

By: Callegari

H.B. No. 3167

A BILL TO BE ENTITLED

AN ACT

relating to the repeal of occupational licensing requirements.

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

ARTICLE 1. WEATHER MODIFICATION

SECTION 1.1. The following are repealed:

- (1) Chapter 301, Agricultural Code.
- (2) Chapter 302, Agriculture Code.

ARTICLE 2. INTERIOR DESIGNERS

SECTION 2.1. The heading to Chapter 1051, Occupations Code, is amended to read as follows:

CHAPTER 1051. TEXAS BOARD OF ARCHITECTURAL EXAMINERS; GENERAL PROVISIONS AFFECTING ARCHITECTS AND [~~7~~] LANDSCAPE ARCHITECTS [~~7~~, ~~AND~~ ~~INTERIOR DESIGNERS~~]; PROVISIONS AFFECTING ONLY ARCHITECTS

SECTION 2.2. Sections 1051.101(a) and (b), Occupations Code, are amended to read as follows:

(a) The Texas Board of Architectural Examiners consists of seven [~~nine~~] members appointed by the governor with the advice and consent of the senate as follows:

(1) four architect members registered under this chapter;

(2) [~~one interior designer member registered under Chapter 1053,~~

~~(3)] one landscape architect member registered under Chapter 1052; and~~

1 (3) two [~~(4) three~~] members who represent the public,
2 at least one of whom is a person with a physical disability.

3 (b) Not more than one board member may be:

4 (1) a stockholder or owner of an interest in a school
5 or college that teaches architecture [~~, interior design,~~] or
6 landscape architecture; or

7 (2) a full-time member of the faculty or
8 administration of the architecture [~~, interior design,~~] or
9 landscape architecture department of a school or college whose
10 position is the primary employment of the board member.

11 SECTION 2.3. Section 1051.102, Occupations Code, is amended
12 to read as follows:

13 Sec. 1051.102. ELIGIBILITY OF PUBLIC MEMBERS. A person is
14 not eligible for appointment as a public member of the board if the
15 person or the person's spouse:

16 (1) is registered, certified, or licensed by an
17 occupational regulatory agency in the field of architecture [~~,
18 interior design,~~] or landscape architecture;

19 (2) is employed by or participates in the management
20 of a business entity or other organization regulated by the board or
21 receiving funds from the board;

22 (3) owns or controls, directly or indirectly, more
23 than a 10 percent interest in a business entity or other
24 organization regulated by the board or receiving funds from the
25 board; or

26 (4) uses or receives a substantial amount of tangible
27 goods, services, or funds from the board, other than compensation

1 or reimbursement authorized by law for board membership,
2 attendance, or expenses.

3 SECTION 2.4. Section 1051.103(b), Occupations Code, is
4 amended to read as follows:

5 (b) A person may not be a member of the board and may not be a
6 board employee employed in a "bona fide executive, administrative,
7 or professional capacity," as that phrase is used for purposes of
8 establishing an exemption to the overtime provisions of the federal
9 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),
10 and its subsequent amendments, if:

11 (1) the person is an officer, employee, or paid
12 consultant of a Texas trade association in the field of
13 architecture [~~interior design~~] or landscape architecture; or

14 (2) the person's spouse is an officer, manager, or paid
15 consultant of a Texas trade association in the field of
16 architecture [~~interior design~~] or landscape architecture.

17 SECTION 2.5. Section 1051.104(a), Occupations Code, is
18 amended to read as follows:

19 (a) Board members serve staggered six-year terms. The terms
20 of two or three members expire on January 31 of each odd-numbered
21 year.

22 SECTION 2.6. Section 1051.201, Occupations Code, is amended
23 to read as follows:

24 Sec. 1051.201. SCOPE OF ADMINISTRATIVE AUTHORITY. The
25 powers granted and duties delegated to the board under this chapter
26 are in addition to the powers granted and duties delegated to the
27 board under Chapter [~~Chapters~~] 1052 [~~and 1053~~].

1 SECTION 2.7. Section 1051.202, Occupations Code, is amended
2 to read as follows:

3 Sec. 1051.202. GENERAL RULEMAKING AUTHORITY. The board
4 shall adopt reasonable rules and bylaws and prescribe forms as
5 necessary to administer or enforce this subtitle, including rules
6 regulating the practices of architecture and [7] landscape
7 architecture [~~and interior design~~].

8 SECTION 2.8. The heading to Article 2, Chapter 1051,
9 Occupations Code, is amended to read as follows:

10 ARTICLE 2. GENERAL PROVISIONS APPLYING TO ARCHITECTS AND [7]
11 LANDSCAPE ARCHITECTS [~~AND INTERIOR DESIGNERS~~]

12 SECTION 2.9. Section 1051.306, Occupations Code, is amended
13 to read as follows:

14 Sec. 1051.306. FIRM REGISTRATION. The board by rule may
15 require a firm, partnership, corporation, or association that
16 engages in the practice of architecture or [7] landscape
17 architecture [~~or interior design~~] to register with the board under
18 this subtitle.

19 SECTION 2.10. Section 1051.354, Occupations Code, is
20 amended to read as follows:

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

26 (1) is in good standing as an architect or [7]
27 landscape architect [~~or interior designer~~] in this state; or

1 (2) was in good standing as an architect or [7]
2 landscape architect [~~7 or interior designer~~] in this state at the
3 time the person entered into military service.

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

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

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

11 SECTION 2.11. Section 1051.355(e), Occupations Code, is
12 amended to read as follows:

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

16 SECTION 2.12. Section 1051.455(b), Occupations Code, is
17 amended to read as follows:

18 (b) A proceeding under this section relating to an architect
19 or [7] a landscape architect [~~7 or an interior designer~~] is subject
20 to Chapter 2001, Government Code.

21 SECTION 2.13. Section 1051.504(a), Occupations Code, is
22 amended to read as follows:

23 (a) If it appears to the board that a person who is not
24 registered under this subtitle is violating or has violated this
25 subtitle, a rule adopted under this subtitle, or another state
26 statute or rule relating to the practice of architecture or [7]
27 landscape architecture [~~7 or interior design~~], the board after

1 providing to the person notice and the opportunity for a hearing may
2 issue a cease and desist order prohibiting the conduct described in
3 the notice.

4 SECTION 2.14. The heading to Section 16.008, Civil Practice
5 and Remedies Code, is amended to read as follows:

6 Sec. 16.008. ARCHITECTS, ENGINEERS, [~~INTERIOR DESIGNERS,~~
7 AND LANDSCAPE ARCHITECTS FURNISHING DESIGN, PLANNING, OR
8 INSPECTION OF CONSTRUCTION OF IMPROVEMENTS.

9 SECTION 2.15. Sections 16.008(a) and (c), Civil Practice
10 and Remedies Code, are amended to read as follows:

11 (a) A person must bring suit for damages for a claim listed
12 in Subsection (b) against a registered or licensed architect,
13 engineer, [~~interior designer,~~] or landscape architect in this
14 state, who designs, plans, or inspects the construction of an
15 improvement to real property or equipment attached to real
16 property, not later than 10 years after the substantial completion
17 of the improvement or the beginning of operation of the equipment in
18 an action arising out of a defective or unsafe condition of the real
19 property, the improvement, or the equipment.

20 (c) If the claimant presents a written claim for damages,
21 contribution, or indemnity to the architect, engineer, [~~interior
22 designer,~~] or landscape architect within the 10-year limitations
23 period, the period is extended for two years from the day the claim
24 is presented.

25 SECTION 2.16. Section 469.102(a), Government Code, is
26 amended to read as follows:

27 (a) The architect, [~~interior designer,~~] landscape

1 architect, or engineer who has overall responsibility for the
2 design of a constructed or reconstructed building or facility shall
3 submit the plans and specifications required under Section 469.101.

4 SECTION 2.17. Section 469.104, Government Code, is amended
5 to read as follows:

6 Sec. 469.104. FAILURE TO SUBMIT PLANS AND SPECIFICATIONS.
7 The commission shall report to the Texas Board of Architectural
8 Examiners, the Texas Board of Professional Engineers, or another
9 appropriate licensing authority the failure of any architect,
10 [~~interior designer,~~] landscape architect, or engineer to submit or
11 resubmit in a timely manner plans and specifications to the
12 department as required by this subchapter.

13 SECTION 2.18. Section 1001.063, Occupations Code, is
14 amended to read as follows:

15 Sec. 1001.063. ARCHITECTS AND [~~7~~] LANDSCAPE ARCHITECTS [~~7~~
16 ~~AND INTERIOR DESIGNERS~~]. This chapter or a rule adopted under this
17 chapter does not prevent or otherwise restrict a person licensed as
18 an architect under Chapter 1051 or [~~7~~] a landscape architect under
19 Chapter 1052 [~~7, or an interior designer under Chapter 1053~~] from
20 performing an act, service, or work that is within the definition of
21 the person's practice under those chapters.

22 SECTION 2.19. The following laws are repealed:

- 23 (1) Section 469.002(7), Government Code;
24 (2) Sections 1051.001(3) and (4), Occupations Code;
25 (3) Section 1051.604, Occupations Code; and
26 (4) Chapter 1053, Occupations Code.

27 SECTION 2.20. (a) The repeal by this Act of Chapter 1053,

1 Occupations Code, does not affect the validity of a proceeding
2 pending before a court or other governmental entity on the
3 effective date of this Act.

4 (b) An offense under or other violation of Chapter 1053,
5 Occupations Code, committed before the effective date of this Act
6 is governed by the law in effect when the offense or violation was
7 committed, and the former law is continued in effect for that
8 purpose. For purposes of this subsection, an offense or violation
9 was committed before the effective date of this Act if any element
10 of the offense or violation occurred before that date.

11 (c) On the effective date of this Act:

12 (1) the term of the interior designer member of the
13 Texas Board of Architectural Examiners expires; and

14 (2) the governor shall designate one public member of
15 the Texas Board of Architectural Examiners whose term shall expire.

16 ARTICLE 3. TALENT AGENCIES

17 SECTION 3.1. Chapter 2105, Occupations Code, is repealed.

18 SECTION 3.2. (a) An action, including a disciplinary or
19 administrative proceeding, pending under Chapter 51 or 2105,
20 Occupations Code, on the effective date of this Act related to a
21 violation of Chapter 2105, Occupations Code, as that chapter
22 existed immediately before the effective date of this Act, is
23 dismissed.

24 (b) An administrative penalty assessed by the Texas
25 Commission of Licensing and Regulation related to a violation of
26 Chapter 2105, Occupations Code, as that chapter existed immediately
27 before the effective date of this Act, may be collected as provided

1 by Chapter 51, Occupations Code.

2 (c) The changes in law made by this Act do not affect the
3 pending prosecution of an offense under Chapter 2105, Occupations
4 Code, as that chapter existed immediately before the effective date
5 of this Act. An offense committed before the effective date of this
6 Act is governed by the law in effect at the time the offense was
7 committed, and the former law is continued in effect for that
8 purpose. For purposes of this section, an offense was committed
9 before the effective date of this Act if any element of the offense
10 was committed before that date.

11 (d) The Texas Department of Licensing and Regulation shall
12 return a prorated portion of the fee paid to the department for the
13 issuance or renewal of a registration under Chapter 2105,
14 Occupations Code, as that chapter existed immediately before the
15 effective date of this Act, that is valid on the effective date of
16 this Act to the person who paid the fee.

17 ARTICLE 4. PERSONNEL SERVICES

18 SECTION 4.1. Section 2501.202, Occupations Code, is amended
19 to read as follows:

20 Sec. 2501.202. INJUNCTION AND OTHER REMEDIES. A plaintiff
21 in an action filed under Section 2501.201 may obtain:

22 (1) an order enjoining the defendant from violating
23 this chapter;

24 (2) any order necessary to restore to the plaintiff
25 any property acquired by the defendant in violation of this
26 chapter; or

27 (3) other relief the court considers proper,

1 including:

2 (A) the appointment of a receiver if the judgment
3 against the defendant is not satisfied within three months after
4 the date of the final judgment; or

5 (B) [~~the revocation of a certificate authorizing~~
6 ~~the defendant to engage in business in this state; or~~

7 [~~(C)~~] an order enjoining the defendant from
8 acting as a personnel service.

9 SECTION 4.2. The following provisions of the Occupations
10 Code are repealed:

11 (1) Sections 2501.001(2), (3-a), and (4-a);

12 (2) Section 2501.201(c);

13 (3) Section 2501.253; and

14 (4) Subchapters B and D, Chapter 2501.

15 SECTION 4.3. The changes in law made by this Act apply only
16 to an action alleging a violation of Section 2501.201, Occupations
17 Code, filed on or after the effective date of this Act. An action
18 filed before the effective date of this Act is governed by the law
19 in effect when the action was filed, and the former law is continued
20 in effect for that purpose.

21 ARTICLE 5. EFFECTIVE DATE

22 SECTION 6.1. This Act takes effect September 1, 2011.