

ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 2379

By: Wilt of the House

and

Myers of the Senate

(professions and occupations - amending 59 O.S.,
Sections 1689, 1692, 1850.10 and 1850.14 -
Electrical License Act - Mechanical Licensing Act -
effective date)

AMENDMENT NO. 1. Page 1, strike the title, enacting clause
and entire bill and insert

"[professions and occupations - State Architectural
Act -
effective date]

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 46.1, is
amended to read as follows:

Section 46.1 This act shall be known and may be cited as ~~"The~~
the "State Architectural Act".

SECTION 2. AMENDATORY 59 O.S. 2001, 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, 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, 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~~ 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~~ 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 3. AMENDATORY 59 O.S. 2001, Section 46.3, as amended by Section 1, Chapter 77, O.S.L. 2005 (59 O.S. Supp. 2005, Section 46.3), is amended to read as follows:

Section 46.3 ~~A.~~ As used in the State Architectural Act:

1. "Architect" means any person who is licensed and engages in the practice of architecture as hereinafter defined~~;~~;

~~B. The "practice~~ 2. "Practice of architecture" shall be defined as means rendering or offering to render certain services, in connection with the design and construction, enlargement or alteration of a building or a group of buildings and the space surrounding such buildings, 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. 3. "Registration or licensure license" means a certificate of registration or licensure license issued by the Board to a person. The definition of "license" or "registration" shall be synonymous;~~

~~E. A "building"~~ 4. "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).

~~F.~~ 5. "Board" means ~~The~~ the Board of Governors of the Licensed Architects and Landscape Architects of Oklahoma~~;~~;

~~G.~~ 6. "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.~~ 7. "Technical submissions" means designs, drawings, specifications, studies and other technical reports prepared in the course of practicing architecture~~;~~ or landscape architecture;

~~I.~~ 8. "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 or landscape architects applying the required professional standard of care~~;~~;

~~J.~~ 9. "Landscape architect" means a person ~~registered~~ licensed to practice landscape architecture as provided in ~~The~~ the State Architectural Act~~;~~; and

~~K.~~ 10. "Landscape architecture" means the performance of professional services defined as teaching, consultations, investigations, reconnaissance, research, planning, design, preparation of construction drawings and specifications, and construction observation in connection with the planning and 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 and siting of improvements including 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, and to the extent that the dominant purpose of such services or creative works is the preservation, conservation, enhancement, or determination of proper land uses, natural land features, ground cover and plantings, or naturalistic and aesthetic values.

The practice of landscape architecture shall include the location and arrangement of tangible objects and features as are incidental and necessary to the purpose outlined for landscape architecture. The practice of landscape architecture 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, that are statutorily defined as the practice of engineering or architecture.

SECTION 4. AMENDATORY 59 O.S. 2001, Section 46.4, as amended by Section 1, Chapter 30, O.S.L. 2004 (59 O.S. Supp. 2005, Section 46.4), is amended to read as follows:

Section 46.4 There is hereby re-created, to continue until July 1, 2010, in accordance with the provisions of the Oklahoma Sunset Law, a Board to be known as ~~"The~~ 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 have been duly licensed to practice landscape 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 and landscape

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 of the member 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 a written oath 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 5. AMENDATORY 59 O.S. 2001, 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~~ chair, a ~~vice-chairman~~ vice chair, and a secretary-treasurer, each of whom shall serve until such officer's respective successor shall have been elected and shall have qualified. The position of the secretary-treasurer shall not count against the agency's full-time-equivalent limits authorized by the Legislature. The ~~chairman~~ chair shall preside at all meetings of the Board and shall perform such other duties as the Board may prescribe. The secretary-treasurer shall receive a monthly salary to be fixed by the Board and shall be reimbursed pursuant to the State Travel Reimbursement Act for travel and other expenses which shall have been incurred while in the performance of the duties of this office. ~~Five~~ Six Board members shall constitute a quorum for the transaction of business.

SECTION 6. AMENDATORY 59 O.S. 2001, 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 such rules and to make such orders, as it may deem necessary or expedient in the performance of its duties;
2. Prepare, conduct, and grade examinations of persons who shall apply for the issuance of licenses to them, and to promulgate such rules with reference thereto as it may deem proper;
3. 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;

5. Determine eligibility for licenses and certificates of authority;

6. Promulgate rules to govern the issuing of reciprocal licenses;

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;

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

9. Prescribe rules 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;

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;

11. Levy civil penalties plus the legal costs incurred by the Board to prosecute the case against any person or entity who shall violate any of the provisions of ~~The~~ the State Architectural Act or any rule promulgated thereto;

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;

13. Initiate disciplinary action, ~~prosecutive,~~ prosecute and ~~injunctive proceedings~~ seek injunctions against any person or entity who has violated any of the provisions of ~~The~~ the State

Architectural Act or any rule of the Board promulgated pursuant to said act and against the owner/developer of the building type not exempt;

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

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

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

17. Whenever it deems it appropriate, confer with the Attorney General or ~~his~~ the Attorney General's 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

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

SECTION 7. AMENDATORY 59 O.S. 2001, Section 46.8a, is amended to read as follows:

Section 46.8a 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 an initial ~~registration~~ license 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~~ license to each applicant who is found to be of good moral character and who satisfies the requirements set forth in this section. Such ~~registration~~ license 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, acting in the exercise of his or her discretion or upon the order of the Board in the exercise of its discretion and upon the receipt of the stated payment to the ~~secretary-treasurer~~ Board pursuant to the rules of the Board, shall issue to ~~said~~ the person a license to practice architecture in this state.

SECTION 8. AMENDATORY 59 O.S. 2001, Section 46.9, is amended to read as follows:

Section 46.9 A. The practice of architecture or landscape architecture or offering to practice architecture these professions

for others by persons ~~registered~~ licensed 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~~ 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~~ entity's 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~~ 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 of the entity for these professions in the state are ~~registered~~ licensed under ~~The~~ 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, corporation, limited liability company or limited liability partnership as provided for in ~~The~~ the State Architectural Act.

C. A partnership, firm, association, corporation, limited liability company or limited liability partnership desiring to practice architecture or landscape architecture shall file with the

Board an application 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, directors, officers, members, managers or principals of the partnership, firm, association, corporation, limited liability company or limited liability partnership legally responsible for the entity's practice. The form shall name an individual having the practice of architecture in such person's charge who is a director, partner, officer, member, manager or principal. The person shall be duly registered licensed as an architect to practice architecture or is licensed as a landscape architect to practice landscape architecture in this state through said partnership, firm, association, corporation, limited liability company or limited liability partnership legally responsible for the entity's practice or services offered 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 have been met, the Board shall issue a certificate of authority to such partnership, firm, association, corporation, limited liability company or limited liability partnership.

D. Any other person licensed pursuant to ~~The~~ the State Architectural Act, not practicing ~~architecture~~ these professions as a partnership, firm, association, corporation, limited liability company or limited liability partnership, shall practice as an individual.

E. No such partnership, firm, association, corporation, limited liability company or limited liability partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, partners, directors, 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~~ these professions be relieved of responsibility for
professional services performed as an individual by reason of such
person's employment or relationship with such partnership, firm,
association, corporation, limited liability company or limited
liability partnership.

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~~ or register a foreign corporation or any other entity which
includes among the objectives for which it is established any of the
words "Architect", "Architectural", "Architecture", "Landscape
Architect", "Landscape Architecture" or any modification or
derivation of ~~the word "Architect"~~ these words, unless the Board has
issued for ~~said~~ the applicant either a certificate of authority for
~~a firm~~ an entity, or a letter indicating the eligibility ~~of such~~
~~applicant who is licensed as an individual to practice~~ for an
exemption pursuant to ~~The~~ the State Architectural Act. The firm
applying shall supply such certificate or letter from the Board with
its application for incorporation or registration.

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.~~

H. The Secretary of State shall not register any trade name or
service mark which includes such words, as set forth in subsection F
~~or G~~ of this section, or modifications or derivatives thereof in its

firm name or logotype except those ~~firms~~ entities or individuals holding certificates of authority issued under the provisions of this section or letters of eligibility issued by the Board.

~~F.~~ H. Upon application for renewal and upon compliance with the provisions of ~~The~~ the State Architectural Act and the rules of the Board, a certificate of authority shall be renewed as provided in this act.

SECTION 9. AMENDATORY 59 O.S. 2001, Section 46.10, is amended to read as follows:

Section 46.10 Every licensed architect and landscape architect shall pay to the ~~secretary-treasurer of the~~ Board a fee as prescribed by the rules of the Board. Upon receipt of the fee, the ~~secretary-treasurer~~ Board 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~~ Board 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 or submitted to a test or a quiz or a Board review or an examination as the circumstances of the individual case may warrant and as may be prescribed by the Board in order to determine continued competency of the licensee. A partnership, firm, association, corporation, limited liability company or limited liability partnership shall pay to the ~~secretary-treasurer~~ Board the fee prescribed and in the manner provided by the rules of the Board for the renewal of the certificate of authority for such

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

SECTION 10. AMENDATORY 59 O.S. 2001, Section 46.11, is amended to read as follows:

Section 46.11 No license 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 may be renewed upon application, compliance with the rules of the Board, and payment of fees prior to or on June 30 of alternate years beginning July 1, 1986. Every ~~registered~~ licensed 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 11. AMENDATORY 59 O.S. 2001, 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~~ Board of a fee as prescribed by the rules 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~~ 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 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 12. AMENDATORY 59 O.S. 2001, Section 46.14, is amended to read as follows:

Section 46.14 The Board 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~~ 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~~ incompetence 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~~ incompetence or recklessness in the practice of landscape architecture, or of dishonest practices; or
5. Shall have been found to be guilty of a violation of a provision of ~~The~~ the State Architectural Act or the rules of the Board; provided, that a person or entity complained of:
 - a. shall first have been served notice in the same manner as provided by law in other civil actions of the charges filed against the person or entity and of the time, place, and nature of the hearing before the Board, and
 - b. shall have the right to be represented by counsel and an opportunity to 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, 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 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 immediately enter its order of suspension, revocation or refusal to renew, as the case may be.

SECTION 13. AMENDATORY 59 O.S. 2001, Section 46.17, is amended to read as follows:

Section 46.17 Any person or entity convicted of violating any provision of ~~The~~ the State Architectural Act shall be guilty of a misdemeanor. The continued violation of any provision of ~~The~~ the State Architectural Act during each day shall be deemed to be a separate offense. Upon conviction thereof the person or entity shall be punished by imprisonment in the county jail not to exceed one (1) year, or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment for each offense. The Board may request the appropriate district attorney to prosecute such violation and seek an injunction against such practice.

SECTION 14. AMENDATORY 59 O.S. 2001, 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~~ the State Architectural Act or any rule or order issued pursuant to the provisions of ~~The~~ 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 plus the legal costs incurred by the Board to prosecute the case. The maximum civil penalty shall

not exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations plus the legal costs incurred by the Board to prosecute the case.

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~~ the State Architectural Act. All monies collected from such civil penalties shall be deposited with the State Treasurer of Oklahoma and placed in the Board of Architects' Fund.

C. Any license or certificate of authority holder may elect to surrender 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 15. AMENDATORY 59 O.S. 2001, Section 46.19, is amended to read as follows:

Section 46.19 All monies which shall be paid to the ~~secretary-treasurer~~ Board pursuant to the provisions of ~~The~~ the State Architectural Act shall be deposited with the State Treasurer of Oklahoma and ~~by him~~ placed in a separate and distinct fund to be known as the "Board of Architects' Fund". At the end of each fiscal year hereafter such unexpended balance remaining in the Board of Architects' Fund shall be carried over and continued therein. All sums of money now or hereafter to be or to come into the fund are hereby appropriated for the purpose of effectuating the purposes of ~~The~~ the State Architectural Act, and to pay all costs and expenses heretofore and hereafter incurred in connection therewith.

SECTION 16. AMENDATORY 59 O.S. 2001, Section 46.21, is amended to read as follows:

Section 46.21 A. The State Architectural Act shall not apply to any persons, firms, corporations, limited liability companies or limited liability partnerships who prepare plans and specifications for persons, firms, corporations, limited liability companies or limited liability partnerships other than such person or entity, for buildings not specified in ~~The~~ the State Architectural Act requiring an architect licensed under the laws of the State of Oklahoma, providing such persons, firms, corporations, limited liability companies or limited liability partnerships shall not, in any manner, represent 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~~ the State Architectural Act shall prevent such persons, firms, 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; or

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 17. AMENDATORY 59 O.S. 2001, Section 46.24, is amended to read as follows:

Section 46.24 A. Except as otherwise provided in ~~The~~ 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;

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 the state of residence for a license;

3. Is the holder of an accredited professional degree in architecture and shall have had such practical training as the Board, by 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 rule that the person has such other educational experience as the Board deems equivalent to an accredited professional degree in architecture;

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

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 of the Board, the ~~secretary-treasurer~~ Board shall issue to the applicant a license 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 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~~ chair 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 18. AMENDATORY 59 O.S. 2001, 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, ~~the person's place of business~~ and the words, "Licensed Architect, State of Oklahoma".

All technical submissions prepared by such architect, or under the responsible control of the architect, shall be ~~stamped with the impression of the seal~~ sealed, signed and dated, 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~~ licensed 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~~ licensed under ~~The~~ 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 19. AMENDATORY 59 O.S. 2001, Section 46.28, as amended by Section 2, Chapter 77, O.S.L. 2005 (59 O.S. Supp. 2005, Section 46.28), is amended to read as follows:

Section 46.28 The State Architectural Act shall not require the registration of practitioners of the following professions and occupations to practice landscape architecture:

1. A professional civil engineer, as defined in Section 475.2 of this title, certified to practice his profession in this state under any act to regulate the practice of that profession. Nothing contained in ~~The~~ the State Architectural Act shall be construed as precluding an architect or engineer from performing services included within the definition of "landscape architecture" when incidental to the performance of ~~his~~ the normal practice as an architect or engineer;

2. A landscape contractor building or installing what was designed by a landscape architect;

3. An agriculturist, horticulturist, forester as defined in Section 1202 of this title, nursery operator, gardener, landscape gardener, garden or lawn caretaker and grader or cultivator of land involved in the selection, placement, planting and maintenance of plant material;

4. Persons who act under the supervision of a ~~registered~~ licensed landscape architect or an employee of a person lawfully

engaged in the practice of landscape architecture and who, in either event, does not assume responsible charge of design or supervision;

5. Regional planners or urban planners, who evaluate and develop land-use plans to provide for community and municipal projections of growth patterns based on demographic needs;

6. A landscape designer or contractor whose business is to consult and prepare plans and specifications with respect to choosing types of plants and planning the location thereof and the design of landscapes for those projects or whose work is limited to projects for a single-family residential home. Landscape design or installation work may also be performed by an owner or occupant on the single-family residence of the owner or occupant;

7. Persons other than landscape architects who prepare details and shop drawings for use in connection with the execution of their work;

8. Builders or their superintendents in the supervision of landscape architectural projects; and

9. Persons in the occupations set forth in this section shall not use the title "landscape architect" or hold themselves out to practice "landscape architecture" without complying with the provisions of ~~The~~ the State Architectural Act and the rules and regulations of the Board.

SECTION 20. AMENDATORY 59 O.S. 2001, Section 46.29, is amended to read as follows:

Section 46.29 No person shall practice landscape architecture in this state, or use the title "landscape architect" on any sign, title, card or device to indicate that such person is practicing landscape architecture or is a landscape architect, unless such person shall have secured from the Board a ~~registration certificate~~ license.

SECTION 21. AMENDATORY 59 O.S. 2001, Section 46.30, is amended to read as follows:

Section 46.30 The Board shall ~~register~~ license, as a landscape architect, each applicant who demonstrates to the satisfaction of the Board his or her fitness for such ~~registration~~ license as provided in this act.

The Board shall issue to each individual ~~registered~~ licensed a certificate of qualification and the right to use the title "landscape architect", and to practice landscape architecture in the state.

SECTION 22. AMENDATORY 59 O.S. 2001, Section 46.31, is amended to read as follows:

Section 46.31 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 rule, shall deem appropriate, whose application has been approved by the Board, and who has fulfilled such other requirements as determined by ~~The~~ the State Architectural Act and the rules of the Board, upon the payment to the ~~secretary-treasurer~~ Board of a fee as prescribed by the rules 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.

B. The Board shall establish rules 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, ~~and~~ and knowledge of ~~which is~~ material ~~and~~ which is 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 to the rules of the Board. 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 the payment of a sum as prescribed by the rules of the Board, the ~~secretary-treasurer~~ Board shall issue to the applicant a license certificate which shall authorize the person to engage in the practice of landscape architecture in this state.

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 act and rules of the Board, the secretary-treasurer, in the exercise of his or her discretion, or 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 the person a license to practice landscape architecture in this state.~~

SECTION 23. AMENDATORY 59 O.S. 2001, Section 46.32, is amended to read as follows:

Section 46.32 ~~A.~~ The privilege of engaging in the practice of landscape architecture is personal, based upon the qualifications of the individual evidenced by 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.~~

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

~~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 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 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.~~

SECTION 24. AMENDATORY 59 O.S. 2001, Section 46.33, is amended to read as follows:

Section 46.33 The Board may restore a ~~registration certificate~~ license to any person whose ~~registration~~ license has lapsed or has been revoked or suspended. Application for the reissuance of a ~~registration certificate~~ license and fees shall be made in such manner as the Board may direct.

SECTION 25. AMENDATORY 59 O.S. 2001, Section 46.34, is amended to read as follows:

Section 46.34 ~~(1) For the purpose of sealing and signing all final drawings, plans, specifications, reports, and other contract documents, each registered landscape architect shall obtain a seal as specified by the Board to be used on documents prepared by or under the landscape architect's supervision. The seal will imprint the name and a registration number of the landscape architect. Firms consisting of more than one registered landscape architect may use a single seal identifying a principal corporate director or partner as being personally responsible for the professional services provided.~~

~~(2) The application of the seal impression and the genuine signature of the landscape architect across the seal impression on the first sheet of bound sets of drawings, with index of drawings included, title page of specifications, and other drawings and contract documents, shall constitute the registered landscape architect's seal and signature~~

A. Each licensed landscape architect shall have a seal, the image of which shall contain the name of the landscape architect and

the words, "Licensed Landscape Architect, State of Oklahoma". All technical submissions prepared by such landscape architect, or under the responsible control of the landscape architect, shall be sealed, signed and dated, which shall mean that the landscape 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 licensed landscape architect may sign or seal technical submissions unless they were prepared by or under the responsible control of the landscape 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 licensed under the State Architectural Act if the landscape 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 a landscape architect if the landscape 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.

B. All drawings, specifications, plans, reports or other papers or documents involving the practice of landscape architecture, shall be dated and bear the signature and seal of the landscape architect or landscape architects who prepared or approved them. It is permissible to only sign, seal and date documents on the first sheet of bound sets of drawings, with index of drawings included, title page of specifications, and other drawings and contract documents in a manner consistent with the act and rules of the Board.

~~(3) A rubber stamp facsimile of the C. The seal and the genuine, signature and date of the landscape architect may be~~

applied to tracings to produce legible reproduction of the drawings or to reprints made from the tracings. This provision, however, does not in any manner modify the requirements of ~~subsection (2)~~ the other subsections of this section.

~~(4) No such seal shall permit~~ D. The license of a landscape architect ~~to~~ shall not permit the practice of architecture, engineering or land surveying, except that which is incidental to the practice of landscape architecture. No landscape architect shall permit his or her seal to be affixed to any plans, specifications or drawings if such portions thereof as are involved in the practice of his or her particular profession were not prepared by or under the landscape architect's personal and direct supervision by a regularly employed subordinate.

SECTION 26. This act shall become effective November 1, 2006."

Passed the Senate the 25th day of April, 2006.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2006.

Presiding Officer of the House
of Representatives