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

November 12, 2010

Joseph Taramtino, Jr., Chair  
State Real Estate Commission  
c/o Debbie Sopko  
2601 North Third Street  
Harrisburg, PA 17110

Re: Regulation #16A-5613 (IRRC #2871)  
State Real Estate Commission  
Education

Dear Mr. Taramtino:

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

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

Sincerely,

Kim Kaufman  
Executive Director  
wbg  
Enclosure

cc: Honorable Robert M. Tomlinson, Majority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Michael P. McGeehan, Majority Chairman, House Professional Licensure Committee  
Honorable Julie Harhart, Minority Chairman, House Professional Licensure Committee  
Honorable Basil L. Merenda, Acting Secretary, Department of State  
Robert A. Mulle, Esq., Office of Attorney General  
Andrew Clark, Esq., Office of General Counsel

# Comments of the Independent Regulatory Review Commission



## State Real Estate Commission Regulation #16A-5613 (IRRC #2871)

### Education

November 12, 2010

We submit for your consideration the following comments on the proposed rulemaking published in the September 11, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Real Estate Commission (Real Estate Commission) to respond to all comments received from us or any other source.

#### **1. Section 35.201. – Definitions. - Clarity.**

##### *Accredited college*

The proposed regulation defines “accredited college” as an institution that is accredited by the Middle States Commission on Higher Education (Middle States) or “an equivalent accrediting body.” Who will determine and what criteria will be used to determine that an accrediting body is “equivalent” to Middle States? The final-form regulation should clarify these issues.

#### **2. Section 35.272. – Examination for salesperson’s license. – Clarity.**

Subsection (b) establishes certain standards the Real Estate Commission will use to determine whether examination candidates meet the necessary education requirements for licensure. Subsection (b)(2)(ii) permits credits offered by a provider “approved by the Commission,” but it does not explain the process for approval. We note that Section 35.341 of the existing regulation includes a process for approval of real estate education providers. To improve clarity, we recommend that the final-form regulation include a cross-reference to this section. The same concern applies to Sections 35.273(b)(2)(ii) and 35.275 (b)(2)(ii).

**3. Section 35.359. – Course documentation. – Fiscal impact; Implementation procedures; Clarity.**

Subsection (b) requires continuing education providers to provide, within 30 days after a course has ended, transcripts/certificates of instruction to each licensee who completed/taught the course. We raise three issues.

First, both the School Directors within the Pennsylvania Association of Realtors (School Directors) and Greater Harrisburg Association of Realtors and its related Realtors Institute (GHAR/GHRI) express concerns that this subsection does not specify whether these transcripts must be paper, or if an electronic version is acceptable. The School Directors also question whether these provisions will require a school seal on every transcript/certificate and an original signature. The final-form regulation should clarify these issues.

Second, both commentators also question the possible costs imposed by these provisions. If paper transcripts are required, commentators indicate that this will result in increased administrative and operating costs, with GHAR/GHRI estimating their costs to be approximately \$1500-\$2000 each continuing education cycle. However, the Real Estate Commission indicates in the Preamble that these transcripts will result in a “slight” fiscal impact on the regulated community. The Real Estate Commission should further explain how it determined the fiscal impact of the regulation in light of the cost estimates provided by commentators.

Finally, Subsection (b) states that these transcripts/certificates of instruction contain the information in existing Section 35.360(a)(5)(i)-(viii). However, Section 35.360 (a) also contains paragraph (ix), which requires that the transcript include: “the fact that the course will be accepted by the Commission towards fulfillment of the education requirement for either the real estate broker’s examination or real estate salesperson’s examination....” Why doesn’t the cross-reference in Subsection 35.359 (b) include a citation to paragraph (ix)? The final-form regulation should include this paragraph, or the Real Estate Commission should explain why it is not necessary.

**4. Section 35.385. – Continuing education providers. – Need; Clarity.**

Subsection (b) requires continuing education providers to comply with various standards for real estate education providers, and contains cross-references to existing provisions of Chapter 35, including references to specific subsections. Why does the Real Estate Commission intend for providers to comply with certain subsections rather than entire sections? The final-form regulation should clarify why the citations listed are the only references necessary.

**Facsimile Cover Sheet**

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**To:** Tom Blackburn  
Cynthia Montgomery  
**Agency:** Department of State  
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**Phone:** 3-7200  
3-3394 (Cynthia Montgomery)  
**Fax:** 7-0251  
**Date:** 11/12/10  
**Pages:** 4

Comments: We are submitting the Independent Regulatory Review Commission's comments on the State Real Estate Commission regulation #16A-5613 (IRRC #2871). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by:

Date:

11/12/10