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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission: Tennessee State Board of Architectural and Engineering Examiners
Division: Division of Regulatory Boards, Department of Commerce and Insurance
Contact Person: Robert Herndon, Attorney for the Board
500 James Robertson Parkway
Address: Nashville, Tennessee 37243
Phone: (615) 741-9461
Email: robert.herndon@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact: Don Coleman
Department of Commerce and Insurance
500 James Robertson Parkway
Address: Nashville, Tennessee 37243
Phone: (615) 741-0481
Email: don.coleman@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Andrew Johnson Tower, 3 rd Floor Conference Room 710 James Robertson Parkway		
Address 2:			
City:	Nashville		
Zip:	37243		
Hearing Date :	08/15/12		
Hearing Time:	1:00 p.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0120-01	Registration Requirements and Procedures
Rule Number	Rule Title
0120-01-.08	Applications – Landscape Architect
0120-01-.13	Examinations – General
0120-01-.23	Reexamination – Landscape Architect
0120-01-.25	Renewal of Registration

Chapter Number	Chapter Title
0120-02	Rules of Professional Conduct
Rule Number	Rule Title
0120-02-.02	Proper Conduct of Practice
0120-02-.07	Misconduct
0120-02-.08	Seals
0120-02-.10	Other Enforcement Actions

Chapter Number	Chapter Title
0120-04	Interior Designers
Rule Number	Rule Title
0120-04-.08	Renewal of Registration
0120-04-.10	Professional Conduct
0120-04-.12	Other Enforcement Actions

Chapter Number	Chapter Title
0120-05	Continuing Education
Rule Number	Rule Title
0120-05-.06	Types of Acceptable Continuing Education
0120-05-.07	Credits

Chapter 0120-01
Registration Requirements and Procedures

Amendments

Paragraph (1) of rule 0120-01-.08 Applications – Landscape Architect is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) An applicant for registration as a landscape architect shall submit with the application a nonrefundable application fee of thirty dollars (\$30.00). An applicant who has passed the required examination(s) shall also pay a biennial registration fee of one hundred forty dollars (\$140.00) and shall receive a certificate of registration.

Authority: T.C.A. §§ 62-2-203(c), 62-2-307, and 62-2-301(a).

Rule 0120-01-.13 Examinations – General is amended by adding the following language as a new paragraph (3):

- (3) An applicant's examination results may be invalidated and an applicant may be prohibited from taking the examination for a period of time as determined by the Board for violations of examination policies, procedures, and candidate agreements, including, but not limited to:
 - (a) Communicating with another examinee during administration of the examination;
 - (b) Copying another examinee's answers or permitting another examinee to copy one's answers;
 - (c) Possessing unauthorized devices or materials during the examination;
 - (d) Impersonating an examinee or permitting an impersonator to take the examination on one's behalf;
 - (e) Removing any secured examination materials from the examination room;
 - (f) Unauthorized disclosure of examination questions or content;
 - (g) Failure to cooperate with the Board's investigation of examination irregularities;
 - (h) Disruptive or abusive behavior; or
 - (i) Other actions that would compromise the integrity or security of the examination.

Any licensure examination taken and passed in another jurisdiction while barred from taking an examination in Tennessee will not be acceptable for licensure purposes in Tennessee.

Authority: T.C.A. § 62-2-203(c).

Rule 0120-01-.23 Reexamination – Landscape Architect is amended by deleting paragraph (2) in its entirety.

Authority: T.C.A. § 62-2-203(c).

Paragraph (5) of rule 0120-01-.25 Renewal of Registration is amended by deleting the text of subparagraph (b) in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (b) A registrant holding a retired certificate may refer to himself as an engineer, architect, or landscape architect, including on correspondence and business cards, provided that the word "retired" is used in conjunction with the title. However, a holder of a retired certificate may not engage in or offer to engage in the practice of engineering, architecture or landscape architecture as defined by T.C.A. § 62-2-102. Practice or offer to practice in violation of this subparagraph shall be considered to be misconduct and may subject the registrant to disciplinary action by the

Board.

Authority: T.C.A. §§ 62-2-203(c), (d) and 62-2-307(c).

Chapter 0120-02
Rules of Professional Conduct

Amendments

Rule 0120-02-.02 Proper Conduct of Practice is amended by adding the following language as a new paragraph (6):

- (6) A registrant may not enter into a contract for professional services on any basis other than direct negotiation with any governmental entity that is prohibited by T.C.A. § 12-4-106(a)(2)(A) from making a selection or awarding a contract on the basis of competitive bids, thereby precluding participation in any system requiring a comparison of compensation. Upon selection, a registrant may state compensation to a prospective client in direct negotiation where architectural, engineering, or landscape architectural services necessary to protect the public health, safety, and welfare have been defined.

Authority: T.C.A. § 62-2-203(c).

Paragraph (5) of rule 0120-02-.07 Misconduct is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (5) A registrant may be deemed by the Board to be guilty of misconduct in his professional practice if:
- (a) He has pleaded guilty or nolo contendere to or is convicted in a court of competent jurisdiction of a felony or fails to report such action to the Board in writing within sixty (60) days of the action;
 - (b) His license or certificate of registration to practice architecture, engineering or landscape architecture in another jurisdiction is revoked, suspended or voluntarily surrendered as a result of disciplinary proceedings or he fails to report such action to the Board in writing within sixty (60) days of the action;
 - (c) He has been certified by the department of human services as not being in compliance with an order of support pursuant to T.C.A. §§ 36-5-705 – 36-5-709;
 - (d) He has been delinquent in the payment of the professional privilege tax pursuant to T.C.A. §§ 67-4-1702 – 67-4-1704;
 - (e) He fails to respond to Board requests and investigations within thirty (30) days of the mailing of communications, unless an earlier response is specified; or
 - (f) He fails to comply with a lawful order of the Board.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-308.

Paragraph (5) of rule 0120-02-.08 Seals is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (5) (a) No registrant shall affix his seal or signature to sketches, working drawings, specifications or other documents developed by others not under his responsible charge and not subject to the authority of that registrant in critical professional judgments.
- (b) In circumstances where a registrant can no longer provide services on a project (such as death, retirement, disability, contract termination, etc.), a successor registrant may perform work on a set of plans originally prepared by another registrant. If the plans are incomplete (are at a stage prior to submittal to a reviewing official), the successor

registrant may not seal the set of drawings prepared by the original registrant; rather, the successor registrant must take all steps necessary to ensure that the drawings were prepared under his or her responsible charge before sealing them. If the plans are complete and have been submitted to a reviewing official, the successor registrant may prepare and seal addenda sheets or document and seal changes to the original sheets if revisions are necessary.

Authority: T.C.A. §§ 62-2-203(c), 62-2-306, and 62-2-306(d).

Paragraph (6) of rule 0120-02-.08 Seals is amended by deleting the text of subparagraph (b) in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (b) Any changes made to the final plans, specifications, drawings, reports or other documents after final revision and sealing by the registrant are prohibited by any person other than the registrant, including but not limited to owners/clients, contractors, subcontractors, other design professionals, or any of their agents, employees or assigns.

Authority: T.C.A. §§ 62-2-203(c), 62-2-306, and 62-2-306(d).

Paragraph (8) of rule 0120-02-.08 Seals is amended by deleting the text of subparagraph (b) in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (b) Subject to the requirements of this rule, the registrant may affix an electronically generated signature and date of signature to documents. Electronic signatures and dates of signature are not required to be placed across the face and beyond the circumference of the seal, but must be placed adjacent to the seal. Documents that are signed using a digital signature must have an electronic authentication process attached to or logically associated with the electronic document. The digital signature must be:
 - i. Unique to the individual using it;
 - ii. Capable of verification;
 - iii. Under the sole control of the individual using it; and
 - iv. Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

Authority: T.C.A. §§ 62-2-203(c), 62-2-306, and 62-2-306(d).

New Rule

Rule 0120-02-.10 Other Enforcement Actions

0120-02-.10 Other Enforcement Actions.

With respect to any registrant, the Board may, in addition to or in lieu of any other lawful disciplinary action, take enforcement action against any registrant who is a respondent in a disciplinary case. Other enforcement actions may include, but are not limited to, the following:

- (1) Passage of a laws and rules examination;
- (2) Completion of additional, Board-assigned continuing education hours (with appropriate documentation required); or
- (3) Assignment of a probationary period with peer review of all technical work, accompanied by reporting requirements from the reviewer.

Authority: T.C.A. § 62-2-203(c).

Chapter 0120-04
Interior Designers

Amendments

Rule 0120-04-.08 Renewal of Registration is amended by adding the following language as a new paragraph (5):

- (5) (a) A registered certificate holder (over age 62) may place his certificate, if in good standing, in retirement status during the biennial license renewal cycle by filing a form designated by the Board. No fee shall be required. Such registrant shall renew his certificate by so notifying the Board.
- (b) A registrant holding a retired certificate may refer to himself as a registered interior designer, including on correspondence and business cards, provided that the word "retired" is used in conjunction with the title. Use of the title in violation of this subparagraph shall be considered to be misconduct and may subject the registrant to disciplinary action by the Board.
- (c) A registrant holding a retired certificate may return to "active" status by notifying the Board, in writing, as to a change to "active" status and paying a biennial registration renewal fee of one hundred forty dollars (\$140.00).

Authority: T.C.A. §§ 62-2-203(c) and 62-2-307(f).

Paragraph (14) of rule 0120-04-.10 Professional Conduct is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (14) The registrant may be deemed by the Board to be guilty of misconduct if:
 - (a) He has pleaded guilty or nolo contendere to or is convicted in a court of competent jurisdiction of a felony or fails to report such action to the Board in writing within sixty (60) days of the action;
 - (b) His license or certificate of interior design title is revoked, suspended or voluntarily surrendered as a result of disciplinary proceedings in another jurisdiction or he fails to report such action to the Board in writing within sixty (60) days of the action;
 - (c) He fails to respond to Board requests and investigations within thirty (30) days of the mailing of communications, unless an earlier response is specified; or
 - (d) He fails to comply with a lawful order of the Board.

Authority: T.C.A. § 62-2-203(c).

New Rule

0120-04-.12 Other Enforcement Actions

0120-04-.12 Other Enforcement Actions.

With respect to any registrant, the Board may, in addition to or in lieu of any other lawful disciplinary action, take enforcement action against any registrant who is a respondent in a disciplinary case. Other enforcement actions may include, but are not limited to, the following:

- (1) Passage of a laws and rules examination; or
- (2) Completion of additional, Board-assigned continuing education hours (with appropriate documentation required).

Authority: T.C.A. § 62-2-203(c).

Chapter 0120-05
Continuing Education

Amendments

Paragraph (2) of rule 0120-05-.06 Types of Acceptable Continuing Education is amended by deleting the text of subparagraph (i) in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (i) Attendance at Board meetings and professional society legislative events, and active participation in a technical/professional society or organization, or a technical or professional public board, as an officer or committee member.

Authority: T.C.A. § 62-2-203(d).

Paragraph (1) of rule 0120-05-.07 Credits is amended by deleting the text of subparagraph (e) in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (e) A maximum of eight (8) PDH's per biennium may be claimed for attendance at Board meetings and professional society legislative events, and active participation in technical/professional societies or organizations, or technical or professional public boards, as an officer or committee member.

Authority: T.C.A. § 62-2-203(d).

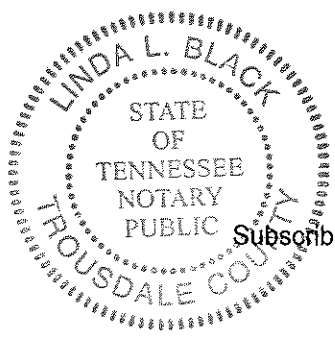
I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 6.20.2012

Signature: T. L. Black

Name of Officer: ROBERT E. HERNDON

Title of Officer: ATTORNEY



Subscribed and sworn to before me on: June 20, 2012

Notary Public Signature: [Signature]

My commission expires on: 4/5/14

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Tre Hargett by John Hart, POA

Tre Hargett
Secretary of State

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