

HOUSE CS FOR CS FOR SENATE BILL NO. 110(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/24/98

Referred: Rules

Sponsor(s): SENATORS MACKIE, Kelly, Taylor

REPRESENTATIVES Mulder, Croft

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to licensure of landscape architects; relating to exemptions from
2 laws regulating the practice of architecture, engineering, and land surveying; and
3 relating to fees collected by the Board of Registration for Architects, Engineers,
4 and Land Surveyors."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 08.01.065(c) is amended to read:

7 (c) Except as provided in (f) of this section, the [THE] department shall
8 establish fee levels under (a) of this section so that the total amount of fees collected
9 for an occupation approximately equals the actual regulatory costs for the occupation.
10 The department shall annually review each fee level to determine whether the
11 regulatory costs of each occupation are approximately equal to fee collections related
12 to that occupation. If the review indicates that an occupation's fee collections and
13 regulatory costs are not approximately equal, the department shall calculate fee
14 adjustments and adopt regulations under (a) of this section to implement the

adjustments. In January of each year, the department shall report on all fee levels and revisions for the previous year under this subsection to the office of management and budget. If a board regulates an occupation covered by this chapter, the department shall consider the board's recommendations concerning the occupation's fee levels and regulatory costs before revising fee schedules to comply with this subsection. In this subsection, "regulatory costs" means costs of the department that are attributable to regulation of an occupation plus

(1) all expenses of the board that regulates the occupation if the board regulates only one occupation;

(2) the expenses of a board that are attributable to the occupation if the board regulates more than one occupation.

* **Sec. 2.** AS 08.01.065 is amended by adding a new subsection to read:

(f) Notwithstanding (c) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected by the State Board of Registration for Architects, Engineers, and Land Surveyors approximately equals the total regulatory costs of the department and the board for all occupations regulated by the board. The department shall set the fee levels for the issuance and renewal of a certificate of registration issued under AS 08.48.211 so that the fee levels are the same for all occupations regulated by the board.

* **Sec. 3.** AS 08.48.061(c) is amended to read:

(c) The board may make expenditures from appropriated funds for any purpose that is reasonably necessary for the proper performance of its duties under this chapter. This may include the expenses of the board delegates to meetings of councils of architect examiners, engineering examiners, [OR] land surveyor examiners, or landscape architect examiners, or any of their subdivisions. The total amount of warrants issued in payment of the expenses incurred under this chapter may not exceed the amount of money appropriated by the legislature.

* **Sec. 4.** AS 08.48.071(f) is amended to read:

(f) The Department of Commerce and Economic Development shall assemble statistics relating to the performance of its staff and the performance of the board, including but not limited to,

(1) the number of architects, engineers, [AND] land surveyors, and landscape architects registered over a five-year period;

(2) the rate of passage of examinations administered by the board;

(3) the number of persons making application for registration as a professional architect, engineer, [OR] land surveyor, or landscape architect over a five-year period;

(4) an account of registration fees collected under AS 08.01.065;

(5) a measure of the correspondence workload of any licensing examiner employed by the department to carry out this chapter.

* **Sec. 5.** AS 08.48.111 is amended to read:

Sec. 08.48.111. Power to revoke, suspend, or reissue certificate. The board may suspend, refuse to renew, or revoke the certificate of or reprimand a registrant or corporation who is found guilty of (1) fraud or deceit in obtaining a certificate; (2) gross negligence, incompetence, or misconduct in the practice of architecture, engineering, [OR] land surveying, or landscape architecture; or (3) a violation of this chapter, a regulation adopted under this chapter, or the code of ethics or professional conduct as adopted by the board. The code of ethics or professional conduct shall be distributed in writing to every registrant and applicant for registration under this chapter. This publication and distribution of the code of ethics or professional conduct constitutes due notice to all registrants. The board may revise and amend its code and, upon doing so, shall immediately notify each registrant in writing of the revisions or amendments. The board may, upon petition of the registrant or corporation, reissue a certificate if a majority of the members of the board vote in favor of the reissuance.

* **Sec. 6.** AS 08.48.171 is amended to read:

Sec. 08.48.171. General requirements and qualifications for registration. An applicant for registration as an architect, engineer, [OR] land surveyor, or landscape architect must be of good character and reputation and shall submit evidence satisfactory to the board of the applicant's education, training, and experience. However, an applicant for registration as a land surveyor may not be required to submit evidence of more than eight years of any combination of education, experience, or training.

* **Sec. 7.** AS 08.48.181 is amended to read:

Sec. 08.48.181. Registration upon examination. Except as provided in AS 08.48.191, for registration as a professional architect, professional engineer, [OR] professional land surveyor, or professional landscape architect, a person shall be examined in this state in accordance with the regulations of procedure and standards adopted by the board under AS 44.62 ([THE] Administrative Procedure Act [(AS 44.62)]). The procedure and standards shall at least meet the requirements adopted by recognized national examining councils for these professions.

* **Sec. 8.** AS 08.48.191 is amended by adding a new subsection to read:

(d) A person holding a certificate of registration authorizing the person to practice landscape architecture in a state, territory, or possession of the United States, the District of Columbia, or a foreign country, that in the opinion of the board meets the requirements of this chapter, based on verified evidence, may upon application, be registered under the regulations of the board. A person holding a certificate of qualification issued by the Council of Landscape Architectural Registration Boards may upon application be registered under regulations of the board.

* **Sec. 9.** AS 08.48.201(a) is amended to read:

(a) Application for registration as a professional architect, a professional engineer, [OR] a professional land surveyor, or a professional landscape architect shall

(1) be on a form prescribed and furnished by the board;

(2) contain statements made under oath, showing the applicant's education and a detailed summary of the applicant's technical experience; and

(3) contain five references, three of whom must be architects for architectural registration, engineers for engineering registration, [AND] land surveyors for land surveying registration, and landscape architects for landscape architectural registration, having personal knowledge of the applicant's architectural, engineering, [OR] land surveying, or landscape architectural education, training, or experience.

* **Sec. 10.** AS 08.48.211 is amended to read:

Sec. 08.48.211. Certificate of registration. (a) An applicant who fulfills the requirements set out by the board shall be awarded a certificate of registration as a

professional architect, engineer, [OR] land surveyor, or landscape architect, authorizing the holder to offer or perform architectural, engineering, [OR] land surveying, or landscape architectural services or work for the public, or to certify or sign architectural, engineering, [OR] land surveying, or landscape architectural documents. Certificates of registration issued under this section shall be inscribed on their face in a manner determined by the board.

(b) The certificate of registration sealed by the board is prima facie evidence that the person named in it is entitled to all rights and privileges of a professional architect, professional engineer, [OR] professional land surveyor, or professional landscape architect while the certificate remains unrevoked or unexpired.

* **Sec. 11.** AS 08.48.215(a) is amended to read:

(a) On retiring from practice and payment of an appropriate one-time fee, an individual who is a registrant in good standing with the board may apply for the conversion of a certificate of registration to a retired status registration. An individual holding a retired status registration may not practice architecture, engineering, [OR] land surveying, or landscape architecture in the state. A retired status registration is valid for the life of the registration holder and does not require renewal.

* **Sec. 12.** AS 08.48.221 is amended to read:

Sec. 08.48.221. Seals. Each registrant may obtain a seal of the design authorized by the board, bearing the registrant's name, registration number, and the legend, "Registered Professional Architect," "Registered Professional Engineer," [OR] "Registered Professional Land Surveyor," or "Registered Professional Landscape Architect," as appropriate. When a registrant issues final drawings, specifications, surveys, plats, plates, reports, or similar documents, the registrant shall sign the documents and stamp the documents with the seal. The board shall adopt regulations governing the use of seals by the registrant. An architect, engineer, [OR] land surveyor, or landscape architect may not affix or permit a seal and signature to be affixed to an instrument after the expiration of a certificate or for the purpose of aiding or abetting another person to evade or attempt to evade a provision of this chapter. The registrant, by affixing the registrant's seal to final drawings, specifications, surveys, plats, plates, reports, and other similar documents, and signing them, certifies

that these documents were prepared by or under the registrant's direct supervision, unless the registrant certifies on the face of the document to the extent of the registrant's responsibility.

* **Sec. 13.** AS 08.48.241(a) is amended to read:

(a) This chapter does not prevent a corporation from offering architectural, engineering, [OR] land surveying, or landscape architectural services; however, the corporation shall file with the board

(1) an application for a certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether the corporation is qualified in accordance with the provisions of this chapter to offer to practice architecture, engineering, [OR] land surveying, or landscape architecture in this state;

(2) a certified copy of a resolution of the board of directors of the corporation designating persons holding certificates of registration under this chapter as responsible for the practice of architecture, engineering, [OR] land surveying, or landscape architecture by the corporation in this state and providing that full authority to make all final architectural, engineering, [OR] land surveying, or landscape architectural decisions on behalf of the corporation with respect to work performed by the corporation in this state is granted by the board of directors to the persons designated in the resolution; however, the filing of this resolution does not relieve the corporation of any responsibility or liability imposed upon it by law or by contract;

(3) a designation in writing setting out the name of one or more persons holding certificates of registration under this chapter who are in responsible charge of each major branch of the architectural, engineering, [OR] land surveying, or landscape architectural activities in which the corporation specializes in this state; if a change is made in the person in responsible charge of a major branch of the architectural, engineering, [OR] land surveying, or landscape architectural activities, the change shall be designated in writing and filed with the board within 30 days after the effective date of the change.

* **Sec. 14.** AS 08.48.241(b) is amended to read:

(b) Upon filing with the board the application for certificate of authorization, certified copy of resolution, affidavit, and designation of persons specified in this section, the board shall, subject to (c) of this section, issue to the corporation a certificate of authorization to practice architecture, engineering, [OR] land surveying, or landscape architecture in this state upon a determination by the board that

(1) the bylaws of the corporation contain provisions that all architectural, engineering, [OR] land surveying, or landscape architectural decisions pertaining to architectural, engineering, [OR] land surveying, or landscape architectural activities in this state will be made by the specified architect, engineer, [OR] land surveyor, or landscape architect in responsible charge, or other registered architects, engineers, [OR] land surveyors, or landscape architects under the direction or supervision of the architect, engineer, [OR] land surveyor, or landscape architect in responsible charge;

(2) the application for certificate of authorization states the type of architecture, engineering, [OR] land surveying, or landscape architecture practiced or to be practiced by the corporation;

(3) the applicant corporation has the ability to provide architectural, engineering, [OR] land surveying, or landscape architectural services;

(4) the application for certificate of authorization states the professional records of the designated person who is in responsible charge of each major branch of architectural, engineering, [OR] land surveying, or landscape architectural activities in which the corporation specializes;

(5) the application for certificate of authorization states the experience of the corporation, if any, in furnishing architectural, engineering, [OR] land surveying, or landscape architectural services during the preceding five-year period;

(6) the applicant corporation meets other requirements related to professional competence in the furnishing of architectural, engineering, [OR] land surveying, or landscape architectural services as may be adopted by the board in furtherance of the objectives and provisions of this chapter.

* **Sec. 15.** AS 08.48.241(d) is amended to read:

(d) The certificate of authorization shall specify the major branches of

architecture, engineering, [OR] land surveying, **or landscape architecture** of which the corporation has designated a person in responsible charge as provided in this section. The certificate of authorization shall be conspicuously displayed in the place of business of the corporation, together with the names of persons designated as being in responsible charge of the professional activities.

* **Sec. 16.** AS 08.48.241(e) is amended to read:

(e) If a corporation, organized solely by either a group of architects, a group of engineers, [OR] a group of land surveyors, **or a group of landscape architects**, each holding a certificate of registration under this chapter, applies for a certificate of authorization, the board may, in its discretion, grant a certificate of authorization to the corporation based on a review of the professional records of the incorporators, in place of the required qualifications set out in this section. If the ownership of the corporation is altered, the corporation shall apply for a revised certificate of authorization, based upon the professional records of the owners, if exclusively architects, engineers, [OR] land surveyors, **or landscape architects**, or otherwise under the qualifications required by (b)(1) - (4) of this section.

* **Sec. 17.** AS 08.48.241(f) is amended to read:

(f) A corporation authorized to offer architectural, engineering, [OR] land surveying, **or landscape architectural** services under this chapter, together with its directors and officers for their own individual acts, is responsible to the same degree as the designated individual registered architect, engineer, [OR] land surveyor, **or landscape architect**, and shall conduct its business without misconduct or malpractice in the practice of architecture, engineering, [OR] land surveying, **or landscape architecture** as defined in this chapter.

* **Sec. 18.** AS 08.48.241(g) is amended to read:

(g) If the board, after a proper hearing, finds that a corporation holding a certificate of authorization has committed misconduct or malpractice, the board shall suspend or revoke the certificate of authorization. The board shall also suspend or revoke the certificate of registration of any registered individual architect, engineer, [OR] land surveyor, **or landscape architect** who, after a proper hearing, is found by the board to have participated in committing the misconduct or malpractice.

* **Sec. 19.** AS 08.48.251 is amended to read:

Sec. 08.48.251. Partnerships. This chapter does not prevent the practice of architecture, engineering, [OR] land surveying, or landscape architecture by partnership if all of the members of the partnership are architects, engineers, [OR] land surveyors, or landscape architects legally registered under this chapter.

* **Sec. 20.** AS 08.48.281 is amended to read:

Sec. 08.48.281. Prohibited practice. (a) A person may not practice or offer to practice the profession of architecture, engineering, [OR] land surveying, or landscape architecture in the state, or use in connection with the person's name or otherwise assume or advertise a title or description tending to convey the impression that the person is an architect, an engineer, [OR] a land surveyor, or a landscape architect, unless the person has been registered under the provisions of this chapter or is a person to whom these provisions do not apply, or, in the case of a corporation, unless it has been authorized under this chapter.

* **Sec. 21.** AS 08.48.281 is amended by adding a new subsection to read:

(b) Notwithstanding (a) of this section, this chapter does not prohibit the practice of landscape architecture by a person who is not registered to practice landscape architecture if the services being performed by the person are within the scope of practice authorized by another license that is held by the person.

* **Sec. 22.** AS 08.48.291 is amended to read:

Sec. 08.48.291. Violations and penalties. A person who practices or offers to practice architecture, engineering, [OR] land surveying, or landscape architecture in the state without being registered or authorized to practice in accordance with the provisions of this chapter, or a person presenting or attempting to use the certificate or the seal of another, or a person who gives false or forged evidence of any kind to the board or to a member of the board in obtaining or attempting to obtain a certificate, or a person who impersonates a registrant, or a person who uses or attempts to use an expired or revoked or nonexistent certificate, knowing of the certificate's status, or a person who falsely claims to be registered and authorized to practice under this chapter, or a person who violates any of the provisions of this chapter, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than

1 \$10,000, or by imprisonment for not more than one year, or by both.

2 * **Sec. 23.** AS 08.48.311 is amended to read:

3 **Sec. 08.48.311. Rights not transferable.** The right to engage in the practice
4 of architecture, engineering, [OR] land surveying, or landscape architecture is
5 considered a personal and individual right, based on the qualifications of the individual
6 as evidenced by the individual's certificate of registration, which is not transferable.

7 * **Sec. 24.** AS 08.48.321 is amended to read:

8 **Sec. 08.48.321. Evidence of practice.** A person practices or offers to practice
9 architecture, engineering, [OR] land surveying, or landscape architecture who

10 (1) practices a branch of the profession of architecture, engineering,
11 [OR] land surveying, or landscape architecture as defined in AS 08.48.341;

12 (2) by verbal claim, sign, advertisement, letterhead, card, or other
13 means represents to be an architect, engineer, [OR] land surveyor, or landscape
14 architect, or through the use of some other title implies that the person is an architect,
15 engineer, [OR] land surveyor, or landscape architect; or

16 (3) holds out as able to perform or who does perform an architectural,
17 engineering, [OR] land surveying, or landscape architectural service recognized by
18 the professions covered by this chapter, and specified in regulations of the board, as
19 an architectural, engineering, [OR] land surveying, or landscape architectural
20 service.

21 * **Sec. 25.** AS 08.48.331 is amended to read:

22 **Sec. 08.48.331. Exemptions.** This chapter does not apply to

23 (1) a contractor performing work designed by a professional architect,
24 [OR] engineer, or landscape architect or the supervision of the construction of the
25 work as a supervisor or superintendent for a contractor;

26 (2) workers in building trades crafts, earthwork, grounds keeping, or
27 nursery operations, and superintendents, supervisors, or inspectors in the performance
28 of their customary duties;

29 (3) an officer or employee of the United States government practicing
30 architecture, engineering, [OR] land surveying, or landscape architecture as required
31 by the person's official capacity;

(4) an employee or a subordinate of a person registered under this chapter if the work or service is done under the direct supervision of a person registered under this chapter;

(5) associates, consultants, or specialists retained by a registered individual, a partnership of registered individuals, or a corporation authorized to practice architecture, engineering, [OR] land surveying, or landscape architecture under this chapter, in the performance of professional services if responsible charge of the work remains with the individual, the partnership, or a designated representative of the corporation;

(6) a person preparing drawings or specifications for

(A) a building for the person's own use and occupancy as a single family residence and related site work for that building;

(B) farm or ranch buildings and their grounds, unless the public health, safety, or welfare is involved;

(C) a building that is intended to be used only as a residence by not more than four families and that is not more than two stories high and the grounds of the building;

(D) a garage, workshop, or similar building that contains less than 2,000 square feet of floor space to be used for a private noncommercial purpose and the grounds of the building;

(7) a specialty contractor licensed under AS 08.18 while engaged in the business of construction contracting or designing systems for work within the specialty to be performed or supervised by the specialty contractor, or a contractor preparing shop or field drawings for work that the specialty contractor has contracted to perform;

(8) a person furnishing drawings, specifications, instruments of service, or other data for alterations or repairs to a building or its grounds that do not change or affect the structural system or the safety of the building, or that do not affect the public health, safety, or welfare;

(9) a person who is employed by a postsecondary educational institution to teach engineering, [OR] architectural, or landscape architectural courses; in this paragraph, "postsecondary educational institution" has the meaning

given in AS 14.48.210;

(10) an officer or employee of an individual, firm, partnership, association, utility, or corporation, who practices engineering involved in the operation of the employer's business only, and further provided that neither the employee nor the employer offers engineering services to the public; exclusions under this paragraph do not apply to buildings or structures whose primary use is public occupancy;

(11) a person while involved in revegetation, restoration, reclamation, rehabilitation, or erosion control for disturbed land;

(12) a person while maintaining or directing the placement of plant material.

* **Sec. 26.** AS 08.48.331 is amended by adding a new subsection to read:

(b) The requirement to be registered as a landscape architect under this chapter only applies to a person who practices an aspect of landscape architecture that the board has determined affects the public health or safety.

* **Sec. 27.** AS 08.48.341(4) is amended to read:

(4) "certificate of authorization" means a certificate issued by the board authorizing a corporation to provide professional services in architecture, engineering, [OR] land surveying, **or landscape architecture** through individuals legally registered by the board;

* **Sec. 28.** AS 08.48.341 is amended by adding new paragraphs to read:

(16) "landscape architect" means a professional landscape architect;

(17) "practice of landscape architecture" means professional services or creative work in site investigation, reconnaissance, research, planning, design, and preparation services related to drawings and construction documents, observation of construction, and location, arrangement, and design of incidental and necessary tangible objects and features for the purpose of

(A) preservation and enhancement of land uses and natural land features;

(B) location and construction of aesthetically pleasing and functional approaches for structures, roadways, and walkways;

(C) establishing or maintaining trails, plantings, landscape

1 irrigation, landscape lighting, and landscape grading; or

2 (D) generalized planning of the development of land areas in
3 a manner that is sensitive to the area's natural and cultural resources;

4 (18) "professional landscape architect" means a person registered as a
5 professional landscape architect by the board.

6 * **Sec. 29.** AS 08.48.351 is amended to read:

7 **Sec. 08.48.351. Short title.** This chapter may be cited as the Architects,
8 Engineers, [AND] Land Surveyors, **and Landscape Architects** Registration Act.

9 * **Sec. 30.** TRANSITION. Notwithstanding this Act, a person may practice landscape
10 architecture without a certificate of registration issued under AS 08.48 until 60 days after the
11 first examination for landscape architects administered in the state under AS 08.48.181, as
12 amended by this Act, has been graded.

13 * **Sec. 31.** TEMPORARY BOARD MEMBER. After considering recommendations made
14 by the Alaska chapter of the American Society of Landscape Architects, the governor shall
15 appoint a landscape architect to the Board of Registration for Architects, Engineers, and Land
16 Surveyors. The person appointed under this section

17 (1) must have been a resident in the state for three consecutive years
18 immediately preceding appointment;

19 (2) serves in an advisory, nonvoting capacity on the board;

20 (3) is not entitled to receive state money for per diem or travel expenses for
21 work as a board member;

22 (4) serves a term that expires June 30, 2001; and

23 (5) must be registered as a landscape architect under AS 08.48 by the date
24 determined under sec. 30 of this Act.