

EHB 2379

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THE STATE SENATE
Wednesday, April 5, 2006

Committee Substitute for
ENGROSSED

House Bill No. 2379

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]

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 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

1 title or description tending to convey the impression that the
2 person is a licensed architect or landscape architect unless the
3 person is duly licensed or exempt from licensure under ~~The~~ the State
4 Architectural Act. The practice of architecture and landscape
5 architecture and the use of the titles, architect or landscape
6 architect, are privileges granted by the state through ~~The~~ the Board
7 of Governors of the Licensed Architects and Landscape Architects of
8 Oklahoma based upon the qualifications of the individual as
9 evidenced by a certificate of licensure or registration which shall
10 not be transferable.

11 SECTION 3. AMENDATORY 59 O.S. 2001, Section 46.4, as
12 amended by Section 1, Chapter 30, O.S.L. 2004 (59 O.S. Supp. 2005,
13 Section 46.4), is amended to read as follows:

14 Section 46.4 There is hereby re-created, to continue until July
15 1, 2010, in accordance with the provisions of the Oklahoma Sunset
16 Law, a Board to be known as "~~The~~ the Board of Governors of the
17 Licensed Architects and Landscape Architects of Oklahoma",
18 hereinafter referred to as the Board. The Board shall be composed
19 of nine (9) members, including six persons who have been duly
20 licensed to practice architecture, and are actively engaged in the
21 practice of architecture in this state or are teaching professors of
22 architecture and duly licensed to practice architecture in this
23 state, two persons who have been duly licensed to practice landscape

1 architecture, and are actively engaged in the practice of landscape
2 architecture in this state or are teaching professors of landscape
3 architecture and duly licensed to practice landscape architecture in
4 this state, and one lay member. Each member of the Board shall be a
5 qualified elector of this state, and the architect and landscape
6 architect members shall have had five (5) years' experience in the
7 application or the study of the principles of architecture after
8 initial registration. Re-creation of the Board shall not alter
9 existing staggered terms. Board members, other than the lay member,
10 shall be appointed for a period of five (5) years thereafter;
11 provided that nothing herein shall affect the tenure of office of
12 anyone who is a member of the Board on the effective date of this
13 act. A member may be reappointed to succeed such membership. The
14 persons engaged in the practice of architecture and landscape
15 architecture, or who are teaching professors of architecture or
16 landscape architecture, may be appointed by the Governor from a list
17 of nominees submitted by respective professional societies of this
18 state. Membership in a professional society shall not be a
19 prerequisite to appointment to the Board. The lay member of the
20 Board shall be appointed by the Governor to a term coterminous with
21 that of the Governor. The lay member shall serve at the pleasure of
22 the Governor. Provided, the lay member may continue to serve after
23 the expiration of the ~~member's~~ term of the member until such time as

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

12 SECTION 4. AMENDATORY 59 O.S. 2001, Section 46.6, is
13 amended to read as follows:

14 Section 46.6 The Board shall hold regular meetings with the
15 dates, times and place to be fixed by the Board. The Board shall
16 hold a regular meeting in June of each year, which meeting shall be
17 the annual meeting, at which time it shall elect its officers for
18 the next fiscal year and conduct all other business required under
19 this act. At the regular meeting of the Board herein in June of
20 each year, the Board shall elect from its membership a ~~chairman~~
21 chair, a ~~vice-chairman~~ vice chair, and a secretary-treasurer, each
22 of whom shall serve until such officer's respective successor shall
23 have been elected and shall have qualified. The position of the

1 secretary-treasurer shall not count against the agency's full-time-
2 equivalent limits authorized by the Legislature. The ~~chairman~~ chair
3 shall preside at all meetings of the Board and shall perform such
4 other duties as the Board may prescribe. The secretary-treasurer
5 shall receive a monthly salary to be fixed by the Board and shall be
6 reimbursed pursuant to the State Travel Reimbursement Act for travel
7 and other expenses which shall have been incurred while in the
8 performance of the duties of this office. ~~Five~~ Six Board members
9 shall constitute a quorum for the transaction of business.

10 SECTION 5. AMENDATORY 59 O.S. 2001, Section 46.7, is
11 amended to read as follows:

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

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

16 2. Prepare, conduct, and grade examinations of persons who
17 shall apply for the issuance of licenses to them, and to promulgate
18 such rules with reference thereto as it may deem proper;

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

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

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

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

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

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

15 9. Prescribe rules governing proceedings for the denial of
16 issuance of a license or certificate of authority, suspension,
17 revocation or refusal to renew, for cause, of licenses or
18 certificates of authority heretofore issued and the reinstatement
19 thereof;

20 10. Prescribe such penalties, as it may deem proper, to be
21 assessed against holders of licenses or certificates of authority
22 for the failure to pay the biennial fee hereinafter provided for;

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

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

8 13. Initiate disciplinary action, ~~prosecutive,~~ prosecute and
9 ~~injunctive proceedings~~ seek injunctions against any person or entity
10 who has violated any of the provisions of ~~The~~ the State
11 Architectural Act or any rule of the Board promulgated pursuant to
12 said act and against the owner/developer of the building type not
13 exempt;

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

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

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

21 17. Whenever it deems it appropriate, confer with the Attorney
22 General or his assistants in connection with all legal matters and
23 questions. The Board may also retain an attorney who is licensed to

1 practice law in this state. The attorney shall serve at the
2 pleasure of the Board for such compensation as may be provided by
3 the Board. The attorney shall advise the Board and perform legal
4 services for the Board with respect to any matters properly before
5 the Board. In addition to the above, the Board may employ hearing
6 examiners to conduct administrative hearings under the provisions of
7 the Administrative Procedures Act, ~~Section 250 et seq. of Title 75~~
8 ~~of the Oklahoma Statutes;~~

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

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

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

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

1 SECTION 6. AMENDATORY 59 O.S. 2001, Section 46.8a, is
2 amended to read as follows:

3 Section 46.8a A. It shall be unlawful for any person to
4 directly or indirectly engage in the practice of architecture in
5 this state or use the title "Architect", "Registered Architect",
6 "Architectural Designer", or display or use any words, letters,
7 figures, titles, signs, cards, advertisements, or other symbols or
8 devices indicating or tending to indicate that such person is an
9 architect or is practicing architecture, unless the person is
10 ~~registered or~~ licensed under the provisions of this act. No person
11 shall aid or abet any person, not ~~registered or~~ licensed under the
12 provisions of this act, in the practice of architecture.

13 B. Every person applying to the Board for an initial
14 ~~registration~~ license shall submit an application accompanied by the
15 fee established in accordance with the rules of the Board, with
16 satisfactory evidence that such person holds an accredited
17 professional degree in architecture or has completed such other
18 education as the Board deems equivalent to an accredited
19 professional degree and with satisfactory evidence that such person
20 has completed such practical training in architectural work as the
21 Board requires. If an applicant is qualified in accordance with
22 this subsection, the Board shall, by means of a written examination,
23 examine the applicant on such technical and professional subjects as

1 are prescribed by the Board. None of the examination materials
2 shall be considered public records. The Board may exempt from such
3 written examination an applicant who holds a certification issued by
4 the National Council of Architectural Registration Boards. The
5 Board may adopt as its own rules governing practical training and
6 education those guidelines published from time to time by the
7 National Council of Architectural Registration Boards. The Board
8 may also adopt the examinations and grading procedures of the
9 National Council of Architectural Registration Boards and the
10 accreditation decisions of the National Architectural Accrediting
11 Board. The Board shall issue its ~~registration~~ license to each
12 applicant who is found to be of good moral character and who
13 satisfies the requirements set forth in this section. Such
14 ~~registration~~ license shall be effective upon issuance.

15 C. Pursuant to such rules as it may have adopted, the Board
16 shall have the power to issue licenses without requiring an
17 examination to persons who have been licensed to practice
18 architecture in states other than the State of Oklahoma, in a
19 territory of the United States, in the District of Columbia, or in a
20 country other than the United States; provided that the state or
21 country has a similar reciprocal provision to authorize the issuance
22 of licenses to persons who have been licensed in this state. If a
23 person who has been licensed in a state other than the State of

1 Oklahoma, or in a territory of the United States, in the District of
2 Columbia, or in a country other than the United States complies with
3 the rules of the Board, the secretary-treasurer, acting in the
4 exercise of his or her discretion or upon the order of the Board in
5 the exercise of its discretion and upon the receipt of the stated
6 payment to the ~~secretary-treasurer~~ Board pursuant to the rules of
7 the Board, shall issue to said person a license to practice
8 architecture in this state.

9 SECTION 7. AMENDATORY 59 O.S. 2001, Section 46.9, is
10 amended to read as follows:

11 Section 46.9 A. The practice of architecture or landscape
12 architecture or offering to practice ~~architecture~~ these professions
13 for others by persons ~~registered~~ licensed under this act through a
14 partnership, firm, association, corporation, limited liability
15 company or limited liability partnership as directors, partners,
16 officers, shareholders, employees, managers, members or principals
17 is permitted, subject to the provisions of ~~The~~ the State
18 Architectural Act, provided:

19 1. One or more of the directors, partners, officers,
20 shareholders, managers, members or principals of said partnership,
21 firm, association, corporation, limited liability company or limited
22 liability partnership is designated as being responsible for the
23 ~~architectural~~ entity's activities and decisions of said partnership,

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

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

6 3. All personnel of said partnership, firm, association,
7 corporation, limited liability company or limited liability
8 partnership which act in ~~its~~ behalf as ~~architects practicing~~
9 architecture of the entity for these professions in the state are
10 ~~registered~~ licensed under ~~The~~ the State Architectural Act; and

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

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

19 C. A partnership, firm, association, corporation, limited
20 liability company or limited liability partnership desiring to
21 practice architecture or landscape architecture shall file with the
22 Board an application for a certificate of authority on a form
23 approved by the Board which shall include the names, addresses,

1 state of registration and registration number of all partners,
2 directors, officers, members, managers or principals of the
3 partnership, firm, association, corporation, limited liability
4 company or limited liability partnership legally responsible for the
5 entity's practice. The form shall name an individual having the
6 practice of architecture in such person's charge who ~~is a director,~~
7 ~~partner, officer, member, manager or principal~~ has an ownership
8 interest in the entity. The person shall be duly ~~registered~~
9 licensed as an architect to practice architecture or a licensed as a
10 landscape architect to practice landscape architecture in this state
11 through said partnership, firm, association, corporation, limited
12 liability company or limited liability partnership legally
13 responsible for the entity's practice or services offered and other
14 information required by the Board. In the event there shall be a
15 change in any of these persons during the term of the certification,
16 such change shall be filed with the Board within thirty (30) days
17 after the effective date of said change. If all of the requirements
18 of this section and the Board's current rules have been met, the
19 Board shall issue a certificate of authority to such partnership,
20 firm, association, corporation, limited liability company or limited
21 liability partnership.

22 D. Any other person licensed pursuant to ~~The~~ the State
23 Architectural Act, not practicing ~~architecture~~ these professions as

1 a partnership, firm, association, corporation, limited liability
2 company or limited liability partnership, shall practice as an
3 individual.

4 E. No such partnership, firm, association, corporation, limited
5 liability company or limited liability partnership shall be relieved
6 of responsibility for the conduct or acts of its agents, employees,
7 partners, directors, officers, managers, members or principals by
8 reason of its compliance with the provisions of this section, or
9 shall any individual practicing ~~architecture or landscape~~
10 ~~architecture~~ these professions be relieved of responsibility for
11 professional services performed as an individual by reason of such
12 person's employment or relationship with such partnership, firm,
13 association, corporation, limited liability company or limited
14 liability partnership.

15 F. The Secretary of State shall not issue a certificate of
16 incorporation ~~to an applicant or a registration as a foreign firm to~~
17 ~~a firm~~ or register a foreign corporation or any other entity which
18 includes among the objectives for which it is established any of the
19 words "Architect", "Architectural", "Architecture", "Landscape
20 Architect", "Landscape Architecture" or any modification or
21 derivation of ~~the word "Architect"~~ these words, unless the Board has
22 issued for said applicant either a certificate of authority for a
23 ~~firm~~ an entity, or a letter indicating the eligibility ~~of such~~

1 ~~applicant who is licensed as an individual to practice~~ for an
2 exemption pursuant to ~~The~~ the State Architectural Act. The firm
3 applying shall supply such certificate or letter from the Board with
4 its application for incorporation or registration.

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

15 ~~H.~~ The Secretary of State shall not register any trade name or
16 service mark which includes such words, as set forth in subsection F
17 ~~or G~~ of this section, or modifications or derivatives thereof in its
18 firm name or logotype except those ~~firms~~ entities or individuals
19 holding certificates of authority issued under the provisions of
20 this section or letters of eligibility issued by the Board.

21 ~~F.~~ H. Upon application for renewal and upon compliance with the
22 provisions of ~~The~~ the State Architectural Act and the rules of the

1 Board, a certificate of authority shall be renewed as provided in
2 this act.

3 SECTION 8. AMENDATORY 59 O.S. 2001, Section 46.10, is
4 amended to read as follows:

5 Section 46.10 Every licensed architect and landscape architect
6 shall pay to the ~~secretary-treasurer of the~~ Board a fee as
7 prescribed by the rules of the Board. Upon receipt of the fee, the
8 ~~secretary-treasurer~~ Board shall issue a renewal of the license which
9 shall authorize the person to practice architecture or landscape
10 architecture, as the case may be, in this state. The license of an
11 architect or landscape architect which has been canceled by the
12 Board for nonpayment of dues may be renewed at any time within three
13 (3) years from the date of the cancellation, upon payment to the
14 ~~secretary-treasurer~~ Board of the fees which had accrued at the time
15 of the cancellation and which would have been paid at the time of
16 reinstatement had not the license been suspended, together with
17 payment of the amount of penalties which may have been prescribed by
18 the Board. If a license remains canceled for a period exceeding
19 three (3) consecutive years, it shall not be reinstated unless the
20 licensee has taken or submitted to a test or a quiz or a Board
21 review or an examination as the circumstances of the individual case
22 may warrant and as may be prescribed by the Board in order to
23 determine continued competency of the licensee. A partnership,

1 firm, association, corporation, limited liability company or limited
2 liability partnership shall pay to the ~~secretary-treasurer~~ Board the
3 fee prescribed and in the manner provided by the rules of the Board
4 for the renewal of the certificate of authority for such
5 partnership, firm, association, corporation, limited liability
6 company or limited liability partnership.

7 SECTION 9. AMENDATORY 59 O.S. 2001, Section 46.11, is
8 amended to read as follows:

9 Section 46.11 No license for architects or landscape
10 architects, or a certificate of authority for a partnership, firm,
11 association, corporation, limited liability company or limited
12 liability partnership, shall be issued or renewed for longer than
13 two (2) years. A license or certificate may be renewed upon
14 application, compliance with the rules of the Board, and payment of
15 fees prior to or on June 30 of alternate years beginning July 1,
16 1986. Every ~~registered~~ licensed architect or landscape architect
17 having a place of business or employment within the state shall
18 display such person's license in a conspicuous place in such place
19 of business or employment. A new license to replace a lost,
20 destroyed or mutilated license shall be issued by the Board upon
21 payment of a fee established in accordance with the rules of the
22 Board ~~and such certificate shall be stamped or marked "duplicate".~~

1 SECTION 10. AMENDATORY 59 O.S. 2001, Section 46.12, is
2 amended to read as follows:

3 Section 46.12 After the expiration of a period of six (6)
4 months and upon payment to the ~~secretary-treasurer~~ Board of a fee as
5 prescribed by the rules of the Board, a person or entity whose
6 license or certificate of authority has been suspended or revoked
7 for cause, pursuant to the provisions of ~~The~~ the State Architectural
8 Act, may file an application with the secretary-treasurer for the
9 reinstatement of said license or certificate of authority. After a
10 showing has been made by the applicant to the Board that the
11 interests of the public will not suffer by reason of reinstatement,
12 the Board in its discretion may order the reinstatement of the
13 license or certificate of authority upon the payment of a sum equal
14 to the fees which would have accrued had not the license or
15 certificate of authority of the applicant been suspended or revoked.

16 SECTION 11. AMENDATORY 59 O.S. 2001, Section 46.14, is
17 amended to read as follows:

18 Section 46.14 The Board shall have power to suspend, to revoke
19 or refuse to renew a license or certificate of authority issued by
20 it, pursuant to the provisions of ~~The~~ the State Architectural Act,
21 when the holder thereof:

22 1. Shall have been convicted of a felony;

1 2. Shall have been guilty of fraud or misrepresentation in the
2 person's application, whether for an examination or for a license
3 without examination, or of fraud in the examination;

4 3. Shall have been guilty of gross ~~incompetency~~ incompetence or
5 recklessness in the practice of architecture relating to the
6 construction of buildings or structures, or of dishonest practices;

7 4. Shall have been guilty of gross ~~incompetency~~ incompetence or
8 recklessness in the practice of landscape architecture, or of
9 dishonest practices;

10 5. Shall have been found to be guilty of a violation of a
11 provision of ~~The~~ the State Architectural Act or the rules of the
12 Board; provided, that a person or entity complained of:

13 a. shall first have been served notice in the same manner
14 as provided by law in other civil actions of the
15 charges filed against the person or entity and of the
16 time, place, and nature of the hearing before the
17 Board, and

18 b. shall have the right to be represented by counsel and
19 an opportunity to respond and present evidence and
20 argument on all issues involved, by the introduction
21 of evidence and by the examination and cross-
22 examination of witnesses, and to compel the attendance
23 of witnesses and the production of books and papers.

1 Pursuant to the foregoing, the Board shall have the
2 power of a court of record, including the power to
3 issue subpoena and to compel the attendance and
4 testimony of witnesses. Each member of the Board
5 shall have the power to administer oaths and to issue
6 subpoena. Whenever any person who shall have been
7 subpoenaed to appear to give testimony, or to answer
8 any pertinent or proper question, or to produce books,
9 papers or documents which shall have been designated
10 in a subpoena, either on behalf of the prosecution or
11 on behalf of the accused, shall refuse to appear to
12 testify before the Board, or to answer any pertinent
13 or proper questions, or to produce a book, paper or
14 document which shall have been designated in a
15 subpoena, the person shall be deemed to be in contempt
16 of the Board, and it shall be the duty of the
17 presiding officer of the Board, to report the fact to
18 the district court of the State of Oklahoma in and for
19 the county in which such person may be or may reside
20 whereupon the court shall issue an attachment in the
21 usual form, directed to the sheriff of the county,
22 which shall command the sheriff to attach such person
23 and forthwith bring the person before the court. On

1 the return of the attachment duly served upon the
2 accused, or upon the production of the person
3 attached, the district court shall have jurisdiction
4 of the matter. The person charged may purge himself
5 or herself of the contempt in the same way and the
6 same proceedings shall be had, and the same penalties
7 may be imposed, as in the case of a witness subpoenaed
8 to appear and give evidence on the trial of a civil
9 cause before a district court of the State of
10 Oklahoma. Depositions may be taken and used in the
11 same manner as in civil cases. The Board shall keep a
12 record of the evidence in, and a record of each
13 proceeding for the suspension, revocation of or
14 refusal to renew a license or certificate of authority
15 and shall make findings of fact and render a decision
16 therein. If, after a hearing, the charges shall have
17 been found to have been sustained by the vote of a
18 majority of the members of the Board it shall
19 immediately enter its order of suspension, revocation
20 or refusal to renew, as the case may be.

21 SECTION 12. AMENDATORY 59 O.S. 2001, Section 46.17, is
22 amended to read as follows:

1 Section 46.17 Any person or entity convicted of violating any
2 provision of ~~The~~ the State Architectural Act shall be guilty of a
3 misdemeanor. The continued violation of any provision of ~~The~~ the
4 State Architectural Act during each day shall be deemed to be a
5 separate offense. Upon conviction thereof the person or entity
6 shall be punished by imprisonment in the county jail not to exceed
7 one (1) year, or by a fine of not more than One Thousand Dollars
8 (\$1,000.00), or by both such fine and imprisonment for each offense.
9 The Board may request the appropriate district attorney to prosecute
10 such violation and seek an injunction against such practice.

11 SECTION 13. AMENDATORY 59 O.S. 2001, Section 46.18, is
12 amended to read as follows:

13 Section 46.18 A. Any person or entity who has been determined
14 by the Board to have violated any provision of ~~The~~ the State
15 Architectural Act or any rule or order issued pursuant to the
16 provisions of ~~The~~ the State Architectural Act may be liable for a
17 civil penalty of not more than One Hundred Dollars (\$100.00) for
18 each day that said violation continues plus the legal costs incurred
19 by the Board to prosecute the case. The maximum civil penalty shall
20 not exceed Ten Thousand Dollars (\$10,000.00) for any related series
21 of violations plus the legal costs incurred by the Board to
22 prosecute the case.

1 B. The amount of the penalty shall be assessed by the Board
2 pursuant to the provisions of subsection A of this section, after
3 notice and hearing. In determining the amount of the penalty, the
4 Board shall include but not be limited to consideration of the
5 nature, circumstances, and gravity of the violation and, with
6 respect to the person or entity found to have committed the
7 violation, the degree of culpability, the effect on ability of the
8 person or entity to continue to do business, and any show of good
9 faith in attempting to achieve compliance with the provisions of ~~The~~
10 the State Architectural Act. All monies collected from such civil
11 penalties shall be deposited with the State Treasurer of Oklahoma
12 and placed in the Board of Architects' Fund.

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

17 SECTION 14. AMENDATORY 59 O.S. 2001, Section 46.19, is
18 amended to read as follows:

19 Section 46.19 All monies which shall be paid to the
20 ~~secretary-treasurer~~ Board pursuant to the provisions of ~~The~~ the
21 State Architectural Act shall be deposited with the State Treasurer
22 of Oklahoma and ~~by him~~ placed in a separate and distinct fund to be
23 known as the "Board of Architects' Fund". At the end of each fiscal

1 year hereafter such unexpended balance remaining in the Board of
2 Architects' Fund shall be carried over and continued therein. All
3 sums of money now or hereafter to be or to come into the fund are
4 hereby appropriated for the purpose of effectuating the purposes of
5 ~~The~~ the State Architectural Act, and to pay all costs and expenses
6 heretofore and hereafter incurred in connection therewith.

7 SECTION 15. AMENDATORY 59 O.S. 2001, Section 46.21, is
8 amended to read as follows:

9 Section 46.21 A. ~~The~~ the State Architectural Act shall not
10 apply to any persons, firms, corporations, limited liability
11 companies or limited liability partnerships who prepare plans and
12 specifications for persons, firms, corporations, limited liability
13 companies or limited liability partnerships other than such person
14 or entity, for buildings not specified in ~~The~~ the State
15 Architectural Act requiring an architect licensed under the laws of
16 the State of Oklahoma, providing such persons, firms, corporations,
17 limited liability companies or limited liability partnerships shall
18 not, in any manner, represent such person or entity to be an
19 architect or other title of profession or business using a form of
20 the word, "Architect", and providing further that nothing in ~~The~~ the
21 State Architectural Act shall prevent such persons, firms,
22 corporations, limited liability companies or limited liability
23 partnerships advertising or selling such service.

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

2 1. The preparation of technical submissions or the
3 administration of construction contracts by employees of a person or
4 entity lawfully engaged in the practice of architecture when such
5 employees are acting under the responsible control of a registered
6 architect;

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

14 a. the person holds a National Council of Architectural
15 Registration Boards certificate and is not currently
16 registered in the jurisdiction, but will be present in
17 the state for the purpose of offering to render
18 architectural services,

19 b. the person will deliver a copy of such notice to every
20 potential client to whom the applicant offers to
21 render architectural services, and

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

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

10 a. the person holds a National Council of Architectural
11 Registration Boards certificate and is not currently
12 registered in the jurisdiction, but will be present in
13 the state for the purpose of participating in an
14 architectural design competition,

15 b. the person will deliver a copy of such notice to every
16 person conducting an architectural design competition
17 in which the applicant participates, and

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

21 SECTION 16. AMENDATORY 59 O.S. 2001, Section 46.24, is
22 amended to read as follows:

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

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

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

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

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

22 5. Has passed the examinations prescribed by the Board for the
23 issuance of a license.

1 B. Upon meeting the requirements of subsection A of this
2 section and payment of an initial fee as may be prescribed by the
3 rules of the Board, the ~~secretary-treasurer~~ Board shall issue to the
4 applicant a license which shall authorize the applicant to engage in
5 the practice of architecture in this state.

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

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

21 E. The following Board records and papers are of a confidential
22 nature and are not public records: Examination material for
23 examinations before and after they are given, file records of

1 examination problem solutions, letters of inquiry and reference
2 concerning applicants, Board inquiry forms concerning applicants,
3 and investigation files ~~where any investigation is still pending.~~

4 SECTION 17. AMENDATORY 59 O.S. 2001, Section 46.25, is
5 amended to read as follows:

6 Section 46.25 Each licensed architect shall have a seal, the
7 image of which must contain the name of the architect, ~~the person's~~
8 ~~place of business~~ and the words, "Licensed Architect, State of
9 Oklahoma".

10 All technical submissions prepared by such architect, or under
11 the responsible control of the architect, shall be ~~stamped with the~~
12 ~~impression of the seal~~ sealed, signed and dated, which shall mean
13 that the architect was in responsible control over the content of
14 such technical submissions during their preparation and has applied
15 the required professional standard of care. No ~~registered~~ licensed
16 architect may sign or seal technical submissions unless they were
17 prepared by or under the responsible control of the architect;
18 except that:

19 1. The person may sign or seal those portions of the technical
20 submissions that were prepared by or under the responsible control
21 of persons who are ~~registered~~ licensed under ~~The~~ the State
22 Architectural Act if the architect has reviewed and adapted in whole

1 or in part such portions and has either coordinated their
2 preparation or integrated them into the work; and

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

9 SECTION 18. AMENDATORY 59 O.S. 2001, Section 46.28, as
10 amended by Section 2, Chapter 77, O.S.L. 2005 (59 O.S. Supp. 2005,
11 Section 46.28), is amended to read as follows:

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

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

- 1 2. A landscape contractor building or installing what was
2 designed by a landscape architect;
- 3 3. An agriculturist, horticulturist, forester as defined in
4 Section 1202 of this title, nursery operator, gardener, landscape
5 gardener, garden or lawn caretaker and grader or cultivator of land
6 involved in the selection, placement, planting and maintenance of
7 plant material;
- 8 4. Persons who act under the supervision of a ~~registered~~
9 licensed landscape architect or an employee of a person lawfully
10 engaged in the practice of landscape architecture and who, in either
11 event, does not assume responsible charge of design or supervision;
- 12 5. Regional planners or urban planners, who evaluate and
13 develop land-use plans to provide for community and municipal
14 projections of growth patterns based on demographic needs;
- 15 6. A landscape designer or contractor whose business is to
16 consult and prepare plans and specifications with respect to
17 choosing types of plants and planning the location thereof and the
18 design of landscapes for those projects or whose work is limited to
19 projects for a single-family residential home. Landscape design or
20 installation work may also be performed by an owner or occupant on
21 the single-family residence of the owner or occupant;

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

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

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

11 SECTION 19. AMENDATORY 59 O.S. 2001, Section 46.29, is
12 amended to read as follows:

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

19 SECTION 20. AMENDATORY 59 O.S. 2001, Section 46.30, is
20 amended to read as follows:

21 Section 46.30 The Board shall ~~register~~ license, as a landscape
22 architect, each applicant who demonstrates to the satisfaction of

1 the Board his fitness for such ~~registration~~ license as provided in
2 this act.

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

7 SECTION 21. AMENDATORY 59 O.S. 2001, Section 46.31, is
8 amended to read as follows:

9 Section 46.31 A. Any person of good moral character who is a
10 legal resident of the State of Oklahoma and who is twenty-one (21)
11 years of age or older, with a degree from an approved landscape
12 architecture program and upon completion of practical training as
13 the Board, by rule, shall deem appropriate, whose application has
14 been approved by the Board, and who has fulfilled such other
15 requirements as determined by ~~The~~ the State Architectural Act and
16 the rules of the Board, upon the payment to the ~~secretary-treasurer~~
17 Board of a fee as prescribed by the rules of the Board, plus an
18 amount to be determined by the Board, equal to the cost of the
19 examination, may take an examination for the purpose of securing a
20 license to practice landscape architecture in this state.
21 Examinations shall be held not less than once each year by the Board
22 or by a committee appointed by it to do so. Notice of the time and

1 place of the holding of examinations shall be given in manner and
2 form as prescribed by the Board.

3 B. The Board shall establish rules for examination of landscape
4 architects and may elect to follow the recommendations of the
5 Council of Landscape Architects Registration Board (CLARB). The
6 examinations shall be designed to determine the qualifications of
7 the applicant to practice landscape architecture. The examination
8 shall cover such technical, professional and practical subjects as
9 relate to the practice of the profession of landscape architecture.
10 The examination shall also cover the basic arts and sciences, ~~a~~ and
11 knowledge of ~~which is~~ material ~~and~~ which is necessary to the proper
12 understanding, application and qualification for practice of the
13 profession of landscape architecture. The minimum passing grade in
14 all subjects of the examination shall be as established by the
15 Board. An applicant receiving a passing grade on a subject included
16 in the examination will be given credit ~~for that,~~ subject to the
17 rules of the Board. Applicants for readmittance to the examination
18 shall pay the full examination fee for each testing.

19 Upon passage of the examination, completion of the Board's
20 requirements as prescribed by rules, and the payment of a sum as
21 prescribed by the rules of the Board, the ~~secretary-treasurer~~ Board
22 shall issue to the applicant a license certificate which shall

1 authorize the person to engage in the practice of landscape
2 architecture in this state.

3 C. Pursuant to such rules as it may have adopted, the Board
4 shall have the power to issue licenses without requiring an
5 examination to persons who have been licensed to practice landscape
6 architecture in states other than the State of Oklahoma, in a
7 territory of the United States, in the District of Columbia, or in a
8 country other than the United States provided that the state,
9 territory, district or country has a similar reciprocal provision to
10 authorize the issuance of licenses to persons who have been licensed
11 in this state. If a person who has been licensed in a state other
12 than the State of Oklahoma, or in a territory of the United States,
13 in the District of Columbia, or in a country other than the United
14 States complies with the Act and rules of the Board, the secretary-
15 treasurer, in the exercise of his or her discretion, or upon the
16 order of the Board ~~in the exercise of its discretion~~ and upon the
17 receipt of the stated fee by the ~~secretary-treasurer pursuant to the~~
18 ~~rules of the~~ Board, shall issue to said person a license to practice
19 landscape architecture in this state.

20 SECTION 22. AMENDATORY 59 O.S. 2001, Section 46.32, is
21 amended to read as follows:

22 Section 46.32 A. The privilege of engaging in the practice of
23 landscape architecture is personal, based upon the qualifications of

1 the individual evidenced by the individual's registration, and is
2 not transferable. ~~All final drawings, specifications, plans,~~
3 ~~reports or other papers or documents involving the practice of~~
4 ~~landscape architecture, as defined when issued or filed for public~~
5 ~~record, shall be dated and bear the signature and seal of the~~
6 ~~landscape architect or landscape architects who prepared or approved~~
7 ~~same.~~

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

14 ~~1. One or more of the partners, directors, officers,~~
15 ~~shareholders, managers, members or principals of said partnership,~~
16 ~~firm, association, corporation, limited liability company or limited~~
17 ~~liability partnership are designated as being responsible for the~~
18 ~~landscape architectural activities and decisions of said~~
19 ~~partnership, firm, association, corporation, limited liability~~
20 ~~company or limited liability partnership;~~

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

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

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

9 SECTION 23. AMENDATORY 59 O.S. 2001, Section 46.33, is
10 amended to read as follows:

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

16 SECTION 24. AMENDATORY 59 O.S. 2001, Section 46.34, is
17 amended to read as follows:

18 Section 46.34 ~~(1) For the purpose of sealing and signing all~~
19 ~~final drawings, plans, specifications, reports, and other contract~~
20 ~~documents, each registered landscape architect shall obtain a seal~~
21 ~~as specified by the Board to be used on documents prepared by or~~
22 ~~under the landscape architect's supervision. The seal will imprint~~
23 ~~the name and a registration number of the landscape architect.~~

1 ~~Firms consisting of more than one registered landscape architect may~~
2 ~~use a single seal identifying a principal corporate director or~~
3 ~~partner as being personally responsible for the professional~~
4 ~~services provided.~~

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

11 A. Each licensed landscape architect shall have a seal, the
12 image of which shall contain the name of the landscape architect,
13 the person's place of business and the words, "Licensed Landscape
14 Architect, State of Oklahoma". All technical submissions prepared
15 by such landscape architect, or under the responsible control of the
16 landscape architect, shall be sealed, signed and dated, which shall
17 mean that the landscape architect was in responsible control over
18 the content of such technical submissions during their preparation
19 and has applied the required professional standard of care. No
20 licensed landscape architect may sign or seal technical submissions
21 unless they were prepared by or under the responsible control of the
22 landscape architect, except that:

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

7 2. The person may sign or seal those portions of the technical
8 submissions that are not required to be prepared by or under the
9 responsible control of a landscape architect if the landscape
10 architect has reviewed and adapted in whole or in part such
11 submissions and integrated them into the work. The seal may be a
12 rubber stamp or may be generated electronically.

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

21 ~~(3) A rubber stamp facsimile of the~~ C. The seal and the
22 genuine, signature and date of the landscape architect may be
23 applied to tracings to produce legible reproduction of the drawings

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

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

13 SECTION 25. This act shall become effective November 1, 2006.

14 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND LABOR, dated 4-3-06 -
15 DO PASS, As Amended.