

**INDEPENDENT REGULATORY
REVIEW COMMISSION**

Regulatory Analysis Form

(Completed by Promulgating Agency)

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

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IRRC

(1) Agency
Department of State, Bureau of Professional and Occupational Affairs, State Board of Certified Real Estate Appraisers

(2) Agency Number: 16A
Identification Number: 7020

IRRC Number: 3025

(3) PA Code Cite: 49 Pa. Code § 36.6

(4) Short Title: **Biennial Renewal Fees for Licensed Appraiser Trainees**

(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) chrmcnally@pa.gov.**

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.**

(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)

In July of 2010, the Board adopted final regulations establishing a regulatory scheme for the appraiser trainee license, which was added to the act by the act of July 8, 2008 (P.L. 833, No. 59) and the act of October 9, 2008 (P.L. 1380, No. 103). At that time, the Board established an initial application fee of \$75 for the appraiser trainee license. However, although an appraiser trainee license may be renewed biennially up to four times, the Board did not establish a biennial renewal fee for this class of license at that time. By this rulemaking, the Board corrects that oversight.

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

Section 5(6) of the Real Estate Appraisers Certification Act (act) (63 P.S. § 457.5(6)) authorizes the Board to establish fees for the operation of the board, including fees for the issuance and renewal of certificates and licenses. Section 9 of the act (63 P.S. § 457.9) provides that all fees established under the act shall be fixed by the Board by regulation.

(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.

The regulation is needed to establish a fee for the biennial renewal of appraiser trainee licenses. Under § 36.12a (relating to qualifications for licensure as appraiser trainee), an appraiser trainee license may be renewed biennially up to four times, unless the Board determines based on a case-by-case review that there is good cause to permit one or more additional renewals. However, the Board failed to promulgate a biennial renewal fee for this classification of license. This rulemaking corrects that oversight.

(11) 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, there are no provisions that are more stringent than Federal standards. (Federal appraisal standards do not extend to fees.)

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

Trainees in Maryland pay a \$150 renewal fee triennially. New York does not license appraiser trainees, but does license appraiser assistants with a \$200 biennial renewal fee. Trainees in New Jersey pay a \$100 annual renewal fee. Ohio does not license trainees, but does register appraiser assistants. West Virginia issues apprentice permits which must be renewed annually at a fee of \$190. The Board does not believe these regulations will adversely affect Pennsylvania's ability to compete with other states.

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

No. The regulations will not affect any other regulations of the Board or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. (“Small business” is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

Because the reconciliation of the Board’s revenues and expenses is an administrative matter, the Board did not solicit input from the public, any advisory group or organization representing small businesses in the development of this proposal. Rather the Board consulted with the Bureau of Finance and Operations to determine the fee. However, the matter was discussed by the Board during public meetings on December 13, 2012, and January 10, 2013, which are routinely attended by representatives of the regulated community and their professional associations.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

There are currently 435 appraiser trainees licensed by the Board. In determining the fee, the Bureau of Finance and Operations estimates that approximately 300 trainees will need to renew their licenses biennially. Therefore the estimated costs to licensed appraiser trainees associated with this rulemaking will be \$45,000 biennially.

Small businesses are defined in Section 3 of the Regulatory Review Act, (71 P.S. § 745.3) which provides that a small business is defined by the SBA’s Small Business Size Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). In applying the NAICS standards to appraisers and appraisal management companies, the standard set for offices of Real Estate Appraisers (NAICS Code 531320), mortgage loan brokers (NAICS Code 522310), miscellaneous intermediation (NAICS Code 523910), and generally those financial investment and related activities (NAICS Subsector 523) to qualify as a small business is \$7 million or less in average annual receipts.

According to the Small Business Administration (SBA), there are approximately 982,692 businesses in Pennsylvania; of which 978,831 are small businesses; and 3,861 are large businesses. Of the 978,831 small businesses, 236,775 are small employers (those with fewer than 500 employees) and the remaining 772,056 are non-employers. Thus, the vast majority of businesses in Pennsylvania are considered small businesses. For these reasons, it is reasonable to assume that many appraiser trainees work for small businesses. The degree to which small businesses will be affected by the regulation depends on whether the employer elects to pay the licensure fees for its employees. A small business could avoid these costs by requiring employees to pay their own licensure fees.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

The Board estimates that approximately 300 appraiser trainees will seek biennial renewal of their licenses. Assuming that these individuals are likely to be employed by small businesses, up to 300 small businesses may be required to comply with the regulation to the extent that they pay the biennial renewal fee for employees who are licensed appraiser trainees.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The financial impact on licensed appraiser trainees, and their employers to the extent the employer elects to pay the biennial renewal fee on behalf of employees, will amount to approximately \$45,000 each biennial renewal period (300 licensed appraiser trainees x \$150 fee). The Board believes that all licensees, including trainees, should be required to support the operations of the Board through biennial renewal fees, rather than having all of the costs fall on licensed appraisers, certified Pennsylvania evaluators and appraisal management companies.

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

The Board had been considering a general fee increase, however the addition of the appraisal management company license with its related increase in revenue from applications and renewals is expected to negate the need for a fee increase. However, the Board believes that all license classifications should share proportionately in the costs of operating the Board, including trainees.

(19) 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.

The direct costs to licensed appraiser trainees is estimated at \$45,000 per biennial renewal (300 trainees x \$150 renewal fee).

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no costs or savings to local governments associated with the regulations.

(21) Provide a specific estimate of the costs and/or savings to the **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 costs to the Board include those associated with promulgating these regulations; and the costs associated with processing approximately 300 applications for biennial renewal submitted by licensed appraiser trainees. However, those costs will be borne by the licensees through payment of the \$150 renewal fee, so there is no adverse fiscal impact of these regulations on the Board.

(22) For each of the groups and entities identified in items (19)-(21) above, 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.

Licensed appraiser trainees will be required to complete the required paperwork to apply for biennial renewal. These duties should not require legal, accounting or consulting procedures, as they are administrative in nature.

(23) 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 FY 12-13 | FY +1 FY 13-14 | FY +2 FY 14-15 | FY +3 FY 15-16 | FY +4 FY 16-17 | FY +5 FY 17-18 |
|-----------------------------|------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| SAVINGS: | \$ | \$ | \$ | \$ | \$ | \$ |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Savings | N/A | N/A | N/A | N/A | N/A | N/A |
| COSTS: | | | | | | |
| Regulated Community | \$0 | \$0 | \$45,000 | \$0 | \$45,000 | \$0 |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Costs | \$0 | \$0 | \$45,000 | \$0 | \$45,000 | \$0 |
| REVENUE LOSSES: | | | | | | |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Revenue Losses | N/A | N/A | N/A | N/A | N/A | N/A |

(23a) Provide the past three year expenditure history for programs affected by the regulation.

| Program | FY -3 FY 09-10 | FY -2 FY 10-11 | FY -1 FY 11-12 | Current FY FY 12-13 |
|-------------------------------------------------|-------------------|-------------------|-------------------|------------------------|
| State Board of Certified Real Estate Appraisers | \$673,874.05 | \$598,470.43 | 595,147.77 | \$594,000.00 |

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
 - (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
 - (c) A statement of probable effect on impacted small businesses.
 - (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.
-
- (a) **The Board estimates that approximately 300 licensed appraiser trainees will renew their licenses biennially. The Board does not have any way of knowing how many of these licensees are employed by entities that are considered small businesses under the SBA standards.**
 - (b) **The costs associated with reporting, recordkeeping and other administrative costs should be minimal. Licensed appraiser trainees are already required to renew their licenses biennially. That process/paperwork will not change.**
 - (c) **The probable effect on small business, assuming that most licensed appraiser trainees work for entities that qualify as small business, is that they will have to pay \$150 to renew each trainee license biennially.**
 - (d) **No less intrusive or less costly alternatives were identified that meet the purpose of the Real Estate Appraisers Certification Act.**

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

The Board has not perceived any particular needs of these groups that need to be accommodated.

(26) 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 considers the regulations to be the least burdensome acceptable alternative.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

All licensees must renew biennially. The Board did not consider establishing less stringent compliance or reporting requirements, or less stringent schedules or deadlines for licensees that work for small businesses. There are no design or operational standards in the regulations. The Board did not consider exempting small business from all or any part of the requirements. All licensed appraiser trainees will be required to share in the costs of operating the Board regardless of the size of their employer.

(28) 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.

Other than financial records of the Board presented by the Bureau of Finance and Operations, no data was the basis for this regulation.

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

- | | |
|---------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| A. The date by which the agency must receive public comments: | Within 30 days of publication as proposed |
| B. The date or dates on which public meetings or hearings will be held: | The Board meets on the following dates: 6/14, 7/11, 8/9, 9/12, 10/10, 11/15, 12/12. |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | Spring of 2014 |
| D. The expected effective date of the final-form regulation: | By June 30, 2015 |
| E. The date by which compliance with the final-form regulation will be required: | With the 2015 renewals (June 30, 2015) |
| F. The date by which required permits, licenses or other approvals must be obtained: | N/A |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board discusses all of its regulatory proposals at monthly public meetings of the Board. In 2013, the Board meets on the remaining following dates: June 14, July 11, August 9, September 12, October 10, November 15 and December 12.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU 2013 SEP 20 AM 11:09

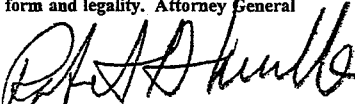
(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

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

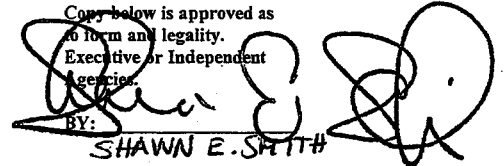
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BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Certified
Real Estate Appraisers

(AGENCY)


BY: _____
SHAWN E. SMITH

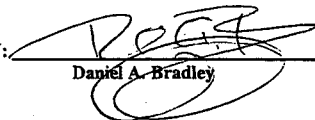
DOCUMENT/FISCAL NOTE NO. 16A-7020

AUG 19 2013

SEP 10 2013
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.

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

§36.6 - FEES
BIENNIAL LICENSE FEE FOR LICENSED APPRAISER TRAINEES

The State Board of Certified Real Estate Appraisers (Board) proposes to amend § 36.6 (relating to fees) to read as set forth in Annex A.

Effective Date

The amendments will be effective upon publication of the final-form rulemaking in the Pennsylvania Bulletin. It is anticipated that the biennial renewal fees for licensed appraiser trainees will be implemented with the June 30, 2015 biennial renewal.

Statutory Authority

Section 5(6) of the Real Estate Appraisers Certification Act (act) (63 P.S. § 457.5(6)) authorizes the Board to establish fees for the operation of the board, including fees for the issuance and renewal of certificates and licenses. Section 9 of the act (63 P.S. § 457.9) provides that all fees established under the act shall be fixed by the Board by regulation.

Background and Need for Amendment

In July of 2010, the Board adopted final regulations establishing a regulatory scheme for the appraiser trainee license, which was added to the act by the act of July 8, 2008 (P.L. 833, No. 59) and the act of October 9, 2008 (P.L. 1380, No. 103). At that time, the Board established an initial application fee of \$75 for the appraiser trainee license. However, although an appraiser trainee license may be renewed biennially up to four times, the Board did not establish a biennial renewal fee for this class of license at that time. By this rulemaking, the Board corrects that oversight.

Description of Proposed Amendments

The proposal would amend §§ 36.6 (relating to fees) to establish a biennial renewal fee for licensed appraiser trainees at \$150.

Fiscal Impact

The proposed amendments will impact licensed appraiser trainees who elect to renew their licenses. There are currently 435 actively licensed appraiser trainees. Small businesses will be impacted to the extent that they elect to pay the fees on behalf of their licensed employees. The proposed regulation should have no other fiscal impact on the private sector, the general public or political subdivisions of the Commonwealth.

Paperwork Requirements

The proposed rulemaking will require the Board to alter some of its forms to reflect the new fees; however, the amendment will not create additional paperwork for the regulated community or for the private sector.

Sunset Date

The act requires the Board to monitor its revenue and costs on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)), on September 20, 2013, 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 Chairpersons of 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 any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria that 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 any comments, recommendations and objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Christopher K. McNally, Counsel, State Board of Certified Real Estate Appraisers, P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649, within 30 days following publication of this proposed rulemaking in the Pennsylvania Bulletin. Please reference Regulation No. 16A-7020 – Fees – on all comments.

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

Subchapter A. GENERAL PROVISIONS

* * * * *

§ 36.6. Fees.

The following is the schedule of fees charged by the Board:

* * * * *

Licensed Appraiser Trainee

| | |
|------------------------------|--------------|
| Application..... | \$75 |
| <u>Biennial renewal.....</u> | <u>\$150</u> |

* * * * *



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

September 20, 2013

The Honorable Silvan B. Lutkewitte, III, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harrisstown 2, 333 Market Street
Harrisburg, Pennsylvania 17101


Re: Proposed Regulation
State Board of Certified Real Estate Appraisers
16A-7020: Biennial License Fee for Licensed Appraiser Trainees

Dear Chairman Lutkewitte:

Enclosed is a copy of a proposed rulemaking package of the State Board of Certified Real Estate Appraisers pertaining to Biennial License Fee for Licensed Appraiser Trainees.

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

Sincerely,


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

DAR/CKM:rs

Enclosure

cc: Kathy J. Barley, Acting Commissioner
Professional and Occupational Affairs
Patricia Allen, 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
State Board of Certified Real Estate Appraisers

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

I.D. NUMBER: 16A-7020
SUBJECT: FEES
AGENCY: DEPARTMENT OF STATE
 BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
 STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS


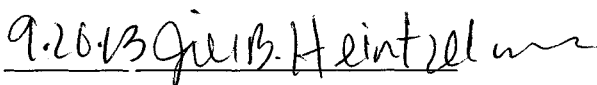



TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

2013 SEP 20 AM 11:09

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IRRC

FILING OF REGULATION

| <u>DATE</u> | <u>SIGNATURE</u> | <u>DESIGNATION</u> |
|-------------|------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| | | <i>HOUSE COMMITTEE ON PROFESSIONAL LICENSURE</i> |
| 9/20/13 |  | MAJORITY CHAIR <u>Julie Harhart</u> |
| | | MINORITY CHAIR _____ |
| | | <i>SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE</i> |
| 9.20.13 |  | MAJORITY CHAIR <u>Robt. M. Tomlinson</u> |
| 9/20 |  | MINORITY CHAIR _____ |
| 9/20/13 |  | <i>INDEPENDENT REGULATORY REVIEW COMMISSION</i> |
| | | <i>ATTORNEY GENERAL (for Final Omitted only)</i> |
| 9.20.13 |  | <i>LEGISLATIVE REFERENCE BUREAU (for Proposed only)</i> |