

Regulatory Analysis Form

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REVIEW COMMISSION

(1) Agency

Department of State, Bureau of Professional and Occupational Affairs, State Real Estate Commission

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

16A-569

IRRC Number:

2374

(3) Short Title

Deletion of Examination Fee

(4) PA Code Cite

49 Pa. Code §35.203, 35.271-35.275

(5) Agency Contacts & Telephone Numbers

Primary Contact: Judith Pachter Schulder, Counsel
State Real Estate Commission 783-7200
Secondary Contact: Joyce McKeever, Deputy Chief
Counsel, Department of State 783-7200

(6) Type of Rulemaking (check one)

Proposed Rulemaking
 Final Order Adopting Regulation
 Policy Statement

(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 deletes the examination fee charged by a professional testing organization found in § 35.203 as well as references "prescribed in § 35.203 (relating to fees)" found in §§ 35.271-35.275.

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

Section 812.1 of the Administrative Code (71 P.S. § 279.3a) sets forth the powers and duties of the Commission with regard to the administration of examinations.

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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 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?

Two fees are related to examination for the broker and cemetery broker examinations: a fee for review of the candidate's qualifications (review fee) and fee for administration of the examination (examination fee). The review fee is determined by the Bureau of Professional and Occupational Affairs based upon the aggregate amount of time spent by staff to review candidate qualifications. The examination fee is determined through a competitive bid and contract process with professional testing organizations. The salesperson, time-share salesperson and rental listing referral agent examinations only require the examination fee.

The Commission plays no role in setting the examination fee. To avoid the necessity of amending § 35.203 whenever the examination fee is changed, the Commission proposes to delete the examination fee from § 35.203 and specific references to the examination fee "prescribed in § 35.203" from the examination provisions.

(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.)

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

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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 Commission 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 licensure are required to pay the examination fee set by the professional testing organization. This regulation does not affect the fee charged by the professional testing organization or the review fee determined and charged by the Commission.

(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 this regulation is merely an administrative revision, public input was not solicited.

(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 Commission may be reduced by eliminating the need to make future amendments to the Commission's regulations.

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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.

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 Commission's operational expenses are paid from license renewal fees, there are no anticipated costs to state government associated with this regulation. Eliminating the need to make future amendments to the Commission's regulations may reduce the Commission's general operational costs.

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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:	\$	\$	\$	\$	\$	\$
Regulated	N/A	N/A	N/A	N/A	N/A	N/A
Local Government						
State Government						
Total Savings						
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated						
Local Government						
State Government						
Total Revenue Losses						

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

Not applicable.

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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
State Real Estate Commission	\$2,155,891.51	\$2,400,136.82	\$1,873,008.90	\$2,223,000.00

(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 Commission 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 Commission'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?

This regulation will not put Pennsylvania at a competitive disadvantage. The fees contained in the regulation are not determined by the Commission but a competitive bid and contract with a professional testing organization.

(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 Commission or other state agencies.

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

The Commission meets in public session 10 months per year at 2601 North 3rd Street in Harrisburg, PA plus one time in Pittsburgh and one time in Philadelphia. Comments from the public are always invited at the Commission's meetings. Meeting dates are available on the Department of State's website, www.dos.state.pa.us/bpoa.

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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 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 Commission 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 Commission 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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REVIEW COMMISSION

2374

DO NOT WRITE IN THIS SPACE

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

[Signature]

BY: _____
(DEPUTY ATTORNEY GENERAL)

NOV 24 2003

DATE OF APPROVAL

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

State Real Estate Commission
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-569

DATE OF ADOPTION: _____

BY: *[Signature]*
Helen M. Billak

TITLE: Chair
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

BY: *[Signature]*

10/20/03
DATE OF APPROVAL

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

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

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

PROPOSED RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE REAL ESTATE COMMISSION
49 Pa. Code, Chapter 35
Deletion of Examination Fee

The State Real Estate Commission (Commission) proposes to amend 49 Pa. Code §§ 35.203 and 35.271-35.275 to read as set forth in Annex A. The proposed rulemaking deletes references to the examination fee determined by contract and charged by a professional testing organization from the schedule of fees in § 35.203 and examination provisions in sections 35.271 through 35.275.

Effective Date

The regulation will be effective on final publication in the Pennsylvania Bulletin.

Statutory Authority

Section 812.1 of the Administrative Code of 1929 (71 P.S. § 279.3a) sets forth the powers and duties of the Commission with regard to the administration of examinations.

Background and Need for Amendments

Two fees are related to examination for the broker and cemetery broker examinations: a fee for review of the candidate's qualifications (review fee) and a fee for administration of the examination (examination fee). The review fee is determined by the Bureau of Professional and Occupational Affairs based upon the aggregate amount of time spent by staff to review candidate qualifications. The examination fee is determined through a competitive bid and contract process with professional testing organizations. The salesperson, time-share salesperson and rental listing referral agent examinations only require the examination fee.

The Commission plays no role in setting the examination fee. To avoid the necessity of amending § 35.203 (relating to fees) whenever the examination fee is changed, the Commission proposes to delete the examination fee from § 35.203 and specific references to the examination fee prescribed in § 35.203 from the examination provisions in §§ 35.271-35.275.

Description of Proposed Amendments

The proposed amendment eliminates the examination fee from § 35.203 and deletes the references "prescribed in §35.203 (relating to fees)" from the examination provisions in §§ 35.271-35.275.

Fiscal Impact

The proposed amendment will have no fiscal impact on the Commission 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 regulations will avoid preparation of new regulations each time the examination fee is changed. It will not create additional paperwork for the private sector.

Sunset Date

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

Regulatory Review

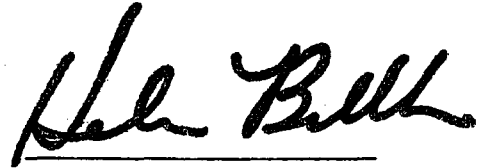
Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted a copy of this proposed regulation on December 16, 2003 2003, to the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee and the House Professional 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 from 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 Judith

Pachter Schulder, Counsel, State Real Estate Commission, P. O. Box 2649,
Harrisburg, Pennsylvania 17105-2649, within 30 days following publication of this
proposed rulemaking in the Pennsylvania Bulletin.

A handwritten signature in black ink, appearing to read "Helen Billak". The signature is written in a cursive style with a horizontal line underneath it.

Helen Billak, Chair

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 35. STATE REAL ESTATE COMMISSION

* * * *

Subchapter B. GENERAL PROVISIONS

* * * *

§ 35.203. Fees.

The following fees are charged by the Commission:

[Licensing examination for broker, cemetery broker, salesperson,
builder owner salesperson or rental listing referral agent.....\$45]

* * * *

Subchapter D. LICENSING EXAMINATIONS

§ 35.271. Examination for broker's license.

(a) An individual who wants to take the broker's examination for a Pennsylvania
broker's license shall:

* * * *

(5) Submit a completed examination application to the Commission or its

designee with:

(v) The fee[s] for review of the candidate's qualifications to take the examination prescribed in § 35.203 (relating to fees) and the fee for administration of the examination [prescribed in § 35.203 (relating to fees)].

§ 35.272. Examination for salesperson's license.

(a) An individual who wants to take the salesperson's examination for the purpose of obtaining a Pennsylvania salesperson's license shall:

(3) Submit a completed examination application to the Commission or its designee with the examination fee [prescribed in § 35.203 (relating to fees)].

§ 35.273. Examination for cemetery broker's license.

(a) An individual who wants to take the salesperson's examination for the purpose of obtaining a Pennsylvania cemetery broker's license shall:

(4) Submit a completed examination application to the Commission or its designee with:

(iv) The fee[s] for review of the candidate's qualifications to take the examination

prescribed in § 35.203 (relating to fees) and the fee for administration of the examination
[prescribed in § 35.203 (relating to fees)].

* * * *

§ 35.274. Examination for builder-owner salesperson's license.

An individual who wants to take the salesperson's examination for the purpose of obtaining a Pennsylvania builder-owner salesperson's license shall:

* * * *

(3) Submit a completed examination application to the Commission or its designee with the examination fee [prescribed in 35.203 (relating to fees)].

§ 35.275. Examination for rental listing referral agent's license.

(a) An individual who wants to take the salesperson's examination for the purpose of obtaining a Pennsylvania rental listing referral agent's license shall:

* * * *

(3) Submit a completed examination application to the Commission or its designee with the examination fee [prescribed in 35.203 (relating to fees)].

* * * *



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE REAL ESTATE COMMISSION

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-3658

December 16, 2003

The Honorable John R. McGinley, Jr., Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harrisstown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation
State Real Estate Commission
16A-569: Deletion of Exam Fees

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the State Real Estate Commission pertaining to Deletion of Exam Fees.

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

Sincerely,


Helen M. Bilak, Chairperson
State Real Estate Commission

HMB:JPS:apm

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
Judith Pachter Schulder, Counsel
State Real Estate Commission
State Real Estate Commission

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

69

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INDEPENDENT REGULATORY
REVIEW COMMISSION

I.D. NUMBER: 16A-569
SUBJECT: Deletion of Examination Fee
AGENCY: DEPARTMENT OF STATE

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
12/16/03	Sandra J. Harper	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
12/16/03	Mary Walmer	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
12/16/03	St. Helmut	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
12/16/03	C. Lee Brown	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

December 9, 2003