

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Labor, Licensing, and Regulation
(DLS Control No. 16-090)**

Overview and Legal and Fiscal Impact

This regulation reduces the fee charged by the State Board of Architects for a retired status license.

The regulation presents no legal issues of concern.

Special fund revenues decrease by \$180 annually beginning in fiscal 2017. Expenditures are not directly affected.

Regulation of COMAR Affected

Department of Labor, Licensing, and Regulation:

Board of Architects: Fees: COMAR 09.21.04.03

Legal Analysis

Background

On September 15, 2015, Governor Larry Hogan announced a plan to reduce or eliminate a number of fees across State government. Governor Hogan announced a second round of fee reductions or eliminations on May 12, 2016. This regulation is part of the second round of reductions or eliminations. Additional information regarding Governor Hogan's fee reduction initiative may be found [here](#).

Summary of Regulation

This regulation reduces from \$68 to \$50 the fee charged by the State Board of Architects for a retired status license. A retired status license may be issued by the board to an individual who has been a licensed architect for at least 25 years, 5 of which have been in the State.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The board cites §§ 2-106.1 and 2-106.2 of the Business Regulations Article and §§ 3-208, 3-209, 3-304, 3-307, and 3-309.2 of the Business Occupations and Professions Article as authority for the regulation. This authority is overinclusive. Although relevant to the regulations governing fees set by the board, only two of the cited sections expressly authorize the board to adopt related regulations. In the Business Occupations and Professions Article, § 3-208 authorizes the board to adopt any regulation to carry out the title and § 3-209 specifically authorizes the board to set by regulation reasonable fees for its services. The remaining cited authority is not relevant to this regulation.

The relevant cited authority is correct and complete. However, if elimination of the fee affects the balance of the State Occupational and Professional Licensing Design Board's Fund to the extent that the board would be unable to carry out its responsibilities, the regulation may not reflect the legislative intent of the law.

Technical Corrections and Special Notes

Section 10-110(c)(2) of the State Government Article requires written explanation for any fee adjustments in a proposed regulation. The board did not include a statement of justification for its fee reduction in its Proposed Action on Regulations. The board has agreed to correct this error, citing fee uniformity among other State professional licensing boards as justification for the fee reduction.

Fiscal Analysis

Special fund revenues decrease by \$180 annually beginning in fiscal 2017. Expenditures are not directly affected.

Agency Estimate of Projected Fiscal Impact

The department advises that special fund (State Occupational and Professional Licensing Design Board's Fund) revenues decrease by \$180 annually due to the fee reduction for retired architect licenses from \$68 to \$50, beginning in fiscal 2017. The State Board of Architects issues approximately 10 retired architect licenses annually. The Department of Legislative Services concurs but notes that the revenue reduction in fiscal 2017 may be slightly less than this estimate due to the effective date of the regulation.

Impact on Budget

The estimated annual revenue reduction associated with the regulation is not anticipated to meaningfully affect the balance of the State Occupational and Professional Licensing Design Board's Fund. While the fund balance as of June 1, 2016 is -\$22,685, fiscal 2017 revenues (absent the regulation) are estimated to be \$1.4 million, while fiscal 2017 expenditures are estimated to be \$631,969. The fund covers the direct and indirect cost of five "design boards," including the

State Board of Architects (The other boards are (1) the State Board of Certified Interior Designers; (2) the State Board of Examiners of Landscape Architects; (3) the State Board for Professional Engineers; and (4) the State Board for Professional Land Surveyors). Thus, 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 impact on small businesses. The Department of Legislative Services concurs as the impact is negligible and retirees are no longer conducting business.

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