

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

HOUSE BILL NO. 1204
(Representatives Ekstrom, S. Kelsh)
(Senator Nichols)

AN ACT to create and enact two new sections to chapter 43-03 of the North Dakota Century Code, relating to regulation of landscape architects; to amend and reenact sections 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, 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 Century Code, relating to the registration of architects and landscape architects; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

43-03-02. Persons exempt from regulations.

1. The architect registration provisions of this chapter do not apply to the following:
4. A a person making plans and specifications for a building to be constructed by or for that person-
2. A; a person supervising the erection, enlargement, or alteration of a building being constructed by or for that person-
3. A; a person preparing for a school board plans and specifications for, or supervising the erection or alteration of, one-room or two-room school buildings costing not to exceed five thousand dollars-
4. The; or an employee of an architect acting under that architect's instruction, control, and supervision in preparing plans and specifications for the erection, enlargement, or alteration of buildings.
2. The landscape architect registration provisions of this chapter do not apply to:

- a. An architect, a professional engineer, or a land surveyor in the course of providing professional services for which otherwise licensed or registered;
- b. A nursery worker, gardener, landscape designer, or landscape contractor in the course of preparing planting plans or installing plant material, to the extent these activities do not impact the public health, safety, or welfare; or
- c. An individual in the course of planning or otherwise caring for that individual's property.

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

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

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

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

4. For education of registration applicants.
5. For continuing education of registrants.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43-03-18. Fees.

1. The following ~~must be the registration and renewal fees required to be paid by an architect~~ apply to architects and landscape architects:
 - 1- a. Following examination, a an architect registration fee of not more than one hundred dollars, as set by the board.
 - 2- b. When examination is not necessary under section 43-03-15, a an architect registration fee of not more than one hundred dollars, as set by the board.
 - 3- c. An ~~annual~~ architect registration renewal fee of not, which need not be collected annually, but which must be based on no more than one hundred dollars per year, as set by the board.
 - d. Following examination, a landscape architect registration fee of not more than five hundred dollars, as set by the board.
 - e. A landscape architect registration renewal fee, which need not be collected annually, but which must be based on no more than five hundred dollars per year, as set by the board.
2. If in any year the board incurs expenses related to regulation of landscape architects which are in excess of the income generated through landscape architect fees for that year, the board may assess a special fee to cover these excess expenses. The board may continue an annual special fee assessed under this subsection until the excess obligations are met. Landscape architect fees set by the board may not exceed the amount reasonably necessary to regulate the profession of landscape architecture.
3. If in any year the board incurs expenses related to regulation of architects which are in excess of the income generated through architect fees for that year, the board may assess a special fee to cover these excess expenses. The board may continue an annual special fee assessed under this subsection until the excess obligations are met. Architect fees set by the board may not exceed the amount reasonably necessary to regulate the profession of architecture.

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

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

1. If the holder of a certificate of registration as an architect or a landscape architect fails to pay the ~~annual~~ renewal fee or a special fee when due, that ~~person's individual's~~ certificate must be revoked unless that ~~person's individual's~~ application for renewal is made within one year after the expiration of that ~~person's individual's~~ certificate. ~~That person~~ If application for renewal is made within one year, that individual then shall pay the ~~renewal delinquent~~ fee set by the board under section 43-03-18. If a former holder applies for renewal more than one year after the expiration of that ~~person's individual's~~ certificate, that ~~person~~ individual may, in the board's discretion, be reinstated upon payment of a fee of ~~one hundred dollars~~ as set by the board.

2. ~~No~~ A certificate may not be revoked for nonpayment of fees unless the secretary of the board has first given at least thirty days' notice by certified mail to the holder of such certificate. The notice must be directed to the last-known address or place of residence of the delinquent.

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

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

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

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

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

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

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

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

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

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

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1204.

House Vote: Yeas 86 Nays 4 Absent 4

Senate Vote: Yeas 44 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,

at _____ o'clock _____ M.

Secretary of State