

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

(1) Agency

Department of State, Bureau of Professional and
Occupational Affairs, State Board of Auctioneer Examiners

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

16A-646

IRRC Number: 2522

(3) Short Title

Corrective Amendment to Schedule of Fees

(4) PA Code Cite

49 Pa. Code, § 1.41

(5) Agency Contacts & Telephone Numbers

Primary Contact: **Carmen L. Rivera, Counsel**
State Board of Auctioneer Examiners (717) 783-7200
Secondary Contact: **Joyce McKeever, Deputy Chief**
Counsel, Department of State (717) 783-7200

(6) Type of Rulemaking (check one)

Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Omitted
 Policy Statement

(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 corrects the official text of the Board's schedule of fees. A line was inadvertently dropped from the fee schedule when it was amended in 2001. This corrective amendment restores the line that was dropped and clarifies that the application fee for auction house or auction company is \$50 and the biennial renewal fee for auction house and auction company is \$200.

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

Section 6(a) of the Auctioneer and Auction Licensing Act (act)(63 P.S. § 7.34(a)) requires the Board to establish fees by regulation. This corrective amendment to the fee schedule is authorized under 45 Pa.C.S. § 901 and the regulations promulgated thereunder at 1 Pa. Code § 5.1(a)(relating to official text of published documents).

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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.

The regulation is not mandated by any federal or state law, court order or federal regulation.

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

The corrective amendment corrects the official text of the Board's schedule of fees relating to the application fee for auction house and auction company and the biennial renewal fee for auction house and auction company. These fees were originally promulgated in 1998 at \$50 and \$200 respectively. A line was inadvertently dropped from the fee schedule when it was amended in 2001, resulting in the error in the fee schedule as it currently appears in the Pennsylvania Code.

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

The regulated community will be unclear as to the correct fees.

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

Applicants for initial licensure as an auction house or auction company and current licensees who renew their licenses will benefit as the official text does not contain accurate information as to the required fees as adopted by the Board.

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 Board had identified no groups or individuals who will be adversely affected by the regulation, as it is merely correcting an error in the text of the Board's schedule of fees.

(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 applicants for initial licensure as an auction house or auction company and all currently licensed auction houses and auction companies will be required to comply with the regulation.

(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.

No input from the public was sought in the development and drafting of this corrective amendment. Public input was obtained in 1998 when the fees were originally promulgated. See 28 Pa.B. 1559.

(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 which may be required.

No specific costs or savings to the regulated community are anticipated. The regulation merely corrects the official text of the Board's regulations relating to its schedule of fees.

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(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.

There are no anticipated costs or savings to local government associated with this 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 which may be required.

There are no anticipated costs or savings to state government associated with this regulation.

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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 Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

There are no anticipated costs associated with the rulemaking.

Regulatory Analysis Form

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

Program	FY -3	FY -2	FY -1	Current FY
State Board of Auctioneer Examiners	\$385,355.33	\$162,878.19	\$157,961.09	\$187,000.00

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

There are no adverse effects or costs associated with the regulation. The regulated community will benefit because the schedule of fees will accurately reflect the fees adopted by the Board.

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

Because the schedule of fees is already in the Board's regulations, it must be amended by this rulemaking in order to correct these fees. For that reason, no nonregulatory alternatives were considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative nonregulatory schemes were considered.

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 standards relevant to this regulation.

(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 at a disadvantage with other states. A survey was made of nearby states requiring statewide auction licensing. Ohio adopts its fees by statute. North Carolina, Maine and Virginia adopt fees by regulation. Kentucky does not set its fees by regulation or statute.

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

The regulation does not affect any other existing or proposed regulations of the Board or other state agencies.

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

The Board meets in public session at least 5 times per year at 2601 North Third Street in Harrisburg, Pennsylvania. Comments from the public are always invited at the Board's meetings.

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.

The regulation does not change any existing reporting, record keeping or other paperwork requirements.

(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 Board has identified no particular groups or persons who need special provisions in this regulation. It affects all auctioneers, auction houses and auction companies equally.

(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 corrective amendment will be effective retroactively to the date of the defective official text, December 22, 2001, as permitted under 1 Pa. Code § 5.1(a).

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

The Board continuously reviews its regulations, periodically communicates with licensees through newsletters and at public meetings, and obtains information and feedback from its licensees on an ongoing basis.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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INDEPENDENT REGULATORY
REVIEW COMMISSION

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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)

State Board of Auctioneer Examiners
(AGENCY)

BY: 
ANDREW C. CLARK

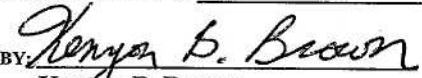
DOCUMENT/FISCAL NOTE NO. 16A-646

DEC 12 2005

DATE OF APPROVAL

DATE OF ADOPTION: _____

DATE OF APPROVAL

BY: 
Kenyon B. Brown

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

TITLE: Chairperson
(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/PROPOSED OMITTED RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF AUCTIONEER EXAMINERS
49 PA. CODE, CHAPTER 1, § 1.41

CORRECTIVE AMENDMENT TO SCHEDULE OF FEES

[Faint, illegible text]

PREAMBLE

The State Board of Auctioneer Examiners (Board) amends § 1.41 (relating to schedule of fees) to read as set forth in Annex A.

Omission of Proposed Rulemaking

Under authority of section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) (known as the Commonwealth Documents Law) (CDL) (45 P.S. § 1204(3)), the Board has omitted the procedures for proposed rulemaking set forth in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202). Proposed rulemaking has been omitted because public comment is unnecessary in that this amendment merely corrects the Board's fee schedule to replace a line that was inadvertently dropped when the section was amended in 2001, and because public comment on the fees was provided at the time they were originally adopted in 1998. Additionally, 45 Pa.C.S. §901 (relating to official text of published documents) and regulations of the Legislative Reference Bureau (LRB) at 1 Pa. Code § 5.1 (relating to official text of published documents) provide that if an agency discovers a discrepancy between the agency text and the official text of a document, the agency shall deposit with the LRB, without regard to the requirements relating to notice of proposed rulemaking and adoption of regulations, an appropriate corrective amendment to the official text.

Description of Final-Omitted Rulemaking

Section 1.41 is amended to clarify that the application fee for auction house and auction company is \$50 and that the fee for biennial renewal for auction house and auction company is \$200 as originally established by the Board in 1998. The 2001 amendments to § 1.41 were not intended to change these fees. At that time, a line was inadvertently dropped from the original language of this section resulting in the inaccurate fees that appear in the official text.

Background and Need for Amendment

Section 1.41 was added to this Chapter in 1998, when the Board restructured its regulations to provide a section where all fees would be conveniently located. As proposed on March 28, 1998, the application fee for auction house and auction company was \$50 and the biennial renewal fee for auction house and auction company was \$200. See 28 Pa.B. 1559. The fees were adopted as final rulemaking on November 28, 1998. See 28 Pa.B. 5869.

When the Board adopted amendments to § 1.41 in 2001, a line was inadvertently dropped from the fee schedule. See Pa.B. 6941. The error resulted in the application fee for auction house and auction company appearing as \$200 in the final rulemaking and the biennial renewal fee for auction house and auction company was dropped completely. The final rulemaking of December 22, 2001, was intended to add additional fees to the

fee schedule. The Board did not intend to make any changes to the existing fees at that time. This rulemaking corrects the fee schedule to include the fees as they were originally adopted and as approved by the Independent Regulatory Review Commission, the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee.

Effective date

As permitted under 1 Pa. Code § 5.1(a), the amendment shall be effective retroactively to the date of the defective official text, December 22, 2001.

Statutory Authority

Section 6(a) of the Auctioneer and Auction Licensing Act (63 P.S. § 734.6(a)) requires the Board to establish fees by regulation. This corrective amendment is authorized under 45 Pa.C.S. § 901 and the regulations promulgated thereunder at 1 Pa. Code § 5.1(a)(relating to official text of published documents).

Fiscal Impact and Paperwork Requirements

The final-omitted rulemaking is expected to have no fiscal impact as it merely corrects the official text of the Board's schedule of fees as originally intended. It also imposes no additional paperwork requirements on the Board, the regulated community or the public.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), the Board submitted a copy of the regulation with proposed rulemaking omitted on January 30, 2006 to the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC), and the House Professional Licensure Committee (HPLC). On the same date, the regulation was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101 – 732-506).

In accordance with section 5.1(j.2) of the Act (71 P.S. § 745.5a(j.2)), the regulation was (deemed) approved by HPLC on _____ 2006 and (deemed) approved by SCP/PLC on _____ 2006. Under section 5.1(e) of the Act (71 P.S. §745.5a(e)), IRRC met on _____ 2006 and (deemed) the regulation approved.

Additional Information

Individuals who desire information are invited to submit inquiries to Carmen L. Rivera, Board Counsel, State Board of Auctioneer Examiners, P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649.

Findings

The State Board of Auctioneer Examiners finds that:

(1) Public notice of the Board's intention to amend its regulations as adopted by this order, under the procedures specified in sections 201 and 202 of the Commonwealth Documents Law (CDL) (45 P.S. §§ 1201 and 1202), has been omitted under the authority contained in Section 204(c) of the CDL (45 P.S. § 1204(3)), because the Board has, for good cause, found that the procedures specified in Sections 201 and 202 of the CDL are in this circumstance, unnecessary because the rulemaking corrects an inadvertent error in the official text of the Board's schedule of fees and because public comment was provided at the time the fees were originally adopted in 1998.

(2) The amendment of the regulations of the Board in the manner provided in this order is necessary and appropriate for administering the Auctioneer and Auction Licensing Act.

Order

The State Board of Auctioneer Examiners, acting under the Auctioneer and Auction Licensing Act, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 1, are amended by amending § 1.41 (relating to schedule of fees) to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to form and legality as required by law.

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

(d) This order shall become effective immediately upon publication in the *Pennsylvania Bulletin*.

Kenyon B. Brown, Chairperson
State Board of Auctioneer Examiners

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 1. STATE BOARD OF AUCTIONEER EXAMINERS

FEES

§1.41. Schedule of fees.

Applicants shall pay the following fees:

Application fee for auctioneer license	\$50
Biennial renewal fee for auctioneer license	\$200
Application fee for apprentice auctioneer license	\$30
Biennial renewal fee for apprentice auctioneer	\$100
Application fee for auction house and auction company	<u>\$50</u>
Biennial renewal fee for auction house and auction company	\$200
Special license to conduct auction	\$200
Application fee to approve course	\$45
Application fee to change sponsor	\$15
Application fee to change auction house or auction company license	\$15
Non-resident exam eligibility review	\$25
Certification of scores, permit or registration	\$25
Verification of license, registration, permit or approval	\$15



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF AUCTIONEER EXAMINERS
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-3397

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

Re: Final/Proposed Omitted Regulation
State Board of Auctioneer Examiners
Corrective Amendment to Fee Schedule:16A-646

Dear Chairman McGinley:

Enclosed is a copy of a final/proposed omitted rulemaking package of the State Board of Auctioneer Examiners pertaining to corrective amendment to fee schedule.

The Board 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 black ink that reads "Kenyon B. Brown".

Kenyon B. Brown, Chairperson
State Board of Auctioneer Examiners

KBB/CLR:klh

Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Albert H. Masland, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Herbert Abramson, Senior Counsel in Charge
Department of State
Carmen L. Rivera, Counsel
State Board of Auctioneer Examiners
State Board of Auctioneer Examiners

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

I.D. NUMBER: 16A-646
 SUBJECT: State Board of Auctioneer Examiners: Corrective Amendment to Schedule of Fees
 AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- X 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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 JAN 30 2006
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
3. 1/30/06	<i>Sandra J. Harper</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
4. 01/30/06	<i>Charlotta C. Koser</i>	
1. 1/30/06	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
2. 1/30/06	<i>St. Powell</i>	
1/30/06	<i>St. Belnett</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
1-30-06	<i>Mary Mummert</i>	ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)