

# Regulatory Analysis Form

(Completed by Promulgating Agency)

(All Comments submitted on this regulation will appear on IRRC's website)



# IRRC

Independent Regulatory Review Commission

2012 OCT -4 AM 10:41

RECEIVED  
IRRC

(1) Agency:

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

(2) Agency Number: 16A

Identification Number: 16A-5613

IRRC Number: 2871

(3) PA Code Cite:

49 Pa. Code §§ 35.201, 35.271-35.273, 35.275, 35.308, 35.341, 35.354, 35.359, 35.384, 35.385

(4) Short Title: **Education**

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

Primary Contact: **Juan A. Ruiz, Counsel, State Real Estate Commission, P.O. Box 2649, Harrisburg, PA 17105-2649 (phone 717-783-7200) (fax 787-0251).**

Secondary Contact: **Cynthia Montgomery, Regulatory Counsel, Department of State, P.O. Box 2649, Harrisburg, PA 17105-2649 (phone 717-783-7200) (fax 787-0251) [cymontgome@pa.gov](mailto:cymontgome@pa.gov).**

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

Proposed Regulation

**Final Regulation**

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

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

**The final rulemaking reinstates the requirement that real estate education providers provide transcripts electronically or in print to licensees within 30 days following the completion of a course. This final rulemaking will also require new licensees to complete a required course as a condition of their first biennial renewal. Real estate education provider provisions are also consolidated throughout the final rulemaking.**

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

**The statutory authority for the final rulemaking comes under section 404.1 of the Real Estate Licensing and Registration Act, 63 P.S. § 455.404a.**

(9) 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.

(10) 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.

**In addition to consolidating and clarifying pre-licensure and continuing education requirements, the final rulemaking requires new licensees to complete a required course addressing real estate law, agency and real estate documents in order to satisfy their first continuing education requirement. Current regulations permit the Commission to require all licensees to complete a required course where there is a change in the Real Estate Licensing and Registration Act or the regulations or where the Commission believes that licensees require additional guidance. While new licensees receive some of this information during their pre-licensure courses, the Commission believes that there is additional information which new licensees should learn when they begin practice. Consumers of real estate and new licensees will benefit from new licensees receiving additional education as part of their continuing education.**

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

**Not applicable.**

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

**There are no perceived people or groups of people who will be adversely affected by the final rulemaking.**

(13) 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 licensees of the Real Estate Commission and all real estate education providers will be required to comply with these regulations. (The Commission has approximately 54,000 active licensees.) New licensees will be required to complete the required course in satisfaction of their continuing education requirements for their first renewal. Approximately 5,000 people receive a real estate license each year.**

(14) 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.

**There might be a slight fiscal impact on the regulated community because the real estate education providers will be required to provide transcripts/certificates of completion to continuing education students at the end of each course. However, the Commission has attempted to mitigate that impact by permitting transcripts/certificates of completion to be transmitted electronically.**

(15) 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 final rulemaking should have no fiscal impact on local governments or the public.**

(16) 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 final rulemaking should have no fiscal impact on the Commonwealth.**

(17) 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
<b>SAVINGS:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Costs</b>	N/A	N/A	N/A	N/A	N/A	N/A
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>	N/A	N/A	N/A	N/A	N/A	N/A

(17a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY 09-10	FY 10-11	FY 11-12 PROJECTED	Current FY BUDGETED
State Real Estate Commission	3,370,591.08	3,487,219.57	3,609,000.00	3,654,000.00

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

**There should be no costs (other than the minimal cost to real estate education providers in providing course transcripts/certificates of completion) or adverse effects associated with compliance of the final rulemaking. Therefore, the benefits outlined herein exceed those costs.**

(19) 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; 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 Association; Carbon County Association; Carlisle Association; Central Montgomery County Association; Central Susquehanna Valley Board; Central Westmoreland Board; Centre County Association; Chester County Association; Clearfield-Jefferson 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; 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; York County Association; The Pennsylvania Federation of Housing Counselors and Agencies; and, The Real Estate Consumer Council.**

**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.**

(20) 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.

**Alternative regulatory provisions were not considered because the Commission mandates continuing education through its regulations pursuant to section 404.1 of the Real Estate Licensing and Registration Act, 63 P.S. § 455.404a.**

(21) 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.

**Not applicable.**

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

**Pennsylvania is one of fourteen states that require post-licensure education. This final rulemaking will not affect Pennsylvania's ability to compete with other states.**

STATES	NUMBER OF HOURS	TIME FRAME TO COMPLETE
Alabama	30	1 year
Arkansas	18 salesperson/30 broker	12 months
California		18 months
Florida	48 salesperson/60 broker	18 to 24 months
Georgia	25	First year
Kansas	30	6 months
Louisiana	30	By 12/31 of first full calendar year of licensure
Mississippi	30	1 year
Ohio	10	1 year
Oklahoma	45 required to maintain an associate broker's license	1 year
South Carolina	30	12 months
Tennessee	30 affiliates/ 120 brokers	6 months affiliates/ 3 years brokers
Washington	30	Due with first active renewal

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

**The final rulemaking does not affect existing or proposed regulations.**

(24) 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 final rulemaking will not change existing reporting requirements, record keeping or paperwork requirements as licensees are already required to provide proof that they satisfied the Commission's continuing education requirement. Upon audit, licensees will have to provide documentation evidencing compliance. The rulemaking will impose additional "paperwork" requirements on real estate education providers, however, the Commission has attempted to lessen that burden by permitting electronic transmittal of the course transcripts/certificates of completion.**

(25) 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 any subset of its applicants or licensees for whom special accommodations should be made.**

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

- |   |                  |
|---|------------------|
| A. The date by which the agency must receive public comments:                               | October 11, 2010 |
| 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: | Fall 2012        |
| D. The expected effective date of the final-form regulation:                                | upon publication |
| E. The date by which compliance with the final-form regulation will be required:            | upon publication |
| F. The date by which required permits, licenses or other approvals must be obtained:        | N/A              |

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

**The Commission continually monitors the effectiveness of its regulations on at least an annual basis. All discussions regarding regulations are held during public meetings of the Commission. The Commission meets on the following dates during the remainder of 2012: September 19, October 17-18, November 20, December 18-19.**

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

2012 OCT -4 AM 10:41

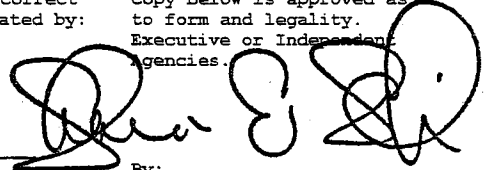
(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

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 Real Estate Commission  
(AGENCY)

By: SHAWN E. SMITH

DOCUMENT/FISCAL NOTE NO. 16A-5613

SEP 18 2012

DATE OF APPROVAL

\_\_\_\_\_  
DATE OF APPROVAL

\_\_\_\_\_  
DATE OF ADOPTION

(Deputy General Counsel  
(Chief Counsel,  
Independent Agency  
(Stroke inapplicable title)

BY:   
JEFFREY JOHNSON

TITLE: Chairman  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[ ] Check if applicable  
Copy not approved  
Objections attached.

[ ] Check if Applicabl  
No Attorney General approval  
or Objection within 30 days  
after submission

FINAL RULEMAKING

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE REAL ESTATE COMMISSION  
49 Pa. Code, Chapter 35

EDUCATION

The State Real Estate Commission (Commission) hereby amends §§ 35.201, 35.271—35.273, 35.275, 35.308, 35.341, 35.354, 35.359, 35.384 and 35.385 to read as set forth in Annex A.

#### Statutory Authority

The amendments are authorized under section 404.1 of the Real Estate Licensing and Registration Act (RELRA)(63 P.S. §455.404a).

#### Background and Purpose

In 2004, the Commission amended its regulations to consolidate duplicative pre-licensure and continuing education provisions and revise outdated, burdensome and unnecessary real estate education provider requirements. Since that time, the Commission has reviewed the effectiveness of its regulations and determined that several provisions require additional amendment. This final-form rulemaking: (1) reinstates the requirement that real estate education providers provide transcripts, electronically or in print, to licensees; (2) requires new licensees to complete a required course as a condition of their first biennial renewal; (3) consolidates and clarifies real estate education provider provisions; (4) defines and uses the term “accredited college” consistently throughout the regulations; and (5) adds appropriate cross-references to aid clarity for continuing education providers.

#### Response to Comments

Notice of proposed rulemaking was published at 40 *Pa.B.* 5195 (September 11, 2010). Publication was followed by a 30-day public comment period during which the Commission received a letter from the Pennsylvania Association of Realtors® (PAR) indicating that PAR, along with its school, the Pennsylvania Realtors® Institute (PRI), did not have any comments or questions concerning the proposed regulation. The Commission did receive public comments from the School Directors within the PAR (School Directors), and the Greater Harrisburg Association of Realtors® and its related organization the Greater Harrisburg Realtors® Institute (GHAR/GHRI). Following the close of the public comment period, the Commission received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment.

#### References to “industry organization”

Proposed §§ 35.271, 35.272, 35.273, and 35.275, would have included references to “industry organizations” among those entities that could provide pre-licensure education to candidates for licensure. The School Directors, GHAR/GHRI, and the HPLC questioned whether the Commission should define “industry organization.” Upon reviewing the multitude of organizations that hold themselves out as “real estate industry



organizations” and noting that many do not have expertise in, nor are they designed to, provide real estate education, the Commission has eliminated the references to “industry organization” in the final-form rulemaking.

GHAR/GHRI suggested that the regulation should refer specifically to the National Association of Realtors® (NAR) instead of the term “industry organization” so as to give credit for the NAR’s designation programs. The Commission believes that no amendment needs to be made because these courses would fall within §§ 35.271(b)(3)(i) and (ii), 35.272(b)(3)(i) and (ii), 35.273(b)(4)(i) and (ii), and 35.275(b)(3)(i) and (ii), if taught within the Commonwealth; and §§ 35.271(b)(3)(iii), 35.272(b)(3)(iii), 35.273(b)(4)(iii), and 35.275(b)(3)(iii), if taught outside of the Commonwealth and they are approved by the licensing jurisdiction where the provider is located.

### § 35.359—Course Documentation

Proposed § 35.359 (relating to course documentation) requires continuing education providers to provide transcripts to students within 30 days after course completion. The School Directors asked the Commission to define “provide” to clarify whether paper transcripts or original signatures are required. GHAR/GHRI recommended that transcripts only be provided upon audit instead of at the completion of the course and commented that paper transcripts are costly.

The Commission has learned from the continuing education providers that licensees frequently ask the providers to supply additional copies of transcripts in order to respond to an audit. Owing to the concerns of the commentators, the Commission considered removing the requirement that transcripts be provided following each course and replacing it with the requirement that providers “make the transcripts available to course participants.” Ultimately, the Commission decided not to make this change as it would shift the burden of demonstrating compliance from the individual licensee to the provider. Additionally, in the event of a provider closing or destruction of its records, the licensee would be unable to verify compliance with the continuing education requirements. Because the Commission believes that this is the licensee’s obligation, no amendments have been made and this section continues to require providers to provide transcripts to participants upon completion of the course. However, to ease the burden on providers, the Commission has also clarified that the transcripts can be produced in any format that cannot be altered, including electronically or in print, so long as the transcript is signed by the provider or director. By allowing for an electronic format, this should help alleviate some, if not most, of the providers’ cost concerns.

IRRC questioned why the cross reference to § 35.360(a)(5)(i)-(viii) (relating to records) did not contain the paragraph (ix) and inquired whether it should be added. The Commission has added paragraph (ix) to the citation.

**References to “accredited college” and “college, university or institute of higher learning”**

The proposed definition of “accredited college” recognized institutions accredited by Middle States Commission on Higher Education or an equivalent body. IRRC questioned the criteria used to evaluate the “equivalent body.” In response to this comment, the Commission reviewed the current recognition bodies and determined that the most inclusive, while assuring quality, were the Council for Higher Education Accreditation and the United States Secretary of Education. In final form, the Commission has replaced “accredited by Middle States Commission on Higher Education or an equivalent body” with “recognized by the Council for Higher Education Accreditation or the United States Secretary of Education.”

The HPLC questioned whether the Commission should also amend §§ 35.271(b)(1)(i)-(ii), 35.272(b)(1)(i)-(ii), 35.273(b)(1)(i)-(ii), 35.275(b)(1)(i)-(ii), 35.308, 35.341(6)(i)(a), and 35.354(a)(3) so that the Commission’s use of “accredited college” is consistent throughout the regulations. The Commission finds this suggestion worthwhile and has amended these provisions to replace “college, university or institute of higher learning” with “an accredited college as defined in § 35.201 (relating to definitions)” throughout.

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

IRRC commented that § 35.272(b)(2)(ii) (relating to examination for salesperson’s license) permits credits offered by a provider “approved by the Commission,” but it did not explain the process for approval. IRRC further noted that § 35.341 (relating to approval of real estate education provider) includes a process for approval of real estate education providers. Therefore, the Commission has amended this section to include a cross reference to § 35.341 to help clarify the approval process for real estate education providers. The Commission has also added this cross reference to §§ 35.271(b)(3)(ii), 35.273(b)(2)(ii), and 35.275(b)(2)(ii) (relating to examination for broker’s license; examination for cemetery broker’s license; and examination for rental listing referral agent’s license).

**§ 35.385 – Continuing education providers**

IRRC questioned why the Commission intends for continuing education providers to comply with certain subsections rather than entire sections that apply to real estate education providers. Subsection (b) identifies those sections of the regulations that apply to providers that only do continuing education. The sections that were not identified deal with providers that do pre-licensure education, as opposed to continuing education. The Commission has had many questions in the past from continuing education providers as to what was required of them. This section would help alleviate any confusion as to what applies to the continuing education provider. The Commission is also deleting the reference to § 35.355 (relating to prospectus materials) as that was inadvertently added.

### Fiscal Impact and Paperwork Requirements

The regulations have no fiscal impact on the Commonwealth, its political subdivisions or the public. They will impose a paperwork requirement which may have a fiscal impact on the regulated community because the regulations require real estate education providers to provide signed transcripts/certificates of completion to continuing education participants/instructors at the end of each course, and because licensees are required to retain this documentation for 2 years following the end of the biennial renewal period for purposes of audit. The fiscal impact on the providers should be minimal since they may provide transcripts/certificates of completion electronically.

### Sunset Date

The Board continually monitors the effectiveness of its regulations through communication with the regulated population; accordingly, no sunset date has been set.

### Regulatory Review

Under § 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 40 *Pa.B.* 5195 (September 11, 2010), to the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the House Professional Licensure Committee (HPLC) for review and comment.

In compliance with § 5(b.1) of the Regulatory Review Act (71 P.S. § 745.5(b.1)), the Board also provided IRRC, SCP/PLC, and HPLC with copies of comments received as well as other documents. In preparing the final-form regulation, the Board has considered the comments received from IRRC, HPLC and the public.

Under § 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), this final-form regulation was approved by the HPLC on \_\_\_\_\_, 2012, and deemed approved by SCP/PLC on \_\_\_\_\_, 2012. Under § 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a (e)), IRRC met on \_\_\_\_\_, 2012, and approved the final-form regulation.

### Contact Person

Further information may be obtained by contacting Patricia Ridley, Administrator, State Real Estate Commission, at P. O. Box 2649, Harrisburg, PA 17105-2649; telephone (717) 783-3658.

### Findings

The State Real Estate Commission finds that:

(1) Public notice of proposed rulemaking was given under §§ 201 and 202 of the Commonwealth Documents Law (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) The amendments to the final-form rulemaking do not enlarge the purpose of proposed rulemaking published at 40 *Pa.B.* 5195.

(4) This amendment is necessary and appropriate for administering and enforcing the authorizing acts identified in this Preamble.

Order

The State Real Estate Commission, acting under its authorizing statutes, orders that:

(a) The regulations of the Commission, 49 Pa. Code Chapter 35, are amended to read as set forth in Annex A.

(b) The Commission shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.

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

(d) This order shall take effect on publication in the Pennsylvania Bulletin.

Jeffrey J. Johnson, Chairman

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

§ 35.201. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Accredited college—A college, university or institute of higher learning ~~accredited by the Middle States Commission on Higher Education or an equivalent accrediting body~~ RECOGNIZED BY THE COUNCIL FOR HIGHER EDUCATION ACCREDITATION OR THE UNITED STATES SECRETARY OF EDUCATION.

\* \* \* \* \*

Subchapter D. LICENSING EXAMINATIONS

§ 35.271. Examination for broker's license.

\* \* \* \* \*

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(4):

(1) A candidate who has obtained one of the following degrees will be deemed to have met the education requirement and will not be required to show completion of coursework in specific areas of study:

(i) A bachelor's degree with a major in real estate from an accredited college, ~~university or institute of higher learning~~ AS DEFINED IN § 35.201 (RELATING TO DEFINITIONS).

(ii) A bachelor's degree from an accredited college, ~~university or institute of higher learning~~ AS DEFINED IN § 35.201, having completed coursework equivalent to a major in real estate.

\* \* \* \* \*

(2) CANDIDATES WHO HAVE NOT OBTAINED A DEGREE SPECIFIED IN PARAGRAPH (1) SHALL ACQUIRE 16 CREDITS IN PROFESSIONAL REAL ESTATE EDUCATION. Two of the required 16 credits shall be in a Commission-developed or approved real estate office management course and 2 of the required 16 credits shall be in a Commission-developed or approved law course. At least 6 of the remaining 12 credits shall be in 3 or more of the Commission-developed courses listed in this paragraph. The remaining 6 credits shall be in real estate courses but not necessarily those listed in this paragraph. A candidate may not apply credits used to qualify for the salesperson's examination toward fulfillment of the broker education requirement.

\* \* \* \* \*

(3) To be counted toward the education requirement, a real estate course shall have been offered by:

(i) An accredited college[, university or institute of higher learning, whether in this Commonwealth or outside this Commonwealth] as defined in § 35.201 (relating to definitions).

(ii) A real estate education provider ~~in this Commonwealth approved by the Commission~~ WHO HAS MET THE APPROVAL REQUIREMENTS IN § 35.341 (RELATING TO APPROVAL OF REAL ESTATE EDUCATION PROVIDER).

(iii) A real estate education provider ~~or industry organization~~ outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider ~~or industry organization~~ is located. The course transcript or certificate of completion shall state that the course is approved by the licensing authority of the jurisdiction where the real estate education provider ~~or industry organization~~ is located.

[(iv) A real estate industry organization outside this Commonwealth, if the course is approved by the licensing jurisdiction of another state. The course transcript or certificate of completion shall state that the course is approved by the licensing jurisdiction which has approved it.]

\* \* \* \* \*

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

\* \* \* \* \*

(b) The Commission will apply the following standards in determining whether an

examination candidate has met the education requirement of subsection (a)(2):

(1) A candidate who has obtained one of the following degrees will be deemed to have met the education requirement and will not be required to show completion of coursework in specific areas of study:

(i) A bachelor's degree with a major in real estate from an accredited college, ~~university or institute of higher learning~~ AS DEFINED IN § 35.201 (RELATING TO DEFINITIONS).

(ii) A bachelor's degree from an accredited college, ~~university or institute of higher learning~~ AS DEFINED IN § 35.201, having completed coursework equivalent to a major in real estate.

\* \* \* \* \*

(2) Credits will be allowed for [each of the Commission-developed real estate courses—] Real Estate Fundamentals and Real Estate Practice [—when offered by:

(i) An accredited college, university or institution of higher learning located outside this Commonwealth.

\* \* \* \* \*

(3) Credits will be allowed for] and all acceptable basic real estate courses when offered by:



(i) An accredited college[, university or institution of higher learning located outside this Commonwealth] as defined in § 35.201 (relating to definitions).

(ii) A real estate education provider in this Commonwealth approved by the Commission WHO HAS MET THE APPROVAL REQUIREMENTS IN § 35.341 (RELATING TO APPROVAL OF REAL ESTATE EDUCATION PROVIDER).

(iii) A real estate education provider or industry organization outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider or industry organization is located. The course transcript or certificate of completion must state that the course is approved by the licensing authority of the jurisdiction where the real estate education provider or industry organization is located.

[(4)] (3) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

\* \* \* \* \*

**§ 35.273. Examination for cemetery broker's license.**

\* \* \* \* \*

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(3):

(1) A candidate who has obtained one of the following degrees will be deemed to have met the education requirement and will not be required to show

completion of course work in specific areas of study:

(i) A bachelor's degree with a major in real estate from an accredited college, ~~university or institute of higher learning~~ AS DEFINED IN § 35.201 (RELATING TO DEFINITIONS).

(ii) A bachelor's degree from an accredited college, ~~university or institute of higher learning~~ AS DEFINED IN § 35.201, having completed course work equivalent to a major in real estate.

\* \* \* \* \*

(2) Credits will be allowed for [each of the Commission-developed real estate courses—] Real Estate Fundamentals and Real Estate Practice [—when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider approved by the Commission in this Commonwealth.

(3) Credits will be allowed for], cemetery courses [when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(4) Credits will be allowed for acceptable] and all basic real estate courses when offered by:

(i) An accredited college[, university or institute of higher learning located outside this Commonwealth] as defined in § 35.201 (relating to definitions).

(ii) ~~A real estate education provider in this Commonwealth approved by the Commission~~ WHO HAS MET THE APPROVAL REQUIREMENTS IN § 35.341 (RELATING TO APPROVAL OF REAL ESTATE EDUCATION PROVIDER).

(iii) A real estate education provider ~~or industry organization~~ outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider ~~or industry organization~~ is located. The course transcript or certificate of completion must state that the course is approved by the licensing authority of the jurisdiction where the real estate education provider or industry organization is located.

[(iii)] (iv) A cemetery association outside this Commonwealth, if the course taught by the cemetery association is equivalent to a course taught by a real estate [school] education provider in this Commonwealth approved by the Commission.

[(5)] (3) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

\* \* \* \* \*

**§ 35.275. Examination for rental listing referral agent's license.**

\* \* \* \* \*

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(2):

(1) A candidate who has obtained one of the following degrees will be deemed to have met the education requirement and will not be required to show completion of coursework in specific areas of study:

(i) A bachelor's degree with a major in real estate from an accredited college, ~~university or institute of higher learning~~ AS DEFINED IN § 35.201 (RELATING TO DEFINITIONS).

(ii) A bachelor's degree from an accredited college, ~~university or institute of higher learning~~ AS DEFINED IN § 35.201, having completed coursework equivalent to a major in real estate.

\* \* \* \* \*

(2) Credits will be allowed for [each of the Commission-developed real estate courses—] Real Estate Fundamentals and Real Estate Practice [—when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(3) Credits will be allowed for] and all acceptable basic real estate courses when offered by:

(i) An accredited college[, university or institute of higher learning in this Commonwealth] as defined in § 35.201 (relating to definitions).

(ii) A real estate education provider in this Commonwealth approved by the Commission WHO HAS MET THE APPROVAL REQUIREMENTS IN § 35.341 (RELATING TO APPROVAL OF REAL ESTATE EDUCATION PROVIDER).

(iii) A real estate education provider or industry organization outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider or industry organization is located. The course transcript or certificate of completion must state that the course is approved by the licensing authority of the jurisdiction where the real estate education provider is located.

[(4)] (3) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

\* \* \* \* \*

#### Subchapter E. STANDARDS AND CONDUCT AND PRACTICE

\* \* \* \* \*

#### ADVERTISING AND SOLICITATION

\* \* \* \* \*

#### § 35.308. Relationship with educational institution.

A real estate company, franchise or network may promote, endorse, or advertise its association, affiliation or connection with a real estate school EDUCATION

PROVIDER or with a AN ACCREDITED college, ~~university or institute of higher learning~~ AS DEFINED IN § 35.201 (RELATING TO DEFINITIONS) regarding its offering of real estate instruction. An association, affiliation or connection which includes an ownership interest shall be disclosed in all promotions, endorsements or advertisements. For purposes of this section, an ownership interest will be considered by the Commission to include proprietary or beneficial interests through which the real estate company, franchise or network earns or has the potential to earn income, or which produces a direct or indirect economic benefit.

\* \* \* \* \*

#### **Subchapter F. REAL ESTATE EDUCATION PROVIDERS**

#### **APPROVAL OF REAL ESTATE EDUCATION PROVIDERS**

#### **§ 35.341. Approval of real estate education provider.**

A real estate education provider shall obtain the Commission's approval before commencing operations in this Commonwealth. To obtain approval from the Commission, the real estate education provider shall:

\* \* \* \* \*

(6) Submit a completed real estate education provider approval application to the Commission with:

(i) A completed real estate education provider owner application with:

(A) A resume of the applicant's experience in owning, administrating or teaching in, a AN ACCREDITED college or ~~university~~

AS DEFINED IN § 35.201 (RELATING TO DEFINITIONS) or as a real estate education provider.

\* \* \* \* \*

(iv) A [certificate of incorporation] copy of the registration documentation approved by the Department's Corporation Bureau, if the real estate education provider is a corporation, limited liability partnership, limited partnership or limited liability company.

\* \* \* \* \*

#### ADMINISTRATION OF REAL ESTATE EDUCATION PROVIDERS

\* \* \* \* \*

#### § 35.354. Prohibited forms of advertising and solicitation.

(a) A real estate education provider may not:

\* \* \* \* \*

(3) Hold itself out to be an educational institution that conforms to the standards and requirements prescribed for ACCREDITED colleges and ~~universities by the department of education~~, AS DEFINED IN § 35.201 (RELATING TO DEFINITIONS) unless the real estate education provider meets those standards and requirements.

\* \* \* \* \*

#### § 35.359. Course [transcripts] documentation.

\* \* \* \* \*

(b) *Continuing education.* [Effective with the renewal period commencing June 1, 2004, within] Within 30 days after a continuing education course has ended, the continuing education provider shall provide [the Commission with a roster in a format approved by the Commission, listing] each licensee who satisfactorily completed/taught the course [. Continuing education providers shall be required to issue course] transcripts/certificates of instruction IN A FORMAT THAT CANNOT BE ALTERED [to students only upon request] that contain the information in § 35.360(a)(5)(i)-(viii)IX signed by the provider OR THE DIRECTOR.

(1) Licensees shall retain the transcripts/certificates of instruction for 2 years following the biennial renewal period during which the courses were taken to renew the license.

(2) Licensees shall provide a copy of the transcripts/certificates of instruction to the Commission verifying completion of the continuing education requirement upon request.

\* \* \* \* \*

#### **Subchapter H. CONTINUING EDUCATION**

\* \* \* \* \*

#### **§ 35.384. Qualifying courses.**

(a) Except as provided in subsection (b), a licensee shall complete 14 hours of continuing education in acceptable courses in a minimum of 2-hour increments. [A standard license holder shall satisfy the continuing education requirement by doing one of the following:]



(b) The Commission may, for a given biennial license period and with adequate notice to standard license holders, require that all or part of the 14 hours be completed in required topics. In addition, during the first biennial period that continuing education is required, a new licensee shall complete the Commission-developed 14-hour required course for new licensees in satisfaction of the continuing education requirement.

\* \* \* \* \*

**§ 35.385. Continuing education providers.**

(a) The following providers may offer instruction for continuing education:

(1) An accredited college[, university of institute of higher learning, whether in this Commonwealth or outside this Commonwealth] as defined in § 35.201 (relating to definitions).

(2) A real estate education provider ~~in this Commonwealth approved by the Commission~~ WHO HAS MET THE APPROVAL REQUIREMENTS IN § 35.341 (RELATING TO APPROVAL OF REAL ESTATE EDUCATION PROVIDER).

(3) A real estate education provider ~~or industry organization~~ outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider ~~or industry organization~~ is located.

(b) Continuing education providers shall comply with the standards for real estate education providers set forth in §§ 35.352(b), 35.353(a), 35.358(a), ~~35.355~~ and 35.359(b).

\* \* \* \* \*

# STATE REAL ESTATE COMMISSION

[ 49 PA. CODE CH. 35 ]

## Education

The State Real Estate Commission (Commission) proposes to amend §§ 35.201, 35.271—35.273, 35.275, 35.341, 35.359, 35.384 and 35.385 to read as set forth in Annex A.

### A. Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

### B. Statutory Authority

The amendments are proposed under the authority of section 404.1 of the Real Estate Licensing and Registration Act (RELRA) (63 P. S. § 455.404a).

### C. Background and Purpose

In a previous rulemaking published at 34 Pa.B. 6530 (December 11, 2004), the Commission consolidated duplicative prelicensure and continuing education provisions and amended outdated, burdensome and unnecessary provider requirements in §§ 35.203, 35.228, 35.229, 35.271—35.273, 35.275, 35.341—35.363 and 35.381—35.392. Since that time, the Commission has reviewed the effectiveness of its regulations and determined that several provisions require additional amendment. Specifically, the Commission determined that the provider provisions in §§ 35.271—35.273 and 35.275 require additional consolidation; the continuing education provider requirements in §§ 35.352(b), 35.353(a), 35.355, 35.358(a) and 35.359(b) require cross-referencing in § 35.385 (relating to continuing education providers); the transcript/certificate requirements in § 35.359 (relating to course documentation) require amendment; and a required course needs to be added for new licensees in § 35.384(b) (relating to qualifying courses).

As part of its prior amendments, the Commission removed the requirement in § 35.359 that continuing education providers give transcripts or certificates of instruction to attendees because, at the time, a roster of attendees was being provided to the Commission directly by the providers following the courses. The Commission believed that this would eliminate an unnecessary paperwork requirement for providers and assist licensees and the Commission during renewal. However, having completed two renewals applying this method, the Commission determined that the electronic transfer system created additional administrative problems and abandoned electronic transfer in favor of the renewal and audit system used by other licensing boards within the Bureau of Professional and Occupational Affairs.

Another change made in the prior amendments was to eliminate the mandatory course requirement in § 35.384(b) in all but prenotified instances and replace it with all elective courses. As the Commission explained, except for instances when the RELRA or the regulations have been substantively modified or when, in the Commission's view, licensees require specific Commission-guidance, the Commission believed that licensees should be able to take continuing education in subjects that directly benefit their practice or interest. The Commission continues to hold this belief generally; however, it believes that new licensees require additional guidance about agency, real estate law and real estate documents

regarding their specific practice area during their first years of practice that is not included in the prelicensure courses. Instead of allowing these new licensees to take elective courses to satisfy their continuing education requirement, the Commission believes that these licensees should take a required 14-hour course designed specifically for new licensees during the first renewal cycle in which they are required to complete continuing education. The Commission discussed this requirement with real estate education providers, its Voluntary Education Advisory Committee, real estate companies and licensees who agree that a required continuing education course for new licensees is beneficial. A course has been developed and is being offered during the 2009-2011 biennial period.

### D. Description of Proposed Amendments

#### § 35.201. Definitions

The Commission proposes adding a definition for "accredited college" in § 35.201 (relating to definitions) to simplify the educational requirements in Subchapter D (relating to licensing examinations).

#### Subchapter D. Licensing examinations

The Commission proposes consolidating the provider requirements in §§ 35.271(b)(iii) and (iv), 35.272(b)(2) and (3), 35.273(b)(2), (3) and (4) and 35.275(b)(2) and (3). In addition, in each of these sections, the Commission proposes cross-referencing the new definition of "accredited college" in § 35.201. Also, the Commission proposes adding the course transcript information currently in §§ 35.271, 35.272 and 35.275 (relating to examination for broker's license; examination for salesperson's license; and examination for rental listing referral agent's license) to § 35.273 (relating to examination for cemetery broker's license).

For each licensure class, the Commission determined that prelicensure education courses shall be taken from one of four sources: an accredited college; a real estate education provider in this Commonwealth; a real estate education provider outside of this Commonwealth that has been approved by the Commission in the jurisdiction where the provider is located; or a real estate industry organization outside of this Commonwealth that has been approved by the Commission in the jurisdiction where the organization is located. In this proposed rulemaking, the Commission consolidated § 35.271(b)(3)(iii) and (iv) and added "industry organizations" to §§ 35.272(b)(3)(iii), 35.273(b)(4)(iii) and 35.275(b)(3)(iii). In addition, the Commission proposes removing redundant language and consolidating the requirements in §§ 35.272(b)(2) and (3), 35.273(b)(2), (3) and (4) and 35.275(b)(2) and (3).

#### § 35.341—Approval of real estate education provider

Because real estate education providers can be limited liability corporations and limited liability partnerships as well as corporations, the Commission proposes amending the documentation required to be submitted with a provider application in § 35.341(6)(iv) (relating to approval of real estate education provider) to require a copy of the registration documentation approved by the Department of State's Corporation Bureau.

#### § 35.359—Course documentation

The Commission proposes amending the continuing education documentation requirements in § 35.359(b) by removing the electronic transfer requirement and requiring continuing education providers to again provide signed course transcripts/certificates of instruction to

course attendees and instructors. Proposed paragraph (1) institutes a 2-year retention requirement for continuing education documentation. Proposed paragraph (2) imposes an affirmative requirement on licensees to produce the transcripts/certificates verifying completion of the continuing education requirement to the Commission if audited.

§ 35.384—Qualifying courses

§ 35.385—Continuing education providers

The Commission proposes amending § 35.384(b) to require that in addition to required courses mandated by the Commission, licensees complete the Commission developed 14 hour post-licensure education course as satisfaction of the continuing education requirement within the first biennial period in which continuing education is required for new licensees. Additionally, the Commission proposes adding § 35.385(b) to cross reference §§ 35.352(b), 35.353(a), 35.355, 35.358(a) and 35.359(b) pertaining to standards for real estate education providers, because those sections are equally applicable to continuing education providers.

E. Fiscal Impact and Paperwork Requirements

The proposed rulemaking should not have fiscal impact on the Commonwealth, its political subdivisions or the public. The proposed rulemaking will impose a paperwork requirement which may have a slight fiscal impact on the regulated community because the amendments require real estate education providers to provide signed transcripts/certificates of completion to continuing education participants/instructors at the end of each course, and licensees are required to retain this documentation for 2 years following the end of the biennial renewal period for purposes of audit.

F. Sunset Date

The Commission reviews the effectiveness of its regulations on an ongoing basis. Therefore, a sunset date has not been assigned.

G. Regulatory Review

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 27, 2010, 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 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 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.

I. Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed rulemaking to Judith Pachter Schulder, Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649, jschulderstate.pa.us within 30 days

of publication of this proposed rulemaking. Reference No. 16A-5613 (Continuing Education) when submitting comments.

JOSEPH TARANTINO, Jr.,  
Chairperson

Fiscal Note: 16A-5613. 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

§ 35.201. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

**Accredited college**—A college, university or institute of higher learning accredited by the Middle States Commission on Higher Education or an equivalent accrediting body.

\* \* \* \* \*

Subchapter D. LICENSING EXAMINATIONS

§ 35.271. Examination for broker's license.

\* \* \* \* \*

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(4):

\* \* \* \* \*

(3) To be counted toward the education requirement, a real estate course shall have been offered by:

(i) An accredited college [ , university or institute of higher learning, whether in this Commonwealth or outside this Commonwealth ] as defined in § 35.201 (relating to definitions).

\* \* \* \* \*

(iii) A real estate education provider or industry organization outside this Commonwealth, that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider or industry organization is located. The course transcript or certificate of completion [ shall ] must state that the course is approved by the licensing authority of the jurisdiction where the real estate education provider or industry organization is located.

[ (iv) A real estate industry organization outside this Commonwealth, if the course is approved by the licensing jurisdiction of another state. The course transcript or certificate of completion shall state that the course is approved by the licensing jurisdiction which has approved it. ]

\* \* \* \* \*

§ 35.272. Examination for salesperson's license.

\* \* \* \* \*

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(2):

\* \* \* \* \*

(2) Credits will be allowed for [ each of the Commission-developed real estate courses—]Real Estate Fundamentals and Real Estate Practice[—when offered by:

(i) An accredited college, university or institution of higher learning located outside this Commonwealth.

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(3) Credits will be allowed for ] and all acceptable basic real estate courses when offered by:

(i) An accredited college[ , university or institution of higher learning located outside this Commonwealth ] as defined in § 35.201 (relating to definitions).

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(iii) A real estate education provider or industry organization outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider or industry organization is located. The course transcript or certificate of completion must state that the course is approved by the licensing authority of the jurisdiction where the real estate education provider or industry organization is located.

[ (4) ] (3) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

\* \* \* \* \*

§ 35.273. Examination for cemetery broker's license.

\* \* \* \* \*

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(3):

\* \* \* \* \*

(2) Credits will be allowed for [ each of the Commission-developed real estate courses—]Real Estate Fundamentals and Real Estate Practice[—when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider approved by the Commission in this Commonwealth.

(3) Credits will be allowed for ], cemetery courses [ when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(4) Credits will be allowed for acceptable ] and all basic real estate courses when offered by:

(i) An accredited college[ , university or institute of higher learning located outside this Commonwealth ] as defined in § 35.201 (relating to definitions).

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(iii) A real estate education provider or industry organization outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider or industry organization is located. The course transcript or certificate of completion must state that the course is approved by the licensing authority of the jurisdiction where the real estate education provider or industry organization is located.

[ (iii) ] (iv) A cemetery association outside this Commonwealth, if the course taught by the cemetery association is equivalent to a course taught by a real estate [ school ] education provider in this Commonwealth approved by the Commission.

[ (5) ] (3) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

\* \* \* \* \*

§ 35.275. Examination for rental listing referral agent's license.

\* \* \* \* \*

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(2):

\* \* \* \* \*

(2) Credits will be allowed for [ each of the Commission-developed real estate courses—]Real Estate Fundamentals and Real Estate Practice[—when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(3) Credits will be allowed for ] and all acceptable basic real estate courses when offered by:

(i) An accredited college[ , university or institute of higher learning in this Commonwealth ] as defined in § 35.201 (relating to definitions).

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(iii) A real estate education provider or industry organization outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider or industry organization is located. The course transcript or certificate of completion must state that the course is approved by the licensing authority of the jurisdiction where the real estate education provider is located.

[ (4) ] (3) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

\* \* \* \* \*

**Subchapter F. REAL ESTATE EDUCATION PROVIDERS**

**APPROVAL OF REAL ESTATE EDUCATION PROVIDERS**

§ 35.341. Approval of real estate education provider.

A real estate education provider shall obtain the Commission's approval before commencing operations in this Commonwealth. To obtain approval from the Commission, the real estate education provider shall:

\* \* \* \* \*

(6) Submit a completed real estate education provider approval application to the Commission with:

\* \* \* \* \*

(iv) A [ certificate of incorporation ] copy of the registration documentation approved by the Department's Corporation Bureau, if the real estate education provider is a corporation, limited liability partnership, limited partnership or limited liability company.

\* \* \* \* \*

**ADMINISTRATION OF REAL ESTATE EDUCATION PROVIDERS**

§ 35.359. Course [ transcripts ] documentation.

\* \* \* \* \*

(b) *Continuing education.* [ Effective with the renewal period commencing June 1, 2004, within ] Within 30 days after a continuing education course has ended, the continuing education provider shall provide [ the Commission with a roster in a format approved by the Commission, listing ] each licensee who satisfactorily completed/taught the course[ . Continuing education providers shall be required to issue course ] transcripts/certificates of instruction [ to students only upon request ] that contain the information in § 35.360(a)(5)(i)—(viii) signed by the provider.

(1) Licensees shall retain the transcripts/certificates of instruction for 2 years following the biennial renewal period during which the courses were taken to renew the license.

(2) Licensees shall provide a copy of the transcripts/certificates of instruction to the Commission verifying completion of the continuing education requirement upon request.

**Subchapter H. CONTINUING EDUCATION**

§ 35.384. Qualifying courses.

(a) Except as provided in subsection (b), a licensee shall complete 14 hours of continuing education in acceptable courses in a minimum of 2-hour increments. [ A standard license holder shall satisfy the continuing education requirement by doing one of the following: ]

(b) The Commission may, for a given biennial license period and with adequate notice to standard license holders, require that all or part of the 14 hours be completed in required topics. In addition, during the first biennial period that continuing education is required, a new licensee shall complete the Commission-developed 14-hour required course for new licensees in satisfaction of the continuing education requirement.

\* \* \* \* \*

§ 35.385. Continuing education providers.

(a) The following providers may offer instruction for continuing education:

(1) An accredited college[ , university of institute of higher learning, whether in this Commonwealth or outside this Commonwealth ] as defined in § 35.201 (relating to definitions).

\* \* \* \* \*

(3) A real estate education provider or industry organization outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider or industry organization is located.

(b) Continuing education providers shall comply with the standards for real estate education providers in §§ 35.352(b), 35.353(a), 35.358(a), 35.355 and 35.359(b).

[Pa.B. Doc. No. 10-1683. Filed for public inspection September 10, 2010, 9:00 a.m.]

STATE REAL ESTATE COMMISSION  
16A-5613  
EDUCATION

LIST OF PUBLIC COMMENTATORS

Brenda Florida  
Director, Leadership & Professional Development  
Pennsylvania Association of REALTORS®  
500 North 12<sup>th</sup> Street  
Lemoyne, PA 17043-1213  
Phone: 717-561-1303  
Fax: 717-561-8796  
Email: [www.parealtor.org](http://www.parealtor.org)

Ann Marie Matteo, CAE, RCE  
Chief Executive Officer  
Suburban West REALTORS Association  
Phone: 610-560-4800  
Fax: 610-560-4801  
Email: [ammatteo@suburbanwestrealtors.com](mailto:ammatteo@suburbanwestrealtors.com)

Kathleen S. Ludwig  
Executive Vice President, GHAR  
Greater Harrisburg Association of Realtors  
424 N. Enola Drive, Suite 1  
Enola, PA 17025  
Phone: 717-364-3200  
Fax: 717-364-3206  
Email: [kathy@ghar.info](mailto:kathy@ghar.info)



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

October 4, 2012

The Honorable Silvan B. Lutkewitte, III, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Final Regulation  
State Real Estate Commission  
16A-5613: EDUCATION

Dear Chairman Lutkewitte:

Enclosed is a copy of a final rulemaking package of the State Real Estate Commission pertaining to Regulation 16A-5613.

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, appearing to read "Jeffrey J. Johnson".

Jeffrey J. Johnson, Chairman  
State Real Estate Commission

JT/JAR:aag

Enclosure

cc: Katie True, Commissioner  
Bureau of Professional and Occupational Affairs  
Rebecca Oyler, Director of Policy, Department of State  
Steven V. Turner, Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Juan A. Ruiz, Counsel  
State Real Estate Commission  
State Real Estate Commission

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

I.D. NUMBER: 16A-5613  
 SUBJECT: EDUCATION  
 AGENCY: DEPARTMENT OF STATE  
 BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
 STATE REAL ESTATE COMMISSION

**TYPE OF REGULATION**

- Proposed Regulation
- X 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

2012 OCT -4 AM 10:41

RECEIVED  
HRC

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
10/4/12	<i>Angie Kelly</i>	MAJORITY CHAIR <u>Julie Harhart</u>
10/4/12	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
		MAJORITY CHAIR <u>Robert M. Tomlinson</u>
10/4/12	<i>K Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)