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Division of Publications**

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Sequence Number: 03-08-11
Rule ID(s): 4918-4922
File Date: 03/09/2011
Effective Date: 06/07/2011

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Tennessee State Board of Architectural and Engineering Examiners
Division:	Department of Commerce and Insurance, Division of Regulatory Boards
Contact Person:	John Cothron, Executive Director
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
0120-01	Registration Requirements and Procedures
Rule Number	Rule Title
0120-02-.10	Education and Experience Requirements - Engineer

Chapter Number	Chapter Title
0120-02	Rules of Professional Conduct
Rule Number	Rule Title
0120-02-.08	Seals
0120-02-.09	Civil Penalties

Chapter Number	Chapter Title
0120-04	Interior Designers
Rule Number	Rule Title
0120-04-.02	Applicability
0120-04-.10	Professional Conduct
0120-04-.11	Civil Penalties

Chapter Number	Chapter Title
0120-05	Continuing Education
Rule Number	Rule Title
0120-05-.06	Types of Acceptable Continuing Education
0120-05-.07	Credits
0120-05-.10	Records
0120-05-.13	Reciprocity

Chapter Number	Chapter Title
0120-06	Corporations, Partnerships and Firms
Rule Number	Rule Title
0120-06-.01	Definitions
0120-06-.02	Applicability
0120-06-.03	Disclosure Requirements
0120-06-.04	Responsible Charge Requirements

Chapter 0120-01
Registration Requirements and Procedures

Amendment

Paragraph (2) of rule 0120-01-.10 Education and Experience Requirements—Engineer 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:

- (2) In general, "progressive experience in the practice of engineering" consists of engineering experience which is supervised by a registered professional engineer. The Board may grant toward experience requirements for registration as an engineer one (1) year of credit for graduation with a Master's degree (or higher) in engineering from an approved curriculum or up to one (1) year of qualified experience obtained in an established cooperative education program, which is carried out within the framework of an approved engineering curriculum, and which has been approved by the Board. At least one (1) year of engineering experience must be completed in the United States. Unless otherwise noted above, an applicant's engineering experience must be obtained after graduation with the qualifying degree and completed by the date of the examination.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-401.

Chapter 0120-02
Rules of Professional Conduct

Amendments

Paragraph (6) 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:

- (6) (a) Responsible Charge. Plans, specifications, drawings, reports or other documents will be deemed to have been prepared under the responsible charge of a registrant only when:
1. The client requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the registrant, or to the registrant's employee at the time initial client contact is made, so long as the registrant has the right to control and direct the employee in the material details of how the work is to be performed;
 2. The registrant supervises and is involved in the preparation of the plans, specifications, drawings, reports or other documents and has input into and full knowledge of their preparation prior to their completion;
 3. The registrant reviews the final plans, specifications, drawings, reports or other documents;
 4. The registrant has the authority to, and does, make any necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents; and
 5. Contributions of information or predrawn detail items or detail units that are incidental to and intended to be integrated into a registrant's technical submissions are from trusted sources (including, but not limited to, manufacturers, installers, consultants, owners, or contractors), are subject to appropriate review, and are then coordinated and integrated into the design by the registrant.

- (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.
- (c) Mere review of work prepared by another person, even if that person is the registrant's employee, does not constitute responsible charge unless the registrant has met the criteria set out above.
- (d) The intent of the definition of responsible charge may be met if all provisions of the definition are met using remote electronic or other communication means.

Authority: T.C.A. § 62-2-203(c).

Paragraph (2) of rule 0120-02-.09 Civil Penalties is amended by adding the following language as a new subparagraph (d) and renumbering the existing subparagraph (d) as subparagraph (e):

(d) T.C.A. § 62-2-601..... \$500-\$1,000

Authority: T.C.A. § 62-2-203(c).

Chapter 0120-04
Interior Designers

Amendments

Rule 0120-04-.02 Applicability is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

Rule 0120-04-.02 Applicability

- (1) Unless otherwise indicated, the provisions of this chapter shall apply to all applicants for registration as registered interior designers and all registered interior designers.
- (2) Rule 0120-04-.11 Civil Penalties, paragraphs (2) through (4), shall apply to any person required to be registered to use the title "registered interior designer."

Authority: T.C.A. § 62-2-203(c).

Rule 0120-04-.10 Professional Conduct is amended by adding the following language as a new paragraph (18):

- (18) The registrant shall maintain the continuing education records required by rule 0120-05-.10 Records for a period of four (4) years and shall furnish such records to the Board for audit verification purposes within thirty (30) days of the Board's request.

Authority: T.C.A. § 62-2-203(c).

New Rule

0120-04-.11 Civil Penalties

0120-04-.11 Civil Penalties.

- (1) With respect to any registrant, the Board may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such registrant for each separate violation of a statute, rule or order pertaining to the Board in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. § 62-2-308(a)(1).....	\$500-\$1,000

- (b) Rule 0120-04-.10..... \$500-\$1,000
- (c) Board Order..... \$100-\$1,000

(2) With respect to any person required to be registered in this state to use the title "registered interior designer," the Board may assess a civil penalty against such person for each separate violation of a statute in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. § 62-2-101.....	\$100-\$1,000
(b) T.C.A. § 62-2-105(a)(1).....	\$500-\$1,000
(c) T.C.A. § 62-2-105(b)(1).....	\$500-\$1,000
(d) T.C.A. § 62-2-903.....	\$500-\$1,000

(3) Each day of continued violation may constitute a separate violation.

(4) In determining the amount of civil penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:

- (a) Whether the amount imposed will be a substantial economic deterrent to the violation;
- (b) The circumstances leading to the violation;
- (c) The severity of the violation and the risk of harm to the public;
- (d) The economic benefits gained by the violator as a result of non-compliance; and
- (e) The interest of the public.

Authority: T.C.A. §§ 56-1-308 and 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 subparagraph (j) and adding the following language as new subparagraphs (j) and (k):

- (j) Active participation in educational outreach activities involving K-12 or higher education students.
- (k) All such activities as described in (a) through (j) above must be relevant to the practice of architecture, engineering, landscape architecture or interior design as determined by the Board and may include technical, ethical or managerial content.

Authority: T.C.A. § 62-2-203(d).

Paragraph (1) of rule 0120-05-.07 Credits is amended by adding the following language as a new subparagraph (f):

- (f) A maximum of four (4) PDH's per biennium may be claimed for active participation in educational outreach activities involving K-12 or higher education students.

Authority: T.C.A. § 62-2-203(d).

Paragraph (4) of rule 0120-05-.10 Records 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:

- (4) Any registrant who fails to comply with the requirements of this rule may be deemed by the Board to have violated rule 0120-02-.02 [Proper Conduct of Practice] or rule 0120-04-.10 [Professional Conduct].

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

Paragraph (1) of rule 0120-05-.13 Reciprocity 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) If a registrant resides in or has his or her principal place of business in a state or territory of the United States, or another country, that has established mandatory continuing education requirements for architects, engineers, landscape architects or interior designers, and that registrant has met the continuing education requirements of his or her home jurisdiction and is in good standing in that jurisdiction, then that registrant shall be deemed to have met the continuing education requirements of Tennessee. Documentation that the registrant is in good standing in his or her home jurisdiction must be provided at the Board's request. If the registrant is exempt from the continuing education requirements in his or her home jurisdiction, the registrant must meet the requirements of Tennessee unless he or she qualifies for an exemption in Tennessee.

Authority: T.C.A. § 62-2-203(d).

Chapter 0120-06
Corporations, Partnerships and Firms

New Rules

Table of Contents

0120-06-.01 Definitions
0120-06-.02 Applicability
0120-06-.03 Disclosure Requirements
0120-06-.04 Responsible Charge Requirements

0120-06-.01 Definitions.

- (1) As used in this chapter:
 - (a) "Principal" means an architect, engineer or landscape architect registered in this state who has the authority to make independent design decisions. A principal is not required to be an officer in a corporation, partnership or firm.
 - (b) "Registrant" means a person licensed by the Board as an architect, engineer or landscape architect.
 - (c) "Resident registered architect, engineer or landscape architect" means an architect, engineer or landscape architect registered in this state who is employed full-time for a minimum of thirty (30) hours per week by a corporation, partnership or firm.

Authority: T.C.A. § 62-2-203(c).

0120-06-.02 Applicability. Unless otherwise indicated, the provisions of this chapter shall apply to architectural, engineering and landscape architectural corporations, partnerships or firms required to file a disclosure form and comply with the provisions of T.C.A. §§ 62-2-601 and 62-2-602.

Authority: T.C.A. § 62-2-203(c).

0120-06-.03 Disclosure Requirements.

- (1) Corporations, partnerships and firms offering architectural, engineering and landscape

architectural services to the public must comply with the provisions of T.C.A. §§ 62-2-601 and 62-2-602.

- (2) An individual registrant practicing in his or her own name as a sole proprietorship shall not be required to submit a disclosure form.

Authority: T.C.A. § 62-2-203(c).

0120-06-.04 Responsible Charge Requirements.

- (1) Only officers and principals who are employed full-time for a minimum of thirty (30) hours per week and who hold active Tennessee registration can be in responsible charge of a firm's practice. A registrant who renders occasional, part-time, or consulting services to or for a firm may not be designated as an officer or principal in responsible charge.
- (2) The officer or principal in responsible charge must be registered in the profession in which services are being offered.
- (3) An officer or principal may be in responsible charge of more than one firm only if the firms are at the same physical location.
- (4) Corporations, partnerships and firms maintaining any place of business in this state for the purpose of providing or offering to provide architectural, engineering or landscape architectural services to the public shall have, in responsible charge of such service at any and each place of business, a resident registered architect, engineer or landscape architect.
- (5) In the event of a change in the officer or principal in responsible charge, a firm cannot provide or offer design services to the public until such time as a new officer or principal in responsible charge is identified.

Authority: T.C.A. § 62-2-203(c).

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Hal Balthrop, P.E.	X				
Robert Campbell, P.E.	X				
James Hastings, AIA	X				
Philip Lim, P.E. Secretary	X				
William Lockwood, RLA	X				
David Schuermann, AIA Vice Chairman	X				
Leslie Shankman-Cohn, RID	X				
Richard Thompson, AIA	X				
Brenda Wood Chairman	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee State Board of Architectural and Engineering Examiners on August 12, 2010, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: May 28, 2010

Rulemaking Hearing(s) Conducted on: (add more dates). August 12, 2010

Date: 12/3/2010
 Signature: [Signature]
 Name of Officer: ROBERT E. HEARDON
 Title of Officer: ATTORNEY

Subscribed and sworn to before me on: 12/3/2010
 Notary Public Signature: [Signature]
 My commission expires on: 5/6/2012

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Signature]
 Robert E. Cooper, Jr.
 Attorney General and Reporter
2-25-11
 Date

Department of State Use Only

Filed with the Department of State on: 03/09/2011

Effective on: 06/07/2011

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED
2011 MAR -9 PM 4: 26
SECRETARY OF STATE
PUBLICATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Regulatory Flexibility Addendum

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

1. Types of small businesses directly affected:

All small architectural, engineering and landscape architecture firms doing business within the State of Tennessee may be affected by these rules.

2. Projected reporting, recordkeeping, and other administrative costs:

The proposed rules do not impose any additional requirements on small businesses that are not previously effective by statute. The proposed rules clarify statutory firm disclosure requirements.

3. Probable effect on small businesses:

These proposed rules may directly affect small businesses when they participate in commerce for which adherence to current standards of practice is required.

4. Less burdensome, intrusive, or costly alternative methods:

The Board knows of no other alternative method to achieve the goals exhibited by these rules.

5. Comparison with federal and state counterparts:

There are no federal counterparts to the issues addressed by these rules..

6. Effect of possible exemption of small businesses:

There will be no exemptions created by these rules.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Board of Architectural and Engineering Examiners licenses only individuals and foresees no financial impact on any local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule 0120-01-.10 Education and Experience Requirements—Engineer is amended to state that an applicant's engineering experience must be obtained after graduation with the qualifying degree and completed by the date of the examination (rather than the date of application, as currently stated).

The definition of responsible charge in Rule 0120-02-.08 Seals is amended to allow contributions of information or predrawn detail items or detail units that are incidental to and intended to be integrated into a registrant's technical submissions if they are from trusted sources, are subject to appropriate review, and are then coordinated and integrated into the design by the registrant. The definition is also amended to allow the provisions of the definition to be met using remote electronic or other communication means.

Rule 0120-02-.09 Civil Penalties is amended to include a civil penalty of \$500-\$1,000 for failure to file a firm disclosure form, as required by T.C.A. § 62-2-601.

In Chapter 0120-04 Interior Designers, Rule 0120-04-.02 Applicability is amended to specify that a portion of the new civil penalties rule applies to persons required to be registered to use the title "registered interior designer."

In Chapter 0120-04 Interior Designers, Rule 0120-04-.10 Professional Conduct is amended by adding a paragraph requiring registered interior designers to maintain continuing education records for a period of four (4) years and to furnish such records to the Board upon request.

In Chapter 0120-04 Interior Designers, a new rule (Rule 0120-04-.11 Civil Penalties) is added establishing a civil penalty schedule for registered interior designers and persons required to be registered to use the title "registered interior designer."

Rules 0120-05-.06 Types of Acceptable Continuing Education and 0120-05-.07 Credits are amended to allow registrants to claim up to four (4) Professional Development Hours per biennium for active participation in educational outreach activities involving K-12 or higher education students.

Rule 0120-05-.10 Records is amended to state that a registrant who fails to properly maintain and furnish continuing education records may be deemed to have violated rule 0120-02-.02 [Proper Conduct of Practice] or rule 0120-04-.10 [Professional Conduct].

Rule 0120-05-.13 Reciprocity is amended to state that if a registrant has met the mandatory continuing education requirements of his or her home jurisdiction then that registrant shall be deemed to have met the continuing education requirements of Tennessee. Documentation that the registrant is in good standing in his or her home jurisdiction must be provided at the Board's request.

A new chapter is added to the Board's rules—Chapter 0120-06 Corporations, Partnerships and Firms—to clarify the requirements of T.C.A. §§ 62-2-601 and 62-2-602 regarding architectural, engineering and landscape architectural firms. This chapter will include the following new rules: Rule 0120-06-.01 Definitions, Rule 0120-06-.02 Applicability, Rule 0120-06-.03 Disclosure Requirements, and Rule 0120-06-.04 Responsible Charge Requirements.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The proposed amendments to the rules of the Tennessee State Board of Architectural and Engineering Examiners are made pursuant to Tenn. Code Ann. §§ 62-2-203(c) and 62-2-203(d).

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These amendments to the rules of the Tennessee State Board of Architectural and Engineering Examiners will affect holders in good standing of registration certificates in architecture, engineering, landscape architecture and interior design and also applicants for registration as engineers. There were written and oral comments made in connection with this rulemaking hearing, primarily voicing opposition to proposed rules that would have established a civil penalty for failure to notify the Board of an address change within thirty (30) days and that would have required registrants to include a notation below the seal noting the expiration date of the registrant's certificate of registration, both of which were deleted by the Board.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

I am unaware of any opinion of the attorney general or any judicial ruling which directly relates to these rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules are expected to have no fiscal impact on the Department.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

John Cothron, Executive Director of the Tennessee State Board of Architectural and Engineering Examiners, and I as attorney for the agency have substantial knowledge and understanding of these rules.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

John Cothron or I will explain the rules at any scheduled meeting of the Government Operations Committee.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

I may be reached at the Department of Commerce and Insurance, Office of Legal Counsel, 500 James Robertson Parkway, Davy Crockett Tower, Nashville, Tennessee 37243, (615) 741-3072.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.



RESPONSES TO
COMMENTS

**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
500 JAMES ROBERTSON PARKWAY
DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE 37243
(615) 741-3072 FAX: (615) 532-4750**

March 9, 2011

Mr. Fred Standbrook, Legislative Attorney
Government Operations Committee Staff
Office of Legal Services
War Memorial Building
Nashville, Tennessee 37219

**RE: *Tennessee State Board of Architectural & Engineering Examiners
Amendments to Rules, Chapters 0120-01, 0120-02, 0120-04, and
0120-05
New Rules, Chapters 0120-04 and 0120-06***

Dear Mr. Standbrook:

Pursuant to Tenn. Code Ann. § 4-5-226(i), please find enclosed a copy of the proposed amendments to rules and new rules promulgated by the Tennessee State Board of Architectural and Engineering Examiners.

1. The rules of the Tennessee State Board of Architectural and Engineering Examiners are amended to reflect the following:

Rule 0120-01-.10 Education and Experience Requirements—Engineer is amended to state that an applicant's engineering experience must be obtained after graduation with the qualifying degree and completed by the date of the examination (rather than the date of application, as currently stated).

The definition of responsible charge in Rule 0120-02-.08 Seals is amended to allow contributions of information or predrawn detail items or detail units that are incidental to and intended to be integrated into a registrant's technical submissions if they are from trusted sources, are subject to appropriate review, and are then coordinated and integrated into the design by the registrant. The definition is also amended to allow the provisions of the definition to be met using remote electronic or other communication means.

Rule 0120-02-.09 Civil Penalties is amended to include a civil penalty of \$500-\$1,000 for failure to file a firm disclosure form, as required by T.C.A. § 62-2-601.

In Chapter 0120-04 Interior Designers, Rule 0120-04-.02 Applicability is amended to specify that a portion of the new civil penalties rule applies to persons required to be registered to use the title "registered interior designer."

In Chapter 0120-04 Interior Designers, Rule 0120-04-.10 Professional Conduct is amended by adding a paragraph requiring registered interior designers to maintain continuing education records for a period of four (4) years and to furnish such records to the Board upon request.

In Chapter 0120-04 Interior Designers, a new rule (Rule 0120-04-.11 Civil Penalties) is added establishing a civil penalty schedule for registered interior designers and persons required to be registered to use the title "registered interior designer."

Rules 0120-05-.06 Types of Acceptable Continuing Education and 0120-05-.07 Credits are amended to allow registrants to claim up to four (4) Professional Development Hours per biennium for active participation in educational outreach activities involving K-12 or higher education students.

Rule 0120-05-.10 Records is amended to state that a registrant who fails to properly maintain and furnish continuing education records may be deemed to have violated rule 0120-02-.02 [Proper Conduct of Practice] or rule 0120-04-.10 [Professional Conduct].

Rule 0120-05-.13 Reciprocity is amended to state that if a registrant has met the mandatory continuing education requirements of his or her home jurisdiction then that registrant shall be deemed to have met the continuing education requirements of Tennessee. Documentation that the registrant is in good standing in his or her home jurisdiction must be provided at the Board's request.

A new chapter is added to the Board's rules—Chapter 0120-06 Corporations, Partnerships and Firms—to clarify the requirements of T.C.A. §§ 62-2-601 and 62-2-602 regarding architectural, engineering and landscape architectural firms. This chapter will include the following new rules: Rule 0120-06-.01 Definitions, Rule 0120-06-.02 Applicability, Rule 0120-06-.03 Disclosure Requirements, and Rule 0120-06-.04 Responsible Charge Requirements.

2. The proposed amendments to the rules of the Tennessee State Board of Architectural and Engineering Examiners are made pursuant to Tenn. Code Ann. §§ 62-2-203(c) and 62-2-203(d).
3. These amendments to the rules of the Tennessee State Board of Architectural and Engineering Examiners will affect holders in good standing of registration certificates in architecture, engineering, landscape architecture and interior design and also applicants for registration as engineers. There were written and oral comments made in connection with this rulemaking hearing, primarily voicing opposition to proposed rules that would have established a civil penalty

for failure to notify the Board of an address change within thirty (30) days and that would have required registrants to include a notation below the seal noting the expiration date of the registrant's certificate of registration, both of which were deleted by the Board.

4. I am unaware of any opinion of the attorney general or any judicial ruling which directly relates to these rules.
5. These rules are expected to have no fiscal impact on the Department.
6. John Cothron, Executive Director of the Tennessee State Board of Architectural and Engineering Examiners, and I as attorney for the agency have substantial knowledge and understanding of these rules.
7. John Cothron or I will explain the rules at any scheduled meeting of the Government Operations Committee.
8. I may be reached at the Department of Commerce and Insurance, Office of Legal Counsel, 500 James Robertson Parkway, Davy Crockett Tower, Nashville, Tennessee 37243, (615) 741-3072.

If you require additional information, please contact me.

Sincerely,



Robert E. Herndon
Attorney for the Board

Enclosure

cc: John Cothron, Executive Director
Tennessee State Board of Examiners for Land Surveyors

Richard Arnold, Director
Publications Division, Office of Secretary of State



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
500 JAMES ROBERTSON PARKWAY
DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE 37243
TELEPHONE (615) 741-3072 FACSIMILE (615) 532-4750**

November 29, 2010

VIA UNITED STATES MAIL

Mr. Clinton R. Camp, PE
Camp & Sons, LLC
1204 McAlpine Ave
Nashville, TN 37216

***RE: Public Comments re: Rulemaking Hearing
Tennessee State Board of Architectural & Engineering Examiners***

Dear Mr. Camp:

I serve as attorney for the Tennessee State Board of Architectural and Engineering Examiners ("Board"). This letter addresses your written comments made at the Board's public rulemaking hearing held on August 12, 2010. The purpose of the rulemaking hearing was to allow the Board to hear public comments on its intention to revise its administrative rules.

After due consideration of all available information, the Board has decided to adopt the rule change allowing engineering experience to be completed by the date of the examination rather than the date of application [Rule 0120-01-.10(2)], which you supported, and to delete the proposed change to rule 0120-02-.08 [SEALS] that would have required registrants to include a notation below the seal noting the expiration date of the registrant's certificate of registration, which you opposed. The Board was concerned that the latter change would create confusion and lead to registrants having to re-seal plans unnecessarily.

Your input was certainly considered as the Board made its final determination. The Board appreciates your efforts to represent the engineering profession and values your contributions for the revision of the rules.

Sincerely,

Robert E. Herndon
Attorney for the Board



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
500 JAMES ROBERTSON PARKWAY
DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE 37243
TELEPHONE (615) 741-3072 FACSIMILE (615) 532-4750**

November 29, 2010

VIA UNITED STATES MAIL

Mr. Robert G. Graham, III, PE
7103 Portobello Rd NW
Fort Payne, AL 35967

***RE: Public Comments re: Rulemaking Hearing
Tennessee State Board of Architectural & Engineering Examiners***

Dear Mr. Graham:

I serve as attorney for the Tennessee State Board of Architectural and Engineering Examiners ("Board"). This letter addresses your written comments made at the Board's public rulemaking hearing held on August 12, 2010. The purpose of the rulemaking hearing was to allow the Board to hear public comments on its intention to revise its administrative rules.

After due consideration of all available information, the Board has decided to delete the proposed change to rule 0120—02—.08 [SEALS] that would have required registrants to include a notation below the seal noting the expiration date of the registrant's certificate of registration, which you opposed. The Board shared your concerns that this change would create confusion and lead to registrants having to re-seal plans unnecessarily.

Your input was certainly considered as the Board made its final determination. The Board appreciates your efforts to represent the engineering profession and values your contributions for the revision of the rules.

Sincerely,

Robert E. Herndon
Attorney for the Board



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
500 JAMES ROBERTSON PARKWAY
DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE 37243
TELEPHONE (615) 741-3072 FACSIMILE (615) 532-4750**

November 29, 2010

VIA UNITED STATES MAIL

Mr. Tommy L. Cook, PE
Shaw Environmental and Infrastructure Group
312 Directors Drive
Knoxville, TN 37923

***RE: Public Comments re: Rulemaking Hearing
Tennessee State Board of Architectural & Engineering Examiners***

Dear Mr. Cook:

I serve as attorney for the Tennessee State Board of Architectural and Engineering Examiners ("Board"). This letter addresses your written comments made at the Board's public rulemaking hearing held on August 12, 2010. The purpose of the rulemaking hearing was to allow the Board to hear public comments on its intention to revise its administrative rules.

After due consideration of all available information, the Board has decided to adopt the proposed rules for corporations, partnerships and firms (Chapter 0120—06). However, the portion of rule 0120—06—.01 [DEFINITIONS] requiring a "resident registered architect, engineer or landscape architect" to be "physically present at the place of business for a majority of the operating hours of the business" was deleted. The Board decided to retain the definition of full-time employment as a minimum of thirty (30) hours per week, in part because they reasoned that the rules needed to specify a minimum number of hours in order to distinguish full-time employment from occasional or part-time employment. It was further noted that thirty (30) hours is a commonly accepted delineation in architecture, engineering and other professions between full-time and part-time employment. The Board has always interpreted "resident" to mean "full-time."

In your written comments, you asked, "[I]s it the intent of this rule change [Rules 0120—06—.04 and 0120—06—.01] to prevent out-of-state registrants who are not TN residents from having the ability to act as agents in Responsible Charge? . . . It appears the Board is attempting to require registrants to be physically located in TN as residents in order to full fill [sic] the requirements of responsible charge." In response, this is not the Board's intent, and the adopted rules would not restrict practice by out-of-state



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November 29, 2010

VIA UNITED STATES MAIL

Mr. J. Roy Wauford, Jr., PE
J. R. Wauford and Company, Consulting Engineers
P.O. Box 140350
Nashville, TN 37214

***RE: Public Comments re: Rulemaking Hearing
Tennessee State Board of Architectural & Engineering Examiners***

Dear Mr. Wauford:

I serve as attorney for the Tennessee State Board of Architectural and Engineering Examiners ("Board"). This letter addresses your written comments made at the Board's public rulemaking hearing held on August 12, 2010. The purpose of the rulemaking hearing was to allow the Board to hear public comments on its intention to revise its administrative rules.

After due consideration of all available information, the Board has decided to delete the proposed change to rule 0120—02—.08 [SEALS] that would have required registrants to include a notation below the seal noting the expiration date of the registrant's certificate of registration, which you opposed. The Board shared your concerns that this change would create confusion and lead to registrants having to re-seal plans unnecessarily.

Your input was certainly considered as the Board made its final determination. The Board appreciates your efforts to represent the engineering profession and values your contributions for the revision of the rules.

Sincerely,

Robert E. Herndon
Attorney for the Board



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November 29, 2010

VIA UNITED STATES MAIL

Mr. Mark Stevenson, PE
Arcadis
1210 Premier Dr, Ste 200
Chattanooga, TN 37421

***RE: Public Comments re: Rulemaking Hearing
Tennessee State Board of Architectural & Engineering Examiners***

Dear Mr. Stevenson:

I serve as attorney for the Tennessee State Board of Architectural and Engineering Examiners ("Board"). This letter addresses your written comments made at the Board's public rulemaking hearing held on August 12, 2010. The purpose of the rulemaking hearing was to allow the Board to hear public comments on its intention to revise its administrative rules.

After due consideration of all available information, the Board has decided to delete the proposed change to rule 0120—02—.08 [SEALS] that would have required registrants to include a notation below the seal noting the expiration date of the registrant's certificate of registration, which you opposed. The Board shared your concerns that this change would create confusion and lead to registrants having to re-seal plans unnecessarily.

Your input was certainly considered as the Board made its final determination. The Board appreciates your efforts to represent the engineering profession and values your contributions for the revision of the rules.

Sincerely,

Robert E. Herndon
Attorney for the Board



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November 29, 2010

VIA UNITED STATES MAIL

Mr. Forrest J. Russell, PE
1865 Bakers Grove Rd
Hermitage, TN 37076

***RE: Public Comments re: Rulemaking Hearing
Tennessee State Board of Architectural & Engineering Examiners***

Dear Mr. Russell:

I serve as attorney for the Tennessee State Board of Architectural and Engineering Examiners ("Board"). This letter addresses your written comments made at the Board's public rulemaking hearing held on August 12, 2010. The purpose of the rulemaking hearing was to allow the Board to hear public comments on its intention to revise its administrative rules.

After due consideration of all available information, the Board has decided to delete the proposed change to rule 0120—02—.08 [SEALS] that would have required registrants to include a notation below the seal noting the expiration date of the registrant's certificate of registration, which you opposed. The Board was concerned that this change would create confusion and lead to registrants having to re-seal plans unnecessarily. The Board adopted the amendments to rules 0120—05—.06 [TYPES OF ACCEPTABLE CONTINUING EDUCATION] and 0120—05—.07 [CREDITS] to allow registrants to claim a maximum of four (4) PDH's per biennium for active participation in educational outreach activities involving K-12 or higher education students, which you also opposed.

Your input was certainly considered as the Board made its final determination. The Board appreciates your efforts to represent the engineering profession and values your contributions for the revision of the rules.

Sincerely,

Robert E. Herndon
Attorney for the Board



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
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November 29, 2010

VIA UNITED STATES MAIL

Mr. Gayland J. Bender, PE
LKPB Engineers, Inc.
1935 West County Rd B2, Ste 300
Saint Paul, MN 55113

RE: Rulemaking Hearing Comments
Tennessee State Board of Architectural & Engineering Examiners

Dear Mr. Bender:

I serve as attorney for the Tennessee State Board of Architectural and Engineering Examiners ("Board"). This letter addresses your written comments made at the Board's public rulemaking hearing held on August 12, 2010. The purpose of the rulemaking hearing was to allow the Board to hear public comments on its intention to revise its administrative rules.

After due consideration of all available information, the Board has decided to adopt the proposed rules for corporations, partnerships and firms (Chapter 0120—06). However, the portion of rule 0120—06—.01 [DEDINITIONS] requiring a "resident registered architect, engineer or landscape architect" to be "physically present at the place of business for a majority of the operating hours of the business" was deleted. Rule 0120—06—.04 [RESPONSIBLE CHARGE REQUIREMENTS], which you supported, was adopted without change.

Your input was certainly considered as the Board made its final determination. The Board appreciates your efforts to represent the engineering profession and values your contributions for the revision of the rules.

Sincerely,

Robert E. Herndon
Attorney for the Board



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November 29, 2010

VIA UNITED STATES MAIL

Candy Toler, Executive Director
TSPE/ACEC-TN
800 Fort Negley Blvd
Nashville, TN 37203

***RE: Rulemaking Hearing Comments
Tennessee State Board of Architectural & Engineering Examiners***

Dear Ms. Toler:

I serve as attorney for the Tennessee State Board of Architectural and Engineering Examiners ("Board"). This letter addresses your written and oral comments made at the Board's public rulemaking hearing held on August 12, 2010. The purpose of the rulemaking hearing was to allow the Board to hear public comments on its intention to revise its administrative rules.

After due consideration of all available information, the Board decided to add the word "other" to rule 0120—02—.08(6)(d), as you suggested, so that the new rule reads, "The intent of the definition of responsible charge may be met if all provisions of the definition are met using remote electronic or other communication means." The Board decided to delete the proposed change to rule 0120—02—.08 [SEALS] that would have required registrants to include a notation below the seal noting the expiration date of the registrant's certificate of registration, which you opposed. The Board shared your concerns that this change would create confusion and lead to registrants having to re-seal plans unnecessarily. The Board also decided to delete the amendment to rule 0120—02—.09 [CIVIL PENALTIES] that would have established a civil penalty for failure to notify the Board of an address change within thirty (30) days, which you also opposed.

In your written and oral comments, you asked, "Does the A/E Board consider organized events such as Engineers' Day on Capitol Hill acceptable continuing education?" The Board responded that such events would indeed be acceptable, and the Continuing Education Committee of the Board proposed future rule changes at the October 2010 meeting to clarify that legislative events of this nature are acceptable (up to 8 PDH's per biennium).



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November 29, 2010

VIA UNITED STATES MAIL

Mr. Nathan Ridley, Esq.
Bradley Arant Boult Cummings, LLP
P.O. Box 340025
Nashville, TN 37203

***RE: Rulemaking Hearing Comments
Tennessee State Board of Architectural & Engineering Examiners***

Dear Mr. Ridley:

I serve as attorney for the Tennessee State Board of Architectural and Engineering Examiners ("Board"). This letter addresses your oral comments made at the Board's public rulemaking hearing held on August 12, 2010. The purpose of the rulemaking hearing was to allow the Board to hear public comments on its intention to revise its administrative rules.

After due consideration of all available information, the Board has decided to delete the proposed change to rule 0120—02—.08 [SEALS] that would have required registrants to include a notation below the seal noting the expiration date of the registrant's certificate of registration, which you opposed. The Board shared your concerns that this change would create confusion and lead to registrants having to re-seal plans unnecessarily. The Board also decided to delete the amendment to rule 0120—02—.09 [CIVIL PENALTIES] that would have established a civil penalty for failure to notify the Board of an address change within thirty (30) days, which you also opposed.

Your input was certainly considered as the Board made its final determination. The Board appreciates your efforts to represent the landscape architecture profession and values your contributions for the revision of the rules.

Sincerely,

Robert E. Herndon
Attorney for the Board

Department of State
Division of Publications
 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Fax: 615-741-5133
 Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: _____
 Rule ID(s): _____
 File Date: _____
 Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form

Red-lined

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Tennessee State Board of Architectural and Engineering Examiners
Division:	Department of Commerce and Insurance, Division of Regulatory Boards
Contact Person:	John Cothron, Executive Director
Address:	500 James Robertson Parkway Nashville, Tennessee
Zip:	37243
Phone:	6150741-3221
Email:	John.Cothon@tn.gov

Revision Type (check all that apply):

- Amendment
- New
- Repeal

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

Chapter Number	Chapter Title
0120-01	Registration Requirements and Procedures
Rule Number	Rule Title
0120-02-.10	Education and Experience Requirements - Engineer

Chapter Number	Chapter Title
0120-02	Rules of Professional Conduct
Rule Number	Rule Title
0120-02-.08	Seals
0120-02-.09	Civil Penalties

Chapter Number	Chapter Title
0120-04	Interior Designers
Rule Number	Rule Title
0120-04-.02	Applicability
0120-04-.10	Professional Conduct
0120-04-.11	Civil Penalties

Chapter Number	Chapter Title
0120-05	Continuing Education
Rule Number	Rule Title
0120-05-.06	Types of Acceptable Continuing Education
0120-05-.07	Credits
0120-05-.10	Records
0120-05-.13	Reciprocity

Chapter Number	Chapter Title
0120-06	Corporations, Partnerships and Firms
Rule Number	Rule Title
0120-06-.01	Definitions
0120-06-.02	Applicability
0120-06-.03	Disclosure Requirements
0120-06-.04	Responsible Charge Requirements

Chapter 0120-01
Registration Requirements and Procedures

Amendment

Paragraph (2) of rule 0120-01-.10 Education and Experience Requirements—Engineer 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:

- (2) In general, “progressive experience in the practice of engineering” consists of engineering experience which is supervised by a registered professional engineer. The Board may grant toward experience requirements for registration as an engineer one (1) year of credit for graduation with a Master’s degree (or higher) in engineering from an approved curriculum or up to one (1) year of qualified experience obtained in an established cooperative education program, which is carried out within the framework of an approved engineering curriculum, and which has been approved by the Board. At least one (1) year of engineering experience must be completed in the United States. Unless otherwise noted above, an applicant’s engineering experience must be obtained after graduation with the qualifying degree and ~~prior to the date of application~~ completed by the date of the examination.

Authority: T.C.A. §§ 62-2-203(c) and 62-2-401.

Chapter 0120-02
Rules of Professional Conduct

Amendments

Paragraph (6) 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:

- (6) (a) Responsible Charge. Plans, specifications, drawings, reports or other documents will be deemed to have been prepared under the responsible charge of a registrant only when:
1. The client requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the registrant, or to the registrant’s employee at the time initial client contact is made, so long as the registrant has the right to control and direct the employee in the material details of how the work is to be performed;
 2. The registrant supervises and is involved in the preparation of the plans, specifications, drawings, reports or other documents and has input into and full knowledge of their preparation prior to their completion;
 3. The registrant reviews the final plans, specifications, drawings, reports or other documents;
 4. The registrant has the authority to, and does, make any necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents; and
 5. Contributions of information or predrawn detail items or detail units that are incidental to and intended to be integrated into a registrant’s technical submissions are from trusted sources (including, but not limited to, manufacturers, installers, consultants, owners, or contractors), are subject to appropriate review, and are then coordinated and integrated into the design by the registrant.

- (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.
- (c) Mere review of work prepared by another person, even if that person is the registrant's employee, does not constitute responsible charge unless the registrant has met the criteria set out above.
- (d) The intent of the definition of responsible charge may be met if all provisions of the definition are met using remote electronic or other communication means.

Authority: T.C.A. § 62-2-203(c).

Paragraph (2) of rule 0120-02-.09 Civil Penalties is amended by adding the following language as a new subparagraph (d) and renumbering the existing subparagraph (d) as subparagraph (e):

- (d) T.C.A. § 62-2-601..... \$500-\$1,000

Authority: T.C.A. § 62-2-203(c).

Chapter 0120-04
Interior Designers

Amendments

Rule 0120-04-.02 Applicability is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

Rule 0120-04-.02 Applicability

- (1) Unless otherwise indicated, the provisions of this chapter shall apply to all applicants for registration as registered interior designers and all registered interior designers.
- (2) Rule 0120-04-.11 Civil Penalties, paragraphs (2) through (4), shall apply to any person required to be registered to use the title "registered interior designer."

Authority: T.C.A. § 62-2-203(c).

Rule 0120-04-.10 Professional Conduct is amended by adding the following language as a new paragraph (18):

- (18) The registrant shall maintain the continuing education records required by rule 0120-05-.10 Records for a period of four (4) years and shall furnish such records to the Board for audit verification purposes within thirty (30) days of the Board's request.

Authority: T.C.A. § 62-2-203(c).

New Rule

0120-04-.11 Civil Penalties

0120-04-.11 Civil Penalties.

- (1) With respect to any registrant, the Board may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such registrant for each separate violation of a statute, rule or order pertaining to the Board in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. § 62-2-308(a)(1).....	\$500-\$1,000

(b) Rule 0120-04-.10.....	\$500-\$1,000
(c) Board Order.....	\$100-\$1,000

(2) With respect to any person required to be registered in this state to use the title "registered interior designer," the Board may assess a civil penalty against such person for each separate violation of a statute in accordance with the following schedule:

<u>Violation</u>	<u>Penalty</u>
(a) T.C.A. § 62-2-101.....	\$100-\$1,000
(b) T.C.A. § 62-2-105(a)(1).....	\$500-\$1,000
(c) T.C.A. § 62-2-105(b)(1).....	\$500-\$1,000
(d) T.C.A. § 62-2-903.....	\$500-\$1,000

(3) Each day of continued violation may constitute a separate violation.

(4) In determining the amount of civil penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:

- (a) Whether the amount imposed will be a substantial economic deterrent to the violation;
- (b) The circumstances leading to the violation;
- (c) The severity of the violation and the risk of harm to the public;
- (d) The economic benefits gained by the violator as a result of non-compliance; and
- (e) The interest of the public.

Authority: T.C.A. §§ 56-1-308 and 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 subparagraph (j) and adding the following language as new subparagraphs (j) and (k):

- (j) Active participation in educational outreach activities involving K-12 or higher education students.
- (k) All such activities as described in (a) through (j) above must be relevant to the practice of architecture, engineering, landscape architecture or interior design as determined by the Board and may include technical, ethical or managerial content.

Authority: T.C.A. § 62-2-203(d).

Paragraph (1) of rule 0120-05-.07 Credits is amended by adding the following language as a new subparagraph (f):

- (f) A maximum of four (4) PDH's per biennium may be claimed for active participation in educational outreach activities involving K-12 or higher education students.

Authority: T.C.A. § 62-2-203(d).

Paragraph (4) of rule 0120-05-.10 Records 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:

- (4) Any registrant who fails to comply with the requirements of this rule may be deemed by the Board to have violated rule 0120-02-.02 [Proper Conduct of Practice] or rule 0120-04-.10 [Professional Conduct].

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

Paragraph (1) of rule 0120-05-.13 Reciprocity 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) If, in the determination of the Board, a state or territory of the United States, or another country, is deemed to have established substantially equivalent requirements for continuing education for architects, engineers, landscape architects or interior designers, and that state, territory, or country grants reciprocity to Tennessee registrants, then the Board may grant reciprocal rights to registrants in good standing in that state, territory or country.~~
- (1) If a registrant resides in or has his or her principal place of business in a state or territory of the United States, or another country, that has established mandatory continuing education requirements for architects, engineers, landscape architects or interior designers, and that registrant has met the continuing education requirements of his or her home jurisdiction and is in good standing in that jurisdiction, then that registrant shall be deemed to have met the continuing education requirements of Tennessee. Documentation that the registrant is in good standing in his or her home jurisdiction must be provided at the Board's request. If the registrant is exempt from the continuing education requirements in his or her home jurisdiction, the registrant must meet the requirements of Tennessee unless he or she qualifies for an exemption in Tennessee.

Authority: T.C.A. § 62-2-203(d).

Chapter 0120-06
Corporations, Partnerships and Firms

New Rules

Table of Contents

- 0120-06-.01 Definitions
0120-06-.02 Applicability
0120-06-.03 Disclosure Requirements
0120-06-.04 Responsible Charge Requirements

0120-06-.01 Definitions.

- (1) As used in this chapter:
- (a) "Principal" means an architect, engineer or landscape architect registered in this state who has the authority to make independent design decisions. A principal is not required to be an officer in a corporation, partnership or firm.
- (b) "Registrant" means a person licensed by the Board as an architect, engineer or landscape architect.
- (c) "Resident registered architect, engineer or landscape architect" means an architect, engineer or landscape architect registered in this state who is employed full-time for a minimum of thirty (30) hours per week by a corporation, partnership or firm.

Authority: T.C.A. § 62-2-203(c).

0120-06-.02 Applicability. Unless otherwise indicated, the provisions of this chapter shall apply to architectural, engineering and landscape architectural corporations, partnerships or firms required to file a disclosure form and comply with the provisions of T.C.A. §§ 62-2-601 and 62-2-602.

Authority: T.C.A. § 62-2-203(c).

0120-06-.03 Disclosure Requirements.

- (1) Corporations, partnerships and firms offering architectural, engineering and landscape architectural services to the public must comply with the provisions of T.C.A. §§ 62-2-601 and 62-2-602.
- (2) An individual registrant practicing in his or her own name as a sole proprietorship shall not be required to submit a disclosure form.

Authority: T.C.A. § 62-2-203(c).

0120-06-.04 Responsible Charge Requirements.

- (1) Only officers and principals who are employed full-time for a minimum of thirty (30) hours per week and who hold active Tennessee registration can be in responsible charge of a firm's practice. A registrant who renders occasional, part-time, or consulting services to or for a firm may not be designated as an officer or principal in responsible charge.
- (2) The officer or principal in responsible charge must be registered in the profession in which services are being offered.
- (3) An officer or principal may be in responsible charge of more than one firm only if the firms are at the same physical location.
- (4) Corporations, partnerships and firms maintaining any place of business in this state for the purpose of providing or offering to provide architectural, engineering or landscape architectural services to the public shall have, in responsible charge of such service at any and each place of business, a resident registered architect, engineer or landscape architect.
- (5) In the event of a change in the officer or principal in responsible charge, a firm cannot provide or offer design services to the public until such time as a new officer or principal in responsible charge is identified.

Authority: T.C.A. § 62-2-203(c).

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Hal Balthrop, P.E.	X				
Robert Campbell, P.E.	X				
James Hastings, AIA	X				
Philip Lim, P.E. Secretary	X				
William Lockwood, RLA	X				
David Schuermann, AIA Vice Chairman	X				
Leslie Shankman-Cohn, RID	X				
Richard Thompson, AIA	X				
Brenda Wood Chairman	X				

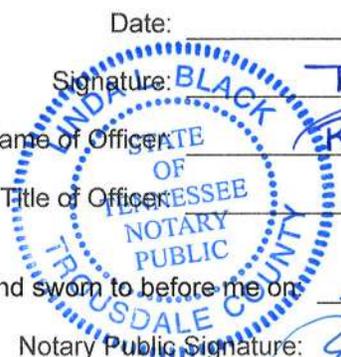
I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee State Board of Architectural and Engineering Examiners on August 12, 2010, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: May 28, 2010

Rulemaking Hearing(s) Conducted on: (add more dates). August 12, 2010

Date: 12/3/2010
 Signature: [Handwritten Signature]
 Name of Officer: ROBERT E. HERNDON
 Title of Officer: ATTORNEY
 Subscribed and sworn to before me on: 12/3/2010
 Notary Public Signature: [Handwritten Signature]
 My commission expires on: 5/6/2012



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.
 Attorney General and Reporter

 Date

Department of State Use Only

Filed with the Department of State on: 03/09/2011

Effective on: 03/07/2011

Tre Hargett
Secretary of State

RECEIVED
2011 MAR -9 PM 4: 26
SECRETARY OF STATE
PUBLICATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Regulatory Flexibility Addendum

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

1. Types of small businesses directly affected:

All small architectural, engineering and landscape architecture firms doing business within the State of Tennessee may be affected by these rules.

2. Projected reporting, recordkeeping, and other administrative costs:

The proposed rules do not impose any additional requirements on small businesses that are not previously effective by statute. The proposed rules clarify statutory firm disclosure requirements.

3. Probable effect on small businesses:

These proposed rules may directly affect small businesses when they participate in commerce for which adherence to current standards of practice is required.

4. Less burdensome, intrusive, or costly alternative methods:

The Board knows of no other alternative method to achieve the goals exhibited by these rules.

5. Comparison with federal and state counterparts:

There are no federal counterparts to the issues addressed by these rules..

6. Effect of possible exemption of small businesses:

There will be no exemptions created by these rules.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Board of Architectural and Engineering Examiners licenses only individuals and foresees no financial impact on any local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule 0120-01-.10 Education and Experience Requirements—Engineer is amended to state that an applicant's engineering experience must be obtained after graduation with the qualifying degree and completed by the date of the examination (rather than the date of application, as currently stated).

The definition of responsible charge in Rule 0120-02-.08 Seals is amended to allow contributions of information or predrawn detail items or detail units that are incidental to and intended to be integrated into a registrant's technical submissions if they are from trusted sources, are subject to appropriate review, and are then coordinated and integrated into the design by the registrant. The definition is also amended to allow the provisions of the definition to be met using remote electronic or other communication means.

Rule 0120-02-.09 Civil Penalties is amended to include a civil penalty of \$500-\$1,000 for failure to file a firm disclosure form, as required by T.C.A. § 62-2-601.

In Chapter 0120-04 Interior Designers, Rule 0120-04-.02 Applicability is amended to specify that a portion of the new civil penalties rule applies to persons required to be registered to use the title "registered interior designer."

In Chapter 0120-04 Interior Designers, Rule 0120-04-.10 Professional Conduct is amended by adding a paragraph requiring registered interior designers to maintain continuing education records for a period of four (4) years and to furnish such records to the Board upon request.

In Chapter 0120-04 Interior Designers, a new rule (Rule 0120-04-.11 Civil Penalties) is added establishing a civil penalty schedule for registered interior designers and persons required to be registered to use the title "registered interior designer."

Rules 0120-05-.06 Types of Acceptable Continuing Education and 0120-05-.07 Credits are amended to allow registrants to claim up to four (4) Professional Development Hours per biennium for active participation in educational outreach activities involving K-12 or higher education students.

Rule 0120-05-.10 Records is amended to state that a registrant who fails to properly maintain and furnish continuing education records may be deemed to have violated rule 0120-02-.02 [Proper Conduct of Practice] or rule 0120-04-.10 [Professional Conduct].

Rule 0120-05-.13 Reciprocity is amended to state that if a registrant has met the mandatory continuing education requirements of his or her home jurisdiction then that registrant shall be deemed to have met the continuing education requirements of Tennessee. Documentation that the registrant is in good standing in his or her home jurisdiction must be provided at the Board's request.

A new chapter is added to the Board's rules—Chapter 0120-06 Corporations, Partnerships and Firms—to clarify the requirements of T.C.A. §§ 62-2-601 and 62-2-602 regarding architectural, engineering and landscape architectural firms. This chapter will include the following new rules: Rule 0120-06-.01 Definitions, Rule 0120-06-.02 Applicability, Rule 0120-06-.03 Disclosure Requirements, and Rule 0120-06-.04 Responsible Charge Requirements.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The proposed amendments to the rules of the Tennessee State Board of Architectural and Engineering Examiners are made pursuant to Tenn. Code Ann. §§ 62-2-203(c) and 62-2-203(d).

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These amendments to the rules of the Tennessee State Board of Architectural and Engineering Examiners will affect holders in good standing of registration certificates in architecture, engineering, landscape architecture and interior design and also applicants for registration as engineers. There were written and oral comments made in connection with this rulemaking hearing, primarily voicing opposition to proposed rules that would have established a civil penalty for failure to notify the Board of an address change within thirty (30) days and that would have required registrants to include a notation below the seal noting the expiration date of the registrant's certificate of registration, both of which were deleted by the Board.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

I am unaware of any opinion of the attorney general or any judicial ruling which directly relates to these rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules are expected to have no fiscal impact on the Department.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

John Cothron, Executive Director of the Tennessee State Board of Architectural and Engineering Examiners, and I as attorney for the agency have substantial knowledge and understanding of these rules.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

John Cothron or I will explain the rules at any scheduled meeting of the Government Operations Committee.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

I may be reached at the Department of Commerce and Insurance, Office of Legal Counsel, 500 James Robertson Parkway, Davy Crockett Tower, Nashville, Tennessee 37243, (615) 741-3072.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.