

By: Jackson

S.B. No. 283

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 TEXAS 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.

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

1 dealing with mutual business or professional problems and in
2 promoting their 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. Subsections (a) and (c), Section 1051.105,
6 Occupations 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. Subsections (a) and (b), Section 1051.203,
4 Occupations 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. Subsection (a), existing Section 1051.207,

1 Occupations 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 or 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 through
9 1051.212 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 PRACTICES OF
4 ENGINEERING, ARCHITECTURE, AND LANDSCAPE ARCHITECTURE. (a) The
5 Joint Advisory Committee on the Practices of Engineering,
6 Architecture, and Landscape Architecture is an advisory committee
7 to the board and to the Texas Board of Professional Engineers. The
8 advisory committee consists of:

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

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

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

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

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

25 (e) The advisory committee shall issue advisory opinions to
26 the board and to the Texas Board of Professional Engineers on
27 matters relating to the practice of engineering and the practice of

1 architecture or landscape architecture, including:

2 (1) opinions on whether certain activities constitute
3 the practice of engineering or the practice of architecture or
4 landscape architecture;

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

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

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

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

20 ARTICLE 2. PROVISIONS AFFECTING ARCHITECTS, LANDSCAPE

21 ARCHITECTS, AND INTERIOR DESIGNERS

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

24 PART 2. GENERAL PROVISIONS APPLYING TO ARCHITECTS, LANDSCAPE

25 ARCHITECTS, AND INTERIOR DESIGNERS

26 SECTION 2.02. Existing Subchapters F, H, J, and K, Chapter
27 1051, Occupations Code, are designated as part of the new Part 2 of

1 Chapter 1051.

2 SECTION 2.03. The heading to existing Subchapter F, Chapter
3 1051, Occupations Code, is amended to read as follows:

4 SUBCHAPTER E [~~F~~]. PUBLIC INTEREST INFORMATION AND COMPLAINT
5 PROCEDURES

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

8 Sec. 1051.251. PUBLIC INTEREST INFORMATION; DISPLAY OF
9 CERTIFICATE.

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

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

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

24 (d) A person registered under this subtitle shall
25 prominently display the person's certificate of registration in the
26 person's place of business.

27 SECTION 2.06. Sections 1051.252 and 1051.253, Occupations

1 Code, are amended to read as follows:

2 Sec. 1051.252. COMPLAINTS. (a) The board by rule shall
3 establish a comprehensive procedure for receiving and adjudicating
4 complaints from consumers and service recipients. The rules must
5 address each phase of the complaint process, including complaint
6 intake, preliminary evaluation, investigation, adjudication,
7 sanctions, and public disclosure.

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

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

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

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

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

24 (1) the name of the person who filed the complaint
25 unless the complaint is filed anonymously;

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

27 (3) the subject matter of the complaint;

1 (4) the name of each person contacted in relation to
2 the complaint;

3 (5) a summary of the results of the review or
4 investigation of the complaint; and

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

8 (b) The board shall provide to the person filing the
9 complaint and to each person who is a subject of the complaint a
10 copy of the board's policies and procedures relating to complaint
11 investigation and resolution.

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

19 SECTION 2.07. Subsection (a), Section 1051.254,
20 Occupations Code, is amended to read as follows:

21 (a) The board shall develop and implement policies that
22 provide the public with a reasonable opportunity to appear before
23 the board and to speak on any issue under the jurisdiction of the
24 board.

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

1 SUBCHAPTER F. GENERAL REGISTRATION REQUIREMENTS

2 Sec. 1051.301. ADMINISTRATION OF EXAMINATION TO DISABLED
3 APPLICANTS. The board by rule shall ensure that an examination
4 under this subtitle is administered to applicants with disabilities
5 in compliance with the Americans with Disabilities Act of 1990 (42
6 U.S.C. Section 12101 et seq.) and its subsequent amendments.

7 Sec. 1051.302. EXAMINATION FEE. Notwithstanding Section
8 2113.203, Government Code, the board may delegate the collection of
9 any examination fee prescribed by the board to the person who
10 conducts the examination.

11 Sec. 1051.303. REFUND POLICY. The board by rule shall adopt
12 a comprehensive refund policy for applicants who are not able to
13 take an examination under this subtitle after paying the
14 examination fee. The comprehensive refund policy must include:

15 (1) a list of the circumstances under which the board
16 will refund the examination fee to an applicant who does not take
17 the examination;

18 (2) the required documentation to support a refund
19 request;

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

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

23 Sec. 1051.304. EXAMINATION RESULTS. (a) Not later than
24 the 30th day after the date a person takes an examination under this
25 subtitle, the board shall notify the person of the results of the
26 examination.

27 (b) If an examination is graded or reviewed by a testing

1 service:

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

5 (2) if notice of the examination results will be
6 delayed for longer than 90 days after the examination date, the
7 board shall notify the person of the reason for the delay before the
8 90th day.

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

11 (d) If requested in writing by a person who fails an
12 examination administered under this subtitle, the board shall
13 provide the person with an analysis of the person's performance on
14 the examination.

15 Sec. 1051.305. RECIPROCITY. (a) The board may waive any
16 prerequisite to obtaining a certificate of registration under this
17 subtitle for an applicant who holds a license or certificate of
18 registration issued by another jurisdiction:

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

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

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

25 (c) An applicant under this section must:

26 (1) apply in the same manner and form as any other
27 applicant under this subtitle, except that the application must be

1 accompanied by a fee in an amount set by the board as reasonable and
2 necessary to cover the cost of processing and investigating the
3 application and issuing the certificate of registration; and

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

6 Sec. 1051.306. FIRM REGISTRATION NOT REQUIRED. The board
7 may not require a firm, partnership, corporation, or association
8 engaged in the practice of architecture, landscape architecture, or
9 interior design to register with the board under this subtitle.

10 Sec. 1051.307. ROSTER OF APPLICANTS. The board shall
11 maintain a roster of all persons who apply for a certificate of
12 registration under this subtitle. The roster must include the
13 following information about each applicant:

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

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

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

17 (4) the applicant's educational and other
18 qualifications;

19 (5) whether the applicant took the examination;

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

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

23 and

24 (8) any other information the board considers
25 necessary.

26 SECTION 2.09. The heading to existing Subchapter H, Chapter
27 1051, Occupations Code, is amended to read as follows:

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

2 SECTION 2.10. Sections 1051.351 through 1051.354,
3 Occupations Code, are amended to read as follows:

4 Sec. 1051.351. ANNUAL RENEWAL REQUIRED. (a) A person who
5 is otherwise eligible to renew a certificate of registration under
6 this subtitle may renew an unexpired certificate by paying the
7 required renewal fee to the board before the expiration date of the
8 certificate. A person whose certificate of registration has
9 expired may not engage in activities that require registration
10 until the certificate of registration has been renewed [~~An original~~
11 ~~certificate of registration is valid for the balance of the current~~
12 ~~registration year and may be renewed annually. A certificate of~~
13 ~~registration that has been renewed expires on the first anniversary~~
14 ~~of the renewal date].~~

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

20 (c) For the [~~a~~] year in which the certificate of
21 registration expiration date is changed, the board shall prorate
22 renewal fees [~~shall be prorated~~] on a monthly basis so that each
23 certificate holder pays only that portion of the registration fee
24 that is allocable to the number of months during which the
25 certificate is valid. On renewal of the certificate of
26 registration on the new expiration date, the total registration
27 renewal fee is payable.

1 Sec. 1051.352. NOTICE OF EXPIRATION. Not later than the
2 30th [~~31st~~] day before the [~~expiration~~] date [~~of~~] a person's
3 certificate of registration is scheduled to expire, the board shall
4 send written notice of the impending expiration to the person at the
5 person's last known address according to the records of the board
6 [~~records~~].

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

9 ~~[(1) paying the required renewal fee to the board~~
10 ~~before the expiration date; and~~

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

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

16 ~~[(1)]~~ paying to the board a[+]
17 ~~[(A) any unpaid]~~ renewal fee that is equal to
18 1-1/2 times the normally required renewal fee[, and

19 ~~[(B) a penalty fee in an amount determined by the~~
20 ~~board; and~~

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

23 (c) A [~~The board may set a penalty fee for a~~] person whose
24 certificate of registration has been expired for more [~~less~~] than
25 90 days [~~in an amount that is different from the penalty fee for a~~
26 ~~person whose certificate of registration has been expired for~~
27 ~~longer than 90 days]~~ but less than one year may renew the

1 certificate by paying to the board a renewal fee equal to two times
2 the normally required renewal fee.

3 (d) A person whose [~~The board shall issue a certificate of~~
4 ~~renewal of a person's~~] certificate of registration has been expired
5 for one year or more may not renew the certificate. The person may
6 obtain a new certificate of registration by complying with the
7 requirements and procedures, including the examination
8 requirements, for obtaining an original certificate [~~on receipt of:~~

9 ~~(1) the required fees, as provided by this section;~~
10 ~~and~~

11 ~~(2) the required proof of compliance with the board's~~
12 ~~continuing education requirement].~~

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

1 Sec. 1051.354. FEE EXEMPTION FOR MILITARY PERSONNEL.

2 (a) A person required to register under this subtitle [~~An~~
3 ~~architect~~] who is on active duty as a member of the United States
4 military is exempt from the payment of any fee during the person's
5 term of service if the person:

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

8 (2) was in good standing as an architect, landscape
9 architect, or interior designer in this state at the time the person
10 entered into military service.

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

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

15 (2) is entitled to have the person's name continued on
16 the list of architects, landscape architects, or interior
17 designers.

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

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

26 (b) A person whose certificate of registration is on
27 inactive status must pay an annual renewal fee on a date and in a

1 manner prescribed by board rule. The board shall prescribe the
2 renewal fee under this subsection in an amount equal to the sum of:

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

5 (2) except as provided by Subsection (e), the
6 additional amount required under Section 1051.651(b)(1)(B)
7 ~~[1051.204(b)(1)(B)]~~ for the examination fee scholarship program.

8 (c) A person whose certificate of registration is on
9 inactive status may not perform any activity regulated under this
10 subtitle ~~[chapter]~~.

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

14 SECTION 2.12. Subsections (a) and (d), Section 1051.356,
15 Occupations Code, are amended to read as follows:

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

21 (d) A person is exempt from the continuing education
22 requirements of this section if the person is, as of September 1,
23 1999, engaged in teaching the subject matter for which the person is
24 registered under this subtitle ~~[architecture]~~ as a full-time
25 faculty member or other permanent employee of an institution of
26 higher education, as defined by Section 61.003, Education Code.

27 SECTION 2.13. Chapter 1051, Occupations Code, is amended by

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

3 SUBCHAPTER H. GENERAL DISCIPLINARY PROCEDURES

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

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

12 (c) A hearing under this section is a contested case subject
13 to Chapter 2001, Government Code, and must be conducted under rules
14 enacted by the State Office of Administrative Hearings under
15 Chapter 2003, Government Code.

16 Sec. 1051.402. PUBLICATION OF DISCIPLINARY ORDERS AND
17 SANCTIONS. The board by rule shall provide for the publication of
18 all disciplinary orders and sanctions imposed by the board under
19 this subtitle. A certificate holder may not negotiate with the
20 board to keep the board from publishing the settlement of a
21 disciplinary action.

22 Sec. 1051.403. REINSTATEMENT. (a) A person whose
23 application for the issuance of an original or renewal certificate
24 of registration is denied or whose certificate of registration is
25 revoked or suspended may not apply to the board for the issuance or
26 reinstatement of a certificate of registration before the 180th day
27 after the date of the denial, revocation, or suspension.

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

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

6 (2) presents evidence to support the issuance or
7 reinstatement of the certificate.

8 SECTION 2.14. The heading to existing Subchapter J, Chapter
9 1051, Occupations Code, is amended to read as follows:

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

11 SECTION 2.15. Section 1051.451, Occupations Code, is
12 amended to read as follows:

13 Sec. 1051.451. IMPOSITION OF ADMINISTRATIVE PENALTY. The
14 board may impose an administrative penalty on a person who engages
15 in conduct for which the person is subject to disciplinary action
16 under this subtitle [~~Subchapter I~~], regardless of whether the
17 person holds a certificate of registration issued under this
18 subtitle [~~chapter~~].

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

22 (a) The amount of an administrative penalty may not exceed
23 \$5,000 [~~\$1,000~~].

24 (c) The board by rule shall adopt an administrative penalty
25 schedule for violations of this subtitle or board rules to ensure
26 that the amounts of penalties imposed are appropriate to the
27 violation. The board must provide the administrative penalty

1 schedule to the public on request.

2 SECTION 2.17. The heading to existing Subchapter K, Chapter
3 1051, Occupations Code, is amended to read as follows:

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

5 SECTION 2.18. Section 1051.501, Occupations Code, is
6 amended to read as follows:

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

10 (b) The board shall ensure that enforcement action is taken
11 against a person who violates this subtitle [~~chapter~~].

12 SECTION 2.19. Subsection (a), Section 1051.502,
13 Occupations Code, is amended to read as follows:

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

19 SECTION 2.20. Section 1051.504, Occupations Code, is
20 amended to read as follows:

21 Sec. 1051.503 [~~1051.504~~]. CUMULATIVE EFFECT OF
22 PROVISIONS. An action or penalty authorized by this subtitle
23 [~~subchapter~~] is in addition to any other action or penalty provided
24 by law.

25 SECTION 2.21. Existing Subchapter K, Chapter 1051,
26 Occupations Code, is amended by adding Sections 1051.504 and
27 1051.505 to read as follows:

1 Sec. 1051.504. CEASE AND DESIST ORDER. (a) If it appears
2 to the board that a person who is not registered under this subtitle
3 is violating or has violated this subtitle, a rule adopted under
4 this subtitle, or another state statute or rule relating to the
5 practice of architecture, landscape architecture, or interior
6 design, the board after providing to the person notice and the
7 opportunity for a hearing may issue a cease and desist order
8 prohibiting the conduct described in the notice.

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

12 (1) issue a cease and desist order; and

13 (2) refer the violation to the attorney general for
14 further action.

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

19 (d) A hearing under this section is subject to Chapter 2001,
20 Government Code.

21 (e) The board shall adopt rules necessary to implement this
22 section.

23 Sec. 1051.505. RESTITUTION. (a) The board may order a
24 person registered under this subtitle to pay restitution to a
25 consumer instead of or in addition to assessing an administrative
26 penalty under this chapter.

27 (b) The amount of restitution ordered by the board may not

1 exceed the amount the consumer paid the person for a service
2 regulated under this subtitle. The board may not include an
3 estimation of other damages or harm in a restitution order.

4 ARTICLE 3. PROVISIONS AFFECTING ONLY ARCHITECTS

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

7 PART 3. PROVISIONS APPLYING ONLY TO ARCHITECTS

8 SECTION 3.02. Existing Subchapters B, G, and I, Chapter
9 1051, Occupations Code, are designated as a part of the new Part 3
10 of Chapter 1051.

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

14 SUBCHAPTER K. GENERAL PROVISIONS: ARCHITECTS

15 Sec. 1051.551. ENFORCEMENT BY CERTAIN PUBLIC OFFICIALS.

16 (a) A public official of this state or of a political subdivision
17 of this state who is responsible for enforcing laws that affect the
18 practice of architecture may accept an architectural plan,
19 specification, or other related document only if the plan,
20 specification, or document is prepared by an architect or by a
21 person acting under the supervision of an architect, as evidenced
22 by the architect's seal.

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

25 SECTION 3.04. The heading to existing Subchapter B, Chapter
26 1051, Occupations Code, is amended to read as follows:

SUBCHAPTER L [~~B~~]. EXEMPTIONS

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3.10. Subsection (b), existing Section 1051.055,

1 Occupations Code, is amended to read as follows:

2 (b) This chapter does not limit the use of a job title or
3 personnel classification by an employee described by Subsection (a)
4 if the employee does not use:

5 (1) the title or classification in connection with an
6 offer to the public to perform architectural services; and

7 (2) a name, title, or other word that tends to convey
8 the impression that a person not registered as an architect under
9 this chapter is offering to the public to perform architectural
10 services.

11 SECTION 3.11. The heading to Section 1051.056, Occupations
12 Code, is amended to read as follows:

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

15 SECTION 3.12. Subsection (a), existing Section 1051.056,
16 Occupations Code, is amended to read as follows:

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

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

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

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

27 (B) complies with the requirements of Subsection

1 (b);

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

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

9 (A) a building used primarily for:

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

11 or

12 (ii) storage of raw agricultural
13 commodities;

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

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

18 (D) a commercial building that does not exceed
19 ~~[exceeding]~~ a height of two stories or ~~[and not exceeding]~~ a square
20 footage of 20,000 square feet; or

21 (E) a warehouse that has limited public access.

22 SECTION 3.13. Chapter 1051, Occupations Code, is amended by
23 adding a new Subchapter M to the new Part 3 of that chapter to read
24 as follows:

25 SUBCHAPTER M. BOARD POWERS AND DUTIES: ARCHITECTS

26 Sec. 1051.651. FEES. (a) The board may set a fee for a
27 board action involving an administrative expense in an amount that

1 is reasonable and necessary to cover the cost of administering this
2 chapter, unless the amount of the fee is set by this chapter or by
3 the General Appropriations Act.

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

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

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

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

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

13 (c) The board may accept payment of a fee by electronic
14 means. The board may charge a fee to process the payment made by
15 electronic means. The board shall set the processing fee in an
16 amount that is reasonably related to the expense incurred by the
17 board in processing the payment made by electronic means, not to
18 exceed five percent of the amount of the fee for which the payment
19 is made.

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

22 Sec. 1051.652. FEE INCREASE. (a) The fee for the issuance
23 of a certificate to an applicant possessing a license or
24 certificate to practice architecture in another state and the fee
25 for the renewal of a certificate under this chapter are increased by
26 \$200.

27 (b) Of each fee increase collected, \$50 shall be deposited

1 in the foundation school fund and \$150 shall be deposited in the
2 general revenue fund.

3 Sec. 1051.653. EXAMINATION FEE SCHOLARSHIPS. (a) The
4 board shall administer scholarships to applicants for examination
5 under this part in a manner the board determines best serves the
6 public purpose of:

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

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

10 (3) improving the state's business environment and
11 encouraging economic development; and

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

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

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

19 (1) \$500; or

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

21 (d) Scholarships under this section are funded by the amount
22 added to each renewal fee under Section 1051.651(b). The board may
23 not use more than 15 percent of the amount appropriated to the board
24 for scholarships under this section to pay the costs of
25 administering the scholarships.

26 Sec. 1051.654. DESIGN AND APPROVAL OF ARCHITECT'S SEAL.

27 (a) The board shall prescribe and approve the seal to be used by an

1 architect.

2 (b) The design of the seal must be the same as the design
3 used by the board, except that the words "Registered Architect,
4 State of Texas" must be used instead of "Texas Board of
5 Architectural Examiners."

6 SECTION 3.14. The heading to existing Subchapter G, Chapter
7 1051, Occupations Code, is amended to read as follows:

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

9 SECTION 3.15. Existing Section 1051.301, Occupations Code,
10 is amended to read as follows:

11 Sec. 1051.701 [~~1051.301~~]. REGISTRATION REQUIRED. (a) A
12 person may not engage in the practice of architecture or offer or
13 attempt to engage in the practice of architecture unless the person
14 is registered as an architect under this chapter.

15 (b) A firm, partnership, corporation, or association,
16 including a firm, partnership, corporation, or joint stock
17 association engaged in the practice of engineering under Section
18 1001.405, may engage in the practice of architecture, represent to
19 the public that the entity is engaged in the practice of
20 architecture or is offering architectural services, or use the word
21 "architect" or "architecture" in any manner in its name only if any
22 practice of architecture or architectural service performed on
23 behalf of the entity is performed by or through a person registered
24 as an architect under this chapter.

25 SECTION 3.16. The heading to existing Section 1051.302,
26 Occupations Code, is amended to read as follows:

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

1 SECTION 3.17. Existing Section 1051.302, Occupations Code,
2 is amended by adding Subsection (d) to read as follows:

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

5 SECTION 3.18. The heading to existing Section 1051.303,
6 Occupations Code, is amended to read as follows:

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

9 SECTION 3.19. The heading to existing Section 1051.304,
10 Occupations Code, is amended to read as follows:

11 Sec. 1051.704 [~~1051.304~~]. EXAMINATION; ISSUANCE OF
12 CERTIFICATE.

13 SECTION 3.20. The heading to existing Section 1051.305,
14 Occupations Code, is amended to read as follows:

15 Sec. 1051.705 [~~1051.305~~]. ELIGIBILITY AND APPLICATION FOR
16 EXAMINATION.

17 SECTION 3.21. Existing Section 1051.305, Occupations Code,
18 is amended by amending Subsection (b) and adding Subsection (c) to
19 read as follows:

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

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

24 (2) [~~(B)~~] evidence acceptable to the board that the
25 applicant meets the experience requirement established by
26 Subsection (a)(2).

27 (c) The [~~+~~ and

1 ~~[(2) pay to the]~~ board shall set an examination ~~[a]~~ fee
2 ~~[not to exceed \$300]~~ in an amount ~~[set by the board as]~~ reasonable
3 and necessary to cover the cost of ~~[administering]~~ the examination.

4 SECTION 3.22. The heading to existing Subchapter I, Chapter
5 1051, Occupations Code, is amended to read as follows:

6 SUBCHAPTER Q ~~[H]~~. DISCIPLINARY PROCEDURES FOR ARCHITECTS

7 SECTION 3.23. Existing Sections 1051.401 and 1051.402,
8 Occupations Code, are amended to read as follows:

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

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

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

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

16 ~~[(3)]~~ reprimand a certificate ~~[the]~~ holder ~~[of a~~
17 ~~certificate of registration]~~; or

18 (3) ~~[(4)]~~ impose an administrative penalty on a person
19 under Subchapter I ~~[H]~~.

20 (b) The board may place on probation a person whose
21 certificate of registration is suspended. If the suspension ~~[of a~~
22 ~~person's certificate of registration]~~ is probated, the board may
23 require the person to:

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

26 (2) limit practice to the areas prescribed by the
27 board; or

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

4 Sec. 1051.752 [~~1051.402~~]. GROUND FOR DISCIPLINARY ACTION.
5 A person is subject to disciplinary action under Section 1051.751
6 [~~1051.401~~] for:

7 (1) a violation of this subtitle [~~chapter~~] or a board
8 rule adopted under this subtitle that applies to architects
9 [~~chapter~~];

10 (2) a failure to provide or to timely provide to the
11 Texas Department of Licensing and Regulation any document
12 designated by Article 9102, Revised Statutes, as a document the
13 person is required to provide to the department;

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

16 (4) gross incompetency in the practice of
17 architecture;

18 (5) recklessness in the practice of architecture,
19 including recklessness in the construction or alteration of a
20 building by an architect designing, planning, or observing the
21 construction or alteration; [~~or~~]

22 (6) dishonest practice in the practice of architecture
23 by the holder of a certificate of registration;

24 (7) giving false or forged evidence to the board or a
25 board member in obtaining or assisting another person to obtain a
26 certificate of registration;

27 (8) aiding or abetting a person not registered under

1 this subtitle in violating this subtitle; or

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

4 SECTION 3.24. Chapter 1051, Occupations Code, is amended by
5 adding a new Subchapter P to the new Part 3 of that chapter to read
6 as follows:

7 SUBCHAPTER P. OTHER PENALTIES AND ENFORCEMENT PROVISIONS:

8 ARCHITECTS

9 Sec. 1051.801. CRIMINAL PENALTY. (a) A person, whether
10 acting independently or on behalf of the person's firm, commits an
11 offense if, in violation of this chapter, the person:

12 (1) engages in the practice of architecture, or offers
13 or attempts to engage in the practice of architecture;

14 (2) prepares architectural plans or specifications
15 for and observes or supervises the construction, enlargement, or
16 alteration of a building for another person; or

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

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

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

ARTICLE 4. PROVISIONS AFFECTING ONLY LANDSCAPE ARCHITECTS

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

Sec. 1052.004. ACTIVITIES OF LANDSCAPE ARCHITECT EMPLOYEE.
This chapter does not limit the ability of an employee of a landscape architect to act under the landscape architect's instructions, control, or supervision.

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

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

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

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

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

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

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

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

3 SECTION 4.02. Section 1052.054, Occupations Code, is
4 amended by amending Subsection (a) and adding Subsection (d) to
5 read as follows:

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

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

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

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

17 SECTION 4.04. Subsection (a), Section 1052.056,
18 Occupations Code, is amended to read as follows:

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

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

23 Sec. 1052.251. DISCIPLINARY POWERS OF BOARD. (a) On a
24 determination that a ground for discipline exists under Section
25 1052.252, the board shall [~~may~~]:

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

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

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

5 (3) [~~(4)~~] impose an administrative penalty on a person
6 under Subchapter I, Chapter 1051 [~~G~~].

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

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

13 (2) limit practice to the areas prescribed by the
14 board; or

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

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

20 (1) violating this subtitle [~~chapter~~] or a board rule
21 adopted under this subtitle that applies to landscape architects
22 [~~chapter~~];

23 (2) using fraud or deceit in obtaining a certificate
24 of registration;

25 (3) giving false or forged evidence to the board or a
26 member of the board in obtaining or assisting another person to
27 obtain a certificate of registration;

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

3 (5) holding the person out to the public as an engineer
4 or using the term "engineer," "engineered," "professional
5 engineer," or "P.E." or any other term tending to create the
6 impression that the person is authorized to practice engineering or
7 another profession unless the person is licensed under Chapter 1001
8 or another licensing law of this state, as applicable;

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

15 (7) committing an act of recklessness [~~gross~~
16 ~~negligence~~], gross incompetency, or misconduct in the practice of
17 landscape architecture; [~~or~~]

18 (8) failing to provide or to timely provide to the
19 Texas Department of Licensing and Regulation any document
20 designated by Article 9102, Revised Statutes, as a document the
21 person is required to provide to the department;

22 (9) acting dishonestly in the practice of landscape
23 architecture; or

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

26 ARTICLE 5. PROVISIONS AFFECTING ONLY INTERIOR DESIGNERS

27 SECTION 5.01. Section 1053.002, Occupations Code, is

1 amended to read as follows:

2 Sec. 1053.002. APPLICATION. (a) This chapter does not
3 apply to:

4 (1) a person who:

5 (A) [(1)] does not use the title "interior
6 designer" and does not use the term "interior design" to describe a
7 service the person offers or performs; and

8 (B) is an interior designer licensed or
9 registered in another state or country who:

10 (i) does not open or maintain a business in
11 this state; and

12 (ii) complies with the requirements of
13 Subsection (b); or

14 (2) a person who is registered to practice
15 architecture in this state.

16 (b) A person described by Subsection (a)(1) who agrees to
17 perform or represents that the person is able to perform [This
18 chapter does not:

19 ~~[(1) prohibit an employee of an interior designer or~~
20 ~~architect from performing]~~ an interior design service may perform
21 an interior design service in this state if, in performing the
22 service, the person:

23 (1) employs an [under the control, instruction, or
24 supervision of the] interior designer registered under this chapter
25 as a consultant [or architect]; or

26 (2) acts as a consultant of an interior designer
27 ~~[restrict the practice or activities of or the provision of a~~

1 ~~service by a person engaged in a profession or occupation for which~~
2 ~~the person is licensed or~~ registered in this state [~~under any other~~
3 ~~law~~].

4 SECTION 5.02. Section 1053.052, Occupations Code, is
5 amended by adding Subsection (d) to read as follows:

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

8 SECTION 5.03. Subchapter B, Chapter 1053, Occupations Code,
9 is amended by adding Section 1053.058 to read as follows:

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

13 (b) The design of the seal must be the same as the design
14 used by the board, except that the words "Registered Interior
15 Designer, State of Texas" must be used instead of "Texas Board of
16 Architectural Examiners."

17 SECTION 5.04. Section 1053.160, Occupations Code, is
18 amended to read as follows:

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

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

27 (c) An interior designer may not permit a person who is not

1 an interior designer to use the interior designer's seal without
2 the interior designer's personal supervision.

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

5 SECTION 5.05. Subsections (a) and (b), Section 1053.251,
6 Occupations Code, are amended to read as follows:

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

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

11 (2) [~~place on probation a person whose certificate of~~
12 ~~registration has been suspended;~~

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

15 (3) [~~(4)~~] impose an administrative penalty on a person
16 under Subchapter I, Chapter 1051 [~~G~~].

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

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

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

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

1 SECTION 5.06. Section 1053.252, Occupations Code, is
2 amended to read as follows:

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

5 (1) violating this subtitle [~~chapter~~] or a board rule
6 adopted under this subtitle that applies to interior designers
7 [~~chapter~~];

8 (2) being convicted of a felony or of a misdemeanor
9 involving moral turpitude;

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

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

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

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

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

21 (8) failing to provide or to timely provide to the
22 Texas Department of Licensing and Regulation any document
23 designated by Article 9102, Revised Statutes, as a document the
24 person is required to provide to the department;

25 (9) giving false or forged evidence to the board or a
26 member of the board in obtaining or assisting another person to
27 obtain a certificate of registration;

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

3 (11) acting dishonestly in the practice of interior
4 design.

5 SECTION 5.07. The heading to Subchapter H, Chapter 1053,
6 Occupations Code, is amended to read as follows:

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

8 ARTICLE 6. REPEALER; TRANSITION PROVISIONS; EFFECTIVE DATE

9 SECTION 6.01. (a) Subchapters C, E, and G, Chapter 1052,
10 and Subchapters C, E, and G, Chapter 1053, Occupations Code, are
11 repealed.

12 (b) Existing Sections 1051.003, 1051.204, 1051.205,
13 1051.206, 1051.210, 1051.306, 1051.307, 1051.403, 1051.503,
14 1052.001, 1052.051, 1052.052, 1052.053, 1052.055, 1052.057,
15 1052.058, 1052.155, 1052.156, 1052.253, 1053.001, 1053.051,
16 1053.054, 1053.055, 1053.056, 1053.057, 1053.156, 1053.157,
17 1053.161, 1053.253, and 1053.254, Occupations Code, are repealed.

18 SECTION 6.02. Not later than March 1, 2004, the Texas Board
19 of Architectural Examiners shall:

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

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

22 SECTION 6.03. (a) In accordance with Subsection (c),
23 Section 311.031, Government Code, which gives effect to a
24 substantive amendment enacted by the same legislature that codifies
25 the amended statute, the text of Subsection (b), Section 1051.355,
26 Occupations Code, as set out in this Act, gives effect to changes
27 made by Section 3, Chapter 861, Acts of the 77th Legislature,

1 Regular Session, 2001.

2 (b) In accordance with Subsection (c), Section 311.031,
3 Government Code, which gives effect to a substantive amendment
4 enacted by the same legislature that codifies the amended statute,
5 the text of Section 1051.402, Occupations Code, set out in this Act
6 as new Section 1051.752, Occupations Code, gives effect to changes
7 made by Section 2, Chapter 861, Acts of the 77th Legislature,
8 Regular Session, 2001.

9 (c) In accordance with Subsection (c), Section 311.031,
10 Government Code, which gives effect to a substantive amendment
11 enacted by the same legislature that codifies the amended statute,
12 the text of Section 1052.252, Occupations Code, as set out in this
13 Act, gives effect to changes made by Section 6, Chapter 861, Acts of
14 the 77th Legislature, Regular Session, 2001.

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

21 (e) To the extent of any conflict, this Act prevails over
22 another Act of the 78th Legislature, Regular Session, 2003,
23 relating to nonsubstantive additions to and corrections in enacted
24 codes.

25 SECTION 6.04. (a) The changes in law made by this Act by
26 the amendment of Section 1051.103, Occupations Code, and the
27 addition of Section 1051.112, Occupations Code, in the prohibitions

1 on or qualifications of members of the Texas Board of Architectural
2 Examiners do not affect the entitlement of a member serving on the
3 Texas Board of Architectural Examiners immediately before
4 September 1, 2003, to continue to serve and function as a member of
5 the Texas Board of Architectural Examiners for the remainder of the
6 member's term. Those changes in law apply only to a member
7 appointed on or after September 1, 2003.

8 (b) Before adopting an administrative penalty schedule
9 under Subsection (c), Section 1051.452, Occupations Code, as added
10 by this Act, the Texas Board of Architectural Examiners shall hold a
11 public hearing that addresses the proposed administrative penalty
12 schedule. The board must allow members of the public to present
13 oral testimony or written documentation at the hearing.

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