

**FIRST ENGROSSMENT  
with Senate Amendments**

Fifty-eighth  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1204**

Introduced by

Representatives Ekstrom, S. Kelsh

Senator Nichols

1 A BILL for an Act to create and enact two new sections to chapter 43-03 of the North Dakota  
2 Century Code, relating to regulation of landscape architects; to amend and reenact sections  
3 43-03-01, 43-03-02, 43-03-08, 43-03-09, 43-03-10, 43-03-11, 43-03-12, 43-03-13, 43-03-16,  
4 43-03-17, 43-03-18, 43-03-19, 43-03-20, 43-03-21, 43-03-22, and 43-03-23 of the North Dakota  
5 Century Code, relating to the registration of architects and landscape architects; and to provide  
6 a penalty.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 43-03-01 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **43-03-01. Definitions.** In this chapter, unless the context or the subject matter  
11 otherwise requires:

- 12 1. "Architect" means an individual who is registered as an architect under this  
13 chapter.
- 14 2. "Board" means the state board of architecture.
- 15 ~~2. "Architect" means an individual who is registered under the provisions of this~~  
16 ~~chapter.~~
- 17 3. "Landscape architect" means an individual who practices landscape architecture.
- 18 4. "Landscape architecture" does not include the practice of engineering and practice  
19 of professional engineering as defined under section 43-19.1-02.

20 **SECTION 2. AMENDMENT.** Section 43-03-02 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **43-03-02. Persons exempt from regulations.**

- 23 1. The architect registration provisions of this chapter do not apply to ~~the following:~~

- 1           4- A a person making plans and specifications for a building to be constructed by or  
2           for that person-
- 3           ~~2-~~ A: a person supervising the erection, enlargement, or alteration of a building being  
4           constructed by or for that person-
- 5           ~~3-~~ A: a person preparing for a school board plans and specifications for, or  
6           supervising the erection or alteration of, one-room or two-room school buildings  
7           costing not to exceed five thousand dollars-
- 8           4- ~~The; or an~~ employee of an architect acting under that architect's instruction,  
9           control, and supervision in preparing plans and specifications for the erection,  
10          enlargement, or alteration of buildings.
- 11          2. The landscape architect registration provisions of this chapter do not apply to:
- 12          a. An architect, a professional engineer, or a land surveyor in the course of  
13          providing professional services for which otherwise licensed or registered;
- 14          b. A nursery worker, gardener, landscape designer, or landscape contractor in  
15          the course of preparing planting plans or installing plant material, to the extent  
16          these activities do not impact the public health, safety, or welfare; or
- 17          c. An individual in the course of planning or otherwise caring for that individual's  
18          property.

19           **SECTION 3. AMENDMENT.** Section 43-03-08 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21           **43-03-08. Board to adopt rules ~~and regulations~~.** The board ~~shall~~ may adopt ~~the~~  
22 ~~following~~ rules ~~and regulations~~:

- 23           1. To govern ~~its~~ board proceedings.
- 24           2. For the examination of candidates for registration.
- 25           3. For the regulation of the practice of architecture and landscape architecture.

26 ~~Such rules and regulations must be consistent with the provisions of this chapter and the laws~~  
27 ~~of this state. The board, from time to time, may amend, modify, and repeal such rules and~~  
28 ~~regulations.~~

- 29           4. For education of registration applicants.
- 30           5. For continuing education of registrants.

1           **SECTION 4. AMENDMENT.** Section 43-03-09 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **43-03-09. ~~Practice of architecture without a license~~ Unauthorized practice**  
4 **prohibited.** A person may not practice architecture ~~as a profession~~ in this state unless ~~that~~  
5 ~~person has obtained from the board a certificate of registration and is~~ registered as an architect  
6 under this chapter or otherwise authorized by the board. After December 31, 2004, a person  
7 may not practice landscape architecture in this state unless registered as a landscape architect  
8 under this chapter or otherwise authorized by the board.

9           **SECTION 5. AMENDMENT.** Section 43-03-10 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11           **43-03-10. ~~Regulation of use of term licensed architects terms.~~**

12           1. A person may not use the title or designation "registered architect", "licensed  
13 architect" nor, any variation of the same those terms, nor or any other words,  
14 letters, or device to indicate that person is a licensed an architect, without being  
15 authorized to practice architecture in this state unless that person is registered as  
16 an architect in accordance with the provisions of under this chapter. In a  
17 copartnership of ~~licensed~~ architects, each member of the partnership shall hold a  
18 license certificate of registration to practice.

19           2. A person may not use the title or designation "registered landscape architect",  
20 "licensed landscape architect", any variation of those terms, or any other words,  
21 letters, or device to indicate that person is a landscape architect authorized to  
22 practice landscape architecture in this state unless that person is registered as a  
23 landscape architect under this chapter.

24           **SECTION 6. AMENDMENT.** Section 43-03-11 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26           **43-03-11. Application for examination - Fee.** Before ~~a person~~ an individual may take  
27 the examination for registration as an architect or a landscape architect, that ~~person~~ individual  
28 shall make an application to the board submitting satisfactory evidence of having the required  
29 qualifications and shall pay ~~a~~ an examination fee of ~~fifty~~ not more than one hundred dollars.  
30 ~~When~~ If reexamination is required, the applicant shall pay a reexamination fee of ~~twenty-five~~

1 not more than one hundred dollars for a reexamination. The fee for reexamination may be  
2 waived in whole or in part by the board.

3 **SECTION 7. AMENDMENT.** Section 43-03-12 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **43-03-12. Board to issue certificates of registration.** The board, ~~in accordance with~~  
6 ~~the provisions of this chapter,~~ shall examine ~~those desiring to use the title of architect or to~~  
7 ~~practice as architects in this state~~ applicants for registration and shall issue certificates of  
8 registration to those who are qualified. The board may administer an examination or may  
9 recognize a board-approved examination of a nationally recognized entity.

10 **SECTION 8. AMENDMENT.** Section 43-03-13 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **43-03-13. Qualifications.** An applicant for registration ~~as an architect shall have all of~~  
13 ~~the following qualifications:~~

- 14 1. ~~Be~~ Must be at least eighteen years of legal age;
- 15 2. ~~Be~~ Must be of good moral character, with rejection possible on the basis of ~~the~~  
16 ~~following:~~
  - 17 a. Conviction of an offense determined by the board to have a direct bearing  
18 upon an applicant's ability to serve the public as an architect or a landscape  
19 architect, or the board determines, following conviction of an offense, that the  
20 applicant is not sufficiently rehabilitated under section 12.1-33-02.1;
  - 21 b. Misstatement or misrepresentation of fact by the applicant in connection with  
22 that ~~person's~~ individual's application; or
  - 23 c. Violation of any of the standards of conduct required of ~~licenseholders and~~  
24 ~~set forth in the statutes.~~ registrants;
- 25 3. ~~Have~~ Must have successfully completed an examination for registration; and
- 26 4. ~~Have had what~~ In the case of an architect, must have the practical experience and  
27 academic training as is specified in the current guidelines published by the national  
28 council of architectural registration boards if such guidelines are adopted by the  
29 board.
- 30 5. Must satisfy registration criteria adopted by the board.

1           **SECTION 9. AMENDMENT.** Section 43-03-16 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **43-03-16. Certificates of registration issued by board - Result of examinations**  
4 **recorded by secretary of board.** The result of every examination for registration as an  
5 architect, or a landscape architect and the evidence of qualifications, must be recorded by the  
6 secretary of the board, ~~and the~~. The board shall issue a certificate of registration to every  
7 ~~person individual~~ who ~~has passed~~ passes the examination or otherwise is entitled to receive  
8 the certificate. The secretary of the board shall maintain a list of architects and landscape  
9 architects certified under this section. This list must contain the ~~architect's~~ registrant's name,  
10 current business address, certification number, and the expiration date of the ~~architect's~~  
11 certificate.

12           **SECTION 10. AMENDMENT.** Section 43-03-17 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14           **43-03-17. Certificates of registration - Term - Renewal.** A certificate of registration  
15 as an architect or a landscape architect must be issued for ~~one year upon the payment of the~~  
16 ~~proper fee and, upon~~ a term established by the board. Upon the payment of the proper fee, a  
17 certificate of registration may be renewed without examination.

18           **SECTION 11. AMENDMENT.** Section 43-03-18 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20           **43-03-18. Fees.**

- 21           1. The following ~~must be the registration and renewal fees required to be paid by an~~  
22 ~~architect~~ apply to architects and landscape architects:
- 23           4. a. Following examination, a an architect registration fee of not more than one  
24 hundred dollars, as set by the board.
- 25           2. b. When examination is not necessary under section 43-03-15, a an architect  
26 registration fee of not more than one hundred dollars, as set by the board.
- 27           3. c. An ~~annual~~ architect registration renewal fee of not, which need not be  
28 collected annually, but which must be based on no more than one hundred  
29 dollars per year, as set by the board.
- 30           d. Following examination, a landscape architect registration fee of not more than  
31 five hundred dollars, as set by the board.

- 1           e. A landscape architect registration renewal fee, which need not be collected  
2                   annually, but which must be based on no more than five hundred dollars per  
3                   year, as set by the board.
- 4           2. If in any year the board incurs expenses related to regulation of landscape  
5                   architects which are in excess of the income generated through landscape  
6                   architect fees for that year, the board may assess a special fee to cover these  
7                   excess expenses. The board may continue an annual special fee assessed under  
8                   this subsection until the excess obligations are met. Landscape architect fees set  
9                   by the board may not exceed the amount reasonably necessary to regulate the  
10                  profession of landscape architecture.
- 11          3. If in any year the board incurs expenses related to regulation of architects which  
12                  are in excess of the income generated through architect fees for that year, the  
13                  board may assess a special fee to cover these excess expenses. The board may  
14                  continue an annual special fee assessed under this subsection until the excess  
15                  obligations are met. Architect fees set by the board may not exceed the amount  
16                  reasonably necessary to regulate the profession of architecture.

17           **SECTION 12. AMENDMENT.** Section 43-03-19 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19           **43-03-19. Effect of failure to pay renewal fee.**

- 20          1. If the holder of a certificate of registration as an architect or a landscape architect  
21                  fails to pay the ~~annual~~ renewal fee or a special fee when due, that person's  
22                  individual's certificate must be revoked unless that person's individual's application  
23                  for renewal is made within one year after the expiration of that person's individual's  
24                  certificate. ~~That person~~ If application for renewal is made within one year, that  
25                  individual then shall pay the ~~renewal delinquent~~ fee set by the board under section  
26                  43-03-18. If a former holder applies for renewal more than one year after the  
27                  expiration of that person's individual's certificate, that person individual may, in the  
28                  board's discretion, be reinstated upon payment of a fee ~~of one hundred dollars~~ as  
29                  set by the board.
- 30          2. ~~No~~ A certificate may not be revoked for nonpayment of fees unless the secretary  
31                  of the board has first given at least thirty days' notice by certified mail to the holder

1           of such certificate. The notice must be directed to the last-known address or place  
2           of residence of the delinquent.

3           **SECTION 13. AMENDMENT.** Section 43-03-20 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **43-03-20. Revocation of registration.** The board, after a hearing upon thirty days'  
6 written notice to the certificate holder ~~thereof~~, may revoke any certificate of registration of an  
7 architect or a landscape architect upon proof that:

- 8           1. Such certificate has been obtained by fraud or misrepresentation;
- 9           2. The holder of such certificate has been guilty of malfeasance, fraud, gross  
10           incompetency, or negligence in connection with the holder's practice of  
11           architecture or landscape architecture;
- 12           3. The holder of such certificate has allowed a nonregistered ~~persons or entities~~  
13           person to practice as an architect by the device of permitting the holder's name or  
14           stamp to be placed upon drawings, or other contract documents, not prepared by  
15           the holder or under the holder's direct supervision;
- 16           4. The holder of such certificate has been convicted of an offense determined by the  
17           board to have a direct bearing upon the holder's ability to serve the public as an  
18           architect or landscape architect; or that, following conviction of an offense, the  
19           holder is not sufficiently rehabilitated under section 12.1-33-02.1; or
- 20           5. The holder of such certificate has violated ~~any provisions of~~ this chapter.

21           **SECTION 14. AMENDMENT.** Section 43-03-21 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23           **43-03-21. Penalty.** Any person willfully violating ~~the provisions of~~ this chapter is guilty  
24 of a class B misdemeanor.

25           **SECTION 15. AMENDMENT.** Section 43-03-22 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27           **43-03-22. Stamp.** At the time of the issuance of the certificate of registration, the  
28 board shall furnish to the applicant, at the applicant's expense, a rubber stamp to be used by  
29 the applicant in the conduct of the applicant's practice and to be impressed upon drawings and  
30 other documents prepared by the applicant. The board shall prescribe rules governing the use  
31 of such stamp and ~~architect's~~ applicant's signature.

1           **SECTION 16. AMENDMENT.** Section 43-03-23 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **43-03-23. ~~Architect not liable~~ Liability for contractor's fault unless responsibility**  
4 **assumed - Liability for own negligence.** An architect or a landscape architect is not liable for  
5 the safety of persons or property on or about a construction project site, or for the construction  
6 techniques, procedures, sequences and schedules; or for the conduct, action, errors, or  
7 omissions of any construction contractor, subcontractor, or material supplier, their agents or  
8 their employees, unless the architect or landscape architect assumes responsibility therefor by  
9 contract or by the architect's or landscape architect's actual conduct. ~~Nothing herein may be~~  
10 ~~construed to~~ This section does not relieve an architect or a landscape architect from liability  
11 from the architect's or landscape architect's negligence, whether in the architect's or landscape  
12 architect's design work or otherwise.

13           **SECTION 17.** Two new sections to chapter 43-03 of the North Dakota Century Code  
14 are created and enacted as follows:

15           **Landscape architect and architect advisory committees.** Before July 15, 2003, the  
16 board shall appoint a landscape architect advisory committee to assist in implementation and  
17 coordination of landscape architect regulation. The committee must consist of three landscape  
18 architects. Committee members serve on a voluntary basis and are not entitled to receive from  
19 the board compensation or reimbursement of expenses incurred in serving on the committee.  
20 Before July 15, 2003, the board shall appoint an architect advisory committee to assist in  
21 implementation and coordination of landscape architect regulation. The committee must  
22 consist of three architects. Committee members serve on a voluntary basis and are not entitled  
23 to receive from the board compensation or reimbursement of expenses incurred in serving on  
24 the committee.

25           **Use of additional funds.** The board may apply for, solicit, accept, and expend any  
26 contribution, grant, or gift made available from a public or private source for the purpose of  
27 regulating landscape architects.