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SENATE BILL NO. 1377

Offered January 9, 2019

Prefiled January 8, 2019

A BILL to amend and reenact §§ 2.2-4001, 2.2-4101, and 2.2-4102 of the Code of Virginia, relating to the Registrar of Regulations.

Patron—McDougle

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-4001, 2.2-4101, and 2.2-4102 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-4001. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agency" means any authority, instrumentality, officer, board or other unit of the state government empowered by the basic laws to make regulations or decide cases.

"Agency action" means either an agency's regulation or case decision or both, any violation, compliance, or noncompliance with which could be a basis for the imposition of injunctive orders, penal or civil sanctions of any kind, or the grant or denial of relief or of a license, right, or benefit by any agency or court.

"Basic law" or "basic laws" means provisions of the Constitution and statutes of the Commonwealth authorizing an agency to make regulations or decide cases or containing procedural requirements therefor.

"Case" or "case decision" means any agency proceeding or determination that, under laws or regulations at the time, a named party as a matter of past or present fact, or of threatened or contemplated private action, either is, is not, or may or may not be (i) in violation of such law or regulation or (ii) in compliance with any existing requirement for obtaining or retaining a license or other right or benefit.

"Guidance document" means the same as that term is defined in § 2.2-4101.

"Hearing" means agency processes other than those informational or factual inquiries of an informal nature provided in §§ 2.2-4007.01 and 2.2-4019 and includes only (i) opportunity for private parties to submit factual proofs in formal proceedings as provided in § 2.2-4009 in connection with the making of regulations or (ii) a similar right of private parties or requirement of public agencies as provided in § 2.2-4020 in connection with case decisions.

"Hearing officer" means an attorney selected from a list maintained by the Executive Secretary of the Supreme Court in accordance with § 2.2-4024.

"Public assistance and social services programs" means those programs specified in § 63.2-100.

"Registrar" means the Registrar of Regulations ~~appointed~~ employed as provided in § 2.2-4102.

"Rule" or "regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, adopted by an agency in accordance with the authority conferred on it by applicable basic laws.

"Subordinate" means (i) one or more but less than a quorum of the members of a board constituting an agency, (ii) one or more of its staff members or employees, or (iii) any other person or persons designated by the agency to act in its behalf.

"Virginia Register of Regulations" means the publication issued under the provisions of Article 6 (§ 2.2-4031 et seq.).

"Virginia Regulatory Town Hall" means the website operated by the Department of Planning and Budget, which has online public comment forums and displays information about regulatory actions under consideration in the Commonwealth and sends this information to registered public users.

§ 2.2-4101. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agency" means any authority, instrumentality, officer, board, or other unit of the government of the Commonwealth with express or implied authority to issue regulations other than the General Assembly, courts, municipal corporations, counties, other local or regional governmental authorities including sanitary or other districts and joint state-federal, interstate or intermunicipal authorities, the Virginia Resources Authority, the Virginia Code Commission with respect to minor changes made under the provisions of § 30-150, and educational institutions operated by the Commonwealth with respect to regulations that pertain to (i) their academic affairs; (ii) the selection, tenure, promotion and disciplining

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59 of faculty and employees; (iii) the selection of students; and (iv) rules of conduct and disciplining of
60 students.

61 "Virginia Administrative Code" means the codified publication of regulations under the provisions of
62 Chapter 15 (§ 30-145 et seq.) of Title 30.

63 "Commission" means the Virginia Code Commission.

64 "Guidance document" means any document developed by a state agency or staff that provides
65 information or guidance of general applicability to the staff or public to interpret or implement statutes
66 or the agency's rules or regulations, excluding agency minutes or documents that pertain only to the
67 internal management of agencies. Nothing in this definition shall be construed or interpreted to expand
68 the identification or release of any document otherwise protected by law.

69 "Registrar" means the Registrar of Regulations ~~appointed~~ *employed* as provided in § 2.2-4102.

70 "Rule" or "regulation" means any statement of general application, having the force of law, affecting
71 the rights or conduct of any person, promulgated by an agency in accordance with the authority
72 conferred on it by applicable basic laws.

73 "Virginia Register of Regulations" means the publication issued under the provisions of Article 6
74 (§ 2.2-4031 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.).

75 **§ 2.2-4102. Registrar of Regulations; publications.**

76 ~~The Commission shall engage or appoint on a contract, part-time, or annual basis~~ *Division of*
77 *Legislative Services shall employ* a professionally experienced or trained Registrar of Regulations. Under
78 the direction of the Commission ~~or the Director of the Division of Legislative Services~~, the Registrar
79 shall, at a suitable place ~~to be designated by the Commission~~, perform the duties required by this
80 chapter or assigned by the Commission ~~or the Director of the Division of Legislative Services~~ in
81 accordance with *Chapter 40 (§ 2.2-4000 et seq.)*, this chapter, or Chapter 15 (§ 30-145 et seq.) of Title
82 30. The Commission shall as necessary also ~~(i) appoint clerical or other personnel if any, (ii) arrange by~~
83 ~~contract or otherwise for the necessary facilities and services, and (iii) provide for the compilation and~~
84 publication of the Virginia Register of Regulations and the Virginia Administrative Code pursuant to
85 §§ 2.2-4031 and 30-146.