligible family member is engaged in 1. or 2. above.

B. Income Eligible Recipients.

Child day care subsidy for income eligible parents shall be made available on a sliding fee scale basis. All income eligible parents will contribute towards the cost of care.

1. Transitional Child Day Care Services.

Parents who have received AFDC and meet the following criteria, are eligible for up to 12 consecutive months of child day care:

a. The family ceased being eligible for AFDC as a result of increased hours or increased income from earnings.

b. The family must have received AFDC at least three of the six months immediately preceding the first month of ineligibility for AFDC benefits.

c. The family requests transitional child day care benefits.

This eligibility is from the date of closure of AFDC

long as the parents remain income eligible. Parents must be working in order to receive transitional services.

Children must have been on the grant during the last month of receipt of AFDC, or would have been on the grant were it not for receipt of SSI or foster care. The child(ren) must continue to be deprived in order to be eligible for transitional services.

Eligibility for the program must be determined in accord with State Board of Social Services policy and federal regulations, and eligibility determination must be coordinated with the local agency eligibility unit that was responsible for the former AFDC case.

The agency must inform the former recipient that transitional child day care benefits are available. This information shall be made available at the time of initial eligibility and at the time of notification of ineligibility for AFDC. Eligible families must request this extension of services in writing.

If parents meet the eligibility criteria for transitional services, transitional funding shall be used, except in situations where notices of action do not permit payment in a timely manner. In these cases AFDC/ESP funding can be used for one month to give the agency time to set up the transitional funding.

2. Child Day Care Fee System Services.

a. IV-A funding:

To the extent that At-Risk Child Care funding is available from Title IV-A, agencies shall provide child care subsidies to income eligible clients who are employed and who would otherwise be at risk of becoming eligible for AFDC.

b. Child Care and Development Block Grant funding:

To the extent that funding is available from the Child Care and Development Block Grant, agencies shall provide child care subsidies to income eligible clients who are employed or in education or training leading to employment.

C. Food Stamp Recipients.

Child day care shall be made available for children of recipients of Food Stamps who are participating in Virginia's Food Stamp Employment and Training Program, at a cost of up to the federally allowed maximum.

§ 2.3. Non-Mandated Reasons For Services.

Child day care may be provided for eligible parents for the following reasons.

A. Child Protective Services.

Child day care may be used to provide protection for children if the family situation places children in jeopardy or subject to abuse or neglect; the tensions or deviant behavior of the adults or other children in the home make it desirable for the children to be out of the home part of the day; or a period of family counseling and rehabilitation makes care of the children away from the home necessary.

B. Illness or Absence of Parent.

Child day care services may be provided for a short period of time if there is no other person available to provide care without cost.

Parents must be unable to provide care due to illness, absence from the home for medical diagnosis or other short term emergency, outpatient treatment, or for a period of hospitalization.

C. Developmental/Special Needs Child Day Care.

Child day care may be used to provide specialized developmental opportunities for children if care required for normal growth and development is not available in the home and/or if care needed requires additional expertise due to the special needs of the child.

§ 2.4. Good Cause/Two-parent Households.

In two-parent households where one parent is unemployed, there shall be good cause why that parent cannot provide the needed child care before payment for child day care will be made.

§ 2.5. Education and Training.

A. AFDC Recipients.

Necessary child day care services to support a parent's work toward completion of high school or its equivalent, or participation in ESP/JOBS related education and training activities shall be provided if needed.

B. Child Day Care Fee System.

For parents eligible for the child day care fee system, day care needed to support attendance and completion of high school, vocational school, or a postsecondary program may be provided if funding is available.

C. Post Baccalaureate.

Payment for child day care for the attainment of post baccalaureate education is not allowed, except with local only funding.

D. Satisfactory Progress.

Study shall be limited to a curriculum related to the fulfillment of an individual's educational goal. Participants

in an educational or training program shall show that they are making satisfactory progress in order to continue receiving child day care services.

Article 2.
Child Day Care Settings.

§ 3.1. Child Day Care Centers, Family Day Care Homes And In-Home Providers.

Parents shall choose among the three major types of child day care: child day care centers, family day care homes, and in-home child day care providers.

§ 3.2. Regulation of Providers.

All child care provided must meet applicable standards of state and local law and be operating legally in the Commonwealth.

Providers of Fee System child day care services receiving At-Risk child care funding must be regulated or registered, except individuals providing care solely to members of the individual's family. Providers of the Fee System child day care services receiving Child Care and Development Block Grant funding must be regulated.

Local agencies shall allow the utilization of a relative as a child day care provider as long as the individual is not a part of the assistance unit or legally responsible for the child(ren) needing care.

Article 3.
Determination of Services To Be Provided.

§ 3.3. Case Management Process.

A. Assessment.

The family need for child day care shall be assessed at the time of application. Parents shall be informed of the full range of services offered by the agency. If it is clear that the only need is for child day care services, a simple assessment will suffice. If the family identifies other needs, a full assessment shall be completed. A case shall be opened on all families that are to receive child day care services, and all appropriate case management procedures found in department manuals shall be followed. Parents shall be required to sign a service application.

B. Determination of Eligibility and Funding Source.

1. The locality shall make the determination of whether the family is eligible for child day care services, and the appropriate funding source to pay for the needed child day care services shall be identified.

2. Once eligibility is determined, parents will be informed as to whether their full costs of child day care will be paid or whether they will be required to pay a fee, and, if so, the amount of that fee. It is the parent's responsibility to pay all fees owed directly to the provider.

3. Parents shall be informed of their responsibility to report to the local agency within 10 days changes in choice of providers, family size and income, or any other changes that could affect their eligibility for services. They shall also be informed that if they have involvement with the Division of Support Enforcement they shall be expected to cooperate with that division or risk loss of child day care benefits. For programs where parent fees are required, failure to pay fees or make adequate arrangements for paying back fees owed will result in ineligibility for services.

C. Resource and Referral.

The service worker shall assist the parent to receive child day care resource and referral services, from a recognized community resource, including the local agency.

D. Selection of Provider.

1. Agencies shall not establish policies that limit parental choice of providers.

2. In the selection of a provider, the service worker shall encourage the parent to consider the individual developmental needs of the child, ability of the provider to meet the needs of the family, proximity of the provider to the child's residence or school, proximity of the provider to parent's residence or employment site, travel time of the parent/child to the provider's location, and cost of care.

3. The service worker shall encourage the parent to choose regulated care if it is available. The service worker shall discuss with the parent the minimum standards for an agency approved provider of day care. Unless regulated child care is unavailable, parents choosing unregulated care shall be required to acknowledge in writing that regulated care was offered and declined.

4. Providers used shall afford parents unlimited access to their children during normal hours of provider operation and whenever the children are in the care of the provider.

5. The parent has the ultimate responsibility for the selection of the child day care provider.

6. The service worker shall obtain the following information for all providers selected: full name, address, rates charged the general public for the type of child day care service provided, and whether the provider is regulated or unregulated.

E. Service Plan.

A written service plan shall be completed for every child day care case. If parents are active with the Employment Service Program the day care service plan shall be coordinated with the Employability Plan.

F. Waiting List.

For all families eligible for child day care services, except AFDC recipients whose caretaker is a member of the assistant unit or recipients of transitional child day care services, it may be necessary to place a family on an agency waiting list for child day care services. Service by date of request is an acceptable means of administering a waiting list. Any other proposed policy for a waiting list, such as by degree of need, shall be sent to the regional office of the department for approval prior to submission to the local board of social services. Waiting list policy must assure that decisions are made uniformly and fairly.

Article 4.
Payment for Care.

§ 4.1. Types Of Payment.

The agency will make payment for child day care by means of direct payment to regulated providers following department purchase procedures or by reimbursement to the client, if that is the client's choice for regulated or unregulated care. If using the reimbursement method, the parent will make all payments directly to the provider. Parents will receive reimbursement when they submit proper documentation and receipts to the agency.

Local agencies may use a modification of the department's Purchase of Service Order form to make direct payment to regulated providers. Such a modified form would have to receive prior department approval and meet all requirements found in department manuals to ensure that it contains all necessary elements to authorize the delivery of service to the family.

AFDC recipients who are working may choose to take the IV-A earned income disregard for child day care expenses, whether the provider selected is regulated or unregulated.

§ 4.2. Determining Payment Amount.

A. Market Rates of Pay.

The department will establish local market rates for child day care for all localities in the state by type of care. Agencies shall pay the rates that providers charge the general public or a negotiated rate, up to the local market rate for a particular type of care. Agencies shall not establish their own maximum monthly rates of pay. Negotiated rates may not compromise the parent's right to select a provider of their choice.

Parents who chose to place a child in a facility whose rate is above the local market rate shall pay the additional amount themselves, unless the agency elects to pay the additional amount out of local only funds. When agencies use local only funds to subsidize the cost of care above the local market rate, this policy shall be approved by the local board of social services and recorded in the minutes, including the maximum allowable subsidy. Subsidy decisions shall not be made on an individual case basis.

B. Unit Price.

The unit price of service shall be based on a week or less. Rates paid will be based on provider enrollment and attendance practices and department payment policies.

The total cost of care, including special programs, activities fees and transportation, shall not exceed the local market rate.

Transportation services shall be paid using day care funds only when the transportation services are provided by the day care provider.

When an annual or one-time-only registration fee is not included in the market rate it shall be paid by the agency separately. One registration fee shall be paid per child per year, unless there are extenuating circumstances.

Child day care may be purchased if child care arrangements would otherwise be lost for up to two weeks prior to the start of employment or training and for up to one month during a break in employment or training if a subsequent activity is scheduled to begin within that period. Child day care can also be purchased if the parent is ill or incapacitated, or if the child(ren) is absent from care for up to four weeks for justifiable reasons as set forth in the Service Plan, or for longer periods of time if space in a child care facility is being reserved.

C. Administrative Expenses.

If service is not available without cost or covered under Title XIX (Medicaid) or other insurances, payment may be made by the agency for needed medical and dental examinations required for the entry into day care for eligible children, and subsequently at intervals appropriate to the child's age or state of health. If such payments are made, they shall be paid out of service administration funds.

D. Beginning Date of Service Payment.

1. The beginning date of service payment authorization shall be no earlier than:

a. the date the individual is determined eligible for child day care services according to generic services eligibility policy in department manuals, and

b. the effective date of the approval of the provider when using regulated care, or the date a provider applied to become registered when using registered

care.

2. For transitional services, payment shall be made retroactive to the date of eligibility (the month following the loss of AFDC) if the parent has requested the service and has proper receipts for day care paid, and proof of employment.

E. Sliding Fee Scale.

Child Day Care services shall be available to income eligible and transitional recipients on a sliding fee scale basis. Within available funds localities shall serve eligible families who earn 50% or less of the state median income. Localities can opt to serve families who earn up to 70% of the state median income with federal and state funds, and above 70% with local funds.

All parents receiving sliding fee scale subsidy must contribute towards the cost of their child day care.

The following sliding fee scale shall be used statewide for determining fees owed by parents in the fee system or transitional programs, unless a locality specifically wishes to use a variation for the fee system. In this case the locality must obtain prior department approval to use the alternative scale, and the approval must meet uniform criteria. Alternative scales shall not be approved for transitional child day care services.

State Sliding Fee Scale

% of State Median Income	% of Gross Income Family Pays (This is per family, not per child)
0 - 20%	1%
21 - 30%	2.5%
31 - 40%	5.0%
41 - 50%	7.5%
51 - 60%	10.0%
61 - 70%	15.0%
Over 70%	Family ineligible for fee subsidy except out of local only funding.

The agency shall adjust the parent's fee if the income of the parent moves the fee payment to a higher or lower level on the SMI scale.

Agencies have the option of assisting parents with the payment of the day care fee as determined by the sliding fee scale using local only funds. Local policy for the subsidy of parent fees shall be approved by the local board of social services and recorded in the minutes. Local policy governing subsidy for parent fees shall be applied uniformly.

Article 5.
Local Agency Service Delivery Responsibilities.

§ 5.1. Local Child Day Care Plan.

Agencies will complete and have in place an annual local child day care plan. This plan is a management tool to enhance the delivery of child day care services and may be modified throughout the year.

A. Community Coordination

Local departments shall coordinate child day care services with existing child day care resource and referral agencies, early childhood education programs, schools, private for-profit and non-profit child day care providers, and other groups in the community involved in child day care. This will be done in order to ensure understanding of the department's program, to enhance parental choice, to increase the availability and quality of child day care services, and to maximize coordination of child day care services in the community.

B. Administrative Support Agreements

Local agencies may contract with other local governmental or non-profit agencies for the management of certain child day care services. However, federal regulations prohibit local social service agencies from contracting with other agencies for the administration of child day care services for families funded out of IV-A funds (AFDC, ESP/JOBS, and transitional services), except for the IV-A At-Risk Program. Administration is defined as activities such as processing applications, determining/redetermining eligibility, providing hearings, and imposing sanctions.

The department must give prior approval to any such contract, will review annually, and will monitor the local agency's administration of said contract. The local agency shall assure that the contractor meets all department policy and reporting requirements.

§ 5.2. Local Recruitment/Approval/Training Of Providers.

It is the responsibility of the service worker, using state approved standards, to recruit, approve, and provide training for locally approved child day care providers. Family day care providers shall be informed of the benefits of participating in the USDA Child and Adult Care Food Program.

If a family or in-home provider is selected and is not local agency approved or state licensed or registered and desires to be, the provider shall be informed as to how to become regulated or registered. Emergency approvals may be granted in certain situations where time does not allow the completion of the full day care approval before care starts.

§ 5.3. Service Delivery.

The service worker shall inform the parents and providers that he/she is available on an on-going basis t

assist with problem solving. A direct contact shall be made at least quarterly with a member of the case household. The service worker shall evaluate, at least quarterly, whether the child day care services authorized are meeting the needs of the child and parent. In some cases, other services will be needed by the family and will be provided directly or arranged for by the service worker.

Agency termination of child day care services shall be planned jointly with the parent and provider, and arrangements made for other services if needed by the family.

Adequate documentation supporting the reasons for termination shall be filed in the case record. If the locality proposes to deny, discontinue, terminate or reduce child day care benefits, written notice must be given to the parent. If the parent disputes this decision, they are entitled to a fair hearing.

Agencies shall assure that case records are maintained accurately in accordance with all case management policy in department manuals.

Article 6.
Complaints in the Day Care Setting.

§ 6.1. Child Abuse Or Neglect.

All complaints regarding possible child abuse or neglect occurring in a child day care setting must be referred to the child protective services unit at the local agency serving the area where the day care service is located. Information regarding the complaint shall be shared with the worker responsible for licensure or approval.

§ 6.2. Other Complaints.

All other complaints shall be referred to the unit which approved the resource.

/s/ Larry D. Jackson
Commissioner
Date: August 30, 1991

/s/ Lawrence Douglas Wilder
Governor
Date: September 27, 1991

/s/ Joan W. Smith
Registrar of Regulations
Date: October 1, 1991

Virginia Tax Bulletin

Virginia Department of Taxation

SEPTEMBER 17, 1991 91-8

INTEREST RATES
FOURTH QUARTER 1991

Interest Rates

Rates unchanged: State and certain local interest rates are subject to change every quarter based on changes in the federal rates established pursuant to I.R.C. 6621. The federal rates for the fourth quarter remain at 9% for overpayments, 10% for underpayments, and 12% for "large corporate underpayments" as defined in I.R.C. 6621(c). Va. Code 58.1-15 provides that the underpayment rate for Virginia taxes will be 2% higher than the corresponding federal rates. Accordingly, the Virginia rates for the fourth quarter of 1991 remain at 9% for tax overpayments (refunds), 12% for tax underpayments (assessments), and 14% on assessments of corporation income tax that exceed $100,000 for a single taxable year and that have not been paid within 30 days of the date of assessment.

Rate for Addition to Tax for Underpayments of Estimated Tax

Taxpayers whose taxable year ends on September 30, 1991: For the purpose of computing the addition to the tax for underpayment of Virginia estimated income taxes on Form 760C (for individuals, estates and trusts), Form 760F (for farmers and fishermen), or Form 500C (for corporations), the fourth quarter 12% underpayment rate will apply through the due date of the return, January 15, 1992.

Local Tax

Assessments: Localities assessing interest on delinquent taxes pursuant to Va. Code section 58.1-3916 may impose interest at a rate not to exceed 10% for the first year of delinquency, and at a rate not to exceed 10% or the federal underpayment rate in effect for the applicable quarter, whichever is greater, for the second and subsequent years of delinquency. For the third quarter of 1991, the federal underpayment rate is 10%.
Refunds: Localities which have provided for refund of erroneously assessed taxes may provide by ordinance that such refund be repaid with interest at a rate which does not exceed the rate imposed by the locality for delinquent taxes.

For Additional Information

Contact the Taxpayer Assistance Section, Office Services Division, Virginia Department of Taxation, P. O. Box 6-L, Richmond, Virginia 23282, or call the following numbers for additional information about interest rates and penalties.

Individual & Fiduciary Income Tax	(804) 367-8031
Corporation Income Tax	(804) 367-8036
Withholding Tax	(804) 367-8038
Soft Drink Excise Tax	(804) 367-8016
Aircraft Sales & Use Tax	(804) 367-8098
Other Sales & Use Taxes	(804) 367-8037

Recent Interest Rates

Accrual Period		Overpayment	Underpayment	Large Corporate
Beginning	Through	(Refund)	(Assessment)	Underpayment
1-Jan-87	30-Sep-87	8%	9%	—
1-Oct-87	31-Dec-87	9%	10%	—
1-Jan-88	31-Mar-88	10%	11%	—
1-Apr-88	30-Sep-88	9%	10%	—
1-Oct-88	31-Mar-89	10%	11%	—
1-Apr-89	30-Sep-89	11%	12%	—
1-Oct-89	31-Mar-91	10%	11%	—
1-Apr-91	30-Jun-91	9%	10%	—
1-Jul-91	31-Dec-91	9%	12%	14%

EXECUTIVE ORDER THIRTY-SEVEN (91)

VIRGINIA ENERGY PLAN

By virtue of the authority vested in me as Governor by Section 2.1-41.1 of the Code of Virginia to formulate and administer policy in the executive branch, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct all executive branch Secretaries and their respective agencies to implement the Virginia Energy Plan consistent with their statutory authority in order to help secure an energy-efficient future for Virginia.

A comprehensive statewide approach is critical to Virginia's energy conservation. Such an approach has the potential to: reduce consumption of energy resources; extend the use of coal, oil and gas reserves; improve energy efficiency; reduce environmental impacts; preserve natural resources; and secure independence from foreign oil. The Virginia Energy Plan addresses a statewide program which focuses on energy efficiency and conservation through production, management planning, awareness, transportation, and fuel alternatives.

The Virginia Energy Plan is applicable to all state agencies to the extent it is consistent with the statutory authority of those agencies. I hereby assign specific responsibilities for the implementation of the Virginia Energy Plan to the following:

The Secretary of Economic Development shall be responsible for providing guidance and direction for energy policy and conservation planning.

RESPONSIBILITIES OF THE SECRETARY OF ECONOMIC DEVELOPMENT

The Secretary of Economic Development shall:

1. Comprehensively integrate the Governor's energy conservation and efficiency policy into the operations and programs of state government through the Virginia Energy Plan;

2. Coordinate with other Secretaries where activities and programs are shared among secretarial areas;

3. Provide general guidance to the Department of Mines, Minerals and Energy and report on accomplishments under the Virginia Energy Plan to the Governor;

4. Approve annual updates and any modifications to the Virginia Energy Plan to maintain consistency with the policy direction of the Governor and to enhance the accomplishment of the goals and objectives;

5. Resolve differences between participating agencies when agreement cannot be reached among them; and

6. Serve as liaison with Virginia businesses to obtain their expertise, assistance and cooperation in advancing energy efficiency and alternative fuels in Virginia.

Responsibility for coordinating and implementing the Virginia Energy Plan shall be with the Department of Mines, Minerals and Energy (DMME).

DMME shall:

1. Review, revise and maintain the Virginia Energy Plan through a collaborative process among state agencies;

2. Execute the strategies designated to it;

3. Draw on expertise of other agencies, where appropriate, to ensure the successful execution of the Virginia Energy Plan strategies;

4. Develop an energy planning process and coordinate the development of an energy management plan for each agency, based on the Virginia Energy Plan; and

5. Provide guidance and training to other agencies, when needed, to successfully execute the Virginia Energy Plan.

To accomplish the goals, objectives, and strategies of the Virginia Energy Plan, each agency shall:

1. Execute the strategies designated to the agency in the Virginia Energy Plan;

2. Designate an energy manager(s) and authorize staff involvement in the accomplishment of the Virginia Energy Plan, including participation in task forces, training, plan development, and plan execution;

3. Develop an energy management plan consistent with the process coordinated by DMME;

4. Implement the energy management plan in an orderly and timely manner and undertake modification of internal agency operations and programs consistent with the goals and objectives of the plan and state law; and

5. Monitor and report progress on accomplishing the energy management plan to DMME as requested.

This Executive Order is effective upon its signing and will remain in full force and effect until June 30, 1994, unless amended or rescinded by further Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 18th day of September, 1991.

/s/ Lawrence Douglas Wilder

Governor

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

CHILD DAY CARE COUNCIL

Title of Regulation: **VR 175-08-01. Minimum Standards for Licensed Child Care Centers, Nursery Schools and Child Day Care Camps Serving Children of Preschool Age or Younger.**

Governor's Comment:

I concur with the form and the content of this proposal. My final comment is contingent upon a review of the public's comment.

/s/ Lawrence Douglas Wilder
Governor
Date: September 27, 1991

* * * * * * * * *

Title of Regulation: **VR 175-09-01. Minimum Standards for Licensed Child Care Centers, Before School and After School Child Care Programs, and Child Day Care Camps Serving School Age Children.**

Governor's Comment:

I concur with the form and the content of this proposal. My final comment is contingent upon a review of the public's comment.

/s/ Lawrence Douglas Wilder
Governor
Date: September 27, 1991

CRIMINAL JUSTICE SERVICES BOARD

Title of Regulation: **VR 240-03-1. Rules Relating to Compulsory Minimum Training Standards for Private Security Services Personnel.**

Governor's Comment:

I concur with the substance of these regulations as minimum training standards for private security services personnel. Approval of the final regulations will depend on a review of comments received during the public hearing process and incorporation of technical corrections agreed to with the Department of Planning and Budget.

/s/ Lawrence Douglas Wilder
Governor
Date: September 24, 1991

WATERWORKS AND WASTEWATER WORKS OPERATORS (BOARD FOR)

Title of Regulation: **VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.**

Governor's Comment:

These regulations are intended to improve existing regulations governing waterworks and wastewater works operators. Pending public comment, I recommend approval of the regulations.

/s/ Lawrence Douglas Wilder
Governor
Date: September 27, 1991

STATE WATER CONTROL BOARD

Title of Regulation: **VR 680-14-07. Oil Discharge Contingency Plans and Administrative Fees for Approval.**

Governor's Comment:

These regulations are intended to establish adequate oil discharge contingency plans to protect the environment and the public welfare. Pending public comment, I recommend approval of the regulations.

/s/ Lawrence Douglas Wilder
Governor
Date: September 27, 1991

* * * * * * * * *

Title of Regulation: **VR 680-14-08. Tank Vessel Financial Responsibility Requirements and Administrative Fees for Approval.**

Governor's Comment:

These regulations are intended to ensure that tank vessel owners are financially able to respond to an oil spill. Pending public comment, I recommend approval.

/s/ Lawrence Douglas Wilder
Governor
Date: September 27, 1991

Symbol Key †
† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

NOTICE

Notices of Intended Regulatory Action are being published as a separate section of the Register beginning with the October 7, 1991, issue. The new section appears at the beginning of each issue.

DEPARTMENT FOR THE AGING

Notice of Public Comment Period for 1991-95 Intrastate Title III Funding Formula

Notice is hereby given that the Department for the Aging will accept comments on the formula for the distribution within Virginia of funds received under Title III of the Older Americans Act of 1965, as amended. Interested persons may submit data, views, and arguments orally or in writing to the department.

The Older Americans Act of 1965, as amended, requires that the Department for the Aging develop and publish for review and comment an intrastate formula for the distribution of Title III funds to the Area Agencies on Aging. Public comment on the formula was solicited and received during June and July, 1989. The department does not intend to change the formula which has been in effect since October 1, 1989. 1990 Census data have been used to update the population-based factors in the formula.

The updated Title III intrastate funding formula is computed on the basis of (1) the number of persons 60 years of age and over, from the 1990 Census, (2) the number of persons 60 years of age and over at or below the poverty level, from the 1980 US Census, (3) the number of minority persons 60 years of age and over at or below the poverty level, from the 1980 Census, and (4) the number of persons 60 years of age and over who reside in rural areas of the state.

The formula factors and their weights are as follows:

Population 60+.....30%

Rural residents 60+..10%

Poverty 60+.....50%

Minority Poverty 60+.10%

Population 60+. This factor distributes Title III funds on the basis of the geographical location of older Virginians. It reflects the distribution of persons age 60 and over throughout the state.

Rural Residents 60+. The rural 60+ factor is utilized to denote the geographical isolation faced by older Virginians who live in the rural areas of the state. "Rural area" means a city or county which is not within a Metropolitan Statistical Area (MSA) according to the Bureau of the Census or a city or county which is within an MSA but which has a population density of less than 50 persons per square mile.

Poverty 60+. This factor distributes Title III funds to those areas of the state with the greatest number of older persons in economic need. The financial condition of the older person is a major determinant of his ability to meet basic life needs, such as food, shelter, clothing, health care, and mobility. This factor is an application of the definition of greatest economic need.

Minority Poverty 60+. The low income minority elderly factor addresses the racial barrier as well as the economi needs of this group of older persons.

Hold Harmless Provision. In Fiscal Year (FY) 1992, each Area Agency on Aging will be held harmless at its FY 1989 funding level. This means that an Area Agency's total funding will not be reduced below its FY 1989 funding level. An agency will no longer be held harmless when its formula share and sufficient funds allow it to exceed the FY 1989 funding level. The hold-harmless provision will allow implementation of the formula without significant shifts in funding and major disruption of services. Implementation of this allocation plan is contingent upon no decrease in federal and state funding below the FY 1989 level.

No Area Agency on Aging will receive less than $100,000 in total funds distributed under this allocation plan.

What follows is a numerical statement of the funding formula to be used and a demonstration of the allocation of funds based on the formula:

PSA	FORMULA X	TITLE III-B	TITLE III-C(1)	TITLE III-C(2)	TITLE III-D	TITLE III-G
1	3.07823	202,744	135,592	87,173	4,620	1,782
2	3.11866	203,307	137,373	88,318	4,680	1,805
3	5.38562	362,401	237,230	152,517	8,083	3,118
4	2.95448	192,604	130.141	83,669	4,434	1,710
5	4.97958	324,622	219,345	141,018	7,473	2,883

6	5.06386	330,116	223,057	143,405	7,600	2,932
7	3.74690	244,262	165,047	106,109	5,623	2,169
8A	1.08721	122,053	47,890	30,789	1,632	629
8B	1.50457	189,927	66,275	42,608	2,258	871
8C	3.85722	357,125	169,906	109,234	5,789	2,233
8D	0.54403	35,466	23,964	15,407	817	315
8E	0.78908	51,441	34,758	22,346	1,184	457
9	2.77997	181,228	122,454	78,727	4,172	1,609
10	3.04963	198,807	134,333	86,363	4,577	1,765
11	4.17437	272,130	183,878	118,215	6,265	2,417
12	6.28672	408,661	276,130	177,525	9,408	3,629
13	3.56433	282,998	157,005	100,939	5,349	2,063
14	3.44828	224,795	151,893	97,653	5,175	1,996
15	10.22151	666,346	450,245	289,466	15,340	5,917
16	2.14530	139,853	94,498	60,753	3,220	1,242
17/18	4.01520	261,753	176,865	113,707	6,026	2,324
19	3.87857	252,846	170,846	109,838	5,821	2,245
20	13.57517	884,973	597,970	384,439	20,373	7,859
21	4.48129	292,138	197,396	126,907	6,725	2,594
22	2.28821	149,170	100,793	64,800	3,434	1,325

The department will hold at least one public hearing on the formula. The date, time, and location of the hearing(s) will be announced. Persons who testify at the hearing(s) are urged to provide a written copy of their comments to the hearing officer. An interpreter for the deaf and hard-of-hearing will be provided upon request.

Written comments on the formula may be submitted until 5 p.m. on November 8, 1991. Comments should be sent to Mr. J. James Cotter, Director, Divisions of Program Development and Management, 700 East Franklin Street, 10th Floor, Richmond, Virginia 23219-2327. To obtain further information, write to the department at the above address or call 1-800-225-2271 or toll-free in Virginia 1-800-552-4464.

DEPARTMENT OF HEALTH (STATE BOARD OF)

† Public Notice

The State Board of Health has received a request from a group composed of well drillers and other individuals from Tidewater to amend the Private Well Regulations pertaining to Class IV (non-drinking water) wells. They propose two major changes:

1. Reduce the minimum separation distance between Class IV wells and building foundations treated by a chemical termiticide to 10 feet. The proposed minimum separation distance in the regulations is 25 feet if certain well construction and site conditions exist.

2. Allow the issuance of a well construction permit for Class IV wells immediately upon filing an application with a site plan and payment of the application fee. This permit would be issued without the local health department conducting a site visit to determine the proposed well site suitability. The well site would be subject to a post-construction inspection and approval by the local health department.

Comments on these proposals should be submitted to Gary L. Hagy, Assistant Director, Bureau of Sewage and Water Services, Virginia Department of Health, P.O. Box 2448, Richmond, VA 23218. Comments should be received by January 3, 1992.

DEPARTMENT OF WASTE MANAGEMENT

Public Notice

Designation of Regional Solid Waste Management Planning Area

In accordance with the provision of Section 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 Botetourt and the Towns of Buchanan, Fincastle and Troutville. The County of Botetourt will be the 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 Tuesday, November 12, 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 or (804) 371-8737/TDD ☎

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 Section 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 Mecklenburg and the Towns of Boydton, Chase City, Clarksville, LaCrosse and South Hill. The County of Mecklenburg will be the 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 Tuesday, November 12, 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 or (804) 371-8737/TDD ☎

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 Section 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 Tazewell and the Towns of Bluefield, Cedar Bluff, Richlands, Tazewell and Pocahontas. The County of Tazewell will be the 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 Tuesday, November 12, 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 or (804) 371-8737/TDD ☎

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.

VIRGINIA CODE COMMISSION

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.

ERRATA

DEPARTMENT OF MINES, MINERALS AND ENERGY

Virginia Gas and Oil Board

Title of Regulation: **VR 480-05-22.2. Virginia Gas and Oil Board Regulation.**

Publication: 7:26 VA.R. 4304-4315 September 23, 1991.

Correction to Final Regulation:

Page 4311, § 13, subsection A, change "45.1-36.36" to "45.1-361.36."

STATE WATER CONTROL BOARD

Title of Regulation: **VR 680-14-09. Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day.**

Publication: 7:23 VA.R. 3627-3635 August 12, 1991.

Correction to Emergency Regulation:

Page 3629, line 60, and Page 3629, line 7, should read:

...adopted pursuant to Chapter 11 (Section 15.1-427 et seq.) of Title 15.1.

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

GOVERNOR'S ADVISORY BOARD ON AGING

October 23, 1991 - 9 a.m. – Open Meeting
October 24, 1991 - 8:30 a.m. – Open Meeting
Ingleside Conference Center, Route 11 North, Staunton, Virginia. ♿ (Interpreter for deaf provided upon request)

A business meeting and board committee meeting are scheduled for October 23. These meetings are a component of the annual joint meeting of the Governor's Advisory Board on Aging, the Virginia Association of Area Agencies on Aging, and the Virginia Department for the Aging scheduled for October 23-24. The theme of the annual meeting is "Maintaining Choices in Living." Presentations and discussions will focus on this topic.

Contact: Cathy Saunders, Assistant to the Commissioner, Virginia Department for the Aging, 700 E. Franklin Street, 10th Floor, Richmond, VA 23219, telephone (804) 225-2271 or toll-free 1-800-552-4464.

STATE AIR POLLUTION CONTROL BOARD

October 30, 1991 - 10 a.m. – Public Hearing
Board of Supervisors Meeting Room, 205 Academy Drive, N.W., Abingdon, Virginia.

October 30, 1991 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Hampton Roads Regional Office, Old Greenbrier Village, Suite A, 2010 Old Greenbrier Road, Chesapeake, Virginia.

October 30, 1991 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Northeastern Virginia Regional Office, 300 Central Road, Suite B, Fredericksburg, Virginia.

October 30, 1991 - 10 a.m. – Public Hearing
Auditorium of the Recreation Center, 301 Grove Street, Lynchburg, Virginia.

October 30, 1991 - 10 a.m. – Public Hearing
Department of Air Pollution Control, State Capitol Regional Office, Arboretum 5, Suite 250, 9210 Arboretum Parkway, Richmond, Virginia.

October 30, 1991 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Valley of Virginia Regional Office, Executive Office Park, Suite D, 5338 Peters Creek Road, Roanoke, Virginia.

October 30, 1991 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Northern Virginia Regional Office, Springfield Corporate Center, Suite 310, 6225 Brandon Avenue, Springfield, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The proposed amendments to the regulations will provide the latest edition of referenced documents and incorporate recently promulgated federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS), which are found in Rules 5-5 and 6-1, respectively. The proposed amendments will update as well the consolidated list of documents incorporated by reference found in Appendix M of the agency's regulations. The proposed amendments will incorporate the 1990-1991 edition of the American Conference of Governmental Industrial Hygienists' Handbook which forms the basis for the toxic pollutant rules, and three NSPS and four NESHAPS which were promulgated by EPA between July 1, 1989, and June 30, 1990.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Written comments may be submitted until November 22, 1991, to Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240.

Contact: Nancy S. Saylor, Policy Analyst, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249.

† **November 1, 1991 - 8:30 a.m.** – Open Meeting
State Water Control Board, First Floor Board Room, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A special meeting and work session to evaluate air quality issues related to medical waste incineration. Public comments will not be received.

Contact: Dr. Kathleen Sands, Information Services Manager, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

ALCOHOLIC BEVERAGE CONTROL BOARD

October 28, 1991 - 9:30 a.m. – Open Meeting
2901 Hermitage Road, Richmond, Virginia. ♿

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, P. O. Box 27491, 2901 Hermitage Road, Richmond, VA 23261, telephone (804) 367-0616.

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October 30, 1991 - 10 a.m. – Public Hearing
2901 Hermitage Road, First Floor Hearing Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Alcoholic Beverage Control Board intends to amend regulations entitled: **VR 125-01-1. Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations; VR 125-01-2. Advertising; VR 125-01-3. Tied House; VR 125-01-5. Retail Operations; VR 125-01-6. Manufacturers and Wholesalers Operations; and VR 125-01-7. Other Provisions.** The amendments relate to (i) streamlining the rulemaking procedures; (ii) allowing individuals of legal drinking age to place mail orders for alcoholic beverages with Virginia retail licensees; (iii) permitting alcoholic beverage advertising on certain antique vehicles for promotional purposes and on billboards located within facilities used primarily for professional or semiprofessional sporting events; (iv) increasing the wholesale value limit of novelty and specialty items which may be given away; (v) allowing manufacturers of alcoholic beverages to sponsor an entire season of athletic and sporting events; (vi) permitting wholesalers to deliver and merchandise wine and beer on Sundays; (vii) standardizing minimum monthly food sale requirements for retail licenses; (viii) allowing manufacturers, bottlers and wholesalers of alcoholic beverages to place public safety advertisements in college student publications; (ix) permitting retail licensees to use electronic fund transfers to pay wholesale licensees for purchases of alcoholic beverages or beverages; (x) clarifying that the placement of alcoholic beverages in containers of ice near cash registers and doors and public display areas by off-premises licensees is an enticement to purchase alcoholic beverages; (xi) making interior advertising less restrictive for on-premises licensees; and (xii) expanding the types of businesses eligible for off-premises wine and beer licenses by creating a new category which does not require minimum monthly food sale requirements.

Statutory Authority: §§ 4-7 (1), 4-11, 4-36, 4-69, 4-69.2, 4-72.1, 4-98.14, and 4-103(b) of the Code of Virginia.

Written comments may be submitted until 10 a.m., October 16, 1991.

Contact: Robert N. Swinson, Secretary to the Board, P. O. Box 27491, 2901 Hermitage Road, Richmond, VA 23261, telephone (804) 367-0616.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† **November 21, 1991 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to (i) approve minutes from September 19, 1991 meeting; (ii) review correspondence; (iii) review enforcement files; and (iv) adopt proposed regulations as final.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

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November 21, 1991 - 10 a.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 Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to amend regulations entitled: **VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.** The proposed regulations will regulate the practice of architecture, engineering, land surveying, landscape architecture and interior design as well as the professional corporations and business

entities that offer those services.

Statutory Authority: § 54.1-404 of the Code of Virginia.

Written comments may be submitted until 10 a.m., November 21, 1991.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

Board for Architects

† **November 7, 1991 - 9:30 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A meeting to (i) approve minutes from August 22, 1991 meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

Board for Land Surveyors

† **November 15, 1991 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A meeting to (i) approve minutes from September 13, 1991 meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

Board for Professional Engineers

† **November 5, 1991 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A meeting to (i) approve minutes from August 13, 1991 meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

COMMISSION FOR THE ARTS

October 24, 1991 - 9 a.m. – Open Meeting
Location to be determined.

A quarterly business meeting.

Contact: Virginia Commission for the Arts, 223 Governor Street, Richmond, VA 23219-2010, telephone (804) 225-3132.

ASAP POLICY BOARD - ROCKBRIDGE

Board of Directors

† **November 12, 1991 - 3 p.m.** – Open Meeting
2044 Sycamore Avenue, Buena Vista, Virginia.

A general meeting. Agenda to include call to order, approval of minutes from July 30, 1991, old business, new business, and treasurer's report.

Contact: S. Diane Clark, Director, 2044 Sycamore Avenue, Buena Vista, VA 24416, telephone (703) 261-6281.

BOARD FOR AUCTIONEERS

† **October 24, 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 may require board action.

Contact: Geralde W. Morgan, Board Administrator, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8534.

BOARD OF AUDIOLOGY AND SPEECH PATHOLOGY

October 24, 1991 - 9:30 a.m. – Open Meeting
1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia.

A regularly scheduled board meeting.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9111.

VIRGINIA AVIATION BOARD

October 29, 1991 - 10 a.m. – Open Meeting
Virginia Highlands Airport Terminal, Abingdon, Virginia.

A meeting to discuss matters of interest to the aviation community.

Contact: Nancy C. Brent, 4508 S. Laburnum Avenue, Richmond, VA 23231-2411, telephone (804) 786-6284.

BOARD FOR BARBERS

October 21, 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 and disposition of enforcement cases; and (iv) consider routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590.

STATE BUILDING CODE TECHNICAL REVIEW BOARD

October 31, 1991 - 10 a.m. – Open Meeting
Virginia Housing Development Authority, 601 Belvidere Street, Second Conference Room, First Floor, Richmond, Virginia. (Interpreter for deaf provided upon request)

A meeting to (i) consider requests for interpretation of the Virginia Uniform Statewide Building Code; (ii) consider appeals from the rulings of local appeal boards regarding application of the Virginia Uniform Statewide Building Code; and (iii) improve minutes of previous meeting.

Contact: Jack A. Proctor, 205 North Fourth Street, Richmond, VA 23219, telephone (804) 371-7772.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Central Area Review Committee

October 28, 1991 - 1 p.m. – Open Meeting
† **November 25, 1991 - 1 p.m.** – Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the Central Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD

Northern Area Review Committee

October 23, 1991 - 10 a.m. – Open Meeting
† **November 13, 1991 - 10 a.m.** – Open Meeting
† **November 27, 1991 - 10 a.m.** – Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the Northern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD

Southern Area Review Committee

† **November 6, 1991 - 10 a.m.** – Open Meeting
† **November 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 committee will review Chesapeake Bay Preservation Area programs for the Southern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD

COUNCIL ON CHILD DAY CARE AND EARLY CHILDHOOD PROGRAMS

† **October 22, 1991 - 10 a.m.** – Open Meeting
Virginia Housing Development Authority, Conference Rooms 1 and 2, 601 South Belvidere Street, Richmond, Virginia.

A quarterly council meeting along with honoring all day care providers of the Commonwealth. Public comment will not be received at the meeting.

Contact: Linda Sawyers, Director, Virginia Council on Child Day Care and Early Childhood Programs, Washington Building, Suite 1116, 1100 Bank Street, Richmond, VA 23219, telephone (804) 371-8603.

DEPARTMENT OF COMMERCE

October 30, 1991 - 1 p.m. – Public Hearing

Ramada Oceanside Resort, 57th and Oceanfront, Virginia Beach, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Commerce intends to repeal existing regulation VR 190-04-1 and adopt new regulations entitled: **VR 190-04-1:1. Private Security Services Businesses Regulations.** The proposed regulations have been reorganized to provide clarity in the licensing procedures, entry requirements, renewal, fees, and the requirements that all applicants for licensure are in good standing and have not been convicted of a misdemeanor for felony in any jurisdiction.

Statutory Authority: §§ 54.1-1903 and 54.1-1904 of the Code of Virginia.

Written comments may be submitted until December 9, 1991.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8534.

STATE BOARD FOR COMMUNITY COLLEGES

October 21, 1991 - 10:30 a.m. – Open Meeting
Sheraton Charlottesville Hotel, Montdomaine Rooms A and B, 2350 Seminole Trail, Charlottesville, Virginia.

A regular meeting. Agenda available by October 11, 1991.

Contact: Mrs. Joy Graham, Monroe Building, 101 North 14th Street, Richmond, VA, telephone (804) 225-2126.

DEPARTMENT OF CONSERVATION AND RECREATION

Falls of the James Scenic River Advisory Board

November 15, 1991 - Noon – Open Meeting
Planning Commission Conference Room, Fifth Floor City Hall, Richmond, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

BOARD OF CORRECTIONS

November 13, 1991 - 10 a.m. – Open Meeting
December 11, 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 to the board.

Contact: Mrs. Vivian Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3235.

Liaison Committee

November 14, 1991 - 9:30 a.m. – Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ♿

The committee will continue to address criminal justice issues.

Contact: Louis E. Barber, Sheriff, Montgomery County, P.O. Drawer 149, Christiansburg, VA 24073, telephone (703) 382-2951.

BOARD OF DENTISTRY

November 7, 1991 - 8:30 a.m. – Open Meeting
November 8, 1991 - 8:30 a.m. – Open Meeting
Martha Washington Inn, 150 West Main Street, Abingdon, Virginia. ♿

A meeting to consider committee reports and regular board business. Formal hearing. This a public meeting and the public is invited to observe. No public testimony will be received by the board at this meeting.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9906.

STATE BOARD OF EDUCATION

October 30, 1991 - 8 a.m. – Open Meeting
October 31, 1991 - 8 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.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

November 7, 1991 - 5:30 p.m. – Open Meeting
December 5, 1991 - 5:30 p.m. – Open Meeting
Chesterfield County Administration Building, 10001 Ironbridge Road, Chesterfield, Virginia. &

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Linda G. Furr, Assistant Emergency Services, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - GLOUCESTER COUNTY

October 23, 1991 - 6:30 p.m. – Open Meeting
Gloucester Administration Conference Room, Gloucester, Virginia. &

During the upcoming Fall quarterly meeting, the following matters will be addressed: the forthcoming annual hazardous materials exercise and a final review of the updated County Hazardous Materials Plan.

Contact: Georgette N. Hurley, Assistant County Administrator, P.O. Box 329, Gloucester, VA 23061, telephone (804) 694-4042 or Fax (804) 693-6004.

LOCAL EMERGENCY PLANNING COMMITTEE - CITIES OF HAMPTON, NEWPORT NEWS, WILLIAMSBURG AND POQUOSON AND THE COUNTY OF YORK

† **October 31, 1991 - 10 a.m.** – Open Meeting
Hampton Roads Planning District Commission, 2 Eaton Street, Suite 502, Hampton, Virginia. &

A meeting to discuss the Local Emergency Response Plan.

Contact: Henry M. Cochran, Deputy Executive Director, 2 Eaton Street, Suite 502, Hampton, VA 23669, telephone (804) 728-2067.

LOCAL EMERGENCY PLANNING COMMITTEE - PORTSMOUTH

November 13, 1991 - 9 a.m. – Open Meeting
St. Julien's Annex, Building 307, Victory Boulevard at Magazine Road, Portsmouth, Virginia.

A regular meeting.

Contact: Donald Newberry, Jr., Chairperson, City of Portsmouth Fire Department, 361 Effingham Street, Portsmouth, VA 23704-2337, telephone (804) 393-8765.

LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF PRINCE WILLIAM, CITY OF MANASSAS, AND CITY OF MANASSAS PARK

October 21, 1991 - 1:30 p.m. – Open Meeting
November 18, 1991 - 1:30 p.m. – Open Meeting
December 16, 1991 - 1:30 p.m. – Open Meeting
1 County Complex Court, Potomac Conference Room, Prince William, Virginia. &

A multi-jurisdictional Local Emergency Planning Committee to discuss issues related to hazardous substances in the jurisdictions. SARA Title III provisions and responsibilities for hazardous material emergency response planning.

Contact: John E. Medici, Hazardous Materials Officer, 1 County Complex Court, Prince William, VA 22192-9201, telephone (703) 792-6800.

DEPARTMENT OF GENERAL SERVICES

December 6, 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 Department of General Services intends to amend regulations entitled: **VR 330-02-05. Requirements for Approval to Perform Prenatal Serological Tests for Syphilis.** The regulation defines the procedure to be followed for evaluating a laboratory's ability to perform syphilis serological testing.

Statutory Authority: § 32.1-60 of the Code of Virginia.

Written comments may be submitted until December 6, 1991.

Contact: James Blaine, Ph.D., Assistant Bureau Director, Division of Consolidated Laboratory Services, 1 North 14th Street, Richmond, VA 23219, telephone (804) 786-5453.

HAZARDOUS MATERIALS TRAINING COMMITTEE

† **October 22, 1991 - 10 a.m.** – Open Meeting
Philip Morris, U.S.A. - Operations Center, 2001 Walmsley Boulevard, Richmond, Virginia.

A meeting to discuss curriculum course development, and review existing hazardous materials courses.

Contact: Mr. N. Paige Bishop, 2873 Moyer Road, Powhatan, VA 23139, telephone (804) 598-3370.

BOARD FOR GEOLOGY

† **November 22, 1991 - 10 a.m.** – Open Meeting
3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8595.

DEPARTMENT OF HEALTH PROFESSIONS

Task Force on Nurse Midwives and Obstetric Care

October 23, 1991 - 10 a.m. – Open Meeting
Department of Health Professions, Conference Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ♿
(Interpreter for deaf provided if requested)

A meeting to review and revise a draft of a report of the activities of the task force in preparation for completion of the study required by HJR 431.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☎

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

October 22, 1991 - 9:30 a.m. – Open Meeting
†, **November 26, 1991 - 9:30 a.m.** – Open Meeting
Blue Cross/Blue Shield, Virginia Room, 2015 Staples Mill Road, Richmond, Virginia. ♿

The council will conduct its 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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† **January 15, 1992** – 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 Virginia Health 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 regulation will amend regulations to require health care institutions to file certified audited financial statements with the council no later than 120 days after the end of the institutions's fiscal year. A 30-day extension could be granted for extenuating circumstances. A late charge of $10 per working day would be assessed for filings submitted past the due date.

STATEMENT

Basis and authority: Section 9-159(A)(2) of the Code of Virginia requires each health care institution to file a certified audited statement of income and expenses after the close of a health care institution's fiscal year.

Section 9-164(2) of the Code of Virginia provides that the council shall "from time to time make such rules and regulations as may be necessary to carry out its responsibilities."

Section 6.1 of the council's rules and regulations currently requires that a certified audited financial statement be filed at the completion of a health care institution's fiscal year, but sets no time limitation for the submission.

Summary: The proposed changes amend and update the regulation which deals with the required submission of an audit by health care institutions. The current regulation requires that a certified audited financial statement be submitted following the conclusion of a health care institution's fiscal year. However, there is no limitation regarding when it must be submitted. The proposed regulatory changes would require that the certified audited financial statement be submitted within 120 days and would provide for a late charge of $10 per working day if the audit was filed past the due date.

Analysis: The council's current regulation already requires that an annual report of revenues, expenses, other income, other outlays, etc. ("historical filings") be filed no later than 120 days after the end of an institution's fiscal year. The current regulations require that a certified audited financial statement be filed, but they are silent as to when that document should be submitted.

The proposed change will allow the council to quickly assess the accuracy and correctness of the historical filings because the audit and the historical filings will be received at the same time. This will provide more meaningful information to the consumer in a timely fashion.

Estimated Impact: The proposed change will allow for more timely analysis of the information that is being obtained by the council from hospitals and nursing homes. There should be no additional costs for health care institutions to provide the certified audited financial statement in a more timely fashion, since they are already obligated to file it now.

Forms: There will be no new forms needed to implement this regulatory change.

Statutory Authority: §§ 9-158, 9-159 and 9-164(2) of the Code of Virginia.

Written comments may be submitted until January 15, 1992.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

STATE BOARD OF HEALTH

October 29, 1991 - Noon – Open Meeting
October 30, 1991 - 9 a.m. – Open Meeting
Martha Washington Inn, 150 West Main Street, Abingdon, Virginia. 🖻 (Interpreter for deaf provided if requested)

A work session is planned for Tuesday, October 29, 1991. Informal dinner to be held at Martha Washington Inn at 7:30 p.m. Business meeting is planned for Wednesday, October 30, 1991.

Contact: Susan R. Rowland, Assistant to the Director, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-3561.

BOARD FOR HEARING AID SPECIALISTS

November 25, 1991 - 10 a.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 Board for Hearing Aid Specialists intends to amend regulations entitled: **VR 375-01-02. Board for Hearing Aid Specialists Regulations.** The proposed amendments will clarify fees, licensure requirements for physicians, licensure requirements for endorsements, and audiometer calibrations for hearing aid specialists.

Statutory Authority: §§ 54.1-113 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until November 22, 1991.

Contact: Mr. Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

November 6, 1991 - 10 a.m. – Open Meeting
Council Conference Room, 9th Floor, Monroe Building, Richmond, Virginia. 🖻

A general business meeting.

Contact: Mike Mullen, Associate Director, 101 N. 14th treet, 9th Floor Monroe Building, Richmond, Virginia 23219, telephone (804) 225-2610.

VIRGINIA HISTORIC PRESERVATION FOUNDATION

† **November 13, 1991 - 10 a.m.** – Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia.

A general business meeting.

Contact: Hugh C. Miller, Director, Department of Historic Resources, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143.

DEPARTMENT OF HISTORIC RESOURCES

† **October 30, 1991 - 7 p.m.** – Public Hearing
Council Chambers, Richmond City Hall, 900 East Broad Street, Richmond, Virginia.

† **October 31, 1991 - 7:30 p.m.** – Public Hearing
Board Meeting Room, James J. McCoart Administrative Building, 1 County Complex Court, Prince William, Virginia.

† **November 6, 1991 - 7 p.m.** – Public Hearing
City Council Chambers, 11th Floor, Norfolk City Hall, Norfolk, Virginia.

† **November 7, 1991 - 7 p.m.** – Public Hearing
Council Chambers, Roanoke City Hall, Roanoke, Virginia.

Pursuant to Senate Joint Resolution No. 162, the department will hold public hearings on the financial impact of landmark designation.

Contact: H. Bryan Mitchell, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

November 5, 1991 - 9 a.m. – Open Meeting
December 3, 1991 - 9 a.m. – Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. 🖻 (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee Meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

October 22, 1991 - 2 p.m. – Public Hearing
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A public hearing to solicit public comment relating to the incorporation of requirements for handicap accessibility contained in federal regulations which implement the Americans with Disabilities Act of 1990. The new requirements will be contained in the Virginia Uniform Statewide Building Code.

Contact: Gregory H. Revels, CPCA, Program Manager, Code Development Office, Department of Housing and Community Development, 205 North Fourth Street, Richmond, VA 23219, telephone (804) 371-3772 or (804) 786-5405/Voice/TDD ☎

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **November 15, 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 Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-01-0001. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority.** The purpose of the proposed amendments is to modify the rules and regulations - general provisions for programs of the Virginia Housing Development Authority in order to change the income limits for units in developments financed by mortgage loans approved by the authority on or after November 19, 1991.

STATEMENT

Basis: Section 36-55.30:3 of the Code of Virginia.

Subject, substance and issues: The proposed amendments to the rules and regulations - general provisions for programs of the Virginia Housing Development Authority ("rules and regulations") of the authority will eliminate the income limit of seven times annual rent and utilities (except telephone) for units in developments financed by mortgage loans approved by the authority on or after November 19, 1991. Income limits for units in such developments shall be such percentage of the area median income as the authority may establish by resolution or in its other rules and regulations applicable to such developments. These proposed amendments are intended to assure that multi-family rental housing developments to be financed by the authority are occupied by persons and families most in need of affordable rental housing while at the same time permitting the construction and rehabilitation by the private sector of multi-family rental housing developments which are marketable and financially feasible. Based on a recent survey of its multi-family rental housing developments, the authority believes that the income limit of seven times annual rent and utilities does not adequately target the occupancy of multi-family rental housing developments and that income limits based upon a percentage of the area median income can be established to better target such occupancy without adversely affecting the financial feasibility of such developments.

Impact: The authority expects that the proposed amendments will result in the occupancy of some of the units in the above described developments by persons and families whose incomes will be lower than those of persons and families who would occupy such units under the income limits in the authority's current rules and regulations. However, the authority does not expect that the proposed amendments to the rules and regulations will have any significant impact on the number of units produced or the number of low-income families and persons served. The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the proposed amendments to the rules and regulations.

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

Written comments may be submitted until November 15, 1991.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 Belvidere Street, Richmond, VA 23230, telephone (804) 782-1986.

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† **November 15, 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 Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0001. Rules and Regulations for Multi-Family Housing Developments.** The purpose of the proposed amendments is to modify the rules and regulations for multi-family housing developments in order to make certain reductions in the income limits of occupants of multi-family rental housing developments financed by mortgage loans approved by the authority on or after November 19, 1991.

STATEMENT

Basis: Section 36-55.30:3 of the Code of Virginia.

Subject, substance and issues: The proposed amendments to the rules and regulations for multi-family housing developments ("rules and regulations") of the authority will (i) eliminate the income limit of seven times annual rent and utilities, except telephone, for units i

multi-family rental housing developments financed by mortgage loans approved by the authority on or after November 19, 1991, (ii) reduce the limit of 150% of area median income on 80% of the units in such a development to 115% of area median income, and (iii) provide that the income limit applicable to occupants upon reexamination and redetermination of their adjusted family incomes and eligibility subsequent to their initial occupancy of the units in such a development shall be 115% of area median income.

The proposed amendments are intended to assure that multi-family rental housing developments to be financed by the authority are occupied by persons and families most in need of affordable housing while at the same time permitting the construction and rehabilitation by the private sector of multi-family rental housing developments which are marketable and financially feasible. Based on a recent survey of its multi-family rental housing developments, the authority believes that the current income limits of seven times annual rent and utilities and of 150% of area median income do not adequately target the occupancy of the developments and that such limits can be reduced without adversely affecting the financial feasibility of future multi-family rental housing developments.

Impact: The authority expects that the proposed amendments will result in the occupancy of some of the units in the above described developments by persons and families whose incomes will be lower than those of persons who would occupy such units under the income limits in the authority's current rules and regulations. However, the authority does not expect that the proposed amendments to the rules and regulations will have any significant impact on the number of units produced or the number of low-income families and persons served. The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the proposed amendments to the rules and regulations.

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

Written comments may be submitted until November 15, 1991.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 Belvidere Street, Richmond, VA 23230, telephone (804) 782-1986.

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† **November 15, 1991** – Written comments may be accepted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.** The purposes of the proposed amendments are to improve the availability of the authority's single family program through the utilization of redevelopment and housing authorities and field originators, to modify the maximum sales prices to reflect current market conditions, to clarify the authority of the executive director as to the effective date of any increases in income limits and as to the waiver of income limits and maximum sales prices in certain circumstances, and to eliminate certain restrictions and reporting and monitoring requirements imposed on condominiums.

STATEMENT

Basis: Section 36-55.30:3 of the Code of Virginia.

Subject, substance and issues: The proposed amendments to the authority's rules and regulations for single family mortgage loans to persons and families of low and moderate income will, in order to assure the availability of its single family program in all areas of the state, permit the utilization of redevelopment and housing authorities to originate and process, as originating agents of the authority, single family mortgage loans financed by the authority under the program. The proposed amendments will also authorize the use of field originators to accept applications for mortgage loans. The authority expects to use the services of field originators in certain areas of the state in which the authority has determined that program activity should be increased. The foregoing changes are intended to supplement, as needed, the current system by which financial institutions originate mortgage loans. Under the proposed amendments, the authority may originate and service the mortgage loans for which loan applications are received by field originators or which originating agents or servicing agents will not service in terms and conditions acceptable to the authority or have agreed to terminate the servicing thereof.

The proposed amendments will increase the number of geographic areas having maximum sales prices and, in certain geographic areas, will increase the maximum sales prices. These proposed increases are intended to assure that the single family program will be available in all geographic areas of the state by reflecting current market conditions for housing for low and moderate income persons and families.

The proposed regulations will clarify the authority of the executive director in two areas. First, his authority to determine the effective date of any adjustments to income limits and to implement such adjustments on such date or dates as he shall determine to best accomplish the purposes of the single family program is specifically set forth in the proposed amendments. Second, the proposed amendments will also authorize the executive director to waive the income limits and maximum sales prices to enable the authority to assist the state in achieving its ecomonic and housing goals and policies, subject to the limits imposed by the federal tax code. The clarification in the foregoing two areas is intended to allow the

executive director to implement the income and sales price limitations in a manner so as to achieve the purposes of the program and the goals and objectives of the state.

Finally, the proposed amendments will eliminate the requirement for prior review of the financial status of the condominium in which a unit is to be financed by a conventional mortgage loan under the program. Because the condominium is required to have the approval of any two of FNMA, FHLMC or VA, the authority has determined that such prior review is no longer necessary. For the same reason, the proposed amendments will delete the requirement for annual reporting and review of such condominiums. Furthermore, because of the authority's experience with conventional mortgage loans financing units in condominiums approved by the above referenced federal agencies and instrumentalities, the proposed amendments will delete the limitation on the percentage of units which the authority will finance in such condominiums.

Impact: The authority expects that the proposed amendments will increase the number of low and moderate income persons and families served by the program. While the exact amount of such increase is difficult to determine with any exactitude, the authority expects an increase of approximately 500 to 1,000 annually. The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the proposed amendments.

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

Written comments may be submitted until November 15, 1991.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 Belvidere Street, Richmond, VA 23230, telephone (804) 782-1986.

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† **November 8, 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 Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0011. Rules and Regulations for Allocation of Low-Income Housing Tax Credits.** The purpose of the proposed amendments is to modify the rules and regulations with regard to the reservation of federal low-income housing tax credits from the state's tax credit ceiling for subsequent taxable years and to amend such rules and regulations to comply with the monitoring requirements imposed by changes to § 42 of the Internal Revenue Code which become effective January 1, 1992.

STATEMENT

Basis: Section 36-55.30:3 of the Code of Virginia.

Subject, substance and issues: The proposed 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. Add a provision permitting the executive director to reserve federal credits from the state's housing tax credit ceiling of a specified later taxable year to a development receiving a partial reservation of federal credits from the state's housing tax credit ceiling of the current taxable year; and

2. Add the procedure the authority will follow in monitoring for noncompliance with the provisions of § 42 of the Internal Revenue Code.

Impact: The authority does not expect that the proposed amendments to the rules and regulations will have any impact on the number of units produced or the number of low-income persons served in connection with the authority's allocation of federal credits. The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the proposed amendments to the rules and regulations.

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

Written comments may be submitted until November 8, 1991.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 Belvidere Street, Richmond, VA 23230, telephone (804) 782-1986.

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† **November 15, 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 Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0013. Rules and Regulations for Multi-Family Housing Developments for Mentally Disabled Persons.** The purpose of the proposed amendments is to modify the rules and regulations for multi-family housing developments for mentally disabled persons in order to reduce the income limit for occupants of multi-family rental housing developments financed by mortgage loans approved by the authority on or after November 19, 1991.

STATEMENT

Basis: Section 36-55.30:3 of the Code of Virginia.

Subject, substance and issues: The proposed amendment to the rules and regulations for multi-family housin

developments for disabled persons ("rules and regulations") of the authority will reduce the income limit of 150% of area median income to 115% of area median income for units in multi-family rental housing developments financed by mortgage loans approved by the authority on or after November 19, 1991. The proposed amendments are intended to assure that the multi-family rental housing developments to be financed by the authority are occupied by mentally disabled persons most in need of affordable rental housing while at the same time permitting the acquisition, construction and rehabilitation of multi-family rental housing developments which are marketable and financially feasible. Based on its experience to date in this program, the authority believes that the income limit of 150% of area median income does not adequately target the occupancy of the developments and that such limit can be reduced to 115% of area median income without adversely affecting the financial feasibility of the development.

Impact: The authority expects that the proposed amendments will result in the occupancy of some of the units in the above described developments by mentally disabled persons whose incomes will be lower than those of mentally disabled persons who would occupy such units under the income limits in the authority's current rules and regulations. However, the authority does not expect that the proposed amendments to the rules and regulations will have any significant impact on the number of units produced or the number of low-income families and persons served. The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the proposed amendments to the rules and regulations.

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

Written comments may be submitted until November 15, 1991.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 Belvidere Street, Richmond, VA 23230, telephone (804) 782-1986.

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† **November 15, 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 Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0014. Rules and Regulations for the Acquisition of Multi-Family Housing Developments.** The purpose of the proposed amendments is to modify the rules and regulations for the acquisition of multi-family housing developments in order to make certain reductions in the income limits of occupants of multi-family rental housing developments for which the board of the authority has approved the acquisition on or after November 19, 1991.

STATEMENT

Basis: Section 36-55.30:3 of the Code of Virginia.

Subject, substance and issues: The proposed amendments to the rules and regulations for the acquisition of multi-family housing developments ("rules and regulations") of the authority will (i) eliminate the income limit of seven times annual rent and utilities, except telephone, for units in multi-family rental housing developments for which the board of the authority has approved the acquisition on or after November 19, 1991, (ii) reduce the limit of 150% of area median income on 80% of the units in such a development to 115% of area median income, and (iii) provide that the income limit applicable to occupants upon reexamination and redetermination of their adjusted family incomes and eligibility subsequent to their initial occupancy of the units in such a development shall be 115% of area median income.

The proposed amendments are intended to assure that the multi-family rental housing developments to be acquired by the authority are occupied by persons and families most in need of affordable housing while at the same time permitting the acquisition by the authority of multi-family rental housing developments which are marketable and financially feasible. Based on a recent survey of its multi-family rental housing developments, the authority believes that the current income limits of seven times annual rent and utilities and of 150% of area median income do not adequately target the occupancy of the developments and that such limits can be reduced without adversely affecting the financial feasibility of future multi-family rental housing developments.

Impact: The authority expects that the proposed amendments will result in the occupancy of some of the units in the above described developments by persons and families whose incomes will be lower than those of persons and families who would occupy such units under the income limits in the authority's current rules and regulations. However, the authority does not expect that the proposed amendments to the rules and regulations will have any significant impact on the number of units produced or the number of low-income families and persons served. The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the proposed amendments to the rules and regulations.

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

Written comments may be submitted until November 15, 1991.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 Belvidere Street, Richmond, VA 23230, telephone (804) 782-1986.

COUNCIL ON INFORMATION MANAGEMENT

October 23, 1991 - 9 a.m. – Open Meeting
College of Business Building, Room 105, James Madison University, Harrisonburg, Virginia. ♿

A regular business meeting.

Contact: Linda Hening, Administrative Assistant, Council on Information Management, Washington Building, Suite 901, 1100 Bank Street, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

INNOVATIVE TECHNOLOGY AUTHORITY

October 28, 1991 - 2:30 p.m. – Open Meeting
Center for Innovative Technology, CIT Building, #600, 2214 Rock Hill Road, Herndon, Virginia. ♿

A meeting to elect officers.

Contact: Mike Cloggon, Center for Innovative Technology, CIT Building, #600, 2214 Rock Hill Road, Herndon, VA 22070, telephone, (703) 689-3013.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

November 11 1991 - 1 p.m. – Open Meeting
The Homestead, Hot Springs, Virginia.

A regular meeting to be held in conjunction with the annual conference of the Virginia Association of Counties. Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices by November 2.

Contact: Robert H. Kirby, Secretary, 702 Eighth Street Office Building, 805 East Broad Street, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

CITIZEN'S ADVISORY COUNCIL FOR INTERPRETING AND FURNISHING THE EXECUTIVE MANSION

October 29, 1991 - 11 a.m. – Open Meeting
The Executive Mansion, Capitol Square, Richmond, Virginia.

A general business meeting. An orientation session will be held for newly appointed Council members at 10 a.m.

Contact: Cathy Walker Green, Executive Mansion Director, The Executive Mansion, Capitol Square, Richmond, VA 23219, telephone (804) 786-2220.

DEPARTMENT OF LABOR AND INDUSTRY

January 14, 1992 - 7 p.m. – Public Hearing
Fourth Floor Conference Room, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Labor and Industry intends to adopt regulations entitled: **VR 425-01-81. Regulations Governing the Employment of Minors on Farms, in Gardens, and in Orchards.** Provision of regulations concerning child labor in agriculture.

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 October 28, 1991.

Contact: John J. Crisanti, Director, Office of Enforcement Policy, Powers-Taylor Building, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-2384.

LIBRARY BOARD

November 13, 1991 - 9:30 a.m. – Open Meeting
January 21, 1992 - 9:30 a.m. – Open Meeting
Virginia State Library and Archives, 3rd Floor, Supreme Court Room, 11th Street at Capitol Square, Richmond, Virginia. ♿

A meeting to discuss administrative matters.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

COMMISSION ON LOCAL GOVERNMENT

October 21, 1991 - 11 a.m. – Open Meeting
October 22, 1991 - 9 a.m. (if needed) – Open Meeting
Town of Purcellville, Town Hall, 130 East Main, Purcellville, Virginia.

Oral presentations regarding the petitions filed by John R. Wright and Raspberry Ridge Joint Venture requesting that their property within Loudoun County be annexed to the Town of Purcellville.

Persons desiring to participate in the Commissions's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices by October 14, 1991.

Contact: Barbara Bingham, Administrative Assistant, 702 Eighth Street Office Building, Richmond, VA 23219 telephone (804) 786-6508 or (804) 786-1860/TDD ☎

October 21, 1991 - 7 p.m. – Public Hearing
Town of Purcellville, Town Hall, 130 East Main, Punellville, Virginia.

Public hearing regarding the petitions filed by John R. Wright and Raspberry Ridge Joint Venture requesting that their property within Loudoun County be annexed to the Town of Purcellville.

Persons desiring to participate in the Commissions's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices by October 14, 1991.

Contact: Barbara Bingham, Administrative Assistant, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

November 11, 1991 - 9 a.m. – Open Meeting
The Homestead, Hot Springs, Virginia.

A regular meeting to consider such matters as may be presented. The meeting will be held in conjunction with the annual conference of the Virginia Association of Counties.

Persons desiring to participate in the Commissions's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices by November 2, 1991.

Contact: Barbara Bingham, Administrative Assistant, 702 Eighth Street Office Building, Richmond, VA 23219, telephone, (804) 786-6508 or (804) 786-1860/TDD ☎

LONGWOOD COLLEGE

Board of Visitors

October 28, 1991 - 9:30 a.m. – Open Meeting
Longwood College, Ruffner Building, Virginia Room, Farmville, Virginia. ♿

A meeting to conduct routine business of the board.

Contact: William F. Dorrill, President, Office of the President, Longwood College, Farmville, VA 23901, telephone (804) 395-2001.

STATE LOTTERY BOARD

October 28, 1991 - 11 a.m. – Open Meeting
State Lottery Department, Regional Office, 3609 Thirlane Road, Roanoke, 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 Department, 2201 West Broad Street, Richmond, VA 23220, telephone (804) 367-9433.

MARINE RESOURCES COMMISSION

October 22, 1991 - 9:30 a.m. – Open Meeting
November 26, 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 marine environmental matters at 9:30 a.m.: permit applications 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 and 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, Virginia 23607, telephone (804) 247-8088.

BOARD OF MEDICINE

November 22, 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 465-10-01. Certification for Radiological Technology Practitioners.** The proposed regulations establish educational requirements, examination, and fees for certification to practice as a Radiological Technology Practitioner.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until November 22, 1991, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

Advisory Board on Occupational Therapy

October 25, 1991 - 9:30 a.m. – Open Meeting
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia.

A meeting to (i) review regulations, specifically § 2.2 C; (ii) discuss supervised practice; (iii) elect officers; and (iv) conduct such other business that may come before the committee. Public comments will not be received.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Advisory Board on Physical Therapy

† **January 17, 1992 - 9 a.m.** – Open Meeting
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia.

A meeting to (i) review and discuss regulations, bylaws, procedure manuals; (ii) receive reports; and (iii) discuss other items which may come before the advisory board. Public comments will not be received.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Advisory Committee on Radiological Technology Practitioners

December 13, 1991 - 1 p.m. – Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia.

A meeting to review and discuss public comments and prepare recommendations to the full board on the proposed Regulations Governing the Practice of Radiological Technology Practitioners (VR 465-10-01). The Advisory Committee will not entertain public comments.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Advisory Board on Respiratory Therapy

† **November 14, 1991 - 2 p.m.** – Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia.

A meeting to (i) review the application process; (ii) review the regulations; (iii) review proposed amendments to the Code which may impact the practice of respiratory therapy; and (iv) review such other business which may come before it. The Advisory Board may entertain public comments where appropriate.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

State Human Rights Committee

† **October 25, 1991 - 9 a.m.** – Open Meeting
Southern Virginia Mental Health Institute, Auditorium, 382 Taylor Drive, Danville, Virginia.

A regular meeting to discuss business relating to human rights issues. Agenda items are listed prior to the meeting.

Contact: Elsie D. Little, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Human Rights, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3988.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

October 23, 1991 - 10 a.m. – Open Meeting
Virginia Beach Community Services Board, Virginia Beach, Virginia.

A regular monthly meeting. The agenda will be published on October 16. The agenda may be obtained by calling Jane Helfrich.

Tuesday: Informal Session - 6 p.m.

Wednesday: Committee Meetings - 8:45 a.m. Regular Session - 10 a.m.

See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Services Board, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

† **November 7, 1991 - 7 p.m.** – Open Meeting
† **December 5, 1991 - 7 p.m.** – Open Meeting
502 South Main Street, No. 4, Culpeper, Virginia.

From 7 p.m. to 7:30 p.m. the Board of Directors will hold a business meeting to discuss DOC contract, budget, and other related business. Then the CCRE

will meet to review cases 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 South Main Street, No. 4, Culpeper, VA 22701, telephone (703) 825-4562.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

† **November 9, 1991 - 8:30 a.m.** – Open Meeting
Virginia Military Institute, Smith Hall Board Room, Smith Hall (administration building), Lexington, Virginia. ♿

A regular meeting to consider committee reports.

Contact: Colonel Edwin L. Dooley, Jr., Secretary, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

October 26, 1991 - 9 a.m. – Open Meeting
Wintergreen Resort, Wintergreen, Virginia. ♿

This meeting will include reports from the executive, finance, education and exhibits, marketing, personnel, planning/facilities, and research and collections committees. Public comment will be received following approval of the minutes of the July meeting.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Avenue, Martinsville, VA 24112, telephone (703) 666-8616, SCATS 857-6950, or (703) 666-8636/TDD ☎

BOARD OF NURSING

† **November 18, 1991 - 9 a.m.** – Open Meeting
† **November 19, 1991 - 9 a.m.** – Open Meeting
† **November 20, 1991 - 9 a.m.** – Open Meeting
Department of Health Professions, Conference Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A regular meeting to consider matters related to educational programs, discipline of licensees, licensure by examination and endorsement and other matters under the jurisdiction of the board. Public comment will be received during an open forum session beginning at 11 a.m. on Monday, November 18, 1991.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☎

VIRGINIA OUTDOORS FOUNDATION

October 21, 1991 - 10:30 a.m. – Open Meeting
Stratford Hall, Conference Room, Stratford, Virginia. ♿

A general business meeting

Contact: Tyson B. VanAuken, Executive Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-5539.

BOARD OF PHARMACY

November 23, 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 Pharmacy intends to amend regulations entitled: **VR 530-01-2. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.** The proposed amendment established a permanent fee for initial licensure of practitioners of the healing arts to sell controlled substances. The present fee was established pursuant to an emergency regulation which will expire on September 18, 1991.

Statutory Authority: §§ 54.1-2400 (6) and 54.1-3302 of the Code of Virginia.

Written comments may be submitted until November 23, 1991.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9911.

PRIVATE SECURITY SERVICES ADVISORY BOARD

† **October 31, 1991 - 9 a.m.** – Open Meeting
Ramada Oceanside Resort, 57th and Oceanfront, Virginia Beach, Virginia. ♿

A meeting to discuss business of the Advisory Board.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 East Broad Street, 10th Floor, Richmond, VA 23219, telephone (804) 786-4000.

REAL ESTATE APPRAISER BOARD

† **November 12, 1991 - 2 p.m.** – Public Hearing
Council Chambers, Room 450, Municipal Building, 215 Church Avenue, 4th Floor, Roanoke, Virginia.

† **November 19, 1991 - 2 p.m.** – Public Hearing
Department of Social Services, Pembroke Office Park, Pembroke IV, Suite 300, Virginia Beach, Virginia.

† **November 20, 1991 - 2 p.m.** – Public Hearing
Board of Supervisors Board Room, Massey Building, A Level, 4100 Chain Bridge Road, Fairfax, Virginia.

† **December 10, 1991 - 2 p.m.** – Public Hearing
Department of Commerce, 3600 West Broad Street, 3rd Floor, Room 395, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Real Estate Appraiser Board intends to adopt regulations entitled: **VR 583-01-03. Real Estate Appraiser Board Regulations.** The purpose of the proposed regulations is to establish the qualifications for licensure and standards of practice for real estate appraisers.

STATEMENT

Basis, Purpose, Impact and Summary: Pursuant to Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 of the Code of Virginia and in accordance with Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia, the Real Estate Appraiser Board proposes to promulgate a new regulation governing real estate appraisers that will replace its existing regulation promulgated under the emergency provisions of the Administrative Process Act.

The proposed regulation requires the registration of business entities who provide appraisal services and the licensure of individuals providing services as a certified general, certified residential or licensed residential real estate appraiser. Procedures and qualifications for individuals desiring a temporary license and the requirement for instructors to be certified have been added. This regulation applies to an estimated 2,500 individuals, 500 business entities and 100 instructors.

The regulation establishes the qualifications for each category of licensure. The individual must be in good standing if licensed or certified in another jurisdiction, not have a criminal conviction, and meet current educational and experience requirements. For each category of licensure, additional specific education, experience and examination requirements are provided. Procedures and qualifications are also established for obtaining a temporary license. A fee schedule is being prepared. This fee schedule will be established to assure compliance with § 54.1-113 of the Code of Virginia which requires that fees generated by the program cover the expenses of the program. The fee schedule will be disseminated to the Registrar and to all interested parties as soon as it becomes available. The examination fees are established by the vendor providing the service. The regulation also establishes the qualifications and procedures for renewal of a business registration, individual license and instructor certificate, as well as providing standards of conduct and professional practice. A new section has been added on the approval of educational courses for licensure and renewal.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Written comments may be submitted until December 24, 1991.

Contact: Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

REAL ESTATE BOARD

† **November 21, 1991 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A regular meeting of the board to consider board business including license applications and disciplinary cases.

Contact: Joan L. White, Assistant Director, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8552.

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† **November 21, 1991 - 2 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 amend regulations entitled: **VR 585-01-1. Virginia Real Estate Board Licensing Regulations.** The proposed regulations relate to the licensing and conducting of real estate business in accordance with established standards.

STATEMENT

Pursuant to §§ 54.1-201 and 54.1-2105 and in accordance with Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia, the Real Estate Board hereby submits proposed regulations to amend, add to, delete and clarify its existing regulations governing licensed and registered real estate professionals.

The regulations require persons and firms acting as real estate brokers and salespersons to be licensed and rental location agents to be registered in accordance with standards and procedures set forth in the regulations. The regulations also set forth requirements for licensure and certification of schools which teach approved real estate courses. In addition, the regulations set standards of conduct for all of these licensees and registrants.

The regulations apply directly to approximately 13,000 brokers, 54,000 salespersons, 3,100 firms, 30 rental location

agents and 50 proprietary schools.

Statutory Authority: §§ 9-6.14:1, 54.1-201 and 54.1-2105 of the Code of Virginia.

Written comments may be submitted until January 5, 1992.

Contact: Joan L. White, Assistant Director, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8552.

BOARD OF REHABILITATIVE SERVICES

† **October 24, 1991 - 10 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

The board will (i) receive department reports; (ii) consider regulatory matters; and (iii) conduct the regular business of the board.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD and Voice ☎ or (804) 367-0280/TDD ☎

Finance Committee

† **October 24, 1991 - 9 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

The committee will review monthly financial reports and budgetary projections.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD and Voice ☎ or (804) 367-0280/TDD ☎

Legislation Committee

† **October 24, 1991 - 9 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

Legislative update.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD and Voice ☎ or (804) 367-0280/TDD ☎

Program and Evaluation Committee

† **October 24, 1991 - 9 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ♿ (Interpreter for deaf provided upon request)

A special programs presentation.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD and Voice ☎ or (804) 367-0280/TDD ☎

STATE BOARD OF SOCIAL SERVICES

November 20, 1991 - 2 p.m. – Open Meeting
November 21, 1991 - 9 a.m. (if necessary) – Open Meeting
Department of Social Services, 8007 Discovery Drive, Richmond, Virginia. ♿

A work session and formal business meeting.

Contact: Phyllis Sisk, Administrative Staff Specialist, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9236, toll-free 1-800-552-3431 or 1-800-552-7096/TDD ☎

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

November 8, 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 Social Services intends to adopt regulations entitled: **VR 615-01-37. Aid to Dependent Children (ADC) Program - Elimination of Monthly Reporting.** The regulation eliminates the monthly reporting requirement as a condition of eligibility. The proposed regulation is allowed under authority of the Omnibus Budget Reconciliation Act (OBRA) of 1990 - P.L. 101-508.

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

Written comments may be submitted until November 8, 1991, to Mr. Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

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November 30, 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 Social Services intends to amend regulations entitled: **VR 615-45-2. Child Protective Services Client Appeals.** The purpose of the amendments to the regulation is to strengthen and clarify the hearing process for appeals of dispositions in child abuse and neglect cases.

Statutory Authority: § 63.1-248.6:1 of the Code of Virginia.

Written comments may be submitted until November 30, 1991, to Donna Douglas, Bureau of Client Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Margaret Friedenberg, Regulatory Coordinator, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

GOVERNOR'S TASK FORCE ON SUBSTANCE ABUSE AND SEXUAL ASSAULT ON COLLEGE CAMPUSES

October 24, 1991 - 9:30 a.m. – Public Hearing
George Mason University, Student Union II Ballroom, Virginia.

Public hearing.

Contact: Kris Ragan, Staff Assistant, P.O. Box 1422, Richmond, VA 23211, telephone (804) 786-6316.

COMMONWEALTH TRANSPORTATION BOARD

October 23, 1991 - 2 p.m. – Open Meeting
Natural Bridge Hotel, Natural Bridge, Virginia. (Interpreter for deaf provided upon request)

† **November 20, 1991 - 2 p.m.** – Open Meeting
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. (Interpreter for deaf provided upon request)

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

† **November 21, 1991 - 10 a.m.** – Open Meeting
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. (Interpreter for deaf provided upon request)

A monthly meeting 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 the right to amend these conditions.

Contact: John G. Milliken, Secretary of Transportation, 1491 East Broad Street, Richmond, VA 23219, telephone (804) 786-6670.

VIRGINIA RESOURCES AUTHORITY

November 12, 1991 - 9 a.m. – Open Meeting
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 October 8, 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, Virginia 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

BOARD FOR THE VISUALLY HANDICAPPED

† **October 26, 1991 - 11 a.m.** – Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for deaf provided upon request)

A quarterly meeting to review policy and procedures of the Virginia Department for the Visually Handicapped. The board reviews and comments on the department's budget.

Contact: Joseph A. Bowman, Executive Assistant, 397 Azalea Avenue, Richmond, Virginia 23227, telephone (804) 371-3140 or toll-free 1-800-622-2155.

VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

† **November 13, 1991 - 1 p.m.** – Open Meeting
Wayside Inn, Middletown, Virginia.

Council committees meet.

† **November 13, 1991 - 7:15 p.m.** – Open Meeting
Lord Fairfax Community College, Special Events Center, Middletown, Virginia.

Session to receive comments on vocational-technical education.

† **November 14, 1991 - 8:30 a.m.** – Open Meeting
Wayside Inn, Middletown, Virginia.

Council business session.

Contact: George S. Orr, Jr., Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Road, Richmond, Virginia 23237, telephone (804) 375-6218.

VIRGINIA VOLUNTARY FORMULARY BOARD

† **November 22, 1991 - 10 a.m.** – Public Hearing
109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

The Virginia Voluntary Formulary Board will hold a public hearing on this date. The purpose of this hearing is to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add and delete drugs and drug products to the Formulary that became effective on February 15, 1991, and the most recent supplement to that Formulary. Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on November 22, 1991, will be made a part of the hearing record.

† **January 9, 1992 - 10:30 a.m.** – Open Meeting
Washington Building, 2nd Floor Board Room, 1100 Bank Street, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products pertaining to the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor Street, Room B1-9, Richmond, Virginia 23219, telephone (804) 786-4326.

DEPARTMENT OF WASTE MANAGEMENT

October 28, 1991 - 10 a.m. – Open Meeting
Holiday Inn, 1776, US 60 Bypass Road, Williamsburg, Virginia. ♿ (Interpreter for deaf provided upon request)

November 4, 1991 - 10 a.m. – Open Meeting
Roanoke County Administrative Center, 3837 Brambleton Avenue, S.W., Roanoke, Virginia. ♿ (Interpreter for deaf provided upon request)

November 30, 1991 - 10 a.m. – Open Meeting
Holiday Inn South, US 1 and I-95, Fredericksburg, Virginia. ♿ (Interpreter for deaf provided upon request)

The department will present the preliminary draft of its proposed Solid Waste Permit Application Fee Regulation to discuss alternatives and to solicit comments from the public and regulated community.

Contact: W. Gulevich, Director, Division of Technical Services, 101 N. 14th Street, Richmond, VA 23219, elephone (804) 371-2383 or (804) 371-8737/TDD ☎

STATE WATER CONTROL BOARD

November 7, 1991 - 7 p.m. – Open Meeting
State Water Control Board, 4900 Cox Road, Innsbrook Corporate Center, Board Room, Richmond, Virginia.

The purpose of the meeting is to receive views and comments and to answer questions of the public on the following Notices on Intended Regulatory Action:

1. VR 680-14-09. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges Less Than 1,000 Gallons Per Day.

2. VR 680-14-10. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges from Molluscan Shellfish and Crustacea Processing Establishments.

3. VR 680-14-11. Corrective Action Plan General Permit for Underground Storage Tanks.

Contact: Richard Ayers, State Water Control Board, P. O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

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November 21, 1991 - 7 p.m. – Public Hearing
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-16-02. Roanoke River Basin Water Quality Management Plan.** The proposed amendment would delete those portions of the Plan to be covered by adoption, through a separate regulatory action, of the Upper Roanoke River Subarea Water Quality Management Plan.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until 4 p.m., December 6, 1991, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Wellford S. Estes, State Water Control Board, West Central Regional Office, P.O. Box 7017, Roanoke, Virginia 24019, telephone (703) 857-7432.

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November 21, 1991 - 7 p.m. – Public Hearing
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control

Board intends to adopt regulations entitled: **VR 680-16-02.1. Upper Roanoke River Subarea Water Quality Management Plan.** The proposal is to adopt the Upper Roanoke River Subarea Water Quality Management Plan which updates those portions of the Roanoke River Basin Water Quality Management Plan in the Upper Roanoke River Subarea. A separate regulatory action will amend the Basin Plan to delete those areas to be covered by the Subarea Plan.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until 4 p.m., December 6, 1991, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Wellford S. Estes, State Water Control Board, West Central Regional Office, P.O. Box 7017, Roanoke, Virginia 24019, telephone (703) 857-7432.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **October 28, 1991 - 8:30 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ♿

An open meeting to discuss comments from the public hearing and to adopt the proposed regulations and to consider other matters which require board action.

Contact: Mr. Geralde W. Morgan, Board Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING COMPARATIVE PRICE ADVERTISING

November 13, 1991 - 10 a.m. – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

Joint subcommittee will review proposed legislation. (HJR 337)

Contact: Mary Geisen, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

VIRGINIA CODE COMMISSION

† **November 27, 1991 - 10 a.m.** – Open Meeting
General Assembly Building, Sixth Floor Conference Room, Richmond, Virginia.

The commission will continue its work on the revision of Title 28.1 (fish, oysters, shellfish, etc.) of the Code of Virginia, and will hold a general business meeting.

† **December 11, 1991 - 10 a.m.** – Open Meeting
General Assembly Building, Sixth Floor Conference Room, Richmond, Virginia.

The commission will meet to discuss annual publication of the Code of Virginia, electronic publishing, and the proposed publication of a Virginia Administrative Code.

Contact: Joan W. Smith, Registrar of Regulations, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

GOVERNOR'S COMMISSION ON EDUCATIONAL OPPORTUNITY FOR ALL VIRGINIANS

† **October 28, 1991 - 10 a.m.** – Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia.

The commission will meet to review the recommendations of the Governor's Commission on Educational Opportunity for All Virginians. (SJR 251)

Contact: John McE. Garrett, Senate of Virginia, P. O. Box 396, Richmond, VA 23203, telephone (804) 786-3838 or Norma Szakal, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

HOUSE APPROPRIATIONS COMMITTEE

† **October 21, 1991 - 9:30 a.m.** – Open Meeting
General Assembly Building, 9th Floor Committee Room, Richmond, Virginia.

A monthly meeting.

Contact: Linda Ladd, General Assembly Building, 9th Floor, Richmond, VA 23219, telephone (804) 786-1837.

VIRGINIA HOUSING STUDY COMMISSION

November 15, 1991 - 9 a.m. – Open Meeting
Richmond Radisson Hotel, Richmond, Virginia.

The commission will meet to discuss housing issues in Virginia and SJR 204.

Contact: Nancy M. Ambler, Director, 205 North 4th Street, Richmond, VA 23219, telephone (804) 225-3797. Persons wishing to speak should contact Nancy Blanchard, Department of Housing and Community Development, 205 North 4th Street, Richmond, VA 23219, telephone (804

786-7891.

JOINT SUBCOMMITTEE STUDYING HUMAN IMMUNODEFICIENCY VIRUSES (AIDS)

† **November 25, 1991 - 10 a.m.** – Open Meeting
† **December 18, 1991 - 10 a.m.** – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

The subcommittee will hear presentations and deliberations on issues related to testing. (HJR 438)

Contact: Norma Szakal, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING MATERNAL AND PERINATAL DRUG EXPOSURE

† **October 21, 1991 - 1 p.m.** – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

† **November 25, 1991 - 1:30 p.m.** – Open Meeting
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia.

The subcommittee will meet to review initial drafts of legislation and receive update on statewide activities. (HJR 387)

Contact: Norma Szakal, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

COMMISSION STUDYING THE MEASURES NECESSARY TO ASSURE VIRGINIA'S ECONOMIC RECOVERY

October 30, 1991 - 10 a.m. – Public Hearing
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

Issues concerning innovation will be discussed in addition to public hearing on the commission's report. (HJR 433)

Contact: John MacConnell, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

YOUTH SERVICES COMMISSION

† **December 3, 1991 - 9 a.m.** – Open Meeting
General Assembly Building, House Appropriations Committee Room, 9th Floor, 910 Capitol Street, Richmond, Virginia.

Presentations by state agencies and statewide organizations and associations on their legislative agendas on youth related issues for the 1992 General Assembly session.

† **December 3, 1991 - 1 p.m.** – Open Meeting
General Assembly Building, House Appropriations Committee Room, 9th Floor, 910 Capitol Street, Richmond, Virginia.

Commission business meeting.

Contact: Nancy H. Ross, Executive Director, or Mary R. Simmons, General Assembly Building, Room 517B, 910 Capitol Street, Richmond, VA 23219, telephone (804) 371-2481.

CHRONOLOGICAL LIST

OPEN MEETINGS

October 21
Barbers, Board for
Community Colleges, State Board for
Emergency Planning Committee, Local
- County of Prince William, City of Manassas and City of Manassas Park
† House Appropriations Committee
Local Government, Commission on
† Maternal and Perinatal Drug Exposure, Joint Subcommittee Studying
Outdoors Foundation, Virginia

October 22
† Child Day Care and Early Childhood Programs, Council on
† Hazardous Materials Training Committee
Health Services Cost Review Council, Virginia
Housing and Community Development, Board of
Local Government, Commission on
Marine Resources Commission

October 23
Aging, Governor's Advisory Board on
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
Commonwealth Transportation Board
Emergency Planning Committee, Local - Gloucester County
Health Professions, Department of
- Task Force on Nurse Midwives and Obstetric Care
Mental Health, Mental Retardation and Substance Abuse Services Board, State

October 24
Aging, Governor's Advisory Board on
Arts, Commission for the
† Auctioneers, Board for
Audiology and Speech Pathology, Board of

† Rehabilitative Services, Board of
- Finance Committee
- Legislation Committee
- Program and Evaluation Committee

October 25
Information Management, Council on
Medicine, Board of
- Advisory Board on Occupational Therapy

† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- State Human Rights Committee

October 26
Museum of Natural History, Virginia
- Board of Trustees

† Visually Handicapped, Board for the

October 28
Alcoholic Beverage Control Board
Chesapeake Bay Local Assistance Board
- Central Area Review Committee

† Educational Opportunity for All Virginians, Commission to Review the Recommendations of the Governor's Commission on
Innovative Technology Authority
Longwood College
- Board of Visitors

Lottery Board, State
Waste Management, Department of
† Waterworks and Wastewater Works Operators, Board for

October 29
Aviation Board, Virginia
Health, State Board of
Interpreting and Furnishing the Executive Mansion, Citizen's Advisory Council for

October 30
Education, Board of
Health, State Board of

October 31
Building Code Technical Review Board, State
Education, Board of
† Emergency Planning Committee, Local
- Cities of Hampton, Newport News, Williamsburg and Poquoson and the County of York

† Private Security Services Advisory Board

November 4
Waste Management, Department of

November 5
† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Professional Engineers

Hopewell Industrial Safety Council

November 6
† Chesapeake Bay Local Assistance Board
- Southern Area Review Committee

Higher Education for Virginia, State Council of

November 7
† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Architects

Dentistry, Board of
Emergency Planning Committee, Local - Chesterfield County
† Middle Virginia Board of Directors and the Middle Virginia Community Corrections Resources Board
Water Control Board, State

November 8
Dentistry, Board of

November 9
† Military Institute, Virginia
- Board of Visitors

November 11
Intergovernmental Relations, Advisory Commission on Local Government, Commission on

November 12
† ASAP Policy Board - Rockbridge
- Board of Directors

Virginia Resources Authority

November 13
† Chesapeake Bay Local Assistance Board
- Northern Area Review Committee

Comparative Price Advertising, Joint Subcommittee Studying
Corrections, Board of
Emergency Planning Committee, Local - Portsmouth
† Historic Preservation Foundation, Virginia
Library Board

November 14
Corrections, Board of
- Liaison Committee

† Medicine, Board of
- Advisory Board on Respiratory Therapy

November 15
† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Land Surveyors

Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board

Virginia Housing Study Commission

November 18
Emergency Planning Committee, Local
- County of Prince William, City of Manassas and City of Manassas Park

November 20

† Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
Social Service, State Board of
† Transportation Board, Commonwealth

November 21
† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
† Real Estate Board
Social Service, State Board of
† Transportation Board, Commonwealth

November 22
† Board for Geology

November 25
† Chesapeake Bay Local Assistance Board
- Central Area Review Committee
† Human Immunodeficiency Viruses, Joint Subcommittee Studying
† Maternal and Perinatal Drug Exposure, Joint Subcommittee Studying

November 26
Marine Resources Commission

November 27
† Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
† Code Commission, Virginia

November 30
Waste Management, Department of

December 3
Hopewell Industrial Safety Council
† Youth Services Commission

December 5
Emergency Planning Committee, Local - Chesterfield County
† Middle Virginia Board of Directors and the Middle Virginia Community Corrections Resources Board

December 11
† Code Commission, Virginia
Corrections, Board of

December 13
Medicine, Board of
- Advisory Committee on Radiological Technology Practitioners

December 16
Emergency Planning Committee, Local
- County of Prince William, City of Manassas and City of Manassas Park

December 18
† Human Immunodeficiency Viruses, Joint Subcommittee Studying

January 9, 1992
† Voluntary Formulary Board, Virginia

January 17
† Medicine, Board of
- Advisory Board on Physical Therapy

January 21
Library Board

PUBLIC HEARINGS

October 21
Local Government, Commission on

October 24
Substance Abuse and Sexual Assault on College Campuses, Governor's Task Force on

October 28
Measures Necessary to Assure Virginia's Economic Recovery, Commission Studying the

October 30
Air Pollution Control Board, State
Alcoholic Beverage Control Board
Commerce, Department of
† Historic Resources, Department of

October 31
† Historic Resources, Department of

November 6
† Historic Resources, Department of

November 7
† Historic Resources, Department of

November 12
† Real Estate Appraiser Board

November 19
† Real Estate Appraiser Board

November 20
† Real Estate Appraiser Board

November 21
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
† Real Estate Board
Water Control Board, State

November 22
† Voluntary Formulary Board, Virginia

November 25
Hearing Aid Specialists, Board for

December 10
† Real Estate Appraiser Board

January 14, 1992
Labor and Industry, Department of