

RULES AND REGULATIONS

Title 4—ADMINISTRATION

DEPARTMENT OF STATE

[4 PA. CODE CH. 161]

Fees for Notary Services

The Department of State (Department) amends § 161.1 (relating to schedule of fees) by amending the fees that notaries public may charge for their services.

A. *Effective Date*

The final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

B. *Statutory Authority*

The final-form rulemaking is authorized under section 21 of the Notary Public Law (act) (57 P. S. § 167), which requires that the fees of notaries public be fixed by the Secretary of the Commonwealth (Secretary) with the approval of the Attorney General. Although section 21 of the act does not require the Secretary to establish notary public fees through the regulatory process, the last notary public fee increase, which occurred on February 11, 1984, was brought about through the rulemaking process and the Secretary determined that it was in the best interest of the public to also provide for public comment on this rulemaking. Under section 16 of the act (57 P. S. § 162), as amended by the act of December 9, 2002 (P. L. 1269, No. 151) (Act 151) (effective July 1, 2003), notaries public shall in addition to their other powers have the power to administer verifications and therefore, this rulemaking adds a fee for verifications.

C. *Notice of Proposed Rulemaking and Comments Received*

Notice of proposed rulemaking was published at 34 Pa.B. 3136 (June 19, 2004). The Department entertained public comment on the proposed rulemaking for 30 days. It received public comments from the National Notary Association and the Pennsylvania Association of Notaries, both of which sent letters expressing support for the proposed amendment. In accordance with the Regulatory Review Act (71 P. S. §§ 745.2—745.15), the Department submitted the proposed amendment to regulatory review bodies. The Independent Regulatory Review Commission (IRRC) indicated that it had no objections, comments or recommendations on the regulation. No comments were received from either the House or Senate State Government Committee.

D. *Background and Purpose*

As previously noted, the fees that notaries public may charge for their services have not been increased since February 11, 1984. (See 14 Pa.B. 431.) Yet, the costs that notaries public now incur have increased substantially since 1984. For example, the minimum cost to become a notary public, including the Department's application fee, obtaining mandatory education under Act 151 (for notaries appointed after July 1, 2003) at a minimum of \$35 per class, securing a bond, obtaining a rubber stamp seal and purchasing a register, has increased from about \$46.50 to approximately \$128 since 1984.

One of the major purposes of the final-form rulemaking, which increases fees from \$2 to \$5 for most services, is to help the fees of notaries public bear a closer correlation to increases in the Consumer Price Index, which, according

to the United States Department of Labor, Bureau of Labor Statistics, rose 85.4% between August 1984 and September 2004.

The final-form rulemaking will also help notaries public better absorb the increased costs they face for the notary public application process, supplies, recordkeeping and recording fees. For example, all recorders of deeds charge notaries public fees for recording their oath, commission and bond with the fees ranging from \$32.50 to \$70.50. In addition, the final-form rulemaking will defray the costs incurred by those applicants subject to the mandatory notary public education requirement in Act 151. Applicants are typically paying at least \$35 for the 3-hour course and possibly as much as \$159 for the course offered by some providers.

Finally, another major purpose is to help ensure that notary public fees remain competitive with the fees that notaries public may charge in other states. In contrast to the \$2 that notaries public may charge for their services in this Commonwealth, a total of 19 other states, including Delaware, have set their fees at \$5 or higher.

E. *Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will have no adverse fiscal impact on the Department, the Bureau of Commissions, Elections and Legislation (Bureau) or the notaries public it commissions. The final-form rulemaking will also have no adverse fiscal impact on the Commonwealth or its political subdivisions. In addition, the final-form rulemaking will not impose any additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector.

F. *Sunset Date*

The Secretary and the Department monitor the regulations of the Bureau on a continuing basis. Therefore, no sunset date has been assigned.

G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 19, 2004, the Department submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 3136, to IRRC and the Chairpersons of the Senate State Government Committee and the House State Government Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on April 27, 2005, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC, effective April 27, 2005.

I. *Additional Information*

Individuals who require information about the final-form rulemaking should contact Nancy Chavez, Deputy Commissioner, Bureau of Commissions, Elections and Legislation, Department of State, 210 North Office Building, Harrisburg, PA 17120.

J. Findings

The Secretary finds that:

(1) Public notice of intention to adopt the final-form regulation was 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 promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) The final-form regulation is necessary and appropriate for administering and enforcing the authorizing acts identified in Part B of this preamble.

K. Order

The Secretary, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 4 Pa. Code Chapter 161, are amended by amending § 161.1 to read as set forth at 34 Pa.B. 3136.

(b) The Department shall submit this order and 34 Pa.B. 3136 to the Office of General Counsel and the Office of Attorney General as required by law.

(c) The Department shall certify this order and 34 Pa.B. 3136 and deposit them with the Legislative Reference Bureau as required by law.

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

PEDRO A. CORTES,
Secretary of the Commonwealth

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 2972 (May 14, 2005).)

Fiscal Note: Fiscal Note 16-33 remains valid for the final adoption of the subject regulation.

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