



**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 804  
LANDSCAPE ARCHITECT BOARD

**FILED**

08/07/2020 12:16 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Amendments to Update Options for Continuing Education Exemptions

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/30/2020 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

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Filed By:  
Christine Valentine  
Rules Coordinator

**HEARING(S)**

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 09/30/2020

TIME: 3:00 PM - 3:30 PM

OFFICER: Christine Valentine

ADDRESS: Association Center

707 13th St SE

Suite 114

Salem, OR 97301

**SPECIAL INSTRUCTIONS:**

Due to COVID-19 and related restrictions, this hearing may instead be held via conference call or as a virtual hearing via internet. Visit the OSLAB website prior to the hearing date to check on the hearing location status, and for any call-in number or link as may be applicable. Public comment can be submitted in writing instead of at the hearing.

**NEED FOR THE RULE(S):**

The Board determined there was a need to provide an avenue for registrants facing economic, health, or related hardship as a result of the COVID-19 emergency to request relief from standard continuing education requirements. Temporary rulemaking action was taken separately for this purpose. While the Board offers flexibility as to the types of continuing education activities that can be completed and does allow for online options, the Board recognizes that some registrants may still face significant hardship limiting ability to complete continuing education as a result of the protracted COVID-19 emergency. The Board further determined that the rule needed to be permanently amended to

provide this flexibility to work with registrants impacted by future federal or state declared disasters or emergencies.

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DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Emergency and other executive orders issued by the Governor of Oregon. Emails from Board registrants. Miscellaneous information related to the impacts of the COVID-19 emergency on individuals and firms. Documents are available from the Board office.

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FISCAL AND ECONOMIC IMPACT:

No negative fiscal or economic impact anticipated. This rule only applies to Board registrants. The amendments are designed to provide registrants and the Board with more flexibility to address hardships that registrants may face and that may warrant the Board providing exemption from standard continuing education requirements.

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COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

(1) This rule does not apply to state agencies, local governments, or members of the public.

(2) This rule will not have any negative economic effects on small businesses.

(a) There are currently 216 businesses registered with the Board as providing landscape architecture services in Oregon. Some of these are small businesses. This rule would not impact any small businesses other than those providing landscape architecture services in Oregon. The rule amendments may benefit small businesses that are either run by or employ a Board registrant by offering more options for requesting exemptions to standard continuing education requirements, thereby lowering the potential risk of having issues with registration status and ability to practice in Oregon.

(b) No reporting, record keeping, administrative impacts, or new costs are expected. The Board might receive more requests for continuing education exemptions over time but does not anticipate a significant change in the number of requests received compared to the status quo.

(c) No increased costs for services, supplies, labor, or administration are expected, again since the Board does not expect a significant change in the number of requests received over time compared to the status quo.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Several Board members work at or have previously worked at small businesses and represented that perspective in the rulemaking process. Through a Board newsletter, registrants were invited to share concerns with the Board about completion of continuing education during the COVID-19 emergency. The input received was considered by the Board. Some Board registrants run or work for small businesses providing landscape architecture services.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Based on lessons learned from the COVID-19 emergency and given the limited nature and scope of the proposed amendments, the Board decided not to request review by its Administrative Rules Committee prior to initiating this rulemaking notice.

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AMEND: 804-025-0010

RULE SUMMARY: This rule sets forth when a registrant may request from the Board an exemption to standard continuing education requirements. The rule also addresses how the Board evaluates such requests for exemption.

CHANGES TO RULE:

804-025-0010

Continuing Education Requirements ¶

(1) Upon Board review and approval, a registrant may be exempted from continuing education requirements in any of the following situations:¶

(a) A registrant is called to active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in a calendar year. This registrant may request an exemption from completing the required continuing education during any renewal period in which the registrant is on active duty.¶

(b) A registrant experiences physical disability, illness, or other extenuating circumstances that prevents the registrant from practicing landscape architecture for a specified period of time. The registrant may request a full exemption from or reduction in the required continuing education hours during the renewal period(s) in which unable to practice or practice is restricted.-¶

(c) A registrant working or travelling outside of the U.S. for an extended period of time as part of government employment, for humanitarian service, or for another similar purpose in areas where continuing education activities cannot readily be accessed or completed may request a full exemption from or reduction in the required continuing education hours during the renewal period(s) in which the work or travel outside the U.S. is occurring.¶

(d) A registrant experiences economic hardship or other related hardship impacting ability to complete continuing education, whether such hardship prevented practice or not, due to the impacts of a federal or state-declared disaster or federal or state-declared emergency. The registrant may request a full exemption from or reduction in the required continuing education hours during the renewal period(s) in which the hardship occurred.¶

(e) A registrant requesting an exemption shall provide supporting documentation for the Board's review. The Board may request additional documentation as deemed necessary to consider the request.-Each exemption is granted at the sole discretion of the Board.¶

(ef) Instead of requesting an exemption, a registrant in good standing and facing circumstances described under (1)(a), (b), (c), or (ed) may request to be placed on inactive status under ORS 671.376(4) and OAR 804-022-0025. A registrant on inactive status can request a return to active practice within a five (5) year period counted forward from the date inactive status was granted by the Board.¶

(2) The Board may delegate the authority to approve continuing education exemptions to the Board Administrator.¶

(3) Any exemption approved will be documented in a written letter from the Board to the registrant.¶

(4) Except under (1)(b) or (1)(d), exemptions will not be approved retroactively. The Board may approve an exemption retroactively under (1)(b) or (1)(d) where, in its sole discretion, the Board finds that the registrant has demonstrated extenuating circumstances which prevented completion of continuing education in the renewal year and provided justification as to why the registrant did not request the exemption proactively.

Statutory/Other Authority: ORS 671.395, 671.415

Statutes/Other Implemented: ORS 671.376, 671.395