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Sequence Number: 12-06-12
 Rule ID(s): 5341-5344
 File Date: 12/11/12
 Effective Date: 3/11/13

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Tennessee State Board of Architectural and Engineering Examiners
Division:	Division of Regulatory Boards, Department of Commerce and Insurance
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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
0120-01-.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), so that, as amended, the rule in its entirety shall read:

- (1) Failure of an applicant to turn in a paper on every section of an examination for which the applicant is scheduled will result in failure of the entire examination, unless the applicant presents evidence satisfactory to the Board justifying such incompleteness.
- (2) If an applicant passes the required examination(s) and is not approved for registration, his application will be held pending. Such applicant may request to appear before the full Board at its next scheduled meeting.
- (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 by the examinee, while the examinee is barred from taking an examination in Tennessee, will not be acceptable for licensure purposes in Tennessee.

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

Rule 0120-01-.23 Reexamination – Landscape Architect is amended by deleting paragraph (2) in its entirety so that, as amended, the rule in its entirety shall read:

- (1) Policy. Reexamination of candidates for registration as a landscape architect will be permitted in accordance with the policy prescribed by the CLARB.

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 paragraph in its entirety shall read:

- (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 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.
 - (c) A registrant holding a retired certificate may not engage in any activity constituting the practice or offer to practice of engineering, architecture or landscape architecture in the State of Tennessee without first notifying the Board, in writing, as to a change to "active" status and paying a biennial license renewal fee of one hundred forty dollars (\$140.00).

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) so that, as amended, the rule in its entirety shall read:

- (1) The registrant shall at all times recognize the primary obligation to protect the safety, health and welfare of the public in the performance of the registrant's professional duties.
- (2) If the registrant becomes aware of a decision taken by an employer, client, or contractor, against the registrant's advice, which violates applicable Federal, State or Local building Laws and Regulations or which may affect adversely the safety to the public, the registrant shall:
 - (a) Report the decision to the local building inspector or other public official charged with the enforcement of the applicable Federal, State or Local building Laws and Regulations;
 - (b) Refuse to consent to the decision; and
 - (c) In circumstances where the registrant reasonably believes that other such decisions will be taken notwithstanding the registrant's objections, terminate services with reference to the project.
- (3) A registrant possessing knowledge of a violation of T.C.A. Title 62, chapter 2, or this chapter, shall report such knowledge to the Board in writing and shall cooperate with the Board in furnishing such further information or assistance as it may require.
- (4) 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.

- (5) A registrant possessing knowledge of an applicant's qualifications for registration shall respond in writing to the Board regarding those qualifications when requested to do so by the Board.
- (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; or
 - (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) Except as provided by rule 0120-02-.08(5) and (6), 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. If the plans are complete and have been submitted to a reviewing official, the successor registrant may prepare and seal addenda 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 paragraph in its entirety 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; and
 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, including but not limited to owners/clients, contractors, subcontractors, other design professionals, or any of their agents, employees or assigns.
- (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), 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 paragraph in its entirety shall read:

- (8) (a) Subject to the requirements of this rule, rubber-stamp, embossed, transparent self-adhesive or electronically generated seals may be used. Such stamps or seals shall not include the registrant's signature or date of signature.
- (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).

Chapter 0120-02
Rule of Professional Conduct

New Rule

Rule 0120-02-.10 Other Enforcement Actions is added to Chapter 0120-02, and shall read as follows:

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) so that, as amended, the rule in its entirety shall read:

- (1) All certificates of registration issued to a registered interior designer are subject to biennial renewal (every two (2) years) in accordance with the provisions of T.C.A. §56-1-302(b).
- (2) A registered interior designer may renew a current, valid registration by submitting a renewal form approved by the board, the required renewal fee, and evidence of having completed the number of professional development hours (PDH's) required by rule 0120-05-.04.
- (3) The fee for biennial renewal of certificates of registration for registered interior designers shall be in the amount of one hundred forty dollars (\$140.00).
- (4) The penalty for late renewal shall be in the amount of ten dollars (\$10.00) for each month or fraction of a month which elapses during the six (6)-month late renewal period before payment is tendered.
- (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).

Chapter 0120-04
Interior Designers

New Rule

0120-04-.12 Other Enforcement Actions is added to Chapter 0120-04, and shall read as follows:

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 paragraph in its entirety shall read:

- (2) Continuing education activities for which credit may be given by the Board include, but are not limited to the following:
- (a) Successful completion or monitoring of college or university sponsored courses;
 - (b) Successful completion of courses which are awarded continuing education units (CEU's);
 - (c) Attendance at structured seminars, tutorials, short courses, correspondence courses, televised courses, Internet courses, or videotaped courses;
 - (d) Attendance at in-house educational programs sponsored by corporations or other organizations;
 - (e) Teaching or instructing as described in (a) through (d) above, unless teaching or instructing is the registrant's regular employment;
 - (f) Authoring published papers, articles or books;
 - (g) Making presentations at technical meetings;
 - (h) Attendance at program presentations at related technical or professional meetings where program content is comprised of at least one (1) PDH;
 - (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;
 - (j) Active participation in educational outreach activities involving K-12 or higher education students; and,
 - (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 deleting the text of subparagraph (e) in its entirety and substituting instead the following language so that, as amended, the paragraph in its entirety shall read:

- (1) Professional Development Hours of credit for qualifying courses successfully completed which offer semester hour, quarter hour, or CEU credit are as specified above. All other activities will be credited one (1) PDH for each contact hour with the following exceptions:
- (a) Monitoring of university or college courses will be credited at one-third (1/3) the above-stated conversion table.
 - (b) Teaching or instructing qualifying courses or seminars will be credited at twice the PDH's earned by a participating student and may be claimed for credit only once.
 - (c) Authorship of papers, articles or books cannot be claimed until actually published. Credit earned will equal preparation time spent not to exceed twenty-five (25) PDH's per publication.
 - (d) Correspondence course PDH's may be considered acceptable to the Board, but the registrant shall submit, upon request, supporting documentation to demonstrate high quality course content.
 - (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.

- (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).

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

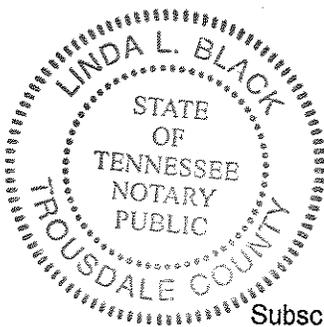
Board Member	Aye	No	Abstain	Absent	Signature (if required)
Hal Balthrop Engineer	X				
Wilson Border Public Member	X				
Robert Campbell Engineer	X				
James Hastings Architect	X				
Philip K.S. Lim Engineer, Chair	X				
William Lockwood Landscape Architect Vice Chair	X				
David Schuermann Architect	X				
Susan K. Ballard Interior Designer	X				
Richard Thompson Architect Secretary	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 08/15/2012, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/21/2012

Rulemaking Hearing(s) Conducted on: 08/15/2012



Date: 11-7-2012

Signature: [Handwritten Signature]

Name of Officer: ROBERT E. HERNDON

Title of Officer: ASSISTANT GENERAL COUNSEL

Subscribed and sworn to before me on: November 7, 2012

Notary Public Signature: [Handwritten Signature]

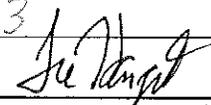
My commission expires on: 4/5/16

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

12-4-12
Date

Department of State Use Only

Filed with the Department of State on: 12/11/12
Effective on: 3/11/13

Tre Hargett
Secretary of State

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PARKINGTONS

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.

Please see attached documentation.

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:

These amendments would not impact small businesses because the Board licenses individuals, not entities.

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

There are no projected administrative costs as a result of these amendments.

3. Probable effect on small businesses:

There is no expected adverse impact on small businesses as a result of these amendments.

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.

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 T.C.A. § 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;

Rules 0120-01-.08 Applications – Landscape Architect and 0120-01-.23 Reexamination – Landscape Architect are amended to delete references to the Board collecting examination fees. The landscape architecture exam will be fully computerized after the June 2012 administration, and fees will be paid directly to the test administrator.

Rule 0120-01-.13 Examinations – General is amended by adding a new paragraph outlining the conditions under which the Board may invalidate an applicant's examination results or prohibit the applicant from taking an examination for a period of time determined by the Board.

Rule 0120-01-.25 Renewal of Registration is amended to specify that registrants holding a retired certificate may continue to refer to themselves as an architect, engineer, or landscape architect, provided that the word "retired" is used in conjunction with the title.

Rule 0120-02-.02 Proper Conduct of Practice is amended by adding a new paragraph prohibiting registrants from competitively bidding professional services on local public works projects.

Rules 0120-02-.07 Misconduct and 0120-04-.10 Professional Conduct are amended to require registrants to report felony convictions and disciplinary actions resulting in revocation, suspension or voluntary surrender to the Board within sixty (60) days of the action and to require registrants to respond to Board requests and investigations within thirty (30) days of the mailing of communications, unless an earlier response is specified. Language is also added stating that a registrant may be deemed by the Board to be guilty of misconduct in his professional practice if he fails to comply with a lawful order of the Board.

Rule 0120-02-.08 Seals is amended to clarify the requirements for revising plans prepared by another registrant and to specifically prohibit owners/clients, contractors, subcontractors, other design professionals, or any of their agents, employees or assigns, from making changes to final plans, specifications, drawings, reports or other documents after final revision and sealing by a registrant. The language regarding electronic seals, signatures and dates of signature is also amended to more closely mirror the language in the National Council of Examiners for Engineering and Surveying (NCEES) *Model Rules*.

Rule 0120-04-.08 Renewal of Registration is amended by adding a new paragraph allowing retired registered interior designers to continue use of the title "registered interior designer," provided that the word "retired" is used in conjunction with the title, and to renew such registration without cost.

New rules are created (0120-02-.10 Other Enforcement Actions and 0120-04-.12 Other Enforcement Actions) giving authority to the Board to require passage of a law and rules exam, additional continuing education hours, or probation with peer review of technical work in disciplinary cases.

Rules 0120-05-.06 Types of Acceptable Continuing Education and 0120-05-.07 Credits are amended to allow registrants to claim a maximum of eight (8) Professional Development Hours per biennium for 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.

- (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.



**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**

September 27, 2012

VIA UNITED STATES MAIL

Mr. Trey Wheeler, President
AIA Tennessee
TWH Architects
651 E 4th St. Ste. 500
Chattanooga, Tennessee 37403

***RE: Tennessee State Board of Architectural & Engineering Examiners
Rulemaking Hearing re: Chapters 0120—01 [Registration
Requirements and Procedures], 0120—02 [Rules of Professional
Conduct], 0120—04 [Interior Designers] and 0120—05
[Continuing Education]***

Dear Mr. Wheeler:

I serve as attorney for the Tennessee State Board of Architectural and Engineering Examiners ("Board"). This letter addresses oral comments made by you relative to the Board's public rulemaking hearing held on August 15, 2012. The purpose of the rulemaking hearing was to implement amendments to various chapters of the Board's administrative rules in order to update those rules largely in anticipation of increasing use of seals in electronic media in the practice of the design trades, the process of another design professional completing or altering the work product of another and the clarification of qualification-based selection of public projects. After due consideration of all available information, the Board has decided to adopt the chapters with amendments based on public comment, feeling that the amendments best serve to protect the health, safety and welfare of Tennessee's citizens when the chapters becomes effective.

Your comments in support of the proposed amendments were well-received and the Board certainly appreciates you and your organization's involvement in the practice of architecture. In particular, you expressed AIA Tennessee's support of the proposed amendments that address qualifications-based selection of design professionals relative to public projects. The Board is pleased with your support as it implements this concept to help ensure that the most appropriate design professionals receive the opportunity to work with projects that directly impact public safety.

Again, thank you for your input and your continuing support for the Board as it regulates our professions.

Sincerely,

Robert E. Herndon
Attorney for the Board



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
500 JAMES ROBERTSON PARKWAY
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NASHVILLE, TENNESSEE 37243
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September 27, 2012

VIA UNITED STATES MAIL

Ms. Candy Toler, Director
Tennessee Society of Professional Engineers
American Council of Engineering Companies
800 Fort Negley Blvd.
Nashville, Tennessee 37203

***RE: Tennessee State Board of Architectural & Engineering Examiners
Rulemaking Hearing re: Chapters 0120—01 [Registration
Requirements and Procedures], 0120—02 [Rules of Professional
Conduct], 0120—04 [Interior Designers] and 0120—05
[Continuing Education]***

Dear Ms. Toler:

I serve as attorney for the Tennessee State Board of Architectural and Engineering Examiners ("Board"). This letter addresses oral comments made by you relative to the Board's public rulemaking hearing held on August 15, 2012. The purpose of the rulemaking hearing was to implement amendments to various chapters of the Board's administrative rules in order to update those rules largely in anticipation of increasing use of seals in electronic media in the practice of the design trades, the process of another design professional completing or altering the work product of another and the clarification of qualification-based selection of public projects. After due consideration of all available information, the Board has decided to adopt the chapters with amendments based on public comment, feeling that the amendments best serve to protect the health, safety and welfare of Tennessee's citizens when the chapters becomes effective.

Your comments in support of the proposed amendments were well-received and the Board certainly appreciates you and your organizations' involvement in the practice of professional engineering. Also, the Board hopes your concern over the assessment of discipline for failing to respond to the Board's inquiries was eased by the public discussion. That amendment is intended to provide registrants with a sense of importance in responding to the Board when it asks for information for which a response is required, typically relative to complaint responses and audits. On the other hand, because correspondence regarding license applications and renewals are the responsibility of the applicant/registrant and are not initiated by the Board, nor are they required for the Board to reach a decision on a disciplinary or audit matter, this amendment is not intended to be applied in those situations.

Again, thank you for your input and your continuing support for the Board as it regulates our professions.

Sincerely,

Robert E. Herndon
Attorney for the Board



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
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September 27, 2012

VIA UNITED STATES MAIL

Mr. Nathan Ridley, Esq.
Bradley Arant Boult Cummings
1600 Division St. Ste. 700
Nashville, Tennessee 37203

***RE: Tennessee State Board of Architectural & Engineering Examiners
Rulemaking Hearing re: Chapters 0120—01 [Registration
Requirements and Procedures], 0120—02 [Rules of Professional
Conduct], 0120—04 [Interior Designers] and 0120—05
[Continuing Education]***

Dear Mr. Ridley:

I serve as attorney for the Tennessee State Board of Architectural and Engineering Examiners ("Board"). This letter addresses oral comments made by you relative to the Board's public rulemaking hearing held on August 15, 2012. The purpose of the rulemaking hearing was to implement amendments to various chapters of the Board's administrative rules in order to update those rules largely in anticipation of increasing use of seals in electronic media in the practice of the design trades, the process of another design professional completing or altering the work product of another and the clarification of qualification-based selection of public projects. After due consideration of all available information, the Board has decided to adopt the chapters with amendments based on public comment, feeling that the amendments best serve to protect the health, safety and welfare of Tennessee's citizens when the chapters becomes effective.

Your comments in support of the proposed amendments were well-received and the Board certainly appreciates you and your organizations' involvement in the practice of landscape architecture. Also, the Board hopes your concern over the assessment of discipline for failing to respond to the Board's inquiries is eased by the public discussion. That amendment is intended to provide registrants with a sense of importance in responding to the Board when it asks for information for which a response is required, typically relative to complaint responses and audits. On the other hand, because correspondence regarding license applications and renewals are the responsibility of the applicant/registrant and are not initiated by the Board, nor are they required for the Board to reach a decision on a disciplinary or audit matter, this amendment is not intended to be applied in those situations. It is also appreciated that you voiced your organizations support of the concept of qualifications-based selection for the design professionals that are best suited to provide the services to create public structures that best protect public safety.

Again, thank you for your input and your continuing support for the Board as it regulates our professions.

Sincerely,

Robert E. Herndon
Attorney for the Board



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
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September 27, 2012

VIA UNITED STATES MAIL

Mr. Don Miller, Vice President
AIA Tennessee
Thomas Miller & Partners, PLLC
5210 Maryland Way, Ste. 200
Brentwood, Tennessee 37027-5008

***RE: Tennessee State Board of Architectural & Engineering Examiners
Rulemaking Hearing re: Chapters 0120—01 [Registration
Requirements and Procedures], 0120—02 [Rules of Professional
Conduct], 0120—04 [Interior Designers] and 0120—05
[Continuing Education]***

Dear Mr. Miller:

I serve as attorney for the Tennessee State Board of Architectural and Engineering Examiners ("Board"). This letter addresses oral comments made by you relative to the Board's public rulemaking hearing held on August 15, 2012. The purpose of the rulemaking hearing was to implement amendments to various chapters of the Board's administrative rules in order to update those rules largely in anticipation of increasing use of seals in electronic media in the practice of the design trades, the process of another design professional completing or altering the work product of another and the clarification of qualification-based selection of public projects. After due consideration of all available information, the Board has decided to adopt the chapters with amendments based on public comment, feeling that the amendments best serve to protect the health, safety and welfare of Tennessee's citizens when the chapters becomes effective.

Your comments in support of the proposed amendments were well-received and the Board certainly appreciates you and your organization's involvement in the practice of architecture. In particular, along with your colleague President Trey Wheeler of the AIA Tennessee, you expressed your organizations's support of the proposed amendments that address qualifications-based selection of design professionals relative to public projects. The Board is pleased with your support as it implements this concept to help ensure that the most appropriate design professionals receive the opportunity to work with projects that directly impact public safety.

Again, thank you for your input and your continuing support for the Board as it regulates our professions.

Sincerely,

Robert E. Herndon
Attorney for the Board



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
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NASHVILLE, TENNESSEE 37243
TELEPHONE (615) 741-3072 FACSIMILE (615) 532-4750**

September 27, 2012

VIA UNITED STATES MAIL

Mr. Brian Locke, President
AIA Chattanooga
Artech Design Group, Inc.
1410 Cowart Street
Chattanooga, Tennessee 37408

***RE: Tennessee State Board of Architectural & Engineering Examiners
Rulemaking Hearing re: Chapters 0120—01 [Registration
Requirements and Procedures], 0120—02 [Rules of Professional
Conduct], 0120—04 [Interior Designers] and 0120—05
[Continuing Education]***

Dear Mr. Locke:

I serve as attorney for the Tennessee State Board of Architectural and Engineering Examiners ("Board"). This letter addresses oral comments made by you relative to the Board's public rulemaking hearing held on August 15, 2012. The purpose of the rulemaking hearing was to implement amendments to various chapters of the Board's administrative rules in order to update those rules largely in anticipation of increasing use of seals in electronic media in the practice of the design trades, the process of another design professional completing or altering the work product of another and the clarification of qualification-based selection of public projects. After due consideration of all available information, the Board has decided to adopt the chapters with amendments based on public comment, feeling that the amendments best serve to protect the health, safety and welfare of Tennessee's citizens when the chapters becomes effective.

Your comments in support of the proposed amendments were well-received and the Board certainly appreciates you and your organization's involvement in the practice of architecture. In particular, along with your colleagues President Trey Wheeler of the AIA Tennessee and Vice President Don Miller of AIA Tennessee, you expressed AIA Chattanooga's support of the proposed amendments that address qualifications-based selection of design professionals relative to public projects. The Board is pleased with your support as it implements this concept to help ensure that the most appropriate design professionals receive the opportunity to work with projects that directly impact public safety.

Again, thank you for your input and your continuing support for the Board as it regulates our professions.

Sincerely,

Robert E. Herndon
Attorney for the Board



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL**

500 JAMES ROBERTSON PARKWAY
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September 27, 2012

VIA UNITED STATES MAIL

Mr. Kim Chamberlin, AIA
Upland Design Group, Inc.
P.O. Box 1026
Crossville, Tennessee 38557

***RE: Tennessee State Board of Architectural & Engineering Examiners
Rulemaking Hearing re: Chapters 0120-01 [Registration
Requirements and Procedures], 0120-02 [Rules of Professional
Conduct], 0120-04 [Interior Designers] and 0120-05
[Continuing Education]***

Dear Mr. Chamberlin:

I serve as attorney for the Tennessee State Board of Architectural and Engineering Examiners ("Board"). This letter addresses oral comments made by you relative to the Board's public rulemaking hearing held on August 15, 2012. The purpose of the rulemaking hearing was to implement amendments to various chapters of the Board's administrative rules in order to update those rules largely in anticipation of increasing use of seals in electronic media in the practice of the design trades, the process of another design professional completing or altering the work product of another and the clarification of qualification-based selection of public projects. After due consideration of all available information, the Board has decided to adopt the chapters with amendments based on public comment, feeling that the amendments best serve to protect the health, safety and welfare of Tennessee's citizens when the chapters becomes effective.

Your comments in support of the proposed amendments were well-received and the Board certainly appreciates you and your organization's involvement in the practice of architecture. In particular, you expressed your organization's support of the proposed amendments that address qualifications-based selection of design professionals relative to public projects. The Board is pleased with your support as it implements this concept to help ensure that the most appropriate design professionals receive the opportunity to work with projects that directly impact public safety.

Again, thank you for your input and your continuing support for the Board as it regulates our professions.

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

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

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
Address:	500 James Robertson Parkway Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-9461
Email:	Robert.Herndon@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
0120-01-.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). ~~Upon notification to the applicant of approval to take any required examination(s), the applicant shall pay to the Board the cost of the current examination(s) and scoring.~~ 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), so that, as amended, the rule in its entirety shall read:

- (1) Failure of an applicant to turn in a paper on every section of an examination for which the applicant is scheduled will result in failure of the entire examination, unless the applicant presents evidence satisfactory to the Board justifying such incompleteness.
- (2) If an applicant passes the required examination(s) and is not approved for registration, his application will be held pending. Such applicant may request to appear before the full Board at its next scheduled meeting.
- (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 by the examinee, while the examinee is barred from taking an examination in Tennessee, will not be acceptable for licensure purposes in Tennessee.

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

Rule 0120-01-.23 Reexamination – Landscape Architect is amended by deleting paragraph (2) in its entirety so
SS-7039 (October 2011) 3 RDA 1693

that, as amended, the rule in its entirety shall read:

- (1) Policy. Reexamination of candidates for registration as a landscape architect will be permitted in accordance with the policy prescribed by the CLARB.
- ~~(2) The fees for reexamination shall be as follows:~~

~~Individual Section(s) \$75.00 plus the cost of the required section(s).~~

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 paragraph in its entirety shall read:

- (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 an engineer, architect, or landscape architect ~~or registered interior designer~~, including on correspondence and business cards, provided that the word "retired" is used in conjunction with the title. However, but 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.
 - (c) A registrant holding a retired certificate may not engage in any activity constituting the practice or offer to practice of engineering, architecture or landscape architecture in the State of Tennessee without first notifying the Board, in writing, as to a change to "active" status and paying a biennial license renewal fee of one hundred forty dollars (\$140.00).

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) so that, as amended, the rule in its entirety shall read:

- (1) The registrant shall at all times recognize the primary obligation to protect the safety, health and welfare of the public in the performance of the registrant's professional duties.
- (2) If the registrant becomes aware of a decision taken by an employer, client, or contractor, against the registrant's advice, which violates applicable Federal, State or Local building Laws and Regulations or which may affect adversely the safety to the public, the registrant shall:
 - (a) Report the decision to the local building inspector or other public official charged with the enforcement of the applicable Federal, State or Local building Laws and Regulations;
 - (b) Refuse to consent to the decision; and
 - (c) In circumstances where the registrant reasonably believes that other such decisions will be taken notwithstanding the registrant's objections, terminate services with reference to the project.

- (3) A registrant possessing knowledge of a violation of T.C.A. Title 62, chapter 2, or this chapter, shall report such knowledge to the Board in writing and shall cooperate with the Board in furnishing such further information or assistance as it may require.
- (4) 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.
- (5) A registrant possessing knowledge of an applicant's qualifications for registration shall respond in writing to the Board regarding those qualifications when requested to do so by the Board.
- ~~(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; ~~or~~
 - (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. If the plans are complete and have been submitted to a reviewing official, the successor registrant may prepare and seal addenda 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 paragraph in its entirety 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; and
 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) Except as provided by rule 0120-02-.08(5) and (6), 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.
- (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), 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 paragraph in its entirety shall read:

- (8) (a) Subject to the requirements of this rule, rubber-stamp, embossed, transparent self-adhesive or electronically generated seals may be used. Such stamps or seals shall not include the registrant's signature or date of signature.
- (b) Subject to the requirements of this rule, the registrant may affix an electronically

generated signature and date of signature to documents; provided, however, that the registrant utilizes a secure method of affixation and provided that the registrant does not authorize any other person to so affix his signature and date. 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).

Chapter 0120-02
Rule of Professional Conduct

New Rule

Rule 0120-02-.10 Other Enforcement Actions is added to Chapter 0120-02, and shall read as follows:

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) so that, as amended, the rule in its entirety shall read:

- (1) All certificates of registration issued to a registered interior designer are subject to biennial renewal (every two (2) years) in accordance with the provisions of T.C.A. §56-1-302(b).
- (2) A registered interior designer may renew a current, valid registration by submitting a renewal form approved by the board, the required renewal fee, and evidence of having completed the number of professional development hours (PDH's) required by rule 0120-05-.04.
- (3) The fee for biennial renewal of certificates of registration for registered interior designers shall be in the amount of one hundred forty dollars (\$140.00).
- (4) The penalty for late renewal shall be in the amount of ten dollars (\$10.00) for each month or fraction of a month which elapses during the six (6)-month late renewal period before payment is tendered.

- (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; or
- (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).

Chapter 0120-04
Interior Designers

New Rule

0120-04-.12 Other Enforcement Actions is added to Chapter 0120-04, and shall read as follows:

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 paragraph in its entirety shall read:

- (2) Continuing education activities for which credit may be given by the Board include, but are not limited to the following:
 - (a) Successful completion or monitoring of college or university sponsored courses;
 - (b) Successful completion of courses which are awarded continuing education units (CEU's);
 - (c) Attendance at structured seminars, tutorials, short courses, correspondence courses, televised courses, Internet courses, or videotaped courses;
 - (d) Attendance at in-house educational programs sponsored by corporations or other organizations;
 - (e) Teaching or instructing as described in (a) through (d) above, unless teaching or instructing is the registrant's regular employment;
 - (f) Authoring published papers, articles or books;
 - (g) Making presentations at technical meetings;
 - (h) Attendance at program presentations at related technical or professional meetings where program content is comprised of at least one (1) PDH;
 - (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;
 - (j) Active participation in educational outreach activities involving K-12 or higher education students; and,
 - (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 deleting the text of subparagraph (e) in its entirety and substituting instead the following language so that, as amended, the paragraph in its entirety shall read:

- (1) Professional Development Hours of credit for qualifying courses successfully completed which offer semester hour, quarter hour, or CEU credit are as specified above. All other activities will be credited one (1) PDH for each contact hour with the following exceptions:
 - (a) Monitoring of university or college courses will be credited at one-third (1/3) the above-stated conversion table.
 - (b) Teaching or instructing qualifying courses or seminars will be credited at twice the PDH's earned by a participating student and may be claimed for credit only once.

- (c) Authorship of papers, articles or books cannot be claimed until actually published. Credit earned will equal preparation time spent not to exceed twenty-five (25) PDH's per publication.
- (d) Correspondence course PDH's may be considered acceptable to the Board, but the registrant shall submit, upon request, supporting documentation to demonstrate high quality course content.
- (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.
- (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).

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

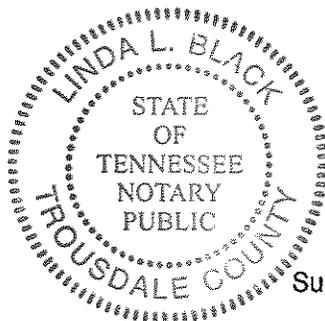
Board Member	Aye	No	Abstain	Absent	Signature (if required)
Hal Balthrop Engineer	X				
Wilson Border Public Member	X				
Robert Campbell Engineer	X				
James Hastings Architect	X				
Philip K.S. Lim Engineer, Chair	X				
William Lockwood Landscape Architect Vice Chair	X				
David Schuermann Architect	X				
Susan K. Ballard Interior Designer	X				
Richard Thompson Architect Secretary	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 08/15/2012, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/21/2012

Rulemaking Hearing(s) Conducted on: 08/15/2012



Date: 11.7.2012

Signature: [Handwritten Signature]

Name of Officer: ROBERT E. HERNDON

Title of Officer: ASSISTANT GENERAL COUNSEL

Subscribed and sworn to before me on: November 7, 2012

Notary Public Signature: [Handwritten Signature]

My commission expires on: 11/7/16

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: _____

Effective on: _____

Tre Hargett
Secretary of State

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.

Please see attached documentation.

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:

These amendments would not impact small businesses because the Board licenses individuals, not entities.

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

There are no projected administrative costs as a result of these amendments.

3. Probable effect on small businesses:

There is no expected adverse impact on small businesses as a result of these amendments.

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.

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 T.C.A. § 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;

Rules 0120-01-.08 Applications – Landscape Architect and 0120-01-.23 Reexamination – Landscape Architect are amended to delete references to the Board collecting examination fees. The landscape architecture exam will be fully computerized after the June 2012 administration, and fees will be paid directly to the test administrator.

Rule 0120-01-.13 Examinations – General is amended by adding a new paragraph outlining the conditions under which the Board may invalidate an applicant's examination results or prohibit the applicant from taking an examination for a period of time determined by the Board.

Rule 0120-01-.25 Renewal of Registration is amended to specify that registrants holding a retired certificate may continue to refer to themselves as an architect, engineer, or landscape architect, provided that the word "retired" is used in conjunction with the title.

Rule 0120-02-.02 Proper Conduct of Practice is amended by adding a new paragraph prohibiting registrants from competitively bidding professional services on local public works projects.

Rules 0120-02-.07 Misconduct and 0120-04-.10 Professional Conduct are amended to require registrants to report felony convictions and disciplinary actions resulting in revocation, suspension or voluntary surrender to the Board within sixty (60) days of the action and to require registrants to respond to Board requests and investigations within thirty (30) days of the mailing of communications, unless an earlier response is specified. Language is also added stating that a registrant may be deemed by the Board to be guilty of misconduct in his professional practice if he fails to comply with a lawful order of the Board.

Rule 0120-02-.08 Seals is amended to clarify the requirements for revising plans prepared by another registrant and to specifically prohibit owners/clients, contractors, subcontractors, other design professionals, or any of their agents, employees or assigns, from making changes to final plans, specifications, drawings, reports or other documents after final revision and sealing by a registrant. The language regarding electronic seals, signatures and dates of signature is also amended to more closely mirror the language in the National Council of Examiners for Engineering and Surveying (NCEES) *Model Rules*.

Rule 0120-04-.08 Renewal of Registration is amended by adding a new paragraph allowing retired registered interior designers to continue use of the title "registered interior designer," provided that the word "retired" is used in conjunction with the title, and to renew such registration without cost.

New rules are created (0120-02-.10 Other Enforcement Actions and 0120-04-.12 Other Enforcement Actions) giving authority to the Board to require passage of a law and rules exam, additional continuing education hours, or probation with peer review of technical work in disciplinary cases.

Rules 0120-05-.06 Types of Acceptable Continuing Education and 0120-05-.07 Credits are amended to allow registrants to claim a maximum of eight (8) Professional Development Hours per biennium for 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.

- (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.