

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 2
California Architects Board

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING
Retired Architect License Fee

NOTICE IS HEREBY GIVEN that the California Architects Board (Board) is proposing to adopt Section 109.1 of Article 2 and amend Section 144 of Article 7 of Division 2 of Title 16 of the California Code of Regulations (CCR),¹ as described in the Informative Digest, below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. The Board will, however, hold a hearing if it receives a written request for a public hearing from any interested person, or the interested person's authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under Contact Person in this notice.

WRITTEN COMMENT PERIOD

Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received by the Board at its office not later than **Tuesday, July 12, 2022, by 5:00 p.m.**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 5526, 5600.4, of the Business and Professions Code (BPC), and to implement, interpret or make specific BPC sections 30, 144, 5600.2, 5600.3, 5600.4, and 5604, the Board is considering adopting section 109.1 of article 2 and amending section 144 of article 7 of division 2 of title 16 of the CCR as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Architects Board (Board) licenses architects. BPC section 5526 requires the Board to adopt rules and regulations governing the examination of applicants for licenses to practice architecture in this state and authorizes the Board to adopt other rules and regulations as may be necessary and proper.

BPC section 5604 establishes the fee schedule the Board must follow when

¹ All CCR references are to title 16 unless otherwise noted.

establishing fees for Board services. BPC section 5604(h) specifies the fee for a retired license may not exceed the fee required at the time of renewal.

BPC section 5600.4 requires the Board to issue a retired license to an architect whose license meets certain specified criteria. BPC section 5604 also specifies that the fee for a retired license may not exceed the fee for issuance of an original license but does not specify the amount of that fee.

Currently, the Board's fees regulation at CCR section 144 does not specify a fee for a retired architect license. The Board must clarify BPC 5604(h) by setting a fee in regulation to be able to provide a retired architect license. Currently there is no regulation that establishes a retired license application for architects to file to request a retired license. The Board must adopt regulations to establish the information applicants must submit to obtain a retired license.

Until the Board adopts a fee by regulation, a licensee who retires is not be able to obtain a retired architect license. Instead, they must either (1) continue to pay their biennial renewal fee of \$300 and meet the conditions of license renewal to keep an "active" status, or (2) let the license expire and become delinquent. (BPC section 5600.2.) Neither option is appropriate for a licensee who wishes to retire. The first option is inappropriate because the licensee is no longer working in a capacity that requires a license. The second option is inappropriate because an expired license is canceled and cannot be reinstated more than five years after it expires (BPC section 5600.3), and a licensee whose license is canceled cannot refer to themselves using the term "architect," or any variation of the term "architect." (BPC section 5536.)

Further, the terms "expired," "delinquent," and "canceled" are inappropriate to properly distinguish licensees who have retired with a lack of disciplinary restrictions on their license from those whose licenses were suspended, revoked, otherwise restricted, or are incapable of being renewed at the time of retirement. (See BPC section 5600.4(a).) The Board's proposal would address the foregoing issues by: (1) amending CCR section 144 to assign a fee of \$40 for a retired license and accompanying wall certificate; and (2) adopting CCR section 109.1 to clarify who is eligible for a retired license, how to obtain a retired license, and how a holder of a retired license may return to active status.

Anticipated Benefits of Proposal

Adopting a new \$40 fee for a retired license will enable the Board to issue retired architect licenses. The proposed revision to CCR section 144 establishes the fee required to become a retired architect and enable licensees to use the protected titles of "architect retired" or "retired architect" at \$40. The distinction of a formal "retired" designation will provide the public an easy way to confirm that a licensee's retirement was voluntary and not compelled by disciplinary action, provide licensees an appropriate distinction for their service in the profession, create an incentive for licensees to avoid suspension, revocation, or other restriction on their licenses at the end of their professional career in order to earn that distinction, and enable the Board to better focus its oversight and enforcement activities on actively practicing licensees.

The establishment of a \$40 fee is an amount lower than the cost to the Board (see

Underlying Data and Fee Analyses) and will encourage more licensees to apply for retired licenses at the end of their professional career instead of letting their licenses expire, resulting in greater benefits to the public for the reasons stated above.

The proposed adoption of CCR section 109.1 would clarify the information architects seeking to retire and obtain a retired license and accompanying wall certificate must provide to the Board. Adopting the proposed language will benefit licensees by setting the parameters for who is eligible to apply for a retired architect license and the process for obtaining that license and accompanying wall certificate. Further, adoption of this subsection enables the Board to place all statutory and regulatory requirements for eligibility for a retired license in one convenient location. Finally, to help ensure that licensees maintain competency and are safe to return to active practice as well as to enable the Board to sustain sufficient funding for oversight, this proposal would set minimum requirements for restoration of the retired license to active status.

Consistency and Compatibility with Existing State Regulations

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The Board anticipates a minor revenue impact to the Board. The Board estimates it takes 30 minutes for an Office Technician to process each application with total costs of \$47 per licensee, which results in costs ranging from \$470 for 10 applicants and up to \$2,021 for 43 applicants per year and up to \$7,802 over a ten-year period.

The Board notes the total reported costs (\$47) to provide the retired license status certificate is greater than the fee amount (\$40) to be charged to applicants. The Board is opting to charge a lower fee amount to retiring licensees, in part, because:

- Any workload and costs are minor as explained above (30 minutes for an Office Technician to process)
- Any additional revenues would be minimal
- The Board believes it is an important public policy to acknowledge and provide a courtesy to these individuals

Applicants will be required to pay a one-time fee of \$40, which results in annual revenues ranging from \$400 to \$1,720 per year and up to \$6,640 over a ten-year period. This fiscal analysis does not attempt to estimate revenue possibly lost when an architect chooses to retire and pay a \$40 fee instead of a \$300 renewal fee. The Board is assuming that an architect applying for a retired license would otherwise choose to not renew and pay no fee at all. Please see Initial Statement of Reasons for further information.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

BUSINESS IMPACT ESTIMATES

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. There is no business impact because this proposed regulation will establish a regulation for the placement of a license on a retired status for an architect who is not actively engaged in practice or any activity that requires them to be licensed by the Board. Since architects currently choose to allow their licenses to lapse or cancel when they retire, there would be no effect on businesses when an individual chooses merely to change their license title to “retired.”

The Board has approximately 21,934 licensees for the current fiscal year. The Board anticipates approximately 43 licensees to request retired status during the first two years of implementation, and approximately 10 licensees to request retired status annually thereafter. Individuals that place their license in a retired status would have to pay a one-time fee of forty dollars (\$40) to process the application. The Board assumes these individuals would otherwise allow their active license to expire upon retiring and not incur additional costs.

To restore a retired status license to active, the licensee would have to pay the renewal fee of \$300, as well as any delinquency fee (if applicable). The \$300 would be a bi-annual cost for the duration of the active status. However, existing law already requires that licensees who wish to reactivate their license have to pay these fees. As a result, this regulation will not cause any individual to incur any additional costs as a result of this regulatory proposal.

Cost Impact on Representative Private Person or Business:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Board are as follows: individuals that choose to place their license in a retired status would have to pay a one-time fee of forty dollars (\$40) to process the application. To restore a retired status license to active, the licensee would have to pay the renewal fee of \$300, as well as any delinquency fee (if applicable). The \$300 would be a bi-annual cost for the duration of the active status. However, existing law already requires that licensees who wish to reactivate their license have to pay these fees. As a result, this regulation will not cause any individual to incur any additional costs as a result of this regulatory proposal.

Effect on Housing Costs: None

Business Reporting Requirements

This regulatory proposal does not require businesses to file a report with the Board.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

As explained further below, the Board has determined that this regulatory proposal will not create or eliminate jobs, will not create new business or eliminate existing businesses, and will not affect the expansion of businesses currently doing business within the State of California.

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the regulations are aimed at licensees who are choosing to leave the profession by retiring. Since architects currently choose to renew or allow their licenses to lapse or cancel when they retire, there would be no effect on the workforce related to a mere change in title to “retired.”
- It will not create new businesses or eliminate existing business within the State of California because the regulations are aimed at licensees who are choosing to leave the profession by retiring. Since architects currently choose to renew or allow their licenses to lapse or cancel when they retire, there would be no effect on businesses due to these regulations.
- It will not affect the expansion of businesses currently doing business within the State of California because the regulations are aimed at licensees who are already choosing to leave the profession by retiring. The proposal will simply establish a regulation for the placement of a license on a retired status for an architect who is not actively engaged in practice as an architect or any activity that requires them to be licensed by the Board and meets other requirements.

Effect on Small Business

The Board has determined that the proposed regulations will not affect small businesses because this proposal only allows an architect who is not actively engaged in practice as an architect or any activity that requires them to be licensed by the board to place their license on retired status.

Benefits of Regulation

The Board has determined that this proposal would affect individuals in that licensees who are leaving the profession may legally refer to themselves as a “retired architect” without violating BPC 5600.4(b) by using that protected title. The regulatory proposal does not affect worker safety or the state’s environment. Further, if a consumer is searching for an architect that they have seen through the public data base, if a “retired” status is shown the consumer would know the architect is no longer allowed to practice. This proposal would also alleviate confusion for the public regarding the true status of an individual who does not wish to abandon his or her license, but rather simply retire from practice.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 2420 Del Paso Road, Suite 105, Sacramento, CA 95834.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and may be obtained upon request by contacting the person designated in the Notice under Contact Person

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board from the person and at the address designated in the Notice under Contact Person or by accessing the Board's website listed below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the insistence of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the Contact Person named below. You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to the following Board representative:

Name: Kimberly McDaniel
Address: 2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone No.: (916) 471-0768
Fax No.: (916) 575-7283
E-Mail Address: Kimberly.Mcdaniel@dca.ca.gov

The backup contact person is:

Name: Marccus Reinhardt
Address: 2420 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone No.: (916) 471-0764
Fax No.: (916) 575-7283
E-Mail Address: marccus.reinhardt@dca.ca.gov

Website Access: Materials regarding this proposal can be found at https://www.cab.ca.gov/news/laws/proposed_regulation.shtml.