

<h1 style="margin: 0;">Regulatory Analysis Form</h1>		<p style="margin: 0;">This space for use by IRRC</p> <p style="margin: 0; text-align: center;">RECEIVED</p> <p style="margin: 0; text-align: center;">SEP 30 AM 11:05</p> <p style="margin: 0; text-align: center;">REVENUE COMMISSION</p> <p style="margin: 0; text-align: right;">IRRC Number: 2476</p>
<p data-bbox="219 329 365 372">(1) Agency</p> <p data-bbox="219 404 909 478">Department of State, Bureau of Professional and Occupational Affairs, State Real Estate Commission</p>		
<p data-bbox="219 521 755 563">(2) I.D. Number (Governor's Office Use)</p> <p data-bbox="219 595 349 638">16A-5612</p>		
<p data-bbox="219 680 414 723">(3) Short Title</p> <p data-bbox="219 744 511 787">Renewal Fee Increase</p>		
<p data-bbox="219 829 446 872">(4) PA Code Cite</p> <p data-bbox="219 904 495 946">49 Pa. Code § 35.203</p>	<p data-bbox="722 829 1299 872">(5) Agency Contacts & Telephone Numbers</p> <p data-bbox="763 872 1437 978"> Primary Contact: Judith Pachter Schulder, State Real Estate Commission 717-783-7200 </p> <p data-bbox="763 978 1339 1095"> Secondary Contact: Joyce McKeever, Deputy Chief Counsel 717-783-7200 </p>	
<p data-bbox="219 1117 698 1159">(6) Type of Rulemaking (check one)</p> <p data-bbox="219 1191 568 1234"><input type="checkbox"/> Proposed Rulemaking</p> <p data-bbox="219 1234 714 1276"><input checked="" type="checkbox"/> Final Order Adopting Regulation</p> <p data-bbox="219 1276 730 1319"><input type="checkbox"/> Final Order, Proposed Rulemaking</p> <p data-bbox="219 1319 324 1361"><input type="checkbox"/> Omitted</p>	<p data-bbox="868 1117 1412 1191">(7) Is a 120-Day Emergency Certification Attached?</p> <p data-bbox="876 1234 974 1276"><input checked="" type="checkbox"/> No</p> <p data-bbox="876 1276 1331 1319"><input type="checkbox"/> Yes: By the Attorney General</p> <p data-bbox="876 1319 1218 1361"><input type="checkbox"/> Yes: By the Governor</p>	
<p data-bbox="219 1383 1128 1425">(8) Briefly explain the regulation in clear and nontechnical language.</p> <p data-bbox="219 1425 1510 1574">The regulation increases the biennial renewal fees for all real estate license holders and annual renewal registration for promotional property and real estate education providers, courses and instructors. The new fee is needed because the current fee, established in 1994, no longer covers the cost of sustaining the Commission's operations.</p>		
<p data-bbox="219 1617 1510 1659">(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p data-bbox="219 1659 1510 1734">The amendments are authorized under sections 407(a) and of the Real Estate Licensing and Registration Act (RELRA) (63 P.S. § 455.407(a)).</p>		

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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.

Yes. The Commission is required by section 407(a) of the RELRA (63 P.S. § 455.407(a)) to reconcile its expenses and revenue biennially and to increase fees as needed to meet or exceed projected expenditures.

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

The Commission is required by section 407(a) of the RELRA (63 P.S. § 455.407(a)) to set fees to raise sufficient revenue to meet expenditures. It is anticipated that without raising fees the Commission will realize a deficit of \$30,803.97 dollars by fiscal year 2004-2005. By FY 2010-2011, BFO anticipates that the deficit will increase to \$4,670,802.97.

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

Nonregulation would adversely impact the fiscal integrity of the Commission.

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

Recipients of real estate services in the Commonwealth will benefit by having adequate funding for the Commission to regulate the profession to insure that the appropriate standards of professional competence and integrity are maintained.

Regulatory Analysis Form

(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 licensee population will bear the cost of the increased fee.

(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 real estate brokers, salespersons, cemetery brokers, cemetery salespersons, rental referral agents, campground membership salespersons and builder-owner salespersons seeking to renew their licenses will be required to comply with this regulation. The Commission estimates 52,412 renewals.

(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.

Notice of proposed rulemaking was published at 35 *Pa.B.* 2411 (April 23, 2005). Publication was followed by a 30-day public comment period during which the Board received two public comments: one from the Pennsylvania Association of Realtors (PAR) in support of the proposal and one from the Realtors Association of Greater Pittsburgh (RAMP) in opposition to the proposal. Following the close of the public comment period, the Board received a comment from the House Professional Licensure Committee (HPLC). The Independent Regulatory Review Commission (IRRC) advised that it had no comments, questions or recommendations to the regulation. The Board did not receive any comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). In response to RAMP's comment, the Commission explained the financial need for the increase.

(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.

The Commission estimates that 52,412 real estate licensees will renew their licenses. Total additional renewal cost for the entire regulated community is approximately \$1,695,952.00. No legal, accounting or consulting procedures will be implicated in complying with the regulatory amendments.

Regulatory Analysis Form

(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.

Local governments will not be affected by the 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 that may be required.

The Commission will not incur an increase in administrative costs by implementing the regulation. Indeed, the regulatory amendments will permit the Commission to recoup the costs of its operations.

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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 Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community	\$700,000	\$4,070,226	1,017,556	4,070,226	1,017,556	4,070,226
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

See attached fee report forms. The cost estimates are based upon the licensee population of 52,412. The fees are charged annually or biennially depending upon the renewal cycle.

Annual renewal

Instruction, Course and Satellite Location - \$38,460.00 (2,564 renewals x \$15.00) (\$5 increase per license)
 Promotional Property - \$8,362.00 (74 renewals x \$113.00) (\$38 increase per license)
 Real Estate Education Provider - \$12,750.00 (34 renewals x \$375.00) (\$125 increase per license)

Biennial Renewal

Cemetery company registration, associate broker, salesperson, cemetery associate broker, cemetery salesperson, builder-owner salesperson, time-share salesperson, campground membership salesperson - \$3,964,896.00 (41,301 renewals x 96.00) (\$32 increase per license)

Broker, cemetery broker, branch office, rental listing referral agent, broker of record, partner or officer for a partnership, association or corporation - \$1,063,314.00 (8,439 x \$126.00) (\$42 increase per license)

Total Estimated Renewable Revenue from above license types: \$5,087,782.00.

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 FY 01-02 Actual	FY -2 FY 02-03 Actual	FY -1 FY 03-04 Projected	Current FY FY 04-05 Budgeted
State Real Estate Commission	1,984,809.47	2,371,710.25	2,634,693.11	2,932,000.00

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

The amendments to the existing regulations are mandated by section 407(a) of the RELRA (63 P.S. § 455.407(a)), so that Commission revenues meet Commission expenses.

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

No nonregulatory alternatives were considered. See Question 21.

(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. See Question 21.

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 licensure standards.

(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 licensees at a competitive disadvantage with other states, as the proposed fees for brokers, associate brokers and salespersons are competitive with surrounding states. There are no comparables for real estate education providers or promotional property registration.

	PA	OH	NJ	DL	MD	NY	CN	MA	WVA
Broker/ Cemetery Broker biennial renewal	\$126	\$49	\$200	\$113	\$95	\$150	\$300	\$127	\$100
Salesper- son/assoc iate broker biennial renewal	\$96	\$39	\$100	\$58	\$65/ associate broker \$45/ sales person	\$150/ associate broker \$50/sales person	\$225	\$93	\$50
Educa- tion provider renewal	\$375		\$400/ non- public schools \$0/ public schools \$200/each additional locations			N/A			
Instruct- or Renewal	\$15		\$100			N/A			
Course Renewal	\$15	\$50 for the 1 st offering and \$10 foe each				\$300/ pre- licensure \$150/ each			

		successive offering				branch \$25/each CE branch and course			
Promotional Property Registration	\$113	N/A	N/A			N/A			

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

No.

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

The Commission reviews regulatory proposals at regularly scheduled public meetings. However, in light of the statutory mandate, the Commission has not scheduled public hearings or informational meetings regarding this regulation.

Regulatory Analysis Form

(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 Commission has perceived no special needs of any subset of its applicants or licensees for whom 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 Commission reviews its revenues and costs of its programs on a fiscal year and biennial basis.

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LEGISLATIVE REGULATORY
REVIEW COMMISSION

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

(Pursuant to Commonwealth Documents Law)

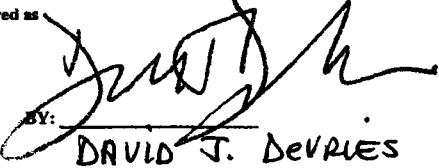
2476

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General copy of a document issued, prescribed or promulgated by: State Real Estate Commission (AGENCY)
Copy below is hereby certified to be a true and correct Executive or Independent Agencies.
Copy below is approved as to form and legality.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Real Estate Commission
(AGENCY)

BY: 
DAVID J. DEVRIES

DOCUMENT/FISCAL NOTE NO. 16A-5612

DATE OF APPROVAL

DATE OF ADOPTION: _____

8.31.05

DATE OF APPROVAL

BY: 
Beverly Brooks

EXECUTIVE

(Deputy General Counsel
(Chief Counsel,
Independent Agency

~~Independent Agency~~
~~Strike-inapplicable.~~

title)

TITLE: Chair, State Real Estate Commission
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

- Check if applicable
Copy not approved.
Objections attached.
- Check if applicable. No Attorney
General approval or
within 30 day

objection
after submission.

**FINAL RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE REAL ESTATE COMMISSION
49 PA. CODE § 35.203
RENEWAL FEE INCREASES**

The State Real Estate Commission (Commission) amends § 35.203 (relating to fees) to read as set forth in Annex A. The final rulemaking increases the following renewal fees:

- Biennial renewal for brokers, cemetery brokers, branch offices, rental listing referral agents, brokers of record and partners or offices for a partnership association or corporation from \$84 to \$126.
- Biennial renewal for cemetery companies, associate brokers, salespersons, cemetery associate brokers, cemetery salespersons or campground membership salespersons from \$64 to \$96.
- Annual renewal of registration of promotional property from \$75 to \$113.
- Annual renewal of approval of real estate education providers from \$250 to \$375 plus an increase from \$10 to \$15 for each satellite location, course or instructor.

Statutory Authority

The final rulemaking is authorized under section 407 of the Real Estate Licensing and Registration Act (RELRA) (63 P.S. § 455.407). It requires the Commission to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet Commission expenditures.

Response to comments

Notice of proposed rulemaking was published at 35 *Pa.B.* 2411 (April 23, 2005). Publication was followed by a 30-day public comment period during which the Board received two public comments: one from the Pennsylvania Association of Realtors (PAR) in support of the proposal and one from the Realtors Association of Greater Pittsburgh (RAMP) in opposition to the proposal. Following the close of the public comment period, the Board received a comment from the House Professional Licensure Committee (HPLC). The Independent Regulatory Review Commission (IRRC) advised that it had no comments, questions or recommendations to the regulation. The Board did not receive any comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). The following is in response to the comment submitted by the HPLC and RAMP.

The HPLC commented that the Annex delivered to the Committee was missing a comma, however, prior to its publication in the *Pennsylvania Bulletin*, the Legislative Reference Bureau inserted a comma. RAMP voiced its opposition to the fee increases on the grounds that the increases “will generate significantly more money than what may be needed” by the Commission. RAMP recommended that the Commission “tighten” its budget.

The Commission is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In accordance with section 407(a) of the RELRA (63 P.S. § 455.407(a)), if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period, the Commission must increase its revenue. The Commission's current license renewal fees were established by regulation on May 20, 1994. (See 24 Pa. B. 2613).

According to a presentation made to the Commission by the Bureau of Finance and Operations (BFO) at its January 25-26, 2005 meeting, without the increase, the Commission would experience a projected deficit of \$30,802.97 in fiscal year 2004-2005 and continuing thereafter. The BFO recommended that the Commission raise fees 50% to meet or exceed projected expenditures in compliance with section 407(a) of the RELRA (63 P.S. § 455.407(a)). Under the fee structure without amendment, BFO estimated that at the close of FY 2004-2005, the Commission's expenses would exceed its revenues by \$30,522.66. By FY 2010-2011, BFO anticipated that the deficit would increase to \$4,670,802.97.

Although the Commission continues to look at ways to streamline procedures to cut costs, the fee increases are still necessary to maintain a positive balance in the Commission account. Additionally, the fees are comparable to the renewal fees charged in surrounding states and therefore will not cause a competitive disadvantage to the Commonwealth. Accordingly, the Commission has not revised it Annex.

Compliance with Executive Order 1996-1

The Board reviewed this rulemaking and considered its purpose and likely impact on the public and the regulated population under the directives of Executive Order 1996-1.

Fiscal Impact

The amendments will increase the renewal fees for brokers, cemetery brokers, branch offices, rental listing referral agents, brokers of record and partners or officers of a partnership association or corporation, cemetery companies, associate brokers, salespersons, cemetery associate brokers, cemetery salespersons, campground membership salespersons, promotional property registration, approval of real estate education providers, satellite locations, courses and instructors. The amendments have no other fiscal impact on the private sector, the general public or political subdivisions.

Sunset Date

The RELRA requires that the Commission monitor its revenue and expenses on a fiscal

year and biennial 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 Commission submitted copies of the notice of proposed rulemaking, published at 35 *Pa.B.* 2411, on April 23, 2005, to IRRC and the Chairpersons of the SCP/PLC and the HPLC for review and comment.

In compliance with section 5(c) of the Regulatory Review Act, the Commission also provided IRRC, the SCP/PLC, and the HPLC with copies of comments received as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the SCP/PLC, the HPLC and the public.

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 HPLC on _____, ____2005, and (deemed) approved by the SCP/PLC on _____, ____2005. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, 2005, and (deemed) the final-form regulation approved.

Public Comment

Further information may be obtained by contacting Debi Misheck, Administrator, State Real Estate Commission, at P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649, or by telephone at (717) 783-3658.

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

SUB PART 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:

Biennial renewal of license of broker, cemetery broker, branch office, rental listing referral agent [,] or broker of record, partner or officer for a partnership, association or corporation.....\$[84] 126

Biennial renewal of cemetery company registration or license of associate broker, salesperson, cemetery associate broker, cemetery salesperson or campground membership salesperson.....\$[64] 96

* * * *

**Annex 16A-5612
Biennial Renewal Fee Increase
July 27, 2005**

Annual renewal of registration of promotional real estate.....\$[75]113

* * * *

Annual renewal of approval of real estate education provider.....\$[250] 375

plus \$ [10] 15 for each satellite location, course and instructor

* * * *

authority of a presiding officer under 1 Pa. Code § 35.114 (relating to authority of presiding officer at conference).

§ 19.38. Posthearing briefs.

(a) *Posthearing briefs.* Posthearing briefs must conform to 1 Pa. Code § 35.192 (relating to content and form of briefs), except that a brief may not have appended to it any copy of an exhibit or any notes of testimony.

(b) *Reply briefs.* A party may file a reply brief no later than 7 days after an opposing party's filing of a posthearing brief.

[Pa.B. Doc. No. 05-768. Filed for public inspection April 22, 2005, 9:00 a.m.]

**STATE REAL ESTATE
COMMISSION**

[49 PA. CODE CH. 35]

Biennial Renewal Fee Increases

The State Real Estate Commission (Commission) proposes to amend § 35.203 (relating to fees) to read as set forth in Annex A. The proposed rulemaking would increase the following renewal fees:

- Biennial renewal for brokers, cemetery brokers, branch offices, rental listing referral agents, brokers of record and partners or offices for a partnership association or corporation from \$84 to \$126.

- Biennial renewal for cemetery companies, associate brokers, salespersons, cemetery associate brokers, cemetery salespersons or campground membership salespersons from \$64 to \$96.

- Annual renewal of registration of promotional property from \$75 to \$113.

- Annual renewal of approval of real estate education providers from \$250 to \$375 plus an increase from \$10 to \$15 for each satellite location, course or instructor.

Effective Date

The final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*. The new fees will take effect for the biennial period beginning June 1, 2006.

Statutory Authority

The proposed rulemaking is authorized under section 407 of the Real Estate Licensing and Registration Act (RELRA) (63 P. S. § 455.407). It requires the Commission to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet Commission expenditures.

Background and Need for Amendment

Fees to renew real estate licenses were last increased in 1994. The Commission is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In accordance with section 407(a) of the RELRA, if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period, the Commission must increase its revenue.

The Commission raises virtually all of its operating revenue (exclusive of application and services fees) through renewal fees. The license renewal fees are the most substantial revenue-generating fee of all the fees

charged by the Commission. The Commission's current license renewal fees were established by regulation at 24 Pa.B. 2613 (May 21, 1994).

At its January 25-26, 2005, Commission meeting, the Bureau of Finance and Operations (BFO) presented a summary of the Commission's revenue and expenses for Fiscal Years (FY) 2001-2002 and 2003-2004 and projected revenue and expenses for FYs 2003-2004 through 2010-2011. The summary, presented in the following table, demonstrated that the Commission must raise fees to meet or exceed projected expenditures to comply with section 407(a) of the RELRA through FY 2004-2005. The Offices of Revenue and Budget projected a deficit of \$30,802.97 in FY 2004-2005 and continuing thereafter. The BFO recommended that the Commission raise fees 50% to meet or exceed projected expenditures in compliance with section 407(a) of the RELRA.

2001-2002 beginning balance	\$95,833.32
FY 01-02 revenue	3,130,883.12
Adjusted for prior year expenses	140,136.82
Prior year returned funds	0.00
FY 01-02 expenses	2,223,000.00
Remaining balance	863,579.62
2002-2003 beginning balance	\$863,579.62
FY 02-03 revenue	1,387,457.66
Prior year returned funds	0.00
FY 02-03 expenses	2,312,000.00
Remaining balance	(60,962.72)
2003-2004 beginning balance	\$ (60,962.72)
FY 03-04 revenue	3,559,203.99
FY 03-04 expenses	2,372,000.00
Remaining balance	1,126,241.27
2004-2005 beginning balance	\$1,126,241.27
FY 04-05 projected revenue	1,400,000.00
Prior year returned funds	697,359.12
Adjusted for prior year expenses	322,403.36
FY 04-05 projected expenses	2,932,000.00
Remaining balance	(30,802.97)
2005-2006 beginning balance	(30,802.97)
FY 05-06 projected revenue	3,500,000.00
FY 05-06 projected expenses	2,900,000.00
Remaining balance	479,197.03
2006-2007 beginning balance	479,197.03
FY 06-07 projected revenue	1,400,000.00
FY 06-07 projected expenses	3,080,000.00
Remaining balance	(1,200,802.97)
2007-2008 beginning balance	(1,200,802.97)
FY 07-08 projected revenue	3,500,000.00
FY 07-08 projected expenses	3,172,000.00
Remaining balance	(872,802.97)
2008-2009 beginning balance	(872,802.97)
FY 08-09 projected revenue	1,400,000.00
FY 08-09 projected expenses	3,267,000.00
Remaining balance	(2,739,802.97)
2009-2010 beginning balance	(2,739,802.97)
FY 09-10 projected revenue	3,500,000.00
FY 09-10 projected expenses	3,365,000.00
Remaining balance	(2,604,802.97)
2010-2011 beginning balance	(2,604,802.97)
FY 10-11 projected revenue	1,400,000.00
FY 10-11 projected expenses	3,466,000.00
Remaining balance	(4,670,802.97)

Under the current fee structure, the BFO estimates that at the close of FY 2004-2005, the Commission's

expenses will exceed its revenues by \$30,522.66. By FY 2010-2011, BFO anticipates that the deficit will increase to \$4,670,802.97.

The increases in the Commission's biennial expenses occurred primarily in the Bureau of Enforcement and Investigation (BEI) and Board Administration. Nontravel BEI expenditures were budgeted at \$799,500 in FY 2003-2004 but will increase to a projected expense of \$1,043,399.34, a difference of \$243,899.34 from budgeted. Board administration was budgeted at \$580,000 in FY 2003-2004 but increased to a projected 664,651.95, a difference of \$84,651.95.

The BEI projected expense increase occurred as a result of the increased number of investigations and inspections in FY 2003-2004. Based on an average of the BEI's expenditures for the past 3 years, the BEI was allocated 1,559.33 investigative and inspection activities with 9,942.31 hours in performance time for FY 2003-2004. In actuality, 1,761 investigative and inspection activities were performed, totaling about 11,840.5 hours, putting the BEI over the projection by 201.67 activities and 1,898.19 hours. In 2002-2003, the BEI spent 9,354.92 hours on investigations and inspections. In FY 2001-2002, the BEI spent 10,603.3 hours on investigations and inspections. In FY 2000-2001, the BEI spent 9,868.70 hours on investigations and inspections.

The increase in the Commission's administration costs can be attributed to the following:

1. Wages increased by approximately \$27,000 due to overtime costs to process renewal applications.

2. FY 2003-2004 health benefits increased \$68.35 per employee. Also, each agency was assessed a one-time charge of \$942 per employee to be deposited into the Pennsylvania Employees Benefit Trust Fund (PEBTF). The Commission's share of the increased benefit costs and the one-time PEBTF payment was approximately \$30,000.

3. The Commission's share of FY 2003-2004 rent of real estate costs increased approximately \$19,000. This increase is a result of a full year of rent paid at a higher rate for Penn Center that at the Pine Street location. In FY 2002-2003, only 2 months rent was paid at the higher rate.

4. The Commission's FY 2003-2004 share of the Bureau of Professional and Occupational Affairs' (BPOA) data powerhouse costs (servers for License 2000) increased by approximately \$12,000. This is a result of the increase in the BPOA's FY 2003-2004 monthly data powerhouse assessment and for a one-time balloon payment of approximately \$50,000. The Commission's share of these assessments is based on licensee population.

The Commission reviewed various alternative fee structures to ensure the lowest fee increase possible while at the same time insuring the Commission's solvency. Although the Commission is looking at ways to streamline procedures to cut costs, the fee increases are still necessary to maintain a positive balance in the Commission account. Finally, in developing the proposed rulemaking, the Commission reviewed fees of other states. It found that the proposed fees are comparable to the renewal fees charged in surrounding states and should cause no competitive disadvantage to the Commonwealth.

Description of Proposed Rulemaking

Based upon the previous expense and revenue estimates provided to the Commission, the Commission proposes to amend § 35.203 to increase the fee for biennial

renewal of licenses for brokers, cemetery brokers, branch offices, rental listing referral agents, brokers of record and partners or officers for a partnership association or corporation from \$84 to \$126 and cemetery companies, associate brokers, salespersons, cemetery associate brokers, cemetery salespersons or campground membership salespersons from \$64 to \$96 as well as increase the annual renewal registration of promotional property from \$75 to \$113 and the renewal of approval of real estate education provider from \$250 to \$375 plus \$15 for each satellite location, course and instructor instead of \$10. By this increase, the Commission will recoup the FY 2004-2005 projected deficit and enable the Commission's account to carry a positive balance by FY 2005-2006.

Fiscal Impact

The proposed rulemaking will increase the renewal fees for brokers, cemetery brokers, branch offices, rental listing referral agents, brokers of record and partners or officers of a partnership association or corporation, cemetery companies, associate brokers, salespersons, cemetery associate brokers, cemetery salespersons, campground membership salespersons, promotional property registration, approval of real estate education providers, satellite locations, courses and instructors. The proposed rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The proposed rulemaking will require the Commission to alter some of its forms to reflect the new renewal fees; however, the proposed rulemaking should not create additional paperwork for the private sector.

Sunset Date

The RELRA requires that the Commission monitor its revenue and expenses on an FY and biennial 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)), on April 13, 2005, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Debi Sopko, Administrator, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

BEVERLY BROOKS,
Chairperson

Fiscal Note: 16A-5612. No fiscal impact; (8) recommends adoption.

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:

* * * * *

Biennial renewal of license of broker, cemetery broker, branch office, rental listing referral agent [,] or broker of record, partner or officer for a partnership, association or corporation \$ [84] 126

Biennial renewal of cemetery company registration or license of associate broker, salesperson, cemetery associate broker, cemetery salesperson or campground membership salesperson \$ [64] 96

* * * * *

Annual renewal of registration of promotional real estate \$ [75] 113

* * * * *

Annual renewal of approval of real estate education provider \$ [250] 375 plus \$ [10] 15 for each satellite location, course and instructor

* * * * *

[Pa.B. Doc. No. 05-769. Filed for public inspection April 22, 2005, 9:00 a.m.]

FEE REPORT FORM

Agency: State - BPOA

Date: 01/26/2005

Contact: Basil Merenda
Commissioner, Bureau of Professional and Occupational Affairs

Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Instruction, Course and Satellite Location -	Annual Renewal Fee: \$15.00
Promotional Property -	Annual Renewal Fee: \$113.00
Real Estate Education Provider -	Annual Renewal Fee: \$375.00

Cemetery company registration, associate broker, salesperson, cemetery associate broker, cemetery salesperson, builder-owner salesperson, time-share salesperson, campground membership salesperson - Biennial Renewal Fee: \$96.00

Broker, cemetery broker, branch office, rental listing referral agent, broker of record, partner or officer for a partnership, association or corporation - Biennial Renewal Fee: \$126.00

Estimated Annual and Biennial Revenue:

Instruction, Course and Satellite Location -	\$38,460.00 (2,564 renewals x \$15.00)
Promotional Property -	\$8,362.00 (74 renewals x \$113.00)
Real Estate Education Provider -	\$12,750.00 (34 renewals x \$375.00)

Cemetery company registration, associate broker, salesperson, cemetery associate broker, cemetery salesperson, builder-owner salesperson, time-share salesperson, campground membership salesperson - \$3,964,896.00 (41,301 renewals x 96.00)

Broker, cemetery broker, branch office, rental listing referral agent, broker of record, partner or officer for a partnership, association or corporation - \$1,063,314.00 (8,439 x \$126.00)

Total Estimated Renewable Revenue from above license types: \$5,087,782.00.

Fee Description:

The fee will be charged annually or biennially depending upon renewal cycle to every applicant for license renewal.

Fee Objective:

The fee should defray a substantial portion of the Real Estate Commission's administrative overhead, specifically the difference between the Commission's total biennial expenditures and its total biennial revenues from non-renewal sources.

Fee-Related Activities and Costs:

Estimated balance at end of 04/05 cycle:	(30,802.97)
FOR BIENNIAL CYCLE 7/01/05-6/30/06	
Estimated non-renewal revenue:	700,000.00
Estimated renewal revenue @ above rates:	4,070,225.60
Total revenue available:	4,739,422.63
Estimated expenditures:	2,900,000.00
Estimated ending balance on 6/30/06:	<u>1,839,422.63</u>
FOR BIENNIAL CYCLE 7/01/06-6/30/07	
Estimated non-renewal revenue:	700,000.00
Estimated renewal revenue @ above rates:	1,017,556.40
Estimated expenditures:	2,987,000.00
Estimated ending balance on 6/30/07:	<u>569,979.03</u>

Analysis, Comment, and Recommendation:

It is recommended that the above renewal fee's be established to cover shortfalls in the Real Estate Commission's total biennial expenditures and its total biennial revenues from non-renewal sources.



Pennsylvania Association of REALTORS®

The Voice for Real Estate® in Pennsylvania

4501 Chambers Hill Road
Harrisburg, PA 17111-2406
Telephone (717) 561-1303
Fax (717) 561-8796

May 19, 2005

Judith Pachter Schulder, Counsel
State Real Estate Commission
PO Box 2649
Harrisburg, PA 17105-2649

Dear Ms. Schulder:

As an organization that represents 30,000 of the Commonwealth's real estate licensees, the Pennsylvania Association of REALTORS® (PAR) welcomes the opportunity to provide input on the proposed regulation titled "Biennial Renewal Fee Increases" (16A-5612) published in the April 23rd edition of *The Pennsylvania Bulletin*.

The proposed regulation provides for a 50% increase in the biennial renewal fees for real estate licensees including brokers and associate brokers, cemetery brokers and salespersons, rental listing referral agents, and salespersons. The proposal also increases fees for promotional property registration, approval of real estate education providers, satellite locations, courses and instructors.

Under provisions of the Real Estate Licensing and Registration Act, the Real Estate Commission must generate enough revenue so as to meet or exceed projected expenditures. Although PAR puts forward no barrier towards this fee increase, we note that administrative costs associated with staff to process renewal applications is one reason why the Commission is over-budget.

A backlog of application processing happens with every renewal cycle and, as the Commission is aware, is a point of continued strain within our membership. We therefore ask the Commission to urge the Bureau of Professional and Occupational Affairs to use the additional monies raised by the proposed fee increase to hire additional staff for processing renewal applications and other duties as required by the Commission.

We thank the Commission for their due diligence in examining other avenues before proceeding with this proposed fee increase. Again, thank you for the opportunity to comment on this regulatory proposal. Please feel free to contact me should you have any questions.

Sincerely,

Derenda Updegrave

Derenda Updegrave
Director, Government Affairs

**REALTORS® ASSOCIATION
OF
METROPOLITAN PITTSBURGH**
Established 1911
"THE VOICE FOR REAL ESTATE"

1427 W. Liberty Avenue
Pittsburgh, PA 15226

Phone: 412-563-5200
Fax: 412-563-0255

ramp@realtorspgh.com
www.realtorspgh.com



May 23, 2005

Ms. Debi Sopko
Administrator
State Real Estate Commission
P.O. Box 2649
Harrisburg, PA 17105

~~VIA FACSIMILE (717-787-0250) - hard copy to follow~~ Hand Delivered to Judith Pachter
Schubler, Council

Dear Ms. Sopko:

The REALTORS® Association of Metropolitan Pittsburgh (RAMP), with its more than 2,700 members, appreciates the opportunity to comment on the proposed regulation titled "Biennial Renewal Fee Increases" (16A-5612) published in the April 23rd edition of *The Pennsylvania Bulletin*.

The proposed regulation provides for a 50% increase in the biennial renewal fees for real estate licensees including brokers and associate brokers, cemetery brokers and salespersons, rental listing referral agents, and salespersons. The proposal also increases fees for promotional property registration, approval of real estate education providers, satellite locations, courses and instructors.

The REALTORS® Association of Metropolitan Pittsburgh is vehemently opposed to the proposed increases and urges the State Real Estate Commission to examine other options.

Based on the budgetary data published in the proposed regulation, RAMP believes that any budgetary shortfall currently forecast could be resolved through budget "tightening" or other options. The proposed increases, in our opinion, will generate significantly more money than what may be needed by the State Real Estate Commission and are not currently justified.

RAMP appreciates the opportunity to comment on the proposed renewal fee increases and requests you give our comments your full and thoughtful consideration.

Sincerely,

Victoria M. Lowry
President

Regulation 16A-5612

State Real Estate Commission

PROPOSAL: Regulation 16A-5612 amends 49 Pa. Code, Chapter 33, regulations of the State Real Estate Commission. The proposed amendment increases the biennial renewal fee for: (a) a broker's license; (2) a cemetery broker's license; (3) a license for a branch office; (4) a license for a rental listing referral agent or a broker of record; (5) a license for a partner or officer of a partnership, association, or corporation; (6) a license for a cemetery company; (7) a license of an associate broker or salesperson; (8) a license for a cemetery associate broker or salesperson; and (9) a license for a campground membership salesperson. In addition, the proposed regulation raises the annual renewal fee for registration of promotional real estate, as well as the annual renewal fees associated with the provision of real estate education, such as the fee for approval of a real estate education provider, a satellite location, a real estate course and a real estate instructor.

Essentially, this regulation increases the renewal fees for licenses issued by the State Real Estate Commission. According to the commission, the fee increase will take effect for the biennial renewal period commencing June 1, 2006.

Regulation 16A-5612 is proposed rulemaking which was published in the Pennsylvania Bulletin on April 23, 2005.

ANALYSIS: Section 407 of the Real Estate Licensing and Registration Act empowers the commission to fix fees for licenses. Further, Section 407 requires the commission to raise fees if the revenue generated by fees, fines and civil penalties are insufficient to meet the commission's expenditures.

Regulation 16A-5612 proposes to raise the following fees:

- (1) biennial renewal of license of broker, cemetery broker, branch office, rental listing referral agent or broker of record, partner or officer of a partnership, association or corporation \$126 (up from \$84)
- (2) biennial renewal of cemetery company registration or license of associate broker, salesperson, cemetery associate broker, cemetery salesperson or campground membership salesperson \$96 (up from \$64)
- (3) annual renewal of registration of promotional real estate \$113 (up from \$75)
- (4) annual renewal of approval of real estate education provider \$375 (up from \$250)
- (5) annual renewal of satellite location, course or instructor for a real estate education provider \$15 (up from \$10)

According to the commission, virtually all of the commission's revenues are raised through renewal fees. Further, according to the commission, the renewal fees have not been increased since 1994.

Further, according to the commission, the increase in the commission's expenses are due to investigative and inspection costs, as well as costs relating to administration. The commission has indicated that there has been a marked increase in investigations and inspections.

The commission stated that according to the Department of State's Bureau of Finance and Operations, there will be a deficit of \$30,522 at the close of fiscal year 2004-2005. By 2010-2011, the Bureau of Finance and Operations anticipates a deficit of \$4.6 million dollars.

According to the commission, the fee increase will allow the commission to erase the deficit for 2004-2005 and will enable the commission to carry a positive balance by fiscal year 2005-2006.

RECOMMENDATION: It is recommended the House Professional Licensure Committee take no formal action until final regulations are promulgated and to submit the following comment:

1. With respect to Section 35.203 Fees, the committee notes a drafting error with respect to the biennial renewal of licenses associated with cemeteries. The committee recommends a comma be placed after "associate broker."

Professional Licensure Committee
House of Representatives
June 7, 2005



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

September 30, 2005

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

Re: Final Regulation
State Real Estate Commission
16A-5612: Biennial Renewal Fee Increase

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Real Estate Commission pertaining to Biennial Renewal Fee Increase.

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

Sincerely,
Handwritten signature of Beverly R. Brookes in black ink.

Beverly R. Brookes, Chair
State Real Estate Commission

BRB:JPS:apm

Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Albert Masland, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Gerald S. Smith, 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**

I.D. NUMBER: 16A-5612
 SUBJECT: State Real Estate Commission: Renewal Fee Increases
 AGENCY: DEPARTMENT OF STATE

2476

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

RECEIVED
 2005 SEP 30 AM 11:06
 ATTORNEY GENERAL
 REVENUE COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
9/30/05	<i>Sandra Harper</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
9/30/05	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
9/30/05	<i>Stephen Amel</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
9/30/05	<i>Steph F. Aff</i>	ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

September 1, 2005