

Regulatory Analysis Form

This space for use by IRRC

(1) Agency
Department of State, Bureau of Professional and Occupational Affairs, State Board of Certified Real Estate Appraisers

1997-07-14

RECEIVED
REGULATORY DIVISION

Mizner

(2) I.D. Number (Governor's Office Use)
16A-707

IRRC Number:

1943

(3) Short Title
Broker/Appraiser Fees

(4) PA Code Cite
49 Pa. Code §36.6

(5) Agency Contacts & Telephone Numbers

Primary Contact: **Steven Wennberg, Board Counsel**
783-7200

Secondary Contact: **Cheryl Lyne, Board Administrator - 783-4866**

(6) Type of Rulemaking (check one)

 Proposed Rulemaking X
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

 No X
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The regulation would establish two fees for the newly created certification class of broker/appraiser: an application fee of \$40 and an initial certification fee of \$90 (if certification occurs between July 1, 1997 and June 30, 1998) or \$45 (if certification occurs between September 3, 1996 and June 30, 1997 or on or after July 1, 1998).

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The Board has the authority to establish fees for its operation under Sections 5(6) and 9 of the Real Estate Appraisers Certification Act (REACA), Act of July 10, 1990, P.L. 404, 63 P.S. §§457.5(6) and 457.9.

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is not mandated by federal or state law, regulation or court order. However, Section 9 of the REACA, 63 P.S. §457.9, requires the Board to generate sufficient revenues from fees and other sources to defray its expenses.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The regulation would ensure that broker/appraisers — a newly created segment of the regulated community — contribute their fair share to defraying the expenses incurred by the Board in regulating the activities of broker/appraisers and others in the regulated community.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

The long-term risk associated with nonregulation is that the Board would have fewer financial resources with which to discharge its obligations under the REACA.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The public at large would benefit from the Board having sufficient financial resources to discharge its statutory obligations, which include enforcement of the regulated community's compliance with ethical and practice standards.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The regulation would affect the approximately 3,500 real estate brokers who are expected to apply for and receive broker/appraiser certificates.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

See Item No. 14.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

In developing the regulation, the Board solicited input from the Council of Pennsylvania Real Estate Appraisers, Inc., the Pennsylvania Association of Realtors, the Assessors Association of Pennsylvania, and the Pennsylvania Bankers Association. The Board received no adverse comment about the regulation.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Each of the projected 3,500 broker/appraisers would pay a \$40 application fee and an initial certification fee of either \$90 or \$45, depending on when certification occurs during the Board's biennial renewal cycle. The Board projects that 3,220 broker/appraisers would pay the \$45 initial certification fee, and the remaining 280 broker/appraisers would pay the \$90 initial certification fee. The projected total cost to the regulated community from the fees is \$310,100 (3,500 times \$40 plus 3,220 times \$45 plus 280 times \$90).

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

The regulation would not result in costs or savings to local government.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The regulation would not result in costs or savings to state government. However, the Board is expected to receive revenues of \$310,100 from the regulation.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated		155,050	155,050			
Local Government						
State Government						
Total Costs		155,050	155,050			
REVENUE LOSSES:						
Regulated						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

As noted in Item No. 17, the total cost to the regulated community is projected to be \$310,100. If the regulation is approved, broker/appraisers would likely be invoiced for the fees at the time they are sent biennial renewal notices in the spring of 1999; the Department of State's Budget Office expects that about one-half of the revenues would be received during FY 1998-99 (i.e., before July 1, 1999) and one-half of the revenues would be received during FY 1999-00 (i.e., on or after July 1, 1999).

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Appraiser Board	\$ 141,149.50	\$ 192,223.83	\$ 209,758.46	\$195,777 (Proj.)

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The costs, or fees, imposed by the regulation are necessary so that the Board may generate sufficient revenues to discharge its statutory obligations. Although the Board currently enjoys a revenue surplus, it is likely that the new broker/appraiser certification class (which will increase the number of persons regulated by the Board to approximately 7,000) will cause the Board to incur, in coming years, substantially higher expenditures in the areas of investigative and legal activities and administrative support.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The Board did not consider a nonregulatory alternative. The REACA requires the Board to assess fees by regulation.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

The Board had considered also proposing a biennial renewal fee of \$105 for broker/appraisers. After further study, the Board determined that its revenue requirements did not merit proposing such a fee at this time.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

N/A

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The Board does not have information about comparable regulations in other states. However, the Board has no reason to believe that the regulation would put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation would not affect proposed or existing regulations of the Board or any other state agency.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Board has not scheduled public hearings or informational meetings in connection with the regulation.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The regulation would not increase paperwork, legal, accounting or reporting requirements.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The regulation would apply to persons applying for and receiving certification as broker/appraisers. The Board perceives no reason why any group of such persons should be exempted from the regulation.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation would be effective upon final publication in the Pennsylvania Bulletin. The Board's target date for invoicing the fees covered by the regulation is April 1999.

(31) Provide the schedule for continual review of the regulation.

The Board, in conjunction with the Department of State's Budget Office, annually reviews its revenue requirements.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

APR 17 1998
LEGISLATIVE REFERENCE BUREAU
PENNSYLVANIA

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies.

BY: [Signature]
(DEPUTY ATTORNEY GENERAL)

State Board of
Certified Real Estate Appraisers
(AGENCY)

[Signature]
Murray E. Dunlap

APR 06 1998

DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 16A-707

DATE OF ADOPTION: _____

1/29/98
DATE OF APPROVAL

BY: [Signature]
David J. King

(Deputy General Counsel
~~Chief Counsel,~~
~~Independent Agency~~
(Strike inapplicable title)

TITLE: Chairman
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[] Check if applicable
Copy not approved.
Objections attached.

[] Check if applicable. No Attorney General approval or objection within 30 day after submission.

NOTICE OF PROPOSED RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS
(49 PA. CODE, CHAPTER 36)

BROKER/APPRaiser FEES

The State Board of Certified Real Estate Appraisers proposes to amend 49 Pa. Code §36.6 (relating to fees) as set forth in Annex A.

Section 36.6 sets forth a schedule of fees currently charged by the Board. The proposed amendments would add to this schedule two fees relating to the newly created certification class of broker/appraiser: An application fee of \$40 and an initial certification fee of \$90 (if certification occurs between July 1, 1997 and June 30, 1998) or \$45 (if certification occurs between September 3, 1996 and June 30, 1997 or on or after July 1, 1998).

Background and Purpose

Act 71 of 1996 amended Section 6 of the Real Estate Appraisers Certification Act (REACA), 63 P.S. §457.6, to establish the certification class of broker/appraiser. The broker/appraiser certification permits eligible real estate brokers to perform real estate appraisals in nonfederally related transactions after their authority to do so under the Real Estate Licensing and Registration Act expires September 3, 1998. Real estate brokers who are licensed in good standing as of September 3, 1996 and who submit qualifying applications to the Board between September 3, 1996 and September 3, 1998 are eligible for certification as broker/appraisers.

The proposed application fee would defray (1) the identifiable costs incurred by the Board in reviewing and processing an application for broker/appraiser certification and (2) a portion of the Board's administrative overhead.

The proposed initial certification fee (to be prorated depending on when certification occurs during the Board's biennial renewal cycle, which begins July 1 of the odd-numbered years) would defray a portion of the Board's general operating expenses (e.g., legal services, investigative activities, administrative support); these costs are not susceptible of being apportioned to a specific segment of the persons regulated by the Board and, therefore, must be borne by the entire regulated community. The same two-tiered fee is charged to newly certified persons in the Board's other certification classes (i.e., general appraiser, residential appraiser, Pennsylvania evaluator).

Rather than delay the processing of broker/appraiser applications pending regulatory approval of the proposed fees, the Board has been issuing certificates to qualified applicants

throughout the two-year application period that began September 3, 1996 and intends to bill certificateholders for the fees upon completion of final rulemaking. Prospective applicants have been given notice of the proposed fees and of the Board's intention to deny biennial renewal of certification to those who fail to pay the fees.

Fiscal Impact

The Board projects that approximately 3,500 real estate brokers will apply for and be issued broker/appraiser certificates. The Board also projects that about 92% of the certificateholders will be assessed the \$45 initial certification fee rather than the \$90 initial certification fee because their certifications will have occurred before July 1, 1997 or after June 30, 1998. Accordingly, the Board estimates that the application fee for broker/appraiser will generate revenues of \$140,000 (3,500 applications x \$40) while the initial certification fee for broker/appraiser will generate revenues of \$170,100 (3,220 certifications x \$45 and 280 certifications x \$90).

Paperwork Requirements

The proposed fees will not create additional paperwork for the Board and the regulated community. The fees will be invoiced as part of the biennial renewal notices sent to certificateholders.

Statutory Authority

Section 5(6) of the REACA, 63 P.S. §457.5(6), authorizes the Board to establish fees for its operation. Section 9 of the REACA, 63 P.S. §457.9, requires the Board to fix the fees by regulation and to ensure that the revenues derived from the fees are adequate to cover the Board's expenses.

Compliance with Executive Order 1996-1

In accordance with the requirements of Executive Order 1996-1 (relating to regulatory review and promulgation), the Board, in developing the proposed fees, solicited comments from the major trade organizations that represent the various segments of the regulated community.

Regulatory Review

On April 17, 1998, as required by Section 5(a) of the Regulatory Review Act, 71 P.S. §745.5(a), the Board submitted copies of this notice of proposed rulemaking to the Independent Regulatory Review Commission, the Senate Standing Committee on Consumer Protection and Professional Licensure, and the House Standing Committee on Professional Licensure. The Board also provided the IRRC and the Committees with copies of regulatory analysis and fee report forms prepared in compliance with Executive Order 1996-1. Copies of these forms are available to the public upon request.

If the IRRC has objections to either or both of the proposed fees, it will notify the Board within 10 days after the close of the Committees' review period, specifying the regulatory review criteria that have not been met. The Regulatory Review Act sets forth procedures that permit the IRRC, the General Assembly and the Governor to review any objections prior to final adoption of the fees.

Public Comment

The Board invites interested persons to submit written comments, suggestions or objections regarding the proposed fees to Steven Wennberg, Counsel, State Board of Certified Real Estate Appraisers, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this notice of proposed rulemaking in the Pennsylvania Bulletin.

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARD
PART I. DEPARTMENT OF STATE
SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 36. STATE BOARD OF CERTIFIED REAL ESTATE APPRAISER

Subchapter A. GENERAL PROVISIONS

* * * *

§36.6. Fees.

The following is the schedule of fees charged by the Board:

Certification of scores.....	\$ 15
Verification of certification.....	\$ 10
<i>Certified Real Estate Appraisers</i>	
Application fee.....	\$ 55
Examination fee.....	\$ 50
Initial certification (if certified on or after 7/1 of odd-numbered years or on or before 6/30 of even-numbered years).....	\$ 90
Initial certification (if certified between 7/1 of even-numbered years and 6/30 of odd-numbered years.....	\$ 45
Biennial renewal fee.....	\$105
<u><i>Certified Broker/Appraisers</i></u>	
<u>Application fee.....</u>	<u>\$ 40</u>
<u>Initial certification (if certified between July 1, 1997 and June 30, 1998).....</u>	<u>\$ 90</u>
<u>Initial certification (if certified between September 3, 1996 and June 30, 1997 or on or after July 1, 1998).....</u>	<u>\$ 45</u>
<i>Certified Pennsylvania Evaluators</i>	
Application fee.....	\$55
Re-application fee.....	\$35

Initial certification (if certified on or after 7/1 of odd-numbered years or on or before 6/30 of even-numbered years).....	\$ 90
Initial certification (if certified between 7/1 of even-numbered years and 6/30 of odd-numbered years).....	\$ 45
Biennial renewal fee.....	\$105
Reciprocity certification fee.....	\$ 25
Temporary practice registration fee.....	\$ 25
Examination fee.....	\$200

FEE REPORT FORM

Agency: State - BPOA

Date: November 5, 1997

Contact: C. Michael Weaver

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

Broker/Appraiser Application Fee: \$40.00

Estimated Biennial Revenue: \$140,000.00 (3,500 applications x \$40.00)

Fee Description:

The fee will be charged to any person applying for certification as a broker/appraiser.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Certified Real Estate Appraiser Board to review and process an application for certification as a broker/appraiser and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Staff time- review and process examination application (.33 hr)	11.09
Administrative Overhead:	24.53
Avg. Time/Attorney Review:	1.79
Avg. Time/Board Meeting Review:	2.14
Total Estimated Cost:	\$39.55
Proposed Fee:	\$40.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$40.00 be established to review and evaluate an application for certification as a broker/appraiser.

Board Staff: Reviews application for completeness, contacts applicant to request any missing information, verifies status of Real Estate Broker license issued by State Real Estate Commission to confirm compliance with requirements. If requirements are met, issues certification through computer, prepares documents for microfilm. If requirements are not met, notifies applicant through discrepancy notice. If decision cannot be made by board staff, the application is forwarded to Legal Office and/or placed on Board agenda for review/decision by full Board.

Legal Office/Board Meeting Review: If application is forwarded due to legal questions (i.e. - criminal conviction), attorney reviews file, makes determination and returns to Board office for issuance of certification or to be placed on agenda for action by full board.

It is estimated that 60 applications will require additional review. The additional cost for this service has been averaged over the total number of applications anticipated and adds a cost of \$1.79 per application for legal and \$2.14 per application for board meeting review. These estimates include two (2) hours for each application requiring legal review and one (1) hour for each application requiring review by the board.

FEE REPORT FORM

Agency: State - BPOA

Date: October 31, 1997

Contact: C. Michael Weaver

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

Broker/Appraiser Initial Certification Fee: \$90.00 if certified in the first half of the biennial period (or) \$45.00 if certified in the second half of the biennial period.

Estimated Biennial Revenue: \$170,100.00 (280 certifications x \$90.00 and 3,220 certifications x \$45.00)

Fee Description:

The fee will be charged to every Broker/Appraiser certified by the State Board of Certified Real Estate Appraisers.

Fee Objective:

The fee should defray a portion of the operational costs incurred by the State Board of Certified Real Estate Appraisers for the time period between the issuance of the initial certification and the first renewal cycle, thereby causing newly-certified individuals to contribute to the operating costs of the Board.

Analysis, Comment, and Recommendation:

It is recommended that initial certification fees as noted above be established for the State Board of Certified Real Estate Appraisers.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

STATE BOARD OF CERTIFIED
REAL ESTATE APPRAISERS

(717) 783-4866
FAX: (717) 787-7769

116 PINE STREET
P.O. BOX 2649
HARRISBURG, PA
17105-2649

April 17, 1998

The Honorable John R. McGinley, Jr.
Chairman
Independent Regulatory Review Commission
Harristown II, 14th Floor
333 Market Street
Harrisburg, PA 17101

RE: Proposed Rulemaking of the State Board of
Certified Real Estate Appraisers Relating
to Broker/Appraiser Fees (16A-707)

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the State Board of Certified Real Estate Appraisers relating to the establishment of application and initial certification fees for the new certification class of broker/appraiser.

A notice of proposed rulemaking will be published in the Pennsylvania Bulletin on May 2, 1998, triggering a 30-day public comment period that ends June 1, 1998.

The Board stands ready to provide whatever information or assistance your Commission may require during its review of this proposed rulemaking.

Sincerely,

David J. King, Chairman
State Board of Certified
Real Estate Appraisers

DJK:SW:apm
Enclosure

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 16A-707

SUBJECT: State Board of Real Estate Appraisers – Broker/Appraiser Fees

AGENCY: Department of State

RECEIVED
APR 17 1998
REGULATORY COMMISSION

TYPE OF REGULATION

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. _____ With Revisions
 - b. _____ Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
4/17/98		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
APR 17 1998		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
4/17/98		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
4/17/98		LEGISLATIVE REFERENCE BUREAU

April 8, 1998