

Regulatory Analysis Form

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REVIEW COMMISSION

(1) Agency

Department of State, Bureau of Professional and Occupational Affairs, State Board of Landscape Architects

(2) I.D. Number (Governor's Office Use)

16A-617

IRRC Number: 2368

(3) Short Title

Deletion of Examination Fee

(4) PA Code Cite

49 Pa. Code §§ 15.1, 15.11, 15.12, and 15.51-15.53.

(5) Agency Contacts & Telephone Numbers

Primary Contact: Beth Sender Michlovitz, Counsel
State Board of Landscape Architects (717) 783-7200
Secondary Contact: Joyce McKeever, Deputy Chief
Counsel, Department of State (717) 783-7200

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The proposed regulation would remove specific references to details of the landscape architect licensure examination process in order to clarify the procedures, eliminate obsolete procedures, and allow the regulations to remain viable for a longer term as specific items such as fees and dates change. The proposed regulations delete references to the fees charged by testing organizations from the schedule of fees for the examination, and directs applicants for examination to apply and pay fees directly to the professional testing organization. The proposed rulemaking also deletes references to the specific title of the examination currently in use. The proposed rulemaking also deletes Board testing protocols and recordkeeping practices which are obsolete, as these functions are now provided by the testing administrator, rather than by the Board.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Section 812.1 of the Administrative Code (71 P.S. § 279.3a) and Section 4(2) of the Landscape Architects' Registration Law, (Act) (63 P.S. §§ 904(2)), set forth the powers and duties of the Board with regard to the administration of examinations.

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is not mandated by any federal or state law, court order, or federal regulation.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The licensure examination is a national one which is currently prepared and administered by the Council of Landscape Architectural Registration Boards. That organization sets the fees. Should another examination become available in the future, the Board could approve another administrator through a competitive bid and contracting process with a professional testing organization to administer the examination. Again, the fee would be set by the administrator. Eliminating references to the current examination fee in the regulations will obviate the need to amend the regulations in the future should the examination fees be changed.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There are no specific public health, safety, environmental or general welfare risks associated with nonregulation.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Applicants for licensure will benefit by not having potentially conflicting sources of information relating to examination fees. The Board will benefit because the regulation will eliminate the need to make future adjustments to its regulations should the fees be changed.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The Board has identified no groups or individuals who will be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All applicants for licensure are required to pay the fee set by the professional testing organization. This regulation does not affect the fee charged by the professional testing organization.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The text of the proposed regulation was sent to professional landscape architect organizations for pre-draft commentary on October 31, 2002.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

No specific costs or savings to the regulated community are anticipated. However, the general operational costs of the Board may be reduced by eliminating the need to make future amendments to the Board's regulations.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There are no anticipated costs or savings to local government associated with this regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

Because the Board's operational expenses are paid from license renewal fees, there are no anticipated costs or savings to state government associated with this regulation.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current	FY +1	FY +2	FY +3	FY +4	FY +5
SAVINGS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

N/A

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.
N/A

Program	FY -3	FY -2	FY -1	Current FY
State Board of Landscape Architects	\$48,496.74	\$35,885.09	\$37,347.56	\$46,000.00

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

There are no adverse effects or costs associated with the regulation. The regulated community will benefit because the Board will not be required to make any future amendments to its regulations to conform to changing costs of the licensing examination.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Because the fees are currently announced in the Board's regulations, no nonregulatory alternatives were considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There are no federal standards relevant to the regulation.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

A survey was made of nearby states requiring licensing of landscape architects. Delaware, New York, New Jersey and Maryland all have an administrative fee for review of applications which fee is established by regulation, except in New York where it is statutory. All four of the states use the same national examination as does Pennsylvania; all four use the fees determined by the exam administrator and do not include them in their regulations or statute. Therefore, the regulation will not put Pennsylvania at a competitive disadvantage.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation will not affect any existing or proposed regulations of the Board or other state agencies.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Board meets in public session at least four times per year at 2601 North 3rd Street in Harrisburg, PA. Comments from the public are always invited at the Board's meetings. Meeting dates are available on the Department of State's website, www.dos.state.pa.us/bpoa.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The regulation will not change any existing reporting, record keeping or other paperwork requirements.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The Board has identified no particular groups or persons who will be affected by the regulation.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective upon final publication in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

The Board continuously reviews its regulations, periodically communicates with licensees through newsletters and obtains information and feedback from its licensees on a frequent basis.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

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INDEPENDENT AGENCY
REVIEW COMMISSION

(Pursuant to Commonwealth Documents Law)

2368

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

Amey M. Elliott

BY: _____
(DEPUTY ATTORNEY GENERAL)

SEP 25 2003

DATE OF APPROVAL

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

State Board of Landscape Architects
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-617

DATE OF ADOPTION: _____

BY: *Daniel J. Dahlkemper*
Daniel J. Dahlkemper, RLA

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is approved as to form and legality. Executive or Independent Agencies.

Daniel J. Dahlkemper

BY: _____

DATE OF APPROVAL

8/26/03

(Deputy General Counsel
Chief Counsel,
Independent Agency
(Strike inapplicable title))

[] Check if applicable
Copy not approved.
Objections attached.

[] Check if applicable. No Attorney General approval or objection within 30 day after submission.

PROPOSED RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF LANDSCAPE ARCHITECTS
49 PA. CODE, CHAPTER 15.1
DELETION OF EXAMINATION FEES

The State Board of Landscape Architects (Board) proposes to amend 49 Pa. Code §§ 15.1, 15.11, 15.12, 15.51, 15.52 and 15.53 as set forth in Annex A. The proposed rulemaking is designed to remove specific references to details of the landscape architect licensure examination process in order to clarify the procedures, eliminate obsolete procedures, and allow the regulations to remain viable for a longer term as specific items such as fees and dates change. The proposed rulemaking deletes references to the fees charged by testing organizations from the schedule of fees for the examination, and directs applicants for examination to apply and pay fees directly to the professional testing organization. The proposed rulemaking also deletes references to the specific title of the examination currently in use. It also deletes Board testing protocols and record keeping practices which are obsolete, as these functions are now provided by the testing administrator, rather than by the Board.

Effective Date

The regulation is effective on final publication in the Pennsylvania Bulletin.

Statutory Authority

Section 812.1 of the Administrative Code of 1929 (71 P.S. § 279.3a) and Section 4 of the Landscape Architects' Registration Law, (Act) (63 P.S. §904) set forth the powers and duties of the Board with regard to the administration of examinations.

Background and Need for Amendments

The proposed rulemaking deletes references to the fees for the licensing examination procedures and makes clear the fees are set by the professional testing organizations. The rulemaking also clarifies that examination applicants should apply to the professional testing organization and not to the Board.

Description of Proposed Amendments

Provision and Submission of Applications

The proposed amendment to §15.1 (relating to definitions) would delete the reference to and definition of "LARE." By referencing the examination generically, the Board would not need to amend its regulations each time the particular examination changes which it has had to do in the past. The proposed amendment to §15.11 (relating to filing procedures) reflects that applicants apply to the professional testing organization, not the Board, to take the examination. The professional testing organization determines a candidate's eligibility to take the exam and administers the examination to eligible candidates. The Administrative Code of 1929 (71 P.S. §279.3a) requires that the licensing examination be prepared and administered by a professional testing organization. This amendment clears confusion that may result from the existing regulations which are unclear about where examination applicants should file their applications. The proposed amendments to §15.11 also would make clear that application deadlines are set by the testing administrator and not by the Board. The amendment incidentally simplifies the

procedure for filing registration applications and removes a reference to refunds of exam fees and licensure fees.

Elimination of References to Examination Fees

The proposed amendment to §15.12 (relating to fees) deletes references to the fees for the licensure examination. These fees are set by the administrators of the examinations, not by the Board. To avoid the necessity of amending the regulations whenever the examination administrator changes the fees, the Board proposes to delete references to the fees.

Examination dates, testing procedures and grading

The proposed rulemaking would delete obsolete language in §15.51 (relating to eligibility) which states that the examination will be given in June. The Council of Landscape Architectural Registration Boards (CLARB) now administers parts of the examination at least two times per year. The proposed amendment also deletes references to a “written examination” so that the regulations do not have to be amended as the technology of examination evolves. The Board also proposes to delete references to admittance and recordkeeping protocols which are now established by CLARB and not by the Board.

The amendment would delete §15.52 (relating to examination procedures) in its entirety. The first sentence is unnecessary as the Board’s obligation to provide third party testing is statutory. Subsection 15.52(b) (relating to proctors) and the language of subsection 15.53(a) regarding grading are proposed to be deleted as the testing administrator, not the Board, establishes testing protocols, including proctoring and grading.

Fiscal Impact

The proposed amendment will have no fiscal impact on the Board or its licensees. The proposed amendment should have no fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The proposed regulation will avoid preparation of new regulations each time that an examination fee is changed and should not create additional paperwork for the private sector.

Sunset Date

The Board monitors its regulations on a continuing basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted a copy of this proposed regulation on November 12, 2003, to the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. In addition to submitting the proposed rulemaking, the Board has provided IRRC and the committees with a copy of a detailed Regulatory Analysis Form prepared by the Board. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), if IRRC has comments, recommendations or objections regarding any portion of the proposed rulemaking, it will notify the Board within 30 days from the close of the public comment period. The notification will specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of comments, recommendations and objections by the Board, the General Assembly, and the Governor prior to publication of the regulations.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Shirley Klinger, Administrator, State Board of Landscape Architects, P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649, within 30 days following publication of this proposed rulemaking in the Pennsylvania Bulletin.

Daniel J. Dahlkemper, RLA, Chair

ANNEX A
TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 15. STATE BOARD OF LANDSCAPE ARCHITECTS

GENERAL PROVISIONS

§ 15.1. Definitions.

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

* * *

[LARE- The Landscape Architect Registration Examination of CLARB approved by the Board as the landscape architecture examination.]

* * *

APPLICATION PROCEDURES

§ 15.11. Filing procedures.

(a) An application for registration shall be submitted to the State Board of Landscape Architects, Box 2649, Harrisburg, Pennsylvania 17105-2649.

(b) An application shall be [made] submitted on forms [furnished and in the manner prescribed] provided by the Board [and shall be accompanied by the required fee, certified check, cashier's check or money order made payable to "Commonwealth of Pennsylvania." Applicants may not send cash. Refund policies for application and examination fees shall be as specified in the application.] along with the appropriate fee. -

(c) An application for examination shall be submitted [by February 10] directly to the professional testing organization along with the fee in accordance with the deadline provided by the professional testing organization.

* * *

§15.12. Fees.

Following is the schedule of fees charged by the Board:

- (1) [Application for examination.....\$40
- (2)] Application for licensure under § 15.54(b)(1), (2) and (3) or § 15.56(a)(3).....\$60
- [[3]] 2) Application for licensure and Board interview under §§15.54(b)(4) and 15.56(a)(1) or (2).....\$350
- [[4]]3) Application for licensure by endorsement.....\$45
- [[5]]4) Application for temporary permit.....\$45
- [[6] Administration of examination for one section or more.....\$45]
- [[7]]5) Verification of licensure.....\$15
- [[8]]6) Certification of licensure or scores.....\$25
- [[9]]7) Duplicate certificate fee.....\$5
- [[10]]8) Biennial registration fee.....\$125
- [[11]]9) Provider application for course approval under §15.74 (relating to approval of continuing education courses).....\$100
- (1[2]]0) Licensee application for course approval under §15.77 (relating to licensee application for approval of continuing education courses).....\$40 (per clock hour)

* * *

EXAMINATIONS

§ 15.51. Eligibility.

An applicant qualifying under section 6(b) of the act (63 P.S. § 906(b)) is eligible to take the regular examination which will be an [written] examination administered on the dates and times and at the places established by the [Board] professional testing organization. A copy of the instructions will be furnished to the applicant.

(1) [*Yearly e*] Examination. The [LARE] examination will be given [in June on a date selected by CLARB.] on dates selected by the professional testing organization.

* * *

(4) [*Admittance*]. An applicant shall present his admission letter and photograph identification to the proctor for admittance to the examination.

(5)] [*Forfeiture*]. An applicant who fails to sit for the examination, or any part of the examination, forfeits the examination fee and shall submit a new application fee.

[(6) [*Inactive record*]. Records of applicants for registration that are inactive for 5 years will be destroyed. A record will be considered inactive if an applicant has taken the examination, has failed one or more parts of the examination and has failed to retake those failed parts of the examination for 5 years, or if an applicant has been declared eligible to sit for the examination and fails to sit for the examination for 5 years.]

§ 15.52. [Examination procedure.] Reserved.

[(a) [*Examination of applicants*]. The Board, in consultation with the Bureau, will contract for the preparation, administration and evaluation of its licensure examination.

(b) *Proctors.* The professional testing organization will arrange for proctors to administer the conduct of the examination. The proctor shall confiscate the examination paper of the applicant found copying, photographing or using unauthorized materials. The applicant shall be dismissed from the examination and may be disqualified from future examinations.]

§ 15.53. Grading.

(a) [The examination will be graded using procedures developed by CLARB in consultation with a professional testing organization under contract to the Bureau.] Test results will be recorded by the Board in a permanent record of the applicant.

(b) To qualify for registration, an applicant shall receive a passing grade on each part or division of the examination. An applicant will have unlimited opportunities to retake portions of the examination which were failed.

* * *



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF LANDSCAPE ARCHITECTS
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 772-8528

November 12, 2003

The Honorable John R. McGinley, Jr., Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation
State Board of Landscape Architects
16A-617: Deletion of Examination Fee

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the State Board of Landscape Architects pertaining to deletion of examination fee.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,


Daniel J. Dahlemper, LA, Chairperson
State Board of Landscape Architects

DJD/BSM:kp

Enclosure

c: Andrew Sislo, Chief Counsel
Department of State
Scott J. Messing, Deputy Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Herbert Abramson, Senior Counsel in Charge
Department of State
Beth Sender Michlovitz, Counsel
State Board of Landscape Architects
State Board of Landscape Architects

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 16A-617
 SUBJECT: Deletion of Examination Fees (State Board of Landscape Architects)
 AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

- X Proposed Regulation
 Final Regulation
 Final Regulation with Notice of Proposed Rulemaking Omitted
 120-day Emergency Certification of the Attorney General
 120-day Emergency Certification of the Governor
 Delivery of Tolled Regulation
 a. With Revisions b. Without Revisions

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 DEPARTMENT OF STATE
 REGULATORY REVIEW ACT

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
<u>11/11/03</u>	<u>[Signature]</u>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
<u>11/11/03</u>	<u>[Signature]</u>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
<u>11/12/03</u>	<u>[Signature]</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
<u>11/11/03</u>	<u>[Signature]</u>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

October 1, 2003