

# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

[49 PA. CODE CH. 36]

#### Broker/Appraiser Fees

By this order, the State Board of Certified Real Estate Appraisers (Board) amends § 36.6 (relating to fees) to read as set forth in Annex A.

Section 36.6 lists a schedule of fees currently charged by the Board. The amendments add to this schedule two fees relating to the new certification class of broker/appraiser: An application fee of \$40 (for the application period of September 3, 1996 to September 3, 1998) and an initial certification fee of \$90 (if certification occurred between July 1, 1997, and June 30, 1998) or \$45 (if certification occurred between September 3, 1996, and June 30, 1997, or if certification occurred on or after July 1, 1998, if the application for certification was received by September 3, 1998).

#### *Background and Purpose*

Act 71 of 1996 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 REACA expired September 3, 1998. Real estate brokers who were licensed in good standing as of September 3, 1996, and who submitted qualifying applications to the Board between September 3, 1996, and September 3, 1998, were eligible for certification as broker/appraisers.

The application fee defrays: (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 initial certification fee (a prorated amount depending on when certification occurred during the Board's biennial renewal cycle, which begins July 1 of the odd-numbered years) defrays a portion of the Board's general operating expenses (for example, legal services, investigative activities, administrative support). These costs are not capable 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 fees, the Board has issued certificates to qualified applicants who submitted timely applications and intends to bill certificateholders for the fees upon completion of final rulemaking. Applicants for certification were given notice of the proposed fees and of the Board's intention to deny biennial renewal of certification to those who fail to pay them.

#### *Summary of Comments and Responses to Proposed Rulemaking*

The Board published a notice of proposed rulemaking on May 2, 1998 (28 Pa. B. 2036), following which the Board entertained public comments for 30 days. On June 1, 1998, the Board received comments from the Pennsylvania Association of Realtors (PAR) supporting the fees.

On July 2, 1998, the Board received comments from the Independent Regulatory Review Commission (IRRC) recommending editorial changes under its review of the fees under the Regulatory Review Act (71 P. S. § 745.1—745.15). The Board did not receive comments from the House Professional Licensure Committee (House Committee) and the Senate Consumer Protection and Professional Licensure Committee (Senate Committee), both of which reviewed the fees during proposed rulemaking.

At the suggestion of IRRC, the Board has amended the description of the application fee in § 36.6 to clarify that the fee applies to applications that were submitted during the 2-year application period beginning September 3, 1996 and ending September 3, 1998; the original description of the fee did not reference the 2-year application period. Also at the suggestion of IRRC, the Board has amended the description of the initial certification fee in § 36.6 to clarify that the \$45 fee will be charged to certificateholders who obtained their certifications between September 3, 1996, and June 30, 1997, or on or after July 1, 1998, if their applications were received by September 3, 1998; the original description of the fee did not identify the final cutoff date.

#### *Fiscal Impact*

Each of the approximately 4,125 persons who hold current broker/appraisers certifications will be required to pay the \$40 application fee. Of these certificateholders, 699 will be required to pay the \$90 initial certification fee and approximately 3,426 will be required to pay the \$45 initial certification fee. Accordingly, the fees will generate total revenues for the Board of approximately \$382,080 (4,125 x \$40 plus 3,426 x \$45 plus 699 x \$90).

#### *Paperwork Requirements*

The fees will not create additional paperwork for the Board and the regulated community. Certificateholders will be billed for the fees when they receive their biennial renewal notices in April 1999.

#### *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 fees, solicited comments from the major trade organizations that represent various segments of the regulated community.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 17, 1998, the Board submitted a copy of the notice of proposed rulemaking, published at 28

Pa.B. 2036, to IRRC and to the House and Senate Committees for review and comment.

In adopting this final-form regulation, the Board considered comments from IRRC and the PAR. The Board did not receive comments from the House and Senate Committees.

On January 25, 1999, the Board submitted this final-form regulation to IRRC and the House and Senate Committees. Under the authority of section 5(c) of the Regulatory Review Act, the final-form regulation was approved by the House Committee on February 9, 1999, deemed approved by the Senate Committee on February 16, 1999, and approved by IRRC on February 18, 1999.

*Additional Information*

Individuals who desire additional information about the fees are invited to submit inquiries to Cheryl B. Lyne, Administrator, State Board of Certified Real Estate Appraisers, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-4866.

*Findings*

The Board finds that:

(1) Public notice of the Board's intention to amend 49 Pa. Code Chapter 36, by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The regulation adopted by this order is both necessary and appropriate for the administration of the REACA.

*Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 36, are amended by amending § 36.6 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.

(c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) The amendment shall take effect upon publication in the *Pennsylvania Bulletin*.

DAVID J. KING,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 29 Pa.B. 1278 (March 6, 1999).)*

**Fiscal Note:** Fiscal Note 16A-707 remains valid for the final adoption of the subject regulation.

**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:

Certification of scores .....	\$15
Verification of certification.....	\$10

*Certified Real Estate Appraisers*

Application fee .....	\$55
Examination fee .....	\$100
Initial certification (if certified on or after 7/1 of odd-numbered years or on or before 6/30 of even-numbered years).....	\$90
Initial certification (if certified between 7/1 of even-numbered years and 6/30 of odd-numbered years.....	\$45
Biennial renewal fee .....	\$105

*Certified Broker/Appraisers*

Application fee (for application period of 9/3/96, to 9/3/98).....	\$40
Initial certification (if certified between 7/1/97 and 6/30/98) .....	\$90
Initial certification (if certified between 9/3/96 and 6/30/97 or if certified on or after 7/1/98, if the application for initial certification was submitted by 9/3/98) .....	\$45

*Certified Pennsylvania Evaluators*

Application fee.....	\$55
Initial certification (if certified on or after 7/1 of odd-numbered years or on or before 6/30 of even-numbered years).....	\$90
Initial certification (if certified between 7/1 of even-numbered years and 6/30 of odd-numbered years).....	\$45
Biennial renewal fee .....	\$105
Reciprocity certification fee .....	\$25
Temporary practice registration fee.....	\$25
Examination fee .....	\$200

[Pa.B. Doc. No. 99-496. Filed for public inspection March 26, 1999, 9:00 a.m.]