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**INDEPENDENT REGULATORY REVIEW COMMISSION
COMMONWEALTH OF PENNSYLVANIA
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November 13, 2003

Helen M. Billak, Chairperson
State Real Estate Commission
c/o Debbie Sopko
124 Pine Street
Harrisburg, PA 17105

Re: Regulation #16A-561 (IRRC #2357)
State Real Estate Commission
Education

Dear Chairperson Billak:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulation review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce
Executive Director
evp
Enclosure

cc: Honorable Thomas P. Gannon, Majority Chairman, House Professional Licensure Committee
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee
Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Pedro A. Cortes, Secretary, Department of State

Comments of the Independent Regulatory Review Commission

on

State Real Estate Commission Regulation No. 16A-561

Education

November 13, 2003

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The State Real Estate Commission (SREC) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on October 14, 2003. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

1. General. – Clarity.

SREC uses the terms “continuing education provider,” “education provider” and “provider” throughout the regulation. It seems that these terms are used interchangeably. The term defined in Section 35.201 is “real estate education provider.” For clarity, one consistent term should be used throughout the regulation.

2. Section 35.341. Approval of education providers. – Clarity.

Paragraph (5) requires a provider to “Post a surety bond of \$10,000 to the Commonwealth for the protection of the contractual rights of the provider’s students.” Is \$10,000 sufficient to protect the provider’s students? SREC should explain how it arrived at the \$10,000 figure, and whether the amount will be enough to provide refunds in the event a provider fails to perform.

3. Section 35.352. Location and facilities. – Clarity.

A commentator stated that the language in Subsection (b)(2) conflicts with an SREC-issued policy statement dated June 5, 2003. This policy statement allows continuing education courses to be provided at a number of places, including the company/broker’s location. Is it SREC’s intent to prohibit a continuing education course from taking place at a company/broker’s location?

4. Section 35.357. Student enrollment agreements. – Reasonableness.

SREC is deleting this entire section “in order to avoid private contractual matters between providers and students.” We agree that there is no need for SREC to mandate the form of these agreements. However, this section contains important safeguards for both the student and the schools. We believe that the final-form regulation should retain the requirement for a written agreement.

Furthermore, SREC should specify the minimum elements that must be included in the agreement, such as the tuition, fees and refund policies.

5. Section 35.358. Administration of curriculum. – Reasonableness; Clarity.

Subsection (b)(2) states, “A prelicensure course shall be graded by written examination...” Some prelicensure courses are completed by distance education. In order to ensure that the registrant is taking the examination, the SREC should add language that will set forth the procedures for ensuring that the registrant completes the exam.

**Facsimile Cover Sheet**

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Administrative Officer



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To: Suzanne Hoy
Agency: Department of State
Licensing Boards and Commissions
Phone: 7-2628
Fax: 7-0251
Date: November 13, 2003
Pages: 4

Comments: We are submitting the Independent Regulatory Review Commission's comments on the State Real Estate Commission regulation #16A-561 (IRRC #2357). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: *Suzanne Hoy*

Date: 11/13/02