

PROPOSED RULEMAKING

DEPARTMENT OF BANKING

[10 PA. CODE CH. 42]

Registration of Loan Brokers

The Department of Banking (Department), under the authority contained in section 8 of the Credit Services Act (act) (73 P.S. § 2188), proposes to add Chapter 42 (relating to registration of loan brokers) which will impose registration requirements on persons acting as loan brokers in this Commonwealth.

Purpose

The purpose of the proposed regulations is to implement the requirements of section 8 of the act which requires loan brokers, as defined in the act, who are located in or act on behalf of residents of this Commonwealth, to become registered with the Department. The proposed regulations will enhance consumer protection by providing a means of ascertaining who is acting as a loan broker in this Commonwealth and by maintaining the names and addresses of those persons and by obtaining other relevant information about loan brokering activity conducted by those persons. This registration will enhance the Attorney General's ability to address consumer complaints by facilitating discovery and investigation of fraudulent activity and will provide an additional means for enforcement of the Unfair Trade Practices and Consumer Protection Law (73 P.S. §§ 201-1—209-6).

Explanation of Regulatory Requirements

Under the proposed regulations, persons acting as loan brokers in this Commonwealth will be required to register with the Department and to renew that registration annually. Loan brokers will be required to submit a completed registration form to the Department which will require the applicant to provide the home and business addresses of the applicant, the nature of the loan broker's business, and information relating to any legal or other enforcement actions taken against the loan broker. The Department retains the right to refuse to register an applicant as a loan broker and, accordingly, the proposed regulations set forth the relevant factors to be utilized by the Department in deciding whether to proffer a refusal.

Entities Affected

The number of entities that will be affected by these proposed regulations cannot be estimated at this time as this is the first registration requirement imposed on loan brokers who are not already licensed or authorized to broker a specific type of loan. These proposed regulations will not affect the 675 first mortgage loan brokers currently licensed by the Department or the 333 secondary mortgage loan brokers currently licensed by the Department. (Statistics are as of November 30, 1995.) These proposed regulations will also not affect any depository institutions whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration. Nor will the proposed regulations affect real estate brokers or salespersons licensed under the Real Estate Licensing and Registration Act (63 P.S. §§ 455.101—455.902), persons registered as securities broker-dealers under section 301 of the Pennsylvania Securities Act of 1972 (70 P.S. § 301) or persons exempt from this registration, persons admitted to the practice of law in this Commonwealth, nonprofit corporations or

consumer reporting agencies as defined by the Fair Credit Reporting Act (15 U.S.C.A. § 1681 et seq.).

Cost and Paperwork Requirements

These proposed regulations will impose paperwork requirements on the Department to process the registration and renewal applications. The cost of paperwork will be offset by the fees imposed.

These proposed regulations will not impose paperwork requirements on political subdivisions and will not affect the costs of political subdivisions of this Commonwealth.

These proposed regulations impose a fee of \$300 for registration and an additional \$300 for each renewal. The proposed regulations also impose nominal paperwork and reporting requirements on the regulated community, as loan brokers will be required to complete an annual registration or renewal registration application.

Effectiveness/Sunset Date

The anticipated effective date is 30 days after final adoption.

A sunset date is inapplicable as the statute imposes an ongoing requirement for registration of loan brokers and for annual renewal of those registrations.

Contact Person

Interested persons are invited to submit their written comments, if any, within 30 days from the date of this publication to Valentino F. DiGiorgio, III, Staff Attorney, Department of Banking, 333 Market Street, 16th Floor, Harrisburg, PA 17101-2290, (717) 787-1471.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 31, 1997, the Department submitted a copy of these proposed regulations to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee for Business and Economic Development and the Senate Committee on Banking and Insurance. In addition to submitting the regulations, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed regulations, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review and comments including objections to the proposed regulations by IRRC, the General Assembly and the Office of Attorney General, prior to final publication and approval of the proposed regulations.

RICHARD C. RISHEL,
Secretary

Fiscal Note: 3-31. No fiscal impact; (8) recommends adoption. The Banking Department Fund will receive approximately \$16,000 annually from the registration of these loan brokers.

Annex A
TITLE 10. BANKS AND BANKING
PART IV. BUREAU OF CONSUMER CREDIT
AGENCIES
CHAPTER 42. REGISTRATION OF LOAN
BROKERS

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§ 42.1. Definitions.

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

Act—The Credit Services Act (73 P. S. §§ 2181—2192).

Applicant—A person who, in accordance with this chapter, has submitted a registration application or renewal registration application and applicable fees to the Department in an effort to register with the Department as a loan broker.

Employee—A person who receives wages reportable pursuant to Internal Revenue Service Form W-2.

Loan broker—As defined in section 2 of the act (73 P. S. § 2182). The term includes a person who acts for or on behalf of a loan broker for the purpose of soliciting borrowers. The term does not include a person licensed by the Department as a loan broker.

Principal—An officer, director, partner, joint venturer, branch manager or other person with similar managerial responsibilities for a loan broker.

§ 42.2. Applicability.

This chapter applies to loan brokers who act as a loan broker in this Commonwealth or who act as a loan broker on behalf of residents of this Commonwealth.

§ 42.3. Registration required.

(a) On or after _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal), a person may not act as a loan broker in this Commonwealth without registering with the Department.

(b) To register as a loan broker, a person shall submit the following to the Department:

(1) A completed registration application provided by the Department.

(2) Payment to the Department of a nonrefundable registration fee of \$300.

(c) Within 60 days of receipt of a registration application, the Department will do one of the following:

(1) Notify the applicant that the applicant is registered as a loan broker.

(2) Notify the applicant that the applicant's registration is rejected and that the applicant is not registered as a loan broker under § 42.5 (relating to disapproval of registration).

(3) Notify the applicant that the registration application was incomplete and that additional information is required. In this case, the Department has 60 days from receipt of a completed registration application to notify the applicant under paragraph (1) or (2).

(d) An applicant shall be registered as a loan broker upon the Department's issuance of written notification to the applicant that the applicant has been registered by the Department as a loan broker.

(e) No abatement of the registration fee may be made for any reason including a loan broker's initial registration period lasting for less than 1 year or the election by a loan broker to cancel its registration prior to the annual renewal date.

§ 42.4. Annual renewal required.

(a) Annually, the Department will mail to each registered loan broker an application for renewal of the loan broker's registration.

(b) On or before December 1 of each year, a loan broker shall return the following to the Department:

(1) A completed renewal registration application provided by the Department.

(2) Payment of a renewal registration fee of \$300.

(c) On or before January 15 of each year, the Department will take one of the following actions with regard to renewal applications which it received on or before December 1 of the prior year:

(1) Notify the loan broker that the loan broker's registration is renewed.

(2) Notify the loan broker that the loan broker's renewal registration is rejected and that the loan broker is no longer registered as a loan broker under § 42.5 (relating to disapproval of registration).

(3) Notify the loan broker that the registration application was incomplete and that additional information is required. In this case, the Department has 30 days from receipt of a completed registration application to notify the loan broker under paragraph (1) or (2).

(d) A loan broker who fails to return the following to the Department by December 1 of each year shall be subject to a late fee of \$100 upon submission to the Department of a renewal registration application:

(1) A completed renewal registration application provided by the Department.

(2) Payment of a renewal registration fee of \$300.

(e) The renewal registration shall be effective from February 1 or upon the Department's issuance of written notification to the applicant that the applicant has been registered by the Department as a loan broker, whichever is later, through January 31 of the following year.

(f) Nothing in this section relieves a loan broker from the requirement that a loan broker promptly register as a loan broker with the Department.

§ 42.5. Disapproval of registration.

The Department may refuse to register or renew the registration of an applicant. Notifications of refusal by the Department to register or renew the registration of an applicant shall include the reasons for the refusal. In determining whether to refuse to register or renew the registration of an applicant, the Department will weigh all relevant factors including the following:

(1) Whether the applicant has properly and fully completed the registration application or the registration renewal application.

(2) Whether the applicant has supplied false information or made a material misstatement to the Department.

(3) Whether the applicant or a principal or employe of the applicant has violated the act.

(4) Whether the applicant or a principal or employe of the applicant is subject to an administrative order issued by an agency of the Commonwealth or an agency of the United States.

(5) Whether the applicant, a principal of the applicant or an organization with which the applicant or a principal of the applicant was associated as an officer, director or principal, has applied to any state or to the Federal government for a license or authority to broker loans or to lend money and had the application for a license rejected, and the reasons for the rejection.

(6) Whether the applicant, a principal of the applicant or an organization with which the applicant or a principal of the applicant was associated as an officer, director or principal, which was licensed or authorized by a state or the Federal government to broker loans or to lend money, had the license suspended, canceled or revoked.

(7) Whether the applicant or a principal or employe of the applicant has ever pleaded guilty, pleaded nolo contendere or has ever been found guilty by a judge or jury for violation of a state or Federal law, other than motor vehicle traffic laws.

(8) Whether the applicant or a principal or employe of the applicant is subject to a civil or criminal proceeding by any state or Federal agency.

§ 42.6. Information to the Department.

(a) In completing the registration application or renewal registration application, the applicant shall provide the Department with the following information:

(1) The name, address and telephone number of the applicant.

(2) The addresses at which the applicant acts or intends to act as a loan broker.

(3) The names and addresses of the agents and employes of the loan broker who act or will act as a loan broker on behalf of the loan broker.

(4) The names and addresses of the loan brokers or lenders on whose behalf the applicant acts or will act.

(5) The names and addresses of the principals of the applicant.

(6) A copy of its articles of incorporation or fictitious name filing, or both, to the extent applicable to the applicant.

(7) Other information required by the Department.

(b) A loan broker shall promptly inform the Department of additions or alterations to the information provided by the loan broker in a registration application or renewal registration application.

§ 42.7. Failure to register.

A person who acts or holds himself out as a loan broker and is not registered with the Department under this chapter shall be in violation of the Unfair Trade Practices and Consumer Protection Law (73 P. S. §§ 201-1—209-6).

[Pa.B. Doc. No. 97-214. Filed for public inspection February 14, 1997, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Advance Notice of Proposed Rulemaking Regarding Electric Reliability Standards

[Doc. No. L-970120]

On December 3, 1996, Governor Tom Ridge signed into law the Electric Generation Customer Choice and Competition Act (PN 4282) (act) to establish standards and procedures to create direct access by retail customers to the competitive market for the generation of electricity, while maintaining the safety and reliability of the electric system.

In response, the Commission is considering, inter alia, the adoption of regulations to provide for and ensure continuing safety, adequacy and reliability of the generation, transmission and distribution of electricity in Pennsylvania. In order to facilitate the establishment of reliability standards, the Commission is considering the following issues and requests comments from electric utilities and other interested parties.

With regard to inspection and maintenance of transmission and distribution facilities, provide comments concerning the specific standards, if any, which are necessary to further ensure the safety and reliability of these facilities. Provide comments concerning whether the Commission should require annual or biennial inspection reports. If these inspection reports are deemed necessary, provide comments concerning the specific information which should be included in such reports. Provide comments concerning the applicability of other industry standards and practices, and whether such standards are needed to ensure the safety and reliability of electric service.

Provide comments concerning (1) whether it is sufficient to rely on the North American Electric Reliability Council (NERC) and the regional reliability councils for the development of reliability standards and practices and (2) whether the Commission should establish its own reliability criteria. If it is deemed appropriate for the Commission to establish its own reliability criteria, discuss what specific criteria are necessary, including a definition for an adequate reserve margin, and whether reliability protocols should be mandatory. If it is deemed necessary to mandate reliability protocols, discuss whether the Commission should enforce such protocols.

With regard to licensure, provide comments concerning whether full or associate membership in appropriate regional reliability councils should be a requirement for obtaining a license to provide service to retail customers. Discuss whether the Commission should require mandatory compliance with NERC or other reliability protocols as a condition for approval of tariffs, licenses or contractual agreements between industry participants. Provide

comments concerning additional reporting requirements, if any, which may be needed for monitoring reserve margins. Discuss the reporting requirements and other related filings which should be imposed upon non-jurisdictional electric suppliers as a prerequisite to providing service to Pennsylvania's retail customers. Discuss whether penalties or sanctions would be appropriate for non-compliance with established reliability protocols. Include in this discussion any other procedures which should be implemented to ensure the maintenance of adequate reserve margins.

Written comments, an original and fifteen copies, must be received 30 days after the date this notice is published in the *Pennsylvania Bulletin*. The contact person is Blaine

Loper, Bureau of Conservation, Economics and Energy Planning, (717) 787-3810 (technical) and Susan T. Povilaitis, Law Bureau, (717) 787-2871 (legal).

This is an advance notice of proposed rulemaking and is in addition to the normal rulemaking procedures for publication and comment established under the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law.

JOHN G. ALFORD,
Secretary

[Pa.B. Doc. No. 97-215. Filed for public inspection February 14, 1997, 9:00 a.m.]