

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF LANDSCAPE ARCHITECTS [49 PA. CODE CH. 15]

Continuing Education and Elimination of Registration without Examination

The State Board of Landscape Architects (Board) rescinds § 15.56 and amends §§ 15.72 and 15.80 (relating to requirement for biennial renewal; and retention of records) to read as set forth in Annex A.

Effective Date

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

Statutory Authority

This rulemaking is authorized by sections 4(9) and 9.1(a) of the Landscape Architects' Registration Law (act) (63 P. S. §§ 904(9) and 909.1(a)).

Background and Purpose

The act of July 17, 2009 (P. L. 94, No. 24) (Act 24) amended the act to eliminate licensure through an outdated "grandfathering" provision which previously authorized the Board to register applicants who had practiced landscape architecture for at least 10 or 15 years. At that time, the General Assembly also amended the act to increase the number of hours of required continuing education from 10 to 24 beginning with the license period designated by the Board. Although the Board initially anticipated that the increased continuing education requirement would be implemented during the 2011-2013 biennium, on November 8, 2012, the Board decided to give additional notice to licensees. Therefore, the Board designated the 2013-2015 licensure period (from June 1, 2013, through May 31, 2015) as the licensure period in which licensees will first be required to complete the increased number of 24 hours in continuing education as a condition of renewal in 2015.

Summary of Comments and the Board's Response

Notice of proposed rulemaking was published at 43 Pa.B. 1859 (April 6, 2013) with a 30-day public comment period. The Board did not receive comments from the public, the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) or the House Professional Licensure Committee (HPLC).

The Independent Regulatory Review Commission (IRRC) submitted three comments on June 5, 2013. IRRC agreed with the rescission of § 15.56. However, in the preamble to the proposed rulemaking, the Board explained that the rescission of § 15.56(a)(3), which provided for registration of individuals who passed the examination in another state, was proper because § 15.57(a) (relating to registration by endorsement) already covered the provision in § 15.56(a)(3) regarding reciprocity. IRRC pointed out that § 15.57 differs from the statutory provision in section 6(c) of the act (63 P. S. § 906(c)) with respect to reciprocity. IRRC further noted that § 15.57(a) "does not explain the statutory provision

that the applicant must establish that their qualifications from the other state are '...at least equal to the standards of the Commonwealth existing at that time.'"

In a future proposed rulemaking package (16A-6111 (general revisions)), the Board will propose to amend § 15.57(a) to be consistent with the statutory requirement for reciprocity in section 6(c) of the act. Proposed amendments to § 15.57(a) would provide that "an applicant for licensure under section 6(c) of the act... who... holds a current license in good standing from another state, territory or foreign country in which the requirements and qualifications to engage in the practice of landscape architecture were at the time of initial issuance of a license or certificate of registration *at least equal* to the standards of this Commonwealth existing at that time" may be granted registration by reciprocity. (Emphasis added.) Because the Board will be addressing IRRC's concern for consistency between § 15.57(a) and the statutory provision in a future proposed rulemaking, and to allow for public comment on these and other proposed amendments to § 15.57, the Board did not amend the final-form rulemaking in response to this comment.

IRRC's second comment recommended that the Board explain how it has sufficiently informed licensees of the new requirement in § 15.72 for 24 hours of continuing education prior to the renewal period of June 1, 2013, through May 31, 2015, as required under section 9.1(e) of the act. After the enactment of Act 24, the Board sent two newsletters, in May 2010 and August 2010, to its licensees initially telling them of the increased continuing education requirement and also published a notice on its web site informing licensees that they must take 14 additional credit hours of continuing education during the 2011-2013 biennial renewal cycle by May 31, 2013. On November 8, 2012, however, the Board decided to give additional notice to licensees so that they would have sufficient time to take the 14 additional continuing education credits during the period from June 1, 2013, through May 31, 2015. On November 21, 2012, the Board posted a notice on its web site and published a newsletter article in December 2012 informing its licensees of the increased continuing education requirement to take 14 additional credit hours of continuing education to renew a license during the 2013-2015 biennial renewal cycle by May 31, 2015.

In addition to the Board's communications to its licensees, the Pennsylvania Chapter of the American Society of Landscape Architects (ASLA) also provided notices to its members in newsletters of the Board's initial decision to require the completion of 24 hours of continuing education during the 2011-2013 biennial period, which continuing education would have been due by May 31, 2013. On November 17, 2012, ASLA updated its members on its web site on the Board's action taken on November 8, 2012, on the deadline for the completion of the 24 hours of continuing education by May 31, 2015.

IRRC also recommended that the Board delete proposed § 15.72(d) to allow licensees to carry forward up to 12 of the required 24 hours of continuing education into a subsequent renewal period. IRRC noted that section 9.1(b) of the act requires licensees "to obtain twenty-four hours of mandatory continuing education during each two-year license period." Therefore, in IRRC's view, the act prohibits licensees from carrying forward continuing

education credits into a future renewal period. In response, the Board deleted proposed § 15.72(d) that would have allowed licensees to carry forward 12 continuing education credits into the subsequent renewal period.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking should not have major fiscal impact on the Commonwealth, the general public or political subdivisions. Due to the requirement in Act 24, the Board's 940 active licensees will have to pay for 14 additional continuing education hours of instruction. The Board estimates that the cost to a licensee for the additional continuing education hours is approximately \$434 per biennium (or \$217 per year).

The final-form rulemaking will require the Board to change the number of continuing education credits on biennial renewal forms. However, the final-form rulemaking does not increase paperwork for the general public. The Board's licensees shall maintain records of their additional continuing education credits. However, they are not required to complete additional reports.

Sunset Date

The Board continuously monitors its regulations. Therefore, a sunset date has not been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 21, 2013, the Board submitted a copy of the notice of proposed rulemaking, published at 43 Pa.B. 1859, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on January 15, 2014, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on January 16, 2014, and approved the final-form rulemaking.

Additional Information

Further information may be obtained by contacting Louis Lawrence Boyle, Regulatory Unit Counsel, State Board of Landscape Architects, P. O. Box 2649, Harrisburg, PA 17105-2649, RA-LANDSCAPE@pa.gov.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and public comments were not received. The Commission considered and addressed IRRC's comments.

(3) The amendments to the final-form rulemaking do not enlarge the purpose of the proposed rulemaking published at 43 Pa.B. 1859.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified in this preamble.

Order

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 15, are amended by deleting § 15.56 and amending §§ 15.72 and 15.80 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.

(c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

DANIEL S. DiMUCCI, LA,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 44 Pa.B. 751 (February 1, 2014).)

Fiscal Note: Fiscal Note 16A-6110 remains valid for the final adoption of the subject regulations.

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 EXAMINATIONS

§ 15.56. (Reserved).

CONTINUING EDUCATION

§ 15.72. Requirement for biennial renewal.

(a) During each biennial period from the 2001-2003 biennium (from June 1, 2001, through May 31, 2003) and continuing through the 2011-2013 biennium (from June 1, 2011, through May 31, 2013), a licensee shall complete 10 clock hours of continuing education in accordance with this subchapter as a condition of biennial renewal. During each renewal period beginning with the 2013-2015 biennium (from June 1, 2013, through May 31, 2015) and continuing thereafter, a licensee shall complete 24 clock hours of continuing education in accordance with this subchapter as a condition of biennial renewal.

(b) The Board will exempt from the continuing education requirement a licensee who received a license within 2 years preceding the licensee's first application for biennial renewal.

(c) A licensee who wishes to reactivate a lapsed license or who has been on inactive status shall have completed the required number of clock hours of continuing education in subsection (a) in the 2-year period immediately prior to reactivation.

§ 15.80. Retention of records.

(a) The licensee shall retain copies of licensure renewal forms and the certificates, transcripts or other acceptable documentation of completion of the prescribed number of clock hours for 6 years following completion of the course. Records and documentation shall be produced upon demand by the Board or its auditing agents. The Board will

utilize a random audit of renewals to determine compliance with the continuing education requirement.

(b) Acceptable documentation of completion shall consist of a document prepared by the provider indicating continuing education course titles, completion dates and clock hours granted.

(c) A provider shall retain records for 6 years following the presentation of a course which shall document the successful completion of a course and the number of clock hours granted to every licensee. Copies of transcripts, certificates or other documentation shall be made available to a licensee upon request.

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