

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

IRRC # 2298
 REVIEW COMMISSION

(2) I.D. Number (Governor's Office Use)
16A-7013

IRRC Number: **2298**

(3) Short Title
Biennial Renewal Fees / Examination 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: **Joyce McKeever, Deputy Chief Counsel, 783-7200**

(6) Type of Rulemaking (check one)
 Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking
 Omitted

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

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

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

The regulation raises the biennial renewal fees for certified real estate appraisers and certified Pennsylvania evaluators from \$105 to \$225; establishes a biennial renewal fee of \$225 for certified broker/appraisers; and deletes the examination fees for certified real estate appraisers and certified Pennsylvania evaluators.

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

Section 5(6) of the Real Estate Appraisers Certification Act (REACA), 63 P.S. §457.5(6), authorizes the Board to establish fees for its operations. Section 9 of the REACA, 63 P.S. §457.9, requires the Board to establish fees by regulation and to ensure that revenues derived from fees are adequate to cover the Board's expenses over a biennial period. Section 9 of the Assessors Certification Act (ACA), 63 P.S. §458.9, authorizes the Board to establish renewal and other fees relating to certified Pennsylvania evaluators by regulation.

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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.

Section 9 of the REACA and Section 9 of the ACA mandate that the Board establish fees by regulation.

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

Section 9 of the REACA requires the Board to generate adequate revenues through fees to meet its expenses over a biennial period. Biennial renewal fees account for approximately 88% of the Board's fee revenues. Biennial renewal revenues defray general operating expenses and overhead that cannot be apportioned to specific segments of the regulated community. The current biennial renewal fees are inadequate to meet the Board's revenue requirements. According to the Department of State's Bureau of Finance and Operations (BFO), the Board will incur large deficits over the next several fiscal years -- resulting in a cumulative deficit of approximately \$858,755 by the end of FY06-07 -- unless the new biennial renewal fees are adopted. The new biennial renewal fees will allow the Board to enjoy positive revenue balances for the foreseeable future.

Deletion of the examination fees furthers the goal of Governor's Executive Order 1996-1 (relating to regulatory review and promulgation) by eliminating unnecessary regulations. The examination fees are not appropriate for regulations because they are established by contract between the Commonwealth and the independent testing organization that develops, administers and grades the Board's examinations.

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

The principal risk associated with nonregulation is that a significant portion of the Board's expenses would be subsidized by revenues from other licensing boards within the Bureau of Professional and Occupational Affairs, thereby frustrating the legislative requirement that each licensing board achieve fiscal self-sufficiency through the support of its regulated community.

(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 regulation benefits the Board's regulated community and the public at large by ensuring that the Board has adequate revenues to discharge its duties under the REACA and the ACA.

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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 Board cannot identify any group that will be adversely affected by the regulation.

(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.)

Certified real estate appraisers (general and residential), certified Pennsylvania evaluators and certified broker/appraisers will be required to pay the new biennial renewal fees. The Board estimates that approximately 1,088 certified general appraisers, 1,700 certified residential appraisers, 1,000 certified broker/appraisers, and 512 certified Pennsylvania evaluators will renew their certifications for the 2003-2005 biennial renewal period, which begins July 1, 2003.

(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.

Because the need for the regulation is based on a fiscal analysis conducted by the BFO using a standardized methodology, the Board did not believe that input from the public or the regulated community at the drafting stage of the regulation would have been helpful to the rulemaking process.

(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.

The Board estimates that approximately 4,300 certificateholders will pay the new biennial renewal fees established by the regulation. The Board estimates that the total additional cost to the regulated community during each biennial renewal period will be approximately \$621,000.

The regulation will not impose new legal, accounting or consulting procedures.

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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 will 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 that may be required.

The regulation will not result in costs or savings to state government. However, the Board estimates that the regulation will generate approximately \$621,000 in additional revenues during each biennial renewal period.

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(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	FY +1	FY +2	FY +3	FY +4	FY +5
SAVINGS:	None	None	None	None	None	None
Regulated						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated	\$621,000	None	\$621,000	None	\$621,000	None
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	None	None	None	None	None	None
Regulated						
Local Government						
State Government						
Total Revenue Losses						

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

The cost estimates in Item 20 are based on the estimated number of renewing certificateholders during each biennial renewal period multiplied by the additional cost to the certificateholders:

<u>Certification Category</u>	<u>No. of Certificateholders</u>		<u>Additional Cost</u>		
a) General Appraiser	1,088	x	\$120	=	\$130,560
b) Residential Appraiser	1,700	x	\$120	=	\$204,000
c) Certified Pennsylvania Evaluator	512	x	\$120	=	\$61,440
d) Broker/Appraiser	1,000	x	\$225	=	\$225,000
				Total:	\$621,000

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(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	\$469,167.14	\$464,690.16	\$503,264.69 (est.)	\$505,000 (est.)

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

The regulation ensures that the Board fulfills its statutory mandate to raise sufficient revenues in each biennial period to offset its expenses for that period.

(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 and the ACA require the Board to establish fees by regulation.

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

The Board considered new biennial renewal fees in amounts ranging from \$200 to \$250. The Board selected the mid-range fee of \$225 as the most appropriate because it will generate sufficient revenues to eliminate the Board's projected deficits over the next several fiscal years, provide enough of a revenue cushion to avoid the need for another fee increase in the foreseeable future, and minimize the financial burden on the regulated community.

The Board also considered, in response to comments received during proposed rulemaking, a graduated fee increase of \$200 for the 2003-2005 biennial renewal period, \$225 for the 2005-2007 biennial renewal period, and \$250 for the 2007-2009 biennial renewal period. The Board determined that the modest and temporary cost savings from the graduated fee increases did not justify its adoption.

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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.

There are no federal standards applicable to fees charged by the Board. (However, the Board is required by federal law to collect an annual national registry fee of \$25 from each certified real estate appraiser at the time of renewal of certification. The registry fees are remitted to the federal Appraisal Subcommittee, which oversees the real estate appraisal process in federally related transactions under authority of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (P.L. 101-73, 103 Stat. 183).)

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

The new biennial renewal fees compare favorably with fees that appraiser regulatory boards of neighboring states charge to certified real estate appraisers for renewal of certification. (None of the appraiser regulatory boards of neighboring states regulates the equivalent of certified Pennsylvania evaluators or certified broker/appraisers.) A list of the renewal fees charged by the appraiser regulatory boards of neighboring states is attached as Exhibit 1.

The regulation will not have any adverse impact on Pennsylvania's competitiveness 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 will not affect other existing or proposed regulations of the Board or of 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 this final rulemaking.

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

The regulation will require the Board to revise its biennial renewal forms to reflect the new biennial renewal fees. The regulation will not change existing reporting, recordkeeping or other paperwork 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 will apply uniformly to all certificateholders who renew their certifications. The Board does not have authority to waive payment of a biennial renewal fee.

(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 will take effect upon final publication in the Pennsylvania Bulletin, and will initially apply to the biennial renewal period that begins July 1, 2003.

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

The Board reviews its revenues and program costs on a fiscal year and biennial basis.

**FEES CHARGED BY APPRAISER REGULATORY BOARDS OF
NEIGHBORING STATES FOR RENEWAL OF GENERAL APPRAISER
AND RESIDENTIAL APPRAISER CERTIFICATION**

NEW YORK:

General Appraiser (2-year renewal term):	\$250
Residential Appraiser (2-year renewal term):	\$250

NEW JERSEY:

General Appraiser (2-year renewal term):	\$550
Residential Appraiser (2-year renewal term):	\$550

OHIO:

General Appraiser (1-year renewal term):	\$125
Residential Appraiser (1-year renewal term):	\$125

MARYLAND:

General Appraiser (3-year renewal term):	\$150
Residential Appraiser (3-year renewal term):	\$150

WEST VIRGINIA:

General Appraiser (1-year renewal term):	\$325
Residential Appraiser (1-year renewal term)	\$175

(NOTE: The above-quoted renewal fees do not include the annual \$25 national registry fee referenced in Item 24.)

FEE REPORT FORM

Date: February 15, 2002
Agency: State – Bureau of Finance and Operations
Contact: Peter B. Dalina, Director
Phone No. 783-1775

Fee Title, Rate and Estimated Collections:

Biennial Renewal Fee for Certified General Appraiser, Certified Residential Appraiser, Certified Broker / Appraiser and Certified Pennsylvania Evaluator: \$225.00

Estimated Biennial Revenue: \$967,500.00 (4,300 renewals x \$225.00)

Fee Description:

The fee will be charged biennially to every applicant for certification renewal.

Fee Objective:

The fee should defray a substantial portion of the State Board of Certified Real Estate Appraiser's administrative overhead, specifically the difference between the Board's total biennial expenditures and its total biennial revenues from non-renewal sources.

Fee-Related Activities and Costs:

Projected Deficit as of 6/30/02:	(39,153.83)
Estimated non-renewal revenue:	46,000.00
Estimated renewal revenue @ above rates:	967,500.00
Total revenue available:	1,013,500.00
Estimated expenditures:	506,000.00
Minus prior year expenses over budget:	59,746.63
Estimated ending balance on 6/30/03:	<u>417,599.54</u>
Estimated revenue 7/01/03-6/30/04:	284,000.00
Estimated expenditures 7/01/03-6/30/04:	521,000.00
Estimated ending balance on 6/30/04:	<u>180,599.54</u>
Estimated revenue 7/01/04-6/30/05:	1,013,500.00
Estimated expenditures 7/01/04-6/30/05:	537,000.00
Estimated ending balance on 6/30/05:	<u>657,099.54</u>

Analysis, Comment, and Recommendation:

It is recommended that a renewal fee of \$225.00 be established to cover the difference between the Board's total biennial expenditures and its total biennial revenues from non-renewal sources.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

REVIEW COMMISSION

2298

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 Agency

State Board of Certified Real Estate Appraisers

BY: _____
(DEPUTY ATTORNEY GENERAL)

STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-7013

DATE OF APPROVAL

DATE OF ADOPTION: _____

3/18/03
DATE OF APPROVAL

BY: George D. Sinclair
George D. Sinclair, Chairman

Executive
(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.

FINAL 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)

BIENNIAL RENEWAL FEES AND EXAMINATION FEES

PREAMBLE

The State Board of Certified Real Estate Appraisers (Board), by this order, amends 49 Pa. Code §36.6 (relating to fees) to read as set forth in Annex A.

The amendments raise the biennial renewal fees for certified general and residential real estate appraisers and certified Pennsylvania evaluators from \$105 to \$225; establish a biennial renewal fee of \$225 for certified broker/appraisers; delete the examination fees for certified general and residential real estate appraisers and certified Pennsylvania evaluators; and make editorial changes to the description of the fees. The new biennial renewal fees will initially apply to certificateholders who renew their certifications for the biennial renewal period that begins July 1, 2003.

Summary of Comments and Responses to Proposed Rulemaking

The Board published a notice of proposed rule making at 32 Pa.B. 4871 (October 5, 2002), with a 30-day public comment period. The Board received comments from the Pennsylvania Association of Realtors (PAR).

The Board also received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (House Committee) as part of their review of proposed rulemaking under the Regulatory Review Act (63 P.S. §745.1 *et seq.*). The Board did not receive comments from the Senate Committee on Consumer Protection and Professional Licensure (Senate Committee) as part of its review of proposed rulemaking under the Regulatory Review Act.

IRRC asked whether the Board had considered gradual fee increases, instead of a one-time fee increase, as a solution to its growing budget deficit. PAR recommended that the Board phase in the increases over the next two biennial renewal cycles.

As noted during proposed rulemaking, the Department of State's Bureau of Finance and Operations (BFO) had advised the Board that in order to close the widening gap between revenues and expenses, the Board needed to establish uniform biennial renewal fees in an amount between \$200 and \$250 for all certificateholders, effective with the 2003-2005 biennial renewal period. The Board had opted for the midpoint fee of \$225, which, according to BFO estimates, would generate sufficient revenues to permit comfortable positive balances during the next several fiscal years, thereby obviating the need for additional fee increases in the foreseeable future.

In light of the comments submitted by PAR and IRRC, the Board asked BFO if it would be possible to have graduated fee increases while still generating sufficient revenues. In January, BFO reported that the Board could generate the same revenues as would be realized under the one-time fee

Biennial Renewal Fees / Examination Fees (#16A-7013)
Final Rulemaking
Submitted March 31, 2003

increase if the biennial renewal fees were increased to \$200, \$225 and \$250 for the 2003-2005, 2005-2007 and 2007-2009 biennial renewal periods, respectively.

Given the temporary and relatively modest savings to certificateholders under the graduated approach, the Board believes certificate holders would prefer a one-time fee increase now rather than fee increases over the next three biennial renewal cycles, particularly since the latter would lead to higher biennial renewal fees than what were contemplated during proposed rulemaking.

IRRC also asked whether the Board's general expenses are distributed equally among its certification classes (i.e., general appraiser, residential appraiser, broker/appraiser, certified Pennsylvania evaluator) and, if not, whether the biennial renewal fees could be adjusted to reflect each certification class's share of the overall expenses.

According to BFO, it is not possible to reliably determine what portion of the Board's general expenses can be apportioned to each certification class. As a consequence, the fairest formula is to require every certificateholder, regardless of certification class, to share equally in defraying the Board's general expenses.

The House Committee asked for a detailed breakdown of the expenses that justify the imposition of new biennial renewal fees. During proposed rulemaking, the Board stated that its annual expenses have risen steadily in the nearly 12 years since its inception as a licensing board within the Bureau of Professional and Occupational Affairs (BPOA). The following information, prepared by BFO, breaks down the Board's annual expenses of \$190,577 for FY95-96 and projected annual expenses of \$505,000 for FY02-03 by "cost center":

Cost Center / Description	FY95-96	FY02-03
<u>BPOA Administration</u> (licensee population based): BPOA expenses such as printed forms, office supplies and interagency billings	\$5,463 (2.87%)	\$9,000 (1.78%)
<u>Commissioner's Office</u> (timesheet based): Expenses (personnel, operating and fixed asset charges) relating to staff assigned to BPOA Commissioner's office	\$1,558 (.82%)	\$7,000 (1.39%)
<u>Law Enforcement</u> (timesheet based): Expenses (personnel, operating and fixed asset charges) relating to staff assigned to Bureau of Enforcement and Investigation	\$42,586 (22.35%)	\$107,000 (21.19%)

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<u>Board Member Expenses</u> (direct charges):	\$12,430	\$22,000
Board member per diem, conference registration fees, travel expenses, and membership dues for national organization of state appraiser boards	(6.52%)	(4.36%)
<u>Hearing Expenses</u> (timesheet based/direct charges):	\$73	\$2,000
Expenses (personnel, operating and fixed asset charges) relating to staff assigned to Hearing Examiner's Office (<u>Note</u> : Board only delegates matter to Hearing Examiner's Office if hearing cannot be scheduled in connection with regular Board meeting)	(.04%)	(.40%)
<u>Departmental Services</u> (timesheet based):	\$8,908	\$22,000
Charges for centralized support services provided by Department offices (e.g., Secretary's Office, Chief Counsel, Press Office, Legislative Liaison, Human Resources, Management Information Services, BFO)	(4.67%)	(4.36%)
<u>Board Administration</u> (timesheet based/direct charges):	\$82,736	\$158,500
Expenses (personnel, operating and fixed asset charges) relating to Board administrative staff and direct board expenses	(43.41%)	(31.39%)
<u>Public Information</u> (timesheet based/direct charges):	----	\$500
Expenses (personnel, operating, and fixed asset charges) relating to staff involved in preparation of newsletters, announcements of disciplinary actions, and informational brochures		(.10%)
<u>Legislative and Regulatory Analysis</u> (timesheet based):	\$464	\$2,000
Expenses (personnel, operating and fixed asset charges) relating to legal review of regulatory and policy initiatives	(.24%)	(.40%)
<u>Legal Office</u> (timesheet based/direct charges):	\$36,360	\$175,000
Expenses (personnel, operating and fixed asset charges) relating to Board counsel, Board prosecutors, complaints office and support staff, and expert consultants	(19.08%)	(34.65%)

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As reflected by the above chart, the most significant increases in the Board's expenses involve the legal and law enforcement areas. These amounts reflect substantial growth in complaint and disciplinary activity relating to the Board. From 1990 through 1996, BPOA received 231 complaints alleging violations of either the Real Estate Appraisers Certification Act (REACA) (63 P.S. §457.1 *et seq.*) or the Assessors Certification Act (ACA) (63 P.S. §458.1 *et seq.*). During this period, the Board imposed seven disciplinary sanctions. From 1997 through 2001, BPOA received 607 complaints regarding alleged violations of the REACA or the ACA, while the Board imposed 125 disciplinary sanctions. Whereas many of complaints in the early years involved jurisdictional matters, a sizeable number of the more recent complaints allege violations of professional appraisal practice standards by certificateholders. These latter complaints tend to involve complex disciplinary issues, often requiring more specialized investigation or review by expert consultants.

Another significant area of increase in the Board's expenses relates to its administrative operations. This increase is attributable in large part to the higher level of training required of the Board's administrative staff as compared to administrative staff assigned to other business boards within BPOA.

Fiscal Impact

According to BFO projections, the amendments will generate approximately \$621,000 in additional biennial renewal fee revenues as follows:

Certification Class	No. of Renewing Certificateholders	Fee Increase	Additional Revenues
General Appraiser	1,088	x \$120	\$130,560
Residential Appraiser	1,700	x \$120	\$204,000
Certified Pennsylvania Evaluator	512	x \$120	\$61,440
Broker/Appraiser	1,000	x \$225	\$225,000

Paperwork Requirements

The amendments will require the Board to change its biennial renewal forms to reflect the new fees. The amendments will not create additional paperwork requirements for certificateholders.

Effective Date

The amendments will become effective upon publication of this final rulemaking in the *Pennsylvania Bulletin*, and will initially apply to certificateholders who renew their certifications for the 2003-2005 biennial renewal period.

Statutory Authority

Section 5(6) of the REACA (63 P.S. §457.5(6)) authorizes the Board to establish fees for its operations. Section 9 of the REACA (63 P.S. §457.9) requires the Board to establish fees by regulation and to ensure that revenues derived from fees, fines and civil penalties are adequate to cover the Board's expenditures over a biennial period. Section 9 of the ACA (63 P.S. §458.9) authorizes the Board to establish renewal and other fees relating to certified Pennsylvania evaluators by regulation.

Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1 (relating to regulatory review and promulgation), the Board, in drafting and promulgating the amendments, attempted to balance its statutory obligation to generate adequate revenues to support its operations against the objective to minimize the fiscal impact on certificateholders. The Board considers the amendments to be both required by law and the least restrictive means of covering the cost of activities that the Board is required to perform.

Regulatory Review

On September 25, 2002, as required by Section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)), the Board submitted copies of the notice of proposed rulemaking published at 32 Pa. B. 4871 to IRRC and the House and Senate Committees for review and comment.

In adopting final amendments, the Board considered comments from IRRC, the House Committee and the general public. The Board did not receive comments from the Senate Committee.

On _____, 2003, the Board submitted final amendments to IRRC and the House and Senate Committees. Under authority of Section 5.1(e) and (j.2) of the Regulatory Review Act (71 P.S. §745.5a(e) and (j.2)), the amendments were approved by the House Committee on _____, 2003, approved by the Senate Committee on _____, 2003, and approved by IRRC on _____, 2003.

Additional Information

Persons who desire additional information about the amendments are invited to submit inquiries to Michelle T. DeMerice, Administrator, State Board of Certified Real Estate Appraisers, P.O. Box 2649, Harrisburg, PA 17105-2649. The Board's telephone number is (717) 783-4866 and its e-mail address is appraise@pados.dos.state.pa.us.

Findings

The Board finds that:

- (1) Public notice of the Board's intention to amend 49 Pa. Code, Chapter 36, by this order has been given under Sections 201 and 202 of the Commonwealth Documents Law (45 P.S. §§1201 and 1202) and the regulations thereunder, 1 Pa. Code §§7.1 and 7.2.
- (2) The amendments adopted by this order are necessary and appropriate for the administration of the REACA and the ACA.

Order

The Board, acting under its authorizing statutes, orders that:

- (a) The regulations of the Board, 49 Pa. Code, Chapter 36, are amended by amending §36.6 to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.
- (c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) The amendments shall take effect upon publication in the Pennsylvania Bulletin.

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 36. STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS
Subchapter A. GENERAL PROVISIONS

* * * *

§36.6. Fees.

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

...

Certified Real Estate Appraisers

...

[Examination fee.....\$100]

...

Biennial renewal [fee].....\$[105] 225

Certified Broker/Appraisers

...

Biennial renewal fee.....\$225

Certified Pennsylvania Evaluators

...

Biennial renewal [fee].....\$[105] 225

...

[Examination fee.....\$200]

County
Wyoming

Name of Water
Lake Winola

Special Regulations

Bass—It is unlawful to take, catch, kill or possess bass that are 12 to 18 inches in length. The daily creel limit for bass less than 12 inches in length and greater than 18 inches in length is 6, only one of which may exceed 18 inches in length. Closed to all fishing from 12:01 a.m. March 1 to 8 a.m. the first Saturday after April 11.

(Pa.B. Doc. No. 02-1739. Filed for public inspection October 4, 2002, 9:00 a.m.)

**STATE BOARD OF
CERTIFIED REAL ESTATE
APPRAISERS**

[49 PA. CODE CH. 36]

Biennial Renewal Fees and Examination Fees

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

Description of Proposed Rulemaking

Section 36.6 sets forth a schedule of fees charged by the Board. The proposed rulemaking would raise the biennial renewal fees for certified real estate appraisers and certified Pennsylvania evaluators from \$105 to \$225; establish a biennial renewal fee of \$225 for certified broker/appraisers; and delete the examination fees for certified real estate appraisers and certified Pennsylvania evaluators.

Background and Need for Proposed Rulemaking

a. New Biennial Renewal Fees

Section 9 of the Real Estate Appraisers Certification Act (REACA) (63 P.S. § 457.9) provides that the Board's biennial revenues from fees, fines and civil penalties shall meet or exceed the Board's biennial expenditures. Because fines and civil penalties historically account for a

small percentage of the Board's total revenues, the Board must generate most of its revenues from fees.

The Board's principal sources of fee revenues are the fees charged to certificateholders for biennial renewal of their certifications. The biennial renewal fees account for approximately 88% of the Board's fee revenues during each biennial renewal period. The biennial renewal fees defray general operating expenses and overhead—primarily in the areas of investigation, prosecution and enforcement—that are not susceptible to being apportioned to a specific segment of persons and entities regulated by the Board and, therefore, are borne equally by the entire regulated community.

The Board established biennial renewal fees of \$105 for certified real estate appraisers in 1992 and for certified Pennsylvania evaluators in 1993. These fees have not been raised since their adoption. Additionally, the Board has not yet established a biennial renewal fee for the recently created certification class of broker/appraiser, whose initial biennial renewal occurred in 1999. Meanwhile, the Board's annual expenses have risen steadily, from \$113,104.50 in FY93-94 to \$413,000 in FY00-01, with expenses for FY06-07 projected to be \$570,000.

According to an analysis prepared by the Department of State's Bureau of Finance and Operations (BFO), the Board's current biennial renewal fee structure is inadequate to meet the Board's revenue needs. Unless the biennial renewal fees are increased, the Board faces large deficits in upcoming years as reflected in the following projections made by the BFO in February:

Financial Status	FY01-02	FY02-03	FY03-04	FY04-05	FY05-06	FY06-07
Beginning Balance:	418,463.31	(39,153.83)	(96,775.46)	(407,400.56)	(445,275.46)	(787,900.46)
Revenue:	149,500	499,125	210,375	499,125	210,375	499,125
Prior Yr. Returned Funds:	0	0	0	0	0	0
Total Revenue:	568,013.31	459,971.17	113,599.54	91,724.54	(234,900.46)	(288,775.46)
Expenses:	445,000	506,000	521,000	537,000	553,000	570,000
Prior Yr. Expenses:	162,167.14	50,746.63	0	0	0	0
Remaining Balance:	(39,153.83)	(96,775.46)	(407,400.46)	(445,275.46)	(787,900.46)	(858,755.46)

To close the widening gap between the Board's projected revenues and expenses, the BFO recommended that the Board adopt uniform biennial renewal fees in an amount between \$200 and \$250 for the Board's certificateholders, effective with the biennial renewal period that begins July 1, 2003. The proposed biennial renewal fee of \$225—representing the midpoint of the

BFO's recommended range—would raise biennial renewal revenues by approximately \$621,000, from the current \$346,500 to \$967,500, according to the BFO's estimates. The BFO projects that these additional biennial revenues would enable the Board to have comfortable positive balances at the end of the next several fiscal years, including approximately \$180,600 at the end of FY03-04.

b. Deletion of Examination Fees

The examinations for certification as a real estate appraiser and certified Pennsylvania evaluator are developed, administered and graded by Assessment Systems, Inc. (ASI), an independent testing organization under contract with the Commonwealth. The Board has no role in establishing or collecting examination fees. Examination fees are established by contract between ASI and the Commonwealth and are collected from Board-approved examination candidates at ASI's testing centers. The Board proposes to discontinue the practice of periodically amending its regulations to publish updated schedules of

examination fees. Accordingly, the proposed rulemaking would delete all references to examination fees for certified real estate appraisers and certified Pennsylvania evaluators. The Board will continue to provide current examination fee information to examination candidates on its website.

Fiscal Impact

The proposed rulemaking will generate approximately \$621,000 in additional biennial renewal fee revenues, broken down as follows:

<i>Certification Class</i>	<i>No. of Renewing Certificateholders</i>		<i>Fee Increase</i>	<i>Additional Revenues</i>
General Appraiser	1,088	x	\$120	\$130,560
Residential Appraiser	1,700	x	\$120	\$204,000
Certified Pennsylvania Evaluator	512	x	\$120	\$ 61,440
Broker/Appraiser	1,000	x	\$225	\$225,000

Paperwork Requirements

The proposed rulemaking will require the Board to change its biennial renewal forms to reflect the new fees. The proposed rulemaking will not create additional paperwork requirements for the regulated community.

Effective Date

The proposed rulemaking will become effective upon publication of the final-form regulation in the *Pennsylvania Bulletin*. The new biennial renewal fees will apply to certificateholders who renew certifications for the biennial renewal period beginning July 1, 2003.

Statutory Authority

Section 5(6) of the REACA (63 P. S. § 457.5(6)) authorizes the Board to establish fees for its operations. Section 9 of REACA requires the Board to establish fees by regulation and to ensure that revenues derived from fees, fines and civil penalties are adequate to cover the Board's expenditures over a biennial period. Section 9 of the Assessors Certification Act (63 P. S. § 458.9) authorizes the Board to establish renewal and other fees relating to certified Pennsylvania evaluators by regulation.

Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1, "Regulatory Review and Promulgation," the Board, in drafting and promulgating the proposed rulemaking, attempted to balance its statutory obligation to generate adequate revenues to support its operations against the objective to minimize the fiscal impact on the regulated community. The Board considers the proposed rulemaking to be both required by law and the least restrictive means of covering the cost of activities that the Board is required to perform.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 25, 2002, the Board submitted copies of this notice of proposed rulemaking to the Independent Regulatory Review Commission (IRRC), the Senate Standing Committee on Consumer Protection and Professional Licensure, and the House Standing Committee on Professional Licensure. The Board also provided IRRC and the Committees with copies of a Regulatory Analysis Form and Fee Report Form prepared in compliance with Executive Order 1996-1. Copies of these forms are available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to the proposed rulemaking, it will notify the Board within 10 days of the close of the Committee's review period, specifying the regulatory review criteria that have not been met. The Regulatory Review Act sets forth procedures that permit IRRC, the General Assembly and the Governor to review any objections prior to final-form adoption of the proposed rulemaking.

Public Comment

The Board invites interested persons to submit written comments, suggestions or objections regarding the proposed rulemaking 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*.

GEORGE D. SINCLAIR,
Chairperson

Fiscal Note: 16A-7013. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 36. STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

Subchapter A. GENERAL PROVISIONS

§ 36.6. Fees.

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

*	*	*	*	*
<i>Certified Real Estate Appraisers</i>	*	*	*	*
[Examination fee.....	*	*	*	*
]	*	*	*	*

PROPOSED RULEMAKING

4873

[Examination fee.....\$100]
Biennial renewal fee \$[105] 225
Certified Broker/Appraisers
* * * * *
Biennial renewal fee..... \$225
Certified Pennsylvania Evaluators
* * * * *
Biennial renewal fee \$[105] 225
* * * * *
[Examination fee.....\$200]

[Pa.B. Doc. No. 02-1740. Filed for public inspection October 4, 2002, 9:00 a.m.]

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



STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

P.O. BOX 2649
HARRISBURG, PENNSYLVANIA 17105-2649

Telephone: (717)783-4866
Fax: (717)705-5540
www.dos.state.pa.us

March 31, 2003

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

RE: Final Rulemaking of the State Board of Certified Real Estate
Appraisers Relating to Biennial Renewal Fees and Examination Fees
(16A-7013)

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Certified Real Estate Appraisers relating to biennial renewal fees and examination fees.

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

Sincerely,

A handwritten signature in black ink that reads "George D. Sinclair".

George D. Sinclair, Chairman
State Board of Certified Real Estate Appraisers

GDS:SW
Enclosure

cc: Andrew Sislo, Chief Counsel
Department of State

Joyce McKeever, Deputy Chief Counsel
Department of State

**Cynthia Montgomery, Regulatory Counsel
Department of State**

**Scott J. Messing, Deputy Commissioner
Bureau of Professional and Occupational Affairs**

**Gerald S. Smith, Senior Counsel in Charge
Department of State**

**Steven Wennberg, Counsel
State Board of Certified Real Estate Appraisers**

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

I.D. NUMBER:	16A-7013		
SUBJECT:	State Board of Certified Real Estate Appraisers - Biennial Renewal Fees/Examination Fees		
AGENCY:	DEPARTMENT OF STATE		
TYPE OF REGULATION			
	Proposed Regulation		
X	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	
3/31/03	<i>Lou Clark</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE	
<hr/>			
3/31/03	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE	
<hr/>			
3/31/03	<i>Elena Pagan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION	
<hr/>			
ATTORNEY GENERAL (for Final Omitted only)			
<hr/>			
LEGISLATIVE REFERENCE BUREAU (for Proposed only)			
<hr/>			

REVIEW COMMISSION
 DEPARTMENT OF STATE
 16A-7013

March 19, 2003