

# Regulatory Analysis Form

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

(1) Agency

Department of State, Bureau of Professional and  
Occupational Affairs, State Board of Auctioneer Examiners

(2) I.D. Number (Governor's Office Use)

16A-647

IRRC Number: 2361

(3) Short Title

**Deletion of Examination Fees**

(4) PA Code Cite

49 Pa. Code §§ 1.23 and 1.41

(5) Agency Contacts & Telephone Numbers

Primary Contact: **Beth Sender Michlovitz, Counsel  
State Board of Auctioneer Examiners (717) 783-7200**  
Secondary Contact: **Joyce McKeever, Deputy Chief  
Counsel, Department of State (717) 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 proposed regulation eliminates references to the amount paid by applicants to take the auctioneer licensing examination. The fee for this examination is set by the professional testing organization and not by the Board.**

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

**Section 812.1 of the Administrative Code, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. § 279.3a and Sections 5 and 6 of the Auctioneer and Auction Licensing Act (Act), Act of December 22, 1983, P.L. 327, No. 85, as amended, 63 P.S. §§734.5 and 734.6, set forth the powers and duties of the Board with regard to the administration of examinations.**

## Regulatory Analysis Form

(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 any federal or state law, court order, or federal regulation.**

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

**Examination fees are determined through a competitive bid and contracting process with a professional testing organization that administers the examination. Eliminating references to the current examination fee in the regulations will obviate the need to amend the regulations in the future should the examination fees be changed.**

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

**There are no specific public health, safety, environmental or general welfare risks associated with nonregulation.**

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

**Applicants for licensure will benefit by not having potentially conflicting sources of information relating to examination fees. The Board will benefit because the regulation will eliminate the need to make future adjustments to its regulations should the fees be changed.**

## Regulatory Analysis Form

(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 has identified no groups or individuals who 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.)

**All applicants for auctioneer licensing are required to pay the fee set by the professional testing organization. This regulation does not affect the fee charged by the professional testing organization.**

(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.

**The text of the proposed regulation was sent to Jeanie M. Crowl, Administrator, Pennsylvania Auctioneer's Association, Inc. for pre-draft commentary on October 11, 2002.**

(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.

**No specific costs or savings to the regulated community are anticipated. However, the general operational costs of the Board may be reduced by eliminating the need to make future amendments to the Board's regulations.**

## Regulatory Analysis Form

(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.

**There are no anticipated costs or savings to local government associated with this regulation.**

(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.

**Because the Board's operational expenses are paid from license renewal fees, there are no anticipated costs or savings to state government associated with this 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 +1	FY +2	FY +3	FY +4	FY +5
<b>SAVINGS:</b>	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Savings						
<b>COSTS:</b>	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Costs						
<b>REVENUE LOSSES:</b>	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

N/A

## 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
State Board of Auctioneer Examiners	\$385,355.33	\$162,878.19	\$157,961.09	\$187,000.00

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

**There are no adverse effects or costs associated with the regulation. The regulated community will benefit because the Board will not be required to make any future amendments to its regulations to conform to changing costs of the licensing examination.**

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

**Because the fees are currently announced in the Board's regulations, no nonregulatory alternatives were considered.**

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

**No alternative regulatory schemes were considered.**

## Regulatory Analysis Form

(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 relevant to the regulation.**

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

**A survey was made of nearby states requiring statewide auction licensing. Ohio lists its fees by statute. North Carolina, Maine and Virginia list exam fees by regulation. Kentucky does not set its fees by regulation or statute.**

**This regulation will not 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 will not affect any existing or proposed regulations of the Board or other state agencies.**

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

**The Board meets in public session at least six times per year at 124 Pine Street in Harrisburg, PA. Comments from the public are always invited at the Board's meetings. The meeting dates for 2003 are as follows: January 13, 2003, March 10, 2003, May 12, 2003, July 7, 2003, September 8, 2003 and November 17, 2003.**

## 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 will not change any existing reporting, record keeping 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 Board has identified no particular groups or persons who will be affected by 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 will be effective upon final publication in the Pennsylvania Bulletin.**

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

**The Board continuously reviews its regulations, periodically communicates with licensees through newsletters and obtains information and feedback from its licensees on a frequent basis.**



FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

# 2361

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.

*Christina Caputo*  
BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

State Board of Auctioneer Examiners  
(AGENCY)

*David J. Duka*  
BY: \_\_\_\_\_

JUL 22 2003

DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 16A-647

DATE OF ADOPTION: \_\_\_\_\_

6/30/03

DATE OF APPROVAL

BY: *Ralph M. Stewart*  
Ralph M. Stewart, 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.

NOTICE OF PROPOSED RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF AUCTIONEER EXAMINERS  
49 PA. CODE § 3.103  
EXAM FEE DELETION

The State Board of Auctioneer Examiners (Board) proposes to amend 49 Pa. Code § 1.23 (relating to auctioneer licensure examination) and §1.41 (relating to fees) as set forth in Annex A. The proposed rulemaking deletes references to the fees charged by testing organizations from the schedule of fees for the examination for auctioneers and directs applicants for examination to apply and pay fees directly to the professional testing organization.

### **Effective Date**

The regulation is effective on final publication in the Pennsylvania Bulletin.

### **Statutory Authority**

Section 812.1 of the Administrative Code, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. § 279.3a, and Sections 5 and 6 of the Auctioneer and Auction Licensing Act (Act), Act of December 22, 1983, P.L. 327, No. 85, as amended, 63 P.S. §§734.5 and 734.6, set forth the powers and duties of the Board with regard to the administration of examinations.

### **Background and Need for Amendment**

#### *Provision and Submission of Applications for Examination*

The proposed amendment to § 1.23 (relating to auctioneer licensure examination), reflects that applicants must apply to the professional testing organization, not the Board, to take the examination. The professional testing organization determines a candidate's eligibility to take the exam and administers the examination to eligible candidates. The Administrative Agency Law at 71 P.S. §279.3a requires that the auctioneer licensing examination be prepared and administered by a professional testing organization. This amendment to the Board's regulation clears confusion that may result from the existing regulation which directs candidates to apply to the Board to be tested.

#### *Elimination of References to Examination Fees*

The proposed amendment to § 1.41 (relating to the schedule of fees), deletes the reference to the fee for the examination for auctioneers. This fee is set by the professional testing organization, not by the Board. To avoid the necessity of amending the regulation whenever the professional testing organization changes the fee, the Board proposes to delete the reference to the examination fee.

### **Description of Proposed Amendments**

The proposed rulemaking deletes references to the fee for the licensing examination. The fee is set by the professional testing organization. The rulemaking also clarifies that examination applicants should apply directly to the professional testing organization and not to the Board.

### **Fiscal Impact**

The proposed amendment will have no fiscal impact on the Board or its licensees. The proposed amendment should have no fiscal impact on the private sector, the general public or political subdivisions.

### **Paperwork Requirements**

The proposed regulation will avoid preparation of new regulations each time that an examination fee is changed and should not create additional paperwork for the private sector.

### **Sunset Date**

The Board monitors its regulations on a continuing basis. Therefore, no sunset date has been assigned.

### **Regulatory Review**

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted a copy of this proposed regulation on September 9, 2003, to the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. In addition to submitting the proposed rulemaking, the Board has provided IRRC and the committees with a copy of a detailed Regulatory Analysis Form prepared by the Board. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), if IRRC has comments, recommendations or objections regarding any portion of the proposed rulemaking, it will notify the Board within 30 days of the close of the public comment period. The notification will specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of comments, recommendations and objections by the Board, the General Assembly, and the Governor prior to publication of the regulations.

### **Public Comment**

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Tammy Radel, Administrator, State Board of Auctioneer Examiners, P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649, within 30 days following publication of this proposed rulemaking in the Pennsylvania Bulletin.

Annex A  
TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS  
PART 1. DEPARTMENT OF STATE  
Subpart A. Professional and Occupational Affairs  
Chapter 1. State Board of Auctioneer Examiners

\* \* \* \*

**LICENSURE**

\* \* \* \*

**§1.23. Auctioneer licensure examination.**

(a) The Board will [schedule] have a professional testing organization conduct the auctioneer licensure examination at least two times each year.

(b) The applicant for auctioneer's license shall apply to the professional testing organization designated by the Board for admission to the licensure examination and pay the fee directly to that organization.

\* \* \* \*

**FEES**

**§1.41. Schedule of fees.**

Applicants shall pay the following fees:

[Examination fee for auctioneer license ..... \$87]

\* \* \* \*



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF AUCTIONEER EXAMINERS

Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-3397

September 9, 2003

The Honorable John R. McGinley, Jr., Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation  
State Board of Auctioneer Examiners  
16A-647: Exam Fee Deletion

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the State Board of Auctioneer Examiners pertaining to exam fee deletion.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in cursive script that reads "Ralph M. Stewart".

Ralph M. Stewart, Chairperson  
State Board of Auctioneer Examiners

RMS/BSM:kp

Enclosure

c: Andrew Sislo, Chief Counsel  
Department of State  
Scott J. Messing, Deputy Commissioner  
Bureau of Professional and Occupational Affairs  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Herbert Abramson, Senior Counsel in Charge  
Department of State  
Beth Sender Michlovitz, Counsel  
State Board of Auctioneer Examiners  
State Board of Auctioneer Examiners

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

I.D. NUMBER: 16A-0647  
 SUBJECT: State Board of Auctioneer Examiners - Exam Fee Deletion  
 AGENCY: DEPARTMENT OF STATE

**TYPE OF REGULATION**

- 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

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**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
9/9/03	<i>Sandra J. Harper</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
9-9-03	<i>[Signature]</i>	
		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
9-9-03	<i>Dlena Pagan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
9/9/03	<i>C. La B...</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

July 23, 2003