

# Regulatory Analysis Form

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2004 JUN -9 11:14 AM

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: Christal Pike-Nase, Counsel  
Notary Section of the BCEL  
717-787-6802

Secondary 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 proposes to amend the fees that notaries public may charge for rendering their services. The new fees are needed because the current fees in 4 Pa. Code § 161.1 established under section 21 of the Notary Public Law of 1953, 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 fulfillment of a mandatory three hour notary public education course under Act 151 for a minimum of \$35 per course. The amendment would also help to ensure that notary public fees remain competitive 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 fee amendments are adopted under section 21 of the Notary Public Law of 1953 (NPL) (57 P.S. § 167) (relating to fees of notaries public).

### 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.

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 85.7 percent between August 1984 and September 2003; 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 to fulfill the three 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 competitive 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 Notary Public Law of 1953, 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 proposed 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 87,000 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 87,000 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 will suffice. The Pennsylvania Association of Notaries provided some input on the development of the proposed regulations.

(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 attached chart with an overview of the notary public fees in the states contiguous to Pennsylvania.

### 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.

Attachment: Notary Public Fees Authorized in States Contiguous to Pennsylvania

State	Fee
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

**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

2004-9 1111-47

REVIEW COMMISSION

# 2407

DO NOT WRITE IN THIS SPACE

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



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

MAY 06 2004

DATE OF APPROVAL

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

Department of State  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16-33

DATE OF ADOPTION:

BY: Pedro A. Cortés  
Pedro A. Cortés

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

BY: \_\_\_\_\_

4/7/04

DATE OF APPROVAL

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

TITLE: Secretary of the Commonwealth  
(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.

PROPOSED RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF COMMISSIONS, ELECTIONS AND LEGISLATION  
4 Pa. Code § 161.1  
Fees for Notary Services



The Secretary of the Commonwealth (Secretary) proposes to amend the regulation of the Bureau of Commissions, Elections and Legislation at 4 Pa. Code § 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 amendments would be effective upon publication of the final-form regulations in the Pennsylvania Bulletin.

**B. Statutory Authority**

The amendments are authorized under section 21 of the Notary Public Law (NPL) (57 P.S. § 167) (relating to fees of notaries public), which requires that the fees of notaries public be fixed by the Secretary of the Commonwealth with the approval of the Attorney General. Although section 21 of the NPL 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 has determined that it is in the best interest of the public to also provide for public comment on the current proposal. Under section 16 of the NPL (57 P.S. § 162) (relating to power to administer oaths and affirmations), as amended by Act 151 of 2002 (effective July 1, 2003), notaries public shall in addition to their other powers have the power to administer verifications and therefore, the Secretary is proposing to add a fee for verifications in the attached Annex.

**C. Background and Purpose**

As noted above, 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 of State's application fee, obtaining mandatory education under Act 151 of 2002 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 \$128.00 since 1984.

One of the major purposes of the proposed amendment, which would increase 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 U.S. Department of Labor, Bureau of Labor Statistics, rose 85.7 percent between August 1984 and September 2003.

It is also the intent of the amendment to 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 assist applicants seeking initial appointment or reappointment as a notary public in meeting the costs of fulfilling the notary public education requirement mandated by the most recent amendments to the NPL brought about by Act 151 of 2002. Notaries public are typically paying at least \$45.00 for the three hour course and possibly as much as \$159.00 for the course offered by some providers.

Finally, another major purpose is to help ensure that notary public fees remain competitive 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 one contiguous state, Delaware, have set their fees at \$5.00 or higher.

**D. Compliance with Executive Order 1996-1**

The Secretary reviewed this rulemaking and considered its purpose and likely impact upon the public and regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation (February 6, 1996). The proposed amendment addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

**E. Fiscal Impact and Paperwork Requirements**

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

**F. Sunset Date**

The Secretary of the Commonwealth and the Department monitors the regulations of the Bureau of Commissions, Elections and Legislation 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 Secretary submitted a copy of this proposed regulation on June 9, 2004, to the Independent Regulatory Review Commission (IRRC), the Senate State Government Committee and the House State Government Committee. In addition to submitting the proposed rulemaking, the Secretary has provided IRRC and the committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. 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 Secretary 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 Secretary, the General Assembly, and the Governor prior to publication of the regulations.

**H. Public Comment**

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Christal Pike-Nase, Esq., Counsel for the Bureau of Commissions, Elections and Legislation's Notary Section, Office of Chief Counsel, Department of State, 302 North Office Building, Harrisburg, PA 17120, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16-33 (Fees for Notary Services), when submitting comments.

PEDRO A. CORTÉS  
Secretary of the Commonwealth

**ANNEX A**

**TITLE 4. ADMINISTRATION  
PART VIII. BUREAU OF 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:

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**NOTARY PUBLIC FEE SCHEDULE**

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



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
HARRISBURG, PENNSYLVANIA  
17120

OFFICE OF THE  
SECRETARY OF THE COMMONWEALTH  
717-787-7630

BUREAU OF COMMISSIONS,  
ELECTIONS & LEGISLATION  
717-787-5280

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  
Bureau of Commissions, Elections and Legislation  
16-33: Fees for Notary Services

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the Department of State, Bureau of Commissions, Elections and Legislation pertaining to fees for notary services. This proposed rulemaking would increase the fees that notaries are authorized to charge for their services.

The Bureau 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, appearing to read "Monna Accurti".

Monna Accurti, Commissioner  
Department of State  
Bureau of Commissions, Elections and Legislation

MJA/pdk/ckm  
Enclosure

cc: Hon. Pedro Cortés, Secretary of the Commonwealth  
Department of State  
Linda C. Barrett, Chief Counsel  
Department of State  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Peter D. Kovach, Acting 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: Fees for Notary Services

AGENCY: DEPARTMENT OF STATE

# 2407

**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

**FILING OF REGULATION**

DATE

SIGNATURE

DESIGNATION

6/9/04 *Marianne Spangher*

HOUSE COMMITTEE ON STATE GOVERNMENT

6/9/04 *Ellen Guell*

6/9/04 *D. Santen*

SENATE COMMITTEE ON STATE GOVERNMENT

6/9/04 *Valerie Keller*

5/9/04 *Joseph F. Hoffman*

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL (for Final Omitted only)

6/10/04 *[Signature]*

LEGISLATIVE REFERENCE BUREAU (for Proposed only)

May 11, 2004