



# Virginia Register of Regulations

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# THE VIRGINIA REGISTER INFORMATION PAGE

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**THE VIRGINIA REGISTER OF REGULATIONS** is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of 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 intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The Joint Commission on Administrative Rules (JCAR) or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-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 21-day objection period; (ii) the Governor exercises his authority to require the agency to

provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

Proposed regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

## **FAST-TRACK RULEMAKING PROCESS**

Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

## **EMERGENCY REGULATIONS**

If an agency demonstrates that (i) there is an immediate threat to the public's health or safety; or (ii) Virginia statutory law, the appropriation act, federal law, or federal regulation requires a regulation to take effect no later than (a) 280 days from the enactment in the case of Virginia or federal law or the appropriation act, or (b) 280 days from the effective date of a federal regulation, it then requests the Governor's approval to adopt 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 to addressing specifically defined situations and may not exceed 12 months in duration. Emergency regulations are published as soon as possible in the *Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not 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 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 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. **23:7 VA.R. 1023-1140 December 11, 2006**, refers to Volume 23, Issue 7, pages 1023 through 1140 of the *Virginia Register* issued on December 11, 2006.

*The Virginia Register of Regulations* is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **R. Steven Landes**, Chairman; **John S. Edwards**, Vice Chairman; **Ryan T. McDougle**; **Robert Hurt**; **Robert L. Calhoun**; **Frank S. Ferguson**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **James F. Almand**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **June T. Chandler**, Assistant Registrar.

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## PUBLICATION SCHEDULE AND DEADLINES

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This schedule is available on the *Register's* Internet home page (<http://register.state.va.us>).

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### July 2008 through April 2009

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
<b>INDEX 3 Volume 24</b>		
		<b>July 2008</b>
24:22	June 18, 2008	July 7, 2008
24:23	July 2, 2008	July 21, 2008
24:24	July 16, 2008	August 4, 2008
24:25	July 30, 2008	August 18, 2008
24:26	August 13, 2008	September 1, 2008
<b>FINAL INDEX Volume 24</b>		
		<b>October 2008</b>
25:1	August 27, 2008	September 15, 2008
25:2	September 10, 2008	September 29, 2008
25:3	September 24, 2008	October 13, 2008
25:4	October 8, 2008	October 27, 2008
25:5	October 22, 2008	November 10, 2008
25:6	November 5, 2008	November 24, 2008
25:7	November 18, 2008 ( <b>Tuesday</b> )	December 8, 2008
<b>INDEX 1 Volume 25</b>		
		<b>October 2008</b>
25:8	December 3, 2008	December 22, 2008
25:9	December 16, 2008 ( <b>Tuesday</b> )	January 5, 2009
25:10	December 30, 2008 ( <b>Tuesday</b> )	January 19, 2009
25:11	January 14, 2009	February 2, 2009
25:12	January 28, 2009	February 16, 2009
25:13	February 11, 2009	March 2, 2009
25:14	February 25, 2009	March 16, 2009
<b>INDEX 2 Volume 25</b>		
		<b>April 2009</b>
25:15	March 11, 2009	March 30, 2009
25:16	March 25, 2009	April 13, 2009
25:17	April 8, 2009	April 27, 2009

\*Filing deadlines are Wednesdays unless otherwise specified.

# CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2008 VAC Supplement includes final regulations published through *Virginia Register* Volume 24, Issue 7, dated December 10, 2007, and fast-track regulations published through Virginia Register Volume 24 Issue 10, dated January 21, 2008). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 2. Agriculture</b>			
2 VAC 5-30-10	Amended	24:17 VA.R. 2318	6/12/08
2 VAC 5-30-20	Amended	24:17 VA.R. 2318	6/12/08
2 VAC 5-50-20	Amended	24:17 VA.R. 2320	6/12/08
2 VAC 5-50-70	Amended	24:17 VA.R. 2320	6/12/08
2 VAC 5-50-100	Amended	24:17 VA.R. 2320	6/12/08
2 VAC 5-50-110	Amended	24:17 VA.R. 2321	6/12/08
2 VAC 5-90-30	Amended	24:17 VA.R. 2322	6/12/08
2 VAC 5-150-10	Amended	24:17 VA.R. 2323	6/12/08
2 VAC 5-180-20	Amended	24:17 VA.R. 2326	6/12/08
2 VAC 5-180-30	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-50	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-60	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-80	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-120	Amended	24:17 VA.R. 2328	6/12/08
2 VAC 5-210-30	Amended	24:9 VA.R. 1096	12/11/07
2 VAC 5-210-41	Amended	24:9 VA.R. 1097	12/11/07
2 VAC 5-390-180	Amended	24:15 VA.R. 2023	3/11/08
2 VAC 5-400-5	Added	24:17 VA.R. 2330	6/12/08
2 VAC 5-420-30	Amended	24:20 VA.R. 2838	5/21/08
2 VAC 5-420-80	Amended	24:20 VA.R. 2840	5/21/08
2 VAC 5-501-80	Amended	24:17 VA.R. 2332	6/12/08
2 VAC 5-501-100	Amended	24:17 VA.R. 2336	6/12/08
2 VAC 5-510-10	Amended	24:17 VA.R. 2340	6/12/08
2 VAC 5-510-50	Amended	24:17 VA.R. 2341	6/12/08
2 VAC 5-510-60	Repealed	24:17 VA.R. 2341	6/12/08
2 VAC 5-510-70	Repealed	24:17 VA.R. 2341	6/12/08
2 VAC 5-510-80	Repealed	24:17 VA.R. 2342	6/12/08
2 VAC 5-510-90	Amended	24:17 VA.R. 2342	6/12/08
2 VAC 5-510-100	Repealed	24:17 VA.R. 2344	6/12/08
2 VAC 5-510-110	Amended	24:17 VA.R. 2344	6/12/08
2 VAC 5-510-120	Repealed	24:17 VA.R. 2345	6/12/08
2 VAC 5-510-130	Amended	24:17 VA.R. 2345	6/12/08
2 VAC 5-510-140	Repealed	24:17 VA.R. 2347	6/12/08
2 VAC 5-510-150	Amended	24:17 VA.R. 2347	6/12/08
2 VAC 5-510-160	Repealed	24:17 VA.R. 2348	6/12/08
2 VAC 5-510-170	Amended	24:17 VA.R. 2348	6/12/08
2 VAC 5-510-180	Repealed	24:17 VA.R. 2348	6/12/08
2 VAC 5-510-190	Amended	24:17 VA.R. 2348	6/12/08

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
2 VAC 5-510-200	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-210	Amended	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-220	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-230	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-240	Amended	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-250	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-260	Amended	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-270	Repealed	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-290	Amended	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-300	Repealed	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-310	Amended	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-320	Repealed	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-330	Amended	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-340	Repealed	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-350	Amended	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-360	Repealed	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-390	Amended	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-400	Repealed	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-410	Amended	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-420	Amended	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-500	Amended	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-510	Amended	24:17 VA.R. 2353	6/12/08
2 VAC 5-531-50	Amended	24:16 VA.R. 2235	5/29/08
2 VAC 5-531-140	Amended	24:16 VA.R. 2241	5/29/08
2 VAC 15-20-81	Amended	24:16 VA.R. 2242	4/14/08
2 VAC 20-20-70	Amended	24:17 VA.R. 2355	6/12/08
2 VAC 20-20-130	Amended	24:17 VA.R. 2355	6/12/08
2 VAC 20-20-210	Amended	24:17 VA.R. 2355	6/12/08
2 VAC 20-40-50	Amended	24:17 VA.R. 2357	6/12/08
<b>Title 3. Alcoholic Beverages</b>			
3 VAC 5-50-140 emer	Amended	24:11 VA.R. 1344	1/9/08-1/8/09
3 VAC 5-50-145 emer	Added	24:11 VA.R. 1345	1/9/08-1/8/09
3 VAC 5-70-220	Amended	24:14 VA.R. 1891	5/1/08
3 VAC 5-70-225 emer	Added	24:10 VA.R. 1257	1/2/08-1/1/09
<b>Title 4. Conservation and Natural Resources</b>			
4 VAC 5-50-10 through 4VAC5-50-170	Repealed	24:17 VA.R. 2357	5/28/08
4 VAC 15-20-50	Amended	24:10 VA.R. 1258	1/1/08
4 VAC 15-20-130	Amended	24:10 VA.R. 1259	1/1/08
4 VAC 15-20-200	Amended	24:10 VA.R. 1261	1/1/08
4 VAC 15-20-210	Amended	24:10 VA.R. 1261	1/1/08
4 VAC 15-30-5	Amended	24:10 VA.R. 1262	1/1/08
4 VAC 15-30-40	Amended	24:10 VA.R. 1262	1/1/08
4 VAC 15-320-25	Amended	24:10 VA.R. 1265	1/1/08
4 VAC 15-330-30	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-100	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-120	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-160	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-171	Amended	24:10 VA.R. 1273	1/1/08
4 VAC 15-330-200	Amended	24:10 VA.R. 1273	1/1/08
4 VAC 15-340-10	Amended	24:10 VA.R. 1273	1/1/08
4 VAC 15-340-30	Amended	24:10 VA.R. 1274	1/1/08

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 15-350-20	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-350-30	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-350-60	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-350-70	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-360-10	Amended	24:10 VA.R. 1276	1/1/08
4 VAC 20-40-10 through 4 VAC 20-40-40	Repealed	24:19 VA.R. 2749	4/30/08
4 VAC 20-90-10	Repealed	24:19 VA.R. 2749	4/30/08
4 VAC 20-90-20	Repealed	24:19 VA.R. 2749	4/30/08
4 VAC 20-90-30	Repealed	24:19 VA.R. 2749	4/30/08
4 VAC 20-140-10	Amended	24:21 VA.R. 2917	3/17/09
4 VAC 20-140-20	Amended	24:21 VA.R. 2917	3/17/09
4 VAC 20-140-25	Added	24:21 VA.R. 2917	3/17/09
4 VAC 20-150-30	Amended	24:10 VA.R. 1277	1/1/08
4 VAC 20-252-55	Amended	24:10 VA.R. 1278	1/1/08
4 VAC 20-252-120	Amended	24:10 VA.R. 1278	1/1/08
4 VAC 20-252-150	Amended	24:10 VA.R. 1279	1/1/08
4 VAC 20-252-160	Amended	24:10 VA.R. 1279	1/1/08
4 VAC 20-252-230	Amended	24:10 VA.R. 1281	1/1/08
4 VAC 20-270-10 emer	Amended	24:19 VA.R. 2751	5/1/08-5/31/08
4 VAC 20-270-10	Amended	24:21 VA.R. 2918	6/1/08
4 VAC 20-270-30	Amended	24:19 VA.R. 2750	4/30/08
4 VAC 20-270-40	Amended	24:19 VA.R. 2750	4/30/08
4 VAC 20-270-50	Amended	24:19 VA.R. 2750	4/30/08
4 VAC 20-270-50 emer	Amended	24:19 VA.R. 2751	5/1/08-5/31/08
4 VAC 20-270-50	Amended	24:21 VA.R. 2918	6/1/08
4 VAC 20-270-55	Amended	24:15 VA.R. 2023	3/1/08
4 VAC 20-270-55	Amended	24:19 VA.R. 2751	4/30/08
4 VAC 20-270-56	Amended	24:19 VA.R. 2751	4/30/08
4 VAC 20-270-58	Added	24:19 VA.R. 2751	4/30/08
4 VAC 20-320-50	Amended	24:12 VA.R. 1456	2/1/08
4 VAC 20-450-30	Amended	24:21 VA.R. 2918	6/1/08
4 VAC 20-530-20	Amended	24:12 VA.R. 1456	2/1/08
4 VAC 20-530-31	Amended	24:13 VA.R. 1735	2/5/08
4 VAC 20-530-32	Repealed	24:12 VA.R. 1457	2/1/08
4 VAC 20-610-20	Amended	24:8 VA.R. 959	12/1/07
4 VAC 20-610-25	Added	24:8 VA.R. 959	12/1/07
4 VAC 20-610-30	Amended	24:8 VA.R. 960	12/1/07
4 VAC 20-610-30	Amended	24:15 VA.R. 2024	3/1/08
4 VAC 20-610-50	Amended	24:8 VA.R. 961	12/1/07
4 VAC 20-610-60	Amended	24:8 VA.R. 961	12/1/07
4 VAC 20-620-30	Amended	24:10 VA.R. 1281	12/27/07
4 VAC 20-620-40 emer	Amended	24:8 VA.R. 962	11/28/07-12/27/07
4 VAC 20-620-40	Amended	24:10 VA.R. 1282	12/27/07
4 VAC 20-620-50	Amended	24:15 VA.R. 2025	3/1/08
4 VAC 20-620-70	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-670-20	Amended	24:19 VA.R. 2752	4/30/08
4 VAC 20-670-25	Amended	24:19 VA.R. 2752	4/30/08
4 VAC 20-670-30	Amended	24:19 VA.R. 2752	4/30/08
4 VAC 20-670-40	Amended	24:19 VA.R. 2753	4/30/08
4 VAC 20-700-10 emer	Amended	24:19 VA.R. 2753	5/1/08-5/31/08

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-700-15 emer	Added	24:19 VA.R. 2753	5/1/08-5/31/08
4 VAC 20-700-15	Added	24:21 VA.R. 2918	6/1/08
4 VAC 20-700-20	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-700-20 emer	Amended	24:19 VA.R. 2754	5/1/08-5/31/08
4 VAC 20-700-20	Amended	24:21 VA.R. 2919	6/1/08
4 VAC 20-720-40	Amended	24:12 VA.R. 1457	2/1/08
4 VAC 20-720-50	Amended	24:12 VA.R. 1458	2/1/08
4 VAC 20-720-60	Amended	24:12 VA.R. 1458	2/1/08
4 VAC 20-720-80	Amended	24:12 VA.R. 1458	2/1/08
4 VAC 20-750-10	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-750-10	Repealed	24:19 VA.R. 2754	4/30/08
4 VAC 20-750-30	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-750-30	Repealed	24:19 VA.R. 2754	4/30/08
4 VAC 20-750-40	Repealed	24:19 VA.R. 2754	4/30/08
4 VAC 20-750-50	Repealed	24:19 VA.R. 2754	4/30/08
4 VAC 20-751-15	Added	24:15 VA.R. 2027	3/1/08
4 VAC 20-751-20	Amended	24:15 VA.R. 2027	3/1/08
4 VAC 20-752-20	Amended	24:19 VA.R. 2754	4/30/08
4 VAC 20-752-30	Amended	24:16 VA.R. 2246	4/1/08
4 VAC 20-752-30	Amended	24:19 VA.R. 2755	4/30/08
4 VAC 20-880-10 emer	Amended	24:19 VA.R. 2755	5/1/08-5/31/08
4 VAC 20-880-10	Amended	24:21 VA.R. 2919	6/1/08
4 VAC 20-880-20 emer	Amended	24:19 VA.R. 2755	5/1/08-5/31/08
4 VAC 20-880-20	Amended	24:19 VA.R. 2756	4/30/08
4 VAC 20-880-30 emer	Amended	24:19 VA.R. 2757	5/1/08-5/31/08
4 VAC 20-880-30	Amended	24:19 VA.R. 2757	4/30/08
4 VAC 20-880-30	Amended	24:21 VA.R. 2919	6/1/08
4 VAC 20-950-47	Amended	24:15 VA.R. 2028	3/1/08
4 VAC 20-950-48	Amended	24:15 VA.R. 2028	3/1/08
4 VAC 20-950-48.1	Amended	24:15 VA.R. 2029	3/1/08
4 VAC 20-960-45	Amended	24:8 VA.R. 964	1/1/08
4 VAC 20-960-47	Amended	24:8 VA.R. 964	1/1/08
4 VAC 20-1040-20	Amended	24:8 VA.R. 964	1/1/08
4 VAC 20-1040-35	Added	24:12 VA.R. 1459	2/1/08
4 VAC 20-1090-10 emer	Amended	24:19 VA.R. 2757	5/1/08-5/31/08
4 VAC 20-1090-30	Amended	24:8 VA.R. 965	12/1/07
4 VAC 20-1090-30 emer	Amended	24:19 VA.R. 2757	5/1/08-5/31/08
4 VAC 20-1090-30	Amended	24:19 VA.R. 2760	4/30/08
4 VAC 20-1090-30	Amended	24:21 VA.R. 2920	6/1/08
4 VAC 20-1130-10 through 4 VAC 20-1130-70	Added	24:8 VA.R. 968-970	12/1/07
4 VAC 20-1140-10	Added	24:19 VA.R. 2763	4/30/08
4 VAC 20-1140-20	Added	24:19 VA.R. 2763	4/30/08
4 VAC 20-1140-30	Added	24:19 VA.R. 2763	4/30/08
4 VAC 25-130 (Forms)	Amended	24:11 VA.R. 1424	--
4 VAC 25-150-90	Amended	24:17 VA.R. 2359	6/12/08
4 VAC 50-60-10	Amended	24:20 VA.R. 2842	7/9/08
4 VAC 50-60-1200	Amended	24:20 VA.R. 2852	7/9/08
4 VAC 50-60-1210	Amended	24:20 VA.R. 2853	7/9/08
4 VAC 50-60-1220	Amended	24:20 VA.R. 2854	7/9/08
4 VAC 50-60-1230	Amended	24:20 VA.R. 2854	7/9/08
4 VAC 50-60-1240	Amended	24:20 VA.R. 2856	7/9/08

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 5. Corporations</b>			
5 VAC 5-20-20	Amended	24:11 VA.R. 1347	2/15/08
5 VAC 5-20-140	Amended	24:11 VA.R. 1347	2/15/08
5 VAC 5-20-150	Amended	24:11 VA.R. 1348	2/15/08
5 VAC 5-20-170	Amended	24:11 VA.R. 1348	2/15/08
5 VAC 5-20-240	Amended	24:11 VA.R. 1349	2/15/08
<b>Title 6. Criminal Justice and Corrections</b>			
6 VAC 15-61-10 through 6 VAC 15-61-300	Repealed	24:8 VA.R. 970	1/24/08
6 VAC 15-62-10 through 6 VAC 15-62-120	Added	24:8 VA.R. 970-979	1/24/08
6 VAC 15-62-110	Amended	24:13 VA.R. 1736	3/3/08
6 VAC 15-62 (Forms)	Amended	24:12 VA.R. 1523	--
6 VAC 40-50-10 through 6 VAC 40-50-80	Added	24:9 VA.R. 1103-1104	2/6/08
<b>Title 8. Education</b>			
8 VAC 20-650-30	Amended	24:21 VA.R. 2936	9/15/08
<b>Title 9. Environment</b>			
9 VAC 20-60-18	Amended	24:9 VA.R. 1106	2/6/08
9 VAC 25-32 (Forms)	Amended	24:13 VA.R. 1738	--
9 VAC 25-120-10	Amended	24:9 VA.R. 1107	2/6/08
9 VAC 25-120-20	Amended	24:9 VA.R. 1107	2/6/08
9 VAC 25-120-50	Amended	24:9 VA.R. 1108	2/6/08
9 VAC 25-120-60	Amended	24:9 VA.R. 1108	2/6/08
9 VAC 25-120-70	Amended	24:9 VA.R. 1108	2/6/08
9 VAC 25-120-80	Amended	24:9 VA.R. 1109	2/6/08
9 VAC 25-120-80	Amended	24:18 VA.R. 2502	6/11/08
9 VAC 25-193-40	Amended	24:18 VA.R. 2517	6/11/08
9 VAC 25-193-70	Amended	24:18 VA.R. 2517	6/11/08
9 VAC 25-196-20	Amended	24:9 VA.R. 1124	2/6/08
9 VAC 25-196-40	Amended	24:9 VA.R. 1124	2/6/08
9 VAC 25-196-60	Amended	24:9 VA.R. 1124	2/6/08
9 VAC 25-196-70	Amended	24:9 VA.R. 1125	2/6/08
9 VAC 25-196-70	Amended	24:18 VA.R. 2532	6/11/08
9 VAC 25-210-10	Amended	24:9 VA.R. 1132	2/6/08
9 VAC 25-210-60	Amended	24:9 VA.R. 1136	2/6/08
9 VAC 25-210-116	Amended	24:9 VA.R. 1140	2/6/08
9 VAC 25-210-130	Amended	24:9 VA.R. 1142	2/6/08
9 VAC 25-260-30	Amended	24:13 VA.R. 1741	*
9 VAC 25-660-10	Amended	24:9 VA.R. 1144	2/6/08
9 VAC 25-660-60	Amended	24:9 VA.R. 1145	2/6/08
9 VAC 25-660-70	Amended	24:9 VA.R. 1147	2/6/08
9 VAC 25-660-80	Amended	24:9 VA.R. 1148	2/6/08
9 VAC 25-660-100	Amended	24:9 VA.R. 1148	2/6/08
9 VAC 25-670-10	Amended	24:9 VA.R. 1156	2/6/08
9 VAC 25-670-70	Amended	24:9 VA.R. 1157	2/6/08
9 VAC 25-670-80	Amended	24:9 VA.R. 1158	2/6/08
9 VAC 25-670-100	Amended	24:9 VA.R. 1159	2/6/08
9 VAC 25-680-10	Amended	24:9 VA.R. 1170	2/6/08
9 VAC 25-680-60	Amended	24:9 VA.R. 1172	2/6/08
9 VAC 25-680-70	Amended	24:9 VA.R. 1174	2/6/08

\* Effective upon filing notice of U.S. EPA approval with Registrar of Regulations

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-680-80	Amended	24:9 VA.R. 1175	2/6/08
9 VAC 25-680-100	Amended	24:9 VA.R. 1176	2/6/08
9 VAC 25-690-10	Amended	24:9 VA.R. 1188	2/6/08
9 VAC 25-690-70	Amended	24:9 VA.R. 1190	2/6/08
9 VAC 25-690-80	Amended	24:9 VA.R. 1191	2/6/08
9 VAC 25-690-100	Amended	24:9 VA.R. 1191	2/6/08
9 VAC 25-720-50	Amended	24:18 VA.R. 2540	6/11/08
9 VAC 25-720-120	Amended	24:21 VA.R. 2940	8/7/08
9 VAC 25-720-130	Amended	24:18 VA.R. 2548	6/11/08
9 VAC 25-820-10	Amended	24:21 VA.R. 2942	8/7/08
9 VAC 25-820-20	Amended	24:21 VA.R. 2944	8/7/08
9 VAC 25-820-70	Amended	24:21 VA.R. 2944	8/7/08
<b>Title 11. Gaming</b>			
11 VAC 10-130-60	Amended	24:16 VA.R. 2247	4/14/08
11 VAC 10-180-10	Amended	24:16 VA.R. 2247	4/14/08
11 VAC 10-180-20	Repealed	24:16 VA.R. 2248	4/14/08
11 VAC 10-180-25	Added	24:16 VA.R. 2250	4/14/08
11 VAC 10-180-35	Added	24:16 VA.R. 2250	4/14/08
11 VAC 10-180-60	Amended	24:16 VA.R. 2251	4/14/08
11 VAC 10-180-70	Amended	24:16 VA.R. 2256	4/14/08
11 VAC 10-180-75	Added	24:16 VA.R. 2256	4/14/08
11 VAC 10-180-80	Amended	24:16 VA.R. 2257	4/14/08
11 VAC 10-180-85	Amended	24:16 VA.R. 2258	4/14/08
11 VAC 10-180-110	Amended	24:16 VA.R. 2259	4/14/08
<b>Title 12. Health</b>			
12 VAC 5-90-370	Added	24:19 VA.R. 2777	7/1/08
12 VAC 5-195-10 through 12 VAC 5-195-670	Added	24:19 VA.R. 2778-2802	5/26/08
12 VAC 5-220-10	Amended	24:11 VA.R. 1350	3/5/08
12 VAC 5-220-110	Amended	24:11 VA.R. 1353	3/5/08
12 VAC 5-220-130	Amended	24:11 VA.R. 1354	3/5/08
12 VAC 5-220-200	Amended	24:11 VA.R. 1354	3/5/08
12 VAC 5-371-150	Amended	24:11 VA.R. 1357	3/5/08
12 VAC 5-381-10 through 12VAC5-381-40	Amended	24:11 VA.R. 1358-1361	3/5/08
12 VAC 5-381-60 through 12VAC5-381-100	Amended	24:11 VA.R. 1361-1362	3/5/08
12 VAC 5-381-120	Amended	24:11 VA.R. 1362	3/5/08
12 VAC 5-381-140	Amended	24:11 VA.R. 1362	3/5/08
12 VAC 5-381-150	Amended	24:11 VA.R. 1362	3/5/08
12 VAC 5-381-240	Amended	24:11 VA.R. 1363	3/5/08
12 VAC 5-381-280	Amended	24:11 VA.R. 1363	3/5/08
12 VAC 5-391-10	Amended	24:11 VA.R. 1364	3/5/08
12 VAC 5-391-30 through 12 VAC 5-391-100	Amended	24:11 VA.R. 1366-1368	3/5/08
12 VAC 5-391-120	Amended	24:11 VA.R. 1368	3/5/08
12 VAC 5-391-130	Amended	24:11 VA.R. 1368	3/5/08
12 VAC 5-391-150	Amended	24:11 VA.R. 1369	3/5/08
12 VAC 5-391-160	Amended	24:11 VA.R. 1369	3/5/08
12 VAC 5-391-250	Amended	24:11 VA.R. 1370	3/5/08
12 VAC 5-391-280	Amended	24:11 VA.R. 1370	3/5/08
12 VAC 5-410-230	Amended	24:11 VA.R. 1371	3/5/08
12 VAC 5-481-10	Amended	24:18 VA.R. 2566	6/12/08
12 VAC 5-481-20	Amended	24:18 VA.R. 2592	6/12/08
12 VAC 5-481-30	Amended	24:18 VA.R. 2592	6/12/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-481-90	Amended	24:18 VA.R. 2592	6/12/08
12 VAC 5-481-100	Amended	24:18 VA.R. 2593	6/12/08
12 VAC 5-481-110	Amended	24:18 VA.R. 2593	6/12/08
12 VAC 5-481-130	Amended	24:18 VA.R. 2594	6/12/08
12 VAC 5-481-150	Amended	24:18 VA.R. 2594	6/12/08
12 VAC 5-481-200	Repealed	24:18 VA.R. 2594	6/12/08
12 VAC 5-481-230 through 12 VAC 5-481-270	Amended	24:18 VA.R. 2594-2595	6/12/08
12 VAC 5-481-340	Amended	24:18 VA.R. 2595	6/12/08
12 VAC 5-481-370 through 12 VAC 5-481-450	Amended	24:18 VA.R. 2597-2607	6/12/08
12 VAC 5-481-460	Repealed	24:18 VA.R. 2607	6/12/08
12 VAC 5-481-470	Amended	24:18 VA.R. 2608	6/12/08
12 VAC 5-481-480	Amended	24:18 VA.R. 2610	6/12/08
12 VAC 5-481-500	Amended	24:18 VA.R. 2619	6/12/08
12 VAC 5-481-510	Amended	24:18 VA.R. 2620	6/12/08
12 VAC 5-481-530 through 12 VAC 5-481-590	Amended	24:18 VA.R. 2622-2626	6/12/08
12 VAC 5-481-571	Added	24:18 VA.R. 2624	6/12/08
12 VAC 5-481-630 through 12 VAC 5-481-760	Amended	24:18 VA.R. 2626-2629	6/12/08
12 VAC 5-481-780	Amended	24:18 VA.R. 2629	6/12/08
12 VAC 5-481-790	Amended	24:18 VA.R. 2629	6/12/08
12 VAC 5-481-800	Repealed	24:18 VA.R. 2629	6/12/08
12 VAC 5-481-810 through 12 VAC 5-481-910	Amended	24:18 VA.R. 2630-2631	6/12/08
12 VAC 5-481-930 through 12 VAC 5-481-1050	Amended	24:18 VA.R. 2632-2633	6/12/08
12 VAC 5-481-971	Added	24:18 VA.R. 2632	6/12/08
12 VAC 5-481-1070	Amended	24:18 VA.R. 2633	6/12/08
12 VAC 5-481-1090	Amended	24:18 VA.R. 2633	6/12/08
12 VAC 5-481-1100	Amended	24:18 VA.R. 2633	6/12/08
12 VAC 5-481-1110	Amended	24:18 VA.R. 2633	6/12/08
12 VAC 5-481-1130	Amended	24:18 VA.R. 2634	6/12/08
12 VAC 5-481-1151	Added	24:18 VA.R. 2634	6/12/08
12 VAC 5-481-1160	Repealed	24:18 VA.R. 2635	6/12/08
12 VAC 5-481-1161	Added	24:18 VA.R. 2635	6/12/08
12 VAC 5-481-1190	Amended	24:18 VA.R. 2637	6/12/08
12 VAC 5-481-1200	Amended	24:18 VA.R. 2638	6/12/08
12 VAC 5-481-1220 through 12 VAC 5-481-1250	Amended	24:18 VA.R. 2639-2640	6/12/08
12 VAC 5-481-1270	Amended	24:18 VA.R. 2640	6/12/08
12 VAC 5-481-1300	Amended	24:18 VA.R. 2640	6/12/08
12 VAC 5-481-1310	Amended	24:18 VA.R. 2641	6/12/08
12 VAC 5-481-1320	Amended	24:18 VA.R. 2641	6/12/08
12 VAC 5-481-1350	Amended	24:18 VA.R. 2644	6/12/08
12 VAC 5-481-1380	Amended	24:18 VA.R. 2644	6/12/08
12 VAC 5-481-1420	Amended	24:18 VA.R. 2644	6/12/08
12 VAC 5-481-1440	Amended	24:18 VA.R. 2644	6/12/08
12 VAC 5-481-1490	Amended	24:18 VA.R. 2645	6/12/08
12 VAC 5-481-1520	Amended	24:18 VA.R. 2645	6/12/08
12 VAC 5-481-1540	Repealed	24:18 VA.R. 2645	6/12/08
12 VAC 5-481-1550	Repealed	24:18 VA.R. 2646	6/12/08
12 VAC 5-481-1560	Amended	24:18 VA.R. 2646	6/12/08
12 VAC 5-481-1570	Amended	24:18 VA.R. 2647	6/12/08
12 VAC 5-481-1670 through 12 VAC 5-481-2040	Amended	24:18 VA.R. 2647-2650	6/12/08
12 VAC 5-481-2001	Added	24:18 VA.R. 2649	6/12/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-481-2050	Repealed	24:18 VA.R. 2650	6/12/08
12 VAC 5-481-2060	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2070	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2080	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2100	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2230	Amended	24:18 VA.R. 2652	6/12/08
12 VAC 5-481-2240	Amended	24:18 VA.R. 2653	6/12/08
12 VAC 5-481-2260	Amended	24:18 VA.R. 2653	6/12/08
12 VAC 5-481-2270	Amended	24:18 VA.R. 2653	6/12/08
12 VAC 5-481-2280	Amended	24:18 VA.R. 2654	6/12/08
12 VAC 5-481-2330	Amended	24:18 VA.R. 2654	6/12/08
12 VAC 5-481-2420	Amended	24:18 VA.R. 2654	6/12/08
12 VAC 5-481-2430	Amended	24:18 VA.R. 2655	6/12/08
12 VAC 5-481-2470	Amended	24:18 VA.R. 2655	6/12/08
12 VAC 5-481-2490	Amended	24:18 VA.R. 2655	6/12/08
12 VAC 5-481-2510	Amended	24:18 VA.R. 2656	6/12/08
12 VAC 5-481-2530	Amended	24:18 VA.R. 2656	6/12/08
12 VAC 5-481-2540	Amended	24:18 VA.R. 2656	6/12/08
12 VAC 5-481-2550	Amended	24:18 VA.R. 2657	6/12/08
12 VAC 5-481-2571	Added	24:18 VA.R. 2657	6/12/08
12 VAC 5-481-2572	Added	24:18 VA.R. 2659	6/12/08
12 VAC 5-481-2573	Added	24:18 VA.R. 2660	6/12/08
12 VAC 5-481-2660 through 12 VAC 5-481-2950	Amended	24:18 VA.R. 2660-2661	6/12/08
12 VAC 5-481-2970	Amended	24:18 VA.R. 2661	6/12/08
12 VAC 5-481-2980	Amended	24:18 VA.R. 2662	6/12/08
12 VAC 5-481-3000 through 12 VAC 5-481-3040	Amended	24:18 VA.R. 2663-2665	6/12/08
12 VAC 5-481-3070 through 12 VAC 5-481-3140	Amended	24:18 VA.R. 2667-2670	6/12/08
12 VAC 5-481-3050	Repealed	24:18 VA.R. 2665	6/12/08
12 VAC 5-481-3051	Added	24:18 VA.R. 2666	6/12/08
12 VAC 5-481-3091	Added	24:18 VA.R. 2668	6/12/08
12 VAC 5-481-3151	Added	24:18 VA.R. 2670	6/12/08
12 VAC 5-481-3160	Amended	24:18 VA.R. 2671	6/12/08
12 VAC 5-481-3200 through 12 VAC 5-481-3270	Amended	24:18 VA.R. 2671-2675	6/12/08
12 VAC 5-481-3241	Added	24:18 VA.R. 2673	6/12/08
12 VAC 5-481-3261	Added	24:18 VA.R. 2674	6/12/08
12 VAC 5-481-3290	Amended	24:18 VA.R. 2675	6/12/08
12 VAC 5-481-3300	Amended	24:18 VA.R. 2675	6/12/08
12 VAC 5-481-3340	Amended	24:18 VA.R. 2675	6/12/08
12 VAC 5-481-3350	Amended	24:18 VA.R. 2675	6/12/08
12 VAC 5-481-3400	Amended	24:18 VA.R. 2676	6/12/08
12 VAC 5-481-3430	Amended	24:18 VA.R. 2677	6/12/08
12 VAC 5-481-3440	Amended	24:18 VA.R. 2683	6/12/08
12 VAC 5-481-3480	Amended	24:18 VA.R. 2684	6/12/08
12 VAC 5-481-3490	Amended	24:18 VA.R. 2684	6/12/08
12 VAC 5-481-3510	Amended	24:18 VA.R. 2684	6/12/08
12 VAC 5-481-3520	Amended	24:18 VA.R. 2685	6/12/08
12 VAC 5-481-3530	Amended	24:18 VA.R. 2685	6/12/08
12 VAC 5-481-3560	Amended	24:18 VA.R. 2686	6/12/08
12 VAC 5-481-3580	Amended	24:18 VA.R. 2687	6/12/08
12 VAC 5-481-3600	Amended	24:18 VA.R. 2687	6/12/08
12 VAC 5-481-3610	Amended	24:18 VA.R. 2688	6/12/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-481-3650	Amended	24:18 VA.R. 2688	6/12/08
12 VAC 5-481-3670 through 12 VAC 5-481-3780	Repealed	24:18 VA.R. 2689-2715	6/12/08
12 VAC 30-70-221	Amended	24:21 VA.R. 2959	7/23/08
12 VAC 30-80-30	Erratum	24:17 VA.R. 2473	--
12 VAC 30-80-30	Amended	24:21 VA.R. 2962	7/23/08
12 VAC 30-80-75	Added	24:21 VA.R. 2965	7/23/08
12 VAC 30-120-70	Amended	24:13 VA.R. 1791	7/1/08
12 VAC 30-120-90	Amended	24:13 VA.R. 1793	7/1/08
12 VAC 30-120-140	Amended	24:13 VA.R. 1794	7/1/08
12 VAC 30-120-211	Amended	24:13 VA.R. 1797	7/1/08
12 VAC 30-120-213	Amended	24:13 VA.R. 1800	7/1/08
12 VAC 30-120-225	Amended	24:13 VA.R. 1802	7/1/08
12 VAC 30-120-229	Amended	24:13 VA.R. 1804	7/1/08
12 VAC 30-120-237	Amended	24:13 VA.R. 1805	7/1/08
12 VAC 30-120-247	Amended	24:13 VA.R. 1807	7/1/08
12 VAC 30-120-700	Amended	24:13 VA.R. 1808	7/1/08
12 VAC 30-120-710	Amended	24:13 VA.R. 1812	7/1/08
12 VAC 30-120-754	Amended	24:13 VA.R. 1813	7/1/08
12 VAC 30-120-758	Amended	24:13 VA.R. 1815	7/1/08
12 VAC 30-120-762	Amended	24:13 VA.R. 1815	7/1/08
12 VAC 30-120-770	Amended	24:13 VA.R. 1816	7/1/08
12 VAC 30-120-900	Amended	24:13 VA.R. 1818	7/1/08
12 VAC 30-120-910	Amended	24:13 VA.R. 1820	7/1/08
12 VAC 30-120-920	Amended	24:13 VA.R. 1821	7/1/08
12 VAC 30-120-970	Amended	24:13 VA.R. 1823	7/1/08
12 VAC 30-120-1500	Amended	24:13 VA.R. 1825	7/1/08
12 VAC 30-120-1510	Amended	24:13 VA.R. 1827	7/1/08
12 VAC 30-120-1550	Amended	24:13 VA.R. 1828	7/1/08
12 VAC 30-120-1560	Added	24:13 VA.R. 1830	7/1/08
12 VAC 30-120-2000	Added	24:13 VA.R. 1832	7/1/08
12 VAC 30-120-2010	Added	24:13 VA.R. 1833	7/1/08
12 VAC 35-105-115	Added	24:11 VA.R. 1372	3/5/08
<b>Title 13. Housing</b>			
13 VAC 5-21-10	Amended	24:14 VA.R. 1894	5/1/08
13 VAC 5-21-20	Amended	24:14 VA.R. 1894	5/1/08
13 VAC 5-21-31	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-41	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-45	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-51	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-61	Amended	24:14 VA.R. 1896	5/1/08
13 VAC 5-31-20 through 13 VAC 5-31-50	Amended	24:14 VA.R. 1897-1898	5/1/08
13 VAC 5-31-70 through 13 VAC 5-31-170	Repealed	24:14 VA.R. 1898-1903	5/1/08
13 VAC 5-31-75	Added	24:14 VA.R. 1898	5/1/08
13 VAC 5-31-85	Added	24:14 VA.R. 1900	5/1/08
13 VAC 5-31-200	Amended	24:14 VA.R. 1904	5/1/08
13 VAC 5-31-210	Amended	24:14 VA.R. 1904	5/1/08
13 VAC 5-31-215 through 13 VAC 5-31-270	Added	24:14 VA.R. 1904-1905	5/1/08
13 VAC 5-51-21 through 13 VAC 5-51-51	Amended	24:14 VA.R. 1907-1910	5/1/08
13 VAC 5-51-81	Amended	24:14 VA.R. 1910	5/1/08
13 VAC 5-51-85	Amended	24:14 VA.R. 1921	5/1/08

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 5-51-91	Amended	24:14 VA.R. 1924	5/1/08
13 VAC 5-51-130 through 13 VAC 5-51-135	Amended	24:14 VA.R. 1925-1928	5/1/08
13 VAC 5-51-143	Added	24:14 VA.R. 1928	5/1/08
13 VAC 5-51-145	Amended	24:14 VA.R. 1932	5/1/08
13 VAC 5-51-150	Amended	24:14 VA.R. 1932	5/1/08
13 VAC 5-51-152	Repealed	24:14 VA.R. 1937	5/1/08
13 VAC 5-51-154	Amended	24:14 VA.R. 1937	5/1/08
13 VAC 5-51-155	Amended	24:14 VA.R. 1939	5/1/08
13 VAC 5-63-10 through 13 VAC 5-63-50	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-70	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-80	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-100 through 13 VAC 5-63-130	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-150	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-160	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-190 through 13 VAC 5-63-260	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-225	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-265	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-267	Added	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-270	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-280	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-300 through 13 VAC 5-63-360	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-335	Added	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-400	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-430	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-432	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-434 through 13 VAC 5-63-450	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-470 through 13 VAC 5-63-500	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-520	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-525	Added	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-550	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-91-20	Amended	24:14 VA.R. 1943	5/1/08
13 VAC 5-91-100	Amended	24:14 VA.R. 1943	5/1/08
13 VAC 5-91-110	Repealed	24:14 VA.R. 1944	5/1/08
13 VAC 5-91-115	Added	24:14 VA.R. 1944	5/1/08
13 VAC 5-91-120	Amended	24:14 VA.R. 1944	5/1/08
13 VAC 5-91-160	Amended	24:14 VA.R. 1945	5/1/08
13 VAC 5-91-270	Amended	24:14 VA.R. 1945	5/1/08
13 VAC 5-95-10	Amended	24:14 VA.R. 1947	5/1/08
13 VAC 5-95-30	Amended	24:14 VA.R. 1948	5/1/08
13 VAC 5-112-340	Amended	24:8 VA.R. 979	1/23/08
13 VAC 10-180-10	Amended	24:11 VA.R. 1373	2/4/08
13 VAC 10-180-50	Amended	24:11 VA.R. 1374	2/4/08
13 VAC 10-180-60	Amended	24:11 VA.R. 1376	2/4/08
13 VAC 10-180-60	Amended	24:11 VA.R. 1387	2/4/08
13 VAC 10-180-100	Amended	24:11 VA.R. 1397	2/4/08
<b>Title 14. Insurance</b>			
14 VAC 5-30-30	Amended	24:15 VA.R. 2153	4/1/08
14 VAC 5-200-185	Amended	24:15 VA.R. 2155	4/1/08
14 VAC 5-215 (Forms)	Amended	24:17 VA.R. 2452	--
14 VAC 5-270-10 through 14 VAC 5-270-150	Amended	24:12 VA.R. 1460-1470	1/1/10
14 VAC 5-270-144	Added	24:12 VA.R. 1467	1/1/10

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
14 VAC 5-270-146	Added	24:12 VA.R. 1468	1/1/10
14 VAC 5-270-148	Added	24:12 VA.R. 1469	1/1/10
14 VAC 5-270-170	Amended	24:12 VA.R. 1470	1/1/10
14 VAC 5-270-174	Added	24:12 VA.R. 1470	1/1/10
14 VAC 5-270-180	Amended	24:12 VA.R. 1470	1/1/10
<b>Title 16. Labor and Employment</b>			
16 VAC 25-90-1910.6	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.68	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.94	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.103	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.107	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.110	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.111	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.132	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-90-1910.144	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.243	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.251	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.253	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.261	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-100-1915.152	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-120-1917.96	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-130-1918.106	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-175-1926.95	Added	24:16 VA.R. 2263	6/1/08
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 15-20-451	Amended	24:17 VA.R. 2455	8/1/08
18 VAC 30-20-80	Amended	24:10 VA.R. 1284	2/20/08
18 VAC 30-20-170	Amended	24:10 VA.R. 1284	2/20/08
18 VAC 30-20-171	Amended	24:10 VA.R. 1285	2/20/08
18 VAC 60-20-30	Amended	24:20 VA.R. 2874	7/24/08
18 VAC 60-20-81	Added	24:14 VA.R. 1949	4/16/08
18 VAC 60-20-108	Amended	24:14 VA.R. 1950	4/16/08
18 VAC 60-20-190	Amended	24:14 VA.R. 1951	4/16/08
18 VAC 60-20-220	Amended	24:10 VA.R. 1287	3/10/08
18 VAC 60-20-220	Amended	24:14 VA.R. 1951	4/16/08
18 VAC 85-20-22	Amended	24:11 VA.R. 1404	3/5/08
18 VAC 85-20-22	Amended	24:14 VA.R. 1952	4/16/08
18 VAC 85-20-226	Added	24:11 VA.R. 1404	3/5/08
18 VAC 85-20-400	Amended	24:20 VA.R. 2876	7/24/08
18 VAC 85-40-35	Amended	24:11 VA.R. 1404	3/5/08
18 VAC 85-40-67	Added	24:11 VA.R. 1405	3/5/08
18 VAC 85-50-35	Amended	24:11 VA.R. 1405	3/5/08
18 VAC 85-50-61	Added	24:11 VA.R. 1405	3/5/08
18 VAC 85-80-26	Amended	24:11 VA.R. 1406	3/5/08
18 VAC 85-80-73	Added	24:11 VA.R. 1406	3/5/08
18 VAC 85-101-25	Amended	24:11 VA.R. 1406	3/5/08
18 VAC 85-101-25	Amended	24:20 VA.R. 2879	7/24/08
18 VAC 85-101-40	Amended	24:20 VA.R. 2879	7/24/08
18 VAC 85-101-50	Amended	24:20 VA.R. 2879	7/24/08
18 VAC 85-101-55	Added	24:20 VA.R. 2880	7/24/08
18 VAC 85-101-60	Amended	24:20 VA.R. 2880	7/24/08

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-101-70	Repealed	24:20 VA.R. 2881	7/24/08
18 VAC 85-101-150	Amended	24:20 VA.R. 2881	7/24/08
18 VAC 85-101-153	Added	24:11 VA.R. 1407	3/5/08
18 VAC 85-110-35	Amended	24:11 VA.R. 1407	3/5/08
18 VAC 85-110-161	Added	24:11 VA.R. 1407	3/5/08
18 VAC 85-120-10	Amended	24:20 VA.R. 2884	7/24/08
18 VAC 85-120-50	Amended	24:20 VA.R. 2884	7/24/08
18 VAC 85-120-70	Amended	24:20 VA.R. 2885	7/24/08
18 VAC 85-120-90	Amended	24:20 VA.R. 2885	7/24/08
18 VAC 85-120-95	Added	24:20 VA.R. 2885	7/24/08
18 VAC 85-120-150	Amended	24:20 VA.R. 2885	7/24/08
18 VAC 85-130-30	Amended	24:14 VA.R. 1952	4/16/08
18 VAC 90-20-10	Amended	24:13 VA.R. 1842	4/2/08
18 VAC 90-20-35	Amended	24:13 VA.R. 1843	4/2/08
18 VAC 90-20-40 through 18 VAC 90-20-60	Amended	24:13 VA.R. 1843-1845	4/2/08
18 VAC 90-20-65	Repealed	24:13 VA.R. 1844	4/2/08
18 VAC 90-20-70	Amended	24:13 VA.R. 1844	4/2/08
18 VAC 90-20-90	Amended	24:13 VA.R. 1845	4/2/08
18 VAC 90-20-95	Amended	24:13 VA.R. 1846	4/2/08
18 VAC 90-20-96	Added	24:13 VA.R. 1846	4/2/08
18 VAC 90-20-110 through 18 VAC 90-20-140	Amended	24:13 VA.R. 1846-1848	4/2/08
18 VAC 90-20-151	Added	24:13 VA.R. 1848	4/2/08
18 VAC 90-20-160	Amended	24:13 VA.R. 1849	4/2/08
18 VAC 90-20-190	Amended	24:13 VA.R. 1849	4/2/08
18 VAC 90-20-200	Amended	24:13 VA.R. 1850	4/2/08
18 VAC 90-20-220	Amended	24:13 VA.R. 1850	4/2/08
18 VAC 90-20-230	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-271	Amended	24:21 VA.R. 2969	7/23/08
18 VAC 90-20-275	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-280	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-300	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-370	Amended	24:13 VA.R. 1852	4/2/08
18 VAC 90-20-390	Amended	24:13 VA.R. 1852	4/2/08
18 VAC 90-20-410	Amended	24:13 VA.R. 1853	4/2/08
18 VAC 90-30-10	Amended	24:10 VA.R. 1288	2/20/08
18 VAC 90-30-80	Erratum	24:18 VA.R. 2731-2732	--
18 VAC 90-30-120	Amended	24:10 VA.R. 1288	2/20/08
18 VAC 90-30-121	Added	24:10 VA.R. 1289	2/20/08
18 VAC 95-20-80	Amended	24:16 VA.R. 2264	5/14/08
18 VAC 95-20-175	Amended	24:20 VA.R. 2887	7/24/08
18 VAC 95-20-220	Amended	24:20 VA.R. 2888	7/24/08
18 VAC 95-20-230	Amended	24:20 VA.R. 2888	7/24/08
18 VAC 95-30-40	Amended	24:16 VA.R. 2264	5/14/08
18 VAC 110-20-10	Amended	24:8 VA.R. 983	1/23/08
18 VAC 110-20-321	Added	24:8 VA.R. 986	1/23/08
18 VAC 110-20-411 through 18 VAC 110-20-416	Repealed	24:8 VA.R. 986-987	1/23/08
18 VAC 110-20-530	Amended	24:16 VA.R. 2265	5/14/08
18 VAC 110-30-15	Amended	24:10 VA.R. 1290	2/20/08
18 VAC 110-50-10	Amended	24:10 VA.R. 1290	2/20/08
18 VAC 110-50-160	Added	24:10 VA.R. 1291	2/20/08
18 VAC 110-50-170	Added	24:10 VA.R. 1291	2/20/08

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 110-50-180	Added	24:10 VA.R. 1292	2/20/08
18 VAC 110-50-190	Added	24:10 VA.R. 1292	2/20/08
18 VAC 115-30-150	Amended	24:14 VA.R. 1953	4/16/08
18 VAC 115-30-160	Amended	24:14 VA.R. 1953	4/16/08
18 VAC 125-20-170	Amended	24:12 VA.R. 1471	3/19/08
18 VAC 125-30-120	Amended	24:12 VA.R. 1471	3/19/08
18 VAC 135-20-10	Amended	24:11 VA.R. 1408	4/1/08
18 VAC 135-20-30	Amended	24:11 VA.R. 1409	4/1/08
18 VAC 135-20-60	Amended	24:11 VA.R. 1410	4/1/08
18 VAC 135-20-100	Amended	24:11 VA.R. 1410	4/1/08
18 VAC 135-20-101	Added	24:11 VA.R. 1412	4/1/08
18 VAC 135-20-105	Amended	24:11 VA.R. 1413	4/1/08
18 VAC 135-20-160	Amended	24:11 VA.R. 1413	4/1/08
18 VAC 135-20-170	Amended	24:11 VA.R. 1414	4/1/08
18 VAC 135-20-180	Amended	24:11 VA.R. 1414	4/1/08
18 VAC 135-20-190	Amended	24:11 VA.R. 1416	4/1/08
18 VAC 135-20-210	Amended	24:11 VA.R. 1417	4/1/08
18 VAC 135-20-220	Amended	24:11 VA.R. 1417	4/1/08
18 VAC 135-20-280	Amended	24:11 VA.R. 1417	4/1/08
18 VAC 135-20-300	Amended	24:11 VA.R. 1418	4/1/08
18 VAC 135-20-345	Added	24:11 VA.R. 1418	4/1/08
18 VAC 135-20-360	Amended	24:11 VA.R. 1419	4/1/08
18 VAC 135-20-370	Amended	24:11 VA.R. 1419	4/1/08
18 VAC 135-20-390	Amended	24:11 VA.R. 1420	4/1/08
18 VAC 135-60-60	Amended	24:9 VA.R. 1230	3/1/08
18 VAC 140-20-105	Amended	24:20 VA.R. 2890	7/24/08
18 VAC 150-20-135	Amended	24:21 VA.R. 2969	7/23/08
<b>Title 19. Public Safety</b>			
19 VAC 30-20-115	Added	24:11 VA.R. 1421	3/6/08
19 VAC 30-70-6	Amended	24:8 VA.R. 988	3/1/08
19 VAC 30-70-7	Amended	24:8 VA.R. 988	3/1/08
19 VAC 30-70-9	Amended	24:8 VA.R. 989	3/1/08
19 VAC 30-70-10	Amended	24:8 VA.R. 991	3/1/08
19 VAC 30-70-40	Amended	24:8 VA.R. 994	3/1/08
19 VAC 30-70-50	Amended	24:8 VA.R. 995	3/1/08
19 VAC 30-70-60	Amended	24:8 VA.R. 997	3/1/08
19 VAC 30-70-80	Amended	24:8 VA.R. 998	3/1/08
19 VAC 30-70-90	Amended	24:8 VA.R. 1001	3/1/08
19 VAC 30-70-110 through 19 VAC 30-70-660	Amended	24:8 VA.R. 1001-1070	3/1/08
19 VAC 30-190-10 through 19 VAC 30-190-140	Added	24:11 VA.R. 1421-1423	3/6/08
<b>Title 21. Securities and Retail Franchising</b>			
21 VAC 5-20-280	Amended	24:21 VA.R. 2971	7/1/08
21 VAC 5-80-10	Amended	24:21 VA.R. 2976	7/1/08
21 VAC 5-80-200	Amended	24:21 VA.R. 2977	7/1/08
21 VAC 5-110-10	Amended	24:21 VA.R. 2983	7/1/08
21 VAC 5-110-20	Amended	24:21 VA.R. 2984	7/1/08
21 VAC 5-110-30	Amended	24:21 VA.R. 2984	7/1/08
21 VAC 5-110-40	Amended	24:21 VA.R. 2984	7/1/08
21 VAC 5-110-50	Amended	24:21 VA.R. 2985	7/1/08
21 VAC 5-110-55	Added	24:21 VA.R. 2985	7/1/08

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## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
21 VAC 5-110-60	Amended	24:21 VA.R. 2986	7/1/08
21 VAC 5-110-65	Amended	24:21 VA.R. 2987	7/1/08
21 VAC 5-110-70	Amended	24:21 VA.R. 2988	7/1/08
21 VAC 5-110-75	Amended	24:21 VA.R. 2988	7/1/08
21 VAC 5-110-80	Amended	24:21 VA.R. 2989	7/1/08
21 VAC 5-110-90	Repealed	24:21 VA.R. 2992	7/1/08
21 VAC 5-110-95	Added	24:21 VA.R. 2992	7/1/08
<b>Title 22. Social Services</b>			
22 VAC 15-30-310	Amended	24:10 VA.R. 1295	3/6/08
22 VAC 40-470-10	Amended	24:9 VA.R. 1231	2/6/08
22 VAC 40-685-30	Amended	24:9 VA.R. 1231	2/6/08
22 VAC 40-705-10 emer	Amended	24:14 VA.R. 1987	3/1/08-2/28/09
22 VAC 40-705-30 emer	Amended	24:14 VA.R. 1990	3/1/08-2/28/09
<b>Title 23. Taxation</b>			
23 VAC 10-10-10 through 23 VAC 10-10-80	Amended	24:12 VA.R. 1520-1521	4/19/08
23 VAC 10-10-80	Amended	24:12 VA.R. 1521	4/19/08
23 VAC 10-10-90	Repealed	24:12 VA.R. 1522	4/19/08
<b>Title 24. Transportation and Motor Vehicles</b>			
24 VAC 30-72-10 through 24 VAC 30-72-170	Added	24:17 VA.R. 2458-2466	7/1/08
24 VAC 30-72-30	Erratum	24:18 VA.R. 2732	--

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# NOTICES OF INTENDED REGULATORY ACTION

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## TITLE 3. ALCOHOLIC BEVERAGES

### ALCOHOLIC BEVERAGE CONTROL BOARD

#### Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the Alcoholic Beverage Control Board has WITHDRAWN the Notice of Intended Regulatory for 3VAC5-50, Retail Operations, that was published in 24:10 VA.R. 1254 January 21, 2008.

Agency Contact: Jeffrey L. Painter, Legislative and Regulatory Coordinator, Department of Alcoholic Beverage Control, P.O. Box 27491, Richmond, VA 23261, telephone 804-213-4621, FAX 804-213-4411, TTY 804-213-4687, or email jeffrey.painter@abc.virginia.gov.

VA.R. Doc. No. R08-1048; Filed June 5, 2008, 2:32 p.m.

## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### DEPARTMENT OF MINES, MINERALS AND ENERGY

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to consider amending the following regulations: **4VAC25-150, Virginia Gas and Oil Regulation.** As a result of periodic review, the department is amending its regulation. 4VAC25-150 will be amended to correct technical areas for accuracy, improve worker safety, and provide clarity. These amendments will aid the gas and oil industry and the Gas & Oil Board in the approval and regulation of gas and oil permits. Amending parts of 4VAC25-150-150 will reduce workload and increase efficiency for applicants by providing flexibility and economy to the permit process. 4VAC25-150-90 will be updated to include symbols that are consistent with current industry usage and available CAD technology. Amendments to 4VAC25-150-80, 4VAC25-150-260, 4VAC25-150-300, 4VAC25-150-380, and 4VAC25-150-630 will protect the safety and health of oil and gas industry employees. An amendment to 4VAC25-150-90 is being made to bring consistency to data submission requirements for the Division of Gas & Oil. The use of latitude and longitude and the Virginia Coordinate System of 1927 have been replaced by the Virginia Coordinate System of 1983 in other Division of Gas & Oil regulations. Current industry practice is to use the more modern 1983 coordinate system for describing the locations of wells and core holes. Applicants for permits under this chapter must currently convert their coordinates back to the 1927 system, as required by the regulation, in order to submit them to the Department of Mines, Minerals

and Energy's Division of Gas & Oil. The amendment will allow applicants to use the updated 1983 coordinate system.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§45.1-161.3 and 45.1-361.27 of the Code of Virginia.

Public Comments: Public comments may be submitted until 5 p.m. on August 6, 2008.

Agency Contact: Tabitha Hibbitts Peace, Policy Analyst, Department of Mines, Minerals and Energy, 3405 Mountain Empire Road, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (276) 523-8212, FAX (276) 523-8148, TTY (800) 828-1120, or email tabitha.peace@dmme.virginia.gov.

VA.R. Doc. No. R08-1318; Filed June 16, 2008, 11:00 a.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to consider amending the following regulations: **4VAC25-160, Virginia Gas and Oil Board Regulations.** As a result of periodic review, the department is amending the regulations to make technical corrections, improve clarity, increase efficiency, and restore consistency with other chapters. 4VAC25-160-30, 4VAC25-160-40, 4VAC25-160-50, 4VAC25-160-60, 4VAC25-160-70, 4VAC25-160-100, and 4VAC25-160-200 will be amended to correct several technical areas for accuracy, and provide clarity. These amendments regarding process will aid the gas and oil industry, as well as the Gas & Oil Board in the approval and regulation of gas and oil permits. Amending 4VAC25-160-30 will reduce workload and increase efficiency for applicants by providing flexibility and economy in the permit process. Amendments to 4VAC25-160-40, 4VAC25-160-50, and 4VAC25-160-70 are being made to bring consistency to data submission requirements for the Division of Gas & Oil. The use of latitude and longitude and the Virginia Coordinate System of 1927 have been replaced by the Virginia Coordinate System of 1983 in other Division of Gas & Oil regulations. Current industry practice is to use the more modern 1983 coordinate system for describing the locations of wells and core holes. Applicants for permits under this chapter must currently convert their coordinates back to the 1927 system, as required by the regulation, in order to submit them to the Department of Mines, Minerals and Energy's Division of Gas & Oil. The amendment will allow applicants to use the updated 1983 coordinate system.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §45.1-361.15 of the Code of Virginia.

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# Notices of Intended Regulatory Action

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Public Comments: Public comments may be submitted until 5 p.m. on August 6, 2008.

Agency Contact: Tabitha Hibbitts Peace, Policy Analyst, Department of Mines, Minerals and Energy, 3405 Mountain Empire Road, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (276) 523-8212, FAX (276) 523-8148, TTY (800) 828-1120, or email tabitha.peace@dmme.virginia.gov.

VA.R. Doc. No. R08-1317; Filed June 16, 2008, 11:00 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to consider amending the following regulations: **4VAC25-170, Geothermal Energy Regulations.** As a result of periodic review, the department is amending its regulations. 4VAC25-170-10 will be amended to correct the current technical language referring to “geothermal resource,” which does not clarify that the regulation applies to nonresidential use only. The amendment will clarify that the regulation does not apply to residential heat pumps, a common misconception. Amendments to 4VAC25-170-30 and 4VAC25-170-40 are being made to bring consistency to data submission requirements for the Division of Gas & Oil. The use of latitude and longitude and the Virginia Coordinate System of 1927 have been replaced by the Virginia Coordinate System of 1983 in other Division of Gas & Oil regulations. Current industry practice is to use the more modern 1983 coordinate system for describing the locations of wells and core holes. Applicants for permits under this chapter must currently convert their coordinates back to the 1927 system, as required by the regulation, in order to submit them to the Department of Mines, Minerals and Energy’s Division of Gas & Oil. The amendment will allow applicants to use the updated 1983 coordinate system. 4VAC25-170-40 is being amended to change the name of the “Virginia Soil and Water Conservation Board” to the “Virginia Department of Conservation and Recreation.” This change will reflect the accuracy of the amended name for the state board statutorily responsible for Erosion and Sediment Control Regulation.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§45.1-161.3, 45.1-179.6, and 45.1-179.7 of the Code of Virginia.

Public Comments: Public comments may be submitted until 5 p.m. on August 6, 2008.

Agency Contact: Tabitha Hibbitts Peace, Policy Analyst, Department of Mines, Minerals and Energy, 3405 Mountain Empire Road, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (276)523-8212, FAX (276)523-8148, TTY (800)828-1120, or email tabitha.peace@dmme.virginia.gov.

VA.R. Doc. No. R08-1316; Filed June 16, 2008, 11:00 a.m.

## TITLE 8. EDUCATION

### STATE BOARD OF EDUCATION

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the State Board of Education intends to consider repealing **8VAC20-220, Regulations Governing Textbook Adoption State Level, 8VAC20-230, Regulations Governing Textbook Adoption Local Level, and 8VAC20-270, Regulations Governing Textbook Fund Management and Handling on Local Level,** and promulgating **8VAC20-720, Regulations Governing Local School Boards and School Divisions.** The purpose of the proposed action is to incorporate textbook provisions into consolidated regulations and repeal the outdated textbook regulations. Provisions will be included in the new regulation to conform it with Chapters 430, 615 and 663 of the 2008 Acts of Assembly.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §22.1-16 of the Code of Virginia.

Public Comments: Public comments may be submitted until 5 p.m. on August 11, 2008.

Agency Contact: Dr. Margaret N. Roberts, Office of Policy & Communications, Department of Education, P.O. Box 2120, James Monroe Building, 101 North 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, or email margaret.roberts@doe.virginia.gov.

VA.R. Doc. No. R08-1353; Filed June 16, 2008, 11:13 a.m.

## TITLE 12. HEALTH

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Board of Medical Assistance Services intends to consider amending the following regulations: **12VAC30-40, Eligibility Conditions and Requirements.** The purpose of the proposed action is to clarify and augment the existing regulations regarding restrictions on transfers of assets and the treatment of certain resources that may be counted in the process of Medicaid eligibility determination. This action is necessary to ensure that Medicaid funds are reserved for eligible individuals who meet established criteria for payment of their incurred medical expenses.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §32.1-325 of the Code of Virginia; 42 USC §1396 et seq.

Public Comments: Public comments may be submitted until 5 p.m. on August 6, 2008.

Agency Contact: Brian McCormick, Regulatory Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8856, FAX (804) 786-1680, or email brian.mccormick@dmas.virginia.gov.

VA.R. Doc. No. R08-1298; Filed June 17, 2008, 3:02 p.m.

## TITLE 22. SOCIAL SERVICES

### STATE BOARD OF SOCIAL SERVICES

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the State Board of Social Services intends to consider repealing the following regulations: **22VAC40-630, Disability Advocacy Project.** The purpose of the proposed action is to repeal the regulation regarding the General Relief disability advocacy project. The regulation offers or refers recipients to advocacy providers for legal representation during the appeal process, providing information on how the appeal would affect their general relief benefits. The provisions of this regulation will be included in the new comprehensive General Relief Program regulation.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 63.2-217 and 63.2-803 of the Code of Virginia; 42 USC §301 et seq.

Public Comments: Public comments may be submitted until 5 p.m. on August 6, 2008.

Agency Contact: Mark L. Golden, TANF Program Manager, Department of Social Services, Division of Benefit Programs, 7 North 8th Street, Richmond, VA 23219, telephone (804) 726-7385, FAX (804) 726-7356, TTY (800) 828-1120, or email mark.golden@dss.virginia.gov.

VA.R. Doc. No. R08-1278; Filed June 16, 2008, 2:44 p.m.

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# REGULATIONS

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For information concerning the different types of regulations, see the Information Page.

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## Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text. Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

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## TITLE 9. ENVIRONMENT

### CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

#### Final Regulation

**REGISTRAR'S NOTICE:** The Chesapeake Bay Local Assistance Board has claimed an exemption from the Administrative Process Act in accordance with §2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Chesapeake Bay Local Assistance Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** **9VAC10-20. Chesapeake Bay Preservation Area Designation and Management Regulations (amending 9VAC10-20-120).**

**Statutory Authority:** §§10.1-2103 and 10.1-2107 of the Code of Virginia.

**Effective Date:** August 6, 2008.

**Agency Contact:** David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804)786-2291, FAX (804)786-6141, or email david.dowling@dcr.virginia.gov.

#### Summary:

*The amendments update the following references contained in 9VAC10-20-120 of the Chesapeake Bay Preservation Area Designation and Management Regulations:*

*1. In subdivision 8 of 9VAC10-20-120, references to the Virginia Stormwater Management Regulations are updated from "4VAC3-20" and "4VAC3-20-71 et seq." to "4VAC50-60." Following the passage of Chapter 372 of the 2004 Virginia Acts of Assembly, the Virginia Stormwater Management Regulations were revised and recodified into 4VAC50-60 of the Virginia Administrative Code. This change simply recognizes that action.*

*2. In subdivisions 8 a (2) and (3) of 9VAC10-20-120, references to Virginia Pollution Discharge Elimination System (VPDES) permits are changed to references to Virginia Stormwater Management Program (VSMP) permits, and references to the Department of Environmental Quality are changed to references to the*

*Virginia Soil and Water Conservation Board. Chapter 372 of the 2004 Virginia Acts of Assembly transferred authority for stormwater permitting from the Department of Environmental Quality and the Virginia Pollutant Discharge Elimination System to the Soil and Water Conservation Board and the Virginia Stormwater Management Program. These changes simply recognize that action.*

#### **9VAC10-20-120. General performance criteria.**

Through their applicable land use ordinances, regulations and enforcement mechanisms, local governments shall require that any use, development or redevelopment of land in Chesapeake Bay Preservation Areas meets the following performance criteria:

1. No more land shall be disturbed than is necessary to provide for the proposed use or development.
2. Indigenous vegetation shall be preserved to the maximum extent practicable, consistent with the use or development proposed.
3. Where the best management practices utilized require regular or periodic maintenance in order to continue their functions, such maintenance shall be ensured by the local government through a maintenance agreement with the owner or developer or some other mechanism that achieves an equivalent objective.
4. All development exceeding 2,500 square feet of land disturbance shall be accomplished through a plan of development review process consistent with §15.2-2286 A 8 of the Code of Virginia and subdivision 1 e of 9VAC10-20-231.
5. Land development shall minimize impervious cover consistent with the proposed use or development.
6. Any land disturbing activity that exceeds an area of 2,500 square feet (including construction of all single family houses, septic tanks and drainfields, but otherwise as defined in §10.1-560 of the Code of Virginia) shall comply with the requirements of the local erosion and sediment control ordinance.
7. On-site sewage treatment systems not requiring a Virginia Pollutant Discharge Elimination System (VPDES) permit shall:
  - a. Have pump-out accomplished for all such systems at least once every five years.

(1) If deemed appropriate by the local health department and subject to conditions the local health department may set, local governments may offer to the owners of such systems, as an alternative to the mandatory pump-out, the option of having a plastic filter installed and maintained in the outflow pipe from the septic tank to filter solid material from the effluent while sustaining adequate flow to the drainfield to permit normal use of the septic system. Such a filter should satisfy standards established in the Sewage Handling and Disposal Regulations (12VAC5-610) administered by the Virginia Department of Health.

(2) Furthermore, in lieu of requiring proof of septic tank pump-out every five years, local governments may allow owners of on-site sewage treatment systems to submit documentation every five years, certified by a sewage handler permitted by the Virginia Department of Health, that the septic system has been inspected, is functioning properly, and the tank does not need to have the effluent pumped out of it.

b. For new construction, provide a reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site. This reserve sewage disposal site requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, if the lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local health department. Building shall be prohibited on the area of all sewage disposal sites until the structure is served by public sewer or an on-site sewage treatment system which operates under a permit issued by the State Water Control Board. All sewage disposal site records shall be administered to provide adequate notice and enforcement. As an alternative to the 100% reserve sewage disposal site, local governments may offer the owners of such systems the option of installing an alternating drainfield system meeting the following conditions:

(1) Each of the two alternating drainfields in the system shall have, at a minimum, an area not less than 50% of the area that would otherwise be required if a single primary drainfield were constructed.

(2) An area equaling 50% of the area that would otherwise be required for the primary drainfield site must be reserved for subsurface absorption systems that utilize a flow diversion device, in order to provide for future replacement or repair to meet the requirements for a sewage disposal system. Expansion of the primary system will require an expansion of this reserve area.

(3) The two alternating drainfields shall be connected by a diversion valve, approved by the local health department, located in the pipe between the septic

(aerobic) tank and the distribution boxes. The diversion valve shall be used to alternate the direction of effluent flow to one drainfield or the other at a time. However, diversion valves shall not be used for the following types of treatment systems:

- (a) Sand mounds;
- (b) Low-pressure distribution systems;
- (c) Repair situations when installation of a valve is not feasible; and
- (d) Any other approved system for which the use of a valve would adversely affect the design of the system, as determined by the local health department.

(4) The diversion valve shall be a three-port, two-way valve of approved materials (i.e., resistant to sewage and leakproof and designed so that the effluent from the tank can be directed to flow into either one of the two distribution boxes).

(5) There shall be a conduit from the top of the valve to the ground surface with an appropriate cover to be level with or above the ground surface.

(6) The valve shall not be located in driveways, recreational courts, parking lots, or beneath sheds or other structures.

(7) In lieu of the aforementioned diversion valve, any device that can be designed and constructed to conveniently direct the flow of effluent from the tank into either one of the two distribution boxes may be approved if plans are submitted to the local health department and found to be satisfactory.

(8) The local government shall require that the owner(s) alternate the drainfields every 12 months to permit the yearly resting of half of the absorption system.

(9) The local government shall ensure that the owner(s) are notified annually of the requirement to switch the valve to the opposite drainfield.

8. Stormwater management criteria consistent with the water quality protection provisions (~~4VAC3-20-71 et seq.~~) of the Virginia Stormwater Management Regulations (~~4VAC3-20~~) (4VAC50-60) shall be satisfied.

a. The following stormwater management options shall be considered to comply with this subsection of this chapter:

(1) Incorporation on the site of best management practices that meet the water quality protection requirements set forth in this subsection. For the purposes of this subsection, the "site" may include multiple projects or properties that are adjacent to one another or lie within the same drainage area where a

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# Regulations

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single best management practice will be utilized by those projects to satisfy water quality protection requirements;

(2) Compliance with a locally adopted regional stormwater management program, which may include a ~~Virginia Pollution Discharge Elimination System (VPDES) Stormwater Management Program (VSMP)~~ permit issued by the ~~Department of Environmental Quality~~ Virginia Soil and Water Conservation Board to a local government for its municipally owned separate storm sewer system discharges, that is reviewed and found by the board to achieve water quality protection equivalent to that required by this subsection; and

(3) Compliance with a site-specific ~~VPDES VSMP~~ permit issued by the ~~Department of Environmental Quality~~ Virginia Soil and Water Conservation Board, provided that the local government specifically determines that the permit requires measures that collectively achieve water quality protection equivalent to that required by this subsection.

b. Any maintenance, alteration, use or improvement to an existing structure that does not degrade the quality of surface water discharge, as determined by the local government, may be exempted from the requirements of this subsection.

c. Stormwater management criteria for redevelopment shall apply to any redevelopment, whether or not it is located within an Intensely Developed Area designated by a local government.

9. Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, and dairy and feedlot operations, or lands otherwise defined as agricultural land by the local government, shall have a soil and water quality conservation assessment conducted that evaluates the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides, and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is being accomplished consistent with the Act and this chapter.

a. Recommendations for additional conservation practices need address only those conservation issues applicable to the tract or field being assessed. Any soil and water quality conservation practices that are recommended as a result of such an assessment and are subsequently implemented with financial assistance from federal or state cost-share programs must be designed, consistent with cost-share practice standards effective in January 1999 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service or the June 2000 edition of the "Virginia Agricultural BMP Manual" of the Virginia

Department of Conservation and Recreation, respectively. Unless otherwise specified in this section, general standards pertaining to the various agricultural conservation practices being assessed shall be as follows:

(1) For erosion and sediment control recommendations, the goal shall be, where feasible, to prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. However, in no case shall erosion exceed the soil loss consistent with an Alternative Conservation System, referred to as an "ACS", as defined in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service.

(2) For nutrient management, whenever nutrient management plans are developed, the operator or landowner must provide soil test information, consistent with the Virginia Nutrient Management Training and Certification Regulations (4VAC5-15).

(3) For pest chemical control, referrals shall be made to the local cooperative extension agent or an Integrated Pest Management Specialist of the Virginia Cooperative Extension Service. Recommendations shall include copies of applicable information from the "Virginia Pest Management Guide" or other Extension materials related to pest control.

b. A higher priority shall be placed on conducting assessments of agricultural fields and tracts adjacent to Resource Protection Areas. However, if the landowner or operator of such a tract also has Resource Management Area fields or tracts in his operation, the assessment for that landowner or operator may be conducted for all fields or tracts in the operation. When such an expanded assessment is completed, priority must return to Resource Protection Area fields and tracts.

c. The findings and recommendations of such assessments and any resulting soil and water quality conservation plans will be submitted to the local Soil and Water Conservation District Board, which will be the plan-approving authority.

10. Silvicultural activities in Chesapeake Bay Preservation Areas are exempt from this chapter provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the January 1997 edition of "Forestry Best Management Practices for Water Quality in Virginia Technical Guide." The Virginia Department of Forestry will oversee and document installation of best management practices and will monitor in-stream impacts of forestry operations in Chesapeake Bay Preservation Areas.

11. Local governments shall require evidence of all wetlands permits required by law prior to authorizing grading or other on-site activities to begin.

VA.R. Doc. No. R08-1350; Filed June 18, 2008, 9:10 a.m.

## TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

### STATE CORPORATION COMMISSION

**REGISTRAR'S NOTICE:** The State Corporation Commission is exempt from the Administrative Process Act in accordance with §2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

#### Final Regulation

**Title of Regulation:** 10VAC5-20. Banking and Savings Institutions (amending 10VAC5-20-30).

**Statutory Authority:** §§6.1-94, 6.1-194.85, 6.1-194.149 and 12.1-13 of the Code of Virginia.

**Effective Date:** June 23, 2008.

**Agency Contact:** Gerald Fallen, BFI Deputy Commissioner, State Corporation Commission, P. O. Box 640, Richmond, VA 23218, telephone (804) 371-9699, FAX (804) 371-9416, or email gerald.fallen@scc.virginia.gov.

**Summary:**

*The regulation amends the schedule of annual fees to be paid by state-chartered banks and savings institutions to defray the costs of their supervision, regulation and examination.*

AT RICHMOND, JUNE 11, 2008

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2008-00066

**Ex Parte:** In re: annual fees paid by banks and savings institutions

#### ORDER ADOPTING A REGULATION

On April 4, 2008, the State Corporation Commission ("Commission") entered an Order to Take Notice of the Bureau of Financial Institution's proposal to amend 10VAC5-20-30, which sets forth the schedule of annual fees to be paid by state-chartered banks and savings institutions to defray the costs of their supervision, regulation, and examination. The amendments are expected to generate additional revenue, which is needed due to changing market conditions and the conversion of Virginia's two largest state-chartered banks to

federal institutions. The Order and proposed regulation were published in the Virginia Register on April 28, 2008, posted on the Commission's website, and mailed to all state-chartered banks, savings institutions, and other interested persons. Interested persons were afforded the opportunity to file written comments or request a hearing on or before May 9, 2008. No comments or requests for hearing were filed.

NOW THE COMMISSION, having considered the record, the proposed regulation, and Staff recommendations, concludes that the proposed regulation should be adopted as proposed.

#### IT IS THEREFORE ORDERED THAT:

(1) The proposed regulation, 10VAC5-20-30, attached hereto is adopted effective June 23, 2008.

(2) The regulation shall be posted on the Commission's website at <http://www.scc.virginia.gov/case>.

(3) AN ATTESTED COPY hereof, together with a copy of the regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

(4) This case is dismissed from the Commission's docket of active cases.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions, who shall forthwith mail a copy of this Order, together with a copy of the regulation, to all state-chartered banks, savings institutions, and such other interested persons as he may designate.

#### **10VAC5-20-30. Schedule prescribing annual fees paid for examination, supervision, and regulation of state-chartered banks and savings institutions.**

Pursuant to the provisions of §§6.1-94, 6.1-194.85 and 6.1-194.149 of the Code of Virginia, the State Corporation Commission hereby sets the following schedule of annual fees to be paid by state-chartered banks, savings institutions, and savings banks for their examination, supervision, and regulation:

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SCHEDULE					
Asset Interval		Fee			
Assets Exceeding	But Not Exceeding	This Amount	Plus		Assets Exceeding
\$0	\$5 million	<del>\$6,000</del> <u>\$6,900</u>	0	x	
5 million	25 million	<del>6,000</del> <u>6,900</u>	<del>.000350</del> <u>.0004025</u>	x	\$5 million
25 million	100 million	<del>13,000</del> <u>14,950</u>	<del>.000200</del> <u>.00023</u>	x	25 million
100 million	200 million	<del>28,000</del> <u>32,200</u>	<del>.000150</del> <u>.0001725</u>	x	100 million
200 million	<del>1000 million</del> 1 billion	<del>43,000</del> <u>49,450</u>	<del>.000110</del> <u>.0001265</u>	x	200 million
<del>1000 million</del> 1 billion	<del>5000 million</del> 5 billion	<del>131,000</del> <u>150,650</u>	<del>.000090</del> <u>.0001035</u>	x	<del>1000 million</del> 1 billion
<del>5000 million</del> 5 billion		<del>491,000</del> <u>564,650</u>	<del>.000070</del> <u>.0000805</u>	x	<del>5000 million</del> 5 billion

The fee assessed using the above schedule shall be rounded down to the nearest whole dollar. The assessment shall be based on the institution's total assets as shown by its Report of Condition as of the close of business for the preceding calendar year ~~filed with the Bureau of Financial Institutions.~~

A bank or savings institution which opens for business January 1 through June 30 shall be assessed a fee of ~~\$6,000~~ \$6,900 for that year.

A bank or savings institution which opens for business on or after July 1 shall be assessed a fee of ~~\$4,500~~ \$5,175 for that year.

VA.R. Doc. No. R08-1252; Filed June 12, 2008, 4:07 p.m.

## Final Regulation

**Title of Regulation:** 10VAC5-40. Credit Unions (adding 10VAC5-40-5, 10VAC5-40-60).

**Statutory Authority:** §§6.1-225.3, 6.1-225.3:1, 6.1-225.22, 6.1-225.57 and 12.1-13 of the Code of Virginia; 12 USC §1757 (7)(I); 12 CFR 712.1.

**Effective Date:** July 1, 2008.

**Agency Contact:** E. J. Face, Jr., Bureau of Financial Institutions Commissioner, State Corporation Commission, P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9659, FAX (804) 371-9416, or email joe.face@scc.virginia.gov.

## Summary:

*The regulations establish the terms and conditions under which state-chartered credit unions may invest in or make loans to credit union service organizations (CUSOs). In addition to requiring a credit union to give the Commissioner of Financial Institutions written notice of its investment in or loans to a CUSO, the regulations cap the percentage of a credit union's outstanding shares and reserves that the credit union may invest in or loan to a CUSO. The regulations also provide that a CUSO must primarily serve credit unions, its membership, or the membership of credit unions contracting with the CUSO. Furthermore, the regulations require a CUSO to be structured as a corporation, limited liability company, or limited partnership, and provide that a CUSO must be engaged in activities and services that are reasonably related to the operations of credit unions. No changes have been made since publication of the repropose regulation.*

AT RICHMOND, JUNE 13, 2008

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2007-00161

Ex Parte: In re: credit union service organizations

## ORDER ADOPTING REGULATIONS

On October 5, 2007, the State Corporation Commission ("Commission") entered an Order To Take Notice of

regulations proposed by the Bureau of Financial Institutions ("Bureau") that would authorize state-chartered credit unions to invest in or make loans to credit union service organizations on similar terms and conditions as federal credit unions. The Order and proposed regulations were published in the Virginia Register on October 29, 2007, posted on the Commission's website, and mailed to all state-chartered credit unions and other interested persons. The Commission received comment letters from various credit unions and organizations as well as several requests for a hearing.

On December 21, 2007, the Commission entered an Order scheduling a hearing for February 26, 2008, in order to consider the adoption of the proposed regulations. The Commission also directed the Bureau to meet with representatives from those entities that submitted comments in an attempt to narrow the issues for the Commission's consideration at the hearing. The Commission's Order also required the Bureau to make a filing in this case in which it (i) identified any issues that had been resolved as a result of the Bureau's meeting, and (ii) responded to the comments filed in this case that pertained to issues that remained unresolved after the Bureau's meeting.

On February 15, 2008, the Bureau filed its Response to Comments. In its Response, the Bureau informed the Commission that as a result of its meeting with representatives from those entities that submitted comments, the credit unions and organizations that initially requested a hearing no longer desired a hearing and had withdrawn their requests. The Bureau also informed the Commission that it had drafted certain changes to the proposed regulations in order to address the commenters' issues and concerns. The Bureau attached to its Response the draft regulations that were agreed to by the Bureau and the commenters.

On April 18, 2008, the Commission found that the proposed regulations should be modified to reflect the changes agreed to by the Bureau and the commenters, and that all state-chartered credit unions and other interested persons should be afforded an opportunity to file written comments or request a hearing on the modified proposed regulations. The Order to Take Notice and modified proposed regulations were published in the Virginia Register on May 12, 2008, posted on the Commission's website, and mailed to all state-chartered credit unions and other interested persons. The Commission received a comment letter from Virginia Credit Union, Inc. and a combined comment letter from the Virginia Credit Union League and the Virginia Credit Union League Regulatory Response Committee. Both comment letters supported the modified proposed regulations.

NOW THE COMMISSION, having considered the record, the modified proposed regulations, and the comments filed, concludes that the modified proposed regulations are a proper exercise of the authority granted under §§ 6.1-225.3, 6.1-

225.3:1, and 6.1-225.22 of the Code of Virginia, and should be adopted as proposed.

IT IS THEREFORE ORDERED THAT:

(1) The modified proposed regulations are appended hereto and adopted effective July 1, 2008.

(2) The regulations shall be posted on the Commission's website at <http://www.scc.virginia.gov/case>.

(3) AN ATTESTED COPY hereof, together with a copy of the regulations, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

(4) This case is dismissed from the Commission's docket of active cases.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions, who shall forthwith mail a copy of this Order, together with a copy of the regulations, to all state-chartered credit unions and such other interested persons as he may designate.

#### **10VAC5-40-5. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Credit union service organization" or "CUSO" means a corporation, limited liability company, or limited partnership of which more than 50% of, the voting shares or ownership interest of which is primarily held, directly or indirectly, by one or more credit unions or organizations of credit unions.

"GAAP" means generally accepted accounting principles.

"Immediate family member" means a spouse or other family member living in the same household.

"Officials" means a credit union's directors or committee members.

"Reserves" means the total of undivided earnings, regular reserves, and any other type of funds held in reserve except allowances for loan losses.

"Senior management employee" means a credit union's chief executive officer (typically the president or treasurer/manager), any assistant chief executive officers (e.g., assistant president, vice president, or assistant treasurer/manager), and the chief financial officer (comptroller).

#### **10VAC5-40-60. Credit union service organizations (CUSOs).**

A. 1. Except as otherwise provided in this section, a state-chartered credit union shall not, directly or indirectly, invest its funds or make loans pursuant to subdivision 10 of §6.1-225.57 of the Code of Virginia.

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2. A Except as provided in subsection H of this section, a CUSO shall not, directly or indirectly, invest any of its funds in a corporation, limited liability company, partnership, association, trust, or other legal or commercial entity unless the state-chartered credit union or credit unions having an interest in the CUSO would be permitted to directly invest its funds in such entity and the state-chartered credit union or credit unions comply with the notice requirements requirement in subsection B and the other provisions of this section.

3. CUSOs shall not, directly or indirectly, acquire control of another depository institution, nor invest in shares, stocks, or obligations of an insurance company, trade association, liquidity facility, or similar organization, corporation, or association.

~~B. 1. At least 60 days prior to investing in or making loans to a CUSO, either directly or indirectly, a~~ A state-chartered credit union shall give the Commissioner of Financial Institutions (commissioner) written notice of its proposed investment in or loans to the Commissioner of Financial Institutions (commissioner) along with a business plan, marketing plan, financial analyses, and any other information the commissioner may require concerning the proposed investment or loans a CUSO.

~~2. If a state chartered credit union wishes to subsequently increase the amount of its investment in or loans to a CUSO, it shall give written notice to the commissioner at least 30 days prior to such additional investment or loans along with any additional information the commissioner may require.~~

~~3.~~ 2. A state-chartered credit union may invest up to 5.0% of its outstanding shares and reserves in a CUSO. However, a state-chartered credit union's total investments in all CUSOs shall not exceed, in the aggregate, 5.0% of its outstanding shares and reserves.

4. 3. A state-chartered credit union may make loans to a CUSO provided that the amount of the loans, when combined with the credit union's total investments in and loans to all CUSOs, does not exceed, in the aggregate, 5.0% of its outstanding shares and reserves.

5. 4. If the limits specified above are reached or exceeded because of the profitability of the CUSO and the related GAAP valuation of the investment under the equity method, without an additional cash outlay by the state-chartered credit union, divestiture is not required. A state-chartered credit union may continue to invest up to these limits without regard to the increase in the GAAP valuation resulting from a CUSO's profitability.

6. 5. The 5.0% limits specified in this subsection may be exceeded with prior written approval from the commissioner.

C. 1. A state-chartered credit union may invest in or make loans to a CUSO only if the CUSO is or will be structured as a corporation, limited liability company, or limited partnership. A state-chartered credit union may only participate in a limited partnership as a limited partner.

2. A state-chartered credit union may invest in or make loans to a CUSO only if the CUSO is or will be providing its products and services exclusively to (i) the credit union or credit unions that have invested in the CUSO; (ii) the members of the credit union or credit unions that have invested in the CUSO; (iii) other credit unions; and (iv) organizations of credit unions primarily serves credit unions, its membership, or the membership of credit unions contracting with the CUSO.

3. A state-chartered credit union shall account for its investments in or loans to a CUSO in conformity with GAAP.

4. A state-chartered credit union shall obtain written agreements from a CUSO, prior to investing in or making loans to the CUSO, that the CUSO shall:

a. Account for all of its transactions in accordance with GAAP;

b. Prepare quarterly financial statements and obtain an annual financial statement audit of its financial statements by a licensed certified public accountant in accordance with generally accepted auditing standards. A wholly owned CUSO is not required to obtain a separate annual financial statement audit if it is included in the annual consolidated financial statement audit of the credit union that is its parent; and

c. Provide the Bureau of Financial Institutions (bureau) and its staff with complete access to any books and records of the CUSO and the ability to review CUSO internal controls, as deemed necessary by the bureau in carrying out its responsibilities under the Virginia Credit Union Act (§6.1-225.1 et seq. of the Code of Virginia).

5. A CUSO shall comply with all applicable federal, state, and local laws and regulations.

D. 1. A state-chartered credit union and a CUSO shall be operated in a manner that demonstrates to the public the separate existence of the state-chartered credit union and the CUSO. Good business practices dictate that each shall operate so that:

a. Its respective business transactions, accounts, and records are not intermingled;

b. Each observes the formalities of its separate company procedures;

c. Each is adequately financed as a separate unit in light of normal obligations reasonably foreseeable in a business of its size and character;

d. Each is held out to the public as a separate enterprise;

e. The state-chartered credit union does not dominate the CUSO to the extent that the CUSO is treated as a department of the credit union; and

f. Unless the state-chartered credit union has guaranteed a loan obtained by the CUSO, all borrowings by the CUSO shall indicate that the state-chartered credit union is not liable.

2. If a CUSO in which a state-chartered credit union has an investment plans to change its structure, the credit union shall obtain prior, written legal advice that the CUSO shall remain established in a manner that will limit potential exposure of the credit union to no more than the loss of funds invested in or loaned to the CUSO. The legal advice shall address factors that have led courts to "pierce the corporate veil" such as inadequate capitalization, lack of separate corporate identity, common boards of directors and employees, control of one entity over another, and lack of separate books and records. The legal advice may be provided by independent legal counsel of either the investing state-chartered credit union or the CUSO.

E. The commissioner may at any time, based upon supervisory, legal, or safety and soundness considerations, prohibit or otherwise limit any CUSO activities or services.

F. A state-chartered credit union may only invest in or make loans to CUSOs that are or will be sufficiently bonded or insured for their specific operations.

G. A state-chartered credit union may only invest in or make loans to CUSOs that are or will be engaged in activities and services that are reasonably related to the operations of credit unions, including but not limited to the following:

1. Checking and currency services (i.e., check cashing, coin and currency services, money orders, savings bonds, travelers checks, and purchase and sale of U.S. Mint commemorative coin services);

2. Clerical, professional and management services (i.e., accounting services, courier services, credit analyses, facsimile transmissions, copying services, internal audits for credit unions, locator services, management and personnel training and support, marketing services, research services, and supervisory committee audits);

3. Business loan origination;

4. Consumer mortgage loan origination and processing;

5. Electronic transaction services (i.e., automated teller machine (ATM) services, credit card and debit card services, data processing, electronic fund transfer (EFT) services, electronic income tax filing, payment item processing, wire transfer services, and cyber financial services);

6. Financial counseling services (i.e., developing and administering Individual Retirement Accounts (IRAs), Keogh, deferred compensation, and other personnel benefit plans, estate planning, financial planning and counseling, income tax preparation, investment counseling, and retirement counseling);

7. Fixed asset services (i.e., management, development, sale, or lease of fixed assets, and sale, lease, or servicing of computer hardware or software);

8. Insurance brokerage or agency (i.e., agency for sale of insurance, provision of vehicle warranty programs, and provision of group purchasing programs);

9. Leasing personal property and real estate leasing of excess CUSO property;

10. Loan support services (i.e., debt collection services, loan processing, loan servicing, loan sales, and selling repossessed collateral);

11. Record retention, security and disaster recovery services (i.e., alarm-monitoring and other security services, disaster recovery services, microfilm, microfiche, optical and electronic imaging, CD-ROM data storage and retrieval services, provision of forms and supplies, and record retention and storage);

12. Securities brokerage services;

13. Shared credit union branch (service center) operations;

14. Student loan origination;

15. Travel agency services;

16. Trust and trust-related services (i.e., acting as administrator for prepaid legal service plans, acting as trustee, guardian, conservator, estate administrator, or in any other fiduciary capacity, and other trust services); and

~~16.~~ 17. Real estate brokerage services and real estate listing services.

H. In connection with providing a permissible service, a CUSO may invest in a non-CUSO service provider. The amount of the CUSO's investment is limited to the amount necessary to participate in the service provider, or a greater amount if necessary to receive a reduced price for goods or services.

I. In order for a state-chartered credit union to invest in or make loans to a CUSO that is or will be engaged in activities or services that are not enumerated in subsection G of this section, the state-chartered credit union shall obtain prior approval from the State Corporation Commission (commission). A request for commission approval of an activity or service that is not enumerated in subsection G of this section shall be submitted ~~with the written notice required by subsection B of this section~~ in writing to the

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commissioner and include a full explanation and complete documentation of the activity or service and how that activity or service is reasonably related to the operations of credit unions.

¶ J. 1. If a state-chartered credit union has outstanding loans or investments in a CUSO, then the credit union's officials, senior management employees, and their immediate family members shall not receive, either directly or indirectly, any salary, commission, investment income, or other income or compensation from the CUSO or from any person being served through the CUSO. This provision does not prohibit the credit union's officials or senior management employees from assisting in the operation of a CUSO, provided the officials or senior management employees are not compensated by the CUSO. Furthermore, the CUSO may reimburse the state-chartered credit union for the services provided by such credit union officials and senior management employees only if the account receivable of the credit union due from the CUSO is paid in full at least every 120 days.

2. The prohibition contained in subdivision 1 of this subsection also applies to state-chartered credit union employees not otherwise covered if the employees are directly involved in dealing with the CUSO, unless the state-chartered credit union's board of directors determines that the credit union's employees' positions do not present a conflict of interest.

3. All transactions with business associates or family members of state-chartered credit union officials, senior management employees, or their immediate family members that are not specifically prohibited by subdivision 1 or 2 of this subsection shall be conducted at arm's length and in the interest of the state-chartered credit union.

¶ K. 1. A state-chartered credit union's investments in CUSOs in existence prior to ~~February~~ July 1, 2008, shall conform with this section no later than ~~August 1, 2008~~ January 1, 2009, unless the commissioner grants prior written approval to continue the credit union's investments for a stated period.

2. A state-chartered credit union's loans to CUSOs in existence prior to ~~February~~ July 1, 2008, shall conform with this section no later than ~~August 1, 2008~~ January 1, 2009, unless (i) the commissioner grants prior written approval to continue the credit union's loans for a stated period, or (ii) under the terms of its loan agreement, the credit union cannot require accelerated repayment without breaching the agreement.

VA.R. Doc. No. R08-921; Filed June 17, 2008; 3:00 p.m.

## Proposed Regulation

Title of Regulation: **10VAC5-200. Payday Lending (amending 10VAC5-200-10, 10VAC5-200-20, 10VAC5-200-40, 10VAC5-200-60, 10VAC5-200-70, 10VAC5-200-80; adding 10VAC5-200-33, 10VAC5-200-35, 10VAC5-200-110, 10VAC5-200-120).**

Statutory Authority: §§6.1-458 and 12.1-13 of the Code of Virginia.

Public Hearing Information:

August 5, 2008 - 10 a.m. - State Corporation Commission Courtroom, 1300 East Main Street, Richmond, VA

Public Comments: Public comments may be submitted until 5 p.m. on July 25, 2008.

Agency Contact: E.J. Face, Jr., Bureau of Financial Institutions Commissioner, State Corporation Commission, P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9659, FAX (804) 371-9416, or email joe.face@scc.virginia.gov.

Summary:

*The proposed amendments incorporate changes made by Chapter 849 of the 2008 Acts of Assembly (Chapter 849), which generally amends the Payday Loan Act effective January 1, 2009.\* The proposed amendments (i) specify the information that licensees are required to collect and transmit to the payday lending database and establish rules governing what licensees must do if they are unable to access the database at the time that they are required to transmit information to the database; (ii) limit licensees' access to the database and require licensees to transmit limited information to the database in connection with certain loans that remain outstanding as of January 1, 2009; (iii) instruct licensees how to calculate a borrower's pay cycle and minimum loan term, and require licensees to return the check given as security for a loan to a borrower within three business days of the loan being repaid in full with cash or good funds instrument; (iv) establish the rules applicable to extended payment plans and extended term loans, including when these types of repayment arrangements may be elected by borrowers; (v) require licensees to provide consumers with oral and written notices regarding extended payment plans and extended term loans, and address the waiting periods associated with these repayment arrangements; (vi) contain definitions for "member of the military services of the United States" and "other dependent of a member of the military services of the United States," and establish the process by which licensees are required to determine whether an individual is a member of the military services of the United States, or the spouse or other dependent of a member of the military services of the United States; (vii) make various changes to 10VAC5-200-40, which relates to*

*the prepayment of a payday loan, as well as 10VAC5-200-60, which pertains to the required posting of charges; and (viii) revise the text of the payday lending pamphlet, which licensees must give to all consumers prior to entering into payday loan transactions.*

*\* Subsection A of §6.1-453.1 of the Code of Virginia becomes effective on July 1, 2008.*

AT RICHMOND, JUNE 17, 2008

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2008-00295

Ex Parte: In re: proposed amendments  
to Payday Loan Act regulations

ORDER TO TAKE NOTICE

WHEREAS, §6.1-458 of the Code of Virginia authorizes the State Corporation Commission ("Commission") to promulgate regulations to effect the purposes of the Payday Loan Act, §6.1-444 et seq. of the Code of Virginia;

WHEREAS, Chapter 849 of the 2008 Acts of Assembly ("Chapter 849") significantly amends the Payday Loan Act effective January 1, 2009;

WHEREAS, Chapter 849 requires the Commission to certify and contract with one or more third parties to develop, implement, and maintain a real-time Internet-accessible database that contains such payday loan information as the Commission may require;

WHEREAS, Chapter 849 prohibits individuals from obtaining payday loans under various circumstances, such as if they have outstanding payday loans or repaid previous payday loans on the same day they are seeking new payday loans, or if they are members of the military services of the United States or the spouses or other dependents of such members;

WHEREAS, Chapter 849 gives borrowers the option under certain circumstances to repay their payday loans by means of extended payment plans or extended term loans, and requires borrowers who elect either of these options to wait a period of time after repaying their loans before obtaining new payday loans;

WHEREAS, Chapter 849 modifies the amount of interest and fees that may be charged by a licensed payday lender, provides that the term of a payday loan must be at least two times a borrower's pay cycle, and imposes additional requirements and limitations; and

WHEREAS, the Commissioner of Financial Institutions has proposed that the Commission adopt regulations

implementing the aforesaid amendments and for other purposes;

IT IS THEREFORE ORDERED THAT:

(1) The proposed regulations are appended hereto and made a part of the record in this case.

(2) Comments must be submitted in writing to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before July 25, 2008, and shall contain a reference to Case No. BFI-2008-00295. Interested persons desiring to submit comments electronically may do so by following the instructions at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) The Commission shall conduct a hearing in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia at 10:00 a.m. on August 5, 2008, to receive oral comments on the proposed regulations.

(4) The proposed regulations shall be posted on the Commission's website at <http://www.scc.virginia.gov/case>.

AN ATTESTED COPY hereof, together with a copy of the proposed regulations, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions, who shall forthwith mail a copy of this Order and the proposed regulations to all licensed payday lenders and such other interested persons as he may designate.

**10VAC5-200-10. Definitions.**

A. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Act" means the Payday Loan Act (§6.1-444 et seq. of the Code of Virginia).

"Bureau" means the Bureau of Financial Institutions.

"Business day" for purposes of clause 1 (vi) of §6.1-459 of the Code of Virginia and this chapter means a day on which the licensee's office is open for business as posted as required by subsection A of 10VAC5-200-70.

"Commission" means the State Corporation Commission.

"Duplicate original" for purposes of subdivision 2 of §6.1-459 of the Code of Virginia and this chapter means an exact copy of a signed original, an exact copy with signatures created by the same impression as the original, or an exact copy bearing an original signature.

"Good funds instrument" for purposes of clause 1 (vi) of §6.1-459 of the Code of Virginia and this chapter means a

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certified check, cashier's check, money order or, if the licensee is equipped to handle such payments, payment effected by use of a debit or credit card.

"Liquid assets" for purposes of the Act and this chapter means cash on hand and in depository institutions, money market funds, commercial paper, and treasury bills.

"Member of the military services of the United States" for purposes of the Act and this chapter means a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer.

"Other dependent of a member of the military services of the United States" for purposes of the Act and this chapter means (i) an individual under the age of 18 whose mother or father is a member of the military services of the United States or (ii) an individual for whom a member of the military services of the United States provided more than one-half of the individual's financial support for 180 days immediately preceding the date the individual applied for a payday loan.

"Small," as used in the definition of "payday loan" in §6.1-444 of the Code of Virginia, means \$2,500 or less.

B. Other terms used in this chapter shall have the meaning set forth in §6.1-444 of the Act.

## **10VAC5-200-20. Requirements for licensees; operating rules; acquisitions.**

A. A licensee shall maintain unencumbered liquid assets per place of business in Virginia of at least \$25,000 at all times. The bureau may require submission of proof of maintenance of such liquid assets at any time.

B. Any person submitting an application to acquire, directly or indirectly, 25% or more of the voting shares of a corporation or 25% or more of the ownership of any other person licensed to conduct business under the Act shall pay a nonrefundable application fee of \$500.

C. Each original license shall be prominently posted in each place of business of the licensee. In order for a licensee to receive a replacement or reissued license, a licensee shall pay a fee of \$50 per place of business to the commission. Licenses will only be replaced or reissued if the licensee is in compliance with all laws and regulations applicable to the conduct of the licensee's business.

D. If a person has filed a bond with the bureau, as required by §6.1-448 of the Code of Virginia, such bond shall be retained by the bureau notwithstanding the occurrence of any of the following events:

1. The person's license is surrendered, suspended, or revoked; or

2. The person ceases engaging in business as a payday lender.

E. Upon becoming licensed, a licensee shall give written notice to the bureau of its commencement of business within 10 days thereafter.

F. For purposes of clause 1 (v) of §6.1-459 of the Code of Virginia, the number of days in a borrower's pay cycle and the corresponding minimum loan term shall be determined by a licensee in accordance with the following:

1. If a borrower is paid on a weekly basis, there are seven days in the borrower's pay cycle and the minimum loan term shall be 14 days.

2. If a borrower is paid on a biweekly basis, there are 14 days in the borrower's pay cycle and the minimum loan term shall be 28 days.

3. If a borrower is paid on a semimonthly basis, there are 15 days in the borrower's pay cycle and the minimum loan term shall be 30 days.

4. If a borrower is paid on a monthly basis or a borrower's source of income for repayment of a loan is Social Security, there are 30 days in the borrower's pay cycle and the minimum loan term shall be 60 days.

5. If a borrower is paid either less frequently than monthly or on an irregular basis (e.g., self-employed), the number of days in a borrower's pay cycle shall be calculated by dividing 90 by the number of payments the borrower received within the past 90 days, rounded to the nearest whole number (e.g., 8.49 would be rounded to eight days and 8.50 would be rounded to nine days). The minimum loan term shall be calculated by multiplying the preceding result by two. However, in no event shall the minimum loan term for any borrower be less than 14 days.

G. A licensee shall retain supporting documentation for a borrower's pay cycle in each loan file.

H. A licensee shall not electronically debit a borrower's deposit account or otherwise obtain any funds from a borrower by electronic means, including the use of the Automated Clearing House network, electronic funds transfers, electronic check conversions, or re-presented check entries.

I. With the exception of the check given by a borrower to a licensee as security for a payday loan, a licensee shall not collect or receive from a borrower any interest or fees permitted by §6.1-460 of the Code of Virginia, either in whole or in part, prior to the date of loan maturity unless the borrower is voluntarily making a full or partial prepayment pursuant to 10VAC5-200-40. If a borrower enters into an extended payment plan or extended term loan, a licensee shall not collect or receive any interest or fees, either in whole or in

part, prior to the due date of a scheduled installment unless the borrower is voluntarily making a payment in advance.

J. The amount of the check given by a borrower to a licensee as security for a payday loan shall not exceed the sum of the principal amount advanced to the borrower and the interest and fees permitted by §6.1-460 of the Code of Virginia. If a borrower enters into an extended payment plan at the time a loan is obtained, the amount of the check shall not include any interest.

K. A licensee shall attach to each loan agreement that has been satisfied either (i) a copy of the signed and dated receipt for the payment that satisfied the loan or (ii) if a judgment was obtained and satisfied, a copy of the judgment marked satisfied.

L. Except as otherwise provided in subdivision B 2 of 10VAC5-200-33 or subdivision D 1 of 10VAC5-200-35, the check used to secure a payday loan shall be dated as of the date the loan is due. A licensee shall not deposit or otherwise present for payment a check given as security for a loan, including an extended term loan or a loan that a borrower elected to repay by means of an extended payment plan, prior to the date stated on the face of the check.

M. If a borrower repays or otherwise satisfies a loan in full with cash or good funds instrument, the licensee shall return the check given as security for the loan to the borrower within three business days of repayment or satisfaction.

### **10VAC5-200-33. Extended payment plans.**

A. In any rolling 12-month period, an eligible borrower may elect to pay an outstanding payday loan from any licensee by means of an extended payment plan. A borrower shall not be eligible to obtain an extended payment plan if the borrower obtained an extended payment plan within the preceding 12 months.

B. A borrower may enter into an extended payment plan at any time on or after the date a loan is made through the date that the loan is due to be repaid. A borrower shall not be permitted to repay a past due payday loan by means of an extended payment plan.

1. If an eligible borrower elects an extended payment plan, a licensee shall permit the borrower to repay the amount owed in at least four equal installments over a term of at least 60 days. The dollar amount of each installment shall be the same and the installment due dates shall be spread out evenly over the term of the extended payment plan (e.g., if the term is 60 days and there are four installments, an installment shall be due every 15 days).

2. If a borrower enters into an extended payment plan on the date a loan is made, the check used to secure the loan shall be dated as of the date the final installment is due. A licensee shall not require or accept multiple checks or any

additional or alternative security in connection with an extended payment plan.

3. A borrower who elects to repay a payday loan with an extended payment plan shall not be eligible for another payday loan until 90 days after the borrower has repaid or satisfied in full the balance of the loan.

C. A licensee shall provide notice to borrowers of the potential availability of the extended payment plan option in accordance with the provisions of this subsection.

1. A licensee shall conspicuously post in each licensed location a written notice in at least 24-point bold type informing borrowers that they may be eligible to enter into an extended payment plan. The minimum size for such written notice shall be 24 inches by 18 inches.

2. The title of the written notice, which shall appear in at least 48-point bold type, shall be "NOTICE – EXTENDED PAYMENT PLANS AVAILABLE TO ELIGIBLE BORROWERS AT NO ADDITIONAL COST."

3. The required text of the written notice shall be as follows:

The Payday Loan Act gives eligible borrowers the option of repaying a payday loan by means of an extended payment plan. You may only obtain an extended payment plan once in any rolling 12-month period (even if you obtain loans from different lenders or locations). You may obtain an extended payment plan at any time on or after the date that you receive your loan through the date that your loan is due to be repaid. Under an extended payment plan, you will be permitted to repay the amount you owe in at least four equal installments over a term of at least 60 days. You will not be charged any additional interest or fees in connection with an extended payment plan, and interest will not accrue during the term of an extended payment plan. Please be advised that if you obtain an extended payment plan, you will not be permitted to get another payday loan from any lender for a period of 90 days after you fully repay or satisfy the extended payment plan.

4. If the payday lending database referred to in 10VAC5-200-110 advises a licensee that an applicant is eligible for an extended payment plan, the licensee shall immediately provide oral notice to the applicant that the applicant is eligible to repay the payday loan through an extended payment plan. The licensee shall also read aloud to the applicant the text of the written notice as specified in subdivision C 3 of this section.

D. A licensee shall give a borrower receipts, signed and dated by the licensee, for all payments made in connection with an extended payment plan. The receipts shall also state the loan balance due after each payment.

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E. A licensee shall retain the written and signed extended payment plan document identifying the terms of the extended payment plan and provide the borrower with a duplicate original. A licensee shall also retain copies of receipts provided in accordance with subsection D of this section. Upon full repayment or satisfaction of an extended payment plan, a licensee shall mark both the original loan agreement and original extended payment plan document with the word "paid" or "canceled," return both items to the borrower, and retain copies in its loan records.

## **10VAC5-200-35. Five payday loans within 180 days.**

A. A borrower obtaining a fifth payday loan within any rolling 180-day period may elect, at the option of the borrower, (i) to repay the loan through an extended payment plan, unless the borrower previously elected an extended payment plan within the preceding 12 months, or (ii) to obtain the loan in the form of an extended term loan.

B. If a borrower does not obtain an extended payment plan or extended term loan in connection with his fifth payday loan in 180 days, the borrower shall not be eligible for another payday loan until 45 days after the date the fifth payday loan is paid or otherwise satisfied in full.

C. If a borrower previously obtained an extended payment plan within the preceding 12-month period, the borrower shall not be eligible to repay a fifth payday loan obtained in any rolling 180-day period by means of an extended payment plan. However, if an eligible borrower elects to repay a fifth payday loan obtained in any rolling 180-day period by means of an extended payment plan, the provisions of 10VAC5-200-33 shall apply. A borrower who elects to repay such loan by means of an extended payment plan shall not be eligible for another payday loan until 90 days after the borrower has repaid or satisfied in full the balance of the loan.

D. The following provisions shall apply to extended term loans.

1. An extended term loan is a payday loan, as this term is defined in §6.1-444 of the Code of Virginia. As with other payday loans, an extended term loan shall be secured by a check that does not exceed the sum of the principal amount advanced to the borrower and the interest and fees permitted by §6.1-460 of the Code of Virginia. The check used to secure an extended term loan shall be dated as of the date the final installment is due. A licensee shall not require or accept multiple checks or any additional or alternative security in connection with an extended term loan.

2. If an eligible borrower elects an extended term loan, a licensee shall permit the borrower to repay the amount owed in four equal installments over a term of 60 days. The dollar amount of each installment shall be the same and the installment due dates shall be spread out evenly

over the term of the extended term loan (i.e., an installment shall be due every 15 days).

3. The terms of an extended term loan shall be set forth in a written agreement signed and dated by the borrower. An eligible borrower may elect the extended term loan option only on the date a payday loan is made.

4. A borrower who obtains an extended term loan shall not be eligible for another payday loan during the longer of 90 days following the date the extended term loan is paid or otherwise satisfied in full, or 150 days following the date the extended term loan is obtained. Subject to one of the applicable waiting periods associated with a fifth loan in any rolling 180-day period, a borrower may be eligible for consecutive extended term loans or multiple extended term loans in any rolling 12-month period.

5. A licensee shall give a borrower receipts, signed and dated by the licensee, for all payments made in connection with an extended term loan. The receipts shall also state the loan balance due after each payment.

6. A licensee shall retain the written and signed extended term loan agreement and provide the borrower with a duplicate original. A licensee shall also retain copies of receipts provided in accordance with subdivision 5 of this subsection. Upon full repayment or satisfaction of an extended term loan, a licensee shall mark the original extended term loan agreement with the word "paid" or "canceled," return it to the borrower, and retain a copy in its loan records.

E. A licensee shall provide notice to borrowers of the potential availability of the extended term loan option in accordance with the provisions of this subsection.

1. A licensee shall conspicuously post in each licensed location a written notice in at least 24-point bold type informing borrowers that they may be eligible to obtain an extended term loan. The minimum size for such written notice shall be 24 inches by 18 inches.

2. The title of the written notice, which shall appear in at least 48-point bold type, shall be "NOTICE – EXTENDED TERM LOANS AVAILABLE TO BORROWERS OBTAINING A FIFTH PAYDAY LOAN WITHIN 180 DAYS."

3. The required text of the written notice shall be as follows:

The Payday Loan Act gives borrowers obtaining their fifth payday loan within 180 days the option to receive it in the form of an extended term loan. An extended term loan is a payday loan under which you are permitted to repay the amount you owe in four equal installments spread out evenly over a term of 60 days. You may obtain an extended term loan even if you previously obtained another extended term loan or an extended payment plan. If you

want an extended term loan, you must choose this option on the date you obtain the payday loan. Please be advised that if you obtain an extended term loan, you will not be permitted to get another payday loan from any lender for a period of 90 days after you fully repay or satisfy the extended term loan or 150 days after you obtain the extended term loan (whichever is longer). However, even if you do not choose an installment payment arrangement, you will still be unable to obtain another payday loan from any lender for a period of 45 days after you fully repay or satisfy your fifth payday loan.

4. If the payday lending database referred to in 10VAC5-200-110 advises a licensee that an applicant is eligible for an extended term loan, the licensee shall immediately provide oral notice to the applicant that the applicant is eligible to obtain an extended term loan. The licensee shall also read aloud to the applicant the text of the written notice as specified in subdivision 3 of this subsection. In addition, if the payday lending database advises a licensee that an applicant is eligible for an extended payment plan, the licensee shall also comply with subdivision C 4 of 10VAC5-200-33.

F. Payday loans made prior to January 1, 2009, shall not be considered for purposes of determining how many loans a borrower obtained in any rolling 180-day period.

#### **10VAC5-200-40. Borrower prepayment.**

A. In order to prepay a payday loan in full, a borrower shall only be required to pay the principal amount advanced as well as any accrued and unpaid fees. A borrower shall be permitted to make partial payments, in increments of not less than \$5.00, on the loan at any time without charge. The licensee shall give the borrower signed, dated receipts for each payment made, which shall state the balance due on the loan.

B. For purposes of the Act and this chapter, the interest and fees with loan fee permitted by subsections A and B of §6.1-460 of the Code of Virginia shall be deemed "accrued" on a straight line basis over the term of a payday loan. A licensee shall calculate interest charges using either a 360-day year or a 365-day year. The verification fee permitted by subsection C of §6.1-460 of the Code of Virginia shall be deemed accrued in full at the time a payday loan is made.

C. 1. A borrower choosing to prepay his payday loan in full shall only be responsible for the verification fee and the pro-rata portion of the total interest and fees loan fee based upon the number of days which that have elapsed between the loan disbursement date and the date of repayment. (For example, if a \$400 loan with fees of \$60 and a term of 10 days a simple annual interest rate of 36%, a 20% loan fee, a \$5.00 verification fee, a term of 28 days, and a 360-day year is prepaid in full after five seven days, the borrower shall only be required to pay in cash or good funds instrument \$430

(\$400 + \$30) \$427.80 (\$400 + \$2.80 interest + \$20 loan fee + \$5.00 verification fee) to the licensee.)

2. A borrower choosing to make partial payments on a payday loan shall only be responsible for the verification fee and the pro-rata portion of the total interest and fees loan fee based upon the timing and amount of such partial payments. (For example, given a \$500 loan with fees of \$75 and a term of 10 days, a borrower making a partial payment of \$200 after five days shall only be required to pay a total of \$562.81 to the licensee (\$500 principal + \$62.81 interest (\$500 for five days = \$37.50, plus \$337.50 for five days = \$25.31)). In this example, \$37.50 of the borrower's \$200 partial payment would be applied toward interest and the remaining \$162.50 would be applied toward principal, thereby resulting in an outstanding balance of \$337.50 until maturity a simple annual interest rate of 36%, a 20% loan fee, a \$5.00 verification fee, a term of 30 days, and a 360-day year, a borrower making a partial payment of \$200 after 15 days shall only be required to pay a total of \$604.19 to the licensee (\$500 principal + \$104.19 interest and fees). In this example, \$62.50 of the borrower's \$200 partial payment would be applied toward interest (\$7.50) and fees (\$50 loan fee + \$5.00 verification fee) and the remaining \$137.50 would be applied toward principal, thereby resulting in an outstanding balance of \$362.50 until maturity. Based on this outstanding balance, the charges for the remainder of the term are \$5.44 (interest on \$362.50 for 15 days) + \$36.25 (loan fee on \$362.50 pro-rated for 15 days).)

D. If a borrower enters into an extended payment plan and subsequently elects to prepay it in full, the borrower shall only be responsible for the verification fee, any interest that accrued prior to the borrower entering into the extended payment plan, and the pro-rata portion of the total loan fee based upon the number of days that have elapsed between the loan disbursement date and the date the loan would have been due if the borrower had not entered into the extended payment plan. The total payoff amount shall be reduced by the amount of any installment payments made by the borrower prior to prepaying the extended payment plan in full.

1. Example: Assume that a borrower who is paid on a semi-monthly basis (minimum term of 30 days) obtains a \$500 loan on April 1 with an extended payment plan, an extended payment plan term of 60 days, no interest (interest does not accrue during the term of an extended payment plan), a 20% loan fee, a \$5.00 verification fee, and installment payments of \$151.25 due on April 16, May 1, May 16, and May 31. Since the borrower is paid on a semimonthly basis, the loan fee shall accrue over a period of 30 days. If the borrower prepays the extended payment plan in full on April 21, the borrower shall only be required to pay in cash or good funds instrument the principal

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(\$500), a pro-rata portion of the loan fee (\$66.67), and the verification fee (\$5.00) for a total of \$571.67 to the licensee. If the borrower made an installment payment of \$151.25 on April 16, the payoff amount on April 21 would be \$420.42 (\$571.67- \$151.25).

2. Example: Assume that a borrower who is paid on a semimonthly basis obtains a \$500 loan on April 1 with a simple annual interest rate of 36%, a 20% loan fee, a \$5.00 verification fee, a term of 30 days, and a 360-day year. Next assume that the borrower elects an extended payment plan on April 23 with a term of 60 days and installment payments of \$154 due on May 8, May 23, June 7, and June 22. If the borrower prepays the extended payment plan in full on June 2, the borrower shall only be required to pay in cash or good funds instrument the principal (\$500), the interest that accrued prior to the borrower electing an extended payment plan (\$11), the entire loan fee (\$100), and the verification fee (\$5.00) for a total of \$616 to the licensee. If the borrower made installment payments of \$154 on both May 8 and May 23, the payoff amount on June 2 would be \$308 (\$616 - \$154 - \$154).

E. If a borrower enters into an extended term loan and subsequently elects to prepay it in full, the borrower shall only be responsible for the verification fee and the pro-rata portion of the total interest and loan fee based upon the number of days that have elapsed between the loan disbursement date and the loan maturity date (i.e., the date the fourth installment is due). The total payoff amount shall be reduced by the amount of any installment payments made by the borrower prior to prepaying the extended term loan in full.

Example: Assume that a borrower obtains a \$500 extended term loan on April 1 with a simple annual interest rate of 36%, a 20% loan fee, a \$5.00 verification fee, a 360-day year, a 60-day term, and installment payments of \$158.75 due on April 16, May 1, May 16, and May 31. If the borrower prepays the extended term loan in full on May 20, the borrower shall only be required to pay in cash or good funds instrument the principal (\$500), the interest that accrued for 49 days (\$24.50), a pro-rata portion of the loan fee (\$81.67), and the verification fee (\$5.00) for a total of \$611.17 to the licensee. If the borrower made installment payments of \$158.75 on April 16, May 1, and May 16, the payoff amount on May 20 would be \$134.92 (\$611.17 - \$158.75 - \$158.75 - \$158.75).

F. Unless it results in the prepayment in full of an extended payment plan or extended term loan pursuant to subsection D or E of this section, a partial payment, excess payment, installment payment, or other payment received by a licensee in advance of the date the funds are due under the terms of the extended payment plan or extended term loan shall not result in a modification of the payment schedule or a pro-rata adjustment of the total interest, if any, or loan fee. Payments made by a borrower pursuant to an extended payment plan or

extended term loan shall be first applied to any past due installment and then to the next regularly scheduled installment.

G. Notwithstanding any provision of this section, a borrower shall have the right to cancel a payday loan (including an extended term loan or a loan repayable by means of an extended payment plan) at any time before the close of business on the next business day following the date of the loan by paying to the licensee, in the form of cash or good funds instrument, the principal amount advanced to the borrower. The licensee shall not be entitled to charge or receive any interest or fees, including a verification fee, when a borrower cancels a payday loan.

## **10VAC5-200-60. Posting of charges.**

A. A licensee shall conspicuously post in its licensed location a schedule of payments, fees and interest charges, with examples using (i) a \$300 loan payable in ~~seven days~~, 14 days, ~~and~~; (ii) a \$300 loan payable in 30 days; (iii) a \$300 loan payable in 60 days; (iv) a \$300 loan payable through an extended payment plan that is elected on the date the loan is obtained; (v) a \$300 loan payable through an extended payment plan that is elected on the 15th day of a 30-day term; and (vi) a \$300 extended term loan.

B. A licensee shall display its fees and interest charges not only as a dollar amount, but also as an Annual Percentage Rate, which shall be stated using this term, calculated in accordance with Federal Reserve Board Regulation Z (12 CFR 226.1 et seq.).

## **10VAC5-200-70. Additional business requirements and restrictions.**

A. A licensee shall conspicuously post in its licensed locations the days and hours during which it is open for business.

B. A licensee shall not deposit or otherwise present for payment more than two times any check given by a borrower as security for a loan, and in no event shall a licensee recover from a borrower more than a total of \$25 attributable to returned check fees incurred by the licensee with respect to a single check.

C. ~~A licensee shall not accept or require an allotment of military pay or any authorization of electronic funds transfer as security for repayment of a loan. A licensee shall not knowingly make a payday loan to a member of the military services of the United States, or the spouse or other dependent of a member of the military services of the United States. To enable a licensee to make this determination, a licensee shall clearly and conspicuously include the following questions in its written loan application, which the licensee shall require each applicant to answer before obtaining a payday loan:~~

1. Are you a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, or Coast

Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer?

2. Are you married to a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer?

3. Are you under the age of 18 and the son or daughter of a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer?

4. Was more than one-half of your financial support for the past 180 days provided by a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer?

D. A licensee shall maintain in its licensed offices such books, accounts, and records as the Commissioner of Financial Institutions may reasonably require in order to determine whether such licensee is complying with the provisions of the Act and all rules and regulations adopted in furtherance thereof. Such books, accounts, and records shall be maintained apart and separate from those relating to any other business in which the licensee is involved. Such records relating to loans, including loan applications, shall be retained for at least three years after final payment is made on any loan.

E. A licensee shall report, in accordance with §6.1-455 of the Code of Virginia, the institution of an action against the licensee under the Virginia Consumer Protection Act (§59.1-196 et seq. of the Code of Virginia) by the Attorney General or any other governmental authority.

F. A licensee shall endeavor to provide the loan documents, printed notice, and pamphlet required by 10VAC5-200-30, in a language other than English when a prospective borrower is unable to read the materials printed in English.

G. A licensee shall not file or initiate a legal proceeding against a borrower until 60 days after the date of default on a payday loan, including defaults under extended payment plans or extended term loans, during which time the licensee and borrower may voluntarily enter into a repayment arrangement.

H. Nothing in the Act or this chapter shall be construed to prohibit a licensee from voluntarily accepting a payment on an outstanding loan from a borrower after the date that such payment was due to the licensee. However, except as otherwise permitted by the Act and this chapter, the licensee shall not collect, receive, or otherwise recover any additional interest, fees, or charges from the borrower.

**10VAC5-200-80. Payday lending pamphlet text.**

The required text of the payday lending pamphlet referred to in 10VAC5-200-30 is as follows:

**PAYDAY LENDING IN THE COMMONWEALTH OF VIRGINIA**

**BORROWER RIGHTS AND RESPONSIBILITIES**

Please take the time to carefully review the information contained in this pamphlet. It is designed to advise you of your rights and responsibilities in connection with obtaining a payday loan in Virginia under the Payday Loan Act, §6.1-444 et seq. of the Code of Virginia. If you have any questions about payday lending or want additional information, you may contact the Virginia State Corporation Commission's Bureau of Financial Institutions toll-free at (800) 552-7945 or on the Internet at <http://www.scc.virginia.gov/division/banking> <http://www.scc.virginia.gov/bfi>. The Bureau of Financial Institutions has available a "Consumer Guide to Payday Lending" that may be viewed at this website or obtained by calling the toll-free telephone number listed above.

**In General:** You are responsible for evaluating whether a payday loan is right for you. Alternatives may include among other things less expensive short-term financing from another financial institution, family, or friends, a cash advance on a credit card, an account with overdraft protection, or a loan repayable over several months.

**Notice from Lender:** The lender is required to provide you with a clear and conspicuous printed notice advising you that a payday loan is not intended to meet long-term financial needs and that you should use a payday loan only to meet occasional or unusual short-term cash needs.

**Payday Lending Database:** Before making a payday loan to you, a lender is required by Virginia law to access a database that contains detailed information about payday loans made to Virginia residents by all lenders licensed to do business in Virginia. The database will inform the lender whether you are eligible for a payday loan. If you are ineligible for a payday loan, the lender will provide you with the toll-free telephone number of the database provider, which you can use to find out the specific reason for your ineligibility. To enable the lender to check the database, you will be required to provide the lender with your original driver's license or DMV Identification Card. If you wish to obtain a payday loan but do not have a driver's license or DMV Identification Card, you will need to obtain a driver's license or DMV Identification Card from the Department of Motor Vehicles.

**Prohibition on Loans to Individuals with Certain Previous or Outstanding Loans:** Virginia law prohibits a lender from making a payday loan to you if (i) you currently have an outstanding payday loan; (ii) you paid or satisfied in

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full a previous payday loan on the same day that you are applying for a new payday loan; (iii) in the past 90 days you paid or satisfied in full a previous payday loan by means of an extended payment plan; (iv) in the past 45 days you paid or satisfied in full a fifth payday loan that you obtained within a period of 180 days; (v) in the past 90 days you paid or satisfied in full an extended term loan; or (vi) in the past 150 days you entered into an extended term loan.

It is important to note that the previous or outstanding payday loans referred to above include loans made by the same lender as well as any other lender conducting payday lending business in Virginia.

**Prohibition on Loans to Members of the Military and their Spouses and Dependents:** Virginia law prohibits lenders from making payday loans to members of the military services of the United States as well as their spouses and dependents. If you are a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer, the lender is prohibited from making a payday loan to you. The lender is also prohibited from making a loan to you if (i) you are married to such a member, (ii) you are less than 18 years old and the son or daughter of such a member, or (iii) more than one-half of your financial support for the past 180 days was provided by such a member.

**Limitations on Security Interest / Prohibition on Obtaining Funds Electronically:** The lender cannot require you to provide more than one check as security for any payday loan. The check ~~cannot be post dated~~ must be dated as of the date your loan is due. The lender cannot require you to provide any security for your payday loan other than a check payable to the lender. The lender is also prohibited from electronically debiting your deposit account or obtaining any of your funds by electronic means.

**One Loan at a Time / \$500 Maximum/Seven-Day Minimum Term Maximum:** The lender cannot have loans (either single or in the aggregate) more than one loan outstanding to you at any one time ~~in the principal amount of more than~~. If you currently have an outstanding payday loan from any lender, you cannot obtain another payday loan. The maximum loan amount is \$500. ~~By law, the specified due date of your loan must be at least seven days after the date that money is advanced to you.~~

**Minimum Loan Term:** Under Virginia law, your loan term must be at least twice as long as your pay cycle. For example, if you are paid on a weekly basis, your minimum loan term would be 14 days.

**Fees, Charges, and Interest:** The lender is permitted to charge you (i) interest ~~in the form of~~ at a simple annual rate of 36%, (ii) a loan fee not exceeding ~~45%~~ 20% of the amount of money advanced to you (i.e., \$15 ~~\$20~~ per \$100 advanced),

and (iii) a verification fee not exceeding \$5.00. For example, if ~~the lender advances you \$300 for seven days, the lender may charge you up to \$45 as a fee for obtaining the loan (an Annual Percentage Rate of 782%).~~ If the lender advances you \$300 for ~~14~~ 30 days, the lender may charge you up to ~~the same \$45 fee for obtaining the loan~~ \$9.00 interest, a loan fee of \$60, and a verification fee of \$5.00 for a total of \$74 (an Annual Percentage Rate of ~~391%~~ 296%). If the lender advances you \$300 for ~~30~~ 60 days, the lender may charge you up to ~~the same \$45 fee for obtaining the loan~~ \$18 interest, a loan fee of \$60, and a verification fee of \$5.00 for a total of \$83 (an Annual Percentage Rate of ~~483%~~ 166%). Other than the specific fees and costs discussed in the section of this pamphlet entitled "Failure to Repay" (see below), no additional amounts may be directly or indirectly charged, contracted for, collected, received, or recovered by the lender.

You will receive your loan proceeds in the form of either cash or a check from the lender. The lender cannot charge you a fee for cashing their check. Similarly, a check casher affiliated with the lender cannot charge you a fee for cashing the lender's check.

**Written Agreement:** The lender must provide you with a written loan agreement, which must be signed by both you and an authorized representative of the lender. The loan agreement is a binding, legal document that requires you to repay the loan. Make sure you read the entire loan agreement carefully before signing and dating it. The lender must provide you with a duplicate original of the loan agreement at the time of your loan transaction. If any provision of your loan agreement violates the Payday Loan Act (§6.1-444 et seq. of the Code of Virginia), the provision will not be enforceable against you.

**Extended Payment Plans:** Under Virginia law eligible borrowers have the option of repaying a payday loan by means of an extended payment plan. You may only obtain an extended payment plan once in any rolling 12-month period (even if you obtain loans from different lenders or locations). You may obtain an extended payment plan at any time on or after the date that you received your loan through the date that your loan is due to be repaid.

Under an extended payment plan, you are permitted to repay the amount you owe in at least four equal installments spread out evenly over a term of at least 60 days. You will not be charged any additional interest or fees in connection with an extended payment plan, and interest will not accrue during the term of an extended payment plan.

If you obtain an extended payment plan, you will not be able to get another payday loan from any lender for a period of 90 days after you fully repay or satisfy the extended payment plan.

**Five Payday Loans within 180 days:** If you are obtaining a fifth payday loan within a rolling 180-day period, you have

the option to (i) repay the fifth loan through an extended payment plan, unless you previously obtained an extended payment plan within the preceding 12 months, or (ii) obtain the loan in the form of an extended term loan.

You do not have to choose either one of these options. However, even if you do not obtain an extended payment plan or extended term loan, you will not be able to obtain another payday loan from any lender for a period of 45 days after you fully repay or satisfy your fifth payday loan.

Extended payment plans are discussed above. If you are eligible to repay your fifth payday loan by means of an extended payment plan and choose to do so, you will not be able to obtain another payday loan from any lender for a period of 90 days after you fully repay or satisfy the extended payment plan.

An extended term loan is a payday loan under which you are permitted to repay the amount you owe in four equal installments spread out evenly over a term of 60 days. You may obtain an extended term loan even if you previously obtained another extended term loan or an extended payment plan. If you want an extended term loan, you must choose this option on the date you obtain the payday loan. If you obtain an extended term loan, you will not be able to get another payday loan from any lender for a period of 90 days after you fully repay or satisfy the extended term loan or 150 days after you obtain the extended term loan (whichever is longer).

**Other Businesses:** A lender is prohibited by statute from engaging in other businesses, besides check cashing, unless permitted by order of the State Corporation Commission. A lender is also prohibited by statute from selling you any type of insurance coverage.

**Loans for Other Products & Services:** You are prohibited from using any of the money from your payday loan to purchase any other product or service sold at the lender's business location.

**Right to Cancel:** You have the right to cancel your loan at any time prior to the close of business on the next day the lender is open following the date your loan is made by paying the lender the amount advanced to you in cash, certified check, cashier's check, money order or, if the lender is equipped to handle such payments, by using a credit or debit card.

**Partial Payments and Prepayments:** You have the right to make partial payments (in increments of not less than \$5.00) on your payday loan at any time prior to its specified due date without ~~charge~~ penalty. If you make a partial payment, the total interest and loan fee you pay will be reduced (unless you have an extended payment plan or extended term loan -- see "Payments on Extended Payment Plans and Extended Term Loans" below). You have the right to receive signed, dated receipts for each payment made along with a statement of the

balance remaining on your payday loan. You also have the right to prepay your loan in full before its specified due date without penalty by paying the lender in cash, certified check, cashier's check, money order or, if the lender is equipped to handle such payments, by use of a credit or debit card, the amount of money advanced to you as well as any accrued and unpaid interest and fees.

**Payments on Extended Payment Plans and Extended Term Loans:** You have the right to prepay an extended payment plan or extended term loan without penalty. However, unless it results in the prepayment in full of an extended payment plan or extended term loan, a partial payment, excess payment, installment payment, or other payment you give to the lender in advance of the date the funds are due does not result in either a change to your payment schedule or a pro-rata adjustment of the total interest, if any, or loan fee that you will be required to pay. Payments you make on an extended payment plan or extended term loan are first applied to any past due installment and then to your next regularly scheduled installment. The lender must give you receipts, signed and dated by the lender, for all payments you make on an extended payment plan or extended term loan.

**Lender to Return Original Loan Agreement:** Upon repayment of your loan in full, the lender must mark your original loan agreement with the word "paid" or "canceled" and return it to you. If you obtained an extended payment plan, the lender is also required to mark your original extended payment plan document with the word "paid" or "canceled" and return it to you.

**No Rollovers, Extensions, Etc.:** The lender cannot refinance, renew, extend, or rollover your payday loan.

**Failure to Repay:** Pay back your loan! Know when your payment is due and be sure to repay your loan on time and in full. You are responsible for having sufficient funds in your checking account on the due date of your loan so that your check does not bounce if the lender deposits it in his account. If you do not repay your loan by the specified due date, the lender may begin accruing interest on the principal amount of your loan at a maximum rate of 6% per year.

In collecting or attempting to collect a payday loan, the lender is required to comply with the restrictions and prohibitions applicable to debt collectors contained in the Fair Debt Collection Practices Act, 15 USC §1692 et seq., regarding harassment or abuse, false or misleading misrepresentations, and unfair practices in collections. The lender is also prohibited from threatening or beginning criminal proceedings against you if a check you provide to the lender bounces. If a lender knowingly violates this prohibition, the lender is required to pay you a civil monetary penalty equal to three times the amount of the dishonored check.

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If you cannot or do not repay the loan: (i) the lender is permitted to recover from you any fee charged to the lender (maximum of \$25) as a result of your check being returned due to your account being closed by you or containing insufficient funds, or if you stopped payment on your check; and (ii) if the lender seeks and obtains judgment against you as a result of your returned check, the lender may obtain court costs and reasonable attorney's fees (total may not exceed \$250) if such costs and fees are awarded by the court.

The lender cannot file or initiate a legal proceeding against you until 60 days after the date that you default on a payday loan, including a default under an extended payment plan or extended term loan. During this 60-day period the lender may voluntarily enter into a repayment arrangement with you.

**Legal Action Against Lender:** You have the right to bring a civil action against the lender if you suffer a loss as a result of the lender violating any provision of the Payday Loan Act. If you are successful in your civil action, you have the right to be reimbursed for reasonable attorney's fees, expert witness fees, and court costs you have incurred in connection with your civil action. Losses suffered as the result of the lender's violation of the Payday Loan Act may also be pursued under the Virginia Consumer Protection Act (§59.1-196 et seq. of the Code of Virginia), which in some cases permits consumers to recover actual and punitive damages.

~~**Additional Protections for Borrowers in the Military/Borrowers Married to Members of the Military:** If you or your spouse is a member of the United States military, the lender is prohibited by law from (i) garnishing any military wages or salary; (ii) conducting any collection activity against you if you or your spouse is deployed to a combat or combat support posting or is a member of the Reserves or National Guard and called to active duty, for the duration of the deployment or active duty service; (iii) contacting your commanding officer or your spouse's commanding officer, or anyone in your chain of command or your spouse's chain of command, in an effort to collect a loan made to you; (iv) disregarding the terms of a loan repayment agreement that the lender negotiates through military counselors or third party credit counselors; and (v) making a loan to you if a military base commander has declared that a specific location of the lender's business is off limits to military personnel.~~

**Complaints and Contacting the Bureau of Financial Institutions:** For assistance with any complaints you may have against a payday lender, please contact the Bureau of Financial Institutions toll free at (800) 552-7945 or on the Internet at <http://www.sec.virginia.gov/division/banking> <http://www.scc.virginia.gov/bfi>. Complaints must be filed in writing with the Bureau of Financial Institutions. Complaints should be mailed to Bureau of Financial Institutions, Attn: Complaints, P.O. Box 640, Richmond, Virginia 23218-0640,

or faxed to Bureau of Financial Institutions, Attn: Complaints, at (804) 371-9416.

## **10VAC5-200-110. Payday lending database.**

A. This section sets forth the rules applicable to the payday lending database referred to in §6.1-453.1 of the Code of Virginia.

B. Except as otherwise provided in this section, a licensee shall transmit all information to the database via the Internet. In order to maintain the confidentiality and security of the information, a licensee shall not transmit information to the database using publicly accessible computers, computers that are not under the licensee's control, unsecured wireless (Wi-Fi) connections, or other connections that are not secure. A licensee shall maintain generally accepted security safeguards to protect the confidentiality of the information transmitted to the database, including but not limited to installing and regularly updating malware protection (antivirus and antispyware) software and a firewall.

C. Prior to making a payday loan, a licensee shall transmit the following information to the database for purposes of determining whether an applicant is eligible for a payday loan. The licensee shall obtain the applicant information required by this subsection in accordance with the provisions of subsection D of this section.

1. Name of licensee and license number.
2. Office location of licensee.
3. Name of employee entering information into the database.
4. Applicant's first and last name.
5. Last four digits of applicant's driver's license number or DMV Identification Card number.
6. Applicant's address.
7. Whether the applicant is a member of the military services of the United States, or the spouse or other dependent of a member of the military services of the United States.

D. 1. A licensee shall obtain the information required by subdivisions C 4, 5, and 6 of this section directly from the applicant's unexpired original driver's license or DMV Identification Card, regardless of whether the information on the driver's license or DMV Identification Card is still accurate. A licensee shall not accept photocopies, facsimiles, or other reproductions of a driver's license or DMV Identification Card.

2. A licensee shall photocopy the applicant's driver's license or DMV Identification Card and retain the photocopy in its records.

3. A licensee shall not accept a driver's license or DMV Identification Card from an applicant when there is reason to believe that (i) it belongs to an individual other than the applicant or (ii) it is fake, counterfeit, or has been altered, fraudulently obtained, forged, or is otherwise nongenuine or illegitimate.

E. If the database advises a licensee that an applicant is ineligible for a payday loan, then the licensee shall inform the applicant of his ineligibility, instruct the applicant to contact the database provider for information about the specific reason for his ineligibility, and provide the applicant with the toll-free telephone number of the database provider.

F. If the database advises a licensee that an applicant is eligible for a payday loan, then the licensee shall transmit the following additional information to the database prior to making a payday loan:

1. Application date.
2. Loan number.
3. Date of loan.
4. Principal amount of loan.
5. Source of income for repayment of loan (employment or Social Security).
6. Interest rate.
7. Dollar amount of interest to be charged until date of loan maturity.
8. Dollar amount of loan fee to be charged.
9. Dollar amount of verification fee to be charged.
10. Dollar amount of total finance charges.
11. Annual percentage rate (APR) of loan.
12. Number of days in applicant's pay cycle.
13. Number of days in loan term.
14. Date loan is due.
15. Dollar amount of check given by applicant to secure the loan.

G. If the database advises a licensee that an applicant is eligible for an extended payment plan or extended term loan and the applicant subsequently elects an extended payment plan or extended term loan, then the licensee shall transmit the following additional applicable information to the database no later than the time the licensee closes for business on the date the applicant enters into the extended payment plan or extended term loan:

1. Date the extended payment plan or extended term loan is entered into.

2. Principal amount owed under the extended payment plan or extended term loan.

3. Number of installment payments and the amount of each payment to be made under the extended payment plan or extended term loan.

4. Date each installment payment is due under the extended payment plan or extended term loan.

5. Number of days in term of extended payment plan or extended term loan.

H. For purposes of this section, a licensee closes for business when it officially shuts its doors to the general public on a business day, or within one hour thereafter.

I. A licensee shall generate a separate printout from the database showing the results of each loan eligibility query, including whether an applicant is eligible for an extended payment plan or extended term loan, and retain the printout in its loan records.

J. Except as otherwise provided in subdivision 3 of this subsection, a licensee shall transmit the following additional information, as applicable, to the database no later than the time the licensee closes for business on the date of the event:

1. If a borrower cancels a payday loan, the date of the cancellation.

2. If a payday loan (including an extended term loan or a loan that a borrower elected to repay by means of an extended payment plan) is repaid or otherwise satisfied in full, (i) the date of repayment or satisfaction, (ii) the method of repayment or satisfaction (e.g., cash, good funds instrument, check given to licensee as security for loan, other personal check, etc.), and (iii) the total net dollar amount ultimately paid by the borrower in connection with the loan (i.e., principal amount of loan plus all fees and charges received or collected pursuant to §§6.1-460 and 6.1-461 of the Code of Virginia, less any amount refunded to the borrower as a result of overpayment).

3. If a check used to repay a loan in full is returned unpaid, the date the check is returned unpaid and the dollar amount of the check. A licensee shall transmit such information to the database no later than five calendar days after the date the check is returned unpaid.

4. If a licensee collects a returned check fee from a borrower, the dollar amount of the returned check fee.

5. If a licensee initiates a legal proceeding against a borrower for nonpayment of a payday loan, the date the proceeding is initiated and the total dollar amount sought to be recovered.

6. If a licensee obtains a judgment against a borrower, the date and total dollar amount of the judgment.

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7. If a licensee collects any court costs or attorney's fees from a borrower, the dollar amount of the court costs or attorney's fees.

8. If a licensee charges off a payday loan as uncollectible, the date the loan is charged off and the total dollar amount charged off.

K. 1. If any information required to be transmitted by a licensee to the database is automatically populated or calculated by the database provider, the licensee shall verify the information and immediately correct any inaccuracies or other errors.

2. If a licensee becomes aware of any changes, inaccuracies, or other errors in the information previously verified or transmitted by the licensee to the database, the licensee shall immediately update or correct the database.

L. The following provisions address a licensee's inability to access the database at the time of loan application:

1. If at the time a licensee receives a loan application the licensee is unable to access the database due to technical problems beyond the licensee's control, the licensee shall contact the database provider's call center and request that the call center enter the information required by this section and query the database on the licensee's behalf. The licensee shall document in its records the technical problems it experienced, the specific information it provided to the call center, the result of each query (including the applicant's eligibility for an extended payment plan or extended term loan), the date and time of the phone call, and the first and last name of the person in the call center who provided the results of the query to the licensee.

2. If at the time a licensee receives a loan application the licensee is unable to access the database due to technical problems beyond the licensee's control and the database provider's call center is either closed or also unable to access the database, then the licensee may make a payday loan to an applicant if the applicant signs and dates a separate document containing all of the representations and responses to the questions set forth below and the prospective loan otherwise complies with the provisions of the Act and this chapter. The document shall be printed in a type size of not less than 14 point and contain a statement that the representations and questions relate to loans obtained from either the licensee or another payday lender. The licensee shall retain the original document in its loan file and provide the applicant with a duplicate original. The licensee shall also document in its records the technical problems it experienced and the date and time that it sought to query the database.

a. The representations to be made by an applicant are as follows:

(1) I do not currently have any outstanding payday loans.

(2) I did not repay or otherwise satisfy in full a payday loan today.

(3) In the past 90 days I did not repay or otherwise satisfy in full a payday loan by means of an extended payment plan.

(4) In the past 45 days I did not repay or otherwise satisfy in full a fifth payday loan that was obtained within a period of 180 days.

(5) In the past 90 days I did not repay or otherwise satisfy in full an extended term loan.

(6) I did not obtain an extended term loan within the past 150 days.

(7) I am not a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer.

(8) I am not married to a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer.

(9) I am not under the age of 18 and the son or daughter of a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer.

(10) One-half or less (including none) of my financial support for the past 180 days was provided by a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or fewer.

b. The questions to be presented to an applicant are as follows:

(1) In the past 12 months, have you obtained an extended payment plan in order to repay a payday loan? If the applicant's response is "no" and the applicant is eligible for a payday loan, then the licensee shall immediately provide oral notice to the applicant that the applicant is eligible to repay the payday loan through an extended payment plan. The licensee shall also read aloud to the applicant the text of the written notice as specified in subdivision C 3 of 10VAC5-200-33.

(2) Have you obtained four or more payday loans within the past 180 days? If the applicant's response is "yes" and the applicant is eligible for a payday loan, then the licensee shall immediately provide oral notice to the applicant that the applicant is eligible to obtain an extended term loan. The licensee shall also read aloud to

the applicant the text of the written notice as specified in subdivision E 3 of 10VAC5-200-35.

3. If a licensee makes a payday loan based upon an applicant's written representations and responses, then the licensee shall transmit the information required by this section to the database no later than the time the licensee closes for business on the date the database becomes accessible to the licensee, either directly or through the database provider's call center.

M. The following provisions address a licensee's inability to access the database subsequent to loan application:

1. If a licensee is required to transmit to the database information regarding a loan that has already been made, but the licensee is unable to access the database due to technical problems beyond the licensee's control, then the licensee shall contact the database provider's call center and request that the call center enter the information required by this section on the licensee's behalf. The licensee shall document in its records the technical problems it experienced, the specific information it provided to the call center, the date and time of the phone call, and the first and last name of the person in the call center who entered the information on the licensee's behalf.

2. If a licensee is required to transmit to the database information regarding a loan that has already been made, but the licensee is unable to access the database due to technical problems beyond the licensee's control and the database provider's call center is closed or also unable to access the database, then the licensee shall transmit to the database the information required by this section no later than the time the licensee closes for business on the date the database becomes accessible to the licensee, either directly or through the database provider's call center. The licensee shall also document in its records the technical problems it experienced and the date and time that it sought to transmit the information to the database.

N. A licensee shall have limited access to the information contained in the database. The database shall only provide a licensee with the following information: (i) whether an applicant is eligible for a new payday loan; (ii) if an applicant is ineligible for a new payday loan, the general reason for the ineligibility (e.g., the database may state that the applicant has an outstanding payday loan but it shall not furnish any details regarding the outstanding loan); and (iii) if an applicant is eligible for a new payday loan, whether the applicant is also eligible for an extended payment plan or extended term loan. Except as provided in this subsection, a licensee shall be prohibited from accessing or otherwise obtaining any information contained in or derived from the database.

O. If the Commissioner of Financial Institutions determines that a licensee has ceased business but still has one or more outstanding payday loans that cannot be repaid due to the

licensee's closure, the Commissioner of Financial Institutions may authorize the database provider to mark the outstanding loans as satisfied in the database in order to enable the affected borrowers to obtain payday loans in the future.

P. 1. Except as provided in subsection F of 10VAC5-200-35, payday loans made on or after October 1, 2008, and prior to January 1, 2009, that remain outstanding on January 1, 2009, shall be considered for purposes of determining a borrower's eligibility for a payday loan. Accordingly, on or before January 1, 2009, a licensee shall transmit the following information to the database in connection with every payday loan made on or after October 1, 2008, that will or may be outstanding as of January 1, 2009:

- a. Name of licensee and license number.
- b. Office location of licensee.
- c. Name of employee entering information into the database.
- d. Borrower's first and last name.
- e. Last four digits of borrower's driver's license number or DMV Identification Card number.
- f. Borrower's address.
- g. Date loan funds were disbursed.
- h. Date loan is due.

2. A licensee shall obtain and retain the borrower information required by this subsection in accordance with the provisions of subsection D of this section.

3. For every payday loan made on or after October 1, 2008, that remains outstanding as of January 1, 2009, a licensee shall transmit to the database all applicable information required by subsection J of this section by the time the licensee closes for business on the date of the event or January 1, 2009, whichever is later.

**10VAC5-200-120. Enforcement.**

A. Failure to comply with any provision of the Act or this chapter may result in fines, license suspension, or license revocation.

B. Pursuant to §6.1-467 of the Code of Virginia, a licensee shall be subject to a separate fine of up to \$1,000 for every violation of the Act, this chapter, or other law or regulation applicable to the conduct of the licensee's business. If a licensee violates any provision of the Act, this chapter, or other law or regulation applicable to the conduct of the licensee's business in connection with multiple loans or borrowers, the licensee shall be subject to a separate fine for each loan or borrower. For example, if a licensee makes five loans and the licensee violates two provisions of this chapter that are applicable to the five loans, the licensee shall be subject to a maximum fine of \$10,000.

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C. If a licensee (i) fails to transmit information to the payday lending database in accordance with the Act or 10VAC5-200-110, (ii) transmits incorrect information to the database, or (iii) transmits information to the database in an untimely manner, the licensee shall be subject to a separate fine under §6.1-467 of the Code of Virginia for each item of data that is omitted, incorrect, or untimely. For example, if a licensee makes three loans and fails to transmit two items of information to the database in connection with each of the three loans, the licensee shall be subject to a maximum fine of \$6,000.

VA.R. Doc. No. R08-1380; Filed June 18, 2008, 11:05 a.m.

## TITLE 12. HEALTH

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

#### Notice of Objection to Fast-Track Rulemaking and Withdrawal of Regulatory Action

Title of Regulation: 12VAC30-120. Waivered Services (amending 12VAC30-120-70, 12VAC30-120-90, 12VAC30-120-140, 12VAC30-120-211, 12VAC30-120-213, 12VAC30-120-225, 12VAC30-120-229, 12VAC30-120-237, 12VAC30-120-247, 12VAC30-120-700, 12VAC30-120-710, 12VAC30-120-754, 12VAC30-120-758, 12VAC30-120-762, 12VAC30-120-770, 12VAC30-120-900, 12VAC30-120-910, 12VAC30-120-920, 12VAC30-120-970, 12VAC30-120-1500, 12VAC30-120-1510, 12VAC30-120-1550, 12VAC30-120-1560; adding 12VAC30-120-2000, 12VAC30-120-2010).

Fast-Track Publication Date: 24:13 VA.R. 1788-1836 March 3, 2008.

The Department of Medical Assistance Services has WITHDRAWN the fast-track regulation entitled, 12VAC30-120. Waivered Services, relating to Money Follows the Person because the department has received more than the requisite number of 10 objections to the regulatory action. This action was published as a fast-track regulation in 24:13 VA.R. 1788-1836 March 3, 2008, and was scheduled to become effective July 1, 2008.

Agency Contact: Brian McCormick, Regulatory Supervisor, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804)371-8856, FAX (804)786-1680, or email brian.mccormick@dmas.virginia.gov.

VA.R. Doc. No. R08-1107; Filed June 25, 2008, 3:42 p.m.

## TITLE 14. INSURANCE

### STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with §2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

#### Final Regulation

Title of Regulation: 14VAC5-211. Rules Governing Health Maintenance Organizations (amending 14VAC5-211-50, 14VAC5-211-90, 14VAC5-211-100).

Statutory Authority: §§12.1-13 and 38.2-223 of the Code of Virginia.

Effective Date: July 1, 2008.

Agency Contact: Jacqueline Cunningham, Deputy Commissioner, State Corporation Commission, Bureau of Insurance, Life and Health Division, 1300 E. Main Street, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9074, FAX (804) 371-9944, or email jackie.cunningham@scc.virginia.gov.

#### Summary:

*The amendments correct an error in a cited section of the Code of Virginia, and amend the regulation to comply with amendments to §38.2-4303 of the Code of Virginia passed by the 2008 General Assembly with regard to deductibles and copayments. No changes have been made to the final regulation since publication of the proposed regulation.*

AT RICHMOND, JUNE 10, 2008

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2008-00083

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Health Maintenance Organizations

#### ORDER ADOPTING REVISIONS TO RULES

By Order entered herein April 17, 2008, all interested persons were ordered to take notice that subsequent to May 30, 2008, the State Corporation Commission ("Commission") would consider the entry of an Order adopting revisions proposed by the Bureau of Insurance ("Bureau") to the Commission's Rules Governing Health Maintenance Organizations ("Rules"), set forth in

Chapter 211, Sections 50, 90, and 100 of Title 14 of the Virginia Administrative Code, unless on or before May 30, 2008, any person objecting to the adoption of the proposed revisions filed a request for hearing with the Clerk of the Commission ("Clerk").

The Order to Take Notice also required all interested persons to file their comments in support of or in opposition to the proposed revisions on or before May 30, 2008.

There were no comments filed. There was no request for a hearing filed with the Clerk.

The Bureau does not recommend further changes to the proposed revisions, which amended the Rules at 14 VAC 5-211-50, 14 VAC 5-211-90, and 14 VAC 5-211-100, and further recommends that the revised Rules be adopted as proposed.

THE COMMISSION has considered the proposed revisions and is of the opinion that the attached revisions to the Rules should be adopted.

**THEREFORE IT IS ORDERED THAT:**

(1) The revised Rules entitled "Rules Governing Health Maintenance Organizations," at 14 VAC 5-211-50, 14 VAC 5-211-90, and 14 VAC 5-211-100, which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective July 1, 2008.

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Jacqueline K. Cunningham, Deputy Commissioner, Bureau of Insurance, State Corporation Commission who forthwith shall give further notice of the adoption of the revisions to the Rules by mailing a copy of this Order, including a clean copy of the attached final revised Rules, to all insurers licensed by the Commission as a health maintenance organization in the Commonwealth of Virginia, as well as all interested parties.

(3) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, including a copy of the attached revised Rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations and shall make this Order and the attached revisions to the Rules available on the Commission's website, <http://www.scc.virginia.gov/case>.

(4) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements in Ordering Paragraph (2) of this Order.

**14VAC5-211-50. Financial projections.**

The commission may require a health maintenance organization licensed in Virginia to submit to it periodic updates of the projection of operating results required by §38.2-4301 B ~~40~~ 11 of the Code of Virginia. Each update shall also include a complete explanation of any significant

variance between actual operating results and the operating results that were forecasted under the projection last submitted to the commission and documentation of all critical assumptions. Critical assumptions include, but are not limited to, enrollment levels, premium rates, provider reimbursements, utilization rates, risk-sharing arrangements with providers, general and administrative expenses, excess and other insurance expenses and recoveries, coordination of benefits, costs of long-term financing, and inflation. The commission may revise or request a revision of any financial projection that it deems to be unreasonable relative to the health maintenance organization's historic performance.

**14VAC5-211-90. Copayments.**

A. A health maintenance organization may require a ~~reasonable~~ copayment of enrollees as a condition for the receipt of a specific health care service. A copayment shall be shown in the evidence of coverage as either a specified dollar amount or as coinsurance.

B. If the health maintenance organization has an established copayment maximum, it shall keep accurate records of each enrollee's copayment expenses and notify the enrollee when his copayment maximum is reached. The notification shall be given no later than 30 days after the health maintenance organization has processed sufficient claims to determine that the copayment maximum is reached. The health maintenance organization shall not charge additional copayments for the remainder of the contract or calendar year, as appropriate. The health maintenance organization shall also promptly refund to the enrollee all copayments charged after the copayment maximum is reached. Any maximum copayment amount shall be shown in the evidence of coverage as a specified dollar amount, and the evidence of coverage shall clearly state the health maintenance organization's procedure for meeting the requirements of this subsection.

C. The provisions of this subsection shall not apply to any Family Access to Medical Insurance Security (FAMIS) Plan (i) authorized by the United States Centers for Medicare and Medicaid Services pursuant to Title XXI of the Social Security Act (42 USC §1397aa et seq.) and the state plan established pursuant to Chapter 13 (§32.1-351 et seq.) of Title 32.1 of the Code of Virginia and (ii) underwritten by a health maintenance organization.

**14VAC5-211-100. Deductibles.**

~~A.~~ A health maintenance organization may require an enrollee to pay a ~~reasonable~~ an annual deductible in accordance with §38.2-4303 A 8 of the Code of Virginia.

~~B. Deductibles for basic health care services shall be considered unreasonable in at least the following situations:~~

~~1. When accessibility to health care is adversely affected;~~

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~~2. When a health maintenance organization cannot demonstrate an ability to monitor and implement deductible plans;~~

~~3. If the health maintenance organization's Risk Based Capital (RBC) level is in a Company Action Level pursuant to the provisions of §38.2-5503 of the Code of Virginia. The commission shall determine the RBC level from (i) the most recently filed year end RBC Report submitted to the commission, or (ii) the most recently filed quarterly projected RBC Report if the health maintenance organization is on a quarterly projected RBC reporting basis. If at any time a RBC Report is filed with the commission that reports a RBC level below the Company Action Level, the health maintenance organization shall immediately suspend writings of all new deductible policies until a subsequent RBC Report is filed and accepted by the commission that confirms a RBC level above the Company Action Level.~~

VA.R. Doc. No. R08-1240; Filed June 10, 2008, 2:35 p.m.

## Proposed Regulation

Title of Regulation: **14VAC5-395. Rules Governing Settlement Agents (amending 14VAC5-395-40).**

Statutory Authority: §§6.1-2.25 and 12.1-13 of the Code of Virginia.

Public Hearing Information: A public hearing will be scheduled upon request.

Public Comments: Public comments may be submitted until 5 p.m. on July 18, 2008.

Agency Contact: Steve Shipman, Supervisor, Agent Regulation Division, Bureau of Insurance, State Corporation Commission, 1300 East Main Street, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9465, FAX (804) 371-9396, or email [steve.shipman@scc.virginia.gov](mailto:steve.shipman@scc.virginia.gov).

### Summary:

*Subdivision D 3 of §6.1-2.21 of the Code of Virginia has been amended to increase the surety bond coverage requirement that settlement agents are required to maintain from \$100,000 to \$200,000 effective July 1, 2008. Because 14VAC5-395-40 mirrors the surety bond coverage requirement found in the statute, a corresponding change to the regulation is necessary.*

AT RICHMOND, JUNE 13, 2008

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2008-00141

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Settlement Agents

### ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 6.1-2.25 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary to carry out the provisions of the Consumer Real Estate Settlement Protection Act (§ 6.1-2.19 et seq. of the Code of Virginia).

The rules and regulations issued by the Commission pursuant to § 6.1-2.25 of the Code of Virginia are set forth in Title 14 of the Administrative Code.

The Bureau of Insurance ("Bureau") has submitted to the Commission a proposed revision to the rules set forth in Chapter 395 of Title 14 of the Virginia Administrative Code, entitled "Rules Governing Settlement Agents," which amends 14 VAC 5-395-40.

The proposed revision to the rule increases the amount of surety bond coverage that settlement agents are required to maintain from one hundred thousand dollars (\$100,000) to two hundred thousand dollars (\$200,000). The revision is necessary in order for the rule to correspond to the coverage requirement set forth in § 6.1-2.21, which was amended by the General Assembly during the 2008 legislative session.

The Commission is of the opinion that the proposed revision submitted by the Bureau should be considered for adoption.

### IT IS THEREFORE ORDERED THAT:

(1) The proposed revision to the rules entitled "Rules Governing Settlement Agents," which amends the rule at 14 VAC 5-395-40, be attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or request a hearing to oppose the adoption of, the proposed revised rule shall file such comments or hearing request on or before July 18, 2008, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2008-00141.

(3) If no written request for a hearing on the proposed revised rule is filed on or before July 18, 2008, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revised rule, may adopt the proposed revised rule as submitted by the Bureau.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed revised rule, shall be sent by the Clerk of the Commission to the Bureau in care of Deputy Commissioner Brian P. Gaudiose, who forthwith shall give further notice of the proposed adoption of the revised rule by mailing a copy of this Order, together with the proposed revised rule, to all registered title settlement agents and title insurers, and certain interested parties designated by the Bureau.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposed revised rule, to be forwarded to the Virginia Registrar of the Regulations for appropriate publication in the Virginia Register of Regulations and shall make available this Order and the attached proposed revised rules on the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>.

(6) The Bureau shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of Ordering Paragraph (4) above

#### **14VAC5-395-40. Insurance and bonding requirements.**

A. At the time of registration with the Virginia State Bar, every title insurance agent and title insurance agency acting as a settlement agent shall file with the bureau a certification on a form prescribed by the bureau, that the settlement agent has, and thereafter shall keep in force for as long as they are acting as a settlement agent, the following:

1. An errors and omissions insurance policy providing limits of at least \$250,000 per occurrence or per claim and issued by an insurer authorized to do business in the Commonwealth of Virginia.
2. A blanket fidelity bond or employee dishonesty insurance policy providing limits of at least \$100,000 per occurrence or per claim and issued by an insurer authorized to do business in the Commonwealth of Virginia. Settlement agents that have no employees except the owners, partners, shareholders, or members may request a waiver of this requirement on their certification form.

B. Every title insurance agent and title insurance agency that acts as a settlement agent in the Commonwealth of Virginia or is registered with the Virginia State Bar shall file with the bureau a surety bond in an amount not less than ~~\$100,000~~ **\$200,000** on a form prescribed by the bureau. The original surety bond shall be filed with the bureau at the time of

registration with the Virginia State Bar and, if such bond is canceled, at the time a replacement bond is issued.

VA.R. Doc. No. R08-1370; Filed June 17, 2008, 3:00 p.m.

## **TITLE 16. LABOR AND EMPLOYMENT**

### **APPRENTICESHIP COUNCIL**

#### **Final Regulation**

**Title of Regulation: 16VAC20-20. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia (amending 16VAC20-20-20, 16VAC20-20-40, 16VAC20-20-50, 16VAC20-20-60, 16VAC20-20-80, 16VAC20-20-110).**

**Statutory Authority:** §§40.1-117 and 40.1-118 of the Code of Virginia.

**Effective Date:** August 7, 2008.

**Agency Contact:** Beverley G. Donati, Program Director, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804)225-4362, FAX (804)786-8418, TTY (804)786-2376, or email [bev.donati@doli.virginia.gov](mailto:bev.donati@doli.virginia.gov).

**Summary:**

*The amendments add new definitions, modernize terminology, and clarify language.*

#### **16VAC20-20-20. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings; unless the context clearly indicates otherwise:

"Apprentice" means a person as defined by §40.1-120 of the Code of Virginia. Virginia Apprenticeship Council considers all registered apprentices as apprentices until such times as the apprentices have either satisfactorily completed their apprenticeship program or have been cancelled by the sponsor from the apprenticeship program.

"Apprenticeable occupation" means an occupation as defined by §40.1-120 of the Code of Virginia.

"Apprenticeship agreement" means a written agreement between an apprentice and a program sponsor, which agreement shall meet the criteria outlined in 16VAC20-20-50.

"Apprenticeship Council" or "council" means the Virginia Apprenticeship Council established pursuant to §40.1-117 of the Code of Virginia.

"Apprenticeship program" means a written plan conducted or sponsored by an employer, an association of employers, a joint apprenticeship committee or an organization of employees, which contains all terms and conditions as outlined in this chapter.

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"Commissioner" means the Commissioner of the Virginia Department of Labor and Industry.

"Coordinator of apprenticeship" means the person designated by the sponsor to perform the duties outlined in the standards of apprenticeship.

"Job site" means:

Construction: New/renovation with an approved building permit, plan of development, contract number, or contractual agreement.

Nonconstruction: The physical area within the walls that services are offered. The location that is identified on the license issued by the licensing board and/or the political locality.

"Sponsor" means an employer, an association of employers, a joint apprenticeship committee or an organization of employees that has an approved apprenticeship program registered with the council.

"Supervision of apprentices" means any supervisor/foreman/journeyworker/highly skilled mentor may be counted for direct supervision of an apprentice as long as they are of the same trade or occupation as the apprentice.

~~"Supervisor of apprentices" means the person designated by the sponsor to perform the duties outlined in the standards of apprenticeship.~~

"Work processes" means a defined industry specific skill set that must be mastered in the work environment during the term of the apprenticeship.

## **16VAC20-20-40. Standards for apprenticeship programs.**

An apprenticeship program to be eligible for registration with the Virginia Apprenticeship Council shall conform to the following standards:

A. The program is an organized written plan embodying the terms and conditions of employment, training and supervision of one or more apprentices in an apprenticeable occupation and subscribed to by a sponsor who has undertaken to carry out the apprentice training program.

B. The program standards contain the equal opportunity pledge and, when applicable, conform with all other requirements in accordance with the Virginia State Plan for Equal Employment Opportunity in Apprenticeship and provisions concerning the following:

1. The employment and training of the apprentice in an apprenticeable occupation.
2. A statement that on or after the date the standards of apprenticeship are duly executed, it shall be the policy of the sponsor that all apprentices employed in the occupation covered herein shall be governed by the terms and conditions of the standards of apprenticeship, a copy of

which will be provided for the sponsor who will make it available to the apprentice for review, upon request.

3. The minimum qualifications required by a sponsor for persons entering the apprenticeship program, with an eligible starting age of not less than 16 years.

4. A provision for the granting of advanced standing or credit on the term of apprenticeship for previously acquired experience, training or skills for all applicants equally, with commensurate wages for any progression step so granted. Credit will be granted only after the record of the apprentice has been reviewed by the sponsor's supervisor of apprentices.

5. The placement of an apprentice under a written apprenticeship agreement, which agreement shall conform to the standards for apprenticeship agreements as stated in 16VAC20-20-50.

6. A term of apprenticeship of not less than 2,000 hours of work experience, consistent with training requirements as established by industry practice and a statement that overtime hours worked by the apprentice will or will not be credited to the term of apprenticeship.

7. Provisions for an initial probationary period of not less than 500 clock hours and no more than 2,000 clock hours of employment and training, during which time termination of the apprenticeship agreement may be effected by the council upon written notification from either party. Full credit will be given for the initial probationary period toward completion of the apprenticeship program.

8. The designation of the ~~supervisor of apprentices~~ coordinator of apprenticeship whose duties shall include:

- a. Maintaining adequate records of the progress of each apprentice;
- b. Assurance of qualified training personnel and adequate supervision on the job;
- c. Making reports as required at specified intervals regarding the aptitude, skill and progress of each apprentice;
- d. Assurance the apprentice is given instruction in safe working methods in each operation as it is encountered throughout the term of apprenticeship;
- e. Making arrangements with the local ~~vocational education authorities~~ related instruction provider for the required related instruction;
- f. Such other duties as may be necessary in developing and maintaining an effective apprenticeship program.

9. An outline of the work processes in which the apprentice will receive supervised work experience on the job and the allocation of the approximate time to be spent in each major process.

10. Provision for organized, related and supplemental instruction in technical subjects related to the trade. Such instruction may be given in a classroom through trade industrial courses or correspondence courses of equivalent value, or other forms of self-study. A minimum of 144 hours is recommended for each year of apprenticeship.

11. Provision for a periodic evaluation of each apprentice's progress in job performance and related instruction prior to the expiration of each wage period. Should such a review reveal a lack of interest or ability on the part of the apprentice, the apprentice will be informed of the deficiency and may be placed on probation for a sufficient period of time to determine improvement or failure. At the end of the probationary period, if the apprentice has not shown acceptable improvement, the apprentice agreement may be suspended or revoked. The sponsor will provide written notice of the final action taken to the apprentice and the Virginia Apprenticeship Council.

12. A statement that hours of work for apprentices shall be the same as for other employees in the trade and whether time spent at related instruction will or will not be considered as hours of work.

13. A progressively increasing schedule of wages to be paid the apprentice consistent with the skill acquired and established in accordance with federal and state wage laws.

14. Provisions concerning the ratio of apprentices to journeymen.

a. The minimum numeric ratio of apprentices to journeymen shall be 1:1 except as noted in subdivision B 14 b of this section. Individual program sponsors shall propose, as part of their apprenticeship standards, a ratio of apprentices to journeymen consistent with proper supervision, training, safety and continuity of employment, applicable provisions in collective bargaining agreements, and applicable requirements of recognized licensing boards or authorities.

The Department of Labor and Industry, Division of Registered Apprenticeship Training, will review and approve all ratio proposals based on the explanation and justification provided by each program sponsor. Consideration will be given, but not limited to, the following factors:

- (1) Evidence of ability to assure proper supervision, training, safety, and continuity of employment under the proposed ratio;
- (2) The specific nature of the industry and occupation involved;
- (3) Proposed hiring or upgrading of minorities, females, older workers, dislocated workers, exoffenders, the handicapped, and veterans;

(4) Evidence of ability to train under the proposed ratio.

If a ratio proposal is disapproved by the division, the sponsor may appeal, in writing, the decision to the commissioner. If the commissioner upholds the decision of the ~~Apprenticeship Training~~ Division of Registered Apprenticeship, the sponsor may appeal to the State Apprenticeship Council. The decision of the council shall be final.

b. Apprenticeship ratio on Davis-Bacon [~~worksites~~ job sites]. Effective July 1, 1993, the minimum numeric ratio of apprentices to journeymen for individual program sponsors and for individual contractors signatory to joint and nonjoint apprenticeship programs performing work under the Davis-Bacon and related federal prevailing wage laws shall be [~~worksite job site~~] -specific and shall be as follows:

One apprentice to the first ~~journeyman~~; journeyworker (1:1);

Two apprentices to the first two ~~journeymen~~; journeyworkers (2:2);

Two apprentices to the first three ~~journeymen~~; journeyworkers (2:3);

Two apprentices to the first four ~~journeymen~~; and journeyworkers (2:4);

Two apprentices to the first five journeyworkers (2:5);

Three apprentices to the first six journeyworkers (3:6);

One additional apprentice for each two ~~journeymen~~ journeyworkers thereafter (3:7; 4:8; 5:10; 5:11; 6:12; etc.).

NOTE: The Virginia Apprenticeship Council considers all registered apprentices as apprentices until such times as the apprentices have either satisfactorily completed their apprenticeship program or have been cancelled by the sponsor from the apprenticeship program.

The ratio for service trucks on Davis-Bacon [~~worksites~~ job sites] shall be one apprentice to one journeyman.

Bids submitted for Davis-Bacon work on or after July 1, 1993, must observe these minimum ratio requirements.

These ratio provisions shall apply until either the Congress of the United States of the U.S. Department of Labor mandate different or uniform ratios for Davis-Bacon work.

c. Other requirements related to Davis-Bacon [~~worksites~~ job sites]. Sponsors shall notify the Virginia Apprenticeship Council within 30 days of receipt of a citation alleging a violation of the Davis-Bacon Act affecting an apprentice. The notice must be in a form specified by the policies of the Apprenticeship Council.

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# Regulations

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Failure to report citations shall be an omission for which council may consider requiring a remedial action plan or deregistration of the sponsor's program.

The Apprenticeship Council may deregister sponsors who receive final orders of the U.S. Department of Labor or the courts confirming willful or repeated violations of the Davis-Bacon Act affecting registered apprentices.

The effectiveness of the numeric ratio approved for individual program sponsors will be examined every two years during the program sponsor evaluation process.

15. A procedure for lay-off, suspension, cancellation and reinstatement of apprentices. Apprentices may be laid off in the commensurate ratio of apprentices to journeymen. Provided, however, any apprentice laid off shall be offered reinstatement in the seniority standing before any new apprentices shall be registered. Where there is a collective bargaining agreement providing for lay-off procedures for apprentices, it shall prevail over the above stated procedures. The council will be notified in writing of all lay-offs, suspensions, cancellations and reinstatements. The notice will state the reason for the specific action.

16. A statement that if and when the sponsor is no longer able to fulfill his obligations for the training of an apprentice, the apprentice may be transferred or registered with credit for previous training to another sponsor.

17. A statement that the sponsor will notify the council of persons who have successfully completed the apprenticeship program and request the council to prepare a Certificate of Completion for issuance to each person.

18. A statement that the sponsor shall instruct the apprentice in safe and healthful work practices and shall insure that the apprentice is trained in facilities and other environments that meet the Virginia Occupational Safety and Health Standards for General Industry and the Construction Industry, developed pursuant to the Federal Occupational Safety and Health Act.

19. A statement that in the event a difference of opinion should arise as to any provision of the apprenticeship agreement, either party to the apprenticeship agreement may consult with the council for clarification of the matter in question.

20. The sponsor's assurance that any modification or amendment of the apprenticeship program will be promptly submitted to the council. Any such modification shall be approved by the council and such modification shall not alter or affect apprenticeship agreements in effect without the consent of all parties affected.

21. A statement that the sponsor may have the program cancelled by submitting a written request to the council.

22. A statement that the apprenticeship program may be cancelled by the council if the program is not conducted in accordance with this chapter.

23. A statement identifying the Virginia Apprenticeship Council as the registration agency which agency is recognized by the Bureau of Apprenticeship and Training, United States Department of Labor.

24. A statement identifying the apprentice's responsibilities as an employee.

## **16VAC20-20-50. Standards for apprenticeship agreements.**

The apprenticeship agreement shall contain explicitly or by reference:

1. Names and signatures of the contracting parties (apprentice and sponsor) and the signature of a parent or guardian if the apprentice is a minor.

2. The date of birth, sex, race, social security number and veteran status of the apprentice.

3. Name and address of the sponsor, apprentice and the Virginia Apprenticeship Council.

4. The trade ~~or~~ craft, or occupation in which the apprentice is to be trained, and the beginning date and duration of the apprenticeship.

5. The number of hours to be spent by the apprentice in work on the job and the number of hours to be spent in related or supplemental instruction.

6. A schedule of the work processes in the trade ~~or~~ industry divisions, or occupation in which the apprentice is to be trained and the approximate time to be spent at each process.

7. A graduated scale of wages to be paid the apprentice contingent upon satisfactory performance and whether or not the apprentice will be paid for attendance at related or supplemental instruction.

8. Statements providing:

a. For a specific initial probationary period conforming to subdivision B 7 of 16VAC20-20-40;

b. That after the initial probationary period, the apprenticeship agreement may be cancelled or suspended in accordance with subdivision B 11 of 16VAC20-20-40.

9. A reference incorporating as part of the agreement the standards of the apprenticeship program as it exists on the date of the agreement and as it may be amended or modified during the period of the agreement.

10. A statement that the employment and training of apprentices during their apprenticeship, shall be without discrimination because of race, color, religion, national

origin, sex or physical handicap which is unrelated to the person's qualification and ability to perform the job.

11. The educational level of the apprentice.
12. Credit for previous experience granted the apprentice.
13. A provision that a sponsor who is unable to fulfill his obligation under the apprentice agreement may, with the approval of the council, transfer such contract to any other sponsor, provided the apprentice consents and such other sponsor agrees to assume the obligations of the apprentice agreement.

## **16VAC20-20-60. Deregistration procedure.**

Deregistration of a program may be effected upon the voluntary action of the sponsor by a written request for cancellation of the registration or by the council instituting formal deregistration proceedings in accordance with the provisions of this section.

A. Voluntary deregistration. The council may cancel the registration of an apprenticeship program by a written acknowledgement of a request stating, but not limited to, the following matters:

1. The registration is cancelled at the sponsor's request, and the effective date thereof.
2. That within 15 days of the date of the acknowledgement, the sponsor shall:
  - a. Notify all apprentices of such cancellation and the effective date;
  - b. Inform each apprentice that such cancellation automatically deprives the apprentice of individual registration; and
  - c. That the cancellation of the program removes the apprentice from coverage for federal and state purposes which require approval of an apprenticeship program.

B. Involuntary deregistration. Deregistration proceedings may be undertaken by the council when an apprenticeship program is not conducted, operated and administered in accordance with this chapter, except that deregistration proceedings for violation of equal opportunity requirements shall be processed in accordance with the provisions of the Virginia State Plan for Equal Employment Opportunity in Apprenticeship.

1. Council will notify the sponsor in writing of deregistration for one year after receiving substantial evidence in the record of either:
  - a. Exposing an apprentice to imminent danger in violation of state occupational safety and health standards;

b. Failure to provide supervision that is adequate for the period of training and the type of work being performed, sufficient to achieve the level of skill training of the trade, craft, or occupation and sufficient to reasonably protect the apprentice from serious occupational injury or illness; or

c. Failure to train an apprentice in accordance with approved apprenticeship program standards and knowingly or fraudulently certifying completion of training.

In lieu of deregistration, council may impose on the program sponsor a remedial action plan designed to bring the program sponsor into compliance with this chapter.

In cases where an employer or employers who are signatory to a joint or nonjoint apprenticeship agreement act in such a manner that the program is not conducted, operated, or administered in accordance with this chapter, council may impose on the joint or nonjoint apprenticeship program a remedial action plan designed to bring the individual member employer(s) into compliance with this chapter.

Prior to any vote by council to deregister an apprenticeship program, or to impose a formal remedial action plan, the program sponsor shall be:

- a. Notified by registered mail that council intends to take such action, with the alleged infraction(s) indicated; and
- b. Afforded the opportunity to present information to council which bears on the decision to deregister or impose a remedial action plan, either in writing or by personal appearance, within 30 days of receipt of notification by council.

The program sponsor shall be informed in writing of council's decision regarding deregistration or remedial action.

2. Implementation of involuntary deregistration. Council may delay the deregistration for six months to afford presently registered apprentices the opportunity to complete their training. No additional apprentices will be registered during this period.

Council may also award credit to apprentices in deregistered programs sufficient to complete their apprenticeship program.

In cases where apprentices choose to change employers, because deregistration will prevent them from completing their apprenticeship, the council, through the Department of Labor and Industry, will use all appropriate means to assist them in securing employment with a registered apprenticeship sponsor.

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# Regulations

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## 16VAC20-20-80. Hearings.

All hearings will be held in accordance with the provisions of §2.2-4019 of the Administrative Process Act, ~~Chapter 1.1:1, §9-6.14:11~~ of Title 9, of the Code of Virginia.

## 16VAC20-20-110. Program sponsor evaluation procedure.

Program sponsors will be evaluated once every two years to determine adequate compliance with the goal of training apprentices under proper supervision, in a safe environment, in such a manner as to acquire the skills of the ~~trade~~ occupation, with fair compensation based on individual progress consistent with average like compensation of similar industries in the area. Such evaluations will be conducted by the Apprenticeship Division staff pursuant to procedures and criteria established by the Virginia Apprenticeship Council. The council may cancel apprenticeship programs where preexisting criteria are not met.

VA.R. Doc. No. R07-259; Filed June 17, 2008, 3:23 p.m.

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF FUNERAL DIRECTORS AND EMBALMERS

#### Final Regulation

**REGISTRAR'S NOTICE:** The Board of Funeral Directors and Embalmers is claiming an exemption from the Administrative Process Act in accordance with §2.2-4006 A 4 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 Board of Funeral Directors and Embalmers will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** 18VAC65-20. Regulations of the Board of Funeral Directors and Embalmers (amending 18VAC65-20-151).

**Statutory Authority:** §§54.1-2400 and 54.1-2816.1 of the Code of Virginia.

**Effective Date:** August 6, 2008.

**Agency Contact:** Lisa Russell Hahn, Executive Director, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804)367-4424, FAX (804)527-4637, or email lisa.hahn@dhp.virginia.gov.

#### Summary:

*The amendments change the required continuing education hours from five hours for annual renewal to 10 hours for each renewal in even years. In addition, the statutory*

*specification for hours directed to laws and regulations and preneed funeral arrangements are added to the regulation.*

## 18VAC65-20-151. Continued competency requirements for renewal of an active license.

A. ~~After March 31, 2004, funeral~~ Funeral service licensees, funeral directors or funeral embalmers shall be required to have completed a minimum of ~~five~~ 10 hours of continuing education offered by a board-approved sponsor for ~~each annual~~ licensure renewal in even years in courses that emphasize the ethics, standards of practice, preneed contracts and funding, or laws and regulations governing the profession of funeral service in Virginia. One hour per year shall cover compliance with laws and regulations governing the profession, and at least one hour per year shall cover preneed funeral arrangements.

B. Courses must be directly related to the scope of practice of funeral service. Courses for which the principal purpose is to promote, sell or offer goods, products or services to funeral homes are not acceptable for the purpose of credit toward renewal.

C. The board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing education requirement.

D. The board may grant an exemption for all or part of the continuing education requirements for one renewal cycle due to circumstances determined by the board to be beyond the control of the licensee.

VA.R. Doc. No. R08-1261; Filed June 9, 2008, 9:45 a.m.

### BOARD OF OPTOMETRY

#### Final Regulation

**REGISTRAR'S NOTICE:** The Board of Optometry has claimed an exemption from the Administrative Process Act in accordance with §2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Board of Optometry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** 18VAC105-20. Regulations Governing the Practice of Optometry (amending 18VAC105-20-75).

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

**Effective Date:** August 6, 2008.

**Agency Contact:** Elizabeth A. Carter, Ph.D., Executive Director, Department of Health Professions, 9960 Mayland

Drive, Suite 300, Richmond, VA 23233, telephone (804)367-4426, FAX (804)527-4466, or email elizabeth.carter@dhp.virginia.gov.

**BOARD OF PHARMACY**

**Final Regulation**

Summary:

*Chapter 674 of the 2008 Acts of Assembly amended §54.1-3202 of the Code of Virginia, which sets out exemptions for which the requirement for licensure as an optometrist does not apply. The legislation deleted the requirement that the volunteer, nonprofit organization have no paid employees and the requirement that it sponsor health care to populations of underserved people throughout the world. It also changed the requirement that the board be notified of the dates and location of services from 15 days to five business days. The regulations are amended accordingly.*

**18VAC105-20-75. Registration for voluntary practice by out-of-state licensees.**

Any optometrist who does not hold a license to practice in Virginia and who seeks registration to practice on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization ~~with no paid employees~~ that sponsors the provision of health care to populations of underserved people ~~throughout the world~~ shall:

1. File a complete application for registration on a form provided by the board at least ~~15~~ five business days prior to engaging in such practice. An incomplete application will not be considered;
2. Provide a complete list of professional licensure in each state in which he has held a license and a copy of any current license;
3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;
4. Pay a registration fee of \$10; and
5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of subdivision 2 of §54.1-3202 of the Code of Virginia.

VA.R. Doc. No. R08-1253; Filed June 9, 2008, 9:45 a.m.

**REGISTRAR'S NOTICE:** The Board of Pharmacy has claimed an exemption from the Administrative Process Act in accordance with §2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Board of Pharmacy will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-75).**

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

Effective Date: August 6, 2008.

Agency Contact: Elizabeth Scott Russell, RPh, Executive Director, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804)367-4456, FAX (804)527-4472, or email scotti.russell@dhp.virginia.gov.

Summary:

*Chapter 674 of the 2008 Acts of Assembly amended §54.1-3301 of the Code of Virginia, which sets out exemptions for which the requirement for licensure as a pharmacist does not apply. The legislation deleted the requirement that the volunteer, nonprofit organization have no paid employees and the requirement that it sponsor health care to populations of underserved people throughout the world. It also changed the requirement that the board be notified of the dates and location of services from 15 days to five business days. The regulations are amended accordingly.*

**18VAC110-20-75. Registration for voluntary practice by out-of-state licensees.**

Any pharmacist who seeks registration to practice on a voluntary basis pursuant to subdivision 12 of §54.1-3301 of the Code of Virginia under the auspices of a publicly supported, all volunteer, nonprofit organization ~~with no paid employees~~ that sponsors the provision of health care to populations of underserved people ~~throughout the world~~ shall:

1. File a complete application for registration on a form provided by the board at least ~~15~~ five business days prior to engaging in such practice;
2. Provide a complete list of each state in which he has held a pharmacist license and a copy of any current license;

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# Regulations

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3. Provide the name of the nonprofit organization and the dates and location of the voluntary provision of services;
4. Pay a registration fee of \$10; and
5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with the provisions of subdivision 12 of §54.1-3301 of the Code of Virginia.

VA.R. Doc. No. R08-1260; Filed June 9, 2008, 9:45 a.m.

## TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

### STATE CORPORATION COMMISSION

#### Proposed Regulation

**REGISTRAR'S NOTICE:** The State Corporation Commission is exempt from the Administrative Process Act in accordance with §2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

**Titles of Regulations:** **20VAC5-427. Rules for Local Exchange Telecommunications Company Service Quality Standards (repealing 20VAC5-427-10 through 20VAC5-427-170).**

**20VAC5-428. Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality (adding 20VAC5-428-10 through 20VAC5-428-120).**

**Statutory Authority:** §§12.1-13, 56-35, 56-36, 56-234, 56-234.4, 56-246 and 56-479 of the Code of Virginia.

**Public Hearing Information:**

September 25, 2008 - 10 a.m. - State Corporation Commission Courtroom, 1300 East Main Street, Second Floor, Richmond, VA

**Public Comments:** Public comments may be submitted until 5 p.m. on August 21, 2008.

**Agency Contact:** Steven Bradley, Department Director, Division of Communications, State Corporation Commission, P.O. Box 1197, 1300 East Main Street, Richmond, VA 23218, telephone (804) 371-9420, FAX (804) 371-9069, or email [steve.bradley@scc.virginia.gov](mailto:steve.bradley@scc.virginia.gov).

**Summary:**

*Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality, 20VAC5-428, replace the existing Rules for Local Exchange Telecommunications Company Service Quality Standards, 20VAC5-427. The regulations apply to all certificated local exchange carriers and prescribe a minimum acceptable level of*

*quality of service under normal operating conditions. The regulations require the restoration of private property that has been disturbed as a result of construction or maintenance operations. They require companies with 10,000 or more network access lines to file quarterly performance reports, which can be made publicly available, covering four performance standards including the restoration of out-of-service conditions, responding to customer calls, installing telephone service, and meeting scheduled customer appointments. They also set forth an enforcement and sanction process to address any concern for inadequate service.*

AT RICHMOND, JUNE 17, 2008

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

CASE NO. PUC-2008-00047

Ex Parte: Revision of Rules for  
Local Exchange Telecommunications  
Company Service Quality Standards

ORDER PRESCRIBING NOTICE,

**SCHEDULING HEARING, AND INVITING  
COMMENTS**

By Order of June 10, 1993, in Case No. PUC-1993-00009, the State Corporation Commission ("Commission") adopted Regulations Governing Service Standards for Local Exchange Telephone Companies codified at 20 VAC 5-400-80.

The initial rules were replaced by the current rules, Rules for Local Exchange Telecommunications Company Service Quality Standards, in Case No. PUC-2003-00110, Final Order, September 30, 2005, codified at 20 VAC 5-427-10 et seq.

The Commission recently observed that the performance standards set out in 20 VAC 5-427-130 lacked language specifically directing compliance with the standard or a specific penalty for failure to comply with the standard.<sup>1</sup>

The Commission will now consider repealing Chapter 427 of Title 20 of the Virginia Administrative Code and replacing it with the proposed rules, numbered as Chapter 428 of Title 20 of the Virginia Administrative Code, and attached hereto as Appendix A ("Proposed Rules"). All interested parties are invited to submit comments on the Proposed Rules.

NOW THE COMMISSION, pursuant to §§ 56-35, 56-36, 56-234, 56-234.4, 56-246, 56-479, and 12.1-13 of the Code of Virginia and 5 VAC 5-20-100 of the Commission's Rules of Practice and Procedure, finds that interested parties should be permitted to comment on and/or participate in a hearing regarding the Proposed Rules.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUC-2008-00047.

(2) The Commission's Division of Information Resources shall forward the proposed Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality (Chapter 428), Appendix A herein, to the Registrar of Virginia for publication in the Virginia Register of Regulations.

(3) On or before June 27, 2008, the Commission's Division of Information Resources shall make a downloadable version of the proposed Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality, Appendix A, available for access by the public at the Commission's website, <http://www.scc.virginia.gov/case>. The Clerk of the Commission shall make a copy of the proposed Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality available for public inspection and provide a copy, free of charge, in response to any written request for one.

(4) Interested persons wishing to submit written comments regarding the proposed Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality shall file such written comments with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, on or before August 21, 2008. Interested persons desiring to submit comments electronically may do so by following instructions found on the Commission's website, <http://www.scc.virginia.gov/case>.

(5) On or before September 15, 2008, the Commission Staff is directed to file a Response to the comments that are filed with the Commission.

(6) The Commission shall conduct a hearing in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia at 10:00 a.m. on September 25, 2008, to consider the adoption of the Proposed Rules.

(7) On or before July 7, 2008, the Commission's Division of Information Resources shall publish the following notice as classified advertising in newspapers of general circulation throughout the Commonwealth of Virginia.

**NOTICE TO THE PUBLIC OF A PROCEEDING TO ADOPT RULES GOVERNING LOCAL EXCHANGE TELECOMMUNICATIONS CARRIER RETAIL SERVICE QUALITY CASE NO. PUC-2008-00047**

By Order dated September 30, 2005, in Case No. PUC-2003-00110, the State Corporation Commission ("Commission") adopted Rules for Telecommunications Company Service Quality Standards ("Current Rules") (20 VAC 5-427-10).

The Commission is now considering the repeal of the Current Rules and the adoption of a revised set of rules styled Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality ("Proposed Rules").

Interested parties may obtain a copy of the Proposed Rules by visiting the Commission's website, <http://www.scc.virginia.gov/case>, or by requesting a copy from the Clerk of the State Corporation Commission. The Clerk's office will provide a copy of the Proposed Rules to any interested party, free of charge, in response to any written request for one.

A public hearing to consider the Proposed Rules shall be convened at 10:00 a.m. on September 25, 2008, in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia. Any person desiring to comment orally at the public hearing need only appear at the Commission's Second Floor Courtroom in the Tyler Building at the address set forth above prior to 9:45 a.m. on the day of the hearing and register a request to speak with the Commission's bailiff.

Interested persons wishing to submit written comments regarding the proposed Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality shall file such written comments with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, on or before August 21, 2008. Interested persons desiring to submit comments electronically may do so by following instructions found on the Commission's website, <http://www.scc.virginia.gov/case>.

Comments must refer to Case No. PUC-2008-00047.

**VIRGINIA STATE CORPORATION COMMISSION**

(8) This matter is continued for further orders of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, 2nd Floor, Richmond, Virginia 23219; all local exchange carriers certificated in Virginia as set out in Appendix B; and the Commission's Office of General Counsel and the Division of Communications.

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<sup>1</sup> Commonwealth of Virginia, ex rel. State Corporation Commission v. Verizon Virginia Inc., and Verizon South Inc., Case No. PUC-2007-00040, Order of February 29, 2008.

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# Regulations

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CHAPTER 428  
RULES GOVERNING LOCAL EXCHANGE  
TELECOMMUNICATIONS CARRIER RETAIL SERVICE  
QUALITY

**20VAC5-428-10. Applicability; definitions.**

A. This chapter is promulgated pursuant to §§56-35, 56-36, 56-234, 56-234.4, 56-246, 56-247, 56-249, and 56-479 of the Code of Virginia and shall apply to local exchange carriers (LECs) providing local exchange telecommunications services within the Commonwealth of Virginia. This chapter prescribes the minimum acceptable level of service quality under normal operating conditions. The commission may, after investigation and at its discretion, suspend application of this chapter during force majeure events, which include natural disaster, severe storm, flood, work stoppage, civil unrest, major transportation disruptions, or any other catastrophic events beyond the control of a LEC.

B. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Automated answering system" means a system where customer calls are received and directed to a live agent or an automated transaction system.

"Automated transaction system" means a system where customer transactions can be completed without the assistance of a live agent, and include the option to reach a live agent before the completion of an automated transaction.

"Central office" means a LEC-operated switching system, including remote switches and associated transmission equipment.

"Central office serving area" means the geographic area in which local service is provided by a LEC's central office and associated outside plant.

"Commission" means the Virginia State Corporation Commission.

"Customer" means any person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency that is an end user of local exchange telecommunications services under the jurisdiction of the commission.

"Customer call center" means any functional entity that accepts customer calls pertaining to service orders, billing inquiries, repair, and any other related requests.

"Emergency" means a sudden or unexpected occurrence involving a clear and imminent danger demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.

"Local exchange carrier (LEC)" means a certificated provider of local exchange telecommunications services,

excluding LECs subject to Chapter 16 (§56-485 et seq.) of Title 56 of the Code of Virginia.

"Local exchange telecommunications services" means local exchange telephone service as defined by §56-1 of the Code of Virginia.

"Major service outage" means any network condition that causes 1,000 or more customers to be out of service for 30 or more minutes; causes an unplanned outage of, or completely isolates, a central office for 30 or more minutes; or disrupts 911 emergency call processing for any period.

"Network" means a system of central offices and associated outside plant.

"Network access line (NAL)" means a customer dial tone line, or its equivalent, that provides access to the public telecommunications network.

"Out of service" means a network service condition causing an inability to complete an incoming or outgoing call or any other condition that causes a connected call to be incomprehensible.

"Outside plant" means the network facilities not included in the definition of central office including, but not limited to, copper cable, fiber optic cable, coaxial cable, terminals, pedestals, load coils, or any other equipment normally associated with interoffice, feeder, and distribution facilities up to and including the rate demarcation point.

"Rate demarcation point" means the point at which a LEC's network ends and a customer's wiring or facilities begin.

"Speed of answer interval (SAI)" means the period of time following the completion of direct dialing, or upon completion of a customer's final selection or response within an automated answering system, and lasting until the call is answered by a live agent or is abandoned by the customer or the LEC. In the case of automated transactions where a customer opts to speak to a live agent, the SAI is the period of time following the customer opting to speak to a live agent until the call is answered by a live agent or is abandoned by the customer or the LEC. A call is considered to have been answered when a live agent is ready to render assistance.

"Staff" means the commission's Division of Communications and associated personnel.

"Trouble" means an impairment of a LEC's network.

"Trouble report" means an initial oral or written notice, including voice mail and email, to any LEC employee or agent of a condition that affects or may affect network service.

**20VAC5-428-20. Private property restoration.**

A LEC, whenever it disturbs private property during the course of construction or maintenance operations, shall, except when otherwise specified or governed by easement or

agreement, restore the private property to a condition that is at least as good as that which existed prior to the disturbance.

## **20VAC5-428-30. Availability and retention of records.**

A. A LEC shall provide to the commission or staff, upon request, all records, reports, and other information required to determine compliance with this chapter.

B. A LEC shall retain records relevant to this chapter for a minimum of two years.

C. A LEC shall retain customer billing records for a minimum of three years to permit the commission or staff to investigate and resolve billing complaints.

## **20VAC5-428-40. Routine network relocation and rearrangement.**

Upon the receipt of a bona fide request for the routine relocation or rearrangement of its network facilities, a LEC shall provide the requesting party a detailed, itemized written good faith cost estimate, or a written work plan if no charges are applicable, within 45 days, unless otherwise agreed to by the requestor. Upon the requestor's acceptance of the cost estimate or work plan, a LEC shall complete the relocation or rearrangement work within 60 days, unless otherwise agreed to by the requestor.

## **20VAC5-428-50. Trouble report availability.**

A. A LEC shall accept and acknowledge trouble reports of an emergency nature at all times through automated or live means.

B. A LEC shall take immediate action to clear trouble reports of an emergency nature.

## **20VAC5-428-60. Service outage reporting.**

A. A LEC shall advise the staff of a major service outage on the same day as the outage occurs. If the outage occurs outside of the commission's normal business hours, a LEC shall advise the staff via voice mail and email.

B. A LEC shall submit to the staff a major service outage report by the end of the next business day following the outage and shall include the following information:

1. The central office, remote switch, or other network facility involved;
2. The date and estimated time of commencement of the outage;
3. The geographic area affected;
4. The estimated number of customers affected;
5. The types of services affected;

6. The duration of the outage (e.g., time elapsed from the commencement of the outage until estimated restoration of full service); and

7. The apparent or known cause or causes of the outage, including the name and type of equipment involved and the specific part of the network affected, and methods used to restore service.

## **20VAC5-428-70. Commission complaints.**

A. When the staff informs a LEC of an out-of-service commission complaint, that LEC shall restore the affected service within 24 hours of the report, unless an extension is granted by the staff.

B. When the staff informs a LEC of a non-out-of-service commission complaint, the LEC shall resolve the complaint within 10 business days, unless an extension is granted by the staff.

## **20VAC5-428-80. Printed directories.**

A LEC shall publish printed directories or cause its customers' listing information to be published in printed directories at yearly intervals.

## **20VAC5-428-90. Network and customer care service quality and reporting.**

A. A LEC with 10,000 or more NALs shall file quarterly performance reports showing monthly results on a statewide basis for the performance standards contained in subsection B of this section. The quarterly reports shall be filed no later than the 15th day of the month following the close of the preceding quarter. The reports and the data they contain shall not be deemed confidential and shall be subject to commission audit. A LEC may request the commission to exempt it from the filing of quarterly reports by demonstrating that its services, in whole or in part, are provided through the resale or lease of another LEC's services or facilities over which it has no direct control.

B. A LEC shall comply with the following performance standards:

1. A LEC shall restore no less than 80% of out-of-service trouble reports within 24 hours, and no less than 95% within 48 hours, per calendar month, on a statewide basis, excluding Sundays and LEC-recognized holidays. A LEC shall calculate its results by dividing the number of out-of-service customer trouble reports restored within 24 hours and 48 hours respectively in the given month by the number of out-of-service customer trouble reports received in the given month. The quotient is then multiplied by 100 to produce the result as a percentage.

2. A LEC shall answer calls to its customer call centers with an average SAI of no greater than 60 seconds per calendar month. A LEC shall calculate its results by

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dividing the cumulative SAI in seconds in the given month by the number of calls answered by a live agent in the given month. A LEC shall exclude from its calculation customer-initiated web transactions and customer-initiated automated transactions.

3. A LEC shall complete no less than 90% of installation service orders within five business days of a customer's request, per calendar month, on a statewide basis. A LEC shall calculate its results by dividing the number of installation service orders completed within five days in the given month by the number of service orders received in the given month. The quotient is then multiplied by 100 to produce the result as a percentage. A LEC may exclude customer-requested extended intervals, customer-caused installation delays, and service orders for the installation of more than five NALs at one customer location.

4. A LEC shall meet no less than 90% of installation and repair commitments requiring a field dispatch, per calendar month, on a statewide basis. A LEC shall calculate its results by dividing the number of installation and repair commitments met in the given month by the number of commitments made in the given month. The quotient is then multiplied by 100 to produce the result as a percentage.

C. Notwithstanding that quarterly performance reports are compiled on a statewide basis, the commission may, in its discretion, direct that analogous reports be filed to assure that LECs comply with the performance standards set out in subdivisions B 1, B 3, and B 4 of this section, for any individual central office serving area of any LEC. A LEC's failure to comply with the performance standards set out in subdivisions B 1, B 3, and B 4, for any individual central office serving area may result in enforcement proceedings as provided in 20VAC5-428-110.

## **20VAC5-428-100. Generally inadequate service.**

A LEC shall, at the direction of the commission following notice and an opportunity for hearing, address any concern for inadequate service quality not specifically addressed in this chapter.

## **20VAC5-428-110. Enforcement and sanctions.**

The commission may, upon motion, and after opportunity for written response from the LEC in accordance with 5VAC5-20-100, issue such order or orders as it deems necessary to notify a LEC of the LEC's obligation and need to satisfy the provisions of this chapter. If a LEC fails to comply with the directives of such order, the commission may, following notice and an opportunity for hearing, levy one or more of the penalties and sanctions authorized by §§12.1-13, 12.1-33, and 56-483 of the Code of Virginia for violations of such order.

## **20VAC5-428-120. Commission authority.**

The commission may, at its discretion, waive or grant exceptions to any provision of this chapter.

VA.R. Doc. No. R08-1363; Filed June 18, 2008, 11:05 a.m.

## **TITLE 22. SOCIAL SERVICES**

### **DEPARTMENT OF REHABILITATIVE SERVICES**

#### **Final Regulation**

**Title of Regulation:** **22VAC30-10. Public Participation Guidelines (amending 22VAC30-10-10, 22VAC30-10-20, 22VAC30-10-40, 22VAC30-10-50).**

**Statutory Authority:** §§2.2-4007.02 and 51.5-14 of the Code of Virginia.

**Effective Date:** August 8, 2008.

**Agency Contact:** Vanessa S. Rakestraw, Policy Analyst, Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804)662-7612, FAX (804)662-7696, or email [vanessa.rakestraw@drs.virginia.gov](mailto:vanessa.rakestraw@drs.virginia.gov).

#### **Summary:**

*The amendments (i) add the Virginia Regulatory Town Hall as an option for providing public notice and public comment; (ii) update references to the Code of Virginia that have changed as a result of recodification and other legislative changes; (iii) authorize the commissioner to purge entries on the public participation notification list when the individual or entity requests to be removed from the list, when notices are returned as undeliverable, or when there is no response to a request from the commissioner; (iv) provide that the failure of any person or entity to receive any notice or any copies of documents provided under these guidelines shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia); (v) require the department to consider all input received within the established comment period; and (vi) provide that any person or entity may petition the commissioner to develop a new or amend an existing regulation, but the department shall have to sole authority to dispose of the petition.*

**Summary of Public Comments and Agency's Response:** No public comments were received by the promulgating agency.

#### **22VAC30-10-10. General information.**

These regulations provide guidelines to inform the public of, and involve interested parties in, the development, promulgation, amendment, and periodic review of regulations of the Department of Rehabilitative Services. The guidelines do not apply to regulations exempted or excluded from the

provisions of ~~§9-6.14:4.1~~ the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia).

**22VAC30-10-20. Identification and notification of interested parties.**

A. The commissioner shall create and maintain a list or lists of ~~parties~~ (individuals and entities) to be notified of an intended regulatory action (such as regulation development or amendment) and invited to participate. The commissioner may maintain a general list or individual lists based on specific regulatory issues, proposals or actions.

B. Any person or entity may request to be placed on the list by contacting the commissioner or may register on the Virginia Regulatory Town Hall.

C. The list shall include, but is not limited to, ~~parties~~ individuals or entities who:

1. Request that the commissioner place their ~~name~~ names on the list; or
2. Petition the department for rulemaking.

D. The commissioner may add to the list ~~parties~~ individuals or entities likely to be interested in, regulated by, or otherwise affected by the proposed regulatory action.

E. The commissioner shall periodically update the list. Updating the list shall include, but is not limited to, annually publishing in the Virginia Register (an official state publication issued biweekly by the Virginia Code Commission, which is available to the public on the Internet or by subscription or individual issue through the Registrar of Regulations) a notice requesting that any individual or entity wishing to be notified of, or be involved in, the development, promulgation, or amendment of department regulations notify the commissioner or register on the Virginia Regulatory Town Hall website. The commissioner may purge entries on the list when the individual or entity requests to be removed from the list, when either regular or electronic notice is returned or undeliverable, or there has been no response to the request from the commissioner. In addition, the commissioner may use other methods to periodically purge (with prior notification) and update the list.

F. ~~The~~ At the appropriate stage of the regulatory process, the commissioner shall notify the parties on the list of the intended regulatory action and comment period and invite them to participate mail or have electronically transmitted the following documents or notification of how to access the documents: Notice of Intended Regulatory Action; notice of comment period and public hearings, along with, at the proposed stage, a copy of the proposed regulation; a copy of the final regulation adopted by the department; and [a] notice soliciting comments on a final regulation if the regulatory process has been extended. The commissioner shall post the documents on the Virginia Regulatory Town

Hall [~~When the commissioner determines a specific regulation is subject to the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia), the commissioner shall also and ] publish the documents in the Virginia Register. For any meeting of a department advisory body where it is anticipated that development or review of a regulation will occur, advance notice of the meeting and title of the regulation shall be published in the Virginia Register and on the Virginia Regulatory Town Hall.~~

G. Failure of any person or entity to receive any notice or any copies of documents provided under these guidelines shall not affect the validity of any regulation otherwise properly adopted under the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia).

**22VAC30-10-40. Role of interested parties, advisory bodies, ad hoc committee.**

A. Activities in which the commissioner may involve parties indicating a desire to participate in rulemaking, a standing advisory body, or ad hoc committee include, but are not limited to:

1. Assisting with the preparation of draft amendments or proposed regulations,
2. Reviewing and commenting on draft amendments or proposed regulations, or
3. Assisting with the periodic review of regulations and recommending appropriate regulatory action.

B. In developing any regulation, the department shall afford interested individuals and entities an opportunity to submit data, views, and arguments, either orally or in writing or by electronic means, to the department or its specially designated subordinate. Prior to or during any such opportunity the ~~agency~~ department may, at its discretion, begin drafting the proposed regulation. Subject to the provisions of ~~§9-6.14:7.1~~ §2.2-4007.02 of the Code of Virginia, the commissioner may elect to conduct a public hearing.

C. The department shall consider all input received within the established comment period deadline.

**22VAC30-10-50. Petition requirements.**

A. As provided for under ~~§9-6.14:7.1~~ §2.2-4007 of the Code of Virginia, any person may petition the commissioner to develop a new regulation or amend an existing regulation. A petition for rulemaking shall include, but is not limited to, the following:

1. The petitioner's name, mailing address, telephone number, facsimile and email address if available and, if applicable, the name of the group represented in the petition,
2. The number or title of the regulation to be addressed,

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3. A description of the regulatory problem, action, or issue to be addressed, and

4. A recommended addition, deletion, or amendment to the regulation.

B. The commissioner shall consider the petition and decide whether to initiate rulemaking in response to the petition. The commissioner shall communicate the decision and grounds for the decision to the petitioner as required under ~~§ 9-6.14:7.1~~ § 2.2-4007 of the Code of Virginia. The department shall have the sole authority to dispose of the petition.

C. Nothing herein shall prohibit the commissioner from receiving information from the public and proceeding with the commissioner's own motion for rulemaking.

VA.R. Doc. No. R06-85; Filed June 13, 2008, 4:05 p.m.

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# GOVERNOR

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## EXECUTIVE ORDER NUMBER 69 (2008)

### **SUSTAINABLE COMMUNITY INVESTMENT**

#### **Importance of the Initiative**

Over the past decade, the Commonwealth has lost over 60,000 acres per year, or approximately 165 acres a day, to development. Virginia's population is projected to grow over 23% in between now and 2030, which has the potential to accelerate development even further. The rapid pace of land consumption in Virginia demands that we address environmental and economic sustainability for ourselves and for future generations.

In addition to the loss of open space and other environmental impacts, sprawling development increases traffic congestion, lengthens commutes, discourages walking and biking, and diminishes our quality of life. Since land use patterns affect our transportation network, our solutions must strive to link planning efforts in transportation and land use more closely together. Striving for sustainable development is a crucial endeavor, and working toward this goal will demand that while providing for the present, we are also preserving resources for the needs of the future.

Through the smart use of investment and conservation, the Commonwealth must encourage a long-term approach to development in Virginia. To achieve this goal, various state agencies must better coordinate their work and find ways to provide incentives and technical assistance to localities. To fully realize the objective of sustainable development, members of the Cabinet must work with each other and within their respective departments to make it a priority. They must ensure that agency investments are directed to areas with existing infrastructure, encourage compact and mixed-use development, create diverse housing opportunities, and promote innovation.

By the power vested in me by Article V of the Constitution of Virginia, and Section 2.2-103 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish a Sub-Cabinet on Community Investment and direct the Governor's Secretaries and all executive branch agencies and institutions to work with the Sub-Cabinet on Community Investment to make investment decisions.

#### **Sub-Cabinet on Community Investment**

There is hereby established the Sub-Cabinet on Community Investment to provide advice to the Commonwealth on the use of existing state discretionary funds to ensure that investment decisions promote economically and environmentally sustainable communities.

The Governor's Sub-Cabinet on Community Investment shall be chaired by the Secretary of Natural Resources. The Sub-Cabinet shall meet monthly and consist of the Secretaries of

Natural Resources, Administration, Commerce and Trade, Finance, and Transportation. The Sub-Cabinet's responsibilities shall include the following:

1. Promote the Governor's Principles of Sustainable Community Investment.
2. Ensure that state investments are directed to projects that are consistent with the principles and recommend new criteria for discretionary spending programs that affect development patterns.
3. Collaborate on initiatives to continue to better link land use with transportation and to conserve open space.

#### **Principles of Sustainable Community Investment**

Sustainable development requires there to be economic growth in communities where economic needs are not being met. By properly maintaining and making more efficient use of existing infrastructure we can save money and conserve resources. The Commonwealth should be investing in projects that promote compact development, consume less land, conserve open space, and minimize the negative social, economic, and environmental consequences of dispersed land development patterns. Virginia's diverse waters, landscapes and other natural resources are key to the Commonwealth's economic prosperity, identity and the quality of life of its citizens. However, if used appropriately and sparingly, Virginia's abundant natural resources can provide the foundation for a sustained healthy economy.

Investment decisions should be based on the following basic principles:

1. Invest in innovation.
  - Inspire human ingenuity and financial capital and deploy it to ensure that communities' development desires are met in ways that are fiscally prudent and promote economic goals and citizens' quality of life.
  - Strengthen natural resource-based businesses, such as energy production, agriculture, forestry, fisheries, recreation and tourism, that are pioneers in the use of sustainable practices.
  - Assist emerging research and industries in their burgeoning early stages, and encourage efforts of existing industries to become more sustainable.
2. Invest in existing infrastructure.
  - Encourage the rehabilitation and adaptive re-use of existing infrastructure, giving preference to preservation and reuse of historic structures, rehabilitation of existing housing and schools, and redevelopment of brownfields.

- Focus efforts to increase job opportunities on companies that are located near existing or planned water and sewer infrastructure, housing, existing workforce and transportation access.
3. Invest in compact development.
- Create walkable, mixed-use districts within communities.
  - Ensure that the Commonwealth's decisions regarding the placement of infrastructure and state facilities and buildings encourages compact development and contributes to revitalization of urban centers.
4. Invest in the protection and restoration of Virginia's natural resources.
- Protect and restore ecologically sensitive lands, wildlife habitat, recreational and cultural resources, and the working landscapes upon which our agriculture and forestry depend.
  - Improve water quality of Virginia's rivers, streams and the Chesapeake Bay.
  - Improve air quality in our urban and industrial areas and reduce greenhouse gas emissions from all sources throughout the Commonwealth.
5. Conserve our limited natural resources.
- Eliminate waste of water, energy and materials.
  - Plan and construct buildings and infrastructure to use land, energy, water, and materials efficiently.
  - Increase the supply of renewable sources of energy.
6. Invest in diverse housing opportunities.
- Coordinate the provision of housing with the location of jobs, transportation options, and public services.
  - Encourage development of energy-efficient housing and expand the use of innovative building materials.
7. Invest in transportation choices.
- Make alternatives to automobile travel – such as rail, transit, teleworking, walking, and bicycling – available and attractive, and provide intermodal connections.
8. Take a long-term view.
- Look beyond immediate short-term capital costs so as to take account of future operational, maintenance, and other value savings.

It is important to assess development decisions in light of economic, social, and environmental productivity and sustainability. In applying these principles, the Commonwealth must ensure that fair consideration is given to rural projects that may have less existing infrastructure, workforce and jobs than urban and suburban areas, but that offer sustainable development benefits to a defined rural community. The Commonwealth should promote equitable sharing of the benefits and burdens of development.

### Applying the Principles

Agencies of the Commonwealth shall make decisions about the use of discretionary funds consistent with the principles of sustainable community development established in this Executive Order, and shall make quarterly reports to the Governor of how their use of such funds have aligned with the principles.

The Department of Planning and Budget shall establish a list of agencies and discretionary funds that shall be subject to the reporting requirement.

Agencies' initial reports shall include a review of the criteria used to evaluate grant applications to determine the extent which the criteria support the Principles of Sustainable Community Investment identified in this Executive Order. Based on this review, the agency shall either (1) revise the grant criteria to better reflect the Principles of Sustainable Community Investment or (2) provide a detailed explanation of why such a revision is not feasible, including state or federal statutory constraints. By October 1, 2008, agencies shall provide a report on their review of their grant criteria to the Department of Planning and Budget and to the Sub-Cabinet on Community Investment.

Thereafter, agencies shall submit quarterly, beginning January 1, 2009, a report on how the grants awarded actually advance the Principles of Sustainable Community Investment to the Department of Planning and Budget and to the Sub-Cabinet on Community Investment.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until June 30, 2011, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 11th day of June, 2008.

/s/ Timothy M. Kaine  
Governor

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# GENERAL NOTICES/ERRATA

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## VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

### Program Guidelines Changes

Notice is hereby given that the Virginia Birth-Related Neurological Injury Compensation Program seeks comment on proposed changes to the Program Guidelines. The proposed changes may be viewed on the Program's website at [www.vabirthinjury.com](http://www.vabirthinjury.com) on the "News and Publications" page. A copy of the proposed changes is also available for inspection during normal business hours at the Program's office located at 7501 Boulders View Drive, Suite 210, Richmond, VA 23225. The Program also will provide a copy in response to written requests. All comments must be submitted in written form and may be directed to the board of directors at the above address. Comments also may be emailed to [board@vabirthinjury.com](mailto:board@vabirthinjury.com). All comments must include the name, address and telephone number of the submitting party. This comment period ends September 7, 2008.

Contact Information: Angela R. Conley, Executive Assistant, Virginia Birth-Related Injury Program, 7501 Boulders View Drive, Suite 210, Richmond, VA 23225, telephone (804) 330-2471, ext. 306.

## STATE CORPORATION COMMISSION

### Legislation Enacted by the 2008 Virginia General Assembly

June 9, 2008

Administrative Letter 2008-08

To: All Insurers and Other Interested Parties

Re: Legislation Enacted by the 2008 Virginia General Assembly

We have attached for your reference summaries of certain statutes enacted or amended and re-enacted during the 2008 Session of the Virginia General Assembly. The effective date of these statutes is July 1, 2008, except as otherwise indicated in this letter. Each organization to which this letter is being sent should review the summaries carefully and see that notice of these laws is directed to the proper persons, including appointed representatives, to ensure that appropriate action is taken to effect compliance with these new legal requirements. Copies of individual bills may be obtained at <http://legis.state.va.us/>. You may enter the bill number (not the chapter number) on the Virginia General Assembly Home Page, and you will be linked to the Legislative Information System. You may also link from the Legislative Information System to any existing section of the Code of Virginia. All statutory references made in the letter are to Title 38.2 (Insurance) of the Code of Virginia unless otherwise noted.

All references to the Commission refer to the State Corporation Commission.

Please note that this document is a summary of legislation. It is neither a legal review and interpretation nor a full description of the legislative amendments affecting insurance-related laws during the 2008 Session. Each organization is responsible for legal review of the statutes pertinent to its operations.

Cordially,



Alfred W. Gross  
Commissioner of Insurance

Attachment

NOTE: Please note that the Bureau of Insurance will be converting to Sircon for States, a new web-based computer system, effective Tuesday, September 16. As a result, the Bureau will be unable to process any transactions or provide information for producer licensing, consumer services, or company admissions from 5:00 p.m., Thursday, September 4 through Monday, September 15. Please keep these dates in mind as you plan for your business needs in September. See the Bureau website for further details.

## LIFE AND HEALTH

### Chapter 104 (Senate Bill 403)

The bill adds §38.2-3407.9:03 in the Accident and Sickness Insurance Provisions chapter, requiring that any contract between a carrier and its pharmacy benefits administrator or a carrier and a participating pharmacy, or its contracting agent, that requires claims be submitted electronically shall require that payment be made electronically to the participating provider or its designee for clean claims, as defined in subsection A of §38.2-3407.15, submitted electronically. An electronic claim must be submitted in the form required by the carrier and in compliance with the Code of Federal Regulations (45 CFR Part 142), as amended, provided that the participating provider or designee agrees to accept claims details for such payments electronically, in compliance with 45 CFR Part 142, as amended, and provides accurate electronic funds transfer information to the carrier. The provisions of the bill apply with respect to contracts that are entered into, amended, extended, or renewed on or after January 1, 2009.

### Chapter 209 (House Bill 196)

The bill revises subsection B of §38.2-3525 in the Accident and Sickness Policies chapter to require that insurers continue coverage for a dependent child based on the child's status as a

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full time student whose treating physician has certified that it is medically necessary for the student to withdraw from school as a full-time student. Coverage must continue to the earlier of (i) 12 months from the date the child is no longer a full-time student; or (ii) the date the child no longer qualifies as a dependent child under the group policy terms.

### **Chapter 214 (House Bill 397)**

The bill amends §38.2-4303 in the Health Maintenance Organizations (HMOs) chapter to delete language relating to limits for total deductibles per calendar or contract year. The criteria for determining whether an HMO's deductibles are unreasonable are also deleted.

### **Chapter 215 (House Bill 504)**

The bill amends §38.2-3407 in the Accident and Sickness Provisions chapter to add a new subsection E that allows insurers to offer individual or group exclusive provider policies (EPPs) or contracts under certain conditions. The term "exclusive provider policies or contracts" is defined as meaning "insurance policies or contracts that condition the payment of benefits on the use of preferred providers." An insurer may offer an EPP if (i) the insurer provides or offers a benefit for preferred and nonpreferred providers in accordance with subsection D of §38.2-3407 to a group contract holder and an enrollee can individually, at his option, accept or reject the benefit; and (ii) the insurer provides out-of-network emergency services at the minimum level required by the preferred provider policy or contract. Every insurer must make available or arrange with a carrier to make available, at no cost to the group contract holder, a notice to prospective group contract holders and prospective enrollees that accurately and completely explains the benefit for preferred and nonpreferred providers and allows each enrollee to make an election. The notice must be approved by the Commission as required by §38.2-316. The form of notice provided in connection with any reenrollment may be the same as the approved form of notice filed under §38.2-316 used in connection with initial enrollment and may be made available to the group contract holder and prospective enrollee by the carrier in any reasonable manner.

### **Chapter 420 (Senate Bill 785)**

This bill amends the Code of Virginia by repealing §38.2-3418.1:1, relating to mandated coverage for bone marrow transplants and revises §2.2-2818 regarding health coverage for state employees. The bill repeals the provision requiring health insurers, health services plans and health maintenance organizations (HMOs) to offer and make available coverage for the treatment of breast cancer by high dose-intensive chemotherapy/autologous bone marrow transplants (ABMT) or stem cell transplants. The bill also repeals the requirement that coverage for dose intensive chemotherapy with ABMT or stem cell support be included in state employee health coverage. NOTE: Revisions to previously approved forms to

delete the mandated offer or benefit must be submitted to the Bureau for approval.

### **Chapter 546 (House Bill 728)**

The bill requires that the Commission, acting through its Bureau of Insurance (Bureau), develop a uniform group health insurance application form by July 1, 2009. The bill requires the Bureau to convene a work group with representatives of group health insurers, employer organizations, and the Virginia Associations of Health Plans to assist the Bureau. NOTE: Insurers may contact the Bureau at (804) 371-9074, if they are interested in more information about the work group.

## **PROPERTY AND CASUALTY**

### **Chapter 221 and Chapter 58 (House Bill 914 and Senate Bill 612)**

The bills amend §§38.2-231 (General Provisions), 38.2-2114 (Fire Insurance Policies), and 38.2-2212 (Liability Insurance Policies) to exempt an insurer from the termination notice requirements if an affiliated insurer has manifested its willingness to provide coverage to the insured at a premium that would have been charged for the same exposures on the expiring policy. The affiliated insurer policy must have types and limits of coverage at least equal to those of the expiring policy unless the insured has requested a change in the coverage or limits. The insurer of the expiring policy is not required to send an offer of renewal, and the policy issued by the affiliated insurer will be deemed to be a renewal policy.

### **Chapter 516 and Chapter 111 (House Bill 1176 and Senate Bill 697)**

The bills amend §38.2-517 in the Unfair Trade Practices chapter to prohibit any person from engaging in the practice of capping, which is defined as the setting of arbitrary and unreasonable limits on what an insurer will allow as reimbursement for paint and materials.

## **MARKET REGULATION**

### **Chapter 249 (House Bill 336)**

The bill amends §38.2-1317.1 to include results of market analyses as a consideration in scheduling examinations and adds a new section numbered §38.2-1317.2 to the Examinations article of the Reports, Reserves and Examinations chapter relating to the confidentiality of such market analyses. The bill establishes a regulatory process called "market analysis" to determine the nature, scope, and frequency of examinations. The bill also makes the confidentiality provisions currently applicable to financial examinations and financial analyses applicable to market conduct examinations and market analyses.

## TITLE INSURANCE

### Chapter 92 (Senate Bill 149)

The bill amends the Consumer Real Estate Settlement Protection Act (CRESPA, §§6.1-2.19 through 6.1-2.29) to increase the amount of the required surety bond a settlement agent must obtain from \$100,000 to \$200,000.

### Chapter 250 (House Bill 431)

The bill amends §38.2-1814.1 in the Insurance Agents chapter by adding a requirement that any resident seeking to be licensed as a title insurance agent must complete a 16-hour pre-licensing study course.

## AGENT REGULATION

### Chapter 212 (House Bill 298)

The bill amends the affidavit form and content requirements in §38.2-4806 (Surplus Lines chapter). The bill eliminates the requirement that a surplus lines broker execute an affidavit stating that he was unable, after a diligent search, to obtain insurance from a licensed insurer. An affidavit in a form prescribed by the commission is still required to be filed with the commission within 30 calendar days after the end of each calendar quarter.

### Chapter 213 (House Bill 349)

The bill amends sections of the Insurance Agents chapter to eliminate the requirement that a foreign or domestic business entity first obtain a certificate of authority, including a certificate of registration, certificate of organization, certificate of limited partnership, or charter, from the commission prior to being eligible to obtain a license as an insurance agent, consultant, surplus lines broker, or viatical settlement broker. The business entity must still obtain the necessary certificate of authority. A failure to obtain that certificate of authority may result in the Bureau of Insurance terminating the producer license.

### Chapter 303 (House Bill 831)

The bill amends §38.2-1834.1 in the Insurance Agents chapter and §6.1-2.27:1 in the Consumer Real Estate Settlement Protection Act (CRESPA) to clarify the ability of the commission to share confidential information with local, in addition to state and federal, law-enforcement authorities.

### Chapter 357 (House Bill 542)

The bill amends §38.2-1833 of the Insurance Agents chapter to remove the requirement that the commission provide notice to an agent regarding his valid appointment by an insurer. The bill adds the requirement that the insurer notify its agent if the commission notified the insurer that the attempt to appoint the agent was invalid. Such insurer notice must be provided within five business days of receipt of the invalid appointment notice from the Commission. Any agent who

sells or solicits insurance on behalf of the insurer after being notified of an invalid appointment shall be in violation of this section and shall be subject to penalties as prescribed in §§38.2-218 (General Provisions) and 38.2-1831.

## FINANCIAL REGULATION

### Chapter 93 (Senate Bill 182)

The bill amends §38.2-1423 in the Investments chapter of Title 38.2. Certain references set forth in the Code to identify preferred stocks have been replaced with references to the more generic "medium quality," "high quality," and "highest quality."

### Chapter 95 (Senate Bill 207)

The bill amends §38.2-1039 to state that an "industrial insured" is an insured (i) who procures the insurance of any risk or risks other than life and annuity contracts by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously retained licensed insurance consultant; (ii) whose aggregate annual premiums for insurance on all risks, except for life, annuity, and accident and sickness insurance, total at least \$100,000; (iii) who has at least 25 full-time employees; and (iv) either has gross assets in excess of \$3 million or has annual gross revenues in excess of \$5 million.

### Chapter 216 (House Bill 549)

The bill amends §§38.2-1401 and 38.2-1443.1 in the Investments chapter and adds §38.2-3100.2 (Life Insurance) to provide for the allocation of funding agreements to separate accounts. The bill provides that the assets of a separate account to which an insurer has allocated assets under a funding agreement shall not be chargeable with liabilities arising out of any other business that the insurer conducts. If a separate account is not chargeable with liabilities arising out of such other business, a risk charge will be payable from the separate account to the insurer's general account. The measure also provides that funding agreement assets held in the insurer's general account, and other obligations due under the funding agreement from the general account, will be treated as an insurance contract. In addition, a domestic insurer that has established separate accounts for funding agreements and has allocated funds to such separate accounts shall file with the commission any prescribed periodic or special reports. An insurer shall not make an agreement providing for the allocation of funding agreement amounts to a separate account until a statement as to its methods of operation has been approved by the commission.

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## General Notices/Errata

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June 16, 2008

Administrative Letter 2008-09

To: All Health Maintenance Organizations Licensed in Virginia and Interested Parties

Re: Emergency Services  
§38.2-4312.3 of the Code of Virginia

The purpose of this administrative letter is to provide all HMOs with guidance for compliance with the requirements of subsection B of Code of Virginia §38.2-4312.3, patient access to emergency services, addressing federal Emergency Medical Treatment and Active Labor Act ("EMTALA") claims and reimbursements. It should be noted that this letter addresses requirements specifically addressed in subsection B of the statute only.

§38.2-4312.3 B states:

*A health maintenance organization shall reimburse a hospital emergency facility and provider, less any applicable copayments, deductibles, or coinsurance, for medical screening and stabilization services rendered to meet the requirements of the Federal Emergency Medical Treatment and Active Labor Act (42 U.S.C. §1395dd) and related to the condition for which the member presented in the hospital emergency facility if (i) the health maintenance organization or its designee or the member's primary care physician or its designee authorized, directed, or referred a member to use the hospital emergency facility; or (ii) the health maintenance organization fails to have a system for provision of twenty-four-hour access in accordance with subsection A above. For purposes of (i) above, a primary care physician may include a physician with whom the primary care physician has made arrangements for on-call backup coverage.*

Subsection B of §38.2-4312.3 requires an HMO to reimburse hospital emergency facilities and providers for EMTALA services rendered to its members "less any applicable copayments, deductibles, and coinsurance." This is the only guidance the statute provides regarding the level of reimbursement for EMTALA services. The provision does not state that non-participating providers are entitled to be fully reimbursed for their billed charges, nor does it say what the rate of reimbursement should otherwise be. The statute also does not distinguish between EMTALA services rendered by participating providers and EMTALA services rendered by non-participating providers. The plain language of the statute requires that the HMO pay the non-participating provider an amount sufficient to prevent the member from being balance billed. This does not mean that the HMO must always pay non-participating providers the exact amount it has been billed. The HMO is free to negotiate a lower amount with the provider.

If the HMO pays a provider an amount insufficient to prevent the member from being balance billed, then it is not reimbursing the provider "less any copayments, deductibles and coinsurance." This procedure does not meet the requirements of the statute.

Further, HMOs are required under §38.2-4312.3 B to directly reimburse non-participating providers for EMTALA services. This is also supported by the plain meaning of the statute. An HMO may not reimburse the member, rather than the provider, for screening and stabilization services rendered to meet the requirements of EMTALA.

The Bureau requires all HMOs to review their procedures associated with emergency services to ensure that they are compliant with §38.2-4312.3 B and to notify the Bureau within 60 days of the date of this letter of any prospective and retrospective corrective measures that will be implemented if noncompliant procedures have been identified.

Questions concerning this letter may be directed in writing to: Jacqueline K. Cunningham, Deputy Commissioner, Bureau of Insurance, Life and Health Division, P.O. Box 1157, Richmond, VA 23218.

Cordially,



Alfred W. Gross  
Commissioner of Insurance

NOTE: Please note that the Bureau of Insurance will be converting to Sircon for States, a new web-based computer system, effective Tuesday, September 16. As a result, the Bureau will be unable to process any transactions or provide information for producer licensing, consumer services, or company admissions from 5:00 p.m., Thursday, September 4 through Monday, September 15. Please keep these dates in mind as you plan for your business needs in September. See the Bureau website for further details.

### DEPARTMENT OF ENVIRONMENTAL QUALITY

#### Availability of Data Concerning the Presence of Toxic Contaminants in Fish Tissue

Pursuant to §62.1-44.19:6 A 3 of the Code of Virginia the Virginia Department of Environmental Quality (DEQ) is giving notice that new data concerning the presence of toxic contaminants in fish tissue are available for calendar year 2007. Fish monitoring in 2007 was performed at selected sites in the following river basins in Virginia: the Dan River and Roanoke River watersheds, the Chowan River, and Albemarle Sound watersheds (Meherrin River, Blackwater River, Nottoway River and Great Dismal Swamp drainages), the

Tennessee River and Big Sandy River watersheds (Holston River, Clinch River, Powell River, Pound River, Russell Fork and Levisa Fork drainages) as well as smaller water bodies in other watersheds. The new data have been posted on the DEQ website

at <http://www.deq.virginia.gov/fishtissue/fishtissue.html>. All other data for fish and sediments analyzed by DEQ between 1993 and 2006 can also be found on this website.

Contact Information: Gabriel Darkwah, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4127, or email [gdarkwah@deq.virginia.gov](mailto:gdarkwah@deq.virginia.gov).

### **Restore Water Quality - Cripple Creek**

Announcement of an effort to restore water quality in Cripple Creek located in Wythe County, Virginia.

Public meeting location: Speedwell Volunteer Fire Department in Speedwell, Virginia, on Tuesday, July 29, 2008, from 6 p.m. to 8 p.m.

Purpose of notice: The Virginia Department of Environmental Quality and the Department of Conservation and Recreation are announcing a study to restore water quality, a public comment opportunity, and public meeting.

Meeting description: First public meeting on a study to restore water quality.

Description of study: DEQ is working to identify sources of bacteria contamination in the waters of Cripple Creek. The "impaired" stream segments are estimated to be approximately 14.4 miles of Cripple Creek, including the lower mainstem from the New River confluence upstream to the Dean Branch confluence. It also includes the mainstem from the Dry Run confluence downstream to the Francis Mill Creek confluence. The last segment extends from the headwaters upstream of U.S. Route 21, downstream to the confluence of Blue Spring Creek. The stream is impaired for failing to meet the recreational use because of fecal coliform bacteria violations.

A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. The plan will identify the sources of bacteria contamination and develop a TMDL for bacteria. To restore water quality, contamination levels must be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes public meetings and a public comment period once the study report is drafted. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the name, address and telephone number of the person

commenting and be received by DEQ during the comment period, July 29, 2008, to August 29, 2008. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review fact sheets: Fact sheets are available on the impaired waters from the contacts below or on the DEQ website at [www.deq.virginia.gov/tmdl](http://www.deq.virginia.gov/tmdl).

Contact for additional information: Shelley D. Williams, Regional TMDL Coordinator, Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4845, FAX (276) 676-4899, or email [sdwilliams@deq.virginia.gov](mailto:sdwilliams@deq.virginia.gov).

### **Restore Water Quality - Elk Creek**

Announcement of an effort to restore water quality in Elk Creek located in Grayson County, Virginia.

Public meeting Location: Elk Creek Rescue Squad Building, on July 15, 2008, from 6 p.m. to 8 p.m.

Purpose of notice: The Virginia Department of Environmental Quality and the Department of Conservation and Recreation are announcing a study to restore water quality, a public comment opportunity, and public meeting.

Meeting description: First public meeting on a study to restore water quality.

Description of study: DEQ is working to identify sources of bacteria contamination in the waters of Elk Creek. The "impaired" stream segments are estimated to be approximately 19.64 miles of Elk Creek, including the mainstem of Elk Creek from the confluence with New River upstream to the Comers Rock Branch confluence. The stream is impaired for failing to meet the recreational use because of fecal coliform bacteria violations.

A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. The plan will identify the sources of bacteria contamination and develop a TMDL for bacteria. To restore water quality, contamination levels must be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes public meetings and a public comment period once the study report is drafted. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period, July 15, 2008, to August 15, 2008. DEQ also accepts written and oral comments at the public meeting announced in this notice.

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## General Notices/Errata

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### **Restore Water Quality - Middle Fork Holston River**

Announcement of an effort to restore water quality in Middle Fork Holston River in Smyth and Washington Counties, Virginia.

Public meeting location: Glade Spring Community Center in Glade Spring, Virginia, on August 7, 2008, from 6 p.m. to 8 p.m.

Purpose of notice: The Virginia Department of Environmental Quality and the Department of Conservation and Recreation are announcing a study to restore water quality, a public comment opportunity, and public meeting.

Meeting description: First public meeting on a study to restore water quality.

Description of study: DEQ is working to identify sources of pollutants affecting the aquatic organisms and sources of bacteria contamination in the waters of the Middle Fork Holston River. The "impaired" stream segments are estimated to be approximately 44.4 miles of the Middle Fork Holston River. The stream is impaired for failing to meet the aquatic life use (benthic impairment) based on violations of the general standard for aquatic organisms and failure to meet the recreational use because of fecal coliform bacteria violations. The bacteria impairment extends from the Dutton Br. confluence downstream to the Neff community. The benthic impairment extends from the Rt. 91 bridge downstream to the Neff community.

During the study, the pollutants impairing the aquatic community will be identified and total maximum daily loads, or TMDLs, developed for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. DEQ will also determine the sources of bacteria contamination and develop a TMDL for bacteria. To restore water quality, contamination levels must be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes public meetings and a public comment period once the study report is drafted. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the

name, address and telephone number of the person commenting and be received by DEQ during the comment period, August 7, 2008, to September 8, 2008. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review fact sheets: Fact sheets are available on the impaired waters from the contacts below or on the DEQ website at [www.deq.virginia.gov/tmdl](http://www.deq.virginia.gov/tmdl).

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### **Restore Water Quality - Wolf Creek**

Announcement of an effort to restore water quality in Wolf Creek located in Washington County, Virginia.

Public meeting location: Glade Spring Community Center in Glade Spring, Virginia, on August 7, 2008, from 6 p.m. to 8 p.m.

Purpose of notice: The Virginia Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation are announcing a study to restore water quality, a public comment opportunity, and public meeting.

Meeting description: First public meeting on a study to restore water quality.

Description of study: DEQ is working to identify sources of pollutants affecting the aquatic organisms and sources of bacteria contamination in the waters of Wolf Creek. The "impaired" stream segments are estimated to be approximately 7.87 miles of Wolf Creek, from the lake backwaters upstream to the Town Creek confluence. The stream is impaired for failing to meet the aquatic life use based on violations of the general standard for aquatic organisms and failure to meet the recreational use because of fecal coliform bacteria violations.

During the study, the pollutants impairing the aquatic community will be identified and total maximum daily loads, or TMDLs, developed for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. DEQ will also determine the sources of bacteria contamination and develop a TMDL for bacteria. To restore water quality, contamination levels must be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes public meetings and a public comment period once the study report is drafted. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period, August 7, 2008, to September 8, 2008. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review fact sheets: Fact sheets are available on the impaired waters from the contacts below or on the DEQ website at [www.deq.virginia.gov/tmdl](http://www.deq.virginia.gov/tmdl).

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## STATE LOTTERY DEPARTMENT

### Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on June 16, 2008. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

Final Rules for Game Operation:

Director's Order Number Twenty-Eight (08)

Virginia's Instant Game Lottery 1034; "King of Cash" (effective 6/16/08)

Director's Order Number Twenty-Nine (08)

Virginia's Instant Game Lottery 1036; "Money Maker" (effective 6/16/08)

## VIRGINIA CODE COMMISSION

### Notice to State Agencies

**Mailing Address:** Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219.

### Filing Material for Publication in the Virginia Register of Regulations

Agencies are required to use the Regulation Information System (RIS) when filing regulations for publication in the Virginia Register of Regulations. The Office of the Virginia Register of Regulations implemented a web-based application called RIS for filing regulations and related items for publication in the Virginia Register. The Registrar's office has

worked closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

The Office of the Virginia Register is working toward the eventual elimination of the requirement that agencies file print copies of regulatory packages. Until that time, agencies may file petitions for rulemaking, notices of intended regulatory actions and general notices in electronic form only; however, until further notice, agencies must continue to file print copies of proposed, final, fast-track and emergency regulatory packages.

## ERRATA

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **12VAC30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care.**

Publication: 24:21 VA.R. 2962 June 23, 2008.

Correction to Final Regulation:

Page 2962, Title of Regulation, line 3, after "12VAC30-80-30," insert "adding"

### BOARD OF NURSING

Title of Regulation: **18VAC90-50. Regulations Governing Certification of Massage Therapists.**

Publication: 24:21 VA.R. 2914 June 23, 2008.

Correction to Petitions for Rulemaking:

Page 2914, change the agency name from "Board of Medicine" to "Board of Nursing"

### BOARD OF SOCIAL WORK

Title of Regulation: **18VAC140-20. Regulations Governing the Practice of Social Work.**

Publication: 24:20 VA.R. 2837 June 9, 2008.

Correction to Notices of Intended Regulatory Action:

Page 2837, after "FAX (804)" add:

"527-4435, or email [evelyn.brown@dhp.virginia.gov](mailto:evelyn.brown@dhp.virginia.gov).

VA.R. Doc. No. R08-1192; Filed May 20, 2008, 8:46 a.m."

