

2011 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1469

2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1469
January 25, 2011
13361

☐ Conference Committee

Committee Clerk Signature

Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Relating to regulation of architects

Minutes:

Chairman Keiser: Opens the hearing on HB 1469.

Vice Chairman Kasper: Introduces the bill. HB 1469 is the result of legislation we passed in HB 1330.

Representative Al Carlson~District 41-South Fargo: There is a lot of details in the bill that you will not understand and they are technical terms. The crux of this bill was that for years, as a contractor, I was able to build many types of buildings that did not need an architectural stamp for me to build them that are 8, 9 and 10 thousand square feet. The way the bill had changed, I could not have built those on my own without having an architect involved in the process. This was brought to our attention by contractors, some of whom received a letter from the attorney for the architects, which said that you no longer can do what you are doing without using us. That created consternation amongst my colleagues that have been building for years a structurally safe and sound manner. Because of that we put together the 2 groups and said that it would be better you worked this out instead of us just passing a law and fixing it. They had numerous meetings and they might have a few differences in the bill, but the reality is these are not public buildings, these are for private. We understand and know when we need an architect. There is no corner on public safety; it isn't safer if I design it or the architect. The rules and codes exist for public interest and safety. The enforcement is the same no matter if that stamp is on there or not for these size projects. None of us are going to go out to build things that are not publically safe because of the liability that we face as contractors. There are times when we need architects, that's not the point of the bill, the point of the bill is to classify a level that which we build without having it mandatorily required that we have to use one.

Doreen Riedman~Executive Officer of North Dakota Association of Builders: (see attached testimony 1).

Representative Gruchalla: I assuming the major objection is the added cost?

Doreen Riedman: Yes.

Representative Gruchalla: Is it 10%, 20% added costs using an architect?

Doreen Riedman: I heard up to 10%.

Vice Chairman Kasper: How many meetings did you have to come to the final results of this bill?

Doreen Riedman: We had 3 or 4 meetings last fall with Chairman Keiser, at that point our group was at the point where we just wanted to repeal this whole thing and go back to the way the law was. We've met 2, 3 times in the past 2 weeks. We are probably compromising more than a lot of our members wanted us to give. A lot just want us to roll it back to where we were before the 09 session. We have kept it to minimal changes and get that 10 or more occupancy item out of there and make it clearer, so you don't have to refer to another book to know exactly what the law says.

Representative Kreun: On page 2 line 4, rental apartment that do not exceed 3 stories in height of the exclusive of the basement, I've seen a lot of 3 story apartment building that are esthetically pleasing and question in some cases if the contractor was going to be able to design that building for structural safety. We just leave it up to the individual and say I can do that and I don't need anyone else because if it meets building codes, is that what you are suggesting?

Doreen Riedman: Actually, in most of those local jurisdictions, they have policies of their own that the building officials will require of contractors on different types of buildings. If it's a private apartment that is built by an individual, they hire a contractor, the contractor then is going to bring in other hands.

Representative Kreun: How do you address with the building inspector when you don't have somebody lay that out for you, how do you address that?

Doreen Riedman: There are a lot of check and balances within the contractor world. I believe that Fargo building official has a policy that determines when building need to have professional people involved. We tend to leave it up to the local jurisdiction in those situations and they can determine in addition to their inspection departments.

Chairman Keiser: They can use structural engineers but they aren't required to, they can do it on their own.

Doreen Riedman: They certainly can and do.

Chairman Keiser: Support on HB 1469.

Rocky Schneider~North Dakota Association of Builders Home Builders Association of Fargo-Moorhead: (See attached testimony 2)

Vice Chairman Kasper: When a contractor builds a 3 story building, how do we determine these building are safe and going to meet the codes? Who does he have on site

to make sure the building is progressing in the building is progressing in the proper way and meeting the codes?

Rocky Schneider: It important to mention that contractors do have to follow the state or local jurisdictions and amendments to that code. The same codes that an architect would follow. The contractor has the authority over that and they also can hire in architect.

Vice Chairman Kasper: What frequency do building inspectors come around and look at building at they are progressing?

Rocky Schneider: It varies throughout the state.

Chairman Keiser: Could you go into more detail what these 4 categories are?

Rocky Schneider: Refers to the back page of the groups on his the testimony.

Chairman Keiser: The only time we need an architect is A1, E, H & I, correct?

Rocky Schneider: Also, any building that is over 2 stories in height other than a private residence, farm building or a 3 story apartment.

Representative Vigesaa: When you refer to 2 stories, are you meaning a height of 2 stories, what would that be?

Rocky Schneider: Two stories exclusive of a basement.

Representative Vigesaa: You are talking about individual levels, not just overall height of a building?

Rocky Schneider: Yes.

Representative M Nelson: These 2 and ½ apartments with the basement ½ ways in, is that the basement that would be excluded or is that counted as a story.

Rocky Schneider: I believe that would that would count as the basement, so that would be the exclusive of the basement and the 2 stories.

Chairman Keiser: Is there anyone else here to testify in support of HB 1469?

Joel Feist~General Contractor & President of the North Dakota Builders Association: Basically, our concerns did not have any contention with architects and engineers in the building process. The whole jest of the manner is the size and scope of these projects where they are really not required. The vast majority of all contractors I know, are building to code, they work with the city officials and jurisdictions and have processes that are followed on smaller building. In Minot, the International Building Code and the IRC are normally followed for all the procedures in the building process. Most everything is done up to speed; we don't have any issues with people not following code just because the city does a good job of enforcing. Cost issue typically architect cost about 7% of the total cost of a project. The more the costs going into the projects, the higher the rent will be to cover those costs. I believe that the negotiations between the builders and the architects have

come up with a viable answer to this prior bill that was passed the last session and is a good compromise for all parties involved. I look for your support.

Representative N Johnson: What if the person is a private individual who is building out in the country, who has the jurisdiction on checking on the codes in that area?

Joel Feist: There is no one, in Minot there is a 2 mile radius and outside that area there is no one that enforces those rules and regulations.

Vice Chairman Kasper: Back to the safety, when you building without an architect, what safe guards do you have to be sure that the building is being built according to the plans?

Joel Feist: We would like to think that we are a reputable builder and our name carries a lot of weight and if we weren't, we wouldn't be in business very long. We believe our employees are trained by North Dakota Builder's Association. We have to have plans that meet city specifications. The vast majority of contractors do have a fine reputation in this state and in my mind that have a lot of influence.

Vice Chairman Kasper: What is the contractor warranties, can you tell me the contractor warranty that you have to abide by under the North Dakota law now?

Joel Feist: Complete in every product, a full 1 year warranty and foundations and structural a 10 year warranty that we have to honor.

Chairman Keiser: Is there anyone else here to testify in support of HB 1469?

Jerry Splonskowski~Northwest Contracting Inc: We have been in business for 28 years, we build the Pinehurst project 4 years and 50 to 60% with architect and the other 40% the owner chose not to. We do a lot of apartments for this client and these projects and he found a model works for him and he keeps replicating it. With this law, he would now have to go and hire an architect to do the same thing that he has been doing for the last 4 years. From our stand point, we submit a plan to the city, goes to code review before a permit is ever issued. The public buildings are already covered by architects and that's existing law. The real key component here to all this conversation is continuing education, I send my staff all to the time and that is the key to any safety.

Representative N Johnson: You said a structural stamp is required for the city building?

Jerry Splonskowski: Correct. In the rural question, I believe the burden fall on the municipalities.

Vice Chairman Kasper: In the area of safety, with your company, do you have key people on your staff that out there watching to make sure the job is being is done right?

Jerry Splonskowski: We have job audits for the safety and we sit with building inspector.

Donald Everett~General Contractor from Fargo: Some clarification on how the design team comes together. Often time when an architect is engaged for the purpose and intent to do the design as well as doing the specifications so the end user knows what they are getting, during the construction process, it goes to a plan review. Most often, the general

contractor takes the permit for that project. From then on it's the responsibility that for general contractor to comply all the governing of those codes and regulations. Often times we will have a meeting with the architect to review the status of the project. If sometime thing that are overlooked in the plan review process by the city, still in the event it comes back to the general contractor if they don't get a final certificate of occupancy. There is not so much an adversarial it's very much a collaboration between the 2 parties.

Vice Chairman Kasper: If you don't use an architect, where do you get your drawings?

Donald Everett: From number of firms who is not a registered architect but possibly taken courses. The complexity of that plan and project will determine the limitations of that drafts person and or to that level of that architect. When you look at the classification of the buildings that we are recommending, you can see is requires a design team to work together.

Chairman Keiser: Is there anyone else here to testify in support of HB 1469?

Terry Becker~Terry Becker Construction-Fargo: As I'm listening to some of the questions, we go through many hours of different education to better ourselves. I agree with everyone else. This affects a lot of companies across North Dakota. I think the bill the way it was written before was way over reaching.

Representative Nathe: Does Minnesota have a law similar to this?

Terry Becker: It's far reaching, in Minnesota, which I don't agree with, once the architect designs it and puts a stamp on it, you can go in and get a permit for it, even if you are not licensed because it's been signed off by an architect.

Russ Hanson~Associated General Contractors of North Dakota: We are one the entities in this negotiations. We will help out where we can.

Chairman Keiser: Any questions for committee members? Is there anyone else here to testify in support of HB 1469?

Rick Engebretson~President of the North Dakota State Board of Architecture and Landscape Architecture. (See attached testimony 3)

Representative Gruchalla: If an insurance was looking at a building that was built by a contractor who didn't use an architect, would there be any difference on insurance rates.

Rick Engebretson: I don't know, you would have to talk to an insurance company.

Representative N Johnson: Walk us over the differences in testimony.

Rick Engebretson: Goes over exhibit D in more length.

Chairman Keiser: The main concerns for the architect is safety for their definitions, is that true?

Rick Engebretson: This language is by 3 licensed architects that were appointed by the governor to regulate the practice of architecture and landscape architecture. Only the 3 of us wrote this bill, the architects were not involved in it. The architects, that's a business issue. This is strictly a health safety issues.

Vice Chairman Kasper: Are you here on behalf of the board of architecture and not as an individual architect or are you here testifying as both, who are you representing with your testimony?

Rick Engebretson: I'm representing the state board of architect, not myself.

Representative Nathe: Do plans have to be approved by the city with or without an architect?

Rick Engebretson: That is correct in jurisdictions that have building officials.

Representative Nathe: If I have without it, I still have to go through the city and get the approval, correct?

Rick Engebretson: That is correct if you are in the city of Bismarck?

Representative Nathe: What do you bring to the table that the city doesn't bring already when they bring these small plan projects?

Rick Engebretson: A check point. The more check and balances we have, the better off we are. This is for the whole state of North Dakota and we don't have enough building inspectors available. We have a problem with sub contractors that don't have the ability do the work in a proper manner.

Representative Nathe: Isn't it also the local authority's job to make sure that doing these properly with or without architect?

Rick Engebretson: Yes it's a requirement, however they are in a situation where there are over worked and understaffed.

Vice Chairman Kasper: Under your proposal would an architect be required for my building in Fargo?

Rick Engebretson: No, under current law yes, under our recommendations, no.

Chairman Keiser: Any questions for committee members? Is there anyone else here to testify in support of HB 1469? Closes the hearing on HB 1469. I will appoint a subcommittee chaired by Representative N Johnson and Representative Vigesaa Representative Representative Gruchalla will help. Both groups have made progress.

2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1469
February 9, 2011
14245

☐ Conference Committee

Committee Clerk Signature

Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Regulation of architects.

Committee Work Session Minutes:

Chairman Keiser: Opens the committee work session on HB 1469.

Representative N Johnson: Last week the subcommittee met with the architect and got their perspectives and request. Yesterday we met with the builder's group and walked their concerns & requests were. As a subcommittee, we talked to what would be appropriate to do. What you have before you is our recommended proposals for amendments. The amendments were agreed to by both parties. There is still disagreement on the bill and we will go through that after we look at the amendment? (Goes over amendment-see attached testimony).

Representative M Nelson: Where is the breaking line if the architecture firm does any construction, it's not architecture firm?

Representative N Johnson: I can't answer that.

Representative M Nelson: If they do any building, they are not an architect firm.

Representative N Johnson: Architects are under this section of law and the builders are under chapter 4307.

Chairman Keiser: Further questions?

Representative M Nelson: Limited liability companies, are they not able to be a limited liability company?

Representative N Johnson: I have no idea.

Representative N Johnson: Move the amendment.

Representative Vigasaa: Second.

Chairman Keiser: Further questions?

Voice vote, motion carried.

Chairman Keiser: Are there any further amendments on the bill?

Representative Ruby: Moves a Do Pass as Amended.

Representative Nathe: Second.

Chairman Keiser: Further discussion.

Representative N Johnson: This is definitely a concern between the two parties about how much leeway contractors should have on building. Last session we put more restrictions on what contractors could do. This is a step where the two parties did some agreement on the issues they had. What you saw here and what was proposed by the architects in our committee for amendments is the dividing line.

Chairman Keiser: Further questions?

Representative Nathe: Both sides agreeable to these amendments?

Representative N Johnson: Yes, the issue still is how much requirement we should have for architects to do the design and how much latitude to allow contractors.

Vice Chairman Kasper: When customers are spending their own money, we should let them choose. I support the amendment.

Representative M Nelson: If there was a mistake and if there was a problem in the building code before or after we pass it, the architects are fully capable of coming to us and saying here is an area of problem. I don't think we should work from the position from a mistake as if the architects are giving something up. It wasn't supposed to happen that way, no one testified that there a big problem with the bill. The builders are giving the architect some additional thing from where they were before that. I will speak in favor of the amendment and the bill as it sits without putting additional restrictions on the builders.

Representative N Johnson: Which ever this bill goes, architects and builders both have to abide by the building codes.

Chairman Keiser: Further discussion?

Roll call was taken for a Do Pass as Amended on HB 1469 with 13 yeas, 1 nay, 0 absent and Representative N Johnson is the carrier.

VK
2/9/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1469

Page 1, line 13, remove the overstrike over "~~under applicable building code~~"

Page 3, line 17, remove the overstrike over "~~engage in the~~"

Page 3, line 17, after "practice" insert "solicitation"

Page 3, line 17, remove the overstrike over "~~of architecture or~~"

Page 3, line 18, remove the overstrike over "~~landscape architecture~~"

Page 3, line 18, replace "holds itself out to the public" with "services"

Page 3, line 18, replace "architectural" with "individual or"

Renumber accordingly

Date: Feb 9, 2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1469

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0674.01001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

Motion Made By Rep Johnson Seconded By Rep Vigesaa

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Amerman		
Vice Chairman Kasper			Representative Boe		
Representative Clark			Representative Gruchalla		
Representative Frantsvog			Representative M Nelson		
Representative N Johnson					
Representative Kreun					
Representative Nathe					
Representative Ruby					
Representative Sukut					
Representative Vigesaa					

voice vote - motion carried

Total Yes _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: Feb 9, 2011Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1469House House Industry, Business and Labor Committee☐ Check here for Conference CommitteeLegislative Council Amendment Number 11.0674.01001Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt AmendmentMotion Made By Rep Ruby Seconded By Rep Nathe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		<input checked="" type="checkbox"/>	Representative Amerman	<input checked="" type="checkbox"/>	
Vice Chairman Kasper	<input checked="" type="checkbox"/>		Representative Boe	<input checked="" type="checkbox"/>	
Representative Clark	<input checked="" type="checkbox"/>		Representative Gruchalla	<input checked="" type="checkbox"/>	
Representative Frantsvog	<input checked="" type="checkbox"/>		Representative M Nelson	<input checked="" type="checkbox"/>	
Representative N Johnson	<input checked="" type="checkbox"/>				
Representative Kreun	<input checked="" type="checkbox"/>				
Representative Nathe	<input checked="" type="checkbox"/>				
Representative Ruby	<input checked="" type="checkbox"/>				
Representative Sukut	<input checked="" type="checkbox"/>				
Representative Vigesaa	<input checked="" type="checkbox"/>				

Total Yes 13 No 1Absent 0Floor Assignment Rep N Johnson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1469: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1469 was placed
on the Sixth order on the calendar.

Page 1, line 13, remove the overstrike over "~~under-applicable building code~~"

Page 3, line 17, remove the overstrike over "~~engage in the~~"

Page 3, line 17, after "~~practice~~" insert "solicitation"

Page 3, line 17, remove the overstrike over "~~of architecture or~~"

Page 3, line 18, remove the overstrike over "~~landscape architecture~~"

Page 3, line 18, replace "holds itself out to the public" with "services"

Page 3, line 18, replace "architectural" with "individual or"

Renumber accordingly

2011 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1469

2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

HB 1469
March 29, 2011
Job Number 16127

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to regulation of architects

Minutes:

Testimony Attached

Chairman Klein: Opened the hearing on engrossed House bill 1469.

Representative Kasper: He has an amendment that puts an Emergency Clause on the bill, Attachment (1). He said that this bill was worked on in 2009 and passed a bill along these lines but what they learned is they went a little too far in the area of requiring architects to be used in certain buildings in our State that is from the builders prospective. It readdresses what we looked at it the last session and changes the rules, regulations and the guidelines in some areas when architects are required to be used for certain buildings. He said architects are required on public structures, this bill does not address public structures it addresses private sector entrepreneurial business people who are building buildings and making decisions on to whether or not they wish to use an architect.

Representative Carlson: Said that he has been in the construction business since 1980 and this is a topic near and dear to his heart. This is about private buildings. They missed the changes that happened to the bill the last time. He said he viewed the bill the last time through and thought it was a landscape architect redo and straightening those laws out and in the end it was a rewrite of what and when and where and architect would be required on projects. The meat to the bill is to look over to what situation an architect would be required. He said they still have to meet the same exact building codes whether it is an architect or someone else who does the drawing. He made the point that if certain professions are required he would have to hire them, whether it is a structural engineer or an electrical engineer or he wouldn't get the permit. He did say there isn't as much supervision in the rural areas as there would be in the urban areas because they don't have the ability to have all of these building inspectors. He felt the bill went too far and the new one will address those needed changes. He made the point that this is not affecting public safety. He went over the bill.

Representative Ruby: Said that he is not a builder but agrees that the bill went too far last session. He passed out an amendment for their consideration and said that the amendment

takes the bill back pretty close to where it was before the last session. He talked about his amendments and the changes, Attachment (2).

Doreen Redman, Executive Officer North Dakota Association of Builders: Written Testimony, Attachment (3).

Chairman Klein: Asked Doreen if she had an opinion on the Ruby amendment.

Doreen: Said they have seen them and they would like to visit with Representative Ruby and the draftsman from Minot, Mr. Roll after the hearing and discuss it a little more.

Rocky Schneider, North Dakota Association of Builders: Written Testimony Attached (4).

John, Custom Builder: Stated that he uses architects in the homes that he builds and it is mostly because of the design features that they offer and occasionally from the structural issue that they resolve with a structural engineer. He talked about the 2009 IBC administrative section and what it requires for the builder and the architect. He said there is a level of safety built in the IBC to insure any conditions that may present themselves once in awhile, in the present code they are following.

Don Dever, Builder from Fargo: He said that in the spec book it states what some of the duties an architect would provide to that owner on a private project. He said it makes sense on certain buildings but not on all. He stated that at the end of the day the contractor is still held responsible for meeting all the codes. He said the building official still has the authority to request that an architect or engineer come on.

Paul Bosch, Bosch Lumber Company: Written Testimony Attached (5).

Burke Gardner, Bosch Lumber Company: He is a draftsman. He went over the building codes from the written testimony (5).

Opposition

Rick Engebretson, Architect and Principal of the RLE Group in Fargo: Written Testimony and Amendments Attached (6).

Senator Nodland: Asked if there had been any incidences of your hypothetical case.

Rick: Said not in North Dakota.

Senator Nodland: Said that in your testimony you talked about an unqualified individual, can you give me any examples, are you saying someone like Bosch lumber is unqualified?

Rick: He said in many case they could be but he doesn't know the background of the individual. He said his problem is where is the qualification base that you need to go by. Is it thirty years of working or is it ten months of working. He said he doesn't know because it allows for the ones that are unqualified. They are the ones who haven't passed a test.

Senator Nodland: Asked if the cities and counties that have adopted a building code if they handle that?

Rick: Said they can but what do you do with the other seventy five percent of the cities that don't have a building code.

Senator Nodland: Asked if they knew that number.

Rick: Said yes. He gave a copy of the counties that are enforcing building codes.

Ken Wild, Wild and Associates of Fargo North Dakota: Said he wanted to be on record of being against the bill.

Phillip Stahl, Stahl Architects and Builders: Said that they do have an example of contractors coming in from outside the state, they become licensed and then let their license lapse. He gave an example of a project that was not done properly.

Chairman Klein: Asked if he had any examples of an architect involved in a building project and there being an accident.

Phillip: Said not with them but an out of state architect.

Todd Mitzel, Grand Forks North Dakota: In opposition to the bill. He gave an example of a Rhode Island fire.

James Devine, J2 Architect and Design in Bismarck: In opposition to the bill.

Ken Roll, Architectural Draftsman, Home Grown Designs Inc.: He is for the bill. Written Testimony Attached (7).

Senator Nodland: Asked about the draftsman that is graduating from Wahpeton if they are hired by building contractors. He said his last home was drawn by a draftsman.

Ken: Said that it was limiting what draftsman could do.

Chairman Klein: Asked if they weren't currently strapped by the law that was passed two years ago.

Ken: Said that no one had told him about it until lately. He said he does larger buildings than two stories.

Senator Murphy: Asked if he was really if favor of the bill but he wants the amendment.

Ken: Said the amended bill is what he could live with.

La Vonne Wohl, Architect: In opposition to the bill. She talked about contractors coming from other areas to work here. She gave an example of what happened to one of her

clients. She said the building code is minimal; condensation and mold are not addressed in the building code. She stated that material is different and the insulation levels are also different. She said that a mistake made is a risk for a lot of public people.

Leah Hummel, Altru Health System Plant and Facilities Administrator: She is opposed to the bill as amended. She talked about the spaces that they lease for their employees and their patients needing to meet regulation requirements.

Chairman Klein: Closed the hearing.

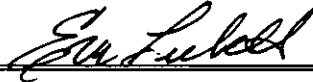
2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

HB 1469
March 30, 2011
Job Number 16166

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to regulation of architects

Minutes:

Discussion

Chairman Klein: Opened the meeting on 1469. We took a lot of testimony yesterday. Senator Laffen.

Senator Laffen: Said this bill is needed and this bill doesn't affect his business in any way. He said when they rewrote it they put in North Dakota's first practice law. We had a title law that said you can't call yourself an architect unless you have all of this. We were the only state that didn't have a practice law. In most states there is a law that says; you do now need an architect to work on your project. He gave an example and showed an architectural drawing. He said each state has a building code now and most go by the international building code. He talked about everything that has to be done for a building by code. He said that building code officials don't always understand the building code and it is very complicated to understand. He talked about the two tweaks the bill still needed and explained what they were. He suggested that they go into the twelve building types and address each one. He said he would like to write that description and get it approved by Representative Carlson.

Chairman Klein: Said he had visited with both Senator Laffen and Representative Carlson and they talked about the proposed amendments and suggested if he wants to do this...I don't want anyone to come to the committee and feel they can't propose amendments. He asked for the Emergency Claus to be built into the amendments.

Senator Laffen: Said he didn't think it was as much an issue for the people in the state who are builders but to protect us more from the people coming from out of state and building here. He said that it is just trying to have some more educated eyes looking at this process, trying to find that line where they don't step on any home builder's toes, is what we want to try to do.

Senator Nodland: Said he was concerned about restricting the small town builders to the point they all have to change because that would cost them more.

Senator Laffen: Commented that if it is written right this wouldn't affect any of those, the line is above what they are doing.

Chairman Klein: Said he was asking Senator Laffen to work on those amendments and we can have the debate on the amendment after. We will have some input from the builders, we want them involved.

Senator Laffen: Said he can't guarantee he can figure it all out, so maybe we are back to what we have. It became apparent to him that there is too many building types to try and define it with one or two different rules and he feels it would make more sense because that is way the code is set up.

Chairman Klein: Said if anyone else as it related to that draftsman gentlemen that the Ruby amendments...if someone feels strongly about that they should get involved in that.

Senator Andrist: He said he appreciates what Senator Laffen has brought to the committee and he would hope the builders and Doreen would be brought into the process as they are crafting the amendment.

Chairman Klein: Closed the hearing.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

HB 1469
April 5, 2011
Job Number 16336

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to regulation of architects

Minutes:

Discussion and Vote and Handout

Chairman Klein: Opened the hearing.

Senator Laffen: He said that he wanted to see if there was a better way to define the exemptions. He said they should look at it according to the way the building code has them defined. He handed out an overview of the building code definitions of buildings, Attachment (1). He went over the handout. He stated that he has had a lot of conversations on how to do it and many want it to go back the way it was. He would like to recommend that and take it back to pre 2009. He doesn't have that amendment ready but could have Eric write it up.

Chairman Klein: Said that because it affects the builders he will ask Doreen Riedman, North Dakota Association of Builders if they have an opinion on that particular comment.

Doreen Riedman, North Dakota Association of Builders: She said that they had that idea brought into them by Senator Laffen. They have talked about it among the leadership of the governmental affairs committee and they believe what they have here is a good piece of legislation. She said that they did consult with the architects and had long meetings over this. She said she would like it passed as is and just add the Emergency Claus. It was passed in the House and starting over would not be a good idea.

Senator Laffen: He said he doesn't disagree that the previous bill went too far but his issue with this is that defining this by, "two stories" is not a good way to define buildings. He said they vary so much and there are a lot of huge private projects that are not two stories. It is not a good method for deciding when a project gets big and complicated. He said square footage and number of people is probably the right way. It is the number of people where health and life safety issues start to come into play, when you get to many people.

Senator Murphy: Asked if a combination of and/or with people and square footage and storage.

Senator Laffen: Said that it would have to be or a certain number of people or square footage. He said it would be better to go through the dozens of different building types. He gave an example of the large arenas and said that a private building could be used for a public entity. He said this is trying to say there is a breaking point where you need to hire an architect without this exemptions this whole piece, pre 2009, now we are saying we have to draw the line.

Senator Andrist: Said that it seems to him it is a reasonable suggestion but said he can't imagine someone who builds an arena or assembly hall that wouldn't want to have architectural services. He said there weren't huge abuses under the old law. He said he has had builders tell him they wish the law went further back then it does. He would be comfortable passing the bill as written. He said changes could come the next session.

Senator Nodland: Said he agrees with Senator Andrist.

Senator Larsen: Said that he thinks they should take it as it is now and work on it next session.

Chairman Klein: Said the bills need to be out of committee by tomorrow. He is comfortable with moving the bill along with the Emergency Claus.

Senator Nodland: Moved to adopt Representative Kasper's amendment.

Senator Andrist: Seconded the motion.

Roll Call Vote: Yes-7 No-0

Senator Nodland: Moved a do pass as amended on engrossed House bill 1469.

Senator Larsen: Seconded the motion.

Roll Call Vote: Yes-5 No-2

Senator Nodland to carry the bill

11.0674.02001
Title.

(1)
Prepared by the Legislative Council staff for
Representative Kasper
March 2, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1469

Page 1, line 2, after "architects" insert "; and to declare an emergency"

Page 3, after line 30, insert:

"SECTION 4. EMERGENCY. This Act is declared to be an emergency
measure."

Renumber accordingly

Date: 4/5/2011
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1469

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nodland Seconded By Senator Andrist

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Mac Schneider	✓	
VC George L. Nodland	✓		Senator Philip Murphy	✓	
Senator John Andrist	✓				
Senator Lonnie J. Laffen	✓				
Senator Oley Larsen	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Representative Kasper's amendment, Emergency Claus.

Date: 4/5/11
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1469

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nodland Seconded By Senator Larsen

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Mac Schneider	✓	
VC George L. Nodland	✓		Senator Philip Murphy		✓
Senator John Andrist	✓				
Senator Lonnie J. Laffen		✓			
Senator Oley Larsen	✓				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Senator Nodland

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1469, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1469 was placed on the Sixth order on the calendar.

Page 1, line 2, after "architects" insert "; and to declare an emergency"

Page 3, after line 30, insert:

"SECTION 4. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2011 TESTIMONY

HB 1469

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1330
(Representatives Keiser, Ekstrom, Thoreson)
(Senators Grindberg, Klein, Triplett)

AN ACT to amend and reenact sections 43-03-01, 43-03-02, 43-03-03, 43-03-04, 43-03-05, 43-03-06, 43-03-08, 43-03-09, 43-03-10, 43-03-11, 43-03-13, 43-03-14, 43-03-15, 43-03-16, 43-03-17, 43-03-18, 43-03-19, 43-03-20, and 43-03-22 of the North Dakota Century Code, relating to the regulation of architects and landscape architects; to repeal sections 43-03-12, 43-03-24, and 43-03-25 of the North Dakota Century Code, relating to the regulation 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 and landscape architecture.
3. "Landscape architect" means an individual who ~~practices~~ is registered as a landscape architect under this chapter.
4. "Landscape architecture" does not include the practice of engineering and practice of professional engineering as defined under section 43-19.1-02.
5. "Practice of architecture" means rendering or offering to render service to clients generally, including any one or any combination of the following practices or professional services: advice, consultation, planning, architectural design, drawings, and specifications; and general administration of the contract as the owner's representative during the construction phase in which expert knowledge and skill are required in connection with the erection, enlargement, or alteration of any building, or the equipment, or utilities thereof, or the accessories thereto if the safeguarding of the public health, safety, or welfare is concerned or involved. The term includes the making of architectural plans and specifications for buildings.
6. "Practice of landscape architecture" means rendering or offering to render service to clients generally, including any one or any combination of the following practices or professional services: advice, consultation, planning, landscape architectural design, drawings, and specifications; and general administration of the contract as the owner's representative during the construction phase in which expert knowledge and skill are required in connection with landscape enhancement or landscape development, including the formulation of graphic or written criteria to govern the planning or design of land construction projects, production of overall site plans, landscape grading, and landscape drainage plans, planting plans, irrigation plans, and construction details if the safeguarding of the public health, safety, or welfare is concerned or involved.

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 ~~a person making plans and specifications for a building to be constructed by or for that person; a;~~

~~a. A person supervising the erection, enlargement, or alteration of a building being constructed by or for that person; 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; 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; or~~

~~b. A person preparing plans and specifications or designing, planning, or administering the construction contracts for the construction, alteration, remodeling, or repair of:~~

~~(1) A private residence;~~

~~(2) A building that under applicable building code is not designed for occupancy by ten or more individuals, does not exceed two stories in height exclusive of a one-story basement, and is:~~

~~(a) A garage: max. 1849 sf~~

~~(b) A commercial or industrial building: depends on use~~

~~(c) An office building: max. 949 sf~~

~~(d) A preengineered metal building: depends on use~~

~~(e) A building for the marketing, storage, or processing of farm products;~~

~~(f) A warehouse; or max. 4549 sf~~

~~(g) Rental apartment units: max. 1849 sf~~

~~(3) A farm building; or~~

~~(4) A nonstructural alteration of any nature to any building if the alteration does not affect the safety of the occupants of the building.~~

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; or

d. An irrigation designer, contractor, or service provider in the course of preparing irrigation plans or installing, repairing, or maintaining irrigation systems.

3. This chapter does not:

a. Apply to an officer or employee of the United States government while engaged in governmental work in this state;

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- b. Curtail or extend the right of any other profession regulated in this state;
- c. Prevent the independent employment of a registered professional engineer for any professional service related solely to civil, structural, mechanical, or electrical engineering in connection with any building or building project; or
- d. Supersede, override, or amend the provisions of chapter 43-19.1 regarding registration of professional engineers and land surveyors.

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

43-03-03. State board of architecture and landscape architecture - Members - Term of office - How vacancies filled. The state board of architecture ~~must consist and landscape architecture consists~~ of three members appointed by the governor for terms of six years each with their terms of office so arranged that one term and only one expires on March fourteenth of each odd-numbered year. Each member of the board shall qualify by taking the oath of office required of civil officers and shall hold office until that member's successor is appointed and qualified, and any vacancy occurring in the board must be filled by the governor for the unexpired term.

SECTION 4. AMENDMENT. Section 43-03-04 of the North Dakota Century Code is amended and reenacted as follows:

43-03-04. Qualifications of members of board - Removal of members. ~~A~~ Each member of the board must be a resident of this state who is an architect who has been a resident of and in active practice as principal in this state as an architect for not less than three five years prior to before appointment. The governor may remove any ~~of the members~~ member of the board for inefficiency or neglect of duty.

SECTION 5. AMENDMENT. Section 43-03-05 of the North Dakota Century Code is amended and reenacted as follows:

43-03-05. Meetings of board - Officers elected.

1. ~~The board shall hold regular meetings on the first Monday of April and of October of each year and may hold such special meetings as are necessary~~ regular meetings at least once each year, with the date and location set by the board. The board may meet as designated by a majority of the board. The board shall select from among its members a president and a ~~secretary~~ secretary-treasurer.
2. The board may:
 - a. Administer an oath;
 - b. Take an affidavit;
 - c. Summon a witness;
 - d. Take testimony as to matters coming within the scope of the board's duties;
 - e. Enter an interstate or intrastate agreement or association with other boards of licensure for the purpose of establishing reciprocity, developing examinations, evaluating applicants, or other activities to enhance the services of the board to the state, the registrant, or the public; and
 - f. Appoint or contract an executive director and any other individual the board determines is necessary to administer the affairs of the board.
3. The board shall:

- a. Adopt a seal to be affixed to each certificate of registration issued by the board;
 - b. Issue certificates of registration to qualified applicants; and
 - c. Adopt rules in accordance with chapter 28-32.
4. The secretary-treasurer shall keep a record of the proceedings of the board.

SECTION 6. AMENDMENT. Section 43-03-06 of the North Dakota Century Code is amended and reenacted as follows:

43-03-06. Salary of ~~secretary of board and members of board~~ executive director - Expenses of board. ~~The secretary of the board shall~~

1. If the board appoints or contracts an executive director, the executive director is entitled to receive such salary as ~~must be~~ fixed by a resolution of the board adopted at a regular meeting, and ~~also shall~~ is entitled to receive such traveling, hotel reimbursement for travel, lodging, and other expenses as are incurred legitimately in the performance of the ~~secretary's~~ executive director's official duties.
2. Each ~~of the other members~~ member of the board ~~shall~~ is entitled to receive ~~twenty-five a~~ per diem of seventy-five dollars for each day or portion thereof of a day spent in the discharge of the member's duties, such mileage as is provided for by section 54-06-09, and ~~must be reimbursed~~ is entitled to reimbursement for the member's actual and necessary expenses incurred in the discharge of the member's official duties.
3. The expenses of the board ~~and its officers~~ at no time may exceed the amount of moneys received and on deposit to the credit of the board under the provisions of this chapter.

SECTION 7. AMENDMENT. Section 43-03-08 of the North Dakota Century Code is amended and reenacted as follows:

43-03-08. Board to adopt rules. The board ~~may~~ shall adopt rules:

1. To govern board proceedings.
2. For the examination of candidates for registration.
3. For the regulation of the practice of architecture and landscape architecture.
4. For education requirements of registration applicants.
5. For ~~continuing education of registrants~~ practical experience requirements of registration applicants.

SECTION 8. AMENDMENT. Section 43-03-09 of the North Dakota Century Code is amended and reenacted as follows:

43-03-09. ~~Unauthorized practice prohibited~~ Prohibited acts - Injunction.

1. A person may not practice architecture in this state unless registered as an architect under this chapter or otherwise authorized by the board. ~~After December 31, 2004, a~~ 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.
2. A person may not fraudulently obtain or furnish a certificate of registration to practice architecture or landscape architecture.
3. A person that is not licensed under this chapter may not:

- a. Advertise, represent, or in any manner hold that person out as an architect or landscape architect;
 - b. In connection with the person's business or name, or otherwise, assume, use, or advertise any term, title, or description or engage in any other conduct that reasonably might be expected to mislead another to believe the person is an architect or landscape architect; or
 - c. Except as a copartnership of architects, engage in the practice of architecture or landscape architecture as a corporation.
4. Through the attorney general, the board may seek to enjoin a person from committing an act in violation of this chapter. The board is not required to prove irreparable injury to enjoin a violation of this chapter.

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

43-03-10. Regulation of use of terms titles.

1. A person may not use the title or designation "architect", "registered architect", "licensed architect", any variation of those terms, or any other words, letters, or device to indicate that person is an architect authorized to practice architecture in this state unless that person is registered as an architect under this chapter. In a copartnership of architects, each member of the partnership shall hold a certificate of registration to practice.
2. A person may not use the title or designation "landscape architect", "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.
3. This chapter does not authorize a landscape architect to use the title "architect" or to practice architecture.

SECTION 10. 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 an individual may take the examination for registration as an architect or a landscape architect, that individual shall make an application to the board submitting satisfactory evidence of having the required qualifications and shall pay an examination fee of not more than one hundred dollars. If an applicant fails to pass the examination, at the next regularly scheduled examination the applicant may take a partial or entire reexamination is required, the as determined appropriate by the board. An applicant shall pay a reexamination fee of 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 11. 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 or landscape architect:

1. Must be at least eighteen years of age;
2. Must be of good moral character, with rejection possible on the basis of:
 - 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 individual's application; or
 - c. Violation of any of the standards of conduct required of registrants;
3. Must have successfully completed an examination for registration;
 4. ~~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~~ hold a professional degree in architecture from an accredited school of architecture and must have the required practical experience, as established by the board;
 5. In the case of a landscape architect, must hold a professional degree in landscape architecture from an accredited school of landscape architecture and must have the required practical experience, as established by the board; and
- 6- 6. Must satisfy registration criteria adopted by the board.

SECTION 12. AMENDMENT. Section 43-03-14 of the North Dakota Century Code is amended and reenacted as follows:

43-03-14. Examination.

1. Before an applicant may be registered as an architect, the applicant shall pass satisfactorily an examination ~~in such technical and professional courses as are established by the board. The examination must have special reference to the planning, design, and construction of buildings. The examination must cover such subjects and be graded on such basis as outlined by the national council of architectural registration boards.~~
2. Before an applicant may be registered as a landscape architect, the applicant shall pass satisfactorily an examination established by the board.
3. The board may administer an examination or may recognize a board-approved examination of a nationally recognized entity.

SECTION 13. AMENDMENT. Section 43-03-15 of the North Dakota Century Code is amended and reenacted as follows:

43-03-15. When examination not necessary. ~~A~~ The board may admit a nonresident applicant seeking to register to practice architecture or landscape architecture in North Dakota may be admitted to practice if:

1. ~~The applicant holds a license in the state where the applicant's office is located; and~~
2. ~~The applicant holds a national council of architectural registration boards certificate, when:~~
 - a. ~~The applicant files an application with the board, containing such information concerning the applicant as the board considers pertinent; and~~
 - b. The board receives from the national council of architectural registration boards a certified copy of the applicant's council record, without requiring the applicant to pass an examination if the applicant is licensed to practice architecture or landscape architecture under the laws of any other state that has requirements substantially equal to those provided for under this chapter. An applicant under this section shall pay the fees provided for under section 43-03-18.

SECTION 14. 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 - List of certificate holders. 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~~ secretary-treasurer of the board. ~~The board shall issue a certificate of registration to every individual who passes the examination or otherwise is entitled to receive the certificate.~~ The ~~secretary~~ secretary-treasurer of the board shall maintain a list of architects and landscape architects certified under this ~~section~~ chapter. This list of certificate holders must contain ~~the registrant's~~ each certificate holder's name, current business address, certification number, and the expiration date of the certificate.

SECTION 15. 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 An initial~~ certificate of registration as an architect or a landscape architect ~~must be issued for a term established by the board. Upon the payment of the proper fee, a certificate of registration may be renewed without examination expires on June thirtieth of the year following the date of issuance. A renewed certificate of registration is valid for two years.~~

SECTION 16. AMENDMENT. Section 43-03-18 of the North Dakota Century Code is amended and reenacted as follows:

43-03-18. Fees.

1. The following fees apply to architects and landscape architects:
 - a. Following examination, ~~an architect a~~ registration fee of not more than ~~one~~ three hundred dollars, as set by the board.
 - b. When examination is not necessary under section 43-03-15, ~~an architect a~~ registration fee of not more than ~~one~~ three hundred dollars, as set by the board.
 - c. ~~An architect A~~ registration renewal fee, which need not be collected annually, but which must be based on no more than ~~one~~ three 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 Fees set by the board under this subsection are not subject to chapter 28-32.~~
 - 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 architects and 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 A certificate holder who fails to pay a special fee assessed by the board under this subsection is subject to the forfeiture provisions under section 43-03-19.
3. Fees set by the board may not exceed the amount reasonably necessary to regulate the profession professions of architecture and 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 17. 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 fee~~ Renewal - Forfeiture.

1. ~~If the A holder of a certificate of registration as an architect or a landscape architect fails shall apply to renew the certificate and pay the associated renewal fee or a special fee when due, that individual's certificate must be revoked unless that individual's application for renewal is made within one year after the expiration of that individual's certificate. If application for renewal is made within one year, that individual then shall pay the 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 individual's certificate, that individual may, in the board's discretion, be reinstated upon payment of a fee as set by the board. Application for renewal must be accompanied by evidence satisfactory to the board of compliance with this chapter. Failure of a certificate holder to timely renew the certificate and pay the associated renewal fee before the expiration of the certificate results in forfeiture of the certificate.~~
2. ~~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. At least two months before the date of the expiration of a certificate of registration, the secretary-treasurer shall notify the certificate holder of the upcoming expiration and at least two weeks before the expiration date the secretary-treasurer shall notify any outstanding certificate holders by certified mail, at the certificate holder's last-known address, of the upcoming expiration and resulting forfeiture.~~

SECTION 18. AMENDMENT. Section 43-03-20 of the North Dakota Century Code is amended and reenacted as follows:

43-03-20. Revocation, denial, or suspension of registration. ~~If the board revokes, denies, or suspends the certificate of registration or application of a certificate holder or applicant for certificate, the certificate holder or applicant has a right to a hearing before the board on such contemplated disciplinary action and has a right to appeal to the courts from the decision of the board on the hearing. All of the provisions of chapter 28-32 relating to proceedings before an administrative agency are applicable to and govern the notice of hearing, the hearing, and the right of appeal from the board's decision. The board, after a hearing upon thirty days' written notice to the certificate holder, may revoke, deny, or suspend any certificate of registration of or application to be an architect or a landscape architect upon proof that:~~

1. ~~Such~~ The certificate has been ~~was obtained or attempted to be obtained by fraud, deceit, or material misrepresentation of fact in applying for a certificate or renewal of a certificate or in passage of the examination under this chapter;~~
2. ~~The holder of such the~~ the ~~certificate has been guilty of malfeasance, deceit, fraud, gross incompetency, or negligence in connection with the holder's practice of architecture or landscape architecture;~~
3. ~~The holder of the certificate has exhibited mental incompetency, untrustworthiness, incompetency, or misconduct in the practice of architecture or landscape architecture as evidenced by conduct that endangers life, health, property, or the public welfare.~~

4. The holder of ~~such the~~ certificate ~~has~~ allowed a nonregistered person to practice as an architect by the device of permitting the certificate 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;
5. The holder of the certificate or applicant had an architecture or a landscape architecture license of another state suspended or revoked or was otherwise disciplined by another state;
4. 6. The holder of ~~such the~~ certificate ~~has been~~ or applicant was convicted of an offense determined by the board to have a direct bearing upon the certificate holder's or applicant's ability to serve the public as an architect or landscape architect; or that, following conviction of an offense, the holder or applicant is not sufficiently rehabilitated under section 12.1-33-02.1; or
5. 7. The holder of ~~such the~~ certificate ~~has~~ or applicant violated this chapter or rules adopted under this chapter. If a certificate holder or applicant is convicted of a crime in another state which would constitute a violation of this chapter had the criminal action taken place in this state, a copy of the judgment of conviction certified by the rendering court is presumptive evidence of the conviction in any hearing under this section. For purposes of this subsection, a conviction includes a plea of nolo contendere or its equivalent.

SECTION 19. 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~~ require the certificate holder to acquire, at the ~~applicant's~~ certificate holder's expense, a ~~rubber stamp or indicia~~ to be used by the ~~applicant~~ certificate holder in the conduct of the ~~applicant's~~ certificate holder's practice and to be impressed upon drawings, plans, and other documents prepared by the ~~applicant~~ certificate holder. The board shall ~~prescribe~~ adopt rules governing the ~~use~~ technical requirements of such stamp and indicia and ~~applicant's~~ the certificate holder's signature.

SECTION 20. REPEAL. Sections 43-03-12, 43-03-24, and 43-03-25 of the North Dakota Century Code are repealed.



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consideration by the occupant per unit of area factor assigned to the occupancy as set forth in Table 1004.1.1. Where an intended use is not listed in Table 1004.1.1, the *building official* shall establish a use based on a listed use that most nearly resembles the intended use.

Exception: Where *approved* by the *building official*, the actual number of occupants for whom each occupied space, floor or building is designed, although less than those determined by calculation, shall be permitted to be used in the determination of the design *occupant load*.

1004.2 Increased occupant load. The *occupant load* permitted in any building, or portion thereof, is permitted to be increased from that number established for the occupancies in Table 1004.1.1, provided that all other requirements of the code are also met based on such modified number and the *occupant load* does not exceed one occupant per 7 square feet (0.65 m²) of occupiable floor space. Where required by the *building official*, an *approved aisle*, seating or fixed equipment diagram substantiating any increase in *occupant load* shall be submitted. Where required by the *building official*, such diagram shall be posted.

1004.3 Posting of occupant load. Every room or space that is an assembly occupancy shall have the *occupant load* of the room or space posted in a conspicuous place, near the main *exit* or *exit access doorway* from the room or space. Posted signs shall be of an *approved* legible permanent design and shall be maintained by the owner or authorized agent.

1004.4 Exiting from multiple levels. Where *exits* serve more than one floor, only the *occupant load* of each floor considered individually shall be used in computing the required capacity of the *exits* at that floor, provided that the *exit* capacity shall not decrease in the direction of egress travel.

1004.5 Egress convergence. Where *means of egress* from floors above and below converge at an intermediate level, the capacity of the *means of egress* from the point of convergence shall not be less than the sum of the two floors.

1004.6 Mezzanine levels. The *occupant load* of a mezzanine level with egress onto a room or area below shall be added to that room or area's *occupant load*, and the capacity of the exits shall be designed for the total *occupant load* thus established.

1004.7 Fixed seating. For areas having fixed seats and *aisles*, the *occupant load* shall be determined by the number of fixed seats installed therein. The *occupant load* for areas in which fixed seating is not installed, such as waiting spaces and *wheel-chair spaces*, shall be determined in accordance with Section 1004.1.1 and added to the number of fixed seats.

For areas having fixed seating without dividing arms, the *occupant load* shall not be less than the number of seats based on one person for each 18 inches (457 mm) of seating length.

The *occupant load* of seating booths shall be based on one person for each 24 inches (610 mm) of booth seat length measured at the backrest of the seating booth.

1004.8 Outdoor areas. Yards, patios, courts and similar outdoor areas accessible to and usable by the building occupants shall be provided with *means of egress* as required by this chapter. The *occupant load* of such outdoor areas shall be assigned by the *building official* in accordance with the anticipated use.

TABLE 1004.1.1
MAXIMUM FLOOR AREA ALLOWANCES PER OCCUPANT

FUNCTION OF SPACE	FLOOR AREA IN SQ. FT. PER OCCUPANT
Accessory storage areas, mechanical equipment room	300 gross
Agricultural building	300 gross
Aircraft hangars	500 gross
Airport terminal	
Baggage claim	20 gross
Baggage handling	300 gross
Concourse	100 gross
Waiting areas	15 gross
Assembly	
Gaming floors (keno, slots, etc.)	11 gross
Assembly with fixed seats	See Section 1004.7
Assembly without fixed seats	
Concentrated (chairs only—not fixed)	7 net
Standing space	5 net
Unconcentrated (tables and chairs)	15 net
Bowling centers, allow 5 persons for each lane including 15 feet of runway, and for additional areas	7 net
* Business areas Business Areas	100 gross
Courtrooms—other than fixed seating areas	40 net
Day care	35 net
Dormitories	50 gross
Educational	
Classroom area	20 net
Shops and other vocational room areas	50 net
Exercise rooms	50 gross
H-S Fabrication and manufacturing areas	200 gross
Industrial areas	100 gross
Institutional areas	
Inpatient treatment areas	240 gross
Outpatient areas	100 gross
Sleeping areas	120 gross
Kitchens, commercial	200 gross
Library	
Reading rooms	50 net
Stack area	100 gross
Locker rooms	50 gross
Mercantile	
Areas on other floors	60 gross
Basement and grade floor areas	30 gross
Storage, stock, shipping areas	300 gross
Parking garages	200 gross
* Residential Residential	200 gross
Skating rinks, swimming pools	
Rink and pool	50 gross
Decks	15 gross
Stages and platforms	15 net
Warehouses	500 gross

For SI: 1 square foot = 0.0929 m²

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Testimony on House Bill 1469**House Industry, Business & Labor****January 25, 2011****Rocky Schneider**

**North Dakota Association of Builders
Home Builders Association of Fargo-Moorhead**

Chairman Keiser and members of the House Industry, Business & Labor Committee, the North Dakota Association of Builders (NDAB) and the Home Builders Association of Fargo-Moorhead encourages your support of House Bill 1469; relating to the regulation of architects.

Purpose of House Bill 1469

The purpose of House Bill 1469 is to regulate when state law mandates the use of an architect on the construction and remodeling of a building. Prior to the 2009 legislative session, this section of law was used to regulate the registration of architects and organization of the State Board of Architecture. There were no provisions requiring the use of an architect on the construction or remodeling of a private building.

In the 2009 legislative session, House Bill 1330 was passed which included a section that narrowly restricted the construction of a private building without hiring an architect.

Architectural Mandate

House Bill 1469 does not contest the part an architect plays in the safety and welfare during the design of a building. Architects are commonly hired to provide service in their area of expertise. It is without question that the more complicated or hazardous the structure, with more checks and balances in place, the safer a building will be. This is the reason the profession of architecture exists, and the reason an architect is hired.

The reasons one hires an architect are similar to the reasons a private individual hires a contractor. A contractor, like

an architect, provides expertise and a level of safety. Contractors and architects are required to build to the same standard of building codes set by the State Building Code Advisory Committee and local jurisdictions. These building codes are routinely updated, amended, and adopted by the committee of experts who are appointed by state law.

House Bill 1469 builds upon the work that was accomplished during the 2009 legislative session to make buildings in North Dakota safer without hindering the growth and economic development of the communities within it. The bill better defines when state law mandates the hiring of an architect. It does this by basing state law on more definitive occupancy group classifications and stories of a building as opposed to the more arbitrary standards of square footage and total occupancy.

The bill states that an architect is required on:

- every single building over two stories in height. (exclusive of only private residences, farm buildings, and three-story apartment buildings)
- all buildings with the occupancy classification of:
 - Assembly Group A-1,
 - Educational Group E,
 - High Hazard Group H, and
 - Institutional Group I.
- any building that is being remodeled into one of the aforementioned occupancy groups.

These classifications of buildings are those with a more complex design, deal with hazardous substances and are in need of a greater system of checks and balances. Let it be said that neither this bill, nor any state law, limits a private individual or construction manager from choosing to hire an architect. I would imagine that on the construction of many other buildings not listed under this section that an architect would indeed be required when deemed necessary. However, state law should not mandate it on the construction of more straightforward projects which would only unnecessarily add to the cost of construction and subsidize the architect industry.

Other Provisions

This section of law also deals with provisions for the registration of those who are in the "practice of architecture". While the "practice of architecture" accurately describes what it is meant to, the definition is lengthy and is not exclusive to one occupation. In section 43-03-02 3. d., the bill ensures that contractor registration is still regulated by the Secretary of State as stated in Chapter 43-07 of the Century Code. This change simply states that the architect registration does not supersede, override or amend the section of law dealing with contractor registration.

In section 43-03-09 3.c., the bill removes the reference to the "practice of architecture" due to the definition of architecture within this section of law generally encompasses other occupations. The amended language came about after discussions with the architects and tries to confer the same intent without having any negative unforeseen consequences.

House Bill 1469 also makes a number of wording changes dealing with the terms "licensed" and "registered" to make the law more consistent with itself and compatible with the reciprocity with other states.

We respectfully ask this committee to support House Bill 1469 and to refute further amendments that would narrow the personal choice of an individual choosing to build in North Dakota.

Thank you for your time and consideration.

Occupancy Classification / Chapter 3 of the IBC

Brief Explanation

Assembly Group A: uses intended for the gathering together of persons for the purposes such as civic, social or religious functions, recreation, food or drink consumption or awaiting transportation. A room of less than 50 persons used for assembly but is accessory to a different occupancy shall be considered that different occupancy. Assembly area less than 750 s.f. which is accessory to a different occupancy is not considered assembly. Assembly rooms which are accessory to Group E are not considered as Group A. Religious educational rooms and auditoriums with occupant loads less than 100 persons which are accessory to churches are considered A-3. Group A is divided into five sub groups, **A-1** usually with fixed seating, intended for production and viewing of the performing arts or motion pictures, **A-2** uses intended for food and/or drink consumption, **A-3** uses intended for worship, recreation or amusement and other assembly uses not otherwise classified, **A-4** uses intended for viewing of indoor sporting events and activities with spectator seating, **A-5** uses intended for participation in or viewing outdoor activities

Business Group B: Assembly occupancies less than 50 persons and/or uses intended for office, professional or service-type transactions, including storage of records and accounts.

Educational Group E: uses intended by 6 or more persons at any one time for educational purposes through the 12th grade. Daycare uses for educational, supervision or personal care services for more than 5 children older than 2 1/2yrs

Factory Industrial Group F: uses intended for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair or processing operations that are not classified Group H hazardous or Group S storage. Group is divided into two sub groups, **F-1 Moderate Hazard** and **F-2 Low Hazard**

High-Hazard Group H: uses intended for manufacturing, processing, generation or storage of materials that constitute a physical or health hazard in quantities in excess of those allowed by code. Group H is divided into five sub groups, **H-1** detonation hazard, **H-2** accelerated burning, **H-3** materials that readily support combustion or pose a physical hazard, **H-4** materials are health hazards, **H-5** semiconductor fabrication facilities and comparable R&D areas which HPM's are used.

Institutional Group I: uses intended in which people are cared for or live in a supervised environment, having physical limitations because of health or age are harbored for medical treatment or other care or treatment or in which the liberty of the occupants is restricted. Group I is divided into four sub groups, **I-1** houses more than 16 persons, on a 24 hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff, **I-2** used for medical, surgical, psychiatric, nursing or custodial care on a 24 hr basis of more than five persons who are not capable of self-preservation. Less than five people shall be considered an R-3, **I-3** is inhabited by more than five persons who are under restraint or security and is occupied by persons who are generally incapable of self-preservation due to security measures not under the occupant's control.

Mercantile Group M: uses intended for the display and sale of merchandise, and involve stocks of goods, wares or merchandise incidental to such purposes and accessible to the public.

Residential Group R: uses intended for sleeping purposes. Group R is divided into four sub groups, **R-1** occupants are transient in nature, **R-2** occupancies containing sleeping units or more than two dwelling units where the occupants are more permanent in nature, **R-3** one and two family dwelling, or adult and child care facilities that provide accommodation for five or fewer persons of any age for less than 24 hrs, **R-4** are intended for occupancy as residential care/assisted living facilities including more than five but not more than sixteen occupants, excluding staff.

Storage Group S: uses intended for storage that is not classified as a hazardous occupancy. Group S is divided into two sub groups, **S-1 Moderate-Hazard storage** and **S-2 Low-Hazard storage**

Utility and Miscellaneous Group U: uses intended for structures of an accessory character and not classified in any specific occupancy.

NOTE: R-3 Occupancy:

Town Houses are occupancies where the development is owned by others but the individual plot of real estate that the dwelling is seated is owned by the occupant.

Condominiums are occupancies where the development is owned by others including the individual plot of real estate but the interior of the dwelling unit from wall to wall is owned by the occupant.

Testimony in Opposition to HB 1469 as introduced

January 25, 2011

Chairman Keiser and members of the House Industry, Business & Labor Committee:

For the record, my name is Rick Engebretson. I reside and work in Fargo.

I am here testifying in my position as President of the ND State Board of Architecture and Landscape Architecture (referred herein as the State Board) in opposition to the HB 1469. More specifically, we are opposed to certain revisions to the Section 43-03-02 exemptions.

As a bit of background, in the 2009 Legislature, the State Board came to this committee with major revisions to Chapter 43-03 regulating the practice of Architecture & Landscape Architecture. That bill became law on August 1, 2009. The revisions were based on a six (6) year study with my fellow board members Warren Tvenge - Bismarck, and Richard Nester - Minot. We looked at statutes regarding the practice of architecture in states surrounding North Dakota and arrived at a centric position in the exemptions for requiring an architect. The current law exempts buildings of 10 or less occupants and not more than two stories. We have attached Exhibit A showing (in yellow) the surrounding states whose exemptions are less restrictive than current North

Dakota law and states (in blue) which are more restrictive than current North Dakota law.

Since learning of concerns by the Home Builders Association in the fall of 2009 and right up to the start of this legislative session the State Board has tried to meet with them to find acceptable compromises, while protecting the health, safety and welfare of the public. I'm happy to report that both parties have made efforts in coming to common ground.

However, the State Board felt the last offering by the Home Builders was an unacceptable weakening of standards for public safety so I contacted a qualified neutral third party: the Fargo Building Inspection Department to provide insight into their criteria for requiring the services of a design professional (i.e. architect & engineers) in providing stamped and signed construction documents which are necessary to obtain a building permit.

Our next handout is Exhibit B, which is a written description from the Fargo Building Inspection Department outlining the requirements when an architect is required. Please note in the lower left hand corner, these requirements, revised in January 2006, are the current standard in Fargo.

Next, please look at Exhibit C, this is a visual inserting of the City of Fargo's requirements into the earlier comparison of surrounding states previously shown in Exhibit A and also compared to current ND Century Code Chapter 43-03. Again, requirements which are less restrictive are shown in yellow and more restrictive shown in blue.

Our issue with HB 1469 is that it allows any unlicensed person to design a building of unlimited size that is 2 stories in height or less and is any of the following categories: Assembly Group A-2, A-3, A-4, A-5, Business Group B, Factory Industrial Group F, Mercantile Group M, or Residential Group R.

In laymen's terms, that means that North Dakota would become the least restrictive of all the surrounding states and an architect would not be needed on buildings including (but not limited to) uses like: the YMCA, the ice arena with spectator seating, restaurant/bar, churches, banks, office building, a medical clinic, an assembly or fabricating, manufacturing facility, a medical clinic, or a large retail facility like Kirkwood Mall and West Acres. It also exempts an apartment building with unlimited number of units or square footage as long as it is 3 stories or less.

The State Board has directed me to propose an amendment to Chapter 43-03 which is based along the same requirements as Fargo's Building Inspection Department. This proposed compromise was presented to the Home Builders Association on January 14th, which is included herein as Exhibit D.

We respectfully request that you consider Exhibit D as an alternative to HB 1469.

Ricky L Engebretson, President
North Dakota State Board of Architecture & Landscape
Architecture

Attachments

Exhibit A - Chapter 43-03 comparisons to surrounding states

Exhibit B - Fargo Building Inspection Department's Requirements

Exhibit C – Chapter 43-03 comparisons to surrounding states & the City of Fargo

Exhibit D – State Board proposed modifications to Chapter 43-03

OUR PLAN PREPARATION POLICY IS THE FOLLOWING AND EFFECTIVE NOW.

WE WILL NOW REQUIRE PROFESSIONAL DESIGN FOR NEW BUILDING PROJECTS WHEN:

- 1 COMPLEXITY WARRANTS BY THE ESTIMATION OF THE REVIEWER; OR,
- 2 PROJECT IS MORE THAN TWO STORY INCLUSIVE OF BASEMENT AND, WITH CONSIDERATION GIVEN FOR THE PRESENCE OF A MEZZANINE; OR,
- 3 PROJECT INCLUDES GROUP A, E, I OR H OCCUPANCY; OR,
- 4 PROJECT IS 10,000 SQUARE FEET OR MORE AND IS NOT CLASSIFIED AS A GROUP S OR U.

WE WILL REQUIRE PROFESSIONAL DESIGN FOR PROJECTS INVOLVING REMODELING OR ADDITIONS WHEN:

1. THE INTERNATIONAL EXISTING BUILDING CODE IS UTILIZED; OR,
2. EXISTING BUILDING OR ADDITION IS OVER 2 STORIES; OR,
3. PROJECT INCLUDES GROUP A, E, I OR H OCCUPANCY; OR,
4. A CHANGE OF OCCUPANCY WOULD RESULT; OR,
5. VALUE OF PROJECT IS \$250,000 OR MORE OR EXCEEDS 50% OF THE FARGO ASSESSOR'S MARKET VALUE OF THE EXISTING STRUCTURE, (EXCEPT GROUPS R-3 OR U); OR,
6. COMPLEXITY WARRANTS DESIGN BASED ON THE ESTIMATION OF THE REVIEWER

*PARTIAL PLAN SUBMITTALS MAY RESULT IN PLAN REVIEW DELAYS BECAUSE OF INCOMPLETE PLANS.

RON C STRAND

DECEMBER 3, 2003

LAST REVISION JANUARY 10, 2006

HB 1469 Opposition Testimony - Exhibit C; 25Jan2011

[illegible]

Least restrictive to MD requirements

CHAPTER 43-03
ARCHITECTS AND LANDSCAPE ARCHITECTS

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

1. "Architect" means an individual who is registered as an architect under this chapter.
2. "Board" means the state board of architecture and landscape architecture.
3. "Landscape architect" means an individual who is registered as a landscape architect under this chapter.
4. "Landscape architecture" does not include the practice of engineering and practice of professional engineering as defined under section 43-19.1-02.
5. "Practice of architecture" means rendering or offering to render service to clients generally, including any one or any combination of the following practices or professional services: advice, consultation, planning, architectural design, drawings, and specifications; and general administration of the contract as the owner's representative during the construction phase in which expert knowledge and skill are required in connection with the erection, enlargement, or alteration of any building, or the equipment, or utilities thereof, or the accessories thereto if the safeguarding of the public health, safety, or welfare is concerned or involved. The term includes the making of architectural plans and specifications for buildings.
6. "Practice of landscape architecture" means rendering or offering to render service to clients generally, including any one or any combination of the following practices or professional services: advice, consultation, planning, landscape architectural design, drawings, and specifications; and general administration of the contract as the owner's representative during the construction phase in which expert knowledge and skill are required in connection with landscape enhancement or landscape development, including the formulation of graphic or written criteria to govern the planning or design of land construction projects, production of overall site plans, landscape grading, and landscape drainage plans, planting plans, irrigation plans, and construction details if the safeguarding of the public health, safety, or welfare is concerned or involved.

43-03-02. Persons exempt from regulations.

1. The architect registration provisions of this chapter do not apply to:
 - a. A person supervising the erection, enlargement, or alteration of a building; or
 - b. A person preparing plans and specifications or designing, planning, or administering the construction contracts for the construction, alteration, remodeling, or repair of:
 - (1) A private residence within a single or two family building code classification Residential Group R3;
 - (2) A new building, a building remodeling or a building addition that under applicable building code ~~is not design for occupancy by ten or more individuals~~, does not exceed two stories in height exclusive of a one story basement, and is;

- (a) A garage considered to have a building code occupancy classification of Residential Group R;
 - (b) A ~~commercial or industrial~~ building not considered to have a building code occupancy classification of: Assembly Group A; Educational Group E; High-Hazard Group H, or Institutional Group I;
 - (c) An ~~office~~ building less than 10,000 sf building considered to have a building code occupancy classification of: Business Group B, Factory Industrial Group F, or Mercantile Group M
 - (d) A preengineered building ~~shell structure designed by a registered professional engineer;~~
 - (e) A building for the marketing, storage or processing of farm products considered to have a building code occupancy classification of: Storage Group S or Utility and Miscellaneous Group U;
 - (f) A ~~warehouse;~~ or building remodeling and/or addition which does not create a change in use with a different or additional building code occupancy classification;
 - (g) ~~Rental Apartment units;~~ A building considered to have a building code occupancy classifications of Residential Groups R-1, R-2 &/or R-3 which do not exceed 36 units
 - (h) A building that has a project remodeling and/or addition construction cost value that is less than 50% of the assessed market value of the existing building;
- (3) A farm building; or
- (4) ~~A nonstructural alteration of any nature to any building;~~

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;
- c. An individual in the course of planning or otherwise caring for that individual's property; or
- d. An irrigation designer, contractor, or service provider in the course of preparing irrigation plans or installing, repairing, or maintaining irrigation systems.

3. This chapter does not:

- a. Apply to an officer or employee of the United States government while engaged in governmental work in this state;
- b. Curtail or extend the right of any other profession regulated in this state;
- c. Prevent the independent employment of a registered professional engineer for any professional service related solely to civil, structural, mechanical, or electrical engineering in connection with any building or building project; or
- d. Supersede, override, or amend the provisions of chapter 43-19.1 regarding registration of professional engineers and land surveyors.

43-03-03. State board of architecture and landscape architecture - Members - Term of office - How vacancies filled. The state board of architecture and landscape architecture consists of three members appointed by the governor for terms of six years each with their terms of office so arranged that one term and only one expires on March fourteenth of each odd-numbered year. Each member of the board shall qualify by taking the oath of office required of civil officers and shall hold office until that member's successor is appointed and qualified, and any vacancy occurring in the board must be filled by the governor for the unexpired term.

43-03-04. Qualifications of members of board - Removal of members. Each member of the board must be a resident of this state who is an architect who has been a resident of and in active practice in this state as an architect for not less than five years before appointment. The governor may remove any member of the board for inefficiency or neglect of duty.

43-03-05. Meetings of board - Officers elected.

1. The board shall hold regular meetings at least once each year, with the date and location set by the board. The board may meet as designated by a majority of the board. The board shall select from among its members a president and a secretary-treasurer.
2. The board may:
 - a. Administer an oath;
 - b. Take an affidavit;
 - c. Summon a witness;
 - d. Take testimony as to matters coming within the scope of the board's duties;
 - e. Enter an interstate or intrastate agreement or association with other boards of licensure for the purpose of establishing reciprocity, developing examinations, evaluating applicants, or other activities to enhance the services of the board to the state, the registrant, or the public; and
 - f. Appoint or contract an executive director and any other individual the board determines is necessary to administer the affairs of the board.

3. The board shall:
 - a. Adopt a seal to be affixed to each certificate of registration issued by the board;
 - b. Issue certificates of registration to qualified applicants; and
 - c. Adopt rules in accordance with chapter 28-32.
4. The secretary-treasurer shall keep a record of the proceedings of the board.

43-03-06. Salary of executive director - Expenses of board.

1. If the board appoints or contracts an executive director, the executive director is entitled to receive such salary as fixed by a resolution of the board adopted at a regular meeting, and is entitled to receive reimbursement for travel, lodging, and other expenses as are incurred legitimately in the performance of the executive director's official duties.
2. Each member of the board is entitled to receive a per diem of seventy-five dollars for each day or portion of a day spent in the discharge of the member's duties, such mileage as is provided for by section 54-06-09, and is entitled to reimbursement for the member's actual and necessary expenses incurred in the discharge of the member's official duties.
3. The expenses of the board at no time may exceed the amount of moneys received and on deposit to the credit of the board under the provisions of this chapter.

43-03-07. Deposit of fees - Separate fund - Vouchers. Repealed by S.L. 1971, ch. 510, § 15.

43-03-08. Board to adopt rules. The board shall adopt rules:

1. To govern board proceedings.
2. For the examination of candidates for registration.
3. For the regulation of the practice of architecture and landscape architecture.
4. For education requirements of registration applicants.
5. For practical experience requirements of registration applicants.

43-03-09. Prohibited acts - Injunction.

1. A person may not practice architecture in this state unless registered as an architect under this chapter or otherwise authorized by the board. 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.
2. A person may not fraudulently obtain or furnish a certificate of registration to practice architecture or landscape architecture.

3. A person that is not ~~licensed~~ registered under this chapter may not:
 - a. Advertise, represent, or in any manner hold that person out as an architect or landscape architect;
 - b. In connection with the person's business or name, or otherwise, assume, use, or advertise any term, title, or description or engage in any other conduct that reasonably might be expected to mislead another to believe the person is an architect or landscape architect; or
 - c. Except as a copartnership of architects, engage in the ~~practice~~ solicitation of architecture or landscape architecture services as an individual or corporation.
4. Through the attorney general, the board may seek to enjoin a person from committing an act in violation of this chapter. The board is not required to prove irreparable injury to enjoin a violation of this chapter.

43-03-10. Regulation of use of titles.

1. A person may not use the title or designation "architect", "registered architect", "licensed architect", any variation of those terms, or any other words, letters, or device to indicate that person is an architect authorized to practice architecture in this state unless that person is registered as an architect under this chapter. In a copartnership of architects, each member of the partnership shall hold a certificate of registration to practice.
2. A person may not use the title or designation "landscape architect", "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.
3. This chapter does not authorize a landscape architect to use the title "architect" or to practice architecture.

43-03-11. Application for examination - Fee. Before an individual may take the examination for registration as an architect or a landscape architect, that individual shall make an application to the board submitting satisfactory evidence of having the required qualifications and shall pay an examination fee of not more than one hundred dollars. If an applicant fails to pass the examination, at the next regularly scheduled examination the applicant may take a partial or entire reexamination as determined appropriate by the board. An applicant shall pay a reexamination fee of not more than one hundred dollars for a reexamination. The fee for reexamination may be waived in whole or in part by the board.

43-03-12. Board to issue certificates of registration. Repealed by S.L. 2009, ch. 358, § 20.

43-03-13. Qualifications. An applicant for registration as an architect or landscape architect:

1. Must be at least eighteen years of age;

2. Must be of good moral character, with rejection possible on the basis of:
 - 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 individual's application; or
 - c. Violation of any of the standards of conduct required of registrants;
3. Must have successfully completed an examination for registration;
4. In the case of an architect, must hold a professional degree in architecture from an accredited school of architecture and must have the required practical experience, as established by the board;
5. In the case of a landscape architect, must hold a professional degree in landscape architecture from an accredited school of landscape architecture and must have the required practical experience, as established by the board; and
6. Must satisfy registration criteria adopted by the board.

43-03-14. Examination.

1. Before an applicant may be registered as an architect, the applicant shall pass satisfactorily an examination established by the board.
2. Before an applicant may be registered as a landscape architect, the applicant shall pass satisfactorily an examination established by the board.
3. The board may administer an examination or may recognize a board-approved examination of a nationally recognized entity.

43-03-15. When examination not necessary. The board may admit a nonresident applicant seeking to register to practice architecture or landscape architecture in North Dakota without requiring the applicant to pass an examination if the applicant is licensed or registered to practice architecture or landscape architecture under the laws of any other state that has requirements substantially equal to those provided for under this chapter. An applicant under this section shall pay the fees provided for under section 43-03-18.

43-03-16. Result of examinations recorded - List of certificate holders. 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-treasurer of the board. The secretary-treasurer of the board shall maintain a list of architects and landscape architects certified under this chapter. This list of certificate holders must contain each certificate holder's name, current business address, certification number, and the expiration date of the certificate.

43-03-17. Certificates of registration - Term. An initial certificate of registration as an architect or a landscape architect expires on June thirtieth of the year following the date of issuance. A renewed certificate of registration is valid for two years.

43-03-18. Fees.

1. The following fees apply to architects and landscape architects:
 - a. Following examination, a registration fee of not more than three hundred dollars, as set by the board.
 - b. When examination is not necessary under section 43-03-15, a registration fee of not more than three hundred dollars, as set by the board.
 - c. A registration renewal fee, which need not be collected annually, but which must be based on no more than three hundred dollars per year, as set by the board.
 - d. Fees set by the board under this subsection are not subject to chapter 28-32.
2. If in any year the board incurs expenses related to regulation of architects and landscape architects which are in excess of the income generated through 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. A certificate holder who fails to pay a special fee assessed by the board under this subsection is subject to the forfeiture provisions under section 43-03-19.
3. Fees set by the board may not exceed the amount reasonably necessary to regulate the professions of architecture and landscape architecture.

43-03-19. Renewal - Forfeiture.

1. A holder of a certificate of registration as an architect or a landscape architect shall apply to renew the certificate and pay the associated renewal fee or a special fee when due. Application for renewal must be accompanied by evidence satisfactory to the board of compliance with this chapter. Failure of a certificate holder to timely renew the certificate and pay the associated renewal fee before the expiration of the certificate results in forfeiture of the certificate.
2. At least two months before the date of the expiration of a certificate of registration, the secretary-treasurer shall notify the certificate holder of the upcoming expiration and at least two weeks before the expiration date the secretary-treasurer shall notify any outstanding certificate holders by certified mail, at the certificate holder's last-known address, of the upcoming expiration and resulting forfeiture.

43-03-20. Revocation, denial, or suspension of registration. If the board revokes, denies, or suspends the certificate of registration or application of a certificate holder or applicant for certificate, the certificate holder or applicant has a right to a hearing before the board on such contemplated disciplinary action and has a right to appeal to the courts from the decision of the board on the hearing. All of the provisions of chapter 28-32 relating to proceedings before an administrative agency are applicable to and govern the notice of hearing, the hearing, and the right of appeal from the board's decision. The board may revoke, deny, or suspend any certificate of registration of or application to be an architect or a landscape architect upon proof:

1. The certificate was obtained or attempted to be obtained by fraud, deceit, or material misrepresentation of fact in applying for a certificate or renewal of a certificate or in passage of the examination under this chapter;
2. The holder of the certificate has been guilty of malfeasance, deceit, fraud, gross incompetency, or negligence in connection with the holder's practice of architecture or landscape architecture;
3. The holder of the certificate has exhibited mental incompetency, untrustworthiness, incompetency, or misconduct in the practice of architecture or landscape architecture as evidenced by conduct that endangers life, health, property, or the public welfare.
4. The holder of the certificate allowed a nonregistered person to practice as an architect by the device of permitting the certificate 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;
5. The holder of the certificate or applicant had an architecture or a landscape architecture license of another state suspended or revoked or was otherwise disciplined by another state;
6. The holder of the certificate or applicant was convicted of an offense determined by the board to have a direct bearing upon the certificate holder's or applicant's ability to serve the public as an architect or landscape architect; or that, following conviction of an offense, the holder or applicant is not sufficiently rehabilitated under section 12.1-33-02.1; or
7. The holder of the certificate or applicant violated this chapter or rules adopted under this chapter. If a certificate holder or applicant is convicted of a crime in another state which would constitute a violation of this chapter had the criminal action taken place in this state, a copy of the judgment of conviction certified by the rendering court is presumptive evidence of the conviction in any hearing under this section. For purposes of this subsection, a conviction includes a plea of nolo contendere or its equivalent.

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

43-03-22. Stamp. At the time of the issuance of the certificate of registration, the board shall require the certificate holder to acquire, at the certificate holder's expense, a stamp or indicia to be used by the certificate holder in the conduct of the certificate holder's practice and to be impressed upon drawings, plans, and other documents prepared by the certificate holder. The board shall adopt rules governing the technical requirements of such stamp and indicia and the certificate holder's signature.

43-03-23. Liability for contractor's fault - 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 therefore by contract or by the architect's or landscape architect's actual conduct. 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.

43-03-24. Landscape architect and architect advisory committees. Repealed by S.L. 2009, ch. 358, § 20.

43-03-25. Use of additional funds for landscape architect regulation. Repealed by S.L. 2009, ch. 358, § 20.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1469

Page 1, line 2, after "architects" insert "; and to declare an emergency"

Page 1, line 14, overstrike "two" and insert immediately thereafter "three"

Page 1, line 15, after the comma insert "unless an engineer is involved"

Page 1, line 15, after "and" insert "the building"

Page 1, line 17, remove the overstrike over "~~commercial or industrial~~"

Page 1, line 17, remove "not considered to have a primary"

Page 1, remove line 18

Page 1, line 19, remove "educational group E, high-hazard group H, or institutional group I"

Page 1, line 20, remove "A"

Page 1, line 20, overstrike "building"

Page 1, line 20, remove "considered to have a primary building code"

Page 1, remove lines 21 and 22

Page 1, line 23, remove "residential group R"

Page 1, line 23, overstrike the semicolon

Page 1, line 24, overstrike "(d)"

Page 2, line 1, overstrike "(e)" and insert immediately thereafter "(d)"

Page 2, line 3, overstrike "(f)" and insert immediately thereafter "(e)"

Page 2, line 4, remove "that do not exceed three stories in height exclusive"

Page 2, line 5, remove "of a one-story basement"

Page 2, line 5, after the semicolon insert "or"

Page 2, line 6, overstrike "; or"

Page 2, line 7, remove "(5)"

Page 2, line 7, overstrike "A"

Page 2, line 8, remove "building remodeling or"

Page 2, remove lines 9 and 10

Page 2, line 11, remove "high-hazard group H, or institutional group I"

Page 3, after line 30, insert:

"SECTION 4. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly



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Doreen Riedman, Executive Officer

Sandra Neiss, Administrative Assistant

Affiliated With



National
Association
of Home
Builders

Testimony on House Bill 1469

Senate Industry, Business and Labor Committee

March 29, 2011

Doreen Riedman, Executive Officer
North Dakota Association of Builders

Chairman Klein and members of the Senate Industry, Business and Labor Committee, the North Dakota Association of Builders (NDAB) asks for your support of House Bill 1469, relating to architect requirements.

The NDAB represents nearly 2,000 members statewide with employees numbering 46,589. We are affiliated with six local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, Minot, and Williston; and are all part of a larger federation, the National Association of Home Builders (NAHB), which has over 160,000 members.

BACKGROUND:

During the 2009 Legislative Session, House Bill 1330 was passed, dealing primarily with landscape architecture. Section 2 of the bill, however, made significant changes as to when architects are required on private projects in our state. (Note: All public projects over \$100,000 require architects.)

I've attached a copy of HB1330 for your reference. Section 43-03-02, Section 1. a. (2) includes "a building that under applicable building code is not designated for occupancy by ten or more individuals" - language that limits the size of the building based on occupancy loads in the 2009 International Building Code (page 220 attached). On page two of last session's bill, I've included the actual square footage amounts of the types of buildings designated based on the IBC's occupancy load information.

We understand that an amendment will be offered by the architects that would change the occupancy number to 100. Our organization opposes this and believes that the best way to determine when architects should be required on private projects is by the number of stories, the type of building, and the function of the building.

House Bill 1330
FROM
LAST
SESSION
9 pgs

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1330
(Representatives Keiser, Ekstrom, Thoreson)
(Senators Grindberg, Klein, Triplett)

AN ACT to amend and reenact sections 43-03-01, 43-03-02, 43-03-03, 43-03-04, 43-03-05, 43-03-06, 43-03-08, 43-03-09, 43-03-10, 43-03-11, 43-03-13, 43-03-14, 43-03-15, 43-03-16, 43-03-17, 43-03-18, 43-03-19, 43-03-20, and 43-03-22 of the North Dakota Century Code, relating to the regulation of architects and landscape architects; to repeal sections 43-03-12, 43-03-24, and 43-03-25 of the North Dakota Century Code, relating to the regulation 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 and landscape architecture.
3. "Landscape architect" means an individual who ~~practices~~ is registered as a landscape architect under this chapter.
4. "Landscape architecture" does not include the practice of engineering and practice of professional engineering as defined under section 43-19.1-02.
5. "Practice of architecture" means rendering or offering to render service to clients generally, including any one or any combination of the following practices or professional services: advice, consultation, planning, architectural design, drawings, and specifications; and general administration of the contract as the owner's representative during the construction phase in which expert knowledge and skill are required in connection with the erection, enlargement, or alteration of any building, or the equipment, or utilities thereof, or the accessories thereto if the safeguarding of the public health, safety, or welfare is concerned or involved. The term includes the making of architectural plans and specifications for buildings.
6. "Practice of landscape architecture" means rendering or offering to render service to clients generally, including any one or any combination of the following practices or professional services: advice, consultation, planning, landscape architectural design, drawings, and specifications; and general administration of the contract as the owner's representative during the construction phase in which expert knowledge and skill are required in connection with landscape enhancement or landscape development, including the formulation of graphic or written criteria to govern the planning or design of land construction projects, production of overall site plans, landscape grading, and landscape drainage plans, planting plans, irrigation plans, and construction details if the safeguarding of the public health, safety, or welfare is concerned or involved.

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

- b. Curtail or extend the right of any other profession regulated in this state;
- c. Prevent the independent employment of a registered professional engineer for any professional service related solely to civil, structural, mechanical, or electrical engineering in connection with any building or building project; or
- d. Supersede, override, or amend the provisions of chapter 43-19.1 regarding registration of professional engineers and land surveyors.

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

43-03-03. State board of architecture and landscape architecture - Members - Term of office - How vacancies filled. The state board of architecture ~~must consist and landscape architecture consists~~ of three members appointed by the governor for terms of six years each with their terms of office so arranged that one term and only one expires on March fourteenth of each odd-numbered year. Each member of the board shall qualify by taking the oath of office required of civil officers and shall hold office until that member's successor is appointed and qualified, and any vacancy occurring in the board must be filled by the governor for the unexpired term.

SECTION 4. AMENDMENT. Section 43-03-04 of the North Dakota Century Code is amended and reenacted as follows:

43-03-04. Qualifications of members of board - Removal of members. A Each member of the board must be a resident of this state who is an architect who has been a resident of and in active practice as principal in this state as an architect for not less than three five years prior to before appointment. The governor may remove any ~~of the members~~ member of the board for inefficiency or neglect of duty.

SECTION 5. AMENDMENT. Section 43-03-05 of the North Dakota Century Code is amended and reenacted as follows:

43-03-05. Meetings of board - Officers elected.

1. The board shall hold regular meetings on the first Monday of April and of October of each year and may hold such special meetings as are necessary regular meetings at least once each year, with the date and location set by the board. The board may meet as designated by a majority of the board. The board shall select from among its members a president and a secretary secretary-treasurer.
2. The board may:
 - a. Administer an oath;
 - b. Take an affidavit;
 - c. Summon a witness;
 - d. Take testimony as to matters coming within the scope of the board's duties;
 - e. Enter an interstate or intrastate agreement or association with other boards of licensure for the purpose of establishing reciprocity, developing examinations, evaluating applicants, or other activities to enhance the services of the board to the state, the registrant, or the public; and
 - f. Appoint or contract an executive director and any other individual the board determines is necessary to administer the affairs of the board.
3. The board shall:

- a. Advertise, represent, or in any manner hold that person out as an architect or landscape architect;
 - b. In connection with the person's business or name, or otherwise, assume, use, or advertise any term, title, or description or engage in any other conduct that reasonably might be expected to mislead another to believe the person is an architect or landscape architect; or
 - c. Except as a copartnership of architects, engage in the practice of architecture or landscape architecture as a corporation.
4. Through the attorney general, the board may seek to enjoin a person from committing an act in violation of this chapter. The board is not required to prove irreparable injury to enjoin a violation of this chapter.

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

43-03-10. Regulation of use of terms titles.

1. A person may not use the title or designation "architect", "registered architect", "licensed architect", any variation of those terms, or any other words, letters, or device to indicate that person is an architect authorized to practice architecture in this state unless that person is registered as an architect under this chapter. In a copartnership of architects, each member of the partnership shall hold a certificate of registration to practice.
2. A person may not use the title or designation "landscape architect", "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.
3. This chapter does not authorize a landscape architect to use the title "architect" or to practice architecture.

SECTION 10. 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 an individual may take the examination for registration as an architect or a landscape architect, that individual shall make an application to the board submitting satisfactory evidence of having the required qualifications and shall pay an examination fee of not more than one hundred dollars. If an applicant fails to pass the examination, at the next regularly scheduled examination the applicant may take a partial or entire reexamination is required, the as determined appropriate by the board. An applicant shall pay a reexamination fee of 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 11. 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 or landscape architect:

1. Must be at least eighteen years of age;
2. Must be of good moral character, with rejection possible on the basis of:
 - 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

SECTION 14. 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 - List of certificate holders. 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~~ secretary-treasurer of the board. ~~The board shall issue a certificate of registration to every individual who passes the examination or otherwise is entitled to receive the certificate.~~ The ~~secretary~~ secretary-treasurer of the board shall maintain a list of architects and landscape architects certified under this ~~section~~ chapter. This list of certificate holders must contain ~~the registrant's~~ each certificate holder's name, current business address, certification number, and the expiration date of the certificate.

SECTION 15. 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~~ An initial certificate of registration as an architect or a landscape architect ~~must be issued for a term established by the board. Upon the payment of the proper fee, a certificate of registration may be renewed without examination~~ expires on June thirtieth of the year following the date of issuance. A renewed certificate of registration is valid for two years.

SECTION 16. AMENDMENT. Section 43-03-18 of the North Dakota Century Code is amended and reenacted as follows:

43-03-18. Fees.

1. The following fees apply to architects and landscape architects:

- a. Following examination, ~~an architect a~~ registration fee of not more than ~~one~~ three hundred dollars, as set by the board.
- b. When examination is not necessary under section 43-03-15, ~~an architect a~~ registration fee of not more than ~~one~~ three hundred dollars, as set by the board.
- c. ~~An architect A~~ registration renewal fee, which need not be collected annually, but which must be based on no more than ~~one~~ three 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~~ Fees set by the board under this subsection are not subject to chapter 28-32.
- 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 architects and 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 A certificate holder who fails to pay a special fee assessed by the board under this subsection is subject to the forfeiture provisions under section 43-03-19.

3. Fees set by the board may not exceed the amount reasonably necessary to regulate the profession professions of architecture and 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~~

4. The holder of ~~each~~ the certificate ~~has~~ allowed a nonregistered person to practice as an architect by the device of permitting the certificate 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;
5. The holder of the certificate or applicant had an architecture or a landscape architecture license of another state suspended or revoked or was otherwise disciplined by another state;
- 4- 6. The holder of ~~each~~ the certificate ~~has been~~ or applicant was convicted of an offense determined by the board to have a direct bearing upon the certificate holder's or applicant's ability to serve the public as an architect or landscape architect; or that, following conviction of an offense, the holder or applicant is not sufficiently rehabilitated under section 12.1-33-02.1; or
- 5- 7. The holder of ~~each~~ the certificate ~~has~~ or applicant violated this chapter or rules adopted under this chapter. If a certificate holder or applicant is convicted of a crime in another state which would constitute a violation of this chapter had the criminal action taken place in this state, a copy of the judgment of conviction certified by the rendering court is presumptive evidence of the conviction in any hearing under this section. For purposes of this subsection, a conviction includes a plea of nolo contendere or its equivalent.

SECTION 19. 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~~ require the certificate holder to acquire, at the ~~applicant's~~ certificate holder's expense, a ~~rubber stamp or indicia~~ to be used by the ~~applicant~~ certificate holder in the conduct of the ~~applicant's~~ certificate holder's practice and to be impressed upon drawings, plans, and other documents prepared by the ~~applicant~~ certificate holder. The board shall ~~prescribe~~ adopt rules governing the ~~use~~ technical requirements of such stamp and indicia and ~~applicant's~~ the certificate holder's signature.

SECTION 20. REPEAL. Sections 43-03-12, 43-03-24, and 43-03-25 of the North Dakota Century Code are repealed.

2009 INTERNATIONAL
BUILDING CODE

consideration by the occupant per unit of area factor assigned to the occupancy as set forth in Table 1004.1.1. Where an intended use is not listed in Table 1004.1.1, the *building official* shall establish a use based on a listed use that most nearly resembles the intended use.

Exception: Where *approved* by the *building official*, the actual number of occupants for whom each occupied space, floor or building is designed, although less than those determined by calculation, shall be permitted to be used in the determination of the design *occupant load*.

1004.2 Increased occupant load. The *occupant load* permitted in any building, or portion thereof, is permitted to be increased from that number established for the occupancies in Table 1004.1.1, provided that all other requirements of the code are also met based on such modified number and the *occupant load* does not exceed one occupant per 7 square feet (0.65 m²) of occupiable floor space. Where required by the *building official*, an *approved aisle*, seating or fixed equipment diagram substantiating any increase in *occupant load* shall be submitted. Where required by the *building official*, such diagram shall be posted.

1004.3 Posting of occupant load. Every room or space that is an assembly occupancy shall have the *occupant load* of the room or space posted in a conspicuous place, near the main *exit* or *exit access doorway* from the room or space. Posted signs shall be of an *approved* legible permanent design and shall be maintained by the owner or authorized agent.

1004.4 Exiting from multiple levels. Where *exits* serve more than one floor, only the *occupant load* of each floor considered individually shall be used in computing the required capacity of the *exits* at that floor, provided that the *exit* capacity shall not decrease in the direction of egress travel.

1004.5 Egress convergence. Where *means of egress* from floors above and below converge at an intermediate level, the capacity of the *means of egress* from the point of convergence shall not be less than the sum of the two floors.

1004.6 Mezzanine levels. The *occupant load* of a *mezzanine* level with egress onto a room or area below shall be added to that room or area's *occupant load*, and the capacity of the *exits* shall be designed for the total *occupant load* thus established.

1004.7 Fixed seating. For areas having fixed seats and *aisles*, the *occupant load* shall be determined by the number of fixed seats installed therein. The *occupant load* for areas in which fixed seating is not installed, such as waiting spaces and *wheel-chair spaces*, shall be determined in accordance with Section 1004.1.1 and added to the number of fixed seats.

For areas having fixed seating without dividing arms, the *occupant load* shall not be less than the number of seats based on one person for each 18 inches (457 mm) of seating length.

The *occupant load* of seating booths shall be based on one person for each 24 inches (610 mm) of booth seat length measured at the backrest of the seating booth.

1004.8 Outdoor areas. Yards, patios, courts and similar outdoor areas accessible to and usable by the building occupants shall be provided with *means of egress* as required by this chapter. The *occupant load* of such outdoor areas shall be assigned by the *building official* in accordance with the anticipated use.

TABLE 1004.1.1
MAXIMUM FLOOR AREA ALLOWANCES PER OCCUPANT

FUNCTION OF SPACE	FLOOR AREA IN SQ. FT. PER OCCUPANT
Accessory storage areas, mechanical equipment room	300 gross
Agricultural building	300 gross
Aircraft hangars	500 gross
Airport terminal	
Baggage claim	20 gross
Baggage handling	300 gross
Concourse	100 gross
Waiting areas	15 gross
Assembly	
Gaming floors (keno, slots, etc.)	11 gross
Assembly with fixed seats	See Section 1004.7
Assembly without fixed seats	
Concentrated (chairs only—not fixed)	7 net
Standing space	5 net
Unconcentrated (tables and chairs)	15 net
Bowling centers, allow 5 persons for each lane including 15 feet of runway, and for additional areas	7 net
Business areas	100 gross
Courtrooms—other than fixed seating areas	40 net
Day care	35 net
Dormitories	50 gross
Educational	
Classroom area	20 net
Shops and other vocational room areas	50 net
Exercise rooms	50 gross
H-5 Fabrication and manufacturing areas	200 gross
Industrial areas	100 gross
Institutional areas	
Inpatient treatment areas	240 gross
Outpatient areas	100 gross
Sleeping areas	120 gross
Kitchens, commercial	200 gross
Library	
Reading rooms	50 net
Stack area	100 gross
Locker rooms	50 gross
Mercantile	
Areas on other floors	60 gross
Basement and grade floor areas	30 gross
Storage, stock, shipping areas	300 gross
Parking garages	200 gross
Residential	200 gross
Skating rinks, swimming pools	
Rink and pool	50 gross
Decks	15 gross
Stages and platforms	15 net
Warehouses	500 gross

For SI: 1 square foot = 0.0929 m²



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Bryce Johnson, Executive Officer

STAFF
Aleen Riedman, Executive Officer
Sandra Neiss, Administrative Assistant

Affiliated With



Testimony on House Bill 1469

Senate Industry, Business & Labor

March 29, 2011

Rocky Schneider
North Dakota Association of Builders
Home Builders Association of Fargo-Moorhead

Chairman Klein and members of the Senate Industry, Business & Labor Committee, the North Dakota Association of Builders (NDAB) and the Home Builders Association of Fargo-Moorhead encourages your support of House Bill 1469, relating to the regulation of architects.

Purpose of House Bill 1469

The purpose of House Bill 1469 is to regulate when state law would mandate the use of an architect on the construction and remodeling of a building. Prior to the 2009 legislative session, this section of law was used to regulate the registration of architects and organization of the State Board of Architecture. There were no provisions requiring the use of an architect on the construction or remodeling of a private building.

In the 2009 legislative session, House Bill 1330 was passed which included a section that narrowly restricted the construction of a private building without hiring an architect.

Architectural Mandate

House Bill 1469 does not contest the part an architect plays in the safety and welfare during the design of a building. Architects are commonly hired to provide service in their area of expertise. It is without question that the more complicated or hazardous the structure, the more checks and balances that are in place the safer a building will be.

The reasons one hires an architect are similar to the reasons a private individual hires a contractor. A contractor, like an architect, provides expertise and a level of safety. Contractors

state law and by the Secretary of State. This change does not exclude contractors from the requirements of when to hire an architect.

In section 43-03-09 3.c., the bill removes the reference to the "practice of architecture" due to the definition of architecture within this section of law generally encompasses other occupations. The amended language was changed at the request of the representatives of the North Dakota State Board of Architecture and it looks to confer the same intent without having negative foreseen consequences.

House Bill 1469 also makes a number of wording changes dealing with the terms licensed and registered, again at the request of the North Dakota State Board of Architecture. To make the law more consistent with itself and compatible with the reciprocity with other states, these changes were made.

We respectfully ask this committee to support House Bill 1469, and refute further amendments that would narrow the personal choice of an individual choosing to build in North Dakota.

Thank you for your time and consideration.

Occupancy Classification / Chapter 3 of the IBC

Brief Explanation

Assembly Group A: uses intended for the gathering together of persons for the purposes such as civic, social or religious functions, recreation, food or drink consumption or awaiting transportation. A room of less than 50 persons used for assembly but is accessory to a different occupancy shall be considered that different occupancy. Assembly area less than 750 s.f. which is accessory to a different occupancy is not considered assembly. Assembly rooms which are accessory to Group E are not considered as Group A. Religious educational rooms and auditoriums with occupant loads less than 100 persons which are accessory to churches are considered A-3. Group A is divided into five sub groups, **A-1** usually with fixed seating, intended for production and viewing of the performing arts or motion pictures, **A-2** uses intended for food and/or drink consumption, **A-3** uses intended for worship, recreation or amusement and other assembly uses not otherwise classified, **A-4** uses intended for viewing of indoor sporting events and activities with spectator seating, **A-5** uses intended for participation in or viewing outdoor activities

Business Group B: Assembly occupancies less than 50 persons and/or uses intended for office, professional or service-type transactions, including storage of records and accounts.

Educational Group E: uses intended by 6 or more persons at any one time for educational purposes through the 12th grade. Daycare uses for educational, supervision or personal care services for more than 5 children older than 2 1/2 yrs

Factory Industrial Group F: uses intended for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair or processing operations that are not classified Group H hazardous or Group S storage. Group is divided into two sub groups, **F-1 Moderate Hazard** and **F-2 Low Hazard**

High-Hazard Group H: uses intended for manufacturing, processing, generation or storage of materials that constitute a physical or health hazard in quantities in excess of those allowed by code. Group H is divided into five sub groups, **H-1** detonation hazard, **H-2** accelerated burning, **H-3** materials that readily support combustion or pose a physical hazard, **H-4** materials are health hazards, **H-5** semiconductor fabrication facilities and comparable R&D areas which HPM's are used.

Institutional Group I: uses intended in which people are cared for or live in a supervised environment, having physical limitations because of health or age are harbored for medical treatment or other care or treatment or in which the liberty of the occupants is restricted. Group I is divided into four sub groups, **I-1** houses more than 16 persons, on a 24 hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff, **I-2** used for medical, surgical, psychiatric, nursing or custodial care on a 24 hr basis of more than five persons who are not capable of self-preservation. Less than five people shall be considered an R-3, **I-3** is inhabited by more than five persons who are under restraint or security and is occupied by persons who are generally incapable of self-preservation due to security measures not under the occupant's control.

Mercantile Group M: uses intended for the display and sale of merchandise, and involve stocks of goods, wares or merchandise incidental to such purposes and accessible to the public.

Residential Group R: uses intended for sleeping purposes. Group R is divided into four sub groups, **R-1** occupants are transient in nature, **R-2** occupancies containing sleeping units or more than two dwelling units where the occupants are more permanent in nature, **R-3** one and two family dwelling, or adult and child care facilities that provide accommodation for five or fewer persons of any age for less than 24 hrs, **R-4** are intended for occupancy as residential care/assisted living facilities including more than five but not more than sixteen occupants, excluding staff.

Storage Group S: uses intended for storage that is not classified as a hazardous occupancy. Group S is divided into two sub groups, **S-1 Moderate-Hazard storage** and **S-2 Low-Hazard storage**

Utility and Miscellaneous Group U: uses intended for structures of an accessory character and not classified in any specific occupancy.

NOTE: R-3 Occupancy:

Town Houses are occupancies where the development is owned by others but the individual plot of real estate that the dwelling is seated is owned by the occupant.

Condominiums are occupancies where the development is owned by others including the individual plot of real estate but the interior of the dwelling unit from wall to wall is owned by the occupant.

CHAPTER 43-03

ARCHITECTS AND LANDSCAPE ARCHITECTS

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

1. "Architect" means an individual who is registered as an architect under this chapter.
2. "Board" means the state board of architecture and landscape architecture.
3. "Landscape architect" means an individual who is registered as a landscape architect under this chapter.
4. "Landscape architecture" does not include the practice of engineering and practice of professional engineering as defined under section 43-19.1-02.
5. "Practice of architecture" means rendering or offering to render service to clients generally, including any one or any combination of the following practices or professional services: advice, consultation, planning, architectural design, drawings, and specifications; and general administration of the contract as the owner's representative during the construction phase in which expert knowledge and skill are required in connection with the erection, enlargement, or alteration of any building, or the equipment, or utilities thereof, or the accessories thereto if the safeguarding of the public health, safety, or welfare is concerned or involved. The term includes the making of architectural plans and specifications for buildings.
6. "Practice of landscape architecture" means rendering or offering to render service to clients generally, including any one or any combination of the following practices or professional services: advice, consultation, planning, landscape architectural design, drawings, and specifications; and general administration of the contract as the owner's representative during the construction phase in which expert knowledge and skill are required in connection with landscape enhancement or landscape development, including the formulation of graphic or written criteria to govern the planning or design of land construction projects, production of overall site plans, landscape grading, and landscape drainage plans, planting plans, irrigation plans, and construction details if the safeguarding of the public health, safety, or welfare is concerned or involved.

43-03-02. Persons exempt from regulations.

1. The architect registration provisions of this chapter do not apply to:
 - a. A person supervising the erection, enlargement, or alteration of a building; or
 - b. A person preparing plans and specifications or designing, planning, or administering the construction contracts for the construction, alteration, remodeling, or repair of:
 - (1) A private residence;
 - (2) A building that under applicable building code is not designed for occupancy by ten or more individuals, does not exceed two stories in height exclusive of a one-story basement, and is:
 - (a) A garage;
 - (b) A commercial or industrial building;
 - (c) An office building;

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 Drawer H
 Dickinson, ND 58602-8302

Phone 701-483-5179
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 P.O. Box 396
 Killdeer, ND 58640-0396

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Chairman Klein and Members of the Senate Industry, Business & Labor Committee.

Paul Bosch and Burke Gardner from Bosch Lumber Co. of Dickinson & Killdeer would like to address some of our concerns with House Bill 1330, and encourage your support of House Bill 1469.

Bosch Lumber four years ago saw a demand in South-Western North Dakota for drafting and design services. At that point a drafting department was implemented with the assistance of Burke Gardner. Since that time, others in the area have followed suit. Currently in the same area there exist 2 full time Draftspersons, and 3 part-time Draftspersons. Current workforce is doing excellent work, working hard to keep up with the demand. Further restrictions could end up resulting in a slowdown of construction.

Each of the Draftspersons in our area of the state are fully compliant with and draw to the specifications of the IBC, (International Building Code) IRC, (International Residential Code) ICC/ANSI, (International Code Council/American National Standard Institute for ADA Requirements) IECC, (International Energy Code Council) and all State and Local Building Codes. Each plan that is produced, either by an Architect or a Draftsperson needs to be reviewed by local building officials for code adherence before a permit is ever granted.

It is our concern that the ability to choose an Architect or Draftsperson should be that of the individual building the project. House Bill 1330 takes this choice away from the consumer.

Furthermore, as House Bill 1330 reads, there are several restrictions that raise concern:

- A garage being limited to 1849 sq. ft. is less than the City of Dickinson allows.
- An office building limited to 949 sq. ft. which is equivalent to a 30'x32' building.
- A warehouse limited to 4549 sq. ft. which is equivalent to 50'x92'.
 - Our business has need for warehouse storage that is larger.
- A rental apartment unit limited to 1849 sq. ft. which is equivalent to a 38'x50'.
 - This affects not only apartment buildings but a two family duplex as well.

Again, the choice should be left to the individual.

Thank you for listening to our concerns and your time.

Paul Bosch
 President
 Bosch Lumber Co.
 Dickinson & Killdeer

Burke Gardner
 Drafting & Design
 Bosch Lumber Co.
 Dickinson & Killdeer

Testimony in Opposition to Engrossed House Bill 1469

March 29, 2011

Chairman Klein and members of the Senate Industry, Business & Labor Committee:

For the record, my name is Rick Engebretson. I am a practicing architect and principal of the RLE Group in Fargo. I also serve as President of the ND State Board of Architecture and Landscape Architecture (referred herein as the State Board)

Because of my expertise in the content of Chapter 43-03, the State Board has asked me to testify on this bill and present its position in opposition to the Engrossed House Bill 1469. More specifically, the State Board is opposed to certain revisions to the Section 43-03-02 exemptions.

As a bit of background, in the 2009 Legislature, the State Board came to this committee with major revisions to Chapter 43-03 regulating the practice of Architecture & Landscape Architecture. What was then HB 1330 in 2009 Legislature became law on August 1, 2009. The revisions were based on a six (6) year study with my fellow board members Warren Tvenge - Bismarck, and Richard Nester - Minot. We studied the statutes regarding the practice of architecture in states surrounding North Dakota and arrived at a centric position in the exemptions for requiring an

architect. The current law exempts buildings of 10 or less occupants and not more than two stories. We have attached Exhibit A showing (in yellow) the surrounding states whose exemptions are less restrictive than current North Dakota law and states (in blue) which are more restrictive than current North Dakota law.

Since learning of concerns by the ND Builders Association in the fall of 2009 and right up to the start of this legislative session the State Board has tried to meet with them to find acceptable compromises, while protecting the health, safety and welfare of the public.

Although both parties have made efforts in coming to common ground, the State Board felt the last offering by the Home Builders was an unacceptable weakening of standards for public safety and so testified in opposition to HB 1469 in the House IBL Committee.

Our issue with Engrossed House Bill 1469 is that it allows any unlicensed person to design a building of unlimited size that is 2 stories in height or less and is any of the following categories: Assembly Group A-2, A-3, A-4, A-5, Business Group B, Factory Industrial Group F, Mercantile Group M, or Residential Group R.

In laymen's terms, that means that North Dakota would become the least restrictive of all the surrounding states and an architect would not be needed on buildings with unlimited square footage and unlimited occupant loads in building types including (but not limited to) uses like: the YMCA, an ice arena with spectator

seating, restaurant/bars, churches, banks, office building, a medical clinic, an assembly or fabricating, manufacturing facility, a medical clinic, or a large retail facility like Kirkwood Mall and West Acres. It also exempts an apartment building with unlimited number of units or square footage as long as it is 3 stories or less.

Where some parties may think that an occupant load of 10 persons may be restrictive, we believe that when you think about the ramifications of unqualified individuals creating construction documents to build any size structure intended for the use by the public, it may be on the other end of the scale of the more restrictive 10 person occupant load.

The State Board has directed me to propose three amendments to Engrossed House Bill 1469 which I will explain as part of my testimony but I've also attached a copy for your use. Last week we also shared these amendments with ND Builders Association and Rep. George Keiser, Chair of House IBL. The first amendment to Section 43-03-02, paragraph 1.b.(2) is as follows:

Page 1, line 13, remove the overstrike over **~~"is not designed for occupancy"~~**

Page 1, line 14, remove the overstrike over **~~"by ten or more individuals"~~**

Page 1, line 14, replace **"ten"** with **"one hundred"**

Therein the paragraph would then read as follows:

A building that under applicable building code is not designed for occupancy by ten one hundred or more individuals, does not exceed two stories in height exclusive of a one-story basement, and is:

The second amendment to Section 43-03-02, paragraph 1.b.(5) is as follows:

Page 2, line 9, after **“which”** insert **“has an occupant load of less than one hundred and/or”**

Therein the paragraph would then read as follows:

~~A nonstructural alteration of any nature to any building if the alteration does not effect the safety of the occupants of the building~~ building remodeling or an addition or both, which has an occupant load of less than one hundred and/or does not change it use to a primary building code occupancy classification of assembly group A-1, education group E, high-hazard group H, or institutional group I.

The third amendment to Section 43-03-02, paragraph 3.d. is as follows:

Page 2, line 30, after **“surveyors”** insert a period and overstrike **“or chapter 43-07”**

Page 2, line 31, overstrike **“regarding registration of contractors.”**

Therein the paragraph would then read as follows:

Supersede, override, or amend the provisions of chapter 43-19.1 regarding registration of professional engineers and land surveyors.

This third amendment is an important protection of the public safety. The engrossed bill from the House basically eliminates licensed/registered architects on building projects through their section of the law.

We respectfully request that you consider these amendments to Engrossed House Bill 1469.

Ricky L Engebretson, at the request of the
North Dakota State Board of Architecture & Landscape
Architecture

Attachments

Exhibit A - Chapter 43-03 comparisons to surrounding states

Exhibit B - ND State Board of Architecture & Landscape
Architecture's propose amendments to Engrossed HB 1469

Exhibit B

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1469

Page 1, line 13, remove the overstrike over "~~is not designed for occupancy~~"

Page 1, line 14, remove the overstrike over "~~by ten or more individuals~~"

Page 1, line 14, replace "ten" with "one hundred"

Page 2, line 9, after "which" insert "has an occupant load of less than one hundred and/or"

Page 2, line 30, after "surveyors" insert a period and overstrike "or chapter 43-07"

Page 2, line 31, overstrike "regarding registration of contractors."

HB 1469 Opposition Testimony - Exhibit A; 25Jan2011

North Dakota		Wyoming		South Dakota		Nebraska		Wisconsin	
ND	ND sf	WY	WY sf	SD	SD sf	NE	NE sf	WI	WI sf*
10 occ	3,000 sf	10 occ	3,000 sf	13 occ	4,000 sf	17 occ	5,000 sf	11 occ	3,333 sf
farm		farm		only w/publ	only w/public				
exempt occ	exempt sf	exempt occ	exempt sf	ic use occ	use sf	exempt occ	exempt sf	exempt occ	exempt sf
10 occ	5,000 sf	10 occ	5,000 sf	8 occ	4,000 sf	10 occ	5,000 sf	9 occ	1,667 sf
10 occ	200 sf	10 occ	200 sf	200 occ	4,000 sf	250 occ	5,000 sf	83 occ	1,667 sf
10 occ	3,000 sf	10 occ	3,000 sf	13 occ	4,000 sf	17 occ	5,000 sf	6 occ	1,667 sf
10 occ	1,000 sf	10 occ	1,000 sf	40 occ	4,000 sf	50 occ	5,000 sf	17 occ	1,667 sf
10 occ	150 sf	10 occ	150 sf	267 occ	4,000 sf	333 occ	5,000 sf	111 occ	1,667 sf
10 occ	110 sf	10 occ	110 sf	364 occ	4,000 sf	455 occ	5,000 sf	152 occ	1,667 sf
10 occ		10 occ			4,000 sf		5,000 sf		1,667 sf
10 occ	70 sf	10 occ	70 sf	714 occ	5,000 sf	714 occ	5,000 sf	238 occ	1,667 sf
10 occ	50 sf	10 occ	50 sf	1000 occ	5,000 sf	1000 occ	5,000 sf	333 occ	1,667 sf
10 occ	150 sf	10 occ	150 sf	333 occ	5,000 sf	333 occ	5,000 sf	111 occ	1,667 sf
10 occ	70 sf	10 occ	70 sf	1000 occ	7,000 sf	714 occ	5,000 sf	286 occ	2,000 sf
10 occ	1,000 sf	10 occ	1,000 sf	40 & 70 occ	4000 medical; 7000 office, bank, fire sf	50 occ	5,000 sf	33 occ	3,333 sf
10 occ	400 sf	10 occ	400 sf	100 occ	4,000 sf	125 occ	5,000 sf	50 occ	2,000 sf
10 occ	350 sf	10 occ	350 sf	114 occ	4,000 sf	143 occ	5,000 sf	95 occ	3,333 sf
10 occ	500 sf	10 occ	500 sf	80 occ	4,000 sf	100 occ	5,000 sf	83 occ	4,167 sf
10 occ	200 sf	10 occ	200 sf	250 occ	5,000 sf	250 occ	5,000 sf	167 occ	3,333 sf
10 occ	500 sf	10 occ	500 sf	100 occ	5,000 sf	100 occ	5,000 sf	67 occ	3,333 sf
10 occ	500 sf	10 occ	500 sf	80 occ	4,000 sf	100 occ	5,000 sf	67 occ	3,333 sf
10 occ	2,000 sf	10 occ	2,000 sf	55 occ	11,000 sf	25 occ	5,000 sf	10 occ	2,000 sf
10 occ	1,000 sf	10 occ	1,000 sf	110 occ	11,000 sf	50 occ	5,000 sf	20 occ	2,000 sf
10 occ	2,400 sf	10 occ	2,400 sf	17 occ	4,000 sf	21 occ	5,000 sf	17 occ	4,167 sf
10 occ	1,000 sf	10 occ	1,000 sf	40 occ	4,000 sf	50 occ	5,000 sf	42 occ	4,167 sf
10 occ	1,200 sf	10 occ	1,200 sf	33 occ	4,000 sf	42 occ	5,000 sf	35 occ	4,167 sf
10 occ	2,000 sf	10 occ	2,000 sf	20 occ	4,000 sf	25 occ	5,000 sf	17 occ	3,333 sf
10 occ	500 sf	10 occ	500 sf	80 occ	4,000 sf	100 occ	5,000 sf	50 occ	2,500 sf
10 occ	1,000 sf	10 occ	1,000 sf	40 occ	4,000 sf	50 occ	5,000 sf	25 occ	2,500 sf
10 occ	500 sf	10 occ	500 sf	80 occ	4,000 sf	100 occ	5,000 sf	83 occ	4,167 sf
10 occ	600 sf	10 occ	600 sf	117 occ	7,000 sf	83 occ	5,000 sf	46 occ	2,778 sf
10 occ	300 sf	10 occ	300 sf	233 occ	7,000 sf	167 occ	5,000 sf	93 occ	2,778 sf
10 occ	3,000 sf	10 occ	3,000 sf	23 occ	7,000 sf	17 occ	5,000 sf	9 occ	2,778 sf
10 occ	2,000 sf	10 occ	2,000 sf	55 occ	11,000 sf	25 occ	5,000 sf	21 occ	4,167 sf
10 occ	2,000 sf	10 occ	2,000 sf	> 4 plex; or up 16 plex w/Class A bldg inspection; others 4000 sf		> 4 plex & less than 5000 sf		> 2 plex	> 2 plex
10 occ	500 sf	10 occ	500 sf	80 occ	4,000 sf	100 occ	5,000 sf	40 occ	2,000 sf
10 occ	150 sf	10 occ	150 sf	267 occ	4,000 sf	333 occ	5,000 sf	167 occ	2,500 sf
10 occ	150 sf	10 occ	150 sf	267 occ	4,000 sf	333 occ	5,000 sf	111 occ	1,667 sf
10 occ	5,000 sf	10 occ	5,000 sf	40 occ	20,000 sf	10 occ	5,000 sf	6 occ	2,778 sf

Occ Group	Function of Space	Floor Area in Sq Ft Per Occupant	Minnesota		Iowa		Montana	
			MN	MN sf	IA	IA sf	MT	MT sf
S	Accessory storage area, mechanical equipment room	300 gross	1 occ	1 sf	NA occ	0 sf	1 occ	1 sf
U	Agricultural Building	300 gross	farm bldgs exempt	occ 1 sf	exempt	occ exempt sf	farm bldgs exempt	occ exempt sf
F	Aircraft Hangars	500 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
A	Airport Terminal							
	Baggage Claim	20 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
	Baggage handling	300 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
	Concourse	100 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
	Waiting areas	15 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
A	Assembly							
	Gaming Floors (keno, slots, etc)	11 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
A	Assembly with fixed seats	See Section 1004.7	1 occ	1 sf	1 occ	2000 sf	1 occ	1 sf
A	Assembly without fixed seats							
	Concentrated (chairs only-not fixed)	7 net	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
	Standing space	5 net	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
	Unconcentrated (tables and chairs)	15 net	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
A	Bowling centers, allow 5 persons for each lane including 15 feet of runway, and for additional areas	7 net	1 occ	1 sf	1 story 14289; 2 story 857	1 story 10000; 2 story 6000 sf	1 occ	1 sf
B	Business areas	100 gross	1 occ	1 sf	1 story 100; 2 story 60	1 story 10000; 2 story 6000 sf	1 occ	1 sf
A	Courtrooms-other than fixed seating areas	40 net	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
E & I	Day care	35 net	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
R	Dormitories	50 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
E	Educational							
	Classroom area	20 net	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
	Shops and other vocational room areas	50 net	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
	Exercise rooms	50 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
F & H	H-S Fabrication and manufacturing areas	200 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
F	Industrial areas	100 gross	1 occ	1 sf	Light exempt; other 1	Light D; other 1	1 occ	1 sf
I	Institutional areas							
	Inpatient treatment areas	240 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
	Outpatient areas	100 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
	Sleeping areas	120 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
	Kitchens, Commercial	200 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
A	Library							
	Reading rooms	50 net	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
	Stack area	100 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
A, E	Locker rooms	50 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
M	Mercantile							
	Areas on other floors	60 gross	1 occ	1 sf	1 story 167; 2 story 60	1 story 10000; 2 story 6000 sf	1 occ	1 sf
	Basement and grade floor areas	30 gross	1 occ	1 sf	occ	sf	1 occ	1 sf
	Storage, stock, shipping areas	300 gross	1 occ	1 sf	occ	sf	1 occ	1 sf
S	Parking garages	200 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
R	Residential	200 gross	only single family exempt	occ 1 sf	12 Family units	12 Family units sf	8 living units	8 living units sf
A	Skating rinks, swimming pools							
	Rink and pool	50 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
	Decks	15 gross	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
A, E	Stages and platforms	15 net	1 occ	1 sf	1 occ	1 sf	1 occ	1 sf
H, S	Warehouses	500 gross	1 occ	1 sf	20 occ	10000 sf	1 occ	1 sf

Least restrictive to ND requirements

Less restrictive than ND Requirements

Equal to ND requirements

More restrictive than ND requirements

Most Restrictive to ND Requirements

* denotes 50,000 cf converted into sf

My name is Ken Roll.

I have been an Architectural Draftsman working in Minot for 23 years, after graduating from North Dakota State College of Science.

I am the owner of Home Grown Designs Inc.

I am a small business, and in these 23 years I have designed **Hundreds** of houses in North Dakota, Montana, Minnesota, Wisconsin, Hawaii & Canada. Several Commercial Businesses and Assisted Living Facilities in North Dakota, South Dakota, Nebraska, & Texas.

I point out these achievements only because for me that is what they are. I have struggled from feast to famine over the last 23 years trying to stay employed at what I love to do, **Drafting**.

I hire the appropriate Engineers on projects. I am also regulated by Local, State & Nation Building Codes as an Architect is. So Health, Safety, & Welfare of the public clearly are not an issue here.

House Bill 1469 as written is Special Interest Legislation designed to seriously hurt me & my business.

To prevent me & other draftsmen from drawing many of the type of structures that I have safely designed in the past.

What good can come of that?

North Dakota has been experiencing fantastic growth in residential, business & industry. Forcing a business man to hire an Architect for a project that draftsmen have been doing safely for years will seriously impact the growth of this state, by raising building costs, & slowing down what is already a short building season.

Draftsmen just graduating from our Colleges will also find it very hard to find employment as well.

So I urge you to accept & approve the amended House Bill 1469. Don't cause unnecessary costs & delays for people & force many draftsmen out of work.

Thank you,

If you have any questions I will be happy to answer them.

Exemptions for Requiring Architects

Chapter 3 - Use & Occupancy Classification

Assembly Group A-1 Not Exempt, requires Architect

Assembly uses, usually with fixed seating, intended for the production and viewing of the performing arts or motion pictures including but not limited to:

- Motion picture theatres
- Symphony and concert halls
- Television and radio studios admitting an audience
- Theatres

Educational Group E Not Exempt, requires Architect

Educational Group E occupancy includes, among others, the use of a building or structure, or a portion thereof, by six or more persons at any one time for educational purposes through the 12th grade. Religious education and religious auditoriums, which are accessory to places of religious worship in accordance with IBC Section 303.1 and have occupant loads of less than 100, shall be classified as A-3 Occupancies.

The use of a building or structure, or portion thereof, for educational, supervision or personal care services for more than five children older than 2 1/2 years of age.

High- Hazard Group H Not Exempt, requires Architect

High- Hazard Group H occupancy includes, among others, the use of a building or structure or portion thereof, that involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard in quantities in excess of those allowed in control areas complying IBC Section 414, based on the maximum allowable quantity limits for control areas set forth in IBC Tables 307.1(1) and 307.1(2).

Institutional Group I Not Exempt, requires Architect

Institutional Group I occupancy includes, among others, the use of a building or structure, or a portion thereof, in which people are care for or live in a supervised environment, having physical limitations because of health or age are harbored for medical treatment or other care or treatment, or in which people are detained for penal or correctional purposes or in which the liberty or the occupants is restricted.

Sub-group I-1 including buildings, structures or parts thereof housing more than 16 persons, on a 24-hour basis, who because of age, mental disability, or other reasons, live in a supervised residential environment that provides personal care facilities. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following: Not Exempt, requires Architect

- Alcohol and drug centers
- Assisted living facilities
- Congregate care facilities
- Convalescent facilities
- Group homes
- Halfway houses

Residential board and care facilities
Social rehabilitation facilities

Sub-group I-2 including building and structures for medical, surgical, psychiatric, nursing or custodial care for person who are not capable of self-preservation. This group shall include, but not limited to, the following:

Not Exempt, requires Architect

Child care facilities
Detoxification facilities
Hospitals
Mental hospitals
Nursing homes

Sub-group I-3 including buildings and structures that are inhabited by more than five persons who are under restraint or security and occupied by persons who generally incapable of self-preservation due to security measures not under the occupants control. This group shall include, but not be limited to, the following:

Not Exempt, requires Architect

Correctional centers
Detention centers
Jails
Prerelease centers
Prisons
Reformatories

Sub-group I-4 including buildings and structures occupied by persons of any age who receive custodial care for less than 24 hours by individual other than parents or guardians, relatives by blood, marriage or adoption, and in a place other than the home of the person care for. This group shall include:

Not Exempt, requires Architect

Adult care facility for more than five unrelated adults
Child care facility for more than five children 2 1/2 years or less

Assembly Group A-2

Assembly uses intended for food and/or drink consumption, including but not limited to:

Banquet Halls	250 or fewer persons
Night Clubs	100 or fewer persons
Restaurants	100 or fewer persons
Taverns & Bars	100 or fewer persons
Other Group A-2 not mentioned above	100 or fewer persons

Assembly Group A-3 (is not a government or quasi-government building or use)

Assembly uses intended for worship, recreation or amusement and other assembly uses not classified elsewhere in Group A including but not limited to:

Amusement arcades	100 or fewer persons
Art Galleries	100 or fewer persons
Bowling Alleys	8 or fewer lanes
Community Halls	250 or fewer persons
Dance Halls (not including food or drink consumption)	250 or fewer persons
Exhibition Halls	10000 sf or less
Funeral Parlors	10000 sf or less

Gymnasiums (without spectator seating)	15000 sf or less
Indoor Swimming Pools (without spectator seating)	15000 sf or less
Indoor Tennis courts (without spectator seating)	15000 sf or less
Lecture Halls	100 or fewer persons
Libraries	10000 sf or less
Museums	10000 sf or less
Places of worship	200 or fewer persons
Pool & billard parlors	10000 sf or less
Waiting areas in transportation terminals	5000 sf or less
Other Group A-3 not mentioned above	10000 sf or less

Assembly Group A-4 (is not a government or quasi-government building or use)

Assembly uses intended for viewing of indoor sporting events and activities with spectator seating including, but not limited to:

Arenas (basketball, football, hockey, soccer, etc)	100 or fewer seats
Skating Rinks	100 or fewer seats
Swimming Pools	100 or fewer seats
Tennis Courts	100 or fewer seats
Other Group A-4 not mentioned above	100 or fewer seats

Assembly Group A-5 (is not a government or quasi-government building or use)

Assembly uses intended for participation in or viewing outdoor activities including, but limited to:

Amusement Park Structures	100 or fewer seats
Bleachers or fixed seating	100 or fewer seats
Grandstands	100 or fewer seats
Stadiums	100 or fewer seats
Other Group A-4 not mentioned above	100 or fewer seats

Business Group B (is not a government or quasi-government building or use)

Business Group B occupancy includes, among others, the use of a building or structure, or portion thereof, for office, professional or service transactions, including storage of records and accounts.

Business occupancies shall include, but not be limited to:

Amulatory health care facilities	10000 sf or less
Animal hospitals, kennels and pounds	10000 sf or less
Banks	10000 sf or less
Barber & beauty shops	10000 sf or less
Car wash	20000 sf or less
Clinic - outpatient	10000 sf or less
Dry cleaning & laundries	10000 sf or less
Electronic data processing	10000 sf or less
Laboaratories: Testing & Research	5000 sf or less
Motor vehicle showrooms	20000 sf or less
Print shops	20000 sf or less
Professional services offices (architect, attorneys, dentist, physicians, etc)	15000 sf or less
Radio & television stations	10000 sf or less
Training and skill development	10000 sf or less

Other Group B not classified above

10000 sf or less

Factory Industrial Group F (Is not a government or quasi-government building or use)

Factory Industrial Group F includes, among others, the use of a building or structure, or portion thereof, for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair or processing operations that are not classified as a Group H hazardous or Group S storage occupancy.

Factory Industrial Group includes, but not limited to:

Aircraft (manufacturing, not to include repair)	20000 sf or less
Appliances	20000 sf or less
Athletic Equipment	20000 sf or less
Automobiles and other motor vehicles	20000 sf or less
Bakeries	20000 sf or less
Beverages	20000 sf or less
Bicycles	20000 sf or less
Boats	20000 sf or less
Brooms or brushes	20000 sf or less
Business machines	20000 sf or less
Cameras and photo equipment	20000 sf or less
Canvas or similar fabric	20000 sf or less
Carpets and rugs (including cleaning)	20000 sf or less
Clothing	20000 sf or less
Construction & agricultural machinery	20000 sf or less
Disinfectants	20000 sf or less
Dry cleaning and dyeing	20000 sf or less
Electric generation plants	20000 sf or less
Electronic	20000 sf or less
Engines (including rebuilding)	20000 sf or less
Food processing	20000 sf or less
Furniture	20000 sf or less
Hemp products	20000 sf or less
Jute products	20000 sf or less
Laundries	20000 sf or less
Leather products	20000 sf or less
Machinery	20000 sf or less
Metals	20000 sf or less
Millwork (sash & door)	20000 sf or less
Motion pictures and television filming (without spectators)	20000 sf or less
Musical instruments	20000 sf or less
Optical goods	20000 sf or less
Paper mills or products	20000 sf or less
Photographic film	20000 sf or less
Plastic products	20000 sf or less
Printing or publishing	20000 sf or less
Recreational vehicles	20000 sf or less
Refuse incineration	20000 sf or less
Shoes	20000 sf or less

Soaps and detergents	20000 sf or less
Stilles	20000 sf or less
Tobacco	20000 sf or less
Trailers	20000 sf or less
Upholstering	20000 sf or less
Wood; distillation	20000 sf or less
Woodworking (cabinet)	20000 sf or less
Brick and masonry	20000 sf or less
Ceramic products	20000 sf or less
Foundries	20000 sf or less
Glass products	20000 sf or less
Gypsum	20000 sf or less
Ice	20000 sf or less
Metal products (fabrication and assembly)	20000 sf or less
Other Group F not classified above	20000 sf or less

Mercantile Group M

Mercantile Group M occupancy includes, among others, the use of building or structure or a portion thereof, for the display and sale of merchandise and involves stocks of goods, wares or merchandise incidental to such purposes and accessible to the public. Mercantile occupancies shall include, but not be limited to, the following:

Department Stores	30000 sf or less
Drug stores	20000 sf or less
Markets	30000 sf or less
Motor fuel-dispensing facilities	20000 sf or less
Retail or wholesale stores, malls, strip-malls	20000 sf or less
Malls & strip-malls	30000 sf or less
Sales rooms	20000 sf or less
Other Group M not classified above	20000 sf or less

Residential Group R-1 (Is not a government or quasi-government building or use)

Residential occupancies containing sleeping units where the occupants are primarily transient in nature, including:

Boarding houses (transient)	50 or fewer persons
Hotels (transient)	50 or fewer persons
Motels (transient)	50 or fewer persons
Other Group R-1 not classified above	50 or fewer persons

Residential Group R-2 (Is not a government or quasi-government building or use)

Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

Apartment houses 3 stories or less exclusive of a basement	Unlimited
Boarding houses (nontransient)	50 or fewer persons
Convents	50 or fewer persons
Dormitories	50 or fewer persons
Fraternities & sororities	50 or fewer persons
Hotels (nontransient)	24 or fewer sleeping rooms

Live/work units

50 or fewer persons

Masterles

50 or fewer persons

Hotels (nontransient)

24 or fewer sleeping rooms

Vacation timeshare properties

24 or fewer units

Other Group R-2 not classified above

50 or fewer persons

Residential Group R-3 (Is not a government or quasi-government building or use)

Residential occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I, including:

Buildings that do not contain more than two dwelling units

not applicable

Adult day care facilities

5 or fewer persons

Child day care facilities

5 or fewer persons

Congregate living facilities

16 or fewer persons

Residential Group R-4 (Is not a government or quasi-government building or use)

Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including more than five but not more than 16 occupants, excluding staff:

Residential assisted/care living facilities

16 or fewer persons

Storage Group S (Is not a government or quasi-government building or use)

Storage Group S occupancy includes, among others, the use of a building or structure, or a portion thereof, for storage that is not classified as a hazardous occupancy

Aerosols, Levels 2 & 3

40000 sf or less

Aircraft hanger (storage and repair)

40000 sf or less

Bags: cloth, burlap and paper

40000 sf or less

Baskets

40000 sf or less

Belting: canvas and leather

40000 sf or less

Books and paper in rolls or packs

40000 sf or less

Boots and shoes

40000 sf or less

Buttons, including cloth covered, pearl or bone

40000 sf or less

Cardboard and cardboard boxes

40000 sf or less

Clothing, woolen wearing apparel

40000 sf or less

Cordage

40000 sf or less

Dry boat storage (indoor)

40000 sf or less

Furniture

40000 sf or less

Furs

40000 sf or less

Glues, mucilage, pastes and size

40000 sf or less

Grains

40000 sf or less

Horns and combs, other than celluloid

40000 sf or less

Leather

40000 sf or less

Linoleum

40000 sf or less

Lumber

40000 sf or less

Motor vehicle repair garages

40000 sf or less

Photos engravings

40000 sf or less

Resilient flooring

40000 sf or less

Silks	40000 sf or less
Spices	40000 sf or less
Sugar	40000 sf or less
Tires, bulk storage of	40000 sf or less
Tobacco, cigars, cigarettes and snuff	40000 sf or less
Upholstery and mattresses	40000 sf or less
Wax candles	40000 sf or less
Asbestos	40000 sf or less
Beverages	40000 sf or less
Cement in bags	40000 sf or less
Chalk and crayons	40000 sf or less
Dairy products in nonwaxed coated paper containers	40000 sf or less
Dry cell batteries	40000 sf or less
Electric coils	40000 sf or less
Electrical motors	40000 sf or less
Empty cans	40000 sf or less
Food products	40000 sf or less
Foods in noncombustible containers	40000 sf or less
Fresh fruits and vegetable in non plastic trays or containers	40000 sf or less
Frozen foods	40000 sf or less
Glass	40000 sf or less
Glass bottles, empty or filled with noncombustible liquids	40000 sf or less
Gypsum board	40000 sf or less
Inert pigments	40000 sf or less
Ivory	40000 sf or less
Meats	40000 sf or less
Metal cabinets	40000 sf or less
Metal desks with plastic tops and trim	40000 sf or less
Metal parts	40000 sf or less
Metals	40000 sf or less
Mirrors	40000 sf or less
Oil-filled and other types of distribution transformers	40000 sf or less
Parking garages, open or closed	40000 sf or less
Porcelain and pottery	40000 sf or less
Stoves	40000 sf or less
Talc and soapstones	40000 sf or less
Washers and dryers	40000 sf or less
Other Group S not listed above	40000 sf or less

Utility or Miscellaneous Group U (is not a government
quasi-government building or use)

Buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed, equipped and maintained to conform to the requirements of the code commensurate with fire and life hazard incidental to their occupancies. Group U shall include, but not be limited to, the following:

Agricultural buildings

Exempt

Aircraft hanges, accessory to a one- or tow-family residence

Exempt

As

Exempt

ports

Exempt

Fences more than 6 feet high

Exempt

Grain silos, accessory to a residential occupany

Exempt

Greenhouses

Exempt

Livestock shelters

Exempt

Private garages

Exempt

Retaining walls

Exempt

Sheds

Exempt

Stables

Exempt

Tanks

Exempt

Towers

Exempt