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**Pennsylvania Association of  
REALTORS®**

The Voice for Real Estate® in Pennsylvania

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October 1, 2004

Judith Pachter Schulder, Counsel  
State Real Estate Commission  
P.O. Box 2649  
Harrisburg, PA 17105-2649

Re: No. 16A-5610 (Reciprocal Licenses)

Dear Ms. Schulder:

This letter sets forth the comments of the Pennsylvania Association of REALTORS® ("PAR") on the proposed amendments to the regulations of the State Real Estate Commission (the "Commission") that were the subject of the notice of proposed rulemaking published in *The Pennsylvania Bulletin* on September 4, 2004 (the "Notice"). PAR is the largest organization of real estate licensees in Pennsylvania and represents over 28,000 licensees who are its members.

Before providing our comments on the specific amendments included in the Notice, there is one issue raised by the Commission's discussion of the background and purpose of the proposed amendments that cuts across a number of the proposed amendments and is important enough that we believe it should be mentioned separate from PAR's specific comments. PAR does not agree with the Commission's statement in the Notice that:

"Act 58 requires that:

- Licensees whose principal place of business is outside of this Commonwealth be classified as 'reciprocal licensees' and all other licensees in this Commonwealth be classified as 'standard licensees.'"

PAR believes, instead, that Act 58 clearly provides that a person whose principal place of business is outside of Pennsylvania has the option to seek a reciprocal license in Pennsylvania, but is not required to do so and may instead apply for a standard license. Act 58 requires a person whose principal place of business is *inside* Pennsylvania to have a standard license – but the converse is not true. There is nothing in Act 58 that limits a person whose principal place of business is outside of Pennsylvania from applying for a standard license. In fact, we would think that the Commission would want to encourage persons whose principal place of business is outside of Pennsylvania to continue to seek and hold standard licenses because of the additional requirements involved in obtaining a standard license.

Set forth below are PAR's comments on specific amendments included in the Notice:

**§ 35.201. Definitions.**

**“Branch office,” “main office” and “principal place of business.”** These definitions as proposed do not reflect the intent of Act 58. In our comments of February 3, 2004 on a draft annex of these proposed regulations, PAR pointed out that a definition of “main office” was not necessary. It is also PAR's position that a definition of “branch office” is not necessary. Finally, PAR continues to be of the view as stated in its February 3, 2004 comments that the definition of “principal place of business” should read “The principal office address at which a licensee offers real estate services.”

Some of the problems with the proposed definitions relating to offices can be seen if you consider the case of a broker with a Pennsylvania reciprocal license who holds licenses that are not reciprocal licenses in New Jersey and Delaware. Assume that the broker does 40% of his business in Delaware, 35% in New Jersey and 25% in Pennsylvania. PAR believes that the principal place of business of the broker would be in Delaware. Assume that the broker has one physical office location in Pennsylvania. The existing regulations of the Commission at 49 Pa. Code § 35.241(a) require the broker to maintain a “fixed” office in Pennsylvania, without attempting to answer the question of whether it is a “main” office or a “branch” office. The proposed definition of “main office” is not clear as to whether the fixed office in Pennsylvania is the main office because the definition speaks of a single office either in Pennsylvania or another state. We believe the Commission's intent is that in this situation the broker is required to maintain an office in Pennsylvania and that required office will have the status of a “main office.” But to repeat, PAR does not believe definitions of “main office” or “branch office” are needed, and further PAR does not believe that § 35.241 requires amendment.

**“Reciprocal license.”** This definition should not be limited to states where there is a reciprocal agreement. See our introductory comments.

**§ 35.222. Licensure as broker.**

In (b)(1), the phrase “state that agrees to issue a license to a standard Pennsylvania licensee without further requirement” should be changed to “state that offers reciprocal licensure opportunities to residents of Pennsylvania substantially comparable to those offered by Pennsylvania” This formulation tracks the language of section 602(e) of Act 58.

(b)[(4)](3)(iv) is not needed since the lead-in to (b) requires compliance with § 35.221

**§ 35.223. Licensure as salesperson.**

See our comments on § 35.222.

**§ 35.224. *Licensure as cemetery broker.***

See our comments on § 35.222.

**§ 35.225. *Licensure as cemetery salesperson.***

See our comments on § 35.222.

**§ 35.226. *Licensure as builder-owner salesperson.***

See our comments on § 35.222.

**§ 35.227. *Licensure as rental listing referral agent.***

See our comments on § 35.222.

**§ 35.228. *Licensure as campground membership salesperson.***

See our comments on § 35.222.

**§ 35.229. *Licensure as time-share salesperson.***

See our comments on § 35.222.

In (b)(4), the language should read “the applicant received his onsite training certifying that [he] the broker actively trained” in order to maintain consistency with the language as drafted in § 35.228(b)(4).

**§ 35.241. *General office requirement.***

As noted above, PAR does not believe that any change is needed to this section.

**§ 35.245. *Display of licenses in office.***

PAR does not believe the changes to this section are clear and can be applied in practice. See, in particular, our hypothetical discussion above regarding the confusing situation of a broker with a Pennsylvania reciprocal license and one office in Pennsylvania.

**§ 35.246. Inspection of office.**

PAR does not believe that any change is needed to this section. As with the changes to the previous section, we believe that the confusion created by the definitions of “main office” and “branch office” make the revisions to this section unworkable.

**§ 35.255. Reciprocal licenses.**

Subsection (a) should be changed as follows: “In addition to completing the application and paying the fee, [the] a licensee applying for renewal of a reciprocal license shall provide the Commission ...”

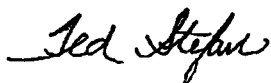
**§ 35.272. Examination for salesperson’s license.**

PAR believes that an amendment should be made to subsection (b)(4) similar to the amendments that have been proposed to § 35.273 and 35.275.

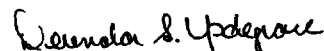
Subsection (c) should read “A reciprocal licensee who is converting...” to track proposed language offered in § 35.271, 35.273, 35.274 and 35.275.

Again, thank you for the opportunity to comment on this regulatory proposal. Please feel free to contact PAR should you have any questions.

Sincerely,



Ted Stefan, GRI  
Chair, Business Issues Subcommittee



Derenda Updegrave  
Director, Government Affairs