

# Preliminary Evaluation of the State Board of Architects

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**Recommendations: Waive from Full Evaluation**

**Extend Termination Date by 10 Years to July 1, 2023**

**Require Follow-up Report by October 1, 2011**

## The Sunset Review Process

This evaluation was undertaken under the auspices of the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article), which establishes a process better known as “sunset review” because most of the agencies subject to review are also subject to termination. Since 1978, the Department of Legislative Services (DLS) has evaluated about 70 State agencies according to a rotating statutory schedule as part of sunset review. The review process begins with a preliminary evaluation conducted on behalf of the Legislative Policy Committee (LPC). Based on the preliminary evaluation, LPC decides whether to waive an agency from further (or full) evaluation. If waived, legislation to reauthorize the agency typically is enacted. Otherwise, a full evaluation typically is undertaken the following year.

The State Board of Architects last underwent a preliminary evaluation as part of sunset review in 2000. The evaluation found that the board was successfully fulfilling its statutory responsibilities and recommended a waiver from full evaluation. Chapter 73 of 2001 extended the board’s termination date by 10 years to July 1, 2013.

In conducting this preliminary evaluation, DLS staff reviewed applicable State law and regulations; recent legislative and regulatory actions; board minutes; prior sunset reviews; annual reports submitted by the Department of Labor, Licensing, and Regulation (DLLR) related to the State Occupational and Professional Licensing Design Boards’ Fund; and other information provided by the board regarding revenues, expenditures, examinations, licensing, complaints, and disciplinary actions. In addition, DLS staff either interviewed in-person or communicated by phone and email with the chairman of the board, the executive director, board administrative staff, the Deputy Commissioner of Labor, Licensing, and Regulation, and a representative of the Maryland Chapter of the American Institute of Architects (AIA).

The board reviewed a draft of this preliminary evaluation and provided the written comments attached at the end of this document as **Appendix 2**. Appropriate factual corrections

and clarifications have been made throughout the document; therefore, references in board comments may not reflect the final version of the report.

## **The Practice of Architecture**

Architects are professionals trained in the art and science of the design and construction of buildings and structures in which people live and work. An architect not only designs the overall aesthetic of buildings and structures but must also ensure that buildings are functional and safe. Architects often work in conjunction with other professionals, including engineers, urban planners, interior designers, and landscape architects.

In Maryland, “practicing architecture” means to provide any service or creative work relating to an addition, alteration, or construction of a building or an integral part of a building that requires education, training, and experience in architecture. It includes architectural design and the preparation of related documents, consultation, design coordination, evaluation, investigation, and planning. State law also requires that, before a licensed architect may issue to a client or submit to a public authority any document required for the issuance of a building permit, the architect who prepared or approved the document must sign, seal, and date the document. Although there are exceptions, in general, a public authority may not accept any architectural drawing, plan, specification, report, or other document unless the document is endorsed as described above.

Nationally, regulation of architects commenced in 1897 when Illinois became the first state to require architects to register or be licensed. Today, all states and the District of Columbia require individuals to be licensed or registered before they can use the title “architect” or contract to provide architectural services. Although graduates of architecture school may work in the field before they are licensed, the title of “architect” may not be used. According to a 2009 survey by the National Council of Architectural Registration Boards (NCARB), there are over 100,000 architects registered in the United States, most of whom are registered in at least two jurisdictions.

The profession of architecture is represented primarily by the American Institute for Architects (AIA), the Maryland chapter of which represents more than 1,100 professionals.

Nationally, over 40 jurisdictions have continuing education standards for architects. The requirements range from 2.5 to 36 total hours that must be completed during the renewal cycle. Most jurisdictions also require that a specified number of continuing education hours be related to health, safety, and welfare. The “green movement” is also playing an important role in continuing education, as architects strive to stay updated on how to make buildings more energy-efficient. In 2007, Texas became the first state to require that one hour of its continuing education requirements be devoted to energy-efficiency or sustainability. AIA also specifies that 4 of the 18 hours of annual continuing education that it requires for membership be related to sustainable design.

## **The State Board of Architects**

In Maryland, the practice of architecture is regulated by the State Board of Architects. Established in 1935 as the Board of Examiners and Registration of Architects, the board became the Maryland Architectural Registration Board in 1968 and acquired its current name in 1989. The board is one of five “design boards” under DLLR’s purview.<sup>1</sup> The purpose of the board is to safeguard life, health, public safety, and property and to promote the public welfare by regulating persons who practice architecture in the State.

The board’s duties are facilitated by its membership in NCARB. Activities of NCARB, a national coalition of state architectural boards, include formulating and grading the professional exam, administering an intern development program, and certifying architects to facilitate reciprocity among states and certain Canadian jurisdictions.

### **Board Membership**

The board consists of seven members: five licensed architects and two consumers. All five licensed architect members must have at least 10 years of experience prior to appointment, and three must be graduates of accredited schools. Consumer members may not be licensees or otherwise subject to regulation of the board, may not be required to meet the qualifications for the professional members of the board, and may not, within the year before appointment, have had a financial interest in or have received compensation from a person regulated by the board. In addition, while serving as a member of the board, a consumer member may not have a financial interest in or receive compensation from a person regulated by the board, or grade any examination given by or for the board.

All members of the board are appointed by the Governor and serve five-year staggered terms that begin on July 1. Board members continue to serve after their term has ended until their successor is appointed. Although board members do not receive compensation, they are eligible for reimbursement of expenses. The Governor may remove a member for incompetence or misconduct. The board is fully appointed at this time.

### **Shared Staffing Sufficient for Board Needs**

The board has four permanent and two contractual staff members available to it. One position, board secretary, is exclusive to the board. All other positions, which are the executive director, an assistant executive director, an investigator, and two contractual employees – an office secretary and an outreach coordinator (this position recently became vacant) – are shared among all of the design boards. The board also receives legal assistance from DLLR and other clerical and licensing assistance from the central staff of the Division of Occupational and Professional

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<sup>1</sup>The five design boards include the State Board of Architects, State Board of Certified Interior Designers, State Board of Examiners of Landscape Architects, State Board for Professional Engineers, and State Board for Professional Land Surveyors.

Licensing within DLLR. Though staffing is shared, it appears sufficient to meet the administrative needs of the board, assuming that the outreach coordinator position does not remain vacant.

## **Major Legislative Changes Affecting the Board Since the 2000 Sunset Review**

Chapter 73 of 2001 extended the termination date of the board by 10 years to July 1, 2013. Chapter 193 of 2001 amended the definition of “practice architecture” to include design coordination, which means the review and coordination of services provided by individuals who are licensed or certified by any of the five design boards. An individual licensed or certified by any of the design boards may perform design coordination for a project or portion of a project if the individual holds a current license or certification from his or her respective board and has adequate experience in, and understanding of, achieving the purpose of the project or portion of the project being coordinated. As shown in **Exhibit 1**, other major legislative changes since the last evaluation relate to the creation of the design boards’ special fund and the establishment of a continuing education requirement for architects.

### **DLLR Design Boards Work Cooperatively and Share Special Fund**

As mentioned previously, there are five design boards within DLLR, including the State Board of Architects. The other boards regulate landscape architects, interior designers, professional engineers, and professional land surveyors. Chapter 227 of 2003 established the State Occupational and Professional Licensing Design Boards’ Fund as a special, nonlapsing fund in DLLR. One of the major goals of this Act was to cluster the design boards since they regulate similar types of professions, in order to equalize the licensing fees among the design boards. Through this clustering approach, the Act required the design boards to work more cooperatively together through a Joint Chairs Committee. The creation of the special fund and the formalization of the Joint Chairs Committee were implemented in response to recommendations made by DLS in the 2002 Sunset Evaluation of the State Board of Certified Interior Designers. The special fund will be discussed in greater detail later in this report.

Chapter 227 also requires that the chairmen of each of the five design boards meet annually to discuss issues of mutual importance and publish a joint newsletter. The Joint Chairs Committee meets several times a year and has proven to be a useful and efficient way for the design boards to communicate amongst themselves and with DLLR. The Joint Chairs Committee serves as an effective forum for the design boards to share ideas, work cooperatively, and support the combined interests of the design industry as a whole in the State.

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**Exhibit 1**  
**Major Legislative Changes Since the 2000 Sunset Review**

<u>Year</u>	<u>Chapter</u>	<u>Change</u>
2001	73	Extends the termination date of the board by 10 years from July 1, 2003, to July 1, 2013.
	187	Expands the board's authority to impose civil penalty fines on licensees and nonlicensees from \$1,000 to \$5,000 per violation.
	193	Clarifies the scope of practice for each profession represented by the five design boards within DLLR.
2003	227	Requires the chairs of the five design boards to meet annually to discuss issues of mutual importance and post a joint newsletter on the DLLR website.
		Establishes a State Occupational and Professional Licensing Design Boards' Fund, a special fund for the collection of license and permit fees from the five design boards.
		Repeals license and permit fees set in statute and instead requires the Secretary of Labor, Licensing, and Regulation to calculate the direct and indirect costs attributable to each of the design boards and to establish fees based on those calculations.
		Caps any fee increase by a design board at no more than 12.5% annually.
	396/397	Establish a continuing education requirement for the renewal or reinstatement of an architect's license.
2005	129	Lowers the standard for specified disciplinary actions against an architect applicant or licensee by removing the requirement that an individual "knowingly" committed a violation.
		Broadens the scope of violations by making a violation of any regulation the basis for a disciplinary action.
	215	Modifies the continuing education requirement related to license renewal. Alters the process for submitting proof of completion to reflect biennial license renewal.
2008	273	Extends the termination date to June 30, 2013, for the special fund that serves all five design boards and related provisions, including the board's fee-setting authority.

Note: The five design boards include State Board of Architects, State Board of Certified Interior Designers, State Board of Examiners of Landscape Architects, State Board for Professional Engineers, and State Board for Professional Land Surveyors.

Source: Laws of Maryland

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## **Board Operations**

The major functions of the board include the issuance of individual licenses and firm permits, investigation of complaints about architects, and enforcement of the Maryland Architects Act (Title 3 of the Business Occupations and Professions Article).

### **Attaining Licensure as an Architect Is a Lengthy Process**

The process of becoming a licensed architect in any state is a lengthy one, which includes meeting specific education and internship requirements. In addition, all states and the District of Columbia require successful completion of the Architectural Registration Examination (ARE). In Maryland, an individual applies for a license to practice architecture either by examination or through reciprocity. An applicant who is seeking licensure by examination must apply to the board prior to taking the ARE. An applicant who has already passed the ARE and is licensed in another jurisdiction may apply for licensure by reciprocity. Applicants for licensure by reciprocity may choose to submit with their application proof of licensure in another state or proof of certification with NCARB.

#### **Licensure by Examination**

For an individual to receive a license by examination, he or she must first apply to the board prior to taking ARE. **Exhibit 2** shows the requirements that must be met before an individual may be licensed by examination.

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### **Exhibit 2 Requirements for Licensure by Examination**

- Graduate with an architectural degree from an accredited school or otherwise fulfill five educational equivalency credits through work experience and academics.
- Complete the Intern Development Program (5,600 training hours).
- Pass all seven divisions of the Architectural Registration Exam within a five-year period.

Source: State Board of Architects

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Generally, a candidate for ARE must have a college degree in architecture from a school that is accredited by the National Architecture Accrediting Board as well as practical experience or additional education considered appropriate by the board. A candidate may also have a college degree from a foreign school that the board determines is comparable to a school that is nationally accredited. Although the majority of new candidates have a traditional degree in architecture, an

individual who does not meet the standard educational requirement can instead substitute five educational equivalency credits that are further specified in regulation through an “equivalency matrix.” These credits can be earned from work experience (one equivalency credit equals two full-time years of work experience) or a combination of work experience and other academic training (*e.g.*, a degree in a related field).

In addition, candidates for ARE must either be enrolled in or have completed the Intern Development Program (IDP). IDP is a training program administered by NCARB that takes an average of three years to complete. An individual must complete 5,600 training hours to satisfy the requirements of the training program (this standard is set by NCARB, not the State board). Once an application has been approved by the board, the individual is notified directly and receives authorization to take the ARE.

ARE, which consists of seven examinations or divisions, is conducted electronically by an outside testing service according to requirements set forth by NCARB. The exam is currently given at over 20 sites throughout the State. Because the examinations are electronic, they are available six days a week all year long, and testers can schedule the examinations in any order. An individual applying for license by examination has a five-year period during which he or she must complete all of the divisions. The schedule of examination fees is shown in **Appendix 1**. All states and the District of Columbia require successful completion of the ARE for licensing.

Once an individual has passed the ARE and completed the IDP, he or she is qualified to apply for licensure in the State. The individual must then pay a \$68 license fee. A license is issued for a period of two years and must be renewed in order to continue to practice.

The board reports that it takes an average of three years from the time an individual first applies to take ARE until the license is issued. The board generally approves at least 100 new candidates for licensure each year and generally has approximately 400 licenses “in progress” (*i.e.*, individuals who are in the process of completing the ARE).

### **Licensure by Reciprocity**

An applicant applying for licensure by reciprocity can choose reciprocity with another state or NCARB certification. Applicants using either method must pay a \$50 reciprocity fee. For reciprocity through another state, the applicant must submit official college transcripts, submit three letters of character reference, and provide verification of a license in another state. For reciprocity through NCARB, the applicant must submit with the application the “Blue Cover Certificate” from NCARB. The Blue Cover Certificate is the means by which NCARB certifies that the individual is a licensed architect in a state other than Maryland. To obtain a certificate, the architect must be a member of NCARB and pay certain fees associated with the certification. Fees are paid to open and develop a certification file, which contains detailed educational and professional experience information for the architect. A maintenance fee is also paid annually. Once the certification file has been developed, the architect requests that NCARB prepare the application and certificate for a given state to obtain a license through reciprocity. Another fee is

paid to NCARB for this service. Despite the higher level of fees involved, the board reports that most licenses through reciprocity are through the use of NCARB Blue Cover certificates.

### **Firm Permits**

Firms may apply for a permit to practice architectural services if two-thirds of the partners (for partnerships), directors (for corporations), or members (for limited liability companies) are licensed in Maryland or any other state to practice architecture, engineering, or landscape architecture. In addition to this requirement, one partner, director, or member must be a licensed architect and be in charge of architecture practiced by the firm. The initial permit fee for firms is \$100 and is valid for two years from the date of issuance.

### **License Renewal Now Includes a Continuing Education Requirement**

License renewal can be done electronically through the DLLR website, and there is a renewal fee of \$68 for individuals and \$100 for firms. There is a 30-day grace period during which an individual may renew a license retroactively without incurring a late (reinstatement) fee. Otherwise, for late renewals by individuals, there is a \$100 reinstatement fee, which may be waived by the board if evidence is shown that architectural services were not practiced during the time that the license was lapsed.

Maryland first established a continuing education requirement for architects in 2003, which was later modified in 2005. A licensed architect seeking renewal or reinstatement of a license must complete 24 hours of continuing education during the course of each biennial licensing period. Sixteen of the hours must relate to the health, safety, and welfare of the general public. The board advises that both NCARB and AIA offer courses, and that State statute specifies that courses approved by either of these entities must also be accepted by the board. Although the statute indicates that other courses may be used to satisfy the requirement if pre-approved by the board, the board indicates that, in practice, this is a rarity, as most architects take NCARB- or AIA-approved courses. However, the board does have a subcommittee of two members who review additional continuing education requests. A licensee must maintain evidence of compliance with the continuing education requirement for two years after each renewal period. A licensee may renew a license for the next full term without complying with the requirement if he or she is experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the board.

The statute creating the continuing education requirement specified that the board could conduct random audits to verify compliance, and the board has recently made this a priority. In a program that began in January 2010, approximately 5% to 10% of individuals who renew online are randomly selected for a continuing education audit. Once an individual is selected for audit, he or she has 30 days to provide proof of compliance to the board. If the individual does not provide proof or the person does not have documentation of the required number of hours, the board sends a letter to the individual providing an additional 30 days to comply. If the individual responds satisfactorily to this communication, the matter is closed. If the response still contains insufficient hours, the board will immediately contact the individual to provide an additional



opportunity to comply within 30 days and to advise that the individual could be subject to actions by the board including fines, suspension, and revocation. If the individual does not respond to this communication or the hours are still insufficient, the board sends a notice of intended action and a draft consent order with a \$500 fine.

### Licensing Activity Has Remained Stable in Recent Years

Exhibit 3 shows licensing activity for fiscal 2006 through 2010. During that five-year period, the board issued almost 1,900 original licenses and permits and renewed over 13,000. Although the number of original individual licenses issued spiked in fiscal 2007 before leveling off, board staff cannot recall any specific reason for the increase. Similarly, original firm permits increased in both fiscal 2007 and 2008 before leveling off in subsequent years. Board staff again cannot recall any specific reason for these increases but did note that often the announcement of work projects in the region leads to an increase in the number of permits that are issued as firms from other areas ensure that they are properly licensed in the State should they choose to pursue the project.

**Exhibit 3**  
**Licensing Activity**  
**Fiscal 2006-2010**

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>Total</u>	<u>Average</u>
Individual Licenses – Original	304	340	292	306	283	1,525	305
Individual Licenses – Renewal	2,221	2,453	2,503	2,537	2,560	12,274	2,455
Firm Permits – Original	55	71	81	80	81	368	74
Firm Permits – Renewal	254	204	285	254	320	1,317	263

Source: State Board of Architects

### Number of Firm Permits Has Almost Doubled Since 2000

Exhibit 4 compares the number of licenses and permits held in June 2000 to those held in June 2010. As of June 2010, there were 5,545 licensed architects and 709 firm permits – a 17% increase in the number of licensed architects and a 95% increase in the number of firm permits since the 2000 preliminary evaluation. DLLR advises that such increases are not aberrant when compared to the other design boards. According to the department, the design boards have seen an increase in the number of applications for reciprocal licenses in recent years, as individuals and firms are conducting more business across state borders.

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**Exhibit 4**  
**Number of Licenses and Permits Held**  
**June 2000 and June 2010**

	<u>2000</u>	<u>2010</u>	<u>Percent Change</u>
Individual Licenses	4,749	5,545	17%
Firm Permits	364	709	95%
<b>Total</b>	<b>5,113</b>	<b>6,254</b>	<b>23%</b>

Source: State Board of Architects; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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### **Board Has Broad Disciplinary Authority**

The board has the authority to deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

- fraudulently or deceptively obtains or attempts to obtain or renew a license or permit for the applicant or licensee or for someone else;
- fraudulently or deceptively uses a license;
- is convicted of any felony or a misdemeanor that is directly related to the fitness and qualification to practice architecture;
- is guilty of any fraud, gross negligence, incompetence, or misconduct while practicing architecture;
- has had a license to practice architecture in another state revoked or suspended by the other state for a cause that would justify revocation or suspension under Maryland law (except for failure to pay a license or license renewal fee);
- aids or abets an authorized person to practice architecture; or
- violates any provision of the statute governing architecture or the code of ethics adopted by the board.

The board may also impose a civil penalty of up to \$5,000 for each violation. Criminal penalties relating to the practice of architecture are also established in statute. All penalty and/or fine revenues are paid into the general fund. It is a misdemeanor for any individual to:

- practice, attempt to practice, or offer to practice architecture in the State unless licensed by the board;
- operate a business that practices architectural services without the appropriate license (for solo practitioners) or permit; or
- misrepresent, through use of a title or a description of services, methods, procedures, or otherwise that the person is authorized to practice architecture or operate a business through which architecture is practiced unless the proper license or permit is held.

An individual who violates any of these provisions is subject to maximum penalties of a \$3,000 fine and/or one year imprisonment. In addition, the board may impose a maximum penalty of \$5,000 for each violation.

Enforcement of the State's architecture laws, rules, and regulations is a cooperative effort between the board and DLLR. In addition to complaints initiated by the board, any consumer may file a complaint with the board for alleged violations committed by a firm or an individual in relation to the Maryland Architects Act. Filed complaints are reviewed by a complaint committee comprising two members from the board (one professional and one consumer), which then makes a recommendation to the full board. A representative from the Attorney General's litigation division is also present during the complaint meetings. The board may refer the complaint to an investigator if more information is needed to make a determination. The complaint committee makes a recommendation to the board on whether a violation has occurred. In most cases, the complaint committee recommends to informally resolve the matter with a consent order and payment of a fine. However, the board may refer the complaint to the assistant Attorney General for review for possible administrative charges. Such charges could then result in a hearing, after which the board issues a final order which may be appealed to the circuit court. A time limit of six months is statutorily imposed for a complaint to proceed to a hearing.

If the board believes there has been a violation of law that constitutes a misdemeanor, the alleged violation must be reported to the appropriate State's Attorney (or the Office of the Attorney General if the alleged violation affects more than one jurisdiction).

### **Board Receives Few Complaints Against Architects**

**Exhibit 5** shows the number of complaints received by the board in fiscal 2006 through 2010. As shown in the exhibit, the majority of the complaints stem from individuals who practice with an expired license. The board indicates that these complaints are generally "self-reported," as when an individual applies for reinstatement, he or she is asked if architectural services were practiced during the time the license was lapsed. If the individual responds affirmatively, a complaint is opened. In all of the 42 cases during the past five fiscal years in which the complaint involved practicing with an expired license, the complaint was closed after a consent order was

signed. All but one of the cases also involved a fine, which ranged from \$250 to \$2,500. Although the majority of the cases closed with a fine of \$500, the board assesses fines based on the perceived risk of potential harm that resulted from the violation (*e.g.*, a higher fine was assessed to an individual who worked on a hospital during the time of an expired license).

Board staff advises that very few of the complaints it receives ultimately result in a hearing. Only two to three hearings have occurred within the past 12 years and none during the past 5 fiscal years.

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**Exhibit 5**  
**Complaint Data for the State Board of Architects**  
**Fiscal 2006-2010**

<b><u>Complaint Type</u></b>	<b><u>FY 2006</u></b>	<b><u>FY 2007</u></b>	<b><u>FY 2008</u></b>	<b><u>FY 2009</u></b>	<b><u>FY 2010</u></b>
Expired License	8	7	11	9	7
Unlicensed Practice and/or Misrepresentation	9	7	7	3	5
Other	5	3	1	3	10
<b>Total</b>	<b>22</b>	<b>17</b>	<b>19</b>	<b>15</b>	<b>22</b>

Source: State Board of Architects

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### **Available Resources Cover Board Operations**

A pilot program established by Chapter 227 of 2003 created a State Occupational and Professional Licensing Design Boards' Fund to ensure that costs for the five design boards, in the aggregate, were covered by their revenues, in the aggregate. The fund and fee-setting authority were set to terminate on June 30, 2008; however, Chapter 273 of 2008 extended the termination date for the special fund to June 30, 2013. Prior to the enactment of Chapter 227, the fees for the board were set in statute, the revenues were credited to the general fund, and the Governor included a general fund allowance for the board within the budget of DLLR.

Since 2003, the Secretary of Labor, Licensing, and Regulation has been charged with annually calculating the direct and indirect costs attributable to each of the design boards and providing this information to the boards. With consent of the boards, the Secretary is authorized to average the direct and indirect costs among the boards in order to establish fees that more equitably distribute the costs associated with the operation of each board across all five boards. With these calculations in mind, the board is charged with setting reasonable fees for its services by regulation. The fees charged are required to be set so as to produce funds to approximate the

cost of maintaining the boards and may not be increased more than 12.5% over the previous year's fees.

In 2007, the design boards determined that the fund balance merited a fee reduction, and the across-the-board license fee of \$78 was reduced to the current fee of \$68. Prior to the enactment of the special fund, the board charged a \$20 fee for an original license (\$25 for an original firm permit) and a \$20 fee for renewal (\$30 for firm renewals). **Appendix 1** provides the board's current fee schedule.

As shown in **Exhibit 6**, although the board's revenues were sufficient to cover expenditures in fiscal 2006 through 2008, in the past two fiscal years, board expenditures have slightly exceeded revenues attributable to it. However, when the board's revenues are combined with the revenues of the other design boards, it does not actually operate with a deficit. This was the legislative intent of Chapter 227, which created the special fund. Even though \$300,000 from the design boards' special fund was redirected to the general fund in fiscal 2010 in accordance with the Budget Reconciliation and Financing Act of 2010 (Chapter 484), as a whole, the fund ended fiscal 2010 with a balance of \$244,624.

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**Exhibit 6**  
**Fiscal History of the State Board of Architects**  
**Fiscal 2006-2010**

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
Total Revenues	\$280,065	\$282,909	\$271,928	\$277,075	\$279,318
Total Costs	237,116	273,288	266,407	291,049	294,800
Direct Costs	84,793	170,927	165,770	198,302	225,875
Direct Legal Costs	42,578	48,913	46,779	71,013	48,586
Indirect Costs	17,678	21,442	18,062	21,734	20,339
DLLR Indirect Costs	92,117	32,006	35,796	0	0
Surplus/(Deficit)	\$42,949	\$9,621	\$5,521	(\$13,974)	(\$15,482)

Source: Department of Labor, Licensing, and Regulation

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The board's direct costs include salaries and benefits for staff, office supplies, and legal fees from the Office of the Attorney General within DLLR. The board's indirect costs are incurred at the departmental level and include costs for activities and services related to budget, personnel, general services, and the Office of the Secretary. Indirect costs are allocated to each board by the Secretary's Office using a federal cost allocation formula. In the past, the Secretary's Office generated the occupational and professional (O&P) cost allocation for each

board in DLLR, which reflected the costs incurred at the level of the Division of Occupational and Professional Licensing, including central licensing, the telephone center, the commissioner's office, and information technology costs. However, beginning in fiscal 2009, O&P indirect costs are coded as reimbursable funds and are included within the board's direct costs, consistent with guidance from the Department of Budget and Management.

Revenues and expenditures for the board have been relatively stable since fiscal 2007. Between fiscal 2005 and 2007, however, there was significant variation in accounting for direct costs and indirect costs. DLLR advises that there were issues in the board's budget for these years because the department was implementing new accounting standards and bringing on a new accounting team. Also, while expenditures grew by 9.2% in fiscal 2009, revenues for the same period only increased by 1.9%. A portion of the expenditure increase can be attributed to direct legal fees, which increased in fiscal 2009, but leveled in fiscal 2010. The board notes that there were several complex cases in fiscal 2009 that required more extensive review by the Attorney General's Office prior to charging, which accounts for the higher fees in that year. Although the direct legal fees for fiscal 2010 reverted to the normal range, other direct costs still increased by almost 14% in fiscal 2010.

## **Future Legislative Issues**

One issue the board has been addressing recently involves how to treat retired architects. It is a violation of State law to refer to yourself as an architect if you do not have an active license. However, many individuals who do not practice architecture any longer still want to refer to themselves as an architect as an honorific title. These individuals have no need for a current license (nor for the continuing education requirement that accompanies the license) as they are no longer practicing architecture, but there is no specified designation for a retired architect in State law. Other states have an "architect emeritus" designation for retired architects who are not practicing and are not taking continuing education credits but still want to be called architects. The board indicated that this is an issue of national significance as well. The board has submitted draft legislation for potential inclusion in DLLR's 2011 legislative package that would add a designation of "architect emeritus" in State law.

Also, three of the design boards (State Board of Architects, State Board of Examiners of Landscape Architects, and State Board for Professional Land Surveyors) require the businesses they regulate to obtain a board-issued permit prior to operating and providing services. Generally, this requirement helps ensure that firms practicing in Maryland have employees who are licensed by the State to practice in these areas and that such employees are in responsible charge of projects in the State. Currently, the three design boards have differing requirements associated with these permits and very limited enforcement authority. The joint chairs may offer legislation during the 2012 legislative session that would establish firm permits or "certificates of authorization" with uniform requirements for all five design boards. The design boards are currently considering various components of this permit/certificate proposal, including reasonable firm staffing requirements and enforcement mechanisms.

## Other Issues

As noted above, all architectural documents must be signed, sealed, and dated by a licensed architect. The board currently requires a hand signature and does not recognize the use of electronic seals; however, many local jurisdictions have indicated a desire to convert to a paperless permit system or have already done so. The board discussed this matter at the October 2009 board meeting and reached a consensus to oppose a paperless permit process due to concerns that this practice will be highly susceptible to fraud. This matter was revisited at the January 2010 board meeting at which time the board decided to continue exploring the issue. At the May 2010 board meeting, it was reported that a board member, the executive director of the design boards, and the deputy commissioner had all attended a meeting of the Maryland Building Officials Association, a group of plan reviewers and permit officials from various counties. The representatives conveyed to the officials that the use of electronic seals is not currently recognized as policy. The representatives also reiterated that only the licensed design professional that is identified on a particular set of plans can make or authorize any changes to the plans and under no circumstances may anyone else, including permit officials, legally make changes or additions to plans submitted for approval. The deputy commissioner was invited to become an *ex officio* member of the organization and attend future meetings. **The board should continue to explore similar outreach opportunities to local permit and planning officials.**

## Recommendations

There are clear benefits for the public health and safety from the continued regulation of the architecture industry. Overall, the State Board of Architects is fulfilling its statutory requirements to the best of its abilities. The board receives few complaints and handles the ones it does in an efficient manner. The board and its staff were courteous and professional in assisting the Department of Legislative Services with this report. **Consequently, the Department of Legislative Services recommends that the Legislative Policy Committee waive the board from full evaluation and that legislation be enacted to extend the board's termination date by 10 years to July 1, 2023.**

However, although licensing activity is stable and the design boards' special fund is solvent, the board is being partially subsidized by the professional engineers, as are the other three design boards. Even though the special fund for the design boards has carried a balance in past fiscal years, if total expenditures continue to outpace total revenues the fund will not remain solvent for more than a couple more years. **Therefore, the Department of Legislative Services recommends that the Department of Labor, Licensing, and Regulation, in collaboration with the Joint Chairs, submit a follow-up report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee by October 1, 2011, providing an update on the sufficiency of the fund balance. The report should specifically address the benefits of a fee increase in order to ensure that the collective revenue for the design boards covers total expenditures.**





## Appendix 1. Schedule of Fees for the State Board of Architects

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### *License and Permit Fees*

<u>Type of License/Permit</u>	<u>Fee</u>
Architect License – New and Biennial Renewal	\$68
Permit (Business Entity) – New and Biennial Renewal	100
Reinstatement of License	100
Reciprocal License Application Fee	50

### *Architect Registration Examination (ARE) Fees<sup>1</sup>*

<u>Division of Examination</u>	<u>Exam Fee</u>	<u>Security and Development Fee<sup>2</sup></u>	<u>Total Fees</u>
Programming, Planning, and Practice	\$170	\$40	<b>\$210</b>
Site Planning and Design	170	40	<b>210</b>
Building Design and Construction Systems	170	40	<b>210</b>
Schematic Design	170	40	<b>210</b>
Structural Systems	170	40	<b>210</b>
Building Systems	170	40	<b>210</b>
Construction Documents and Services	170	40	<b>210</b>
<b>Total Examination Fees</b>	<b>\$1,190</b>	<b>\$280</b>	<b>\$1,470</b>

<sup>2</sup> These fees are set by and paid directly to the National Council of Architectural Registration Boards.

<sup>3</sup> The National Council of Architectural Registration Boards implemented these fees on October 1, 2009, after incidents of unauthorized disclosure of exam content. The fees were to offset the costs to develop and replace the exposed content and handle the administrative and legal costs related to these incidents.

Source: Code of Maryland Regulations, 09.21.04.03; National Council of Architectural Registration Boards.



## **Appendix 2. Written Comments of the State Board of Architects**

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December 2, 2010

Ms. Jennifer B. Chasse  
Senior Policy Analyst  
Office of Policy Analysis  
Department of Legislative Services  
90 State Circle  
Annapolis, Maryland 21401-1991

Dear Ms. Chasse:

The Department of Labor, Licensing and Regulation (DLLR) and the Board of Architects (Board) have received the draft of the preliminary evaluation of the Board conducted by the Department of Legislative Services pursuant to the Maryland Program Evaluation Act. We appreciate the time and attention that was spent reviewing the Board's operations.

We are pleased that the evaluation found that found that the Board is fulfilling its statutory duties and has recommended that the Legislative Policy Committee waive the Board from full evaluation and that legislation be enacted to extend the Board's termination date by 10 years to July 1, 2023.

The report requires a follow up report by DLLR and the Board regarding the sufficiency of the fund balance of Occupational and Professional Licensing Design Board Special Fund and whether a fee increase may be required to assure that revenues are sufficient to cover the direct and indirect costs of operating the Board of Architects, as well as the other Boards which comprise the design board cluster

This issue is of importance and concern to DLLR, the design boards and the professional societies that represent regulated design professionals in our state. The sufficiency of resources and the ability to spend those resources assures the capability to provide quality services to the public, applicants and licensees. It was the ability to provide such services to the public and the broad spectrum of stakeholders, which moved the Boards to propose the creation of the special fund.

As requested, we have separately provided any factual corrections that have been identified. We would like to express our appreciation for the thoroughness and professionalism of Jennifer Botts in her conduct of the evaluation. We look forward to

TTY USERS, CALL VIA THE MARYLAND RELAY SERVICE

INTERNET: [WWW.DLLR.STATE.MD.US](http://WWW.DLLR.STATE.MD.US) • E-MAIL: [OP@DLLR.STATE.MD.US](mailto:OP@DLLR.STATE.MD.US)

*DLLR Landscape Architects Sunset Review 2009*

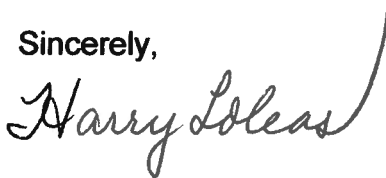
MARTIN O'MALLEY, GOVERNOR • ANTHONY G. BROWN, LT. GOVERNOR • ALEXANDER M. SANCHEZ, SECRETARY



Ms. Jennifer B. Chasse  
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December 2, 2010

working with the General Assembly and legislative staff in addressing issues that were raised in the report as well as future issue which may arise. If your office should require additional information, please do not hesitate to contact me (410-230-6226) or Board Executive Director Jay Hutchins (410-230-6262).

Sincerely,



Harry Loleas  
Deputy Commissioner

Cc: Alexander M. Sanchez, Secretary  
Stanley J. Botts, Commissioner  
Jay Hutchins, Executive Director  
Chairman and Members, Board of Architects