

RULES AND REGULATIONS

Title 37—LAW

BOARD OF PARDONS

[37 PA. CODE CH. 81]

Representation of Applicant

The Board of Pardons (Board) amends § 81.282 (relating to representation of applicant) to read as set forth in Annex A.

Authority

This final-omitted rulemaking is promulgated in response to the requirements of the act of June 1, 1995 (P. L. 1017, No. 15) (Spec. Sess. No. 1) (Act 215).

Purpose and Legal Requirements

The purpose of the final-omitted rulemaking is to make clear that persons who, by reason of mental incompetence or other mental disability, are unable to apply for clemency on their own or to designate an individual to act on their behalf may nevertheless make application with the Board for clemency. This final-omitted rulemaking will also make clear that applicants may be represented by a public defender or other court-appointed attorney. This amendment will protect a mentally incompetent person's constitutional right to due process of law and his rights under the Americans With Disabilities Act of 1990 (42 U.S.C.A. §§ 12101—12213)

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on February 9, 2006, the Board submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Judiciary Committees. A copy of this material is available to the public upon request.

Under section 5.1(j.1) and (j.2) of the Regulatory Review Act, on March 20, 2006, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on March 21, 2006, and approved the final-omitted rulemaking.

Affected Parties

The final-omitted rulemaking will affect mentally incompetent persons, as well as other persons authorized by law to act on behalf of the mentally incompetent person and to appear before the Board on behalf of the incompetent person.

Effective Date

This final-omitted rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

For further information regarding this amendment, contact John L. Heaton, Esq., Secretary, Board of Pardons, 333 Market Street, 15th Floor, Harrisburg, PA, 17126-0333, (717) 787-8125.

Findings

The Board finds that:

(1) Public notice of the Board's intention to amend its regulations as adopted by this order, under the procedures specified in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 204) (45 P. S. § 1204(3)), known as the Commonwealth Documents Law (CDL), has been omitted under the authority in section 204(1)(iii) of the CDL (45 P. S. § 1204(1)(iii)), because the Board has found that the rulemaking relates to agency practice and procedure.

(2) The amendment of the regulation of the Board in the manner provided in this order is necessary and appropriate for administering the Constitution of Pennsylvania. PA. CONST. Article IV, § 9.

Order

The Board, acting under Article IV, § 9 of the Pennsylvania Constitution, orders that:

(a) The regulations of the Board, 37 Pa. Code Chapter 81, are amended by amending § 81.282 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to form and legality 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) This order shall become effective immediately upon publication in the *Pennsylvania Bulletin*.

JOHN L. HEATON,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 36 Pa.B. 1555 (April 1, 2006).)

Fiscal Note: 56-3. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 37. LAW

PART III. AGENCIES AND OFFICES

Subpart A. BOARD OF PARDONS

CHAPTER 81. BOARD OF PARDONS

REPRESENTATION

§ 81.282. Representation of applicant.

The applicant may be represented by legal counsel or another person designated by the applicant. The applicant may also be represented by a legal guardian, next friend or other person authorized by law to act on behalf of the applicant. If confined, the applicant may request representation from the Department of Corrections.

[Pa.B. Doc. No. 06-529. Filed for public inspection March 31, 2006, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF AUCTIONEER EXAMINERS

[49 PA. CODE CH. 1]

Schedule of Fees

The State Board of Auctioneer Examiners (Board) amends § 1.41 (relating to schedule of fees) to read as set forth in Annex A.

Omission of Proposed Rulemaking

Under section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(3)), known as the Commonwealth Documents Law (CDL), the Board has omitted the procedures for proposed rulemaking set forth in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202). Proposed rulemaking has been omitted because public comment is unnecessary in that this final-omitted rulemaking merely corrects the Board's fee schedule to replace a line that was inadvertently dropped when § 1.41 was amended at 31 Pa.B. 6941 (December 22, 2001), and because public comment on the fees was provided at the time they were originally adopted at 28 Pa.B. 5869 (November 28, 1998).

Description of Final-Omitted Rulemaking

Section 1.41 is amended to clarify that the application fee for auction house and auction company is \$50 and that the fee for biennial renewal for auction house and auction company is \$200 as originally established by the Board in 1998. The final-form rulemaking at 31 Pa.B. 6941 was not intended to change these fees. At that time, a line was inadvertently dropped from the original language of this section resulting in the inaccurate fees that appear in the official text.

Background and Need for Amendment

Section 1.41 was added in 1998 when the Board restructured its regulations to provide a section where all fees would be conveniently located. As proposed at 28 Pa.B. 1559 (March 28, 1998), the application fee for auction house and auction company was \$50 and the biennial renewal fee for auction house and auction company was \$200. The fees were adopted at 28 Pa.B. 5869.

When the Board adopted amendments to § 1.41 in 2001, a line was inadvertently dropped from the fee schedule. The error resulted in the application fee for auction house and auction company appearing as \$200 in the final-form rulemaking and the biennial renewal fee for auction house and auction company was dropped completely. The final-form rulemaking published at 31 Pa.B. 6941 was intended to add additional fees to the fee schedule. The Board did not intend to make any changes to the existing fees at that time. This final-omitted rulemaking corrects the fee schedule to include the fees as they were originally adopted and as approved by the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the House Professional Licensure Committee (HPLC).

Statutory Authority

Section 6(a) of the Auctioneer and Auction Licensing Act (act) (63 P. S. § 734.6(a)) requires the Board to establish fees by regulation.

Fiscal Impact and Paperwork Requirements

The final-omitted rulemaking is expected to have no fiscal impact as it merely corrects the official text of the Board's schedule of fees as originally intended. It also imposes no additional paperwork requirements on the Board, the regulated community or the public.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on January 30, 2006, the Board submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Chairpersons of the SCP/PLC and the HPLC. A copy of this material is available to the public upon request.

Under section 5.1(j.2) of the Regulatory Review Act, on February 14, 2006, the final-form rulemaking was approved by the HPLC. On March 20, 2006, the final-omitted rulemaking was deemed approved by SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on March 21, 2006, and approved the final-omitted rulemaking.

Additional Information

Individuals who require information are invited to submit inquiries to Carmen L. Rivera, Board Counsel, State Board of Auctioneer Examiners, P. O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

(1) Public notice of the Board's intention to amend its regulations as adopted by this order, under the procedures specified in sections 201 and 202 of the CDL, has been omitted under the authority in section 204(c) of the CDL (45 P. S. § 1204(3)), because the Board has, for good cause, found that the procedures specified in sections 201 and 202 of the CDL are in this circumstance, unnecessary because the rulemaking corrects an inadvertent error in the official text of the Board's schedule of fees and because public comment was provided at the time the fees were originally adopted in 1998.

(2) The amendment of the regulations of the Board in the manner provided in this order is necessary and appropriate for administering the act.

Order

The Board, acting under the act, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 1, are amended by amending § 1.41 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to form and legality 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) This order shall become effective immediately upon publication in the *Pennsylvania Bulletin*.

KENYON B. BROWN,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 1555 (April 1, 2006).)

Fiscal Note: Fiscal Note 16A-646 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 1. STATE BOARD OF AUCTIONEER EXAMINERS

FEES

§ 1.41. Schedule of fees.

Applicants shall pay the following fees:

Application fee for auctioneer license	\$50
Biennial renewal fee for auctioneer license	\$200
Application fee for apprentice auctioneer license ..	\$30
Biennial renewal fee for apprentice auctioneer ...	\$100
Application fee for auction house and auction company	\$50
Biennial renewal fee for auction house and auction company	\$200
Special license to conduct auction	\$200
Application fee to approve course	\$45
Application fee to change sponsor	\$15
Application fee to change auction house or auction company license	\$15
Nonresident exam eligibility review	\$25
Certification of scores, permit or registration	\$25
Verification of license, registration, permit or approval	\$15

[Pa.B. Doc. No. 06-530. Filed for public inspection March 31, 2006, 9:00 a.m.]
