

# Regulatory Analysis Form

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REGULATORY  
REVIEW COMMISSION

(1) Agency

Department of State  
Bureau of Commissions, Elections and Legislation

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

16-33

IRRC Number: 2407

(3) Short Title

Fees for Notary Services

(4) PA Code Cite

4 Pa. Code § 161.1

(5) Agency Contacts & Telephone Numbers

Primary Contact: Nancy Chavez, Deputy Commissioner,  
BCEL  
717-787-5280

(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 amends the fees that notaries public may charge for rendering their services. The fees are needed because the current fees in 4 Pa. Code § 161.1 established under section 21 of the Notary Public Law (NPL), as amended most recently by Act 151 of 2002 (effective July 1, 2003) (57 P.S. § 167), have not been increased since February 11, 1984 and notaries public face substantially increased costs associated with becoming a notary public, including for notaries public appointed after July 1, 2003, the fulfillment of a mandatory 3-hour notary public education course under Act 151 for a minimum of \$35 per course. The amendment will also ensure that notary public fees remain more in line with the fees that notaries public may charge in other states.

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

These regulatory fees are adopted under section 21 of the NPL (57 P.S. § 167) (relating to fees of notaries public).

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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.

No.

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

The regulation is needed to ensure the following: 1) that notary public fees bear a closer correlation to increases in the Consumer Price Index, which according to the U.S. Department of Labor, Bureau of Labor Statistics, rose 85.4 percent between August 1984 and September 2004; 2) that notaries public are in a better position to absorb the increased costs they face for the notary public application process, supplies, record keeping, recording fees, and for notaries public appointed after July 1, 2003, to fulfill the 3-hour mandatory notary public education course required under Act 151; and 3) that notary public fees in Pennsylvania (which are \$2 for most services) remain more in line with the fees that notaries public may charge in other states, a total of 19 of which, including one contiguous state, Delaware, have set their fees at \$5.00 or higher.

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

Nonregulation is not an option because the NPL, as amended, mandates that the fees of notaries public be fixed by the Secretary of the Commonwealth with the approval of the Attorney General.

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

Notaries public will directly benefit from the notary public fee increase. However, members of the public will also indirectly benefit because the best and brightest notaries public are more likely to be attracted and retained by the Commonwealth with a competitive fee structure.

(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 customers of the some 84,000 Pennsylvania notaries public will be the most adversely affected by the regulation in that they will have to pay increased fees for the services they receive from notaries public. However, these adverse effects are offset by the benefits discussed above.

### Regulatory Analysis Form

(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 individuals who are customers of the approximately 84,000 notaries public will have to pay the increased notary fees.

(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.

Communications with and soliciting input from the public in the development and drafting of this regulation was unnecessary because it involves a non-controversial fee package for which comments received from the public during the 30-day comment period suffice. The Pennsylvania Association of Notaries provided some input on the development of the proposed regulations. Both the Pennsylvania Association of Notaries and the National Notary Association sent letters in support of the regulation during the public comment period.

(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 that may be required.

While individuals will have to pay higher notary public fees, no legal, accounting or consulting procedures will be implicated in complying with the regulations and therefore, no other additional costs are estimated.

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

N/A

(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.

N/A

### 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
<b>SAVINGS:</b>	0	0	0	0	0	0
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Savings	0	0	0	0	0	0
<b>COSTS:</b>	0	0	0	0	0	0
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Costs	0	0	0	0	0	0
<b>REVENUE LOSSES:</b>	0	0	0	0	0	0
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

(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.

N/A	N/A	N/A	N/A	N/A

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

N/A

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

No nonregulatory alternatives were considered because the fees are required to be fixed by the Secretary of the Commonwealth with the approval of the Attorney General.

(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 because the Secretary of the Commonwealth is mandated to establish the fees with the approval of the Attorney General.

(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.

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

A total of a total of 19 other states, including one contiguous state, Delaware, have set their fees at \$5.00 or higher and the amendment is necessary to ensure that Pennsylvania remains competitive with these other states. This includes the following: 1. California - \$10; 2) Florida - \$10; 3) South Dakota - \$10; 4) Texas - \$6; 5) Arkansas - \$5; 6) Colorado - \$5; 7) Connecticut - \$5; 8) Delaware- \$5; 9) Hawaii - \$5; 10) Mississippi- \$5; 11) Montana- \$5; 12) Nebraska- \$5; 13) Nevada- \$5; 14) New Hampshire- \$5; 15) New Mexico- \$5; 16) North Dakota- \$5; 17) Oregon- \$5; 18) Utah- \$5; and 19) Washington- \$5. Please see Attachment 1 for an overview of the notary public fees in the states contiguous to Pennsylvania; Attachment 2 contains additional information about the year in which the fees of the contiguous states became effective and an overview of any related legislative/regulatory activity, if any, has occurred in these states.

## Regulatory Analysis Form

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

This regulation will have no effect on the regulations of other state agencies.

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

No.

(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.

No changes to reporting, record keeping, or other paperwork is required by this regulation.

(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 Department has perceived no special needs of any subset of groups or persons affected for which special accommodations should be made.

(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 publication as final-rulemaking in the *Pennsylvania Bulletin*.

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

The Department will review the fee regulations promulgated under this section yearly to determine whether new fees should be enacted.

CDL-1

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FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU REVIEW COMMISSION

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

# 2407

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: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

Department of State  
\_\_\_\_\_  
(AGENCY)

16-33

DOCUMENT/FISCAL NOTE NO. \_\_\_\_\_

DATE OF APPROVAL

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

3.23.05

DATE OF APPROVAL

BY: Pedro A. Cortés  
Pedro A. Cortés

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

Secretary of the Commonwealth  
TITLE: \_\_\_\_\_  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

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

FINAL RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF COMMISSIONS, ELECTIONS AND LEGISLATION

4 Pa. CODE § 161.1,  
Fees for Notary Services

*Preamble #16-33  
Final-Form Regulation-  
Fees for Notary Services  
February 3, 2005*

The Department of State (Department) hereby amends § 161.1 (relating to schedule of fees) by revising the fees that notaries public may charge for their services, to read as set forth in Annex A.

**A. Effective Date**

The final-form rulemaking will be effective upon publication in the Pennsylvania Bulletin.

**B. Statutory Authority**

The amendments are authorized under section 21 of the Notary Public Law (act) (57 P.S. § 167), which requires that the fees of notaries public be fixed by the Secretary of the Commonwealth (Secretary) with the approval of the Attorney General. Although section 21 of the act does not require the Secretary to establish notary public fees through the regulatory process, the last notary public fee increase, which occurred on February 11, 1984, was brought about through the rulemaking process and the Secretary determined that it was in the best interest of the public to also provide for public comment on this rulemaking. Under section 16 of the act (57 P.S. § 162), as amended by the act of December 9, 2002 (P.L. 1269, No. 151) (Act 151)(effective July 1, 2003), notaries public shall in addition to their other powers have the power to administer verifications and therefore, this rulemaking adds a fee for verifications.

**C. Notice of Proposed Rulemaking and Comments Received**

Notice of Proposed rulemaking was published at 34 Pa.B. 3136 (June 19, 2004). The Department entertained public comment on the proposal for 30 days. It received public comments from the National Notary Association (NNA) and the Pennsylvania Association of Notaries (PAN), both of which sent letters expressing support for the regulation. In accordance with the Regulatory Review Act (71 P.S. §§ 745.2-745.15), the Department submitted the regulation to regulatory review bodies. The Independent Regulatory Review Commission (IRRC) indicated that it had no objections, comments or recommendations on the regulation. No objections, comments or recommendations were received from either the House or Senate State Government Committee.

**D. Background and Purpose**

As previously noted, the fees that notaries public may charge for their services have not been increased since February 11, 1984. (See 15 Pa.B. 431.) Yet, the costs that notaries public must now incur have increased substantially since 1984. For example, the minimum cost to become a notary public, including the Department's application fee, obtaining mandatory education under Act 151 (for notaries appointed after July 1, 2003) at a minimum of \$35 per class, securing a bond, obtaining a rubber stamp seal, and purchasing a register, has increased from about \$46.50 to approximately \$128 since 1984.



One of the major purposes of the regulation, which increases fees from \$2 to \$5 for most services, is to help the fees of notaries public bear a closer correlation to increases in the Consumer Price Index, which according to the United States Department of Labor, Bureau of Labor Statistics, rose 85.4% between August 1984 and September 2004.

The amendment will also help notaries public better absorb the increased costs they face for the notary public application process, supplies, record keeping, and recording fees. For example, all Recorders of Deeds charge notaries public fees for recording their oath, commission and bond with the fees ranging from \$32.50 to \$70.50. In addition, the amendment will defray the costs incurred by those applicants subject to the mandatory notary public education requirement contained in Act 151. Applicants are typically paying at least \$35 for the 3-hour course and possibly as much as \$159 for the course offered by some providers.

Finally, another major purpose is to help ensure that notary public fees remain more in line with the fees that notaries public may charge in other states. In contrast to the \$2 that notaries public may charge for their services in Pennsylvania, a total of 19 other states, including Delaware, have set their fees at \$5 or higher.

**E. Fiscal Impact and Paperwork Requirements**

The final-form rulemaking will have no adverse fiscal impact on the Department, the Bureau of Commissions, Elections and Legislation (Bureau) or the notaries public it commissions. The regulation will also have no adverse fiscal impact on the Commonwealth or its political subdivisions. In addition, the regulation will not impose any additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector.

**F. Sunset Date**

The Secretary and the Department monitor the regulations of the Bureau on a continuing basis. Therefore, no sunset date has been assigned.

**G. Regulatory Review**

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Department submitted copies of the notice of proposed rulemaking, published at 34 Pa.B. 3136, on June 19, 2004, to the IRRC, the Senate State Government Committee and the House State Government Committee for review and comment.

**Preamble #16-33  
Final-Form Regulation-  
Fees for Notary Services  
February 3, 2005**

In compliance with section 5(c) of the Regulatory Review Act, the Department also provided the IRRC, the Senate State Government Committee, and the House State Government Committee with copies of comments received during the public comment period, as well as other documents when requested. In preparing the final-form regulation, the Department has considered all comments received.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), this final-form regulation was deemed approved by the Senate State Government Committee on \_\_\_\_\_, \_\_\_\_2005, and deemed approved by House State Government Committee on \_\_\_\_\_, \_\_\_\_2005. Under section 5.1(e) of the Regulatory Review Act, IRRC met on \_\_\_\_\_, \_\_\_\_2005 , and deemed the final-form regulation approved.

**I. Additional Information**

Individuals who require information about the final-form rulemaking may contact Nancy Chavez, Deputy Commissioner for the Bureau of Commissions, Elections and Legislation, Department of State, 210 North Office Building, Harrisburg, PA 17120.

***Findings***

The Secretary finds that:

(1) Public notice of intention to adopt these regulations was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) These regulations are necessary and appropriate for administering and enforcing the authorizing acts identified in Part B of this Preamble.

***Order***

The Secretary, acting under the authorizing statute, orders that:

(a) The regulations of the Department at 4 Pa. Code Chapter 161, are amended by amending §161.1 to read as set forth in Annex A.

***Preamble #16-33  
Final-Form Regulation-  
Fees for Notary Services  
February 3, 2005***

(b) The Department shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.

(c) The Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on publication in the *Pennsylvania Bulletin*.

**PEDRO A. CORTÉS**  
Secretary of the Commonwealth

**ANNEX A**

**TITLE 4. ADMINISTRATION  
PART VIII. BUREAU OF [LEGISLATION, COMMISSIONS AND  
ELECTIONS]COMMISSIONS, ELECTIONS AND LEGISLATION  
SUBPART C. COMMISSIONS  
CHAPTER 161. FEES**

**§ 161.1. Schedule of fees.**

The Bureau of Commissions, Elections and Legislation fee schedule shall conform with the following table:

*Description* *Fees (in dollars)*

\*\*\*

**NOTARY PUBLIC FEE SCHEDULE**

Executing affidavits ( <u>no matter how many signatures</u> ).....	\$ [2] <u>5</u>
Executing acknowledgments.....	\$ [2] <u>5</u>
In executing acknowledgments, each additional name.....	\$ [1] <u>2</u>
Executing certificates ( <u>per certified copy</u> ).....	\$ [2] <u>5</u>
Administering oaths ( <u>per individual taking an oath</u> ).....	\$ [2] <u>5</u>
Taking depositions, per page.....	\$ [2] <u>3</u>
<u>Executing verifications</u> .....	<u>\$ 5</u>
[Making] <u>Executing</u> protests, per page.....	\$ [2] <u>3</u>

**Attachment 1: Notary Public Fees Authorized in States Contiguous to Pennsylvania**

<b>State</b>	<b>Fee</b>
Delaware	The maximum fee for any notarial act is \$5.00
Maryland	Acknowledgments: \$2.00 Jurats: \$2.00 Oaths & Affirmations: \$2.00 Notary-Certified Copies: Journal entries only-\$1.00 Travel Fee: \$ .31 cents/mile plus \$5.00; other notarial acts, \$2.00
New Jersey	Acknowledgments: \$2.50 Affidavits: \$2.50 Oaths & Affirmations: \$2.50 Proof of Deed: \$2.50 Protests: \$2.00 plus \$ .10 cents for each notice (in addition to postage)
New York	Oaths/Affirmations: \$2.00 Protests: \$ .75 cents plus \$ .10 cents for each additional notice (limit 5) Acknowledgments: \$2.00 per signature Proofs: \$2.00 per signature Swearing witnesses: \$2.00
Ohio	Acknowledgments: \$2.00 Jurats: \$1.50 Oaths & Affirmations: \$1.00 Affidavit with Oath: \$1.50 Protests: \$1.00 plus actual expenses
West Virginia	Oaths/Affirmations: \$2.00 per signature Acknowledgments: \$2.00 per signature Jurats: \$2.00 per signature Certifying copies: \$2.00 All other acts: \$2.00

**Source: Information provided by the Pennsylvania Association of Notaries.**

**Attachment 2. Notary Fees in Pennsylvania Compared with the Fees  
Authorized in Contiguous States, The Year In Which The Fees Became Effective, and  
Legislative/Regulatory Activity, If Any, to Increase the Fees**

State	Fee Per Notarial Act	Year In Which Fees Became Effective	Legislative/Regulatory Activity, if any, to Increase Fees
<b>Pennsylvania</b>	\$2.00	1984	Proposed Regulations to Increase Fees
1. Delaware	\$5.00	About 4 to 5 years ago.	No activity
2. Maryland	\$2.00	1984	A bill introduced in 2004 failed to pass.
3. New Jersey	\$2.50	No Information Available <sup>1</sup>	No activity
4. New York	\$2.00	1991	No activity
5. Ohio	\$2.00	1994	No activity
6. West Virginia	\$2.00	1984	No activity

Source: Information provided by the Pennsylvania Association of Notaries.

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<sup>1</sup> The New Jersey official did not know the year in which the fees became effective.



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
302 North Office Building  
Harrisburg, PA 17120

PEDRO A. CORTÉS  
Secretary of the Commonwealth

Telephone: (717) 787-8727  
Fax: (717) 787-1734  
Website: [www.dos.state.pa.us](http://www.dos.state.pa.us)

March 29, 2005

The Honorable John R. McGinley, Jr.  
Chairman  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor, Harristown 2  
333 Market Street  
Harrisburg, PA 17101

Re: Final Rulemaking of the Bureau of Commissions, Elections and Legislation  
Fees for Notary Services (16-33)

Dear Chairman McGinley:

Enclosed is a copy of a final regulation of the Bureau of Commissions, Elections and Legislation pertaining to fees for Notary services.

The Bureau of Commissions, Elections and Legislation, as always, will be pleased to provide your committee with any assistance it may require during the course of its review of this regulation.

Sincerely,

A handwritten signature in cursive script that reads "Pedro A. Cortés".

Pedro A. Cortés

PAC/mab

Enclosures

cc: Albert H. Masland, Chief Counsel  
Department of State  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Bureau of Commissions, Elections and Legislation

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

I.D. NUMBER: 16-33

SUBJECT: Bureau of Commissions, Elections & Legislation - Fees for Notary Services

AGENCY: DEPARTMENT OF STATE

# 2407

**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

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REVIEW COMMISSION

**FILING OF REGULATION**

DATE

SIGNATURE

DESIGNATION

3/29 Ellen Krick

HOUSE COMMITTEE ON STATE GOVERNMENT

3/29 Thomas Spengler

3/29 Joyce Heckman

SENATE COMMITTEE ON STATE GOVERNMENT

3/29 S. Sanders

3/29 Stephen J. Hoff

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL (for Final Omitted only)

LEGISLATIVE REFERENCE BUREAU (for Proposed only)

March 24, 2005