

RULES AND REGULATIONS

Title 7—AGRICULTURE

MILK MARKETING BOARD

[7 PA. CODE CH. 150]

Milk Marketing Fees

The Milk Marketing Board (Board) amends Chapter 150 (relating to milk marketing fees) by increasing the license fees for milk dealers, subdealers and haulers, and increasing the examination and certificate fees for weigher-samplers and testers. This final-form rulemaking is the same as the proposed rulemaking published at 49 Pa.B. 4991 (August 31, 2019).

A. *Effective Date*

This final-form rulemaking will be effective 30 days after publication in the *Pennsylvania Bulletin*. Increases for new applicants will be effective when this final-form rulemaking is effective. Increases for renewal applicants will be effective for license years beginning on or after July 1, 2020. There is no sunset provision.

B. *Statutory Authority*

The Milk Marketing Fee Act (act) (31 P.S. §§ 700k-1—700k-10.1) gives the Board the authority to charge and collect license fees. Sections 700k-3(c) and 700k-6—700k-8 provide that the Board has the authority to set the fees by regulation.

C. *Purpose and Explanation*

The Board is self-funded, primarily by these fees. The Board has not received any general fund appropriations since the 1996-1997 fiscal year. The fees have not been increased since January 2004. The fees and any other funds received by the Board are paid into the State Treasury and placed in the Milk Marketing Fund (Fund). Despite the Board's careful stewardship, expenses have increased substantially in these 15 years, while income has not. The Fund is being eroded by the resulting deficits. Without this fee increase, the Board's financial viability will become uncertain. Further details are available in the Regulatory Analysis Form available at www.irrc.state.pa.us or from the contact person designated as follows.

Section 150.3 is deleted because the classification transition described in that regulation was implemented and completed by the Board as described in the regulation.

D. *Summary of Public Comments*

The only comments received were from the Independent Regulatory Review Commission (IRRC).

Adequacy of fee increase

IRRC asked for an explanation of the Board's decision to seek a fee increase that reduces but does not eliminate the Board's budget deficits.

The Board realizes that this fee increase does not eliminate the annual deficits. A fee increase that would eliminate the budget deficits would be ideal for the agency, but not ideal for the dairy industry in this Commonwealth.

The Legislative Budget and Finance Committee (Committee) released "A Study of Pennsylvania's Dairy Industry" in September 2019. The document can be found at [http://lbfc.legis.state.pa.us/Resources/Documents/Reports/](http://lbfc.legis.state.pa.us/Resources/Documents/Reports/653.pdf)

653.pdf. It catalogues the challenges facing the dairy industry in this Commonwealth. The Board is aware of these challenges and was reluctant to increase fees more than absolutely necessary. The report noted that the Board was proposing a fee increase and recommended pursuing alternative funding sources "before any additional burden is placed on Class I—IV parties to make up this shortfall" (see page 98). The report also recommended licensing milk retailers, which would be another potential source of income.

In July 2019, the Pennsylvania Dairy Future Commission was created by the Legislature. It is to issue a report by August 2020. One of its tasks is to make recommendations about the impact of State laws and regulations on the dairy industry in this Commonwealth.

These studies are just examples of the serious efforts being made to support the dairy industry in this Commonwealth in a time of enormous challenges. The Board does not know which, if any, of the recommendations or initiatives will come to fruition. But one or more could impact the Board's revenue. At a time when the dairy industry is struggling and new directions are being considered, the Board is proposing fee increases that help but do not solve the funding situation, realizing further steps will be needed in coming years.

Revised method of calculating subdealer fee

IRRC asked for an explanation of the Board's decision to change the method of calculating subdealer fees from milk purchased by the subdealers to milk sold by the subdealers.

Subdealers currently pay an annual fee based on the number of quarts they buy in this Commonwealth. The Board bases this fee on quarts sold in this Commonwealth. There are several reasons for the change.

Dealer fees are based on sales. The fee calculations will be more consistent when both dealer and subdealer fees are based on sales.

Subdealers already report their annual sales on the Subdealer Survey form which they submit with their annual license renewal.

Dealers licensed by the Board are required to report their sales to subdealers. Some subdealers purchase their products from dealers in other states. Those dealers may not be licensed by the Board. Then those sales to the subdealers are not reported to the Board. Recent analysis by milk industry economists and the Committee report (see page 107) have stated that the Board's effectiveness will be increased by gathering more comprehensive data about milk sales in this Commonwealth. By basing the fees on sales instead of purchases, the Board will obtain more definitive data about Commonwealth transactions. The Subdealer Surveys are not adequate for this purpose because those are not audited as the reports of sales for fee-setting purposes can be.

Fiscal impact of revised method of calculating subdealer fee

IRRC asked what fiscal impact the revised method of calculating the subdealer fee will have on the regulated community.

The subdealer quart-equivalent fee currently produces a total of about \$18,000 per license year for all subdealers. There are 11 fee categories based on volume. About

80% of the subdealers are in the smallest volume category. There are only five subdealers in the five highest categories.

The fees are currently calculated based on the volumes that licensed dealers report selling to licensed subdealers. Subdealer sales are not currently reported, other than on the Subdealer Surveys, which are not audited and are not necessarily consistently submitted.

Therefore we cannot calculate with certainty the impact of this change. But most of the subdealers have relatively small volume with limited geographical range. Their product sold is likely to be commensurate with their product purchased. The large volume subdealers, if this changes their fee at all, can be sure they will not experience an enormous change because there is a cap on the amount of this fee (\$1,750). Two of the five large subdealers are already in the top category, so the only increase they will experience is the increase for that category.

The Board's expectation that this change is not likely to have a large impact is evidenced in the fee estimate for the year after this change is implemented. A 25% increase from \$18,000 to \$22,500 is projected.

E. Fiscal and Administrative Impact

The milk dealers are projected to pay a combined total of about \$370,000 to \$385,000 per year more than they would under the current fee structure. The milk subdealers are projected to pay a combined total of about \$8,500 per year more than they would under the current fee structure. The milk haulers are projected to pay a combined total of about \$950 per year more than they would under the current fee structure. The milk weighers-samplers are projected to pay a combined total of about \$8,195 per year more than they would have under the current fee structure. The milk testers are projected to pay a combined total of about \$325 per year more than they would have under the current fee structure. These are projected estimates.

These fees are not new fees—they are increases in existing fees. Therefore the administrative impact is not expected to be significant. Subdealers will calculate their fees based on the volume of milk products sold, which is information that is obviously readily available, instead of having their fees calculated on the basis of milk products purchased, and therefore this is not expected to result in a significant administrative impact.

F. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 31, 2019, the Board submitted a copy of the notice of proposed rulemaking, published at 49 Pa.B. 4991 to IRRC and to the Chairs of the House and Senate Committees on Agriculture and Rural Affairs for review and comment.

Under section 5(g) of the Regulatory Review Act, the Board is required to submit to IRRC and the House and Senate Committees copies of comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Board has considered all comments from IRRC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5(a)(j.2)), on January 30, 2020, this 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 January 31, 2020, and approved this final-form rulemaking.

G. Contact Person

Interested persons may obtain information regarding this final-form rulemaking by contacting Douglas Eberly, Chief Counsel, Milk Marketing Board, 2301 North Cameron Street, Harrisburg, PA 17110, ra-pmmb@pa.gov within 30 days after publication in the *Pennsylvania Bulletin*. Individuals who require this information in a different format may call the Pennsylvania AT&T Relay Service for TDD users, (717) 787-4194 or (800) 654-5984.

H. Findings

The Board finds that:

(1) Public notice of proposed rulemaking 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), known as the Commonwealth Documents Law, and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

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

(3) The amendments to this final-form rulemaking do not enlarge the purpose of the proposed rulemaking published at 49 Pa.B. 4991.

(4) This final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing act identified in this preamble.

I. Order

The Board orders that:

(a) The regulations of the Board, 7 Pa. Code Chapter 150, are amended by deleting § 150.3 and amending §§ 150.11, 150.12, 150.21, 150.22, 150.51, 150.61, 150.62, 150.71 and 150.72 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 to the Office of Attorney General 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 order shall take effect on publication in the *Pennsylvania Bulletin*.

(Editor's Note: See 50 Pa.B. 1001 (February 15, 2020) for IRRCs approval order.)

Fiscal Note: 47-19. No fiscal impact; (8) recommends adoption.

ROBERT N. BARLEY,
Chairperson

Annex A

TITLE 7. AGRICULTURE

PART VI. MILK MARKETING BOARD

CHAPTER 150. MILK MARKETING FEES

GENERAL PROVISIONS

§ 150.3. (Reserved).

LICENSE FEES OF MILK DEALERS

§ 150.11. Fixed fees.

(a) A new applicant for a milk dealer's license shall pay a fixed fee of \$100 for applications submitted before January 1 of the license year for which the application is submitted, and \$50 for applications submitted on or after January 1.

(b) An applicant for annual renewal of a milk dealer's license shall pay a fixed fee of \$100.

§ 150.12. Hundredweight fees.

(a) In addition to the fixed fee imposed under § 150.11 (relating to fixed fees), a milk dealer that was licensed for the entire calendar year preceding license renewal shall pay an annual hundredweight fee as set forth in paragraphs (1) and (2).

(1) For milk for which the Board has fixed a minimum wholesale or retail price, received, produced or brought into this Commonwealth during the calendar year preceding the period for which the license is issued, the fee is \$.060 per hundredweight.

(2) For milk for which the Board has not fixed a minimum wholesale or retail price, received, produced or brought into this Commonwealth during the calendar year preceding the period for which the license is issued, the fee is \$.0064 per hundredweight.

(b) In addition to the fixed fee imposed under § 150.11, a milk dealer that was not licensed for the entire calendar year preceding license application or renewal shall pay a monthly hundredweight fee as set forth in paragraphs (1) and (2). Monthly payments shall continue until the milk dealer has been licensed for an entire calendar year and for each month thereafter until the next license year begins. Annual payments shall then commence under subsection (a).

(1) For milk for which the Board has fixed a minimum wholesale or retail price, received, produced or brought into this Commonwealth during the preceding month, the fee is \$.060 per hundredweight.

(2) For milk for which the Board has not fixed a minimum wholesale or retail price, received, produced or brought into this Commonwealth during the preceding month, the fee is \$.0064 per hundredweight.

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LICENSE FEES OF MILK SUBDEALERS

§ 150.21. Fixed fees.

(a) A new applicant for a subdealer's license shall pay a fixed fee of \$50.

(b) An applicant for annual renewal of a subdealer's license shall pay a fixed fee of \$50.

§ 150.22. Quart-equivalent fee.

(a) In addition to the fixed fee imposed under § 150.21(b) (relating to fixed fees), an applicant for annual renewal of a subdealer's license shall pay an annual quart-equivalent fee calculated by dividing the total quarts of milk sold during the previous calendar year by the number of months in which the subdealer engaged in business. The Board will assess the fee in accordance with the following schedule:

<i>Ave. Qts. Sold Per Month</i>	<i>Annual Fee</i>
1—29,999	\$ 62.50
30,000—59,999	125.00
60,000—119,999	187.50
120,000—149,999	200.00
150,000—199,999	312.50
200,000—299,999	375.00
300,000—399,999	500.00
400,000—599,999	625.00
600,000—799,999	1000.00
800,000—999,999	1500.00
1,000,000 and over	1750.00

(b) As used in subsection (a), "quarts" means the total volume of milk for which the Board sets a price expressed in quart equivalents.

LICENSE FEES OF MILK HAULERS

§ 150.51. Fixed fees.

A new applicant for a milk hauler's license and an applicant for annual renewal of a milk hauler's license shall pay a fixed fee of \$35.

CERTIFICATION FEES OF MILK TESTERS

§ 150.61. Examination fee.

The fee to take the Board-approved examination for a certificate of proficiency in milk testing is \$30, payable when the examination is taken. The examination fee is not refundable and may not be applied toward payment of the fixed fees in § 150.62 (relating to fixed fees for new and renewed certificates).

§ 150.62. Fixed fees for new and renewed certificates.

A new applicant for a milk tester's certificate and an applicant for renewal of a milk tester's certificate shall pay a fee of \$25, which shall accompany the milk tester certificate application (available from the Board Office or website).

CERTIFICATION FEES OF MILK WEIGHERS AND SAMPLERS

§ 150.71. Examination fee.

The fee to take the Board-approved examination for a certificate of proficiency in milk weighing and sampling is \$30, payable when the examination is taken. The examination fee is not refundable and may not be applied toward payment of the fixed fees in § 150.72 (relating to fixed fees for new and renewed certificates).

§ 150.72. Fixed fees for new and renewed certificates.

A new applicant for a milk weigher and sampler's certificate and an applicant for renewal of a milk weigher and sampler's certificate shall pay a fee of \$25, which shall accompany the milk weigher/sampler certificate application (available from the Board Office or website).

[Pa.B. Doc. No. 20-446. Filed for public inspection March 27, 2020, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE REAL ESTATE COMMISSION

[49 PA. CODE CH. 35]

Broker Price Opinions; Temporary Regulations

The State Real Estate Commission (Commission) hereby adopts temporary regulations amending Chapter 35 by adding Subchapter I (relating to broker price opinions—temporary regulations) to read as set forth in Annex A.

Effective Date

The temporary regulations will be effective upon publication in the *Pennsylvania Bulletin*.

Statutory Authority

The act of June 29, 2018 (P.L. 500, No. 75) (Act 75 of 2018) amended the Real Estate Licensing and Registration Act (act) (63 P.S. §§ 455.101—455.902) and authorizes the Commission to promulgate temporary regulations for the prompt implementation of section 608.6 of the act (63 P.S. § 455.608f) regarding broker price opinions. Under section 608.6(k) of the act, the adoption of temporary regulations are not subject to sections 201—203 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201—1203), known as the Commonwealth Documents Law, or to the requirements of the Regulatory Review Act (71 P.S. §§ 745.1—745.15). The temporary regulations will expire on August 28, 2021, or upon promulgation of the final-form rulemaking, whichever occurs first.

Background and Need for the Temporary Regulations

Act 75 of 2018 made two major changes to the act. It increased the minimum amount of education necessary for licensure as a salesperson and it allowed for broker price opinions to be performed by licensed brokers, associate brokers and salespersons. Broker price opinions are considered another form of valuation for a property. Act 75 of 2018 amended section 201 of the act (63 P.S. § 455.201) to define a broker price opinion as “an estimate prepared by a broker, associate broker or salesperson that details the probable selling price of a particular parcel of real property and provides a varying level of detail about the property’s condition, market and neighborhood, and information on comparable sales, but does not include an automated valuation model. . . .” Until the amendments were made to the act, a broker price opinion was considered an appraisal under Commonwealth law which may be performed only by a certified real estate appraiser. Broker price opinions are most frequently used by banks to determine an approximate value of the bank’s real estate inventory. Prior to Act 75 of 2018, banks would have to either obtain a formal appraisal or a comparative market analysis. Banks find it cost prohibitive to pay for a full appraisal when they only want a quick opinion as to the value. The purpose of a comparative market analysis is for a real estate licensee to give an opinion of value for the purpose of listing a property for sale or aiding a buyer to determine the offering price. A comparative market analysis would not help a bank for its needs concerning valuing its inventory. A broker price opinion creates a viable alternative for those consumers that would just like an estimate of value for their property without having to pay for an expensive appraisal or to have the property listed for sale. The trend across the country is to allow broker price opinions. The amendments to the act keep the Commonwealth current with practices in other states.

Act 75 of 2018 also authorized the Commission to promulgate temporary regulations to facilitate the prompt implementation of the practice of broker price opinions by brokers, associate brokers and salespersons.

Description of the Temporary Regulations

The temporary regulations add a new subchapter which sets forth limitations and requirements for broker price opinions, including required disclosures, signature requirements, permissible uses and required experience and education for brokers, associate brokers and salespersons.

Definitions

Section 35.401 (relating to definitions) sets forth definitions for terms used in the temporary regulations. The following terms are defined as provided in the act: “broker price opinion” and “short sale.” In addition,

“automated valuation model” is defined in accordance with section 1125 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Pub.L. No. 101-73) (12 U.S.C.A. § 3354(d)), which is consistent with the definition in the act.

Broker Price Opinion

Section 35.402 (relating to broker price opinion) lists the requirements of a broker price opinion. Under subsection (a), a broker price opinion is required to have a specific statement displayed indicating that the broker price opinion was not prepared in accordance with the Uniform Standards of Professional Appraisal Practice and that it is not to be construed as an appraisal. Subsection (b) requires a signature by the person who prepares the broker price opinion and lists all of the information that must be on every broker price opinion, as required by section 608.6(c) of the act. Based on the suggestion of one of the comments received from stakeholders during the drafting of the temporary regulations, the Commission added “cost data” at paragraph (b)(4) as another way of basing a conclusion as to price. Paragraph (b)(9) requires the license numbers of the preparer and any broker or associate broker reviewing the broker price opinion because the Commission believes it is important to identify all licensees involved with a broker price opinion.

Consistent with the act, subsection (c) requires compensation for preparing a broker price opinion to be paid directly to the employing broker of the licensee who prepared the broker price opinion. This mirrors section 608.6(d) of the act but adds the word “employing” in front of broker. The Commission believes that adding the word “employing” in front of broker clarifies that only the broker can be compensated by a consumer and is consistent with section 604(a)(12) of the act (63 P.S. § 455.604(a)(12)), which prohibits an associate broker or salesperson from accepting a commission or other valuable consideration from anyone other than the employing broker. Subsections (d) and (e) set forth the minimum requirements for a salesperson to prepare a broker price opinion, which includes experience, education and required review and signature by the employing broker or designated associate broker as set forth in section 608.6(j) of the act.

Use of Broker Price Opinions

Section 35.403(a) (relating to use of broker price opinion) lists the permissible uses of a broker price opinion as set forth in section 608.6(e) of the act. Subsection (b) lists the prohibited uses of a broker price opinion as set forth in section 608.6(f) of the act.

Broker Price Opinion Education

Section 35.404 (relating to broker price opinion education) sets forth the educational requirements a licensee must complete prior to preparing a broker price opinion. Subsection (a) requires brokers, associate brokers and salespersons to complete a Commission-approved initial education course in the preparation of broker price opinions. Subsection (b) requires a broker or associate broker to complete the Commission-approved initial education course in the preparation of broker price opinions prior to signing a broker price opinion prepared by a salesperson. Subsection (c) requires brokers, associate brokers and salespersons to complete at least 3 hours of Commission-approved continuing education in broker price opinion topics prior to preparing a broker price opinion. Subsection (d) requires brokers, associate brokers and salespersons to retain the transcript or certificate of instruction and provide a copy to the Commission upon request.

Under subsection (e), the Commission preapproves four broker precicensure courses in the topics of valuation of residential property, valuation of income-producing property, basic appraisal principles and basic appraisal procedures for the initial educational requirement.

In developing these temporary regulations, the Commission received comments from the Bucks County Real Estate Institute, Vintage Real Estate Academy, Irene P. Richmond, Pennsylvania Association of Realtors, Real Estate Valuation Advocacy Association, Polley Associates, Howard Hanna Real Estate Services, Appraisal Institute, Mid-Atlantic Valuation Group, Inc. and Career Growth Real Estate Academy. The major concern among the commentators was that the proposed educational requirement was not a two-part educational requirement with separate initial education and continuing education requirements. Due to the number of comments received, the Commission revised the temporary regulations to separate the requirements for the initial broker price opinion education and continuing education.

Fiscal Impact and Paperwork Requirements

The temporary regulations should have no adverse fiscal impact on the Commonwealth or its political subdivisions. The Commission will not incur any additional costs due to the review and approval of the educational courses because those costs are paid for through application fees paid by the education providers. Those brokers, associate brokers and salespersons who want to perform broker price opinions will incur minimal costs associated with obtaining the necessary initial education if they have not already done so. On average, education providers are charging approximately \$10 per credit hour for broker price opinion education. These costs are minimal and not prohibitive to obtain the education to perform a broker price opinion. Also, licensees who complete the initial education requirement will be required to retain the transcript or certificate of instruction for as long as the licensees are performing broker price opinions.

Sunset Date

The temporary regulations will expire no later than August 28, 2021. The Commission will assess the effectiveness of the temporary regulations in formulating proposed and final-form rulemakings on the topic of broker price opinions.

Regulatory Review

These temporary regulations are statutorily exempt from the process set forth in the Regulatory Review Act (71 P.S. §§ 745.1—745.15).

Public Comment

In accordance with Executive Order 1996-1 (see 4 Pa. Code §§ 1.371—1.382 (relating to Regulatory Review and Promulgation)), in January of 2019, the Commission sent an exposure draft of the temporary regulations to interested parties and stakeholders soliciting comment. The Commission received comments from the public, including stakeholders in the real estate industry and considered them at a public meeting on April 30, 2019. Commentators were primarily concerned that the educational requirements were not clearly separated into initial and continuing education components. As previously discussed, the Commission has separated initial education requirements and continuing education in these temporary regulations in response to those comments. The Commission will solicit additional input when formulating the proposed and final-form rulemakings.

JOSEPH TARANTINO,
Chairperson

(Editor's Note: Title 49 of the Pennsylvania Code is amended by adding temporary regulations in §§ 35.401—35.404 to read as set forth in Annex A.)

Fiscal Note: 16A-5624. 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 35. STATE REAL ESTATE COMMISSION

Subchapter I. BROKER PRICE OPINIONS—TEMPORARY REGULATIONS

§ 35.401. Definitions.

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

Automated valuation model—Any computerized model used by mortgage originators and secondary market issuers to determine the collateral worth of a mortgage secured by a consumer's principal dwelling.

Broker price opinion—An estimate prepared by a broker, associate broker or salesperson that details the probable selling price of a particular parcel of real property and provides a varying level of detail about the property's condition, market and neighborhood, and information on comparable sales, but does not include an automated valuation model.

Short sale—A sale of real property in which the seller's proceeds are less than the amount required to pay off all liens secured by the property.

§ 35.402. Broker price opinion.

(a) A broker price opinion must contain the following statement displayed conspicuously and without change:

This analysis has not been prepared in accordance with the Uniform Standards of Professional Appraisal Practice which require valuers to act as unbiased, disinterested third parties with impartiality, objectivity and independence and without accommodation of personal interest. It is not to be construed as an appraisal and may not be used as such for any purpose.

(b) A broker price opinion must be signed manually or electronically by the person who prepared it and must contain all of the following information:

- (1) An identification of the intended users and intended uses of the broker price opinion, if known.
- (2) A brief description of the subject property.
- (3) A brief description of the property interest to be priced.
- (4) The basis for the conclusion as to the price, including applicable market data, cost data or capitalization computation.
- (5) Any assumption or limiting condition.
- (6) Any existing or contemplated interest of the licensee who prepared the broker price opinion.
- (7) The effective date of the broker price opinion.
- (8) The date that the document is signed.

(9) The real estate license number of the preparer and, if applicable, the reviewing broker or associate broker.

(c) A fee or valuable consideration for a broker price opinion shall be paid directly to the employing broker.

(d) A salesperson may not prepare a broker price opinion unless the salesperson has held an active license for the 3 years immediately preceding the effective date of the broker price opinion and has satisfied the educational requirements in § 35.404 (relating to broker price opinion education).

(e) A broker price opinion prepared by a salesperson must be signed by the salesperson and reviewed and signed by the employing broker or a designated associate broker.

§ 35.403. Use of broker price opinion.

(a) A broker price opinion may be prepared by a broker, associate broker or salesperson only for use in conjunction with any of the following:

- (1) A property owned by a lender after an unsuccessful sale at a foreclosure auction.
- (2) A modification of a first or junior mortgage or equity line of credit.
- (3) A short sale of a property.
- (4) An evaluation or monitoring of a portfolio of properties.

(b) A broker price opinion may not be prepared by a broker, associate broker or salesperson for use:

- (1) As the basis to determine the value of a parcel of real property for a mortgage loan origination, including a first or junior mortgage, refinancing or equity line of credit.
- (2) In connection with any of the following:
 - (i) An eminent domain proceeding.
 - (ii) A Federal, State or local tax appeal.
 - (iii) A bankruptcy or insolvency proceeding.

(iv) An action or proceeding involving divorce or equitable distribution of property.

(v) Any other action or proceeding before a court of record.

(vi) The distribution of a decedent's estate.

§ 35.404. Broker price opinion education.

(a) A broker, associate broker or salesperson may not prepare a broker price opinion unless the broker, associate broker or salesperson has completed a Commission-approved initial education course in the preparation of broker price opinions.

(b) A broker or associate broker may not sign a broker price opinion prepared by a salesperson unless the broker or associate broker has completed a Commission-approved initial education course in the preparation of broker price opinions.

(c) A broker, associate broker or salesperson may not prepare a broker price opinion unless the broker, associate broker or salesperson has completed at least 3 hours of Commission-approved continuing education in broker price opinion topics during the current or immediately preceding 2-year license period.

(d) A broker, associate broker or salesperson who has completed a Commission-approved initial education course, a broker precicensure course listed in subsection (e) or continuing education referenced in subsection (c) shall retain the transcript or certificate of instruction and provide a copy to the Commission upon request.

(e) The following broker precicensure courses have been approved to satisfy the initial education requirement in subsections (a) and (b):

- (1) Valuation of residential property.
- (2) Valuation of income-producing property.
- (3) Basic appraisal principles.
- (4) Basic appraisal procedures.

[Pa.B. Doc. No. 20-447. Filed for public inspection March 27, 2020, 9:00 a.m.]