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**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

November 3, 2004

Joseph J. McGettigan, Sr., Chairperson  
State Real Estate Commission  
c/o Debbie Sopko  
2601 North Third Street  
Harrisburg, PA 17110

Re: Regulation #16A-5610 (IRRC #2421)  
State Real Estate Commission  
Reciprocal License

Dear Chairperson McGettigan:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulation review criteria that have not been met.

The comments will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). If you would like to discuss them, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce  
Executive Director

wbg

Enclosure

cc: Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional  
Licensure Committee  
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and  
Professional Licensure Committee  
Honorable Thomas P. Gannon, Majority Chairman, House Professional Licensure  
Committee  
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure  
Committee  
Honorable Pedro A. Cortes, Secretary, Department of State

# **Comments of the Independent Regulatory Review Commission**

**on**

## **State Real Estate Commission #16A-5610 (IRRC #2421)**

### **Reciprocal License**

**November 3, 2004**

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The State Real Estate Commission (SREC) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on October 4, 2004. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

#### **1. General. - Statutory authority; Clarity.**

The preamble of this regulation states, "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.'" This statement implies that a person who has a main office outside the Commonwealth is not eligible to apply for a standard license. We don't believe it is the SREC's intent to prohibit a person whose principal place of business is outside the Commonwealth from applying for a standard license. If this is the intent, the SREC should explain the reason for the prohibition.

#### **2. Section 35.201. Definitions. - Consistency with statute; Clarity.**

##### *Reciprocal license.*

As written, this definition states a person applying for reciprocal licenses must be, ". . . from a state that has executed a reciprocal agreement with the Commission." To avoid confusion, the definition in the Act and in the regulation should be verbatim. In the alternative, the definition should cross-reference the definition in the Act.

##### *Standard license.*

The definition of "standard license" states, "A license issued to an individual or entity who has fulfilled the education/experience and examination requirements of the Act." The definition in the Act states, "Any license issued under this act that is not a reciprocal license."

To avoid confusion, the definition in the Act and in the regulation should be verbatim. In the alternative, the definition should cross-reference the definition in the Act.

**3. Section 35.245. Display of licenses in office. - Clarity.**

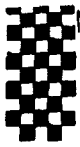
Subsection (e) requires, “A broker or cemetery holding a reciprocal license . . .” to maintain at a branch office a list of employees who are licensed in the Commonwealth and at which branch office they work. The term “broker” should be added after the word “cemetery” in the final-form regulation.

**4. Section 35.255. Reciprocal licenses. - Reasonableness.**

Subsection (c) requires a reciprocal licensee to notify the SREC of a change in the status of their current standard license or a change in their principal place of business to this Commonwealth within 90 days. How did the SREC determine the 90-day notification period? Will the SREC require office inspections for a change in licensure status?

**5. Section 35.384. Qualifying courses. - Clarity.**

The SREC is proposing to delete from its regulations reference to required topics for continuing education. The House Committee has questioned the rationale behind the SREC’s decision to delete the required three hours in fair housing laws and practices. The SREC should explain why this requirement is being deleted.



### Facsimile Cover Sheet

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Administrative Officer



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**INDEPENDENT REGULATORY REVIEW COMMISSION**  
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**To:** Suzanne Hoy  
**Agency:** Department of State  
Licensing Boards and Commissions  
**Phone:** 7-2628  
**Fax:** 7-0251  
**Date:** November 3, 2004  
**Pages:** 4

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the State Real Estate Commission's regulation #16A-5610 (IRRC #2421). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

**Accepted by:** Suzanne Hoy **Date:** 11/3/04