

PROPOSED RULEMAKING

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Public Hearing on Adoption of the Building Standards and Proposed Amendments to the Industrialized Housing and Components Program

A public hearing has been scheduled, as required under section 5 of the Industrialized Housing Act (35 P.S. § 1651.5), regarding the adoption of the building standards as provided for in 12 Pa. Code § 145.44 (relating to adoption and effective dates—code amendments).

Based on numerous requests made by the industrialized housing industry, the Department of Community and Economic Development (Department) will consider if a later effective date is necessary for the adoption of the 2012 International Code Council building standards currently provided for in 12 Pa. Code § 145.41 (relating to adoption of standards). Additionally, the Department will accept comments and testimony regarding proposed amendments to the current adoption process in 12 Pa. Code § 145.44.

The hearing will be held on May 3, 2012, from 10 a.m. to 12 p.m. in Hearing Room 4, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120.

A copy of the proposed regulations will be provided to interested parties upon request by contacting Lisa Smink, (717) 720-7417, lsmink@pa.gov.

Persons with disabilities who wish to attend this hearing who require auxiliary aid, service or other accommodations should contact Lisa Smink, (717) 720-7417, lsmink@pa.gov to make arrangements.

C. ALAN WALKER,
Secretary

[Pa.B. Doc. No. 12-529. Filed for public inspection March 23, 2012, 9:00 a.m.]

LIQUOR CONTROL BOARD

[40 PA. CODE CH. 15]

Office of Administrative Law Judge; Payment of Fees and Fines

The Liquor Control Board (Board), under the authority of section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), proposes to amend §§ 15.24 and 15.61 (relating to fees; and fines).

Purpose

The Board has reviewed its regulations and determined that this proposed rulemaking is necessary to provide the public and licensees of the Board with additional payment methods when they pay administrative fees and fines that are assessed by the Office of Administrative Law Judge (OALJ).

The OALJ is established under the authority of section 212 of the Liquor Code (47 P.S. § 2-212) as an autonomous office within the Board for the adjudication of citations issued to licensees. The State Police, Bureau of Liquor Control Enforcement (BLCE) issues citations to licensees for alleged violations of the Liquor Code and the Board's regulations. If it sustains the citation, the OALJ may impose a fine which the licensee shall pay. The OALJ may also suspend or revoke licenses issued by the Board.

Currently, under § 15.61, licensees shall pay fines by treasurer's check, cashier's check or certified check. Further, under § 15.24, filing fees for pleadings or motions related to citation proceedings and requests for copies of OALJ documents may only be paid by money order or check.

It is a common experience that the OALJ must make repeated attempts to contact a licensee when its fines are not paid. The OALJ may suspend a license when a fine remains unpaid. Imposing a suspension requires additional resources of the OALJ, which must craft and mail the suspension order, and of the BLCE, which must investigate whether the licensee has, in fact, suspended its licensed operations. In those instances in which the licensee pays the fine as a result of the suspension, additional action by the OALJ is required to lift the suspension so that the licensee is again authorized to operate. Ultimately, the OALJ may revoke the license for continued nonpayment, necessitating the issuance of another order and the use of further resources.

The Board believes that if there are more convenient methods for licensees to pay their fines, payments will be made more quickly, eliminating the need for additional administrative actions. Thus, the Board proposes to amend § 15.61 to implement changes that would allow licensees to pay fines not only by treasurer's check, cashier's check or certified check, but also by a check drawn on the business or trust account of an attorney licensed in this Commonwealth, money order, credit card, debit card, electronic funds transfer or other methods approved by order of the OALJ. Parallel amendments are also proposed for § 15.24 regarding the payment of fees for filing documents and obtaining copies of OALJ documents.

The proposed amendments will make it more convenient for licensees of the Board to pay required fees or fines as they proceed through the enforcement process. On average, about 2,500 citations are adjudicated annually. This will roughly approximate the number of licensees each year which may benefit from having a wider selection of options for the payment of fees or fines.

Moreover, affording licensees greater convenience to pay fines may result in more timely payments, reducing the instances of license suspensions and revocations for failure to pay fines, resulting in OALJ administrative cost savings associated with handling these matters.

Summary of Amendments

The proposed amendments to §§ 15.24 and 15.61 expand the options for payment of fees and fines. The additional options include payment by a credit card, debit card, attorney's check and electronic funds transfer. Further, a provision is being added to each section allowing the OALJ to issue an order which would permit another

means of payment in a particular matter. This additional flexibility is recommended to permit other methods of payment to be used in the future.

Affected Parties

The proposed amendments will benefit an individual who wants to file a document with, or obtain copies of documents from the OALJ, by expanding the number of payment options for requests. Members of the regulated community will enjoy the convenience of expanded options for payment of fines, which may result in cost savings. The proposed amendments are also expected to improve the administrative efficiency of the OALJ, since more timely payments of fines by licensees will reduce the labor and resources necessary to follow-up on delinquencies, issue suspension orders and take additional administrative actions. The proposed amendments will, therefore, cost nothing, result in greater convenience for public and members of the regulated community and should improve the administrative efficiency of the OALJ.

Paperwork Requirements

The proposed rulemaking will not significantly increase paperwork for the Board or the regulated community.

Fiscal Impact

The regulated community is not expected to incur new costs as a result of the proposed rulemaking. It is possible that members of the regulated community might realize savings as a result of utilizing more convenient methods of payment of administrative fees and fines. However, it is difficult to quantify the exact amount of savings, as licensees retain the ability to choose from various methods of no-cost or low cost payment options.

The costs or revenues of local governments will not be affected by this proposed rulemaking.

The Commonwealth is not expected to incur new costs as a result of this proposed rulemaking. The Board already possesses the technology to accommodate these new methods of payment due to its acceptance of these methods of payment for many of its online licensing transactions. It is also expected that the Commonwealth will benefit from an increase in revenues due to the payment of fines on a more timely basis.

In 2010, for example, the OALJ released approximately 2,535 adjudications, in addition to 409 supplemental orders after adjudication. Thus, in 2010, the OALJ issued approximately 2,944 adjudicative actions. Of the 409 supplemental orders after adjudication (supplementals), about 75% were issued as a result of nonpayment of fines by licensees. Therefore, 307 actions by Administrative Law Judges, over 10% of adjudicative actions, were the direct result of fines not being paid. It is difficult to quantify how the proposed rulemaking will reduce the number of supplementals issued as a result of the nonpayment of fines.

It should be noted, however, that postage costs alone for the issuance of supplementals exceeded \$1,800. Additional costs of supplementals include the labor costs of OALJ staff charged with processing supplementals, the cost of paper and the BLCE's labor costs associated with inspecting licensees' premises to ensure compliance with an OALJ suspension order.

Effective Date

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

Public Comment/Contact Person

Written comments, suggestions or objections will be accepted for 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments should be addressed to James F. Maher, Assistant Counsel, or Christopher L. Herrington, Deputy Chief Counsel, Office of Chief Counsel, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 9, 2012, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Liquor Control Committee and the Senate Law and Justice Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

JOSEPH E. BRION,
Chairperson

Fiscal Note: 54-70. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 40. LIQUOR

PART I. LIQUOR CONTROL BOARD

CHAPTER 15. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE REGARDING MATTERS BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGE

Subchapter B. PROCEEDINGS BEFORE THE OALJ

§ 15.24. Fees.

* * * * *

(b) *Mode of payment of fees.* Fees shall be paid by [**money order or check**] a check drawn on the business or trust account of an attorney licensed in this Commonwealth, cashier's check, certified check, money order, credit card, debit card, electronic funds transfer or other method approved by order of the OALJ. Payments must be made payable to "Commonwealth of Pennsylvania."

* * * * *

Subchapter E. PENALTIES

§ 15.61. Fines.

[**Fines shall be paid by treasurer's check, cashier's check or certified check. A check shall be made payable to the "Commonwealth of Pennsylvania" with a notation of the citation number and mailed to: Office of Administrative Law Judge, Pennsylvania Liquor Control Board, Brandywine**

Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania 17110-9661.] Fines shall be paid by a check drawn on the business or trust account of an attorney licensed in this Commonwealth, treasurer's check, cashier's check, certified check, money order, credit card, debit card, electronic funds transfer or other method approved by order of the OALJ. Payments must be made payable to the "Commonwealth of Pennsylvania" with a notation of the citation number. If mailed, remittances shall be addressed to: Office of Administrative Law Judge, Pennsylvania Liquor Control Board, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania 17110-9661.

[Pa.B. Doc. No. 12-530. Filed for public inspection March 23, 2012, 9:00 a.m.]
