

By: Chisum

H.B. No. 1790

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Board of Architectural Examiners, including functions affecting architects, landscape architects, and interior designers; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. PROVISIONS AFFECTING THE BOARD OF ARCHITECTURAL EXAMINERS AND RELATED ADMINISTRATIVE MATTERS

SECTION 1.01. The heading to Chapter 1051, Occupations Code, is amended to read as follows:

CHAPTER 1051. TEXAS BOARD OF ARCHITECTURAL EXAMINERS; GENERAL PROVISIONS AFFECTING ARCHITECTS, LANDSCAPE ARCHITECTS, AND INTERIOR DESIGNERS; PROVISIONS AFFECTING ONLY ARCHITECTS

SECTION 1.02. Chapter 1051, Occupations Code, is amended by adding a heading for a new Part 1 of that chapter to read as follows:

PART 1. GENERAL PROVISIONS; BOARD OF ARCHITECTURAL EXAMINERS

SECTION 1.03. Existing Subchapters A, C, D, and E, Chapter 1051, Occupations Code, are designated as part of the new Part 1 of Chapter 1051.

SECTION 1.04. Sections 1051.001, 1051.002, and 1051.004, Occupations Code, are amended to read as follows:

Sec. 1051.001. DEFINITIONS. In this subtitle [~~chapter~~]:

(1) "Architect" means a person registered under this chapter to engage in the practice of architecture.

1           (2) "Board" means the Texas Board of Architectural  
2 Examiners.

3           (3) "Interior design" means the:

4                   (A) identification, research, or development of  
5 a creative solution to a problem relating to the function or quality  
6 of an interior environment;

7                   (B) performance of a service relating to an  
8 interior space, including programming, design analysis, space  
9 planning of non-load-bearing interior construction, and  
10 application of aesthetic principles, by using specialized  
11 knowledge of interior construction, building codes, equipment,  
12 materials, or furnishings; or

13                   (C) preparation of an interior design plan,  
14 specification, or related document about the design of a  
15 non-load-bearing interior space.

16           (4) "Interior designer" means a person registered  
17 under this subtitle to practice interior design.

18           (5) "Landscape architect" means a person registered  
19 under this subtitle to practice landscape architecture.

20           (6) "Landscape architecture":

21                   (A) means the art and science of landscape  
22 analysis, landscape planning, and landscape design;

23                   (B) includes the performance of professional  
24 services such as consultation, investigation, research, the  
25 preparation of general development and detailed site design plans,  
26 the preparation of studies, the preparation of specifications, and  
27 responsible supervision related to the development of landscape

1 areas for:

2 (i) the planning, preservation,  
3 enhancement, and arrangement of land forms, natural systems,  
4 features, and plantings, including ground and water forms;

5 (ii) the planning and design of vegetation,  
6 circulation, walks, and other landscape features to fulfill  
7 aesthetic and functional requirements;

8 (iii) the formulation of graphic and  
9 written criteria to govern the planning and design of landscape  
10 construction development programs, including:

11 (a) the preparation, review, and  
12 analysis of master and site plans for landscape use and  
13 development;

14 (b) the analysis of environmental,  
15 physical, and social considerations related to land use;

16 (c) the preparation of drawings,  
17 construction documents, and specifications; and

18 (d) construction observation;

19 (iv) design coordination and review of  
20 technical submissions, plans, and construction documents prepared  
21 by persons working under the direction of the landscape architect;

22 (v) the preparation of feasibility studies,  
23 statements of probable construction costs, and reports and site  
24 selection for landscape development and preservation;

25 (vi) the integration, site analysis, and  
26 determination of the location of buildings, structures, and  
27 circulation and environmental systems;

1 (vii) the analysis and design of:

2 (a) site landscape grading and  
3 drainage;

4 (b) systems for landscape erosion and  
5 sediment control; and

6 (c) pedestrian walkway systems;

7 (viii) the planning and placement of  
8 uninhabitable landscape structures, plants, landscape lighting,  
9 and hard surface areas;

10 (ix) the collaboration of landscape  
11 architects with other professionals in the design of roads,  
12 bridges, and structures regarding the functional, environmental,  
13 and aesthetic requirements of the areas in which they are to be  
14 placed; and

15 (x) field observation of landscape site  
16 construction, revegetation, and maintenance; and

17 (C) does not include:

18 (i) traffic, roadway, or pavement  
19 engineering;

20 (ii) the design of utilities;

21 (iii) the engineering or study of  
22 hydrologic management of stormwater systems or floodplains;

23 (iv) the making of final plats; or

24 (v) a service or function within the  
25 practice of architecture, engineering, or public surveying as  
26 defined by this chapter or Chapter 1001 or 1071.

27 (7) "Practice of architecture" means a service or

1 creative work that involves the application of the art and science  
2 of developing design concepts, planning for functional  
3 relationships and intended uses, and establishing the form,  
4 appearance, aesthetics, and construction details for the  
5 construction, enlargement, or alteration of a building or environs,  
6 the proper application of which requires education, training, and  
7 experience in those matters.

8 Sec. 1051.002. EFFECT ON MUNICIPALITY. This subtitle  
9 [~~chapter~~] does not:

- 10 (1) preempt a municipal ordinance; or  
11 (2) restrict or expand the authority of a  
12 municipality.

13 Sec. 1051.003 [~~1051.004~~]. APPLICATION OF SUNSET ACT. The  
14 Texas Board of Architectural Examiners is subject to Chapter 325,  
15 Government Code (Texas Sunset Act). Unless continued in existence  
16 as provided by that chapter, the board is abolished and this  
17 subtitle [~~chapter~~] expires September 1, 2015 [~~2003~~].

18 SECTION 1.05. The heading to existing Subchapter C, Chapter  
19 1051, Occupations Code, is amended to read as follows:

20 SUBCHAPTER B [~~C~~]. TEXAS BOARD OF ARCHITECTURAL EXAMINERS

21 SECTION 1.06. Section 1051.103, Occupations Code, is  
22 amended to read as follows:

23 Sec. 1051.103. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)  
24 In this section, "Texas trade association" means a [~~nonprofit~~]  
25 cooperative[~~7~~] and voluntarily joined statewide association of  
26 business or professional competitors in this state designed to  
27 assist its members and its industry or profession in dealing with

1 mutual business or professional problems and in promoting their  
2 common interest.

3 (b) A person [~~An officer, employee, or paid consultant of a~~  
4 ~~Texas trade association in the field of architecture, interior~~  
5 ~~design, or landscape architecture~~] may not be a member of the board  
6 and may not be a board [~~an~~] employee employed in a "bona fide  
7 executive, administrative, or professional capacity," as that  
8 phrase is used for purposes of establishing an exemption to the  
9 overtime provisions of the federal Fair Labor Standards Act of 1938  
10 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

11 (1) the [~~of the board who is exempt from the state's~~  
12 ~~position classification plan or is compensated at or above the~~  
13 ~~amount prescribed by the General Appropriations Act for salary~~  
14 ~~group B9 of the position classification salary schedule.~~

15 [~~(c) A~~] person [~~who~~] is [~~the spouse of~~] an officer, employee  
16 [~~manager~~], or paid consultant of a Texas trade association in the  
17 field of architecture, interior design, or landscape architecture;  
18 or

19 (2) the person's spouse is an officer, manager, or paid  
20 consultant of a Texas trade association in the field of  
21 architecture, interior design, or landscape architecture [~~may not~~  
22 ~~be a member of the board and may not be an employee of the board who~~  
23 ~~is exempt from the state's position classification plan or is~~  
24 ~~compensated at or above the amount prescribed by the General~~  
25 ~~Appropriations Act for salary group B9 of the position~~  
26 ~~classification salary schedule].~~

27 (c) [~~(d)~~] A person may not be a [~~serve as a board~~] member of

1 the board or act as the general counsel to the board if the person is  
2 required to register as a lobbyist under Chapter 305, Government  
3 Code, because of the person's activities for compensation on behalf  
4 of a profession related to the ~~[board's]~~ operation of the board.

5 SECTION 1.07. Sections 1051.105(a) and (c), Occupations  
6 Code, are amended to read as follows:

7 (a) It is a ground for removal from the board that a member:

8 (1) does not have at the time of taking office  
9 ~~[appointment]~~ the qualifications required by Section 1051.101 ~~[or~~  
10 ~~1051.102]~~;

11 (2) does not maintain during service on the board the  
12 qualifications required by Section 1051.101 ~~[or 1051.102]~~;

13 (3) is ineligible for membership under ~~[violates a~~  
14 ~~prohibition established by]~~ Section 1051.102 or 1051.103;

15 (4) cannot, because of illness or disability,  
16 discharge the member's duties for a substantial part of the member's  
17 term; or

18 (5) is absent from more than half of the regularly  
19 scheduled board meetings that the member is eligible to attend  
20 during a calendar year without an excuse approved ~~[, unless the~~  
21 ~~absence is excused]~~ by a majority vote of the board.

22 (c) If the executive director has knowledge that a potential  
23 ground for removal exists, the executive director shall notify the  
24 presiding officer of the board of the potential ground. The  
25 presiding officer shall then notify the governor and the attorney  
26 general that a potential ground for removal exists. If the  
27 potential ground for removal involves the presiding officer, the

1 executive director shall notify the next highest ranking officer of  
2 the board, who shall then notify the governor and the attorney  
3 general that a potential ground for removal exists.

4 SECTION 1.08. Existing Subchapter C, Chapter 1051,  
5 Occupations Code, is amended by adding Section 1051.112 to read as  
6 follows:

7 Sec. 1051.112. TRAINING. (a) A person who is appointed to  
8 and qualifies for office as a member of the board may not vote,  
9 deliberate, or be counted as a member in attendance at a meeting of  
10 the board until the person completes a training program that  
11 complies with this section.

12 (b) The training program must provide the person with  
13 information regarding:

14 (1) this subtitle;

15 (2) the programs operated by the board;

16 (3) the role and functions of the board;

17 (4) the rules of the board, with an emphasis on the  
18 rules that relate to disciplinary and investigatory authority;

19 (5) the current budget for the board;

20 (6) the results of the most recent formal audit of the  
21 board;

22 (7) the requirements of:

23 (A) the open meetings law, Chapter 551,  
24 Government Code;

25 (B) the public information law, Chapter 552,  
26 Government Code;

27 (C) the administrative procedure law, Chapter



1 2001, Government Code; and

2 (D) other laws relating to public officials,  
3 including conflict-of-interest laws; and

4 (8) any applicable ethics policies adopted by the  
5 board or the Texas Ethics Commission.

6 (c) A person appointed to the board is entitled to  
7 reimbursement, as provided by the General Appropriations Act, for  
8 the travel expenses incurred in attending the training program  
9 regardless of whether the attendance at the program occurs before  
10 or after the person qualifies for office.

11 SECTION 1.09. The heading to existing Subchapter D, Chapter  
12 1051, Occupations Code, is amended to read as follows:

13 SUBCHAPTER C ~~[D]~~. EXECUTIVE DIRECTOR AND PERSONNEL

14 SECTION 1.10. Sections 1051.153, 1051.154, and 1051.156,  
15 Occupations Code, are amended to read as follows:

16 Sec. 1051.153. DIVISION OF RESPONSIBILITIES. The board  
17 shall develop and implement policies that clearly separate the  
18 policymaking ~~[define the respective]~~ responsibilities of the board  
19 and the management responsibilities of the executive director and  
20 the staff of the board.

21 Sec. 1051.154. QUALIFICATIONS AND STANDARDS OF CONDUCT  
22 INFORMATION. The executive director or the executive director's  
23 designee ~~[board]~~ shall provide~~[, as often as necessary,]~~ to ~~[its]~~  
24 members of the board and to agency employees, as often as necessary,  
25 information regarding the requirements ~~[their]~~

26 ~~[(1) qualifications]~~ for office or employment under  
27 this chapter, including information regarding a person's ~~[, and~~

1           ~~[(2)]~~ responsibilities under applicable laws relating  
2 to standards of conduct for state officers or employees.

3           Sec. 1051.156. EQUAL EMPLOYMENT OPPORTUNITY POLICY;  
4 REPORT. (a) The executive director or the executive director's  
5 designee shall prepare and maintain a written policy statement that  
6 implements a program ~~[to ensure implementation]~~ of ~~[an]~~ equal  
7 employment opportunity to ensure that ~~[program under which]~~ all  
8 personnel decisions ~~[transactions]~~ are made without regard to race,  
9 color, disability, sex, religion, age, or national origin.

10           (b) The policy statement must include:

11           (1) personnel policies, including policies relating  
12 to recruitment, evaluation, selection, ~~[appointment,~~ training,  
13 and promotion of personnel, that show the intent of the board to  
14 avoid the unlawful employment practices described by Chapter 21,  
15 Labor Code; and

16           (2) an ~~[a comprehensive]~~ analysis of the extent to  
17 which the composition of the board's personnel is in accordance  
18 with ~~[board workforce that meets]~~ federal and state law and a  
19 description of reasonable methods to achieve compliance with  
20 federal and state law ~~[guidelines,~~

21           ~~[(3) procedures by which a determination can be made~~  
22 ~~of significant underuse in the board workforce of all persons for~~  
23 ~~whom federal or state guidelines encourage a more equitable~~  
24 ~~balance; and~~

25           ~~[(4) reasonable methods to appropriately address~~  
26 ~~those areas of significant underuse].~~

27           (c) The ~~[(b) A]~~ policy statement ~~[prepared under~~

1 ~~Subsection (a)]~~ must:

- 2 (1) ~~[cover an annual period;~~  
3 ~~[(2)]~~ be updated ~~[at least]~~ annually;  
4 (2) be reviewed by the Commission on Human Rights for  
5 compliance with Subsection (b)(1); and  
6 (3) be filed with the governor's office ~~[governor].~~

7 ~~[(c) The governor shall deliver a biennial report to the~~  
8 ~~legislature based on the information received under Subsection (b).~~  
9 ~~The report may be made separately or as a part of other biennial~~  
10 ~~reports made to the legislature.]~~

11 SECTION 1.11. Existing Subchapter D, Chapter 1051,  
12 Occupations Code, is amended by adding Section 1051.157 to read as  
13 follows:

14 Sec. 1051.157. INFORMATION ON STATE EMPLOYEE INCENTIVE  
15 PROGRAM. The executive director or the executive director's  
16 designee shall provide to board employees information and training  
17 on the benefits and methods of participation in the state employee  
18 incentive program under Subchapter B, Chapter 2108, Government  
19 Code.

20 SECTION 1.12. The heading to existing Subchapter E, Chapter  
21 1051, Occupations Code, is amended to read as follows:

22 SUBCHAPTER D ~~[E]~~. BOARD POWERS AND DUTIES

23 SECTION 1.13. Section 1051.202, Occupations Code, is  
24 amended to read as follows:

25 Sec. 1051.202. GENERAL RULEMAKING AUTHORITY. The board  
26 shall adopt reasonable rules and bylaws and prescribe forms as  
27 necessary to administer or enforce this subtitle ~~[chapter]~~,

1 including rules regulating the practices [~~practice~~] of  
2 architecture, landscape architecture, and interior design.

3 SECTION 1.14. Sections 1051.203(a) and (b), Occupations  
4 Code, are amended to read as follows:

5 (a) The [~~Except as provided by Subsection (b) or (c), the~~]  
6 board may not adopt rules [~~a rule~~] restricting advertising or  
7 competitive bidding by a certificate holder except [~~person~~  
8 ~~regulated by the board~~].

9 [~~(b) The board may adopt rules restricting advertising or~~  
10 ~~competitive bidding~~] to prohibit [~~a~~] false, misleading, or  
11 deceptive practices [~~practice~~].

12 (b) In its rules to prohibit false, misleading, or deceptive  
13 practices, the board [~~A rule adopted under this subsection~~] may not  
14 include a rule that:

15 (1) restricts [~~restrict~~] the [~~person's~~] use of any  
16 advertising medium;

17 (2) restricts the use of a certificate holder's  
18 [~~restrict the person's~~] personal appearance or [~~the use of the~~  
19 ~~person's~~] voice in an advertisement;

20 (3) relates [~~relate~~] to the size or duration of an  
21 advertisement by the certificate holder [~~person~~]; or

22 (4) restricts [~~restrict~~] the certificate holder's  
23 [~~person's~~] advertisement under a trade name.

24 SECTION 1.15. The heading to existing Section 1051.207,  
25 Occupations Code, is amended to read as follows:

26 Sec. 1051.204 [~~1051.207~~]. SUBPOENA.

27 SECTION 1.16. Existing Section 1051.207(a), Occupations

1 Code, is amended to read as follows:

2 (a) The board may request and, if necessary, compel by  
3 subpoena:

4 (1) the attendance of witnesses for examination under  
5 oath; and

6 (2) the production for inspection or copying of  
7 records, documents, and other evidence relevant to the  
8 investigation of an alleged violation of this subtitle [~~chapter~~].

9 SECTION 1.17. The heading to existing Section 1051.208,  
10 Occupations Code, is amended to read as follows:

11 Sec. 1051.205 [~~1051.208~~]. PUBLIC RECORDS.

12 SECTION 1.18. Existing Section 1051.208, Occupations Code,  
13 is amended by amending Subsection (b) and adding Subsection (d) to  
14 read as follows:

15 (b) The records must include[+]

16 [~~(1)~~] a record of:

17 (1) [~~(A)~~] each issuance of renewal of a certificate of  
18 registration; and

19 (2) [~~(B)~~] each refusal to issue or renew a certificate  
20 of registration[+]

21 [~~(2) the name and, if known, the place of residence of~~  
22 ~~each architect; and~~

23 [~~(3) the date and serial number of the architect's~~  
24 ~~certificate of registration]~~.

25 (d) The board shall maintain records or an official roster  
26 showing:

27 (1) the name and, if known, the address of each person

1 registered under this subtitle; and

2 (2) the date and registration number of each  
3 certificate of registration issued under this subtitle.

4 SECTION 1.19. The heading to existing Section 1051.209,  
5 Occupations Code, is amended to read as follows:

6 Sec. 1051.206 [~~1051.209~~]. BOARD SEAL.

7 SECTION 1.20. Existing Subchapter E, Chapter 1051,  
8 Occupations Code, is amended by adding Sections 1051.207-1051.212  
9 to read as follows:

10 Sec. 1051.207. RULES ON CONSEQUENCES OF CRIMINAL  
11 CONVICTION. The board shall adopt rules as necessary to comply with  
12 Chapter 53.

13 Sec. 1051.208. STANDARDS OF CONDUCT. The board by rule  
14 shall establish standards of conduct for persons regulated under  
15 this subtitle.

16 Sec. 1051.209. ATTORNEY GENERAL AS LEGAL ADVISOR. The  
17 attorney general shall act as legal advisor to the board and shall  
18 provide legal assistance to enforce this subtitle. This section  
19 does not relieve a local prosecuting attorney of any duty under the  
20 law.

21 Sec. 1051.210. TECHNOLOGY POLICY. The board shall develop  
22 and implement a policy that requires the executive director and  
23 board employees to research and propose appropriate technological  
24 solutions to improve the board's ability to perform its functions.  
25 The technological solutions must:

26 (1) ensure that the public is able to easily find  
27 information about the board through the Internet;

1           (2) ensure that persons who want to use the board's  
2 services are able to:

3                   (A) interact with the board through the Internet;  
4 and

5                   (B) access any service that can be provided  
6 effectively through the Internet; and

7           (3) be cost-effective and be developed through the  
8 board's planning process.

9           Sec. 1051.211. NEGOTIATED RULEMAKING AND ALTERNATIVE  
10 DISPUTE RESOLUTION. (a) The board shall develop and implement a  
11 policy to encourage the use of:

12                   (1) negotiated rulemaking procedures under Chapter  
13 2008, Government Code, for the adoption of board rules; and

14                   (2) appropriate alternative dispute resolution  
15 procedures under Chapter 2009, Government Code, to assist in the  
16 resolution of internal and external disputes under the board's  
17 jurisdiction.

18           (b) The board's procedures relating to alternative dispute  
19 resolution must conform, to the extent possible, to any model  
20 guidelines issued by the State Office of Administrative Hearings  
21 for the use of alternative dispute resolution by state agencies.

22           (c) The board shall designate a trained person to:

23                   (1) coordinate the implementation of the policy  
24 adopted under Subsection (a);

25                   (2) serve as a resource for any training needed to  
26 implement the procedures for negotiated rulemaking or alternative  
27 dispute resolution; and

1           (3) collect data concerning the effectiveness of those  
2 procedures, as implemented by the board.

3           Sec. 1051.212. JOINT ADVISORY COMMITTEE ON THE PRACTICE OF  
4 ENGINEERING AND ARCHITECTURE. (a) The Joint Advisory Committee on  
5 the Practice of Engineering and Architecture is an advisory  
6 committee to the board and to the Texas Board of Professional  
7 Engineers. The advisory committee consists of:

8           (1) three members of the board appointed by the board;  
9 and

10           (2) three members of the Texas Board of Professional  
11 Engineers appointed by that board.

12           (b) Members of the advisory committee serve staggered  
13 six-year terms, with the terms of one member appointed by the board  
14 and one member appointed by the Texas Board of Professional  
15 Engineers expiring each odd-numbered year.

16           (c) The advisory committee shall meet at least twice a year.

17           (d) The advisory committee shall work to resolve issues that  
18 result from the overlap between activities that constitute the  
19 practice of engineering and those that constitute the practice of  
20 architecture. The advisory committee shall assist each agency in  
21 protecting the public rather than advancing the interests of either  
22 agency or the profession it regulates.

23           (e) The advisory committee shall issue advisory opinions to  
24 the board and to the Texas Board of Professional Engineers on  
25 matters relating to the practice of engineering and the practice of  
26 architecture, including:

27           (1) opinions on whether certain activities constitute



1 the practice of engineering or the practice of architecture;

2 (2) specific disciplinary proceedings initiated by  
3 either agency; and

4 (3) the need for persons working on particular  
5 projects to be registered by the board or licensed by the Texas  
6 Board of Professional Engineers.

7 (f) If the advisory committee issues an advisory opinion to  
8 the board or the Texas Board of Professional Engineers on a matter,  
9 that agency shall notify the committee of the final action taken  
10 with regard to the matter. The advisory committee shall consider  
11 the action taken by the agency on the matter in any advisory opinion  
12 subsequently issued by the committee on a related matter.

13 (g) The board and the Texas Board of Professional Engineers  
14 shall enter into a memorandum of understanding regarding the  
15 advisory committee that includes the composition and purpose of the  
16 committee.

17 ARTICLE 2. PROVISIONS AFFECTING ARCHITECTS, LANDSCAPE ARCHITECTS,  
18 AND INTERIOR DESIGNERS

19 SECTION 2.01. Chapter 1051, Occupations Code, is amended by  
20 adding a heading for a new Part 2 of that chapter to read as follows:

21 PART 2. GENERAL PROVISIONS APPLYING TO ARCHITECTS, LANDSCAPE  
22 ARCHITECTS, AND INTERIOR DESIGNERS

23 SECTION 2.02. Existing Subchapters F, H, J, and K, Chapter  
24 1051, Occupations Code, are designated as part of the new Part 2 of  
25 Chapter 1051.

26 SECTION 2.03. The heading to existing Subchapter F, Chapter  
27 1051, Occupations Code, is amended to read as follows:

1 SUBCHAPTER E [~~F~~]. PUBLIC INTEREST INFORMATION AND COMPLAINT

2 PROCEDURES

3 SECTION 2.04. The heading to Section 1051.251, Occupations  
4 Code, is amended to read as follows:

5 Sec. 1051.251. PUBLIC INTEREST INFORMATION; DISPLAY OF  
6 CERTIFICATE.

7 SECTION 2.05. Section 1051.251, Occupations Code, is  
8 amended by amending Subsection (a) and adding Subsections (c) and  
9 (d) to read as follows:

10 (a) The board shall prepare information of public interest  
11 describing the functions of the board and the procedures by which  
12 complaints are filed with and resolved by the board. The  
13 information must include information for prospective applicants  
14 regarding the qualifications and requirements for registration  
15 under this subtitle [~~chapter~~].

16 (c) In each written contract in which a person registered  
17 under this subtitle agrees to practice the person's profession in  
18 this state, the person shall include the name, mailing address, and  
19 telephone number of the board and a statement that the board has  
20 jurisdiction over a person registered under this subtitle.

21 (d) A person registered under this subtitle shall  
22 prominently display the person's certificate of registration in the  
23 person's place of business.

24 SECTION 2.06. Sections 1051.252 and 1051.253, Occupations  
25 Code, are amended to read as follows:

26 Sec. 1051.252. COMPLAINTS. (a) The board by rule shall  
27 establish a comprehensive procedure for receiving and adjudicating

1 complaints from consumers and service recipients. The rules must  
2 address each phase of the complaint process, including complaint  
3 intake, preliminary evaluation, investigation, adjudication,  
4 sanctions, and public disclosure.

5 (b) The board [~~by rule~~] shall establish methods by which  
6 consumers and service recipients are notified of the name, mailing  
7 address, and telephone number of the board for the purpose of  
8 directing complaints to the board. The board may provide for that  
9 notice:

10 (1) on each registration form, application, or written  
11 contract for services of a person regulated under this subtitle  
12 [~~chapter~~];

13 (2) on a sign prominently displayed in the place of  
14 business of each person regulated under this subtitle [~~chapter~~]; or

15 (3) in a bill for service provided by a person  
16 regulated under this subtitle [~~chapter~~].

17 Sec. 1051.253. COMPLAINT INFORMATION. (a) The board shall  
18 maintain a [~~keep an information~~] file on [~~about~~] each written  
19 complaint filed with the board that the board has authority to  
20 resolve. The file must include:

21 (1) the name of the person who filed the complaint;

22 (2) the date the complaint is received by the board;

23 (3) the subject matter of the complaint;

24 (4) the name of each person contacted in relation to  
25 the complaint;

26 (5) a summary of the results of the review or  
27 investigation of the complaint; and

1           (6) an explanation of the reason the file was closed,  
2 if the board closed the file without taking action other than to  
3 investigate the complaint.

4           (b) The board shall provide to the person filing the  
5 complaint and to each person who is a subject of the complaint a  
6 copy of the board's policies and procedures relating to complaint  
7 investigation and resolution.

8           (c) The [~~If a written complaint is filed with the board that~~  
9 ~~the board has the authority to resolve, the~~] board, at least  
10 quarterly [~~and~~] until final disposition of the complaint, shall  
11 notify the person filing [~~parties to~~] the complaint and each person  
12 who is a subject of the complaint of the status of the investigation  
13 [~~complaint~~] unless the notice would jeopardize an [~~undercover~~]  
14 investigation.

15           SECTION 2.07. Section 1051.254(a), Occupations Code, is  
16 amended to read as follows:

17           (a) The board shall develop and implement policies that  
18 provide the public with a reasonable opportunity to appear before  
19 the board and to speak on any issue under the jurisdiction of the  
20 board.

21           SECTION 2.08. Chapter 1051, Occupations Code, is amended by  
22 adding a new Subchapter F to the new Part 2 of that chapter to read  
23 as follows:

24           SUBCHAPTER F. GENERAL REGISTRATION REQUIREMENTS

25           Sec. 1051.301. ADMINISTRATION OF EXAMINATION TO DISABLED  
26 APPLICANTS. The board by rule shall ensure that an examination  
27 under this subtitle is administered to applicants with disabilities

1 in compliance with the Americans with Disabilities Act of 1990 (42  
2 U.S.C. Section 12101 et seq.) and its subsequent amendments.

3 Sec. 1051.302. REFUND POLICY. The board by rule shall adopt  
4 a comprehensive refund policy for applicants who are not able to  
5 take an examination under this subtitle after paying the  
6 examination fee. The comprehensive refund policy must include:

7 (1) a list of the circumstances under which the board  
8 will refund the examination fee to an applicant who does not take  
9 the examination;

10 (2) the required documentation to support a refund  
11 request;

12 (3) the deadline for applying for a refund; and

13 (4) the amount of the examination fee the board may  
14 retain to cover administrative costs.

15 Sec. 1051.303. EXAMINATION RESULTS. (a) Not later than the  
16 30th day after the date a person takes an examination under this  
17 subtitle, the board shall notify the person of the results of the  
18 examination.

19 (b) If an examination is graded or reviewed by a testing  
20 service:

21 (1) the board shall notify the person of the results of  
22 the examination not later than the 14th day after the date the board  
23 receives the results from the testing service; and

24 (2) if notice of the examination results will be  
25 delayed for longer than 90 days after the examination date, the  
26 board shall notify the person of the reason for the delay before the  
27 90th day.

1       (c) The board may require a testing service to notify a  
2 person of the results of the person's examination.

3       (d) If requested in writing by a person who fails an  
4 examination administered under this subtitle, the board shall  
5 provide the person with an analysis of the person's performance on  
6 the examination.

7       Sec. 1051.304. RECIPROCITY. (a) The board may waive any  
8 prerequisite to obtaining a certificate of registration under this  
9 subtitle for an applicant who holds a license or certificate of  
10 registration issued by another jurisdiction:

11           (1) that has licensing or registration requirements  
12 substantially equivalent to those of this state; or

13           (2) with which this state has a reciprocity agreement.

14       (b) The board may make an agreement, subject to the approval  
15 of the governor, with another state to allow for licensing by  
16 reciprocity.

17       (c) An applicant under this section must:

18           (1) apply in the same manner and form as any other  
19 applicant under this subtitle, except that the application must be  
20 accompanied by a fee in an amount set by the board as reasonable and  
21 necessary to cover the cost of processing and investigating the  
22 application and issuing the certificate of registration; and

23           (2) provide the board with documents and other  
24 evidence that substantiates the applicant's qualifications.

25       Sec. 1051.305. FIRM REGISTRATION NOT REQUIRED. The board  
26 may not require a firm, partnership, corporation, or association  
27 engaged in the practice of architecture, landscape architecture, or

1 interior design to register with the board under this subtitle.

2 Sec. 1051.306. ROSTER OF APPLICANTS. The board shall  
3 maintain a roster of all persons who apply for a certificate of  
4 registration under this subtitle. The roster must include the  
5 following information about each applicant:

6 (1) the applicant's name, address, and age;

7 (2) the date the applicant filed the application;

8 (3) the applicant's place of business;

9 (4) the applicant's educational and other  
10 qualifications;

11 (5) whether the applicant took the examination;

12 (6) whether the board issued a certificate of  
13 registration to the applicant or rejected the application;

14 (7) the date of the board's action on the application;

15 and

16 (8) any other information the board considers  
17 necessary.

18 SECTION 2.09. The heading to existing Subchapter H, Chapter  
19 1051, Occupations Code, is amended to read as follows:

20 SUBCHAPTER G [~~H~~]. RENEWAL OF CERTIFICATE OF REGISTRATION

21 SECTION 2.10. Sections 1051.351-1051.354, Occupations  
22 Code, are amended to read as follows:

23 Sec. 1051.351. ANNUAL RENEWAL REQUIRED. (a) A person who  
24 is otherwise eligible to renew a certificate of registration under  
25 this subtitle may renew an unexpired certificate by paying the  
26 required renewal fee to the board before the expiration date of the  
27 certificate. A person whose certificate of registration has

1 expired may not engage in activities that require registration  
2 until the certificate of registration has been renewed [~~An original~~  
3 ~~certificate of registration is valid for the balance of the current~~  
4 ~~registration year and may be renewed annually. A certificate of~~  
5 ~~registration that has been renewed expires on the first anniversary~~  
6 ~~of the renewal date].~~

7 (b) The board by rule may adopt a system under which  
8 certificates of registration expire on various dates during the  
9 year. [~~The board shall adjust the date for mailing notice of~~  
10 ~~expiration and the period for renewal according to the system~~  
11 ~~adopted by the board under this subsection.~~]

12 (c) For the [~~a~~] year in which the certificate of  
13 registration expiration date is changed, the board shall prorate  
14 renewal fees [~~shall be prorated~~] on a monthly basis so that each  
15 certificate holder pays only that portion of the registration fee  
16 that is allocable to the number of months during which the  
17 certificate is valid. On renewal of the certificate of  
18 registration on the new expiration date, the total registration  
19 renewal fee is payable.

20 Sec. 1051.352. NOTICE OF EXPIRATION. Not later than the  
21 30th [~~31st~~] day before the [~~expiration~~] date [~~of~~] a person's  
22 certificate of registration is scheduled to expire, the board shall  
23 send written notice of the impending expiration to the person at the  
24 person's last known address according to the records of the board  
25 [~~records~~].

26 Sec. 1051.353. PROCEDURE FOR RENEWAL. (a) A person may  
27 renew an unexpired certificate of registration by[+]



1           ~~[(1) paying the required renewal fee to the board~~  
2 ~~before the expiration date, and~~

3           ~~[(2)]~~ submitting proof satisfactory to the board of  
4 compliance with the board's continuing education requirement.

5           (b) A person whose certificate of registration has been  
6 expired for 90 days or less ~~[than one year]~~ may renew the ~~[person's]~~  
7 certificate ~~[of registration]~~ by ~~[+]~~

8           ~~[(1)]~~ paying to the board +  
9                   ~~[(A) any unpaid]~~ renewal fee that is equal to  
10 1-1/2 times the normally required renewal fee ~~[, and~~

11                   ~~[(B) a penalty fee in an amount determined by the~~  
12 ~~board, and~~

13           ~~[(2) submitting proof satisfactory to the board of~~  
14 ~~compliance with the board's continuing education requirement].~~

15           (c) A ~~[The board may set a penalty fee for a]~~ person whose  
16 certificate of registration has been expired for more ~~[less]~~ than  
17 90 days ~~[in an amount that is different from the penalty fee for a~~  
18 ~~person whose certificate of registration has been expired for~~  
19 ~~longer than 90 days]~~ but less than one year may renew the  
20 certificate by paying to the board a renewal fee equal to two times  
21 the normally required renewal fee.

22           (d) A person whose ~~[The board shall issue a certificate of~~  
23 ~~renewal of a person's]~~ certificate of registration has been expired  
24 for one year or more may not renew the certificate. The person may  
25 obtain a new certificate of registration by complying with the  
26 requirements and procedures, including the examination  
27 requirements, for obtaining an original certificate ~~[on receipt of+]~~

1           ~~[(1) the required fees, as provided by this section,~~  
2 ~~and~~

3           ~~[(2) the required proof of compliance with the board's~~  
4 ~~continuing education requirement].~~

5           (e) A person who was registered in this state, moved to  
6 another state, and is currently licensed or registered and has been  
7 in practice in the other state for the two years preceding the date  
8 of the application may obtain a new certificate of registration  
9 without reexamination. The person must pay to the board a fee that  
10 is equal to two times the normally required renewal fee for the  
11 certificate of registration. ~~[If a person's certificate of~~  
12 ~~registration has been expired for one year or more, the board may~~  
13 ~~revoke the certificate of registration and enter the revocation in~~  
14 ~~its official records. The board may require an applicant for~~  
15 ~~reinstatement of a certificate of registration revoked under this~~  
16 ~~subsection to pass an examination prescribed by the board. If the~~  
17 ~~person passes the examination, the person's certificate of~~  
18 ~~registration may be reinstated on receipt of a fee in an amount~~  
19 ~~determined by the board.]~~

20           Sec. 1051.354. FEE EXEMPTION FOR MILITARY PERSONNEL. (a) A  
21 person required to register under this subtitle ~~[An architect]~~ who  
22 is on active duty as a member of the United States military is  
23 exempt from the payment of any fee during the person's term of  
24 service if the person:

25           (1) is in good standing as an architect, landscape  
26 architect, or interior designer in this state; or

27           (2) was in good standing as an architect, landscape

1 architect, or interior designer in this state at the time the person  
2 entered into military service.

3 (b) A person who is exempt from payment of a fee under  
4 Subsection (a):

5 (1) is exempt for the remainder of the fiscal year  
6 during which the person's active duty status expires; and

7 (2) is entitled to have the person's name continued on  
8 the list of architects, landscape architects, or interior  
9 designers.

10 SECTION 2.11. Section 1051.355, Occupations Code, is  
11 amended by amending Subsections (a), (b), and (c) and adding  
12 Subsection (e) to read as follows:

13 (a) The board by rule shall establish a procedure by which a  
14 person who is registered under this subtitle [~~an architect~~] may  
15 place the person's certificate of registration on inactive status.  
16 The person must apply for inactive status, on a form prescribed by  
17 the board, before the person's certificate of registration expires.

18 (b) A person whose certificate of registration is on  
19 inactive status must pay an annual renewal fee on a date and in a  
20 manner prescribed by board rule. The board shall prescribe the  
21 renewal fee under this subsection in an amount equal to the sum of:

22 (1) the amount determined by the board as reasonable  
23 and necessary to cover the costs of administering this section; and

24 (2) except as provided by Subsection (e), the  
25 additional amount required under Section 1051.651(b)(1)(B)  
26 [~~1051.204(b)(1)(B)~~] for the examination fee scholarship program.

27 (c) A person whose certificate of registration is on

1 inactive status may not perform any activity regulated under this  
2 subtitle [~~chapter~~].

3 (e) The additional amount of the renewal fee described by  
4 Subsection (b)(2) does not apply to a person registered under  
5 Chapter 1052 or 1053.

6 SECTION 2.12. Sections 1051.356(a) and (d), Occupations  
7 Code, are amended to read as follows:

8 (a) The board shall recognize, prepare, or administer  
9 [~~require~~] continuing education programs for its certificate  
10 holders. A certificate holder must participate in the programs to  
11 the extent required by the board to keep the person's [~~as a~~  
12 ~~condition for renewal of a~~] certificate of registration.

13 (d) A person is exempt from the continuing education  
14 requirements of this section if the person is, as of September 1,  
15 1999, engaged in teaching the subject matter for which the person is  
16 registered under this subtitle [~~architecture~~] as a full-time  
17 faculty member or other permanent employee of an institution of  
18 higher education, as defined by Section 61.003, Education Code.

19 SECTION 2.13. Chapter 1051, Occupations Code, is amended by  
20 adding a new Subchapter H to the new Part 2 of that chapter to read  
21 as follows:

22 SUBCHAPTER H. GENERAL DISCIPLINARY PROCEDURES

23 Sec. 1051.401. RIGHT TO HEARING; APPEAL. (a) If the board  
24 proposes to suspend, revoke, or refuse to renew a person's  
25 certificate of registration, the person is entitled to a hearing.  
26 The hearing shall be held by an administrative law judge of the  
27 State Office of Administrative Hearings.

1       (b) The board shall prescribe procedures by which a decision  
2 to suspend or revoke or a refusal to renew a certificate of  
3 registration is made by or is appealable to the board.

4       (c) A hearing under this section is a contested case subject  
5 to Chapter 2001, Government Code.

6       Sec. 1051.402. PUBLICATION OF DISCIPLINARY ORDERS AND  
7 SANCTIONS. The board by rule shall provide for the publication of  
8 all disciplinary orders and sanctions imposed by the board under  
9 this subtitle. A certificate holder may not negotiate with the  
10 board to keep the board from publishing the settlement of a  
11 disciplinary action.

12       Sec. 1051.403. REINSTATEMENT. (a) A person whose  
13 application for the issuance of an original or renewal certificate  
14 of registration is denied or whose certificate of registration is  
15 revoked or suspended may not apply to the board for the issuance or  
16 reinstatement of a certificate of registration before the 180th day  
17 after the date of the denial, revocation, or suspension.

18       (b) The board may issue or reinstate a certificate of  
19 registration under this section to an applicant who:

20               (1) pays all fees and costs incurred by the board as a  
21 result of any proceeding that led to the denial, revocation, or  
22 suspension; and

23               (2) presents evidence to support the issuance or  
24 reinstatement of the certificate.

25       SECTION 2.14. The heading to existing Subchapter J, Chapter  
26 1051, Occupations Code, is amended to read as follows:

27               SUBCHAPTER I [~~J~~]. ADMINISTRATIVE PENALTY

1 SECTION 2.15. Section 1051.451, Occupations Code, is  
2 amended to read as follows:

3 Sec. 1051.451. IMPOSITION OF ADMINISTRATIVE PENALTY. The  
4 board may impose an administrative penalty on a person who engages  
5 in conduct for which the person is subject to disciplinary action  
6 under this subtitle [~~Subchapter I~~], regardless of whether the  
7 person holds a certificate of registration issued under this  
8 subtitle [~~chapter~~].

9 SECTION 2.16. Section 1051.452, Occupations Code, is  
10 amended by amending Subsection (a) and adding Subsection (c) to  
11 read as follows:

12 (a) The amount of an administrative penalty may not exceed  
13 \$5,000 [~~\$1,000~~].

14 (c) The board by rule shall adopt an administrative penalty  
15 schedule for violations of this subtitle or board rules to ensure  
16 that the amounts of penalties imposed are appropriate to the  
17 violation. The board must provide the administrative penalty  
18 schedule to the public on request.

19 SECTION 2.17. The heading to existing Subchapter K, Chapter  
20 1051, Occupations Code, is amended to read as follows:

21 SUBCHAPTER J [~~K~~]. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

22 SECTION 2.18. Section 1051.501, Occupations Code, is  
23 amended to read as follows:

24 Sec. 1051.501. GENERAL ENFORCEMENT AUTHORITY. (a) A  
25 violation of this subtitle [~~chapter~~] shall be reported to the  
26 board.

27 (b) The board shall ensure that enforcement action is taken

1 against a person who violates this subtitle [~~chapter~~].

2 SECTION 2.19. Section 1051.502(a), Occupations Code, is  
3 amended to read as follows:

4 (a) The board may bring an action in its name to enjoin or  
5 restrain a person from violating this subtitle [~~chapter~~], a rule  
6 adopted under this subtitle [~~chapter~~], or another state statute or  
7 rule relating to the professions regulated under this subtitle  
8 [~~practice of architecture~~].

9 SECTION 2.20. Section 1051.504, Occupations Code, is  
10 amended to read as follows:

11 Sec. 1051.503 [~~1051.504~~]. CUMULATIVE EFFECT OF  
12 PROVISIONS. An action or penalty authorized by this subtitle  
13 [~~subchapter~~] is in addition to any other action or penalty provided  
14 by law.

15 SECTION 2.21. Existing Subchapter K, Chapter 1051,  
16 Occupations Code, is amended by adding Sections 1051.504 and  
17 1051.505 to read as follows:

18 Sec. 1051.504. CEASE AND DESIST ORDER. (a) If it appears  
19 to the board that a person is violating this subtitle, a rule  
20 adopted under this subtitle, or another state statute or rule  
21 relating to the practice of architecture, landscape architecture,  
22 or interior design, the board after providing to the person notice  
23 and the opportunity for a hearing may issue a cease and desist order  
24 prohibiting the conduct described in the notice.

25 (b) If the person does not request a hearing before the 22nd  
26 day after the date of receiving notice under Subsection (a), the  
27 board may:

1           (1) issue a cease and desist order; and  
2           (2) refer the violation to the attorney general for  
3 further action.

4           (c) If the person requests a hearing before the 22nd day  
5 after the date of receiving notice under Subsection (a), the board  
6 shall hold the hearing not later than the 30th day after the date  
7 the board receives the request for the hearing.

8           (d) The board shall adopt rules necessary to implement this  
9 section.

10          Sec. 1051.505. RESTITUTION. (a) The board may order a  
11 person registered under this subtitle to pay restitution to a  
12 consumer instead of or in addition to assessing an administrative  
13 penalty under this chapter.

14          (b) The amount of restitution ordered by the board may not  
15 exceed the amount the consumer paid the person for a service  
16 regulated under this subtitle. The board may not include an  
17 estimation of other damages or harm in a restitution order.

18           ARTICLE 3. PROVISIONS AFFECTING ONLY ARCHITECTS

19           SECTION 3.01. Chapter 1051, Occupations Code, is amended by  
20 adding a heading for a new Part 3 of that chapter to read as follows:

21           PART 3. PROVISIONS APPLYING ONLY TO ARCHITECTS

22           SECTION 3.02. Existing Subchapters B, G, and I, Chapter  
23 1051, Occupations Code, are designated as a part of the new Part 3  
24 of Chapter 1051.

25           SECTION 3.03. Chapter 1051, Occupations Code, is amended by  
26 adding a new Subchapter K to the new Part 3 of that chapter to read  
27 as follows:



1           SUBCHAPTER K. GENERAL PROVISIONS: ARCHITECTS

2           Sec. 1051.551. ENFORCEMENT BY CERTAIN PUBLIC OFFICIALS. (a)

3 A public official of this state or of a political subdivision of  
4 this state who is responsible for enforcing laws that affect the  
5 practice of architecture may accept an architectural plan,  
6 specification, or other related document only if the plan,  
7 specification, or document is prepared by an architect, as  
8 evidenced by the architect's seal.

9           (b) Subsection (a) does not apply to a plan, specification,  
10 or document that is subject to an exemption from this chapter.

11           SECTION 3.04. The heading to existing Subchapter B, Chapter  
12 1051, Occupations Code, is amended to read as follows:

13                           SUBCHAPTER L [B]. EXEMPTIONS

14           SECTION 3.05. The heading to Section 1051.051, Occupations  
15 Code, is amended to read as follows:

16           Sec. 1051.601 [~~1051.051~~]. ACTIVITIES OF LICENSED ENGINEER.

17           SECTION 3.06. The heading to Section 1051.052, Occupations  
18 Code, is amended to read as follows:

19           Sec. 1051.602 [~~1051.052~~]. ACTIVITIES OF ARCHITECT OR  
20 ENGINEER EMPLOYEE.

21           SECTION 3.07. Section 1051.053, Occupations Code, is  
22 amended to read as follows:

23           Sec. 1051.603 [~~1051.053~~]. LANDSCAPE ARCHITECTURE. This  
24 part [~~chapter~~] does not:

- 25                   (1) limit the practice of landscape architecture; or  
26                   (2) prohibit the use of the title "Landscape  
27 Architect" by a qualified person.

1 SECTION 3.08. Section 1051.054, Occupations Code, is  
2 amended to read as follows:

3 Sec. 1051.604 [~~1051.054~~]. INTERIOR DESIGN. This part  
4 [~~chapter~~] does not:

- 5 (1) limit the practice of interior design; or  
6 (2) prohibit the use of the title "Interior Designer"  
7 by a qualified person.

8 SECTION 3.09. The heading to Section 1051.055, Occupations  
9 Code, is amended to read as follows:

10 Sec. 1051.605 [~~1051.055~~]. EMPLOYEE OF CERTAIN UTILITIES OR  
11 AFFILIATES.

12 SECTION 3.10. The heading to Section 1051.056, Occupations  
13 Code, is amended to read as follows:

14 Sec. 1051.606 [~~1051.056~~]. ACTIVITIES OF CERTAIN PERSONS  
15 NOT REPRESENTED TO BE ARCHITECTS.

16 SECTION 3.11. Section 1051.056(a), Occupations Code, is  
17 amended to read as follows:

18 (a) This chapter does not apply to a person who does not  
19 represent that the person is an architect or architectural  
20 designer, or use another business or professional title that uses a  
21 form of the word "architect," and who:

22 (1) engages in or is employed in the practice of  
23 architecture solely as an officer or employee of the United States;

24 (2) is a legally qualified architect residing in  
25 another state or country who:

26 (A) does not open or maintain an office in this  
27 state; and

1 (B) complies with the requirements of Subsection  
2 (b);

3 (3) prepares architectural plans and specifications  
4 for or observes or supervises the alteration of a building, unless  
5 the alteration involves a substantial structural or exitway change  
6 to the building; or

7 (4) prepares the architectural plans and  
8 specifications for or observes or supervises the construction,  
9 enlargement, or alteration of a privately owned building that is:

10 (A) a building used primarily for:

11 (i) farm, ranch, or agricultural purposes;

12 or

13 (ii) storage of raw agricultural  
14 commodities;

15 (B) a single-family or dual-family dwelling or a  
16 building or appurtenance associated with the dwelling;

17 (C) a multifamily dwelling not exceeding a height  
18 of two stories and not exceeding 16 units per building; or

19 (D) a commercial building, other than a warehouse  
20 that has limited public access, that:

21 (i) does not exceed ~~[exceeding]~~ a height of  
22 two stories or ~~[and not exceeding]~~ a square footage of 5,000  
23 ~~[20,000]~~ square feet;

24 (ii) is not a public accommodation, as  
25 defined by the Americans with Disabilities Act of 1990 (42 U.S.C.  
26 Section 12101 et seq.) and its subsequent amendments; and

27 (iii) is not used for educational or office

1 purposes, or as a place of public gathering.

2 SECTION 3.12. Chapter 1051, Occupations Code, is amended by  
3 adding a new Subchapter M to the new Part 3 of that chapter to read  
4 as follows:

5 SUBCHAPTER M. BOARD POWERS AND DUTIES: ARCHITECTS

6 Sec. 1051.651. FEES. (a) The board may set a fee for a  
7 board action involving an administrative expense in an amount that  
8 is reasonable and necessary to cover the cost of administering this  
9 chapter, unless the amount of the fee is set by this chapter or by  
10 the General Appropriations Act.

11 (b) The board shall set the required renewal fee for:

12 (1) a resident of this state in an amount that is equal  
13 to the sum of:

14 (A) the amount determined by the board as  
15 reasonable and necessary to cover administrative costs; and

16 (B) an amount determined annually by the board as  
17 reasonable and necessary for the administration of the examination  
18 fee scholarship program under Section 1051.653; and

19 (2) nonresidents in an amount determined by the board.

20 (c) The board may accept payment of a fee by electronic  
21 means. The board may charge a fee to process the payment made by  
22 electronic means. The board shall set the processing fee in an  
23 amount that is reasonably related to the expense incurred by the  
24 board in processing the payment made by electronic means, not to  
25 exceed five percent of the amount of the fee for which the payment  
26 is made.

27 (d) A fee set by the board under this section may not be used

1 for the purpose of earning additional revenue for the board.

2 Sec. 1051.652. FEE INCREASE. (a) The fee for the issuance  
3 of a certificate to an applicant possessing a license or  
4 certificate to practice architecture in another state and the fee  
5 for the renewal of a certificate under this chapter are increased by  
6 \$200.

7 (b) Of each fee increase collected, \$50 shall be deposited  
8 in the foundation school fund and \$150 shall be deposited in the  
9 general revenue fund.

10 Sec. 1051.653. EXAMINATION FEE SCHOLARSHIPS. (a) The  
11 board shall administer scholarships to applicants for examination  
12 under this part in a manner the board determines best serves the  
13 public purpose of:

14 (1) promoting the professional needs of the state;

15 (2) increasing the number of highly trained and  
16 educated architects available to serve the residents of the state;

17 (3) improving the state's business environment and  
18 encouraging economic development; and

19 (4) identifying, recognizing, and supporting  
20 outstanding applicants who plan to pursue careers in architecture.

21 (b) In determining what best serves the public purpose of  
22 the scholarships as described by Subsection (a), the board shall  
23 consider at least the financial need of each person who applies for  
24 a scholarship under this section.

25 (c) The amount of the scholarship is the lesser of:

26 (1) \$500; or

27 (2) the amount of the required examination fee.

1        (d) Scholarships under this section are funded by the amount  
2 added to each renewal fee under Section 1051.651(b). The board may  
3 not use more than 15 percent of the amount appropriated to the board  
4 for scholarships under this section to pay the costs of  
5 administering the scholarships.

6        Sec. 1051.654. DESIGN AND APPROVAL OF ARCHITECT'S SEAL. (a)  
7 The board shall prescribe and approve the seal to be used by an  
8 architect.

9        (b) The design of the seal must be the same as the design  
10 used by the board, except that the words "Registered Architect,  
11 State of Texas" must be used instead of "Texas Board of  
12 Architectural Examiners."

13        SECTION 3.13. The heading to existing Subchapter G, Chapter  
14 1051, Occupations Code, is amended to read as follows:

15        SUBCHAPTER N [~~G~~]. REGISTRATION OF ARCHITECTS [~~REQUIREMENTS~~]

16        SECTION 3.14. The heading to existing Section 1051.301,  
17 Occupations Code, is amended to read as follows:

18        Sec. 1051.701 [~~1051.301~~]. REGISTRATION REQUIRED.

19        SECTION 3.15. The heading to existing Section 1051.302,  
20 Occupations Code, is amended to read as follows:

21        Sec. 1051.702 [~~1051.302~~]. USE OF ARCHITECT'S SEAL.

22        SECTION 3.16. Existing Section 1051.302, Occupations Code,  
23 is amended by adding Subsection (d) to read as follows:

24        (d) A person may not present or attempt to use as the  
25 person's own the seal of another person.

26        SECTION 3.17. The heading to existing Section 1051.303,  
27 Occupations Code, is amended to read as follows:

1           Sec. 1051.703 [~~1051.303~~]. CERTAIN PLANS OR SPECIFICATIONS  
2 TO BE PREPARED ONLY BY ARCHITECT.

3           SECTION 3.18. The heading to existing Section 1051.304,  
4 Occupations Code, is amended to read as follows:

5           Sec. 1051.704 [~~1051.304~~]. EXAMINATION; ISSUANCE OF  
6 CERTIFICATE.

7           SECTION 3.19. The heading to existing Section 1051.305,  
8 Occupations Code, is amended to read as follows:

9           Sec. 1051.705 [~~1051.305~~]. ELIGIBILITY AND APPLICATION FOR  
10 EXAMINATION.

11           SECTION 3.20. Existing Section 1051.305, Occupations Code,  
12 is amended by amending Subsection (b) and adding Subsection (c) to  
13 read as follows:

14           (b) The applicant must~~+~~  
15                 ~~[(1)]~~ present to the board:

16                 (1) ~~[(A)]~~ a diploma showing that the applicant meets  
17 the education requirement established by Subsection (a)(1); and

18                 (2) ~~[(B)]~~ evidence acceptable to the board that the  
19 applicant meets the experience requirement established by  
20 Subsection (a)(2).

21           (c) The ~~+, and~~  
22                 ~~[(2) pay to the]~~ board shall set an examination ~~[a]~~ fee

23 ~~[not to exceed \$300]~~ in an amount ~~[set by the board as]~~ reasonable  
24 and necessary to cover the cost of ~~[administering]~~ the examination.  
25 The board may delegate the collection of an examination fee to the  
26 person who conducts the examination.

27           SECTION 3.21. The heading to existing Subchapter I, Chapter

1 1051, Occupations Code, is amended to read as follows:

2 SUBCHAPTER Q [~~±~~]. DISCIPLINARY PROCEDURES FOR ARCHITECTS

3 SECTION 3.22. Existing Sections 1051.401 and 1051.402,  
4 Occupations Code, are amended to read as follows:

5 Sec. 1051.751 [~~1051.401~~]. DISCIPLINARY POWERS OF BOARD.

6 (a) On a determination that a ground for discipline exists under  
7 Section 1051.752 [~~1051.402~~], the board shall [~~may~~]:

8 (1) revoke, [~~or~~] suspend, or refuse to renew a  
9 certificate of registration;

10 (2) [~~place on probation a person whose certificate of~~  
11 ~~registration is suspended,~~

12 [~~(3)~~] reprimand a certificate [~~the~~] holder [~~of a~~  
13 ~~certificate of registration~~]; or

14 (3) [~~(4)~~] impose an administrative penalty on a person  
15 under Subchapter I [~~±~~].

16 (b) The board may place on probation a person whose  
17 certificate of registration is suspended. If the suspension [~~of a~~  
18 ~~person's certificate of registration~~] is probated, the board may  
19 require the person to:

20 (1) report regularly to the board on matters that are  
21 the basis of the probation;

22 (2) limit practice to the areas prescribed by the  
23 board; or

24 (3) continue or review [~~renew~~] professional education  
25 until the person attains a degree of skill satisfactory to the board  
26 in those areas that are the basis of the probation.

27 Sec. 1051.752 [~~1051.402~~]. GROUNDS FOR DISCIPLINARY ACTION.



1 A person is subject to disciplinary action under Section 1051.751  
2 [~~1051.401~~] for:

3 (1) a violation of this subtitle [~~chapter~~] or a board  
4 rule adopted under this subtitle that applies to architects  
5 [~~chapter~~];

6 (2) a failure to provide or to timely provide to the  
7 Texas Department of Licensing and Regulation any document  
8 designated by Article 9102, Revised Statutes, as a document the  
9 person is required to provide to the department;

10 (3) a cause for which the board may refuse to issue a  
11 certificate of registration;

12 (4) gross incompetency in the practice of  
13 architecture;

14 (5) recklessness in the practice of architecture,  
15 including recklessness in the construction or alteration of a  
16 building by an architect designing, planning, or observing the  
17 construction or alteration; [~~or~~]

18 (6) dishonest practice by the holder of a certificate  
19 of registration;

20 (7) giving false or forged evidence to the board or a  
21 board member in obtaining or assisting another person to obtain a  
22 certificate of registration;

23 (8) aiding or abetting a person not registered under  
24 this subtitle in violating this subtitle; or

25 (9) using or attempting to use as the person's own the  
26 certificate of registration of another person.

27 SECTION 3.23. Chapter 1051, Occupations Code, is amended by

1 adding a new Subchapter P to the new Part 3 of that chapter to read  
2 as follows:

3 SUBCHAPTER P. OTHER PENALTIES AND ENFORCEMENT PROVISIONS:

4 ARCHITECTS

5 Sec. 1051.801. CRIMINAL PENALTY. (a) A person commits an  
6 offense if, in violation of this chapter, the person or a member of  
7 the person's firm:

8 (1) engages in the practice of architecture, or offers  
9 or attempts to engage in the practice of architecture, for a fee or  
10 other direct compensation;

11 (2) prepares architectural plans and specifications  
12 for and observes or supervises the construction, enlargement, or  
13 alteration of a building for another person; or

14 (3) advertises or puts out a sign, card, or drawing  
15 designating the person as an architect or architectural designer or  
16 uses another business or professional title that uses a form of the  
17 word "architect."

18 (b) An offense under this section is a misdemeanor  
19 punishable by a fine of not less than \$250 and not more than \$1,000.  
20 Each day of violation is a separate offense.

21 (c) In an action brought under this section, the board may  
22 be represented by a district or county attorney or by other counsel  
23 as necessary.

24 ARTICLE 4. PROVISIONS AFFECTING ONLY LANDSCAPE ARCHITECTS

25 SECTION 4.01. Subchapter A, Chapter 1052, Occupations Code,  
26 is amended by adding Sections 1052.004 and 1052.005 to read as  
27 follows:

1       Sec. 1052.004. ACTIVITIES OF LANDSCAPE ARCHITECT EMPLOYEE.

2       This chapter does not limit the ability of an employee of a  
3       landscape architect to act under the landscape architect's  
4       instructions, control, or supervision.

5       Sec. 1052.005. ACTIVITIES OF CERTAIN PERSONS NOT  
6       REPRESENTED TO BE LANDSCAPE ARCHITECTS. (a) This chapter does not  
7       apply to a person:

8               (1) who does not represent that the person is a  
9       landscape architect or use a business or professional title that  
10       uses a form of the phrase "landscape architect"; and

11               (2) who is a landscape architect licensed or  
12       registered in another state or country who:

13                       (A) does not open or maintain a business in this  
14       state; and

15                       (B) complies with the requirements of Subsection  
16       (b).

17       (b) A person described by Subsection (a) who agrees to  
18       perform or represents that the person is able to perform a  
19       professional service involved in the practice of landscape  
20       architecture may perform a landscape architectural service in this  
21       state only if, in performing the service, the person:

22               (1) employs a landscape architect registered under  
23       this chapter as a consultant; or

24               (2) acts as a consultant of a landscape architect  
25       registered in this state.

26       SECTION 4.02. Section 1052.054, Occupations Code, is  
27       amended by amending Subsection (a) and adding Subsection (d) to

1 read as follows:

2 (a) The board may set a fee for a board action involving an  
3 administrative expense in an amount that is reasonable and  
4 necessary to cover the cost of administering this chapter, unless  
5 the amount of the fee is set [~~by this chapter or~~] by the General  
6 Appropriations Act.

7 (d) A fee set by the board under this section may not be used  
8 for the purpose of earning additional revenue for the board.

9 SECTION 4.03. The heading to Section 1052.056, Occupations  
10 Code, is amended to read as follows:

11 Sec. 1052.056. [~~FORM AND~~] DESIGN AND APPROVAL OF LANDSCAPE  
12 ARCHITECT'S SEAL.

13 SECTION 4.04. Section 1052.056(a), Occupations Code, is  
14 amended to read as follows:

15 (a) The board shall prescribe and approve [~~the form of~~] the  
16 seal to be used by a landscape architect.

17 SECTION 4.05. Sections 1052.251 and 1052.252, Occupations  
18 Code, are amended to read as follows:

19 Sec. 1052.251. DISCIPLINARY POWERS OF BOARD. (a) On a  
20 determination that a ground for discipline exists under Section  
21 1052.252, the board shall [~~may~~]:

22 (1) revoke, [~~or~~] suspend, or refuse to renew a  
23 certificate of registration;

24 (2) [~~place on probation a person whose certificate of~~  
25 ~~registration is suspended,~~

26 [~~3~~] reprimand a certificate [~~the~~] holder [~~of a~~  
27 ~~certificate of registration~~]; or

1           (3) [~~4~~] impose an administrative penalty on a person  
2 under Subchapter I, Chapter 1051 [G].

3           (b) The board may place on probation a person whose  
4 certificate of registration is suspended. If the suspension [~~of a~~  
5 ~~person's certificate of registration~~] is probated, the board may  
6 require the person to:

7           (1) report regularly to the board on matters that are  
8 the basis of the probation;

9           (2) limit practice to the areas prescribed by the  
10 board; or

11           (3) continue or review [~~renew~~] professional education  
12 until the person attains a degree of skill satisfactory to the board  
13 in those areas that are the basis of the probation.

14           Sec. 1052.252. GROUNDS FOR DISCIPLINARY ACTION. A person  
15 is subject to disciplinary action under Section 1052.251 for:

16           (1) violating this subtitle [~~chapter~~] or a board rule  
17 adopted under this subtitle that applies to landscape architects  
18 [~~chapter~~];

19           (2) using fraud or deceit in obtaining a certificate  
20 of registration;

21           (3) giving false or forged evidence to the board or a  
22 member of the board in obtaining or assisting another person to  
23 obtain a certificate of registration;

24           (4) using or attempting to use as the person's own the  
25 certificate of registration of another person;

26           (5) holding the person out to the public as an engineer  
27 or using the term "engineer," "engineered," "professional

1 engineer," or "P.E." or any other term tending to create the  
2 impression that the person is authorized to practice engineering or  
3 another profession unless the person is licensed under Chapter 1001  
4 or another licensing law of this state, as applicable;

5 (6) holding the person out to the public as a surveyor  
6 or using the term "surveyor," "surveyed," or "registered  
7 professional land surveyor" or any other term tending to create the  
8 impression that the person is authorized to practice surveying or  
9 another profession unless the person is licensed under Chapter 1071  
10 or another licensing law of this state, as applicable;

11 (7) committing an act of recklessness [~~gross~~  
12 ~~negligence~~], gross incompetency, or misconduct in the practice of  
13 landscape architecture; [~~or~~]

14 (8) failing to provide or to timely provide to the  
15 Texas Department of Licensing and Regulation any document  
16 designated by Article 9102, Revised Statutes, as a document the  
17 person is required to provide to the department;

18 (9) acting dishonestly in the practice of landscape  
19 architecture; or

20 (10) aiding or abetting a person not registered under  
21 this subtitle in violating this subtitle.

22 ARTICLE 5. PROVISIONS AFFECTING ONLY INTERIOR DESIGNERS

23 SECTION 5.01. Section 1053.052, Occupations Code, is  
24 amended by adding Subsection (d) to read as follows:

25 (d) A fee set by the board under this section may not be used  
26 for the purpose of earning additional revenue for the board.

27 SECTION 5.02. Subchapter B, Chapter 1053, Occupations Code,

1 is amended by adding Section 1053.058 to read as follows:

2 Sec. 1053.058. DESIGN AND APPROVAL OF INTERIOR DESIGNER'S  
3 SEAL. (a) The board shall prescribe and approve the seal to be used  
4 by an interior designer.

5 (b) The design of the seal must be the same as the design  
6 used by the board, except that the words "Registered Interior  
7 Designer, State of Texas" must be used instead of "Texas Board of  
8 Architectural Examiners."

9 SECTION 5.03. Section 1053.160, Occupations Code, is  
10 amended to read as follows:

11 Sec. 1053.160. USE OF INTERIOR DESIGNER'S SEAL. (a) An  
12 interior designer shall maintain a [is entitled to use any] seal  
13 described by Section 1053.058 and shall stamp or impress the seal on  
14 each drawing or specification issued from the interior designer's  
15 office for use in this state [adopted by the board].

16 (b) A person may not use or attempt to use an interior  
17 designer's seal, a similar seal, or a replica of the seal unless the  
18 use is by or through an interior designer.

19 (c) An interior designer may not permit a person who is not  
20 an interior designer to use the interior designer's seal without  
21 the interior designer's personal supervision.

22 (d) A person may not present or attempt to use as the  
23 person's own the seal of another person.

24 SECTION 5.04. Sections 1053.251(a) and (b), Occupations  
25 Code, are amended to read as follows:

26 (a) On a determination that a ground for disciplinary action  
27 exists under Section 1053.252, the board shall [~~may~~]:

1           (1) revoke, ~~[or]~~ suspend, or refuse to renew a  
2 certification of registration;

3           (2) ~~[place on probation a person whose certificate of~~  
4 ~~registration has been suspended,~~

5           ~~[(3)]~~ reprimand a certificate ~~[the]~~ holder ~~[of a~~  
6 ~~certificate of registration]~~; or

7           (3) ~~[(4)]~~ impose an administrative penalty on a person  
8 under Subchapter I, Chapter 1051 [G].

9           (b) The board may place on probation a person whose  
10 certificate of registration is suspended. If the suspension ~~[of a~~  
11 ~~person's certificate of registration]~~ is probated, the board may  
12 require the person to:

13           (1) report regularly to the board on matters that are  
14 the basis of the probation;

15           (2) limit practice to the areas prescribed by the  
16 board; or

17           (3) continue or review ~~[renew]~~ professional education  
18 until the person attains a degree of skill satisfactory to the board  
19 in those areas that are the basis of the probation.

20           SECTION 5.05. Section 1053.252, Occupations Code, is  
21 amended to read as follows:

22           Sec. 1053.252. GROUNDS FOR DISCIPLINARY ACTION. A person  
23 is subject to disciplinary action under Section 1053.251 for:

24           (1) violating this subtitle ~~[chapter]~~ or a board rule  
25 adopted under this subtitle that applies to interior designers  
26 ~~[chapter]~~;

27           (2) being convicted of a felony or of a misdemeanor



1 involving moral turpitude;

2 (3) using fraud or deceit in obtaining or attempting  
3 to obtain a certificate of registration;

4 (4) committing an act of recklessness, gross  
5 incompetency, or misconduct in the practice of interior design  
6 [performing professional duties in a grossly negligent manner];

7 (5) practicing in a manner detrimental to the public  
8 health, safety, or welfare;

9 (6) advertising in a manner that tends to deceive or  
10 defraud the public;

11 (7) aiding or abetting any person not registered under  
12 this subtitle [~~chapter~~] in violating this subtitle [~~chapter~~]; [~~or~~]

13 (8) failing to provide or to timely provide to the  
14 Texas Department of Licensing and Regulation any document  
15 designated by Article 9102, Revised Statutes, as a document the  
16 person is required to provide to the department;

17 (9) giving false or forged evidence to the board or a  
18 member of the board in obtaining or assisting another person to  
19 obtain a certificate of registration;

20 (10) using or attempting to use as the person's own the  
21 certificate of registration of another person; or

22 (11) acting dishonestly in the practice of interior  
23 design.

24 SECTION 5.06. The heading to Subchapter H, Chapter 1053,  
25 Occupations Code, is amended to read as follows:

26 SUBCHAPTER H. [~~OTHER~~] PENALTIES

27 ARTICLE 6. REPEALER; TRANSITION PROVISIONS; EFFECTIVE DATE

1           SECTION 6.01. (a) Subchapters C, E, and G, Chapter 1052, and  
2 Subchapters C, E, and G, Chapter 1053, Occupations Code, are  
3 repealed.

4           (b) Existing Sections 1051.003, 1051.204-1051.206,  
5 1051.210, 1051.306, 1051.307, 1051.403, 1051.503, 1052.001,  
6 1052.051-1052.053, 1052.055, 1052.057, 1052.058, 1052.155,  
7 1052.156, 1052.253, 1053.001, 1053.051, 1053.054-1053.057,  
8 1053.156, 1053.157, 1053.161, 1053.251(c), 1053.253, and 1053.254,  
9 Occupations Code, are repealed.

10          SECTION 6.02. Not later than January 1, 2004, the Texas  
11 Board of Architectural Examiners shall:

12                 (1) adopt rules as required by this Act; and

13                 (2) set the fees required by this Act.

14          SECTION 6.03. (a) In accordance with Section 311.031(c),  
15 Government Code, which gives effect to a substantive amendment  
16 enacted by the same legislature that codifies the amended statute,  
17 the text of Section 1051.355(b), Occupations Code, as set out in  
18 this Act, gives effect to changes made by Section 3, Chapter 861,  
19 Acts of the 77th Legislature, Regular Session, 2001.

20          (b) In accordance with Section 311.031(c), Government Code,  
21 which gives effect to a substantive amendment enacted by the same  
22 legislature that codifies the amended statute, the text of Section  
23 1051.402, Occupations Code, set out in this Act as new Section  
24 1051.752, Occupations Code, gives effect to changes made by Section  
25 2, Chapter 861, Acts of the 77th Legislature, Regular Session,  
26 2001.

27          (c) In accordance with Section 311.031(c), Government Code,

1 which gives effect to a substantive amendment enacted by the same  
2 legislature that codifies the amended statute, the text of Section  
3 1052.252, Occupations Code, as set out in this Act, gives effect to  
4 changes made by Section 6, Chapter 861, Acts of the 77th  
5 Legislature, Regular Session, 2001.

6 (d) In accordance with Section 311.031(c), Government Code,  
7 which gives effect to a substantive amendment enacted by the same  
8 legislature that codifies the amended statute, the text of Section  
9 1053.252, Occupations Code, as set out in this Act, gives effect to  
10 changes made by Section 9, Chapter 861, Acts of the 77th  
11 Legislature, Regular Session, 2001.

12 (e) To the extent of any conflict, this Act prevails over  
13 another Act of the 78th Legislature, Regular Session, 2003,  
14 relating to nonsubstantive additions to and corrections in enacted  
15 codes.

16 SECTION 6.04. (a) The changes in law made by this Act by the  
17 amendment of Section 1051.103, Occupations Code, and the addition  
18 of Section 1051.112, Occupations Code, in the prohibitions on or  
19 qualifications of members of the Texas Board of Architectural  
20 Examiners do not affect the entitlement of a member serving on the  
21 Texas Board of Architectural Examiners immediately before  
22 September 1, 2003, to continue to serve and function as a member of  
23 the Texas Board of Architectural Examiners for the remainder of the  
24 member's term. Those changes in law apply only to a member appointed  
25 on or after September 1, 2003.

26 (b) Before adopting an administrative penalty schedule  
27 under Section 1051.452(c), Occupations Code, as added by this Act,

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1 the Texas Board of Architectural Examiners shall hold a public  
2 hearing that addresses the proposed administrative penalty  
3 schedule. The board must allow members of the public to present  
4 oral testimony or written documentation at the hearing.

5 SECTION 6.05. This Act takes effect September 1, 2003.