

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Labor, Licensing, and Regulation
(DLS Control No. 14-225)**

Overview and Legal and Fiscal Impact

This regulation specifies that a licensed architect may sign and seal documents that the licensee has prepared or approved with a “signature” that is either digital and meets specified requirements, or is handwritten.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Labor, Licensing, and Regulation:

Board of Architects: Code of Ethics: COMAR 09.21.02.03

Legal Analysis

Background

Before a licensed architect issues to a client or submits to a public authority any final drawing, plan, specification, report, or other document required for the issuance of a building permit, the licensee who prepared or approved the document must sign, seal, and date the document. A public authority is prohibited from accepting any architectural drawing, plan, specification, report, or other document unless the document is properly endorsed by the licensed architect.

Neither statute nor regulation specifies the required form for a signature.

Summary of Regulation

The regulation specifies that a “signature” may include a handwritten signature in permanent ink or a digital signature that involves an electronic authentication process that is attached to or logically associated with the document. Additionally, a digital signature must (1) contain identification unique to the licensee; (2) be under the exclusive control of the licensee; (3) be independently verifiable; and (4) be attached to the document in such a way that any modifications to the data are invalidated. The regulation contains an additional requirement that, once a digital signature is applied to an electronic document, the document should be available in the “View Format” only if the document will be transmitted electronically.

A construction clause clarifies that the regulation is not intended to modify separate requirements for a titleblock, which must be incorporated into all documents that are signed and sealed, or a professional certification.

Legal Issue

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Labor, Licensing, and Regulation cites §§ 3-205 and 3-208(a)(1) of the Business Occupations and Professions Article as authority for the regulation. Specifically, § 3-205 requires the State Board of Architects to adopt a code of ethics by regulation and in consultation with established architecture societies. Section 3-208(a) requires the board to adopt any regulation to carry out Title 3 of the Business Occupations and Professions Article.

Although the department does not cite § 3-501 of the Business Occupations and Professions Article, that section contains the relevant signature requirements for documents that licensed architects prepare or approve. Counsel has spoken with a representative of the department who indicated that the section will be added to a revised submission.

With the addition of § 3-501, this authority is correct and complete. The regulation complies with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulation has minimal or no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State. Licensees are not required to purchase digital signature software; to the extent they choose to do so, any expenses are likely offset by savings on postage and related mailing costs. The Department of Legislative Services concurs.

Contact Information

Legal Analysis: Laura H. Atas – (410) 946/(301) 970-5350

Fiscal Analysis: Stephen M. Ross – (410) 946/(301) 970-5510