

# Comments of the Independent Regulatory Review Commission



## State Real Estate Commission Regulation #16A-5626 (IRRC #3400)

### Broker Price Opinions

July 17, 2024

We submit for your consideration the following comments on the proposed rulemaking published in the May 18, 2024 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Real Estate Commission (Commission) to respond to all comments received from us or any other source.

#### Subchapter J. BROKER PRICE OPINIONS

##### 1. Section 35.502. Use of broker price opinion. – Clarity.

This section identifies the uses and prohibitions of a broker price opinion. Under proposed Section 35.502(a)(2), a broker price opinion may be prepared by a broker, associate broker or salesperson only for use in conjunction with “a modification of a first or junior mortgage or equity line of credit.” In subsection (b) paragraph (1) of the same section, a broker price opinion may not be prepared by a broker, associate broker or salesperson for use “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.”

These two sections, which track the statutory language in Act 75 of 2018 (Act 75), seem contradictory. 63 P.S. §§ 455. 608f (e) and (f). We ask the Commission, if they are not contradictory, to explain the difference between the two provisions in the final version of this rulemaking.

##### 2. Section 35.503. Broker price opinion education. – Clarity.

###### *Subsection (c)*

Proposed subsection (c) requires a broker, associate broker or salesperson to complete at least 3 hours of Commission-approved continuing education in broker price opinion topics during the current or immediately preceding 2-year license period. The Commission should clarify in the final rulemaking that the continuing education requirement is not applicable during the initial period of licensure.

*Subsections (d) and (e)*

Act 75 provides that a broker, associate broker or salesperson may not prepare or sign a broker price opinion unless the broker, associate broker or salesperson has satisfied the requirements prescribed by the rules of the commission to obtain education in the preparation of broker price opinions. 63 P.S. § 455.608f(i)(1).

Section 35.503(d) requires a broker, associate broker or salesperson to retain the transcript or certificate of instruction for **all required broker price opinion courses** and provide a copy to the Commission upon request. (Emphasis added). Section 35.503(e) lists the Commission-approved broker prelicensure courses to satisfy the initial education requirements.

The proposed language in Section 35.503(d) differs from the temporary regulations at Subchapter I Section 35.404(d). Section 35.404(d) provides that “[a] broker, associate broker or salesperson who has completed a **Commission-approved initial education course, a broker prelicensure 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.” (Emphasis added).

The Pennsylvania Association of Realtors (PAR) believes that the proposed language to Sections 35.503(d) and (e) could be read to suggest that the pre-approved broker courses are the only courses that would fulfil the initial education requirement in the preparation of broker price opinions. PAR asserts that this modification is not consistent with the Commission’s intent, as shown by their course approval history under the temporary regulations. PAR asks that these provisions be revised to clarify that the Commission “can and will approve courses beyond the pre-approved broker course[s] listed in the regulation.” The Commission should clarify its intent regarding the initial education requirements in the preparation of broker price opinions in the final-form regulation.