

# 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 AUG 13 AM 10:45

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(1) Agency:

Department of State, Bureau of Professional and Occupational Affairs, State Board of Certified Real Estate Appraisers

(2) Agency Number: 16A

Identification Number: 16A-7019

IRRC Number:

2967

(3) PA Code Cite: 49 Pa. Code §§ 36.11, 36.12

(4) Short Title:

Implementation of §§ 36.11 and 36.12

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

Primary Contact: Christopher K. McNally, Counsel, State Board of Certified Real Estate Appraisers, 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)

This final rulemaking would extend the deadline to apply for certification as a general or residential real estate appraiser, having met the less stringent educational requirements by January 1, 2008, for an additional year (until January 1, 2013).

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

This rulemaking is authorized by section 5(1) and (2) of the Real Estate Appraiser Certification Act (act) (63 P.S. § 457.5(1) and (2)).

(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.

**This final rulemaking is needed to extend the deadline to apply for certification as a general or real estate appraiser that was promulgated in 2007 but had not been scheduled to take effect until January 1, 2012. The Board has determined that, in the interest of fairness, it should extend the deadline for those individuals who have met the less stringent educational requirements by January 1, 2008, and were unaware of the January 1, 2012, deadline to apply for certification. The Board estimates that less than 500 individuals will benefit from the extension of the application deadline.**

(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.

**There is no data in support of this final regulation.**

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

**No one will be adversely affected. Less than 500 individuals would benefit from the extension of the application deadline.**

(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 appraiser trainees who completed their education prior to January 1, 2008, who have been completing the experience requirements will be required to apply for certification by January 1, 2013.**

(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 will be no additional costs to the regulated community. Savings as a result of not being required to obtain additional courses to comply with the more stringent educational requirements cannot be estimated.**

(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.

**There will be no costs or savings to local governments.**

(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.

**There will be no costs or savings to state government.**

(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	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
<b>Total Savings</b>	0	0	0	0	0	0
<b>COSTS:</b>						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
<b>Total Costs</b>	0	0	0	0	0	0
<b>REVENUE LOSSES:</b>						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
<b>Total Revenue Losses</b>	0	0	0	0	0	0

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

Program	FY -3 FY 08-09	FY -2 FY 09-10	FY -1 FY 10-11	Current FY FY 11-12
State Board of Certified Real Estate Appraisers	\$572,349.00	\$673,874.05	\$594,209.02	\$854,000.00

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

**There are no costs or adverse effects. The benefits will allow more individuals to become certified appraisers at less cost of acquiring necessary education.**

(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.

**The Board received several complaints from individuals who were unaware of the January 1, 2012 deadline for applying for certification as a general real estate appraiser or a residential real estate appraiser, having met the less stringent educational requirements by January 1, 2008.**

(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.

**No alternative regulatory provisions were considered. The Board considered issuing a policy statement, but determined that the regulation needed to be amended.**

(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.

**No.**

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

**There will be no effect on Pennsylvania's competitiveness. Other states have not implemented the higher educational qualifications yet.**

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

**No.**

(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.

**None.**

(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.

**None.**

(26) 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 were/will be held:                | February 9, 2012 |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | Summer 2013      |
| D. The expected effective date of the final-form regulation:                                | January 1, 2013  |
| E. The date by which compliance with the final-form regulation will be required:            | January 1, 2013  |
| F. The date by which required permits, licenses or other approvals must be obtained:        | January 1, 2013  |

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

**There is no schedule for review since the effect of the regulation would automatically terminate on January 1, 2013.**

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FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

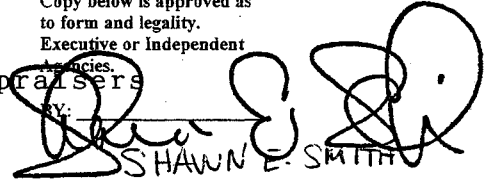
Copy below is hereby approved as to form and legality. Attorney General

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.

State Board of Certified Real Estate Appraisers  
Bureau of Professional and Occupational Affairs  
(AGENCY)

BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

BY:   
SHAWN E. SMITH

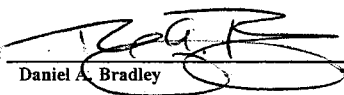
DOCUMENT/FISCAL NOTE NO. 16A-7019

AUG 01 2012

DATE OF APPROVAL

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

DATE OF APPROVAL

BY:   
Daniel A. Bradley

(~~Executive~~ Deputy General Counsel  
Strike inapplicable title)

TITLE: Chairperson  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

FINAL RULEMAKING  
(WITH NOTICE OF PROPOSED RULEMAKING OMITTED)

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
THE STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS  
49 PA. CODE, CHAPTER 36

IMPLEMENTATION OF §§ 36.11 and 36.12

The State Board of Certified Real Estate Appraisers (Board) hereby amends §§ 36.11 and 36.12 (relating to qualifications for certification as residential real estate appraiser; and qualifications for certification as general real estate appraiser) to read as set forth in Annex A.

### Background and Purpose

Under section 6 of the Real Estate Appraisers Certification Act (63 P.S. § 457.6), the Board is authorized to issue certificates to real estate appraisers that meet the minimum education and experience requirements established by the Appraiser Qualifications Board under the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (Public Law 101-73, 103 Stat.183) (FIRREA). In 2007, the Board amended §§ 36.11 and 36.12 (relating to qualifications for certification as residential real estate appraiser; and qualifications for certification as general real estate appraiser) to implement new Federally-mandated education criteria for the initial certification of residential real estate appraisers and general appraisers that would take effect in January of 2008. (See, 37 Pa.B. 3367). At that time, the Board adopted a segmented approach to implementing the new education criteria such that those applicants who completed the less stringent education requirements prior to January 1, 2008, would have until January 1, 2012, to apply for certification. This provision was necessary to minimize potential disruptions to the career plans of applicants who were already taking steps to become certified. Once an candidate has completed the educational requirement, he or she would then obtain an appraiser trainee license for the purpose of completing the experience requirements set forth in §§ 36.11(e) and 36.12(e), that is, 2,500 hours of experience for residential appraisers and 3,000 hours of experience for general appraisers. Because there is no minimum number of hours of experience that must be acquired in any given year, it can take a candidate many years to obtain the required experience after obtaining the required education before applying for an appraiser certificate. Thus, the Board determined that it should allow applicants up to 4 years to complete the necessary steps to become certified and set forth the January 1, 2012, deadline.

For a number of reasons, including budget constraints reducing the frequency of direct mailings to licensees, the elimination of the Board's annual hard-copy newsletter in 2007, and changes in staff, the Board did not notify affected persons of the change in the educational requirements (other than the publication of the final rulemaking in 2007) or the impending application deadline of January 1, 2012. After the deadline passed in January, the Board began to receive communications from affected individuals that had failed to meet the January 1, 2012 deadline, and further requesting a waiver of the relevant provisions of the Board's regulations.

On February 9, 2012, in public session the Board considered these communications from interested persons and determined that the deadline for applying for certification, having met the then-existing educational requirements prior to January 1, 2008, should be extended until January 1, 2013. The Board made this determination in recognition of the fact that the Board had expressed its intentions to notify affected parties during the regulatory review process, and had failed to do so. At the February meeting, the Board authorized the publication of a statement of policy, extending the deadline. It was subsequently determined that a change to the regulation should be promulgated, but that publication as proposed rulemaking was unnecessary under the circumstances for the reasons set forth below. Therefore, at its meeting on May 10,

2012, the Board voted to proceed with final rulemaking (with notice of proposed rulemaking omitted).

### Omission of Proposed Rulemaking

Under section 204 of the Act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204), known as the Commonwealth Documents Law (CDL), the Board is authorized to omit the procedures for proposed rulemaking in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) if the Board finds that the specified procedures are impracticable, unnecessary or contrary to the public interest.

The Board has determined that publication of proposed rulemaking is unnecessary under the circumstances set forth above because no applicant is disadvantaged by an extension of the deadline under which to apply for certification, having met the less stringent educational requirements by January 1, 2008. In addition, the Board will provide actual notice to all affected parties of the extension in three ways: First, the Board will place a notice of this extension on its website through February 1, 2013. Second, the Board will publish in its electronic newsletter distributed to all subscribers a notice of the extension on or before October 1, 2012. Third, the Board will mail a notice by first class mail of the change to each individual who is certified as a licensed appraiser trainee, certified residential real estate appraiser, certified general real estate appraiser, or broker appraiser.

### Description of Amendments

Sections 36.11 and 36.12 are amended to extend the deadline for applicants who had met the less stringent educational requirements prior to January 1, 2008, to apply for certification as a certified residential real estate appraiser or as a certified general real estate appraiser until January 1, 2013.

### Statutory Authority

This rulemaking is authorized by section 5(1) and (2) of the Real Estate Appraiser Certification Act (act) (63 P.S. § 457.5(1) and (2)), which provides the general rulemaking authority of the board and requires the board to adopt and revise rules and regulations relating to qualifications of applicants.

### Fiscal Impact and Paperwork Requirements

The amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The impact on prospective certificateholders in the private sector will be beneficial. In general, the amendments are expected to tend to reduce paperwork requirements upon the Commonwealth, its political subdivisions, and the private sector, including certificateholders.



### Regulatory Review

Under section 5(c) of the Regulatory Review Act (RRA) (71 P.S. § 745.5(c)), on August 13, 2012, the Board submitted copies of the final rulemaking, with proposed rulemaking omitted, to the Independent Regulatory Review Commission (IRRC), and the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the House Professional Licensure Committee (HPLC). On the same date, the Board submitted a copy of the regulations to the Office of the Attorney General under the Commonwealth Attorneys Act (71 P.S. §§ 732-101 – 732-506).

Under section 5.1(j.2) of the RRA (71 P.S. § 745.5a(j.2)), the final rulemaking was approved by the HPLC on \_\_\_\_\_, 2012, and deemed approved by the SCP/PLC on \_\_\_\_\_, 2012. Under section 5.1(e) of the RRA (71 P.S. § 745.5a(e)), IRRC met on \_\_\_\_\_, 2012 and approved the final rulemaking.

### Additional Information

For additional information about the final rulemaking, submit inquiries to Christopher McNally, Counsel, State Board of Certified Real Estate Appraisers, by mail at P.O. Box 2649, Harrisburg, PA 17105-2649, or by telephone at (717) 783-7200.

### Findings

The Board finds that:

- (1) Public notice of the Board's intention to amend its regulations under the procedures in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) has been omitted under the authority of section 204 of the CDL (45 P.S. §1204), because public comment is unnecessary under the circumstances.
- (2) The amendment of the Board's regulations in the manner provided in this order is necessary and appropriate for the administration of the Act.

### Order

The Board, acting under its authorizing statute, orders that:

- (a) The regulations of the Board, 49 Pa. Code, Chapter 36, are amended by amending §§ 36.11 and 36.12 to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to form and legality as required by law.
- (c) The Board shall certify this order and Annex and deposit them with the Legislative Reference Bureau as required by law.

- (d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

Daniel A. Bradley  
Chairman  
State Board of Certified Real Estate Appraisers

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 36. STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

QUALIFICATIONS FOR CERTIFICATION OR LICENSURE

§ 36.11. Qualifications for certification as residential real estate appraiser.

\* \* \* \* \*

(b) *Appraisal classroom hours.* Effective January 1, 2008, an applicant shall submit evidence to the Board of having completed 200 classroom hours in the appraisal curriculum set forth in subsection (c)(2). This requirement does not apply to an applicant who submits an otherwise qualifying application before [January 1, 2012] January 1, 2013, that shows evidence of the applicant's having completed 120 classroom hours of courses related to real estate appraisal, including the 15-hour National USPAP Course or equivalent course approved by the AQB, together with coverage of the topics listed in subsection (c)(1), before January 1, 2008.

\* \* \* \* \*

§ 36.12. Qualifications for certification as general real estate appraiser.

\* \* \* \* \*

(b) *Appraisal classroom hours.* Effective January 1, 2008, an applicant shall submit evidence to the Board of having completed 300 classroom hours in the appraisal curriculum set forth in

subsection (c)(2). This requirement does not apply to an applicant who submits an otherwise qualifying application before [January 1, 2012] January 1, 2013, that shows evidence of the applicant's having completed 180 classroom hours of courses related to real estate appraisal, including the 15-hour National USPAP Course or equivalent course approved by the AQB, together with coverage of the topics listed in subsection (c)(1), before January 1, 2008.



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
**STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS**  
Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-4866

August 13, 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 (with notice of proposed rulemaking omitted)  
State Board of Certified Real Estate Appraisers  
16A-7019: IMPLEMENTATION OF §§ 36.11 AND 36.12

Dear Chairman Lutkewitte:

Enclosed is a copy of a final rulemaking (with notice of proposed rulemaking omitted) package of the State Board of Certified Real Estate Appraisers pertaining to Implementation of §§ 36.11 and 36.12.

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 "D. Bradley".

Daniel A. Bradley, Chairperson  
State Board of Certified Real Estate Appraisers

DAB/CKMc:rs

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  
Christopher K. McNally, Counsel  
State Board of Certified Real Estate Appraisers  
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