

Regulatory Analysis Form

(Completed by Promulgating Agency)



Independent Regulatory Review Commission

INDEPENDENT REGULATORY
REVIEW COMMISSION

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(1) Agency:

Department of State, Bureau of Professional and Occupational Affairs, State Real Estate Commission

(2) Agency Number:

Identification Number: **16A-5615**

IRRC Number: **2810**

(3) Short Title: **Initial Licensure fees**

(4) PA Code Cite: **49 Pa. Code §35.203**

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: **Judith Pachter Schulder, Counsel, State Real Estate Commission, P.O. Box 2649, Harrisburg, PA 17110-2056 787-0251 jschulder@state.pa.us.**

Secondary Contact: **Joyce McKeever, Deputy Chief Counsel, Department of State P.O. Box 2649, Harrisburg, PA 17110-2056 787-0251 jmckeever@state.pa.us.**

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

X Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

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Certification by the Attorney General

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The regulation amends current fees by consolidating the initial licensure fee charged to new applicants from a two-tiered structure to a one-tier structure. Currently applicants for licensure complete a paper application and submit it along with the required fee to the Commission. Those who obtain a license in the first year of the renewal cycle pay 100% of the biennial renewal fee in addition to the application and real estate recovery fees while applicants who obtain a license in the second year of the renewal cycle pay 50% of the renewal fee in addition to the application and real estate recovery fees. The regulation consolidates these fees into one fee which represents 75% of the biennial renewal fee. Brokers, cemetery brokers, branch offices, rental listing referral agents, broker of records, partners or officers for a partnership, associations and corporations would pay an initial licensure fee of \$94.50 while associate brokers, salespersons, cemetery associate brokers, cemetery salespersons, builder-owner salespersons, time-share salespersons, campground membership salespersons and cemetery companies would pay an initial fee of \$72.00.

(9) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: n/a
- B. The date or dates on which public meetings or hearings will be held: n/a
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: **w/in 2 years of publication of the proposed rulemaking in the Pennsylvania Bulletin**
- D. The expected effective date of the final-form regulation: **upon publication as an Order of Final Rulemaking in the Pennsylvania Bulletin**
- E. The date by which compliance with the final-form regulation will be required: **upon publication of the Order of Final Rulemaking in the Pennsylvania Bulletin**
- F. The date by which required permits, licenses or other approvals must be obtained: n/a

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

The Board continuously reviews its regulations.

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(11) State the statutory authority for the regulation. Include specific statutory citation:

Sections 404 and 407 of the Real Estate Licensing and Registration Act (RELRA), 63 P.S. §§ 455.404 and 455.407, authorize the Commission to promulgate and adopt regulations in order to administer and effectuate the purposes of the RELRA.

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

By switching to a one-tiered fee structure the Commission will be able to participate in on-line initial applications for salesperson licensure classes because, as currently constructed, the system cannot accommodate a two-tiered fee structure.

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

N/A

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

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Applicants for licensure will be affected by the regulation. Applicants who apply for licensure during the first year of the renewal cycle will pay a lower licensure fee than current applicants, while applicant who apply in the second year of the renewal cycle will pay a higher licensure fee than current applicants. Based on a 5-year history, each biennium there are approximately 1,760 broker level applicants and 12,430 sales level applicants.

(16) 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.

As exists currently, all applicants for licensure will be required to comply with this regulation. Based on a 5-year history, each biennium there are approximately 1,760 broker level applicants and 12,430 sales level applicants.

(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. Explain how the dollar estimates were derived.

Over the biennial period, there is no aggregate costs or savings to the regulated community as the current licensure fee is a total of 150% of the biennial renewal fee over the two years. In this proposal, the aggregate fee is unchanged as it is also 150% over the two years. The distinction is that the current fee is 100% in the first year and 50% in the second year, while it will be a flat 75% fee in each year in the proposal.

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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. Explain how the dollar estimates were derived.

The regulation will not result in increased costs or savings to local government and will not require legal, accounting or consulting procedures.

(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. Explain how the dollar estimates were derived.

The regulation will not result in increased costs or savings to state government and will not require legal, accounting or consulting procedures.

(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						

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

Program	FY -3	FY -2	FY -1	Current FY
State Real Estate Commission	\$2,654,819.51	\$2,803,605.90	\$3,150,494.59	\$3,541,000.00

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

In order to proceed with online initial licensure for salesperson licensure classes, the Commission must charge the same fee throughout the renewal period. Online licensure accelerates the licensure process.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

In compliance with Executive Order 1996-1, the Commission extended an invitation to the following boards and associations to preliminarily review and comment on the Commission's draft regulatory proposal: Pennsylvania Association of Realtors, Realtors Educational Institute, Institute of Real Estate Studies, Polley Associates,

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Pennsylvania Cemetery & Funeral Association, Pennsylvania Bar Association, Allegheny Highland Association, Greater Allegheny-Kiski Area Board, Allegheny Valley Board, Beaver County Association, Bradford-Sullivan County Association, Bucks County Board, Butler County Association, Cambria-Somerset (Continued on page 8)

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

Nonregulatory alternatives were not considered because policy statements on any of the issues covered by the amendments would not have the force or effect of law.

(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 regulations.

There are no federal licensure standards.

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

Each state calculates its initial licensure fee differently, however the proposed fees are competitive with the other neighboring states which charge the following fees:

Delaware

Broker \$134

Salesperson \$69

Maryland (plus \$20 real estate recovery fee)

Broker \$210

Associate broker \$150

Salesperson \$110

New York

Broker \$150

Salesperson \$50

New Jersey

Broker classes \$270

Salesperson \$160

Ohio

Broker \$69

Salesperson \$49

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies?

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If yes, explain and provide specific citations.

The regulation will not affect any regulations of the Commission or other state agencies.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The regulation will not change existing reporting requirements, record keeping or paperwork requirements as licensees are already required to pay an initial licensure fee when applying for a license.

(28) 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 is aware of no special needs of any subset or group which should be excepted.

(Continued from No. 22) Association, Carbon County Association, Carlisle Association; Central Montgomery County Association, Central Susquehanna Valley Board, Centre County Association, Chester County Association, Delaware Valley Realtors Association, East Montgomery County Association, Elk-Cameron County Board, Greater Erie Board, Fayette County Board, Franklin County Association, Greenville Area Board, Hanover-Adams County Association, Greater Harrisburg Association, Greater Hazleton Association, Huntingdon County Board, Indiana County Board, Lancaster County Association, Lawrence County Board, Lebanon County Association, Lehigh Valley Association, McKean County Association, Greater Meadville Board, Greater Mercer County Board, Mifflin-Juniata County Board, Mon Yough Association, Monongahela Valley Board, Montgomery County Association, Greater Hagerstown Realtors, Realtors Assoc. of York & Adams Counties, Pennsylvania Realtors Institute, Pennsylvania Association of Private School Administrators, Greater Philadelphia Association, North Central Penn Board, Pike/Wayne Association, Pocono Mountains Association, Reading-Berks Association, Realtors Association of Metropolitan Pittsburgh, Schuylkill County Board, Greater Scranton Association, Tri-State Commercial and Industrial Association, Warren County Board, Washington-Greene Association, West Branch Valley Association, Westmoreland West Association, Greater Wilkes-Barre Association, The Pennsylvania Federation of Housing Counselors and Agencies, and The Real Estate Consumer Council.

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In formulating this proposal, the Commission reviewed and considered all comments and suggestions received by these and other interested parties during the regulatory development process.

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INDEPENDENT REGULATORY
REVIEW COMMISSION

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

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

[Signature]

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 Real Estate Commission
(AGENCY)

BY: *[Signature]*

NOV 16 2009

DOCUMENT/FISCAL NOTE NO. 16A-5615

Andrew C. Clark

DATE OF APPROVAL

DATE OF ADOPTION: _____

OCT 27 2009
DATE OF APPROVAL

BY: *[Signature]*
Michael Weiss

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

TITLE: Chairman
(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.

NOTICE OF PROPOSED RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE REAL ESTATE COMMISSION
49 Pa. Code, Chapter 35
INITIAL LICENSURE FEES

The State Real Estate Commission (Commission) proposes to amend § 35.203 (relating to fees) to read as set forth in Annex A.

A. Effective Date

The amendment will be effective upon publication of the final-form regulation in the Pennsylvania Bulletin.

B. Statutory Authority

Sections 404 and 407 of the Real Estate Licensing and Registration Act (RELRA), 63 P.S. §§ 455.404 and 455.407, authorize the Commission to promulgate and adopt regulations in order to administer and effectuate the purposes of the RELRA.

C. Background and Purpose

Currently applicants for licensure complete a paper application and submit it along with the required fee to the Commission. Those who obtain a real estate license in the first year of the renewal cycle pay 100% of the biennial renewal fee in addition to the application and real estate recovery fees while applicants who obtain a real estate license in the second year of the renewal cycle pay 50% of the renewal fee in addition to the application and real estate recovery fees. This two-tiered fee structure, however, precludes the Commission from participating in on-line initial licensure applications for salesperson classes, currently being used by the State Board of Motor Vehicle Manufacturers, Dealers and Salespersons, as the Bureau's licensure software cannot accommodate a two-tiered fee structure.

D. Description of Amendment

The regulation would amend current fees by consolidating the initial licensure fee charged to new applicants from a two-tiered structure to a one-tier structure. Instead of charging applicants in the first year of the licensure period 100% of the biennial renewal fee and applicants who apply in the second year of the licensure period 50% of the biennial renewal fee, the regulation consolidates these fees into one fee, which represents 75% of the biennial renewal fee. Brokers, cemetery brokers, branch offices, rental listing referral agents, broker of records, partners or officers for a partnership, associations and corporations would pay an initial licensure fee of \$94.50 in addition to the application and real estate recovery fees while associate brokers, salespersons, cemetery associate brokers, cemetery salespersons, builder-owner salespersons, time-share salespersons, campground membership salespersons and cemetery companies would pay an initial fee of \$72.00 in addition to the application and real estate recovery fees.

E. Fiscal Impact and Paperwork Requirements

The amendment will not have a fiscal impact or impose additional paperwork requirements on the Commonwealth as initial licensure fees are currently being charged to new applicants. This regulation will have a minimal fiscal impact on the regulated community over the biennial period as the Commission continues to charge an aggregate initial licensure fee of 150% of the biennial renewal fee over the same two-year period. The proposed amendment will not necessitate any legal, accounting, paperwork or reporting requirements on the regulated community.

F. Sunset Date

The Commission reviews the effectiveness of its regulations on an ongoing 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)), on December 7, 2009, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis form to the IRRC and to the Chairpersons of the SCP/PLC and the HPLC. 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 Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

H. Public Comment

Interested persons are invited to submit comments, recommendations or objections regarding the proposed amendments to Judith Pachter Schulder, Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649, ST-REALESTATE@state.pa.us/estate within 30 days of publication of this proposed rulemaking. Please reference No. 16A-5615 (Fees), when submitting comments.

Michael Weiss, Chairman
State Real Estate Commission

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:

* * * * *

Initial standard or reciprocal licensure for broker, cemetery broker, branch office, rental listing referral agent, or broker of record, partner or officer for a partnership, association or corporation[:

(i) If issued in first half of biennial period.....100% of biennial renewal fee

(ii) If issued in second half of biennial period].....[50% of biennial renewal fee] \$94.50

Initial standard or reciprocal registration for cemetery company or initial standard or reciprocal licensure for associate broker, salesperson, cemetery associate broker, cemetery salesperson builder-owner salesperson, time-share salesperson or campground membership salesperson[:

(i) If issued in first half of biennial period.....100% of biennial renewal fee

(ii) If issued in second half of biennial period].....[50% of biennial renewal fee] \$72

* * * * *



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

December 7, 2009

The Honorable Arthur Coccodrilli, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harrisstown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation
State Real Estate Commission
16A-5615: Initial Licensure Fees

Dear Chairman Coccodrilli:

Enclosed is a copy of a proposed rulemaking package of the State Real Estate Commission pertaining to Initial Licensure Fees.

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

Sincerely,

A handwritten signature in black ink, appearing to read "M. Weiss".

Michael Weiss, Chairman
State Real Estate Commission

MW/JPS:bac

Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Steven V. Turner, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel & 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-5615
 SUBJECT: INITIAL LICENSURE FEES
 AGENCY: DEPARTMENT OF STATE
 STATE REAL ESTATE COMMISSION

TYPE OF REGULATION

- X 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

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 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
<u>12/7/09</u>	<u>Kristin Miller</u>	MAJORITY CHAIRMAN <u>Michael P. McGeehan</u>
<u>12/7/09</u>	<u>Mary Walmer</u>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
		MAJORITY CHAIRMAN <u>Robert M. Tomlinson</u>
<u>12/7/09</u>	<u>Kathy Cooper</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
<u>12/7/09</u>	<u>in Lakshmi</u>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)