

PROPOSED RULEMAKING

STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

[49 PA. CODE CH. 36] Broker/Appraiser Fees

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.

Section 36.6 sets forth a schedule of fees currently charged by the Board. The proposed amendment would add to this schedule two fees relating to the newly created certification class of broker/appraiser: an application fee of \$40 and an initial certification fee of \$90 (if certification occurs between July 1, 1997, and June 30, 1998) or \$45 (if certification occurs between September 3, 1996, and June 30, 1997, or on or after July 1, 1998).

Background and Purpose

The act of July 2, 1996 (P. L. 460, No. 71) (Act 71) amended section 6 of the Real Estate Appraisers Certification Act (REACA) (63 P. S. § 457.6) to establish the certification class of broker/appraiser. The broker/appraiser certification permits eligible real estate brokers to perform real estate appraisals in non-Federally related transactions after their authority to do so under the REACA expires September 3, 1998. Real estate brokers who are licensed in good standing as of September 3, 1996, and who submit qualifying applications to the Board between September 3, 1996, and September 3, 1998, are eligible for certification as broker/appraisers.

The proposed application fee would defray (1) the identifiable costs incurred by the Board in reviewing and processing an application for broker/appraiser certification; and (2) a portion of the Board's administrative overhead.

The proposed initial certification fee (to be prorated depending on when certification occurs during the Board's biennial renewal cycle, which begins July 1 of the odd-numbered years) would defray a portion of the Board's general operating expenses (such as, legal services, investigative activities and administrative support). These costs are not susceptible of being apportioned to a specific segment of the persons regulated by the Board and, therefore, must be borne by the entire regulated community. The same two-tiered fee is charged to newly certified persons in the Board's other certification classes (that is, general appraiser, residential appraiser, Pennsylvania evaluator).

Rather than delay the processing of broker/appraiser applications pending regulatory approval of the proposed fees, the Board has been issuing certificates to qualified applicants throughout the 2-year application period that began September 3, 1996, and intends to bill certificateholders for the fees upon completion of final rulemaking. Prospective applicants have been given notice of the proposed fees and of the Board's intention to

deny biennial renewal of certification to those who fail to pay the fees.

Fiscal Impact

The Board projects that approximately 3,500 real estate brokers will apply for and be issued broker/appraiser certificates. The Board also projects that about 92% of the certificateholders will be assessed the \$45 initial certification fee rather than the \$90 initial certification fee because their certifications will have occurred before July 1, 1997, or after June 30, 1998. Accordingly, the Board estimates that the application fee for broker/appraiser will generate revenues of \$140,000 (3,500 applications × \$40) while the initial certification fee for broker/appraiser will generate revenues of \$170,100 (3,220 certifications × \$45 and 280 certifications × \$90).

Paperwork Requirements

The proposed fees will not create additional paperwork for the Board and the regulated community. The fees will be invoiced as part of the biennial renewal notices sent to certificateholders.

Statutory Authority

Section 5(6) of the REACA (63 P. S. § 457.5(6)) authorizes the Board to establish fees for its operation. Section 9 of the REACA (63 P. S. § 457.9) requires the Board to fix the fees by regulation and to ensure that the revenues derived from the fees are adequate to cover the Board's expenses.

Compliance with Executive Order 1996-1

In accordance with the requirements of Executive Order 1996-1 (relating to regulatory review and promulgation), the Board, in developing the proposed fees, solicited comments from the major trade organizations that represent the various segments of the regulated community.

Regulatory Review

On April 17, 1998, as required by section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted copies of this notice of proposed rulemaking to the Independent Regulatory Review Commission (IRRC), the Senate Standing Committee on Consumer Protection and Professional Licensure and the House Standing Committee on Professional Licensure. The Board also provided IRRC and the Committees with copies of regulatory analysis and fee report forms prepared in compliance with Executive Order 1996-1. Copies of these forms are available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to either or both of the proposed fees, it will notify the Board within 10 days of the close of the Committees' review period, specifying the regulatory review criteria that have not been met. The Regulatory Review Act sets forth procedures that permit IRRC, the General Assembly and the Governor to review objections prior to final adoption of the fees.

Public Comment

The Board invites interested persons to submit written comments, suggestions or objections regarding the proposed fees to Steven Wennberg, Counsel, State Board of

Certified Real Estate Appraisers, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this notice of proposed rulemaking in the *Pennsylvania Bulletin*.

DAVID J. KING,
Chairperson

Fiscal Note: 16A-707. 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 36. STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

Subchapter A. GENERAL PROVISIONS

GENERAL PROVISIONS

§ 36.6. Fees.

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

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Certified Real Estate Appraisers

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Certified Broker/Appraisers

Application fee	\$40
Initial certification (if certified between July 1, 1997, and June 30, 1998)	\$90
Initial certification (if certified between September 3, 1996, and June 30, 1997, or on or after July 1, 1998)	\$45

Certified Pennsylvania Evaluators

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[Pa.B. Doc. No. 98-669. Filed for public inspection May 1, 1998, 9:00 a.m.]

STATE POLICE

[37 PA. CODE CHS. 31 AND 33]

Uniform Firearms Act; Licensed Retail Dealers; Firearm Record Forms

As a requirement of the act of June 26, 1995 (P. L. 88, No. 17), the act of November 22, 1995 (P. L. 621, No. 66), the act of February 15, 1997 (P. L. 13, No. 5) and the act of July 2, 1996 (P. L. 481, No. 77) (acts) (relating to the Administrative Regulations Regarding the Uniform Firearms Act), these proposed amendments are necessary for the general administration of 18 Pa.C.S. Chapter 61, Subchapter A (relating to Uniform Firearms Act). These proposed amendments are to be implemented immediately upon adoption of the final-form regulations. The proposed amendments set forth the administration, policies and procedures designed to carry out the provisions of these acts.

Benefits

These proposed amendments will clearly benefit the citizens of this Commonwealth by establishing procedures to prevent prohibited persons from obtaining firearms.

Effect

The proposed amendments will affect various criminal justice agencies, the courts, mental health providers, firearm sellers and firearm purchasers by means of reporting, recordkeeping and confidentiality requirements.

Paperwork Requirements

The proposed amendments will require the completion of additional forms, reports or other paperwork as prescribed and provided by the State Police.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 15, 1998, the State Police submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Judiciary Committee and the Senate Law and Justice Committee. In addition to submitting the proposed amendments, the State Police has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of the material is also available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendments, it will notify the State Police within 10 days of the close of the Committees' review 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, prior to final publication of the amendments, by the State Police, the General Assembly and the Governor of objections raised.

Sunset Date

No sunset date has been assigned, however, every facet of these proposed amendments will be continuously reviewed for effectiveness, clarity and whether they are serving the greater interests of citizens of this Commonwealth.

Public Hearings

These proposed amendments have been written in consultation with various criminal justice agencies. In addition, representatives from the Department of Treasury—Bureau of Alcohol, Tobacco and Firearms; various county sheriffs; retail firearm dealers; State and county mental health and mental retardation agencies; Attorney General Michael D. Fisher; Senator Vincent J. Fumo; Representative Robert W. Godshall; and the National Rifle Association have also been consulted. Regional meetings to update and inform those affected are ongoing and will continue.

Public Comment

Interested parties wishing to comment are invited to submit a written statement within 30 days of the publication of this notice in the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party and a concise statement with sufficient detail on the subject. Written statements may be directed to the State Police, Attention: Director, Records and Identification Division, 1800 Elmerton Avenue, Harrisburg, PA 17110.

Contact Person

The contact person is Corporal Albert J. Picca, State Police, Bureau of Forensics and Criminal Identification, 1800 Elmerton Avenue, Harrisburg, PA 17110, (717) 783-5598.

COLONEL PAUL J. EVANKO,
Commissioner

Fiscal Note: 17-60. (1) General Fund and Firearm Ownership Fund;

	<i>General Fund</i>	<i>Firearm Ownership Fund</i>
(2) Implementing Year 1996-97 is	\$ 974,000	\$0;
(3) 1st Succeeding Year 1997-98 is	\$1,563,000	\$1,198,000;
2nd Succeeding Year 1998-99 is	\$0	\$2,380,000;
3rd Succeeding Year 1999-00 is	\$0	\$1,370,000;
4th Succeeding Year 2000-01 is	\$0	\$1,370,000;
5th Succeeding Year 2001-02 is	\$0	\$1,370,000;

(4) Fiscal Year 1995-96 \$0; Fiscal Year 1994-95 \$New Program. Nonapplicable; Fiscal Year 1993-94 \$New Program. Nonapplicable; (8) recommends adoption.

Annex A

TITLE 37. LAW

PART I. STATE POLICE

Subpart D. ADMINISTRATIVE REGULATIONS REGARDING THE UNIFORM FIREARMS ACT

CHAPTER 31. STANDARDS FOR LICENSED RETAIL DEALERS

(Editor's Note: As part of this proposed rulemaking, the agency proposes to delete the existing text of Chapter 31, §§ 31.1—31.6, 31.11 and 31.21, which appears at 37 Pa. Code pages 31-1—31-6, serial pages (237921)—(237926) and replace it with the following text.)

GENERAL PROVISIONS

- Sec. 31.1—31.6. (Reserved).
- 31.11. (Reserved).
- 31.21. (Reserved).
- 31.101. Scope.
- 31.102. Definitions.

LICENSED RETAIL DEALERS

- 31.103. Responsibilities of licensed retail dealers.
- 31.104. Responsibilities of designated employe.
- 31.105. Storage requirements.
- 31.106. Commissioner's notification.
- 31.107. Fines and other penalties.

GENERAL PROVISIONS

§§ 31.1—31.6. (Reserved).

§ 31.11. (Reserved).

§ 31.21. (Reserved).

§ 31.101. Scope.

This chapter sets forth regulations for the storage of firearms by licensed retail dealers if a clear and present danger to public safety is found by the Commissioner to exist within this Commonwealth during the hours when

the licensed retail dealer is closed for business. This chapter applies to all licensed retail dealers and their designated employees.

§ 31.102. Definitions.

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

Act—The Uniform Firearms Act, 18 Pa.C.S. Chapter 61, Subchapter A.

Commissioner—The Commissioner of the State Police.

Designated employe—An employe of the licensed retail dealer who is designated by the licensed retail dealer to have direction or control in the sale of firearms to the consumer—for example, sporting goods department manager, firearms department manager.

Firearm—As referred to in the act, a weapon which is designed to or may readily be converted to expel a projectile by the action of an explosive or the frame or receiver of the weapon.

Licensed retail dealer—A person, partnership, association or corporation licensed to sell or transfer firearms to the consumer.

Steel mesh—High carbon, manganese steel at least than 15/100 inches in thickness, and a grid of not more than 2 inches center to center. No. 6 gauge steel mesh with a 2-inch diamond grid may be used in those areas where high carbon manganese steel mesh cannot be obtained.

LICENSED RETAIL DEALERS

§ 31.103. Responsibilities of licensed retail dealers.

(a) *General.* If a clear and present danger to public safety is found by the Commissioner to exist in this Commonwealth, licensed retail dealers located in the affected area, upon public announcement by the Commissioner as referred to in section 6113 of the act (relating to licensing of dealers), shall securely store all firearms which are on the business premises during the hours when the licensed retail dealer is closed for business.

(b) *Storage.* Licensed retail dealers located in the affected area, upon public announcement by the Commissioner, are required to comply with one of the following:

(1) All firearms shall be removed from public display. This includes firearms in display cases, racks and shelves within the premises. These firearms shall be placed in a suitable safe, vault or storeroom until the Commissioner has declared the danger to have ceased.

(2) Those licensed retail dealers who do not have a suitable safe, vault or storeroom shall remove all firearms from public view. A bolt, cylinder or any other essential part the absence of which would make the firearm inoperable shall be removed from each firearm and stored at a location other than the licensed retail dealer's place of business until the Commissioner has declared the danger to have ceased. The location shall be at a place geographically removed from the emergency and shall restrict unauthorized access.

(c) *Designated employe instructions.* Licensed retail dealers shall instruct their designated employes of the storage requirements of firearms, if the Commissioner finds a time of clear and present danger to public safety.

§ 31.104. Responsibilities of designated employe.

In the absence of the licensed retail dealer, the designated employe is responsible for the securing of firearms according to § 31.103(b) (relating to responsibilities of licensed retail dealers).

§ 31.105. Storage requirements.

(a) A suitable storeroom for the storage of firearms shall consist of a separate room or closet located inside the premises. There may not be any windows or outside exits to this room. The entrance door of the storeroom shall be of solid wood, metal or steel mesh, with the hinges to be designed and located so the pins cannot be pulled from outside the room. Door locks shall be the cylinder type, in good working order, firmly set in place, and with locking bolts or bars so designed that they cannot be pushed back with a thin instrument such as a knife blade or plastic card. The ceiling, floor and walls shall be constructed so that the entrance cannot be easily gained from an adjoining building or room.

(b) Vaults or safes employed to store the firearms shall be constructed to require an excessive amount of force to gain illegal entry.

(c) The premises or storeroom of a licensed retail dealer may be equipped with other security devices which the retail dealer deems necessary in addition to the requirements in this chapter.

§ 31.106. Commissioner's notification.

(a) If the Commissioner determines that a clear and present danger to public safety in this Commonwealth exists, the Commissioner will notify all licensed retail dealers through public announcements.

(b) If the Commissioner determines that the clear and present danger to public safety in this Commonwealth has ceased, the Commissioner will notify all licensed retail dealers through public announcements.

§ 31.107. Fines and other penalties.

Failure of any licensed retail dealer or a designated employe to abide by this chapter may result in prosecution under the act.

(Editor's Note: As part of this proposed rulemaking, the agency is proposing to delete the existing text of Chapter 33, which consists of §§ 33.1, 33.11—33.17 and 33.21, 37 Pa. Code pages 33-1—33-8, serial pages (134513)—(134520) and replace it with the following text.)

CHAPTER 33. PROCEDURES AND SPECIFICATIONS FOR FIREARM RECORD FORMS

GENERAL

Sec.	
33.1.	(Reserved).
33.11—33.17.	(Reserved).
33.21.	(Reserved).
33.101.	Authority.
33.102.	Policy.
33.103.	Confidentiality.
33.104.	Definitions.

FORM REQUIREMENTS

33.111.	Application/record of sale.
33.112.	Surcharge remittance form.
33.113.	Surcharge remittance continuation form.
33.114.	Application for a Pennsylvania license to carry firearms.
33.115.	Pennsylvania license to carry firearms.
33.116.	Application for a Pennsylvania license to sell firearms.
33.117.	Pennsylvania license to sell firearms.
33.118.	Pennsylvania sportsman's firearms permit.
33.119.	Revocations.
33.120.	Notification of mental health commitment.
33.121.	PICS firearm acquisition license to carry/denial challenge.
33.122.	Fines and other penalties.

FORMS

33.131.	Forms.
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GENERAL

§ 33.1 (Reserved).

§ 33.11—33.17. (Reserved).

§ 33.21. (Reserved).

§ 33.101. Authority.

(a) This chapter has been promulgated under the authority in the act.

(b) The State Police has promulgated this chapter, and in the manner provided by law, has the responsibility to administer and enforce this chapter and the act, to ensure the identity, confidentiality and security of the records and data collected and reported under this chapter.

§ 33.102. Policy.

(a) The General Assembly has declared its intention to provide support to law enforcement in the area of crime prevention and control, and that it is not the policy of the Commonwealth to place undue or unnecessary restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, transfer, transportation or use of firearms, rifles or shotguns for personal protection, hunting, target shooting, employment or other lawful activity.

(b) The General Assembly further declared that this policy is not intended to discourage or restrict the private ownership and use of firearms by law-abiding citizens for lawful purposes or to provide for the imposition by rules or regulations of any procedures or requirements other than those necessary to implement and effectuate the act.

§ 33.103. Confidentiality.

(a) Information furnished under this chapter by an applicant, purchaser, transferee or licensee, or collected by the designated issuing authority under this chapter, is confidential and not subject to public disclosure.

(b) Information collected or maintained under this chapter by the State Police is confidential and not subject to public disclosure.

(c) Nonpublic disclosure by the State Police of information collected, furnished or maintained under this chapter is restricted to:

(1) Disclosure upon request of the applicant, licensee, purchaser or transferee, as described in sections 6109 and 6111 of the act (relating to licenses; and sale or transfer of firearms), upon documentary certification that the requestor is in fact the applicant, licensee, purchaser or transferee.

(2) Disclosure upon request of a criminal justice agency, defined as any court, including the minor judiciary, with criminal jurisdiction or any other governmental agency, or subunit thereof, created by statute or by the State or Federal constitutions, specifically authorized to perform as its principal function the administration of criminal justice, and which allocates a substantial portion of its annual budget to this function. Criminal justice agencies include: organized State and municipal police departments, local detention facilities, county, regional and State correctional facilities, probation agencies, district or prosecuting attorneys, parole boards, pardon boards and agencies or subunits thereof, as are declared by the Attorney General to be criminal justice agencies as determined by a review of applicable statutes and the State and Federal Constitutions, or both.

(d) No disclosure of information forwarded, collected or maintained under this chapter will be made to requests of noncriminal justice agencies, or individuals other than the applicant, licensee, purchaser or transferee as described in sections 6109 and 6111 of the act.

(e) Mental health records information received or maintained by the State Police under section 6111.1(b) and (f) of the act (relating to Pennsylvania State Police) shall be confidential and not subject to public disclosure. The information shall be available only to the State Police for the purposes of determining, under sections 6109(d) and 6111.1(b) of the act, if the potential applicant is prohibited from possessing, using, controlling, selling, transferring or manufacturing a firearm, or obtaining a license to possess, use, control, sell, transfer or manufacture a firearm in this Commonwealth, as defined under Federal or State law, and for the purpose of informing the licensee/sheriff making inquiry under sections 6109(d) and 6111.1(b)(iii) of the act.

§ 33.104. Definitions.

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

Firearm as defined in section 6102 of the act—A pistol or revolver with a barrel length less than 15 inches, a shotgun with a barrel length less than 18 inches or a rifle with a barrel length less than 16 inches, or a pistol, revolver, rifle or shotgun with an overall length of less than 26 inches. The barrel length of a firearm shall be determined by measuring from the muzzle of the barrel to the face of the closed action, bolt or cylinder, whichever is applicable.

Firearm as defined in section 6111.2 of the act—A weapon which is designed to or may readily be converted to expel a projectile by the action of an explosion or the frame or receiver of the weapon.

Gun show/meet—A function sponsored by a National, state or local organization, devoted to the collection, competitive use or other sporting use of firearms, as defined in section 6111.2 of the act (relating to firearm sales surcharge), or an organization or association that sponsors functions devoted to the collection, competitive use or other sporting use of firearms, as defined in section 6111.2 of the act, in the community.

Handgun—A pistol or revolver with a barrel length less than 15 inches, a shotgun with a barrel length less than 18 inches or a rifle with a barrel length less than 16 inches, or a pistol, revolver, rifle or shotgun with an overall length of less than 26 inches. The barrel length of a firearm is determined by measuring from the muzzle of the barrel to the face of the closed action, bolt or cylinder, whichever is applicable.

Identification—

(i) Includes the following documents, which shall be accepted by dealers:

- (A) A valid photo driver's license.
- (B) A valid government-issued photo identification card.

(ii) To be acceptable, a government-issued photo identification card shall contain the holder's name, date of birth and signature. If it does not contain the holder's current address, another document containing that address such as a current utility bill, residential lease agreement, mortgage, and the like, shall be presented.

(iii) If the applicant is a member of a religious sect or community whose tenets forbid or discourage the taking of photographs, dealers shall accept a valid without-photo driver's license, or a combination of three of the following types of identification. If none of those three contain the applicant's current address, the applicant shall have another document containing the name and current address such as a current utility bill, residential lease agreement, mortgage, and the like.

(A) A valid government-issued identification card.

(B) A birth certificate.

(C) A Social Security card.

(D) A valid Pennsylvania License To Carry Firearms issued under section 6109 of the act (relating to licenses). To be accepted as a valid Pennsylvania license to carry firearms, a license issued after _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal.) shall be on a form identical to the one prescribed by the State Police.

Licensee—A person, partnership, association or corporation issued a license by the Commonwealth, or a political subdivision thereof, to sell, transfer, import, manufacture or collect firearms.

Long-gun—The term includes any weapon, that is not a handgun, designed to or may readily be converted to expel a projectile by the action of an explosion, or the frame or receiver of the weapon.

PICS—Pennsylvania Instant Check System—The Pennsylvania instantaneous records check system established under the act and in accordance with the Brady Handgun Violence Prevention Act, 18 U.S.C.A. §§ 921—925A.

Private sale—A sale or transfer between two nonlicensed persons as referred to in section 6111 of the act (relating to sale or transfer of firearms).

Responsible person—In addition to a sole proprietor, a responsible person is:

(i) In the case of a corporation, partnership or association, an individual possessing, directly or indirectly, the power to direct or cause the direction of the management, policies and practices of the corporation, partnership or association, insofar as they pertain to firearms, as defined in section 6111.2 of the act.

(ii) In the case of a corporation, association or similar organization, a person owning 10% or more of the outstanding shares of stock issued by the applicant, and the officers and directors thereof.

Sheriff—The sheriff of the county, or the chief or head of the police department in a city of the first class.

FORM REQUIREMENTS

§ 33.111. Application/record of sale.

(a) *Description.* The application/record of sale, Form SP 4-113, is a prenumbered three-part form furnished through the State Police under section 6111 of the act (relating to sale or transfer of firearms) and is used to record firearm transactions. A written request for these forms may be directed to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. Telephone requests will not be honored. Forms will be furnished to the licensee/sheriff and shall be requested at least 3 weeks prior to the time of actual need.

(b) *Requirements.*

(1) The application/record of sale shall be either type-written or printed in blue or black ink with a ball point pen. Copies shall contain legible impressions. It is the responsibility of the licensee/sheriff, and the transferee/purchaser, to ensure the form is accurately completed as indicated in the block instructions (relating to fines and other penalties). The original shall be transmitted by the licensee/sheriff within 14 days of the sale/transfer by first class mail to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. The first copy shall be retained by the licensee/sheriff for 20 years and filed in a book form in chronological order, with the latest date to the front. The second copy shall be provided to the transferee/purchaser.

(2) If a licensed business is discontinued and succeeded by a new licensee, the records prescribed by this section including both completed and blank application/record of sale forms, shall be delivered to the successor. When discontinuance of the business is absolute, the records shall be delivered within 30 days following the business discontinuance to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.

(c) *Retail sale/transfer of a handgun or long gun prior to the implementation of the instantaneous background check.* The following are steps for completing the application/record of sale for a retail sale/transfer of a handgun or if required by law, a long gun, prior to the implementation of the instantaneous background check.

(1) The applicant is provided an application/record of sale form and the applicant shall complete the applicable blocks as indicated on the form. If the applicant does not complete all of the required information or checks "yes" to any of the questions under transferee's/purchaser's information on the form, the sale/transfer may not take place.

(2) The licensee/sheriff shall check the applicant's identification and ensure it meets the requirements under § 33.104 (relating to definitions).

(3) The licensee/sheriff shall ensure the form has been accurately completed.

(4) The licensee/sheriff shall comply with any applicable waiting period (Federal or State).

(5) If the sale/transfer is not denied, the transaction may be completed and the licensee/sheriff shall complete the applicable sections on the form as per block instructions, and provide the transferee/purchaser a summary of the uniform firearm laws which includes a safety brochure. The transferee/purchaser shall then sign the designated block on the form.

(d) *Retail sale/transfer of a handgun or long gun after the implementation of the instantaneous background check.* The following are the steps for completing the application/record of sale form for a sale/transfer of a handgun or if required by law, a long gun, upon the implementation of the instantaneous background check, unless the system becomes inoperable for a period exceeding 48 hours as indicated by State Police at the time an instant background check is requested, the licensee/sheriff shall follow the procedures outlined in subsection (c) for any weapon. This procedure shall stay in effect during the time indicated by State Police at the time of the check.

(1) The applicant is provided an application/record of sale form and shall complete the applicable blocks as indicated on the form. If the applicant does not complete all of the required information or checks "yes" to any of

the questions under transferee's/purchaser's information on the form, the sale/transfer may not take place.

(2) The licensee/sheriff shall check the applicant's identification and ensure it meets the requirements under § 33.104.

(3) The licensee/sheriff shall ensure the form has been accurately completed.

(4) The licensee/sheriff shall request an instantaneous background check be conducted on the applicant.

(5) If the applicant's instantaneous background check is approved, the transaction may be completed and the licensee/sheriff shall complete the applicable sections on the form as per block instructions, and provide the transferee/purchaser a summary of the uniform firearm laws which includes a safety brochure. The transferee/purchaser shall then sign the designated block on the form.

(e) *Private sale/transfer of handgun.* The following are the steps for completing the application/record of sale for a private sale/transfer involving a handgun:

(1) The licensee/sheriff shall follow the same procedures as outlined in either subsection (c) or (d), except that the transferor's/seller's information shall also be included in Section F on the form before the private sale/transfer can be completed. If the transfer is by intestate succession or by bequest, the executor or administrator shall act in the capacity of the transferor/seller. Private sales shall occur only at the place of business of the licensee, or sheriff's office. The licensee/sheriff shall follow the procedures as if he was the seller.

(2) The licensee/sheriff shall retain the application/record of sale as though he were the seller.

(f) *Approval number.* An approval number shall be issued through the instant background check system for use by the licensee/sheriff for approval of an applicant to complete a firearm, as defined in section 6111.2 of the act, transaction. If the applicant chooses to complete other firearm transactions on the same day with the same licensee/sheriff, the approval number shall be valid for use on the subsequent application/record of sale forms. If the applicant chooses to complete a firearm transaction with a different licensee/sheriff, a new approval number shall be obtained from the State Police by that licensee/sheriff and it shall be valid for all firearm transactions made with the licensee/sheriff for that date, and so on. The applicant shall be issued a receipt from the licensee/sheriff for each firearm transaction made. It shall contain the approval number for the firearm transaction, and date it was given. The application/record of sale may serve as the receipt.

(g) *Preapproval.* At an auction or gun show/meet, an approval number may be obtained by a potential transferee/purchaser for use during a later firearm transaction, as defined in section 6111.2. The potential transferee/purchaser shall be required to present the required identification to the licensee/sheriff, complete Section B on the application/record of sale and pay the required fee. The licensee/sheriff shall then request that an instantaneous background check be conducted on the potential transferee/purchaser. If approved, the licensee/sheriff shall place the approval number and date on the application, and retain it pending any transactions made by the potential transferee/purchaser on that date.

(1) If the potential transferee/purchaser conducts a transaction that requires a completed application/record

of sale, the form shall be completed and the transferee/purchaser shall be given a copy to serve as the receipt.

(2) If the transferee/purchaser conducts a transaction that does not require a completed application/record of sale, the transferee/purchaser shall be given a copy of the partially completed form to serve as the receipt. The State Police copy shall be voided and forwarded to the State Police. The licensee's/sheriff's copy shall be retained as required. The licensee/sheriff shall ensure the fee is included with the surcharge remittance form, Form SP 4-134.

(3) If no transaction is made on that date, the licensee/sheriff shall void the form. The State Police copy shall be voided and forwarded to the State Police. The licensee's/sheriff's copy shall be retained as required. The licensee/sheriff shall ensure the fee is included with the surcharge remittance form.

(h) *Fees.*

(1) *Firearm sales surcharge.* It is the responsibility of the licensee/sheriff to collect the firearm sales surcharge from the purchaser at the time of the transaction of the firearm, as defined in section 6111.2 of the act.

(2) *Instantaneous records check.* When the instantaneous records check is operational, a fee shall be collected by the licensee/sheriff from the requestor at the time a check is requested, under section 6111(b)(3) of the act.

(3) *Transmittal of fees.* The fees as described in paragraphs (1) and (2), shall be transmitted by the licensee/sheriff within 14 days of collection by first class mail to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.

(i) *Transmission of fees/surcharges.* The licensee/sheriff shall utilize the surcharge remittance form, and if necessary, the surcharge remittance continuation form, Form SP 4-134A, when transmitting the above fees/surcharges referenced in this subsection. Refer to § 33.112 (relating to surcharge remittance form).

§ 33.112. Surcharge remittance form.

(a) The surcharge remittance form, Form SP 4-134, shall be used by the licensee/sheriff to supply the State Police a record of the number of private sales processed, long-guns and handguns sold, telephone instantaneous records checks approved/denied, verification that a background check has been completed for each purchase/transfer as required by the act, and as a means to calculate the amount of fees/surcharges owed by the licensee/sheriff. The surcharge remittance form shall be uniform throughout this Commonwealth and shall be on a form prescribed by the State Police. The form shall be 8 1/2 inches by 11 inches in dimension, on white, 100% sulfite bond paper.

(b) It is the responsibility of the licensee/sheriff to ensure the form is accurately completed as indicated in the block instructions. The form may be typewritten, computer generated or printed in blue or black ink with a ballpoint pen. Copies shall contain legible impressions. The original shall be transmitted by the licensee/sheriff along with a check payable to "Pennsylvania State Police FSSF" covering the total amount of surcharge/fee owed within 14 days of a sale, transfer or instantaneous records check by first class mail to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. A duplicate or photocopy shall be retained by the licensee/sheriff for 20 years and filed in chronological order, with the latest date to the front of the file folder.

(c) When a licensed business is discontinued and succeeded by a new licensee, the records prescribed by this section shall be delivered to the successor. When discontinuance of the business is absolute, the records shall be delivered within 30 days following the business discontinuance to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.

§ 33.113. Surcharge remittance continuation form.

(a) The surcharge remittance continuation form, Form SP 4-134A, shall be uniform throughout this Commonwealth and shall be on a form prescribed by the State Police. The form shall be 8 1/2 inches by 11 inches in dimension, on white, 100% sulfite bond paper. The form shall be used by the licensee/sheriff when additional space is needed to record approval numbers/dates approved as required in § 33.111 (relating to application/record of sale).

(b) It is the responsibility of the licensee/sheriff to ensure the form is accurately completed as indicated in the block instructions. The form may be typewritten, computer generated or printed in blue or black ink with a ballpoint pen. Copies shall contain legible impressions. The original shall be transmitted by the licensee/sheriff along with the corresponding surcharge remittance form within 14 days of a sale, transfer or instantaneous records check by first class mail to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. A duplicate or photocopy shall be retained, along with the corresponding surcharge remittance form, by the licensee/sheriff for 20 years and filed in chronological order, with the latest date to the front of the file folder.

(c) When a licensed business is discontinued and succeeded by a new licensee, the records prescribed by this section shall be delivered to the successor. When discontinuance of the business is absolute, the records shall be delivered within 30 days following the business discontinuance to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.

§ 33.114. Application for a Pennsylvania license to carry firearms.

(a) The application for a Pennsylvania license to carry firearms, Form SP 4-127, is used to apply for an original/renewal of a Pennsylvania license to carry firearms and shall be uniform throughout this Commonwealth. It shall be on a form prescribed by the State Police. The form shall be 8 1/2 inches by 11 inches in dimension, on white, 100% sulfite bond paper. The form shall be used by the issuing authority, that is, county sheriff or a chief of police for a city of the first class, to conduct an investigation within 45 days relative to whether the applicant would be precluded from receiving a license under the conditions in the act.

(b) The application for a Pennsylvania license to carry firearms shall be typewritten, computer generated or printed in blue or black ink with a ballpoint pen. Copies shall contain legible impressions. It is the responsibility of the issuing authority to utilize the form as prescribed by the State Police, and ensure it is accurately completed in accordance with the block instructions contained therein. The form shall be retained by the issuing authority for 6 years.

(c) At least 60 days prior to the expiration of each license, the issuing sheriff shall send to the licensee an application for a renewal of license. Failure to receive a renewal application does not relieve a licensee from the responsibility to renew the license.

§ 33.115. Pennsylvania license to carry firearms.

(a) The Pennsylvania license to carry firearms, Form SP 4-129, shall be constructed as a three-part form, 3 inches by 5 3/8 inches in dimension, on white, 100% sulfite bond paper. The issuing authorities, that is, county sheriff or a chief of police for a city of the first class, shall utilize the form as prescribed by the State Police.

(b) The Pennsylvania license to carry firearms shall be typewritten, computer generated or printed in blue or black ink with a ballpoint pen. Copies shall contain legible impressions. A photograph of the applicant may be placed on the license if required by the issuing authority.

(c) The form is designed to be folded in half and may be laminated. At the option of the entity furnishing the form, the paper weight of each part may be a minimum of 14 pounds up to a maximum of 28 pounds, and impressions may be produced by utilizing either carbon inserts or no carbon required (NCR) paper. Forms shall be numbered in numerical sequence and the size of the license numbers shall be at least 3/16 of an inch. The first two numbers shall be the county location code followed by the license number—for example, if the license was issued by Dauphin County, the license number would be 22-0000001, and so on.

(d) Under section 6109 of the act (relating to licenses), the original shall be issued to the licensee and be valid for 5 years from date of issue, unless revoked sooner. The first copy shall be transmitted by the issuing authority within 7 business days by first class mail to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. The second copy shall be retained by the issuing authority for 6 years.

§ 33.116. Application for a Pennsylvania license to sell firearms.

(a) The application for a Pennsylvania license to sell firearms, Form SP 4-128, is used to apply for an original/renewal of a Pennsylvania license to sell firearms and shall be uniform throughout this Commonwealth. It shall be on a form prescribed by the State Police. The form shall be 8 1/2 inches by 11 inches in dimension, on white, 100% sulfite bond paper. The form shall be used by the issuing authority, that is, the chief or head of any police department of a city, and elsewhere, the sheriff of the county, to conduct an investigation relative to whether the applicant would be precluded from receiving a license under the conditions in the act.

(b) The application for a Pennsylvania license to sell firearms shall be either typewritten, computer generated or printed in blue or black ink with a ballpoint pen. Copies shall contain legible impressions. It is the responsibility of the issuing authority to utilize the form and to ensure it is accurately completed as indicated in the block instructions. The original shall be transmitted by the issuing authority within 7 business days by first class mail to the Pennsylvania State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. A duplicate copy shall be retained by the issuing authority for 6 years.

§ 33.117. Pennsylvania license to sell firearms.

(a) The Pennsylvania license to sell firearms, Form SP 4-133, shall be uniform throughout this Commonwealth and shall be on a form prescribed by the State Police. The license shall be 8 1/2 inches by 11 inches in dimension, on white, 100% sulfite bond paper. The license shall be granted to reputable applicants by the issuing authority. The Pennsylvania license to sell firearms is required for

any person engaged in the business of selling or transferring firearms as defined in section 6113(d) of the act (relating to licensing of dealers).

(b) The Pennsylvania license to sell firearms shall be either typewritten, computer generated or printed in blue or black ink with a ballpoint pen in three counterparts. Copies shall contain legible impressions. It is the responsibility of the issuing authority to ensure the form is accurately completed as indicated in the block instructions, and that the State Police Firearm Unit is contacted, at (717) 783-5495, to obtain a specific license number for the form. The issuing authority shall use only the license prescribed by the State Police.

(c) The original shall be delivered to the licensee to be displayed as prescribed by the act and is valid for 3 years from date of issue. The first copy shall be transmitted by the issuing authority within 7 business days by first class mail to the Pennsylvania State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. The second copy shall be retained by the issuing authority for 6 years.

§ 33.118. Pennsylvania sportsman's firearm permit.

(a) The Pennsylvania sportsman's firearm permit, Form SP 4-126, is a prenumbered three-part form furnished by the State Police under section 6106(c) of the act (relating to firearms not to be carried without a license). This permit, granting exemption to section 6106(a) of the act, is issued in conjunction with a hunting, furtaking or fishing license, or permit relating to hunting dogs, under section 6106(b)(9) and (10) and (c) of the act. A written request for these forms may be directed to the Pennsylvania State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. Telephone requests will not be honored. Forms shall be furnished to the requesting issuing authority, that is, county treasurer, in quantities of 500 per pack and shall be requested at least 3 weeks prior to the time of actual need.

(b) The Pennsylvania sportsman's firearm permit shall be completed as indicated in the block instructions. It can either be typewritten or printed in blue or black ink with a ballpoint pen. Copies shall contain legible impressions. The original shall be issued to the licensee and is valid for 5 years from date of issue. The first copy shall be transmitted by the issuing authority within 7 business days by first class mail to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. The second copy shall be retained by the issuing authority for 2 years after the expiration date.

§ 33.119. Revocations.

(a) A Pennsylvania license to carry firearms, Pennsylvania license to sell firearms or a Pennsylvania sportsman's firearm permit may be revoked by the issuing authority for good cause.

(b) Notice of revocation shall be in writing upon the official letterhead stationery of the issuing authority and shall state the reason for revocation, the full name and date of birth of the licensee as it appears on the license/permit, the number of the license/permit and the date of revocation.

(c) The notice shall be sent by certified mail, and, at that time, a copy shall be forwarded to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.

(d) An individual whose license/permit is revoked shall surrender the license/permit to the issuing authority within 5 days of the receipt of notice.

§ 33.120. Notification of mental health commitment.

(a) The notification of mental health commitment, Form SP 4-131, shall be uniform throughout this Commonwealth and shall be on a form prescribed by the State Police. The form shall be 8 1/2 inches by 11 inches in dimension, on white, 100% sulfite bond paper. The form shall be used by the judges of the courts of common pleas, mental health review officers and county mental health and mental retardation administrators, providing the name, at least one numeric identifier and physical description, to notify the State Police of the identity of a person who has been adjudicated as an incompetent or who has been involuntarily committed to a mental institution for inpatient care and treatment under section 302, section 303 or section 304 of the Mental Health Procedures Act (50 P. S. §§ 7102—7104). In addition, the form shall also be used by physicians when they determine a lack of severe mental disability following the initial examination under section 302(b) of the Mental Health Procedures Act and under section 6111.1(f)(3) of the act (relating to Pennsylvania State Police).

(b) It is the responsibility of the judges of the courts of common pleas, mental health review officers and county mental health and mental retardation administrators to ensure the form is accurately completed. It can either be typewritten, computer generated or printed in blue or black ink with a ballpoint pen. Copies shall contain legible impressions. The form shall be transmitted by the judges of the courts of common pleas, mental health review officers and county mental health and mental retardation administrators within 7 days of the adjudication, commitment or treatment, or determination by a physician of the lack of severe mental disability, by first class mail to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. Note: The envelope shall be marked "CONFIDENTIAL."

§ 33.121. PICS firearm acquisition/license to carry/denial challenge.

(a) The PICS firearm acquisition/license to carry/denial challenge, Form SP4-196, shall be furnished to licensed firearms dealers and county sheriffs in this Commonwealth, to be provided to individuals upon request, who are denied the ability to purchase or acquire a firearm, as defined in section 6111.2 of the act (relating to firearms sales surcharge) or a license to carry a firearm, based upon a PICS firearms background check determination. A written request for these forms may be directed to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. Forms shall be

furnished to the firearms dealer/sheriff and shall be requested at least 3 weeks prior to the time of actual need.

(b) The PICS firearm acquisition/license to carry/denial challenge form shall be either typewritten or printed in blue or black ink pen. The form shall be completed containing legible impressions. It shall be the responsibility of the individual submitting the denial challenge to ensure the form is accurately completed. The form shall be submitted within 30 days of the PICS denial determination by the requesting individual, by first class mail, to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.

FINES AND PENALTIES**§ 33.122. Fines and other penalties.**

This chapter is promulgated under the authority contained in the act, and will be prosecuted as a violation of the act.

FORMS**§ 33.131. Forms.**

(a) The following forms have been promulgated by the State Police under authority of the act and this subpart.

- (1) Application/Record of Sale (SP4-113).
- (2) Surcharge Remittance Form (SP4-134).
- (3) Surcharge Remittance Continuation Form (SP4-134A).
- (4) Application for a Pennsylvania License to Carry Firearms (SP4-127).
- (5) Pennsylvania License to Carry Firearms (SP4-129).
- (6) Application for a Pennsylvania License to Sell Firearms (SP4-128).
- (7) Pennsylvania License to Sell Firearms (SP4-133).
- (8) Pennsylvania Sportsman's Firearm Permit (SP4-126).
- (9) Notification of Mental Health Commitment (SP4-131).
- (10) PICS Firearm Acquisition/ License to Carry/Denial Challenge (SP4-196).

(b) The forms are available from the State Police by contacting: Pennsylvania State Police, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.

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