

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 808
LANDSCAPE CONTRACTORS BOARD

FILED

05/30/2024 3:21 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Charges for Documents; Refunds

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/24/2024 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.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

CONTACT: Kellie Mingus
503-967-6291, Ext. 220
kellie.s.mingus@lcb.oregon.gov

2111 Front Street BE Ste 2-101
Salem, OR 97301

Filed By:
Kim Gladwill-Rowley
Rules Coordinator

NEED FOR THE RULE(S)

This rule updates obsolete information including corrections to titles of current exam study material resources and the addition of new study resources required for virtual testing.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

OAR 808-001-0020

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The rule amendment does not affect racial equity.

FISCAL AND ECONOMIC IMPACT:

Minimal to no fiscal impact. An applicant for virtual testing will be required to purchase the exam resources if they wish to use them during the virtual testing. This will be in lieu of traveling to the testing centers where the exam resources are provided during testing. If the applicant does not wish to use the exam resources, they are not required to purchase them.

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).

There is no cost associated with other agencies or small businesses. There are no reporting or other costs required. There are no professional services,

equipment supplies, labor or administrative costs required to comply with the rule.

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

Several Board members are small business owners.

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

The Board acts as its own Rule Advisory Committee.

AMEND: 808-001-0020

RULE SUMMARY: This rule updates obsolete information including corrections to titles of current exam study material resources and the addition of new study resources required for virtual testing.

CHANGES TO RULE:

808-001-0020

Charges for Documents; Refunds ¶

The Landscape Contractors Board adopts the most current version of the Department of Administrative Services Statewide Policy Number 107-001-030 regarding public records requests fees and charges, including the standardized fee schedule and public interest threshold for fee waiver or reduction.¶

(1) All requests for copies of public records pertaining to the State Landscape Contractors Board and available at the Board's office shall be in writing and may be delivered in person, by mail, by fax or by ~~email~~electronic mail (email). The request must include:¶

(a) The name and address of the person requesting the public record;¶

(b) The telephone number or other contact information for the person requesting the public record;¶

(c) A sufficiently detailed description of the record(s) requested to allow the agency to search for and identify responsive records;¶

(d) Date of request; and¶

(e) Signature of the person requesting the public record. If delivered by email, just the written name of the person requesting the public record.¶

(2) Charges to the general public and to state agencies shall be payable in cash, check, money order, or any credit card accepted by the board office. Billing to such state agencies must be authorized by the Administrator. Checks or money orders shall be made payable to the Landscape Contractors Board.¶

(3) The Board accepts credit card payment submitted in person or by mail, e-mail or fax. Any credit card that is rejected by the bank and requested to be confiscated will be retained and returned to the bank. All payments by credit card that are rejected must be paid in full by a check or money order within ten days from notification of rejection.¶

(4) Charges for copies, documents, and services shall be as follows:¶

(a) \$0.07 cents per black and white copy on letter or legal size paper and \$0.14 cents per copy on 11 X 17 size paper.¶

(b) The cost of records transmitted by fax is \$.75 for the first page and \$.60 for each additional page, limited to a 20-page maximum, not including the cover page.¶

(c) The cost of records transmitted by email is \$5 per email.¶

(d) Upon request, copies of public records may be provided electronically if the document(s) are stored in the agency's computer system. ~~Disk~~Flash drives will be provided at actual cost of ~~\$1.75 per CD and \$2.50 per DVD~~per flash drive and may contain as much information as the ~~CD or DVD~~flash drive will hold. A flat fee of \$5.00 will be assessed if the total processing time of the associated public records request is less than the 30-minute threshold as per subsection (k) of this rule. Due to the threat of computer viruses, the agency will not permit requestors to provide ~~disk~~flash drives for electronic reproduction of computer records.¶

(e) Actual cost for delivery of records such as postage and courier fees.¶

(f) Actual attorney fees charged to the agency for the cost of time spent by an attorney in reviewing the public records, redacting materials from the public records or segregating the public records into exempt and nonexempt records.¶

(g) The agency may require pre-payment of estimated fees before taking further action on a request.¶

(h) \$20 for each certification that an entity has or has not been licensed with the Landscape Contractors Board.¶

(i) \$20 for certified copies of documents.¶

(j) \$100 for listing of individual landscape construction professional contractors and/or landscape contracting businesses on ~~CD flash drive~~ or provided electronically through e-mail. Requests for searching or formatting the data will be billed as per subsection (k) of this rule. The Administrator may waive this charge for other public agencies.¶

(k) Labor charges that include researching, locating, compiling, editing or otherwise processing information and records:¶

(A) No charge for the first 30 minutes of labor time;¶

(B) Clerical time. Beginning with the 31st minute, the charge per total request is \$25 per hour or \$6.25 per quarter-hour. A prorated fee is not available for less than a quarter-hour;¶

(C) Managerial time. Beginning with the 31st minute, the charge per total request is \$40 per hour or \$10 per quarter-hour. A prorated fee is not available for less than a quarter-hour;¶

(D) Professional time. Beginning with the 31st minute, the charge per total request is \$75 per hour or \$18.75 per quarter-hour. A prorated fee is not available for less than a quarter-hour;¶

(E) DOJ, special attorney and other applicable legal fee time. The actual hourly rate charged for public records request-related services.¶

(L) For both machine copies and documents, an additional amount set at the discretion of the Administrator for time required for search, handling, and copying as stated in subsubsection (k) of this rule.¶

(m) \$20 for duplicate recording of Board meetings.¶

(n) \$20 for duplicate recordings of a three hour agency hearing or arbitration and \$10 for each additional 90 minute or fraction thereof of the hearing or arbitration.¶

(o) ~~Plant CD: T~~ Study Guide is the cost of the item, the cost of shipping and a fee for the cost of processing the order. Contact the State Landscape Contractors Board for the current charges.¶

(p) Landscape Construction, Custom 3rd edition, book by David Sauter is the cost of the item, the cost of shipping and a fee for the cost of processing the order. Contact the State Landscape Contractors Board for the current charges.¶

(q) ~~Owner/Managing Employee Study Guide & Manual~~ Laws, Rules and Business Practices Guide is the cost of the item, the cost of shipping and a fee for the cost of processing the order. Contact the State Landscape Contractors Board for the current charges.¶

(r) Oregon Landscape Figure Booklet is the cost of the item, the cost of shipping and a fee for the cost of processing the order. Contact the State Landscape Contractors Board for the current charges.¶

(5) All sales of items in subsection (4) of this rule are final.¶

(6) Refunds: All requests for refunds must be in writing.¶

(a) Application fees are non refundable.¶

(b) Except as set forth in subsections (c) & (d) of this section, initial license and renewal fees are non-refundable and nontransferable.¶

(c) Landscape construction professional license fees. When an applicant for a landscape construction professional license withdraws their application or renewal or fails to complete the application or renewal process the agency may retain a processing fee of \$20 from any paid license fee.¶

(d) Landscape contracting business license fees. When an applicant for a landscape contracting business license withdraws their application or renewal or fails to complete the application or renewal process, the agency may retain a processing fee of \$50 from any paid license fee.¶

(7) If the agency receives payment of any fees or penalty by check and the check is returned to the agency by the bank, the payer of the fees may be assessed a charge of \$25 in addition to the required payment of the fees or penalty.¶

(8) The agency shall not refund fees or civil penalties overpaid by an amount of \$20 or less unless requested by the payer in writing within three years after the date payment is received by the agency, as provided by ORS 293.445.

Statutory/Other Authority: ORS 183, ORS 293.445, ~~671~~, ~~2007 OL Ch. 544~~ ORS 671.670

Statutes/Other Implemented: ORS 183, ORS 192.430, ORS 293.445, ORS 671