

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 2405

By: Toure of the House

and

Morgan of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 1991, Sections 46.2, 46.3, 46.4, as last amended by Section 1 of Enrolled House Bill No. 2222 of the 2nd Session of the 46th Oklahoma Legislature, 46.6, 46.7, 46.9, 46.10, 46.11, 46.12, 46.14, 46.15, 46.18, 46.21, 46.24, 46.25, 46.31, 46.32 and 46.36, which relate to The State Architectural Act; modifying the scope and purpose of the act; modifying, eliminating and adding definitions; modifying membership of The Board of Governors of the Licensed Architects and Landscape Architects of Oklahoma; authorizing members to be reappointed and succeed themselves; modifying procedures of appointment; modifying oath required; modifying time and purpose of meetings; deleting seal; modifying duties and salary time of the secretary-treasurer; providing for a quorum; modifying, eliminating and adding to the powers and duties of the Board; providing for unlawful practices; providing for application to the Board, and procedures and examinations related thereto; authorizing the Board to issue licenses without examination in certain circumstances; adding to entities and officers who may practice and have licenses and certificates of authority under the act; providing procedures related thereto; updating language; providing for certain entities to remit certain fees; providing for failure to remit such fees; providing for the renewal of licenses and certificates of authority; requiring the display of such licenses and certificates of authority; authorizing the replacement of certain licenses, and procedures related thereto; clarifying language; modifying grounds for suspension, revocation and nonrenewal of licenses or certificates of authority, and modifying procedures related thereto; modifying appeals from the Board to the district court; designating the District Court of Oklahoma County as the court having jurisdiction; modifying procedures related to such appeals; modifying exceptions from act; providing for items which act may not be construed to prevent; modifying qualifications for licensure; modifying purpose of the architect seal, and procedures related thereto; modifying procedure and rights related to failure to pass an examination;

modifying the practice of landscape architecture; adding other entities to practice, and providing rights related thereto; modifying certain unlawful bid for construction projects; repealing 59 O.S. 1991, Sections 46.5, 46.8, 46.13, 46.16, 46.22 and 46.23, which relate to The State Architectural Act; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1991, Section 46.2, is amended to read as follows:

Section 46.2 In order to safeguard life, health and property and to promote the public welfare, any person practicing or offering to practice the professions of architecture or landscape architecture are declared to be subject to regulation in the public interest. It is unlawful for any person to practice or offer to practice architecture or landscape architecture in this state shall hereafter be required to submit evidence that he or she is qualified so to practice and shall be licensed as hereinafter provided, as defined in the provisions of Section 46.1 et seq. of this title, use in connection with the person's name, or otherwise assume the title of architect or landscape architect, or advertise any title or description tending to convey the impression that the person is a licensed architect or landscape architect unless the person is duly licensed or exempt from licensure under The State Architectural Act. The practice of architecture and landscape architecture and the use of the titles, architect or landscape architect, are privileges granted by the state through The Board of Governors of the Licensed Architects and Landscape Architects of Oklahoma based upon the qualifications of the individual as evidenced by a certificate of licensure or registration which shall not be transferable.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 46.3, is amended to read as follows:

Section 46.3 A. "Architect" means a any person ~~whose profession and occupation shall consist of:~~

~~(1) Rendering services or creative work which requires architectural education, training and experience, including services and work such as consultation, evaluation, planning, providing preliminary studies, aesthetics and overall building design, coordination, design, the preparation of drawings, specifications and related documents, construction management and the coordination of services furnished by licensed professional engineers and other consultants as they relate to architectural work in connection with the construction or erection of any private or public building, building project or integral part or parts of buildings or of any additions or alterations thereto;~~

~~(2) Representing clients in connection with contracts entered into between them and contractors and others; and~~

~~(3) Observing the construction, alteration, and erection of buildings who engages in the practice of architecture as hereinafter defined.~~

B. The "practice of architecture" shall be defined as ~~consisting of rendering or offering to render certain services, as provided for in subsection A of this section,~~ in connection with the design and construction, enlargement or alteration of a building; ~~the utilization of~~ or a group of buildings and the space surrounding such buildings, ~~the design and construction of items relating to building code requirements and other building related features affecting the public health, safety, and welfare including buildings which have as their principal purpose human occupancy or habitation;~~ the services referred to include planning, providing preliminary studies, designs, drawings, specifications and other technical submissions, the administration of construction contracts, and the coordination of any elements of technical submissions prepared by others including, as appropriate and without limitation, consulting engineers and landscape architects; provided, that the practice of architecture shall include such other professional services as may be necessary for the rendering of or offering to render architectural services.

C. "Licensed architect" means an architect holding a current license or certificate of registration issued by the Board.

D. "Registration or licensure" means a certificate of registration or licensure issued by the Board to a person. The definition of "license" or "registration" shall be synonymous.

E. A "building" means a structure consisting of a foundation, walls, roof, with or without other parts; provided, however, nothing in The State Architectural Act shall be held or construed to have any application to any building, or to the repairing or remodeling of any building, to be used for one-family residential purposes, duplexes, or apartment houses not exceeding two stories in height, to any warehouse, maintenance building, garage or storage building not exceeding two stories in height, or to a hotel, lodge or fraternal building not exceeding two stories in height, or to any farm improvements, or industrial or commercial buildings not exceeding two stories in height, nor to any school building where the reasonably estimated total cost for the construction, where structural changes are being made in remodeling or repairing of such school building does not exceed the sum of Forty Thousand Dollars (\$40,000.00). A basement is not to be counted as a story for the purpose of counting stories of a building for height regulations. Provided, however, it shall be unlawful for any person other than an architect duly licensed as provided in The State Architectural Act to engage in the planning, designing and preparation of drawings and specifications for the alteration or construction of any building to be used as an armory, auditorium, assembly hall, convention hall, church, educational building, convent, dormitory, gymnasium, hospital, library, bonded warehouse, passenger station, power house, municipal building, county building, state building, federal building, radio or television station, stadium or theater where the reasonably estimated total cost for construction, remodeling or repairing of such building exceeds the sum of Forty Thousand Dollars (\$40,000.00).

~~D.~~ F. "Board" means The Board of Governors of the Licensed Architects and Landscape Architects of Oklahoma.

~~E.~~ G. "Certificate of authority" means the authorization granted by the Board for persons to practice or offer to practice

architecture or landscape architecture through a partnership, firm, association, corporation, limited liability company or limited liability partnership.

H. "Technical submissions" means designs, drawings, specifications, studies and other technical reports prepared in the course of practicing architecture.

I. "Responsible control" means the amount of control and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by licensed architects applying the required professional standard of care.

J. "Landscape architect" means a person registered to practice landscape architecture as provided in The State Architectural Act.

~~F.~~ K. "Landscape architecture" means the performance of professional services such as teaching, consultations, investigations, reconnaissance, research, planning, design, preparation of construction drawings and specifications, and construction observation in connection with the arranging of land and the elements thereon for public and private use and enjoyment, including the design and layout of roadways, service areas, parking areas, walkways, steps, ramps, pools, the location of buildings and other structures, and the grading of the land, surface and subsoil drainage, erosion control, planting, reforestation, and the preservation of the natural landscape, in accordance with accepted professional standards.

The practice of landscape architecture shall include the location and arrangement of such tangible objects and features as are incidental and necessary to the purpose outlined for landscape architecture in The State Architectural Act, but shall not include the design of structures or facilities with separate and self-contained purposes for habitation or industry, or the design of public streets, highways, utilities, storm and sanitary sewers and sewage treatment facilities, such as are ordinarily included in the practice of engineering or architecture.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 46.4, as last amended by Section 1 of Enrolled House Bill No. 2222 of the Req. No. 11523Page 5

2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 46.4 There is hereby re-created, to continue until July 1, 2004, in accordance with the provisions of the Oklahoma Sunset Law a Board to be known as "The Board of Governors of the Licensed Architects and Landscape Architects of Oklahoma", hereinafter referred to as the Board. The Board shall be composed of nine (9) members, including six persons who have been duly licensed to practice architecture, and are actively engaged in the practice of architecture in this state or are teaching professors of architecture and duly licensed to practice architecture in this state, two persons who ~~are~~ have been duly licensed to practice landscape architects architecture, and are actively engaged in the practice of landscape architecture in this state or are teaching professors of landscape architecture and duly licensed to practice landscape architecture in this state, and one lay member. Each member of the Board shall be a qualified elector of this state, and the architect members shall have had five (5) years' experience in the application or the study of the principles of architecture after initial registration. Re-creation of the Board shall not alter existing staggered terms. Board members, other than the lay member, shall be appointed for a period of five (5) years thereafter; provided that nothing herein shall affect the tenure of office of anyone who is a member of the Board on the effective date of this act. A member may be reappointed to succeed such membership. The persons engaged in the practice of architecture and landscape architecture, or who are teaching professors of architecture or landscape architecture, may be appointed by the Governor from a list of nominees submitted by respective professional societies of this state. Membership in a professional society shall not be a prerequisite to appointment to the Board. The lay member of the Board shall be appointed by the Governor to a term coterminous with that of the Governor. The lay member shall serve at the pleasure of the Governor. Provided, the lay member may continue to serve after the expiration of the member's term until such time as a successor is appointed.

Vacancies which may occur in the membership of the Board shall be filled by appointment by the Governor. Each person who has been appointed to fill a vacancy shall serve for the remainder of the term for which the member the person shall succeed was appointed and until a successor, in turn, has been appointed and shall have qualified. Each member of the Board, before entering upon the discharge of the duties of the member, shall make and file with the Secretary of State ~~the constitutional~~ a written oath of office or affirmation for the faithful discharge of official duties. Each member of the Board shall be reimbursed for travel expenses pursuant to the State Travel Reimbursement Act.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 46.6, is amended to read as follows:

Section 46.6 The Board shall hold regular meetings with the dates, times and place to be fixed by the Board. The Board shall hold a regular meeting in June of each year, which meeting shall be the annual meeting, at which time it shall elect its officers for the next fiscal year and conduct all other business required under this act. At the regular meeting of the Board herein in June of each year, the Board shall elect from its membership a chairman, a vice-chairman, and a secretary-treasurer, each of whom shall serve until ~~his~~ such officer's respective successor shall have been elected and shall have qualified. The chairman shall preside at all meetings of the Board and shall perform such other duties as the Board may prescribe. ~~The Board shall have a common seal. The secretary-treasurer shall keep a record of the proceedings of the Board, which at all times shall be open to examination by any architect or landscape architect licensed by the Board. He shall have the care and custody of the seal and of the books and records of the Board.~~ The secretary-treasurer shall receive a monthly salary to be fixed by the Board ~~payable monthly;~~ and, ~~in addition thereto,~~ he shall be reimbursed pursuant to the State Travel Reimbursement Act for ~~his~~ travel and other expenses which shall have been incurred while in the performance of ~~his~~ the duties ~~hereunder~~ of this office. Five Board members shall constitute a quorum for the transaction of business.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 46.7, is amended to read as follows:

Section 46.7 In addition to the other powers and duties imposed by law, the Board shall have the power and duty to:

1. ~~prescribe~~ Prescribe such rules ~~and regulations~~, and to make such orders, as it may deem necessary or expedient in the performance of its duties;

2. ~~prepare~~ Prepare, conduct, and grade examinations, ~~written or oral~~, of persons who shall apply for the issuance of licenses to them, and to promulgate such rules ~~and regulations~~ with reference thereto as it may deem proper;

3. ~~determine~~ Contract with nationally recognized registration organizations to prepare, conduct, and grade examinations, written or oral, of persons who shall apply for the issuance of licenses;

4. Determine the satisfactory passing score on such examinations and issue licenses to persons who shall have passed examinations, or who shall otherwise be entitled thereto;

~~4. determine~~ 5. Determine eligibility for licenses and certificates of authority;

~~5. promulgate~~ 6. Promulgate rules ~~and regulations~~ to govern the issuing of reciprocal licenses;

~~6. upon~~ 7. Upon good cause shown, as hereinafter provided, deny the issuance of a license or certificate of authority or suspend, revoke or refuse to renew licenses or certificates of authority previously issued, and upon proper showing, to reinstate them;

~~7. review~~ 8. Review, affirm, reverse, vacate or modify its order with respect to any such denial, suspension, revocation or refusal to renew;

~~8. prescribe~~ 9. Prescribe rules ~~and regulations~~ governing proceedings for the denial of issuance of a license or certificate of authority, suspension, revocation or refusal to renew, for cause, of licenses or certificates of authority heretofore issued and the reinstatement thereof;

~~9. prescribe~~ 10. Prescribe such penalties, as it may deem proper, to be assessed against holders of licenses or certificates

of authority for the failure to pay the biennial fee hereinafter provided for;

~~10. levy~~ 11. Levy civil penalties against any person or entity who shall violate any of the provisions of The State Architectural Act or any rule ~~or regulation~~ promulgated thereto;

~~11. obtain~~ 12. Obtain an office, secure such facilities, and employ, direct, discharge and define the duties and set the salaries of such office personnel as deemed necessary by the Board;

~~12. initiate~~ 13. Initiate disciplinary, ~~prosecution~~ prosecutive, and injunctive proceedings against any person or entity who has violated any of the provisions of The State Architectural Act or any rule ~~or regulation~~ of the Board promulgated pursuant to said act and against the owner/developer of the building type not exempt;

~~13. investigate~~ 14. Investigate alleged violations of The State Architectural Act or of the rules ~~and regulations~~, orders or final decisions of the Board;

~~14. promulgate~~ 15. Promulgate rules of conduct governing the practice of licensed architects and landscape architects;

~~15. keep~~ 16. Keep accurate and complete records of its proceedings, certify the same as may be appropriate;

~~16. whenever~~ 17. Whenever it deems it appropriate, confer with the Attorney General or his assistants in connection with all legal matters and questions. The Board may also retain an attorney who is licensed to practice law in this state. The attorney shall serve at the pleasure of the Board for such compensation as may be provided by the Board. The attorney shall advise the Board and perform legal services for the Board with respect to any matters properly before the Board. In addition to the above, the Board may employ hearing examiners to conduct administrative hearings under the provisions of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes;

18. Prescribe by rules, fees to be charged as required by this act;

19. Adopt rules providing for a program of continuing education in order to insure that all licensed architects or landscape architects remain informed of those technical and professional subjects which the Board deems appropriate to professional architect or landscape architect practice. The Board may by rule describe the methods by which the requirements of such program may be satisfied. Failure to meet such requirements of continuing education shall result in nonrenewal of the license issued to the architect or landscape architect;

20. Adopt rules regarding requirements for intern development as a prerequisite for registration; and

~~17. take~~ 21. Take such other action as may be reasonably necessary or appropriate to effectuate The State Architectural Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 46.8a of Title 59, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person to directly or indirectly engage in the practice of architecture in this state or use the title "Architect", "Registered Architect", "Architectural Designer", or display or use any words, letters, figures, titles, signs, cards, advertisements, or other symbols or devices indicating or tending to indicate that such person is an architect or is practicing architecture, unless the person is registered or licensed under the provisions of this act. No person shall aid or abet any person, not registered or licensed under the provisions of this act, in the practice of architecture.

B. Every person applying to the Board for initial registration shall submit an application accompanied by the fee established in accordance with the rules of the Board, with satisfactory evidence that such person holds an accredited professional degree in architecture or has completed such other education as the Board deems equivalent to an accredited professional degree and with satisfactory evidence that such person has completed such practical training in architectural work as the Board requires. If an applicant is qualified in accordance

with this subsection, the Board shall, by means of a written examination, examine the applicant on such technical and professional subjects as are prescribed by the Board. None of the examination materials shall be considered public records. The Board may exempt from such written examination an applicant who holds a certification issued by the National Council of Architectural Registration Boards. The Board may adopt as its own rules governing practical training and education those guidelines published from time to time by the National Council of Architectural Registration Boards. The Board may also adopt the examinations and grading procedures of the National Council of Architectural Registration Boards and the accreditation decisions of the National Architectural Accrediting Board. The Board shall issue its registration to each applicant who is found to be of good moral character and who satisfies the requirements set forth in this section. Such registration shall be effective upon issuance.

C. Pursuant to such rules as it may have adopted, the Board shall have the power to issue licenses without requiring an examination to persons who have been licensed to practice architecture in states other than the State of Oklahoma, in a territory of the United States, in the District of Columbia, or in a country other than the United States; provided that the state or country has a similar reciprocal provision to authorize the issuance of licenses to persons who have been licensed in this state. If a person who has been licensed in a state other than the State of Oklahoma, or in a territory of the United States, in the District of Columbia, or in a country other than the United States complies with the rules of the Board, the secretary-treasurer, upon the order of the Board in the exercise of its discretion and upon the receipt of the stated payment to the secretary-treasurer pursuant to the rules of the Board, shall issue to said person a license to practice architecture in this state.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 46.9, is amended to read as follows:

Section 46.9 A. The practice of architecture or offering to practice architecture for others by persons registered under this act through a partnership, firm, association, corporation, limited liability company or limited liability partnership as directors, partners, officers, shareholders, employees, managers, members or principals is permitted, subject to the provisions of The State Architectural Act, provided:

1. One or more of the directors, partners, officers, shareholders, managers, members or principals of said partnership, firm, association, corporation, limited liability company or limited liability partnership is designated as being responsible for the architectural activities and decisions of said partnership, firm, association, corporation, limited liability company or limited liability partnership;

2. Such director, partner, officer, shareholder, manager, member or principal is duly licensed or registered under The State Architectural Act;

3. All personnel of said partnership, firm, association, corporation, limited liability company or limited liability partnership which act in its behalf as architects practicing architecture in the state are registered under The State Architectural Act; and

4. Said partnership, firm, association, corporation, limited liability company or limited liability partnership has been issued a certificate of authority by the Board.

B. The Board shall have the power to issue, revoke, deny, or refuse to renew a certificate of authority for a partnership, firm, association ~~or~~, corporation ~~practicing architecture or landscape architecture~~, limited liability company or limited liability partnership as provided for in The State Architectural Act.

~~1-~~ C. A partnership, firm, association ~~or~~, corporation, limited liability company or limited liability partnership desiring to practice architecture ~~or landscape architecture as such~~ shall file with the Board an application ~~listing all~~ for a certificate of authority on a form approved by the Board which

shall include the names, addresses, state of registration and registration number of all partners ~~or,~~ directors, officers, members, managers or principals of the partnership, firm, association ~~or,~~ corporation, limited liability company or limited liability partnership. The form shall name an individual having the practice of architecture ~~or landscape architecture, as the case may be,~~ in his such person's charge who is a director ~~or,~~ partner, officer, member, manager or principal duly registered as an architect to practice architecture in this state ~~or duly registered as a landscape architect to practice landscape architecture in this state~~ through said partnership, firm, association ~~or,~~ corporation, limited liability company or limited liability partnership and other information required by the Board. In the event there shall be a change in any of these persons during the term of the certification, such change shall be filed with the Board within thirty (30) days after the effective date of said change. If all of the requirements of this section and the Board's current rules ~~and regulations~~ have been met, the Board shall issue a certificate of authority to such partnership, firm, association ~~or,~~ corporation, limited liability company or limited liability partnership.

~~2.~~ D. Any other person licensed pursuant to The State Architectural Act, not practicing architecture ~~or landscape architecture~~ as a partnership, firm, association ~~or,~~ corporation, duly authorized by a certificate of authority issued by the Board in this state limited liability company or limited liability partnership, shall practice as an individual.

~~3.~~ E. No such partnership, firm, association ~~or,~~ corporation, limited liability company or limited liability partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, partners, directors ~~or,~~ officers, managers, members or principals by reason of its compliance with the provisions of this section, or shall any individual practicing architecture or landscape architecture be relieved of responsibility for professional services performed as an individual by reason of ~~his~~ such person's employment or

relationship with such partnership, firm, association ~~or~~,
corporation, limited liability company or limited liability
partnership.

~~4. On and after July 1, 1986, the~~ F. The Secretary of State shall not issue a certificate of incorporation to an applicant or a registration as a foreign firm to a firm which includes among the objectives for which it is established any of the words "Architect", "Architectural", "Architecture" or any modification or derivation of the word "Architect", unless the Board has issued for said applicant either a certificate of authority for a firm, or a letter indicating the eligibility of such applicant who is licensed as an individual to practice pursuant to The State Architectural Act. The firm applying shall supply such certificate or letter from the Board with its application for incorporation or registration.

~~5. On and after July 1, 1986, the~~ G. The Secretary of State shall not issue a certificate of incorporation to an applicant or a registration as a foreign firm to a firm which includes among the objectives for which it is established any of the words "Landscape Architect", or "Landscape Architecture", unless the Board has issued for said applicant either a certificate of authority for a firm, or a letter indicating the eligibility of such applicant who is licensed to practice pursuant to The State Architectural Act. The firm applying shall supply such certificate or letter from the Board with its application for incorporation or registration.

~~6. On and after July 1, 1986, the~~ H. The Secretary of State shall not register any trade name or service mark which includes such words, as set forth in ~~paragraph~~ subsection 4 F or 5 G of this section, or modifications or derivatives thereof in its firm name or logotype except those firms or individuals holding certificates of authority issued under the provisions of this section or letters of eligibility issued by the Board.

~~7. I.~~ Upon application for renewal and upon compliance with the provisions of The State Architectural Act and the rules ~~and~~

regulations of the Board, a certificate of authority shall be renewed as provided in ~~Section 14~~ of this act.

~~8. Pursuant to such rules and regulations as it may have adopted, the Board shall have the power to issue licenses without requiring an examination to persons who have been licensed to practice architecture or landscape architecture in states other than the State of Oklahoma, in a territory of the United States, in the District of Columbia, or in a country other than the United States provided that the state, territory, District or country has a similar reciprocal provision to authorize the issuance of licenses to persons who have been licensed in this state. If a person who has been licensed in a state other than the State of Oklahoma, or in a territory of the United States, in the District of Columbia, or in a country other than the United States complies with the rules and regulations of the Board, the secretary-treasurer, upon the order of the Board in the exercise of its discretion and upon the receipt of the stated payment to the secretary-treasurer pursuant to the rules and regulations of the Board, shall issue, pursuant to Section 11 of this act, to said person a license to practice architecture or landscape architecture, as the case may be, in this state.~~

SECTION 8. AMENDATORY 59 O.S. 1991, Section 46.10, is amended to read as follows:

Section 46.10 ~~Pursuant to Section 11 of this act, every~~ Every licensed architect and landscape architect shall pay to the secretary-treasurer of the Board a fee as prescribed by the rules and ~~regulations~~ of the Board. Upon receipt of the fee the secretary-treasurer shall issue a renewal of the license, which shall authorize the person to practice architecture or landscape architecture, as the case may be, in this state. The license of an architect or landscape architect which has been canceled by the Board for nonpayment of dues may be renewed at any time within three (3) years from the date of the cancellation, upon payment to the secretary-treasurer of the fees which had accrued at the time of the cancellation and which would have been paid at the time of reinstatement had not the license been suspended, together with

payment of the amount of penalties which may have been prescribed by the Board. If a license remains canceled for a period exceeding three (3) consecutive years, it shall not be reinstated unless the licensee has taken an examination as may be prescribed by the Board. A partnership, firm, association ~~or~~, corporation, limited liability company or limited liability partnership shall pay to the secretary-treasurer the fee prescribed and in the manner provided by the rules ~~and regulations~~ of the Board for the renewal of the certificate of authority for such partnership, firm, association ~~or~~, corporation, limited liability company or limited liability partnership.

SECTION 9. AMENDATORY 59 O.S. 1991, Section 46.11, is amended to read as follows:

Section 46.11 No license ~~or certificate of authority~~ for architects or landscape architects, or a certificate of authority for a partnership, firm, association, corporation, limited liability company or limited liability partnership, shall be issued or renewed for longer than two (2) years. A license or certificate ~~of authority~~ may be renewed upon application, compliance with the rules ~~and regulations~~ of the Board, and payment of fees prior to or on June 30 of alternate years beginning July 1, 1986. Every registered architect or landscape architect having a place of business or employment within the state shall display such person's license in a conspicuous place in such place of business or employment. A new license to replace a lost, destroyed or mutilated license shall be issued by the Board upon payment of a fee established in accordance with the rules of the Board and such certificate shall be stamped or marked "duplicate".

SECTION 10. AMENDATORY 59 O.S. 1991, Section 46.12, is amended to read as follows:

Section 46.12 After the expiration of a period of six (6) months and upon payment to the secretary-treasurer of a fee as prescribed by the rules ~~and regulations~~ of the Board, a person or entity whose license or certificate of authority has been suspended or revoked for cause, pursuant to the provisions of The

State Architectural Act, may file an application with the secretary-treasurer for the reinstatement of said license or certificate of authority. After a showing has been made by the applicant to the Board that the interests of the public will not suffer by reason of ~~his or its~~ reinstatement, the Board in its discretion may order the reinstatement of the license or certificate of authority upon the payment of a sum equal to the fees which would have accrued had not the license or certificate of authority of the applicant been suspended or revoked.

SECTION 11. AMENDATORY 59 O.S. 1991, Section 46.14, is amended to read as follows:

Section 46.14 The Board, ~~upon the filing with the secretary-treasurer of a written complaint, verified by the oath of the complainant after a public hearing which shall have been held pursuant to the rules and regulations prescribed by it,~~ shall have power to suspend, to revoke or refuse to renew a license or certificate of authority issued by it, pursuant to the provisions of The State Architectural Act, when the holder thereof:

1. Shall have been convicted of a felony;
2. Shall have been guilty of fraud or misrepresentation in the person's application, whether for an examination or for a license without examination, or of fraud in the examination;
3. Shall have been guilty of gross incompetency or recklessness in the practice of architecture relating to the construction of buildings or structures, or of dishonest practices;
4. Shall have been guilty of gross incompetency or recklessness in the practice of landscape architecture, or of dishonest practices;
5. Shall have been found to be guilty of a violation of a provision of The State Architectural Act or the rules ~~and regulations~~ of the Board; provided, that a person or entity complained of:
 - a. shall first have been ~~given~~ served notice in ~~writing~~ the same manner as provided by law in other civil actions of the charges filed against the person or

entity and of the time ~~and~~, place, and nature of the ~~meeting of hearing before~~ the Board ~~for the hearing and determination thereof, by registered mail addressed to the person's or entity's last-known address as it shall appear on the records of the Board, which shall have been deposited in a post office in this state at least twenty (20) days before the date of the hearing;~~ and

- b. shall have the right to be represented by counsel and an opportunity to ~~defend himself or itself~~ respond and present evidence and argument on all issues involved, by the introduction of evidence and by the examination and cross-examination of witnesses, and to compel the attendance of witnesses and the production of books and papers. Pursuant to the foregoing, the Board shall have the power of a court of record, including the power to issue subpoena and to compel the attendance and testimony of witnesses. Each member of the Board shall have the power to administer oaths and to issue subpoena. Whenever any person who shall have been subpoenaed to appear to give testimony, or to answer any pertinent or proper question, or to produce books, papers or documents which shall have been designated in a subpoena, either on behalf of the prosecution or on behalf of the accused, shall refuse to appear to testify before the Board, or to answer any pertinent or proper questions, or to produce a book, paper or document which shall have been designated in a subpoena, ~~he~~ the person shall be deemed to be in contempt of the Board, and it shall be the duty of the presiding officer of the Board, to report the fact to the district court of the State of Oklahoma in and for the county in which such person may be or may reside whereupon the court shall issue an attachment in the usual form, directed to the

sheriff of the county, which shall command ~~him~~ the sheriff to attach such person and forthwith bring the person before the court. On the return of the attachment duly served upon the accused, or upon the production of the person attached, the district court shall have jurisdiction of the matter. The person charged may purge himself or herself of the contempt in the same way and the same proceedings shall be had, and the same penalties may be imposed, as in the case of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a district court of the State of Oklahoma.

Depositions may be taken and used in the same manner as in civil cases. The Board shall keep a record of the evidence in, and a record of each proceeding for the suspension, revocation of or refusal to renew a license or certificate of authority and shall make findings of fact and render a decision therein. If, after a hearing, the charges shall have been found to have been sustained by the vote of a majority of the members of the Board it shall ~~forthwith~~ immediately enter its order of suspension, revocation or refusal to renew, as the case may be. ~~If after the expiration of ten (10) days from the date of the rendition thereof, a notice of appeal shall not have been filed with the secretary-treasurer as hereinafter provided, the secretary-treasurer shall endorse upon the record of the certificate in his office the word "suspended", "revoked" or "refused to renew", as the case may be.~~

SECTION 12. AMENDATORY 59 O.S. 1991, Section 46.15, is amended to read as follows:

Section 46.15 Any person or entity aggrieved by a final order of the Board may appeal from such decision by filing a petition in the District Court of Oklahoma County within thirty (30) days from the date of such final order. The ~~district court~~ District Court

of Oklahoma County shall have jurisdiction of an appeal from the Board, and shall have power to affirm, reverse or modify the decisions of the Board. ~~Such appeals shall be commenced by the filing with the clerk of the district court a certified copy of the order of the Board attached to the petition of the complainant, wherein the complainant, or petitioner, shall make his assignments or specifications as to wherein said decision is erroneous or illegal. Upon the filing of said petition and notice given to the Board by the clerk of said court, it shall be the duty of the Board to file in the court within thirty (30) days from the date of the notice a full and complete transcript of all proceedings had in said cause. The cost of the preparation of the same shall be borne by the Board. The Board shall be deemed a party to such proceedings, and the Attorney General, without extra compensation, shall represent the Board therein. Such appeals shall be subject to the law and practice applicable to other civil actions. Upon final determination of said appeal, in which the decision of the Board is sought to be reviewed, the Board shall make an order and decision in accordance with the decision of said court.~~ Provided, that any party to said appeal may appeal from the decision of said district court to the Supreme Court of Oklahoma in the same manner as provided by law in other civil actions.

SECTION 13. AMENDATORY 59 O.S. 1991, Section 46.18, is amended to read as follows:

Section 46.18 A. Any person or entity who has been determined by the Board to have violated any provision of The State Architectural Act or any rule, ~~regulation,~~ or order issued pursuant to the provisions of The State Architectural Act may be liable for a civil penalty of not more than One Hundred Dollars (\$100.00) for each day that said violation continues. The maximum civil penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations.

B. The amount of the penalty shall be assessed by the Board pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the

Board shall include but not be limited to consideration of the nature, circumstances, and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of The State Architectural Act. All monies collected from such civil penalties shall be deposited with the State Treasurer of Oklahoma and ~~by him~~ placed in the Board of Architects' Fund.

C. Any license or certificate of authority holder may elect to surrender ~~his~~ the license or its certificate of authority in lieu of said fine but shall be forever barred from obtaining a reissuance of said license or certificate of authority.

SECTION 14. AMENDATORY 59 O.S. 1991, Section 46.21, is amended to read as follows:

Section 46.21 A. The State Architectural Act shall not apply to any persons, firms, ~~or~~ corporations, limited liability companies or limited liability partnerships who prepare plans and specifications for persons, firms, ~~or~~ corporations, limited liability companies or limited liability partnerships other than ~~himself or itself~~ such person or entity, for buildings not specified in The State Architectural Act requiring an architect licensed under the laws of the State of Oklahoma, providing such persons, firms, ~~or~~ corporations, limited liability companies or limited liability partnerships shall not, in any manner, represent ~~himself or itself~~ such person or entity to be an architect or other title of profession or business using a form of the word, "Architect", and providing further that nothing in The State Architectural Act shall prevent such persons, firms, ~~or~~ corporations, limited liability companies or limited liability partnerships advertising or selling such service.

B. Nothing in this act shall be construed to prevent:

1. The preparation of technical submissions or the administration of construction contracts by employees of a person or entity lawfully engaged in the practice of architecture when

such employees are acting under the responsible control of a registered architect.

2. A nonresident, who holds the certification issued by the National Council of Architectural Registration Boards, from offering to render the professional services involved in the practice of architecture; provided, that the person shall not perform any of the professional services involved in the practice of architecture until registered as hereinbefore provided; and further provided, that the person shall notify the Board in writing that:

- a. the person holds a National Council of Architectural Registration Boards certificate and is not currently registered in the jurisdiction, but will be present in the state for the purpose of offering to render architectural services,
- b. the person will deliver a copy of such notice to every potential client to whom the applicant offers to render architectural services, and
- c. the person promises to apply immediately to the Board for registration if selected as the architect for the project;

3. A person, who holds the certification issued by the National Council of Architectural Registration Boards but who is not currently registered in the jurisdiction, from seeking an architectural commission by participating in an architectural design competition for a project in the state; provided, that the person shall notify the Board in writing that:

- a. the person holds a National Council of Architectural Registration Boards certificate and is not currently registered in the jurisdiction, but will be present in the state for the purpose of participating in an architectural design competition,
- b. the person will deliver a copy of such notice to every person conducting an architectural design competition in which the applicant participates, and

c. the person promises to apply immediately to the Board for registration if selected as the architect for the project.

SECTION 15. AMENDATORY 59 O.S. 1991, Section 46.24, is amended to read as follows:

Section 46.24 A. Except as otherwise provided in The State Architectural Act, no license shall be issued to any person to practice architecture in this state unless the person:

1. Is twenty-one (21) years of age or over and is of good moral character; ~~and~~

2. Is an actual bona fide resident of this state, except the Board may waive this requirement in the case of a bona fide resident of a foreign country or in any other case when the Board determines the applicant for a license is not seeking to avoid the requirements of ~~his~~ the state of residence for a license; ~~and~~

3. ~~Is a graduate of an accredited program in architecture;~~
~~and~~

4. ~~Is the holder of an accredited professional degree in architecture and shall have had such practical training as the Board, by ~~regulation~~ rule, shall deem appropriate. In lieu of the requirement of an accredited professional degree, the Board may register an applicant who demonstrates in accordance with such standards and requirements as the Board adopts by ~~regulation~~ rule that the person has such other educational experience as the Board deems equivalent to an accredited professional degree in architecture;~~ ~~and~~

5. ~~4.~~ Has paid to the secretary-treasurer a fee as prescribed by the rules ~~and regulations~~ of the Board plus the actual cost of the examination; and

6. ~~5.~~ Has passed the examinations prescribed by the Board for the issuance of a license.

B. Upon meeting the requirements of subsection A of this section and payment of an initial fee as may be prescribed by the rules ~~and regulations~~ of the Board, the secretary-treasurer shall issue to the applicant a license ~~pursuant to Section 11 of this~~

~~act~~ which shall authorize the applicant to engage in the practice of architecture in this state.

C. The examination for a license to practice architecture in this state shall be held not less than once each year, shall cover such subjects as may be prescribed by the Board and shall be graded on such basis as the Board shall prescribe by ~~regulation~~ rule. The Board may adopt the examinations, requirements for admission to the examinations and the grading procedures of the National Council of Architectural Registration Boards. Notice of the time and place for the holding of examinations shall be given in the manner and form prescribed by the Board.

D. The license certificate shall be in a form prescribed by the Board. The certificate shall be signed by the chairman and by the secretary-treasurer of the Board and shall bear the impress of the seal of the Board. All papers received by the Board relating to an application for a license, to an examination and to the issuance of a license shall be retained by the Board for three (3) years.

E. The following Board records and papers are of a confidential nature and are not public records: Examination material for examinations before and after they are given, file records of examination problem solutions, letters of inquiry and reference concerning applicants, Board inquiry forms concerning applicants, and investigation files where any investigation is still pending.

SECTION 16. AMENDATORY 59 O.S. 1991, Section 46.25, is amended to read as follows:

Section 46.25 Each licensed architect shall have a seal, the image of which must contain the name of the architect, ~~his~~ the person's place of business and the words, "Licensed Architect, State of Oklahoma". ~~The seal shall be affixed upon all contract drawings, specifications and all addenda issued by the architect whether for use in this state or elsewhere. It shall be unlawful for a licensed architect to affix the seal, or to permit it to be affixed, upon drawings or specifications which were not prepared under the architect's personal and direct supervision.~~

All technical submissions prepared by such architect, or under the responsible control of the architect, shall be stamped with the impression of the seal, which shall mean that the architect was in responsible control over the content of such technical submissions during their preparation and has applied the required professional standard of care. No registered architect may sign or seal technical submissions unless they were prepared by or under the responsible control of the architect; except that:

1. The person may sign or seal those portions of the technical submissions that were prepared by or under the responsible control of persons who are registered under The State Architectural Act if the architect has reviewed and adapted in whole or in part such portions and has either coordinated their preparation or integrated them into the work; and

2. The person may sign or seal those portions of the technical submissions that are not required to be prepared by or under the responsible control of an architect if the architect has reviewed and adapted in whole or in part such submissions and integrated them into the work. The seal may be a rubber stamp or may be generated electronically, pursuant to rules adopted by the Board.

SECTION 17. AMENDATORY 59 O.S. 1991, Section 46.31, is amended to read as follows:

Section 46.31 ~~(1)~~ A. Any person of good moral character who is a legal resident of the State of Oklahoma and who is twenty-one (21) years of age or older, with a degree from an approved landscape architecture program and upon completion of practical training as the Board, by ~~regulation~~ rule, shall deem appropriate, whose application has been approved by the Board, and who has fulfilled such other requirements as determined by The State Architectural Act and the rules ~~and regulations~~ of the Board, upon the payment to the secretary-treasurer of a fee as prescribed by the rules ~~and regulations~~ of the Board, plus an amount to be determined by the Board, equal to the cost of the examination, may take an examination for the purpose of securing a license to practice landscape architecture in this state. Examinations shall

be held not less than once each year by the Board or by a committee appointed by it to do so. Notice of the time and place of the holding of examinations shall be given in manner and form as prescribed by the Board.

~~(2)~~ B. The Board shall establish rules ~~and regulations~~ for examination of landscape architects and may elect to follow the recommendations of the Council of Landscape Architects Registration Board (CLARB). The examinations shall be designed to determine the qualifications of the applicant to practice landscape architecture. The examination shall cover such technical, professional and practical subjects as relate to the practice of the profession of landscape architecture. The examination shall also cover the basic arts and sciences, a knowledge of which is material and necessary to the proper understanding, application and qualification for practice of the profession of landscape architecture. The minimum passing grade in all subjects of the examination shall be as established by the Board. An applicant receiving a passing grade on a subject included in the examination will be given credit for that subject. ~~However, an applicant failing to receive a passing grade on all subjects after taking the examination three times shall be required to repeat the entire examination but need not file a new application.~~ Applicants for readmittance to the examination shall pay the full examination fee for each testing.

Upon passage of the examination, completion of the Board's requirements as prescribed by rules ~~and regulations~~, and the payment of a sum as prescribed by the rules ~~and regulations~~ of the Board, the secretary-treasurer shall issue to the applicant a license certificate which shall authorize ~~him~~ the person to engage in the practice of landscape architecture in this state ~~pursuant to Section 11 of this act.~~

C. Pursuant to such rules as it may have adopted, the Board shall have the power to issue licenses without requiring an examination to persons who have been licensed to practice landscape architecture in states other than the State of Oklahoma, in a territory of the United States, in the District of Columbia,

or in a country other than the United States provided that the state, territory, district or country has a similar reciprocal provision to authorize the issuance of licenses to persons who have been licensed in this state. If a person who has been licensed in a state other than the State of Oklahoma, or in a territory of the United States, in the District of Columbia, or in a country other than the United States complies with the rules of the Board, the secretary-treasurer, upon the order of the Board in the exercise of its discretion and upon the receipt of the stated fee by the secretary-treasurer pursuant to the rules of the Board, shall issue to said person a license to practice landscape architecture in this state.

SECTION 18. AMENDATORY 59 O.S. 1991, Section 46.32, is amended to read as follows:

Section 46.32 ~~(1)~~ A. The privilege of engaging in the practice of landscape architecture is personal, based upon the qualifications of the individual evidenced by ~~his~~ the individual's registration and is not transferable. All final drawings, specifications, plans, reports or other papers or documents involving the practice of landscape architecture, as defined when issued or filed for public record, shall be dated and bear the signature and seal of the landscape architect or landscape architects who prepared or approved same.

~~(2)~~ B. The practice of landscape architecture for others by individual landscape architects registered under this act through a corporation ~~or through a~~, partnership, firm, association, limited liability company or limited liability partnership or by a corporation ~~or~~, partnership or firm through individual landscape architects registered under this act is permitted; ~~subject to this act;~~ provided, however:

~~(a)~~ 1. One or more of the partners, directors, officers, shareholders, managers, members or principals of said partnership, firm, association, corporation, limited liability company or limited liability partnership are designated as being responsible for the landscape architectural activities and decisions of said

partnership, firm, association, corporation, limited liability company or limited liability partnership;

2. Such partnership, director, officer, shareholder, manager, member or principal is duly licensed or registered under The State Architectural Act;

3. All personnel of ~~the corporation or~~ said partnership, firm, association, corporation, limited liability company or limited liability partnership who act in its behalf as landscape architects practicing landscape architecture in the state are registered under ~~this act~~ The State Architectural Act; and

~~(b) The corporation or~~ 4. Said partnership, firm, association, corporation, limited liability company or limited liability partnership has been issued a certificate of ~~authorization~~ authority by the Board.

SECTION 19. AMENDATORY 59 O.S. 1991, Section 46.36, is amended to read as follows:

Section 46.36 It shall be unlawful for a landscape architect, at any time, to bid for a contract for the reparation, alteration or construction of a project for which the landscape architect has prepared construction documents ~~unless the owner has previously been notified in writing of the landscape architect's intent to enter a bid and to engage in construction of the project and the owner has consented to the same.~~

SECTION 20. REPEALER 59 O.S. 1991, Sections 46.5, 46.8, 46.13, 46.16, 46.22 and 46.23, are hereby repealed.

SECTION 21. This act shall become effective July 1, 1998.

SECTION 22. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-2-11523 MCD