

PROPOSED RULEMAKING

INSURANCE DEPARTMENT

[31 PA. CODE CH. 116]

Discounting Workers' Compensation Loss Reserves

The Insurance Department (Department) proposes to amend Chapter 116 (relating to discounting of worker's compensation loss reserves), to read as set forth in Annex A, under the authority of The Insurance Company Law of 1921 (40 P. S. §§ 341—999); The Insurance Department Act of 1921 (40 P. S. §§ 1—321); and sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412).

Purpose

Chapter 116 was initially promulgated to establish procedural and reporting requirements for the discounting of workers compensation loss reserves. The purpose of this proposed rulemaking is to amend Chapter 116 to make it consistent with current economic and financial conditions and with current accounting, actuarial and financial practices. The original regulation anticipated, in § 116.9 (relating to suspension of use of this chapter to discount workers compensation loss reserves), that it could become necessary to suspend or modify this regulation because of sufficiently changed economic conditions. The Department's observation is that economic conditions in general, including inflationary expectations and interest rates, have changed dramatically since this regulation was adopted. For example, yields on 5-year Treasury securities were at double digit levels in the mid 1980s and are now at approximately 5.6%. The existing regulation is outdated and should be revised.

Explanation of Regulatory Requirements

Section 116.2 (relating to reporting and data collection requirements) requires insurance companies to discount worker's compensation loss reserves utilizing a table provided in § 116.3 (relating to table). Section 116.2 has been deleted because the table is inconsistent with current economic and financial conditions and does not provide needed flexibility to address changing conditions. Section 116.2 requires that insurance companies file an annual actuarial certification of worker's compensation loss reserves with the Department simultaneously with their annual statements. This requirement has been deleted as redundant because insurance companies are currently required to file an actuarial statement of opinion with their annual statements. The requirement of a separate certification was eliminated to avoid unnecessary duplication. Section 116.2 also requires that insurance companies provide a written notice to the Department of their intent to maintain data regarding worker's compensation loss payment patterns, which shall be regularly compiled and submitted to the Department on request. This requirement has also been deleted as redundant because insurance companies are currently required to maintain underlying actuarial workpapers containing this type of information by the annual and quarterly statement instructions prescribed by the National Association of Insurance Commissioners. Section 320 of The Insurance Company Law of 1921 (40 P. S. § 443(a)(2)), requires insurance companies to adhere to these instructions in preparing annual and quarterly financial statements.

Section 116.3 provides a table to be utilized when insurance companies discount worker's compensation loss reserves. Section 116.3 has been deleted because the table is inconsistent with current economic and financial conditions and does not provide needed flexibility to address changing conditions.

Section 116.4 (relating to restrictions on discounting loss reserves), establishes restrictions on the total amount of loss reserves calculated under this regulation and establishes maximum interest rates that may be used. References to the table have been deleted to be consistent with the deletion of § 116.3. References to specific maximum interest rates have been deleted and additional language has been added to establish a maximum interest rate tied to the current yield to maturity on United States Treasury debt instruments. Section 116.4 has also been revised to permit insurance companies to apply to the Department for an exception to the maximum interest rate. These revisions provide insurance companies and the Department with needed flexibility to address changing economic and financial conditions.

Section 116.5 (relating to actuarial certification) requires that an actuarial certification of worker's compensation loss reserves be filed with an insurance company's annual statement. References to the actuarial certification have been deleted as redundant because insurance companies are currently required to file an actuarial statement of opinion with their annual statements. The requirement of a separate certification was eliminated to avoid unnecessary duplication. Section 116.5 has been revised to require that the actuarial opinions currently required as part of the actuarial certification are included in the actuarial statement of opinion.

Section 116.6 (relating reserves for loss adjustment expenses) establishes standards for loss adjustment reserves. Section 116.6 has been revised to include references to an actuarial statement of opinion rather than an actuarial certification.

Section 116.7 (relating to modification of the table) permits property and casualty insurance companies to modify the table in § 116.3 with the approval of the Department. Section 116.7 has been deleted to be consistent with the deletion of the table in § 116.3.

Section 116.8 (relating to increased loss reserves and loss adjustment expense reserves) permits the Department to require insurance companies to maintain greater loss reserves and loss adjustment expenses than would otherwise be required by the regulation. Section 116.8 has been revised to delete a reference to the table in § 116.3.

Section 116.9 permits the Department to suspend use of the table in § 116.3 if changed economic conditions make the table inappropriate. Section 116.9 has been revised to eliminate reference to the table in § 116.3 and make clear that changing economic and financial conditions, rather than simply declining interest rates, may make this regulation inappropriate. The revisions to § 116.9 grant the Department needed flexibility to deal with changing economic and financial conditions.

Fiscal Impact

There is no fiscal impact as a result of these proposed amendments.

Paperwork

These proposed amendments will affect all licensed workers compensation insurers domiciled in this Commonwealth.

Effectiveness/Sunset Date

The proposed rulemaking will become effective upon final publication in the *Pennsylvania Bulletin*. No sunset date has been assigned.

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, 1326 Strawberry Square, Harrisburg, PA 17120, within 30 days following publication of this notice in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 3, 1999, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to the submitted proposal, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days after the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the Department, the Governor and the General Assembly to review these objections before final publication of the amendments.

M. DIANE KOKEN,
Insurance Commissioner

Fiscal Note: 11-186. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART VII. PROPERTY, FIRE AND CASUALTY INSURANCE

CHAPTER 116. DISCOUNTING OF WORKER'S COMPENSATION LOSS RESERVES

§ 116.2. [Reporting and data collection requirements] (Reserved).

[For loss reserves established by insurance companies under sections 312—316 of the Insurance Department Act of one thousand nine hundred and twenty-one (40 P. S. §§ 111—115), a company is permitted to discount the reserves to their present value utilizing the table provided in § 116.3 (relating to table) if the company complies with the following requirements:

(1) The insurance company shall file an annual actuarial certification of its worker's compensation loss reserves with the Department simultaneously with the filing of the company's annual statement.

(2) The insurance company shall provide a written notice to the Department stating its intent to

maintain data regarding the company's worker's compensation loss payment patterns. The data shall be regularly compiled and submitted to the Department upon request.]

§ 116.3. [Table] (Reserved).

[(a) The following table shall be utilized when an insurance company discounts worker's compensation loss reserves as of its annual statement date at a 6% interest rate.

Discount Factor to be Applied to Undiscounted Losses Outstanding for Each Accident Year

Accident Year	Discount Factor
1	0.182
2	0.185
3	0.214
4	0.238
5	0.256
6	0.268
7	0.275
8	0.279
9	0.277
10	0.273
11	0.271
12	0.265
13	0.257
14	0.246
15	0.233
16	0.218
17	0.201
18	0.184
19	0.166
20	0.147
21	0.125
22	0.103
23	0.081
24	0.055
25	0.029
	0.0

(b) Accident year one corresponds to the calendar year for which the annual statement is prepared for filing with the Department. Accident year two is the year immediately preceding accident year one.]

§ 116.4. Restrictions on discounting loss reserves.

The discounting of workers' compensation loss reserves is subject to the following limitations:

(1) The loss reserves on the insurance company's annual statement calculated under [the table set forth in § 116.3 (relating to table)] this section may not be less than those required in section 313 of The Insurance Department Act of [one thousand nine hundred and twenty-one] 1921 (40 P. S. § 112).

(2) An insurance company is not permitted to assume an interest rate greater than [6% in calculating its loss reserves] the current yield to maturity on a United States Treasury debt instrument with maturities consistent with the expected payout of the liabilities.

(3) [Insurance companies which do not qualify or which elect not to utilize the table in § 116.3 may only calculate discounts at a rate of 4% interest or less as set forth at section 313 of The Insurance Department Act of one thousand nine hundred and

twenty-one (40 P. S. § 112).] An insurance company may request an exception to the maximum interest rate in paragraph (2) if the insurance company can demonstrate to the satisfaction of the Commissioner that its investment yield justifies a higher interest rate assumption. The Commissioner may require the insurance company to submit additional documentation to support its request for approval of a higher interest rate assumption. The Commissioner will act upon requests for exceptions made under this paragraph within 90 days of the date the request is received by the Insurance Department.

§ 116.5. Actuarial [certification] statement of opinion.

(a) [The actuarial certification required in this chapter shall be prepared by an actuary and filed by the insurer with its annual financial statement.

(b) The actuarial certification shall be filed each year in which the insurer discounts its loss reserves under the table in § 116.3 (relating to table).

(c) The actuarial certification] The actuarial statement of opinion required to be submitted with the annual statement shall include the opinion of an actuary with respect to the following:

[(i)] (1) * * *

[(ii)] (2) * * *

[(iii)] (3) * * *

(b) The actuarial statement of opinion, as it pertains to discounting, shall be determined in accordance with *Actuarial Standard of Practice No. 20, Discounting of Property and Casualty Loss and Loss Adjustment Expense*.

§ 116.6. Reserves for loss adjustment expenses.

(a) Loss adjustment expense reserves shall be calculated with the following standards:

* * * * *

(2) Insurance companies are permitted to discount loss adjustment expense reserves which are allocable to specific claims if they can demonstrate, to the satisfaction of the Commissioner, the validity of their assumptions underlying the calculation of the reserves. The insurance company shall provide an actuarial [certification] statement of opinion which includes the opinion of the actuary with respect to the [three] criteria [set forth] in § 116.5 (relating to actuarial [certification] statement of opinion).

* * * * *

§ 116.7. [Modification of the table] (Reserved).

[A property and casualty insurance company may modify the table in § 116.3 (relating to table) in calculating loss reserves if the modification is approved by the Commissioner. To obtain approval of the Commissioner, the insurance company shall submit a written request that includes data regarding the following:

(1) The specific company's loss payment pattern based on its worker's compensation experience which would support a greater discount than that calculated through the application of the table.

(2) An actuarial certification which substantiates that the variance in loss reserves produced by the modification is adequate.]

§ 116.8. Increased loss reserves and loss adjustment expense reserves.

The Commissioner may require an insurance company to maintain loss reserves at a greater level than those which result from the application of [the table] this chapter, and allocated loss adjustment expense reserves at a level greater than those calculated under § 116.6 (relating to reserves for loss adjustment expenses) where [he] the Commissioner determines it is necessary to insure that reserves are established at an adequate level.

§ 116.9. Suspension of use of [the table] this chapter to discount workers compensation loss reserves.

If the [assumed interest rate utilized in the table in § 116.3 (relating to table) becomes] restrictions in § 116.4 (relating to restrictions on discounting loss reserves) become no longer reasonable due to [declining interest rates] changing economic and financial conditions, or if the payment of claims accelerates, the Commissioner may, upon [a finding] determining that changed economic conditions make [the table] this chapter inappropriate, suspend use of [the table] this chapter upon the publication of reasonable notice. The Commissioner may also set standards for the calculation of reserves following the suspension.

[Pa.B. Doc. No. 99-1322. Filed for public inspection August 13, 1999, 9:00 a.m.]

STATE BOARD OF LANDSCAPE ARCHITECTS

[49 PA. CODE CH. 15]

Application Fees

The State Board of Landscape Architects (Board) proposes to amend § 15.12 (relating to fees) by revising certain application fees and making editorial changes to read as set forth in Annex A.

A. Effective Date

The proposed amendments will be effective upon publication of the final-form regulations in the *Pennsylvania Bulletin*.

B. Statutory Authority

The proposed amendments are authorized under section 5 of the Landscape Architects' Registration Law (act) (63 P. S. § 905).

C. Background and Purpose

The act requires the Board to set fees by regulation so that revenues meet or exceed expenditures over a biennial period. General operating expenses of the Board are funded through biennial license renewal fees. Expenses related to applications or services which are provided directly to individual licensees or applicants are excluded from general operating revenues and are funded through fees in which the cost of providing the service forms the basis for the fee.

In a recent systems audit of the operations of the Board within the Bureau of Professional and Occupational Affairs, the fees for services to licensees and applicants were analyzed to determine if the fees reflected the actual cost of providing the services. Actual cost calculations are based upon the following formula:

$$\begin{array}{r} \text{number of minutes to perform the function} \\ \times \\ \text{pay rate for the classification of personnel performing the} \\ \text{function} \\ + \\ \text{a proportionate share of administrative overhead.} \end{array}$$

The analysis determined that the fees for applications for licensure when a board interview is not required, licensure when a board interview is required, and certification of licenses or examination scores did not accurately reflect the actual cost of providing the services. Fees in these categories have not been revised since 1988, and current fees fell short of the cost to provide the service. Fees are also proposed for applications for temporary permits and verification of licensure. Temporary permits allow landscape architects licensed in another jurisdiction, whose standards for licensure are equivalent to those of the Commonwealth, to practice in this Commonwealth an aggregate of 30 days in 1 calendar year under section 8(2) of the act (63 P. S. § 908(2)), and the Board's regulation in § 15.23 (relating to practice by out-of-State landscape architects). The analysis determined that although the Board has been expending funds to review qualifications and extraterritorial standards, as well as to verify licensure, no fees had heretofore been charged. Rather, the costs had been absorbed by biennial renewal fees paid by all licensees. In this proposal, fees for the various services identified would be adjusted to allocate costs to those who apply for the services. The Board will continue to apportion its enforcement and operating costs to the general licensing population when the Board makes its biennial reconciliation of revenue and expenditures. Editorial changes are also proposed to better describe the fee changes in this proposal.

D. Description of Proposed Amendments

Section 6 of the act (63 P. S. § 906) and §§ 15.54 and 15.56 (relating to registration by examination; and registration without examination) outline seven routes to licensure as a landscape architect.

Four groups of candidates for licensure are not required to appear before the Board. Section 15.54(b)(1) provides for licensure by examination for an applicant who holds an undergraduate degree in landscape architecture and 2 years of practical experience. Section 15.54(b)(2) provides for licensure by examination for an applicant with an undergraduate degree in landscape architecture, 1 year of graduate education in landscape architecture and 1 year of practical experience. Section 15.54(b)(3) provides for licensure by examination for an applicant with an undergraduate degree in a subject other than landscape architecture, a graduate degree in landscape architecture and 2 years of practical experience. Section 15.56(a)(3) provides for licensure without examination for an applicant who has passed the examination in another state with a score approved by the Board and met the education and other practical experience requirements of the act.

Candidates applying for licensure in the following three categories must appear for a Board interview. Section 15.54(b)(4) provides for licensure by examination for an applicant with no applicable landscape architecture degree but 8 years of practical experience. Section

15.56(a)(1) provides for licensure without examination for an applicant with an undergraduate degree in landscape architecture and 10 years of experience. Section 15.56(a)(2) provides for licensure without examination for an applicant with no degree in landscape architecture but 15 years of practical experience.

Because the costs of review and approval involved in the first four categories are identical, the fee has been described as an application for licensure under § 15.54(b)(1), (2), (3) or § 15.56(a)(3). Likewise, because the costs to review and approve applications in the final three categories are identical, the fee designation is an application for licensure and Board interview under § 15.54(b)(4) or 15.56(a)(1) or (2).

Moreover, the costs to process applications for licensure by endorsement under section 6 of the act and § 15.57 (relating to registration by reciprocity) for applicants who are licensed in other jurisdictions whose standards for licensure are equivalent to those of the Commonwealth have remained consistent since 1988 at \$45 per application. Accordingly, no fee change has been proposed for this service. Editorial changes are proposed to accurately describe the type of licensure and the fee. Current regulatory language in § 15.57 provides for registration by reciprocity. However, neither the act nor the section require reciprocal arrangements with other jurisdictions. Accordingly, the Board proposes to substitute the accurate term "endorsement" for "reciprocity" in § 15.57. Likewise, the current language in § 15.12 refers to a fee for "application for licensure without examination with proof of licensure." The Board finds this description confusing and proposes that the fee be referred to simply as a fee for "application for licensure by endorsement."

E. Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the proposed amendments the Board considered the least restrictive alternative to regulate costs for services requested by licensees and applicants.

F. Fiscal Impact and Paperwork Requirements

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The fees will have a modest fiscal impact on those members of the private sector who apply for services from the Board. The proposed amendments will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

G. Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 30, 1999, the Board submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. In addition to submitting the proposed amendments, the Board has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Board within 10 days after the expiration of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the proposed amendments, by the Board, the General Assembly and the Governor, of objections raised.

I. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Shirley S. Klinger, Board Administrator, State Board of Landscape Architects, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking. Please reference No. 16A-615 (Application Fees), when submitting comments.

DAVID M. DUTOT, L.A.,
Chairperson

Fiscal Note: 16A-615. No fiscal impact; (8) recommends adoption.

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

APPLICATION PROCEDURES

§ 15.12. Fees.

Following is the schedule of fees charged by the Board:

[(1) Application for examination.....	\$40
(2) Certification of licensure or scores	\$15
(3) Fee per section of licensing examination:	
(i) June 1999:	
Section A.....	\$40
Section B	\$75
Section C	\$150
Section D	\$125
Section E	\$150
(ii) December 1999:	
Section A.....	not administered
Section B	not administered
Section C	\$160
Section D	\$130
Section E	\$160
(iii) June 2000:	
Section A.....	\$40
Section B	\$80
Section C	\$160
Section D	\$130
Section E	\$160
(4) Administration of examination for one section or more	\$45

(5) Application for licensure without examination:	
(i) With proof of licensure	\$45
(ii) Without proof of licensure	\$255
(6) Duplicate certificate fee	\$5
(7) Biennial registration fee	\$125]
Application for licensure under § 15.54(b)(1), (2), (3) or 15.56(a)(3)	\$60
Application for licensure and Board interview under § 15.54(b)(4) or § 15.56(a)(1) or (2)	\$350
Application for licensure by endorsement.	\$45
Application for temporary permit	\$45
Fee per section of licensing examination:	
June 1999:	
Section A.....	\$40
Section B	\$75
Section C	\$150
Section D	\$125
Section E	\$150
December 1999:	
Section A.....	not administered
Section B	not administered
Section C	\$160
Section D	\$130
Section E	\$160
June 2000:	
Section A.....	\$40
Section B	\$80
Section C	\$160
Section D	\$130
Section E	\$160
Administration of examination for one section or more	\$45
Verification of licensure	\$15
Certification of licensure or scores.....	\$25
Duplicate certificate fee	\$5
Biennial registration fee.....	\$125

EXAMINATIONS

§ 15.57. Registration by [reciprocity] endorsement.

(a) *General requirements.* An applicant who has passed the LARE, holds an unexpired license from another state or foreign country, has a graduate or undergraduate degree in landscape architecture from an approved institution or college and possesses 2 years of practical experience in landscape architecture, of a grade or character satisfactory to the Board, may be granted [**reciprocal**] registration by endorsement following the [**filling**] filing of an application and a Board review of the applicant's comprehensive work sample.

(b) [Reciprocal registration] Endorsement.

(1) An applicant who requests [**reciprocal**] registration by endorsement shall [**be required to**] submit

with the application an official certification of registration in the applicant's home state, territory or country from the secretary of the examining or registration board or other certifying official, stating on what basis registration was granted, whether by oral or written examination or exemption, and whether the registration is in good standing at the time of the application for registration in this Commonwealth.

(2) An applicant who requests **[reciprocal]** registration **by endorsement** shall submit with the application

complete information relative to training, education and experience as may be required by the Board.

(c) *Exception.* An applicant who received a license from another jurisdiction, without having passed the LARE examination, is not entitled to registration by **[reciprocity] endorsement**.

[Pa.B. Doc. No. 99-1323. Filed for public inspection August 13, 1999, 9:00 a.m.]
