

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 458

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO THE IDAHO ARCHITECTURE PRACTICE ACT; REPEALING CHAPTER 3, TITLE
2 54, IDAHO CODE, RELATING TO THE PRACTICE OF ARCHITECTURE; AND AMEND-
3 ING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 3, TITLE 54,
4 IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO
5 PROVIDE DEFINITIONS, TO PROVIDE REQUIREMENTS REGARDING AN ARCHITECT'S
6 SEAL, TO REQUIRE LICENSURE, TO PROVIDE EXEMPTIONS, TO CREATE A BOARD
7 OF ARCHITECTURAL EXAMINERS, TO PROVIDE FOR THE POWERS OF THE BOARD, TO
8 PROVIDE QUALIFICATIONS FOR LICENSURE, TO AUTHORIZE LICENSURE BY EN-
9 DORSEMENT, TO AUTHORIZE A TEMPORARY LICENSE, TO PROVIDE FOR LICENSE
10 RENEWAL AND REINSTATEMENT, TO AUTHORIZE THE ESTABLISHMENT OF FEES BY
11 BOARD RULE, TO PROVIDE FOR POWERS OF DISCIPLINE AND TO FILE FOR AN IN-
12 JUNCTION, TO PROVIDE THAT CERTAIN ACTS ARE MISDEMEANORS, AND PROVIDING
13 SEVERABILITY.
14

15 Be It Enacted by the Legislature of the State of Idaho:

16 SECTION 1. That Chapter 3, Title 54, Idaho Code, be, and the same is
17 hereby repealed.

18 SECTION 2. That Title 54, Idaho Code, be, and the same is hereby amended
19 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
20 ter 3, Title 54, Idaho Code, and to read as follows:

21 CHAPTER 3
22 ARCHITECTURE PRACTICE ACT

23 54-301. SHORT TITLE. This chapter shall be known and may be cited as
24 the "Idaho Architecture Practice Act."

25 54-302. LEGISLATIVE INTENT. The practice of architecture in the state
26 of Idaho is hereby declared to affect the public health, safety and welfare
27 and to be subject to regulation and control in the public interest to pro-
28 tect the public from the unprofessional, improper, unauthorized and unqual-
29 ified practice of architecture and from unprofessional conduct by persons
30 licensed to practice architecture. This act should be liberally construed
31 to carry out these objectives and purposes.

32 54-303. DEFINITIONS. As used in this chapter:

33 (1) "Architect" means a person who engages in the practice of architec-
34 ture as defined in this section and is licensed under the provisions of this
35 chapter.

36 (2) "Architectural intern" means a person enrolled in a national coun-
37 cil of architectural registration boards' architectural experience program
38 and who, in fulfillment of the requirements of that program, is working under
39 the direct supervision of an architect licensed under this chapter.

- 1 (3) "Board" means the board of architectural examiners.
- 2 (4) "Building" means an enclosure, including related improvements,
3 that has as its principal purpose the adaptation of space for occupancy or
4 habitation by human beings.
- 5 (5) "Practice of architecture" means rendering or offering those
6 services described in this subsection in connection with the design, con-
7 struction, enlargement or alteration of a building or a group of buildings.
8 The services covered within this definition include architectural planning,
9 advice and consultation; providing preliminary studies; architectural
10 designs, drawings and specifications; technical submissions; and adminis-
11 tration of construction contracts.
- 12 (6) "Prototypical building" means any commercial building or space
13 within a commercial building that is intended to be constructed in multiple
14 locations, that has been constructed in multiple locations and that conveys
15 an owner's intended uniform business program, plan or image.
- 16 (7) "Prototypical building documents" means technical submissions for
17 prototypical buildings that:
- 18 (a) Are prepared by or under the responsible control of an architect
19 then licensed in any jurisdiction and holding the certification issued
20 by the national council of architectural registration boards;
- 21 (b) Identify the architect, together with the architect's license num-
22 ber and jurisdiction or the architect's license and national council of
23 architectural registration boards certification number; and
- 24 (c) Are marked "prototypical design documents not for construction."
25 Prototypical building documents do not comprise a final, comprehensive
26 set of design and construction documents because a prototypical build-
27 ing also requires adaptations for local conditions, including site con-
28 ditions and may require additional design.
- 29 (8) "Responsible control" means that amount of control over and de-
30 tailed knowledge of the content of technical submissions during their
31 preparation as is ordinarily exercised by registered architects applying
32 the required professional standard of care. Reviewing, or reviewing and
33 correcting, technical submissions after they have been prepared by others
34 does not constitute the exercise of responsible control because the reviewer
35 has neither control over nor detailed knowledge of the content of such sub-
36 missions throughout their preparation.
- 37 (9) "Technical submissions" involving the practice of architecture
38 consist of designs, drawings, specifications, studies and other technical
39 reports prepared in the course of practicing architecture.

40 54-304. ARCHITECT'S SEAL. (1) Every licensed architect shall have a
41 seal, the impression of which must contain the name and Idaho architect li-
42 cense number of the architect and the words "licensed architect" and "state
43 of Idaho," with which he shall seal all technical submissions issued from his
44 office.

45 (2) The seal, signature and date may be manually or electronically ap-
46 plied. Whenever the seal is applied to a technical submission, the signature
47 of the architect and the date thereof shall be written adjacent to or across
48 the seal. The signature, date and seal shall appear on all technical submis-
49 sions prepared by the architect or that meet the requirements set forth in

1 subsection (4) of this section. Only the title page of reports, specifica-
2 tions and like documents must bear the date and the seal and signature of the
3 architect. It is the responsibility of the architect sealing the document
4 to provide adequate security when documents with electronic seals are dis-
5 tributed. Electronically produced documents distributed for informational
6 uses, such as for bidding purposes or as working copies, may be issued with
7 only the architect's seal if:

8 (a) The copy includes a notice that the original document is on file
9 with the date and architect's signature;

10 (b) The words "original signed by" and "date original signed" are
11 placed adjacent to or across the seal on the electronic document; and

12 (c) The storage location of the original document is identified.

13 The design and use of the seal shall be as required by board rule.

14 (3) Technical submissions involving the practice of architecture that
15 are submitted to any public or governmental agency for the purpose of obtain-
16 ing a building permit that are not clearly identified by the affixed seal of
17 the architect and the signature of the architect and date thereof shall be
18 deemed unacceptable submissions for the purpose of obtaining a building per-
19 mit.

20 (4) An architect may sign and seal technical submissions only if the
21 technical submissions were:

22 (a) Prepared by the architect;

23 (b) Prepared by persons under the architect's responsible control;

24 (c) Prepared by another architect licensed in Idaho if the signing and
25 sealing architect has reviewed the other architect's work and either
26 has coordinated the preparation of the work or has integrated the work
27 into his own technical submissions; or

28 (d) Prepared by another architect licensed in any state and holding the
29 certification issued by the national council of architectural regis-
30 tration boards if:

31 (i) The signing and sealing architect has reviewed the other ar-
32 chitect's work and has integrated the work into his own technical
33 submissions; and

34 (ii) The other architect's technical submissions are prototypical
35 building documents.

36 (5) An architect may sign and seal drawings, specifications or other
37 work that is not required to be prepared by an architect if the architect has
38 reviewed the work and has integrated it into his own technical submissions.

39 (6) Any licensed architect signing or sealing technical submissions
40 not prepared by that architect but prepared under the architect's respon-
41 sible control by persons not regularly employed in the office where the
42 architect is resident shall maintain and make available to the board upon
43 request, for at least five (5) years following the signing and sealing,
44 adequate and complete records demonstrating the nature and extent of the ar-
45 chitect's control over and detailed knowledge of the technical submissions
46 throughout their preparation. Any licensed architect signing or sealing
47 technical submissions integrating the work of another architect into the
48 registered architect's own work, as permitted under subsection (4) (c) or (d)
49 of this section, shall maintain adequate and complete records demonstrating
50 the nature and extent of the registered architect's review of and integra-

1 tion of the work of the other architect into his own technical submissions
2 and that such review and integration met the required professional standard
3 of care. Such records shall be maintained and made available to the board,
4 upon request, for at least five (5) years following the signing and sealing
5 of the technical submissions.

6 54-305. LICENSE REQUIRED. (1) Every person practicing or offering to
7 practice architecture as defined in this chapter and not otherwise exempted
8 shall have a separate license under his own name. A license shall not be is-
9 sued in the name of any firm or corporation.

10 (2) The holder of a license shall not maintain in the practice of archi-
11 tecture any person who does not hold a license to practice architecture in
12 this state, unless the unlicensed person works under the responsible control
13 of his licensed supervisor.

14 54-306. EXEMPTIONS. Nothing contained in this chapter shall be held or
15 construed to have any application to, or to prevent or affect, the following:

16 (1) The practice of engineering or any other profession or trade for
17 which a license is required under any law of this state, or the practice
18 of consultants, officers and employees of the United States while engaged
19 solely in the practice of architecture for said government.

20 (2) Draftsmen, students, clerks of work, project representatives and
21 others working under the supervision of those lawfully practicing as archi-
22 tects under the provisions of this chapter from acting under the instruc-
23 tion, control or supervision of their supervisors, or to prevent the employ-
24 ment of clerks of work or inspectors of buildings paid by the owners from act-
25 ing, if under the control or direction of a licensed architect who has pre-
26 pared the drawings and specifications for the building.

27 (3) The rendering of any architectural service required in the erec-
28 tion, enlargement, alteration or repair of any building, where the building
29 is to be or is used as a single or multiple family residence not exceeding
30 three (3) units or three (3) stories in height; or as a farm building; or for
31 the purpose of outbuildings or auxiliary buildings in connection with the
32 residential or farm premises.

33 (4) The rendering of any architectural service required in the erec-
34 tion, enlargement, alteration or repair of any building that does not in-
35 volve the public health or safety.

36 (5) The preparation of shop drawings by persons other than architects
37 for use in connection with the execution of their work; or the preparation of
38 drawings of fixtures or other appliances or equipment, or for any work neces-
39 sary to provide for their installation.

40 (6) Expert consultation rendered to an architect by a consultant,
41 whether licensed or not, employed by the architect to consult, advise and
42 assist as long as the architect approves, adopts and is responsible for the
43 results of the consultation, advice and assistance.

44 (7) An intern working under the supervision of a licensed architect,
45 including the use of the title "architectural intern," as may be established
46 and limited by board rule.

1 54-307. BOARD -- ORGANIZATION AND MEETINGS. (1) There is hereby cre-
2 ated in the department of self-governing agencies a board of architectural
3 examiners.

4 (2) The board shall consist of six (6) members, five (5) of whom shall
5 be architects and shall have been residents of and lawfully practicing ar-
6 chitects within the state of Idaho for a period of at least five (5) years
7 directly preceding appointment, and one (1) of whom shall be a member of the
8 public with an interest in the rights of the consumers of architectural ser-
9 vices. At all times, the board shall have at least one (1) member who is en-
10 gaged primarily in professional architectural education.

11 (3) The regular term of office of a member shall begin as of the first
12 Monday immediately following the date of his appointment and shall continue
13 for five (5) years thereafter and until his successor shall have been ap-
14 pointed and accepted his appointment. A member appointed to fill a vacancy
15 occasioned otherwise than by expiration of a term shall serve the unexpired
16 term of his predecessor. No members shall be appointed for a period exceed-
17 ing two (2) consecutive terms. Any member who has served two (2) consecutive
18 terms may be reappointed after a lapse of five (5) years from the termination
19 date of his last term.

20 (4) Board members shall be appointed by the governor and shall serve at
21 the pleasure of the governor.

22 (5) In the event of death, resignation, incapacity, disqualification
23 or removal, a vacancy in membership shall be declared by the board and filled
24 for the unexpired portion of the term in the same manner as the original ap-
25 pointment.

26 (6) The board shall, at least annually, hold a meeting and elect a
27 chairman. The board may hold additional meetings at the call of the chairman
28 or at the request of any two (2) members of the board.

29 (7) A majority of the members of the board shall constitute a quorum.

30 (8) Members of the board shall receive an honorarium and be reimbursed
31 for expenses as provided in section 59-509(p), Idaho Code.

32 54-308. BOARD -- POWERS. The board shall have, in addition to the pow-
33 ers conferred elsewhere in this chapter, the following powers:

34 (1) To authorize, by written agreement, the bureau of occupational
35 licenses to act as its agent in its interests and, at its discretion, to
36 contract with the bureau of occupational licenses for those services deemed
37 necessary for the proper administration of this chapter;

38 (2) To adopt, pursuant to the administrative procedure act, such rules
39 as are necessary for the administration and enforcement of this chapter, in-
40 cluding a code of ethics and standards of practice;

41 (3) To maintain records necessary to carry out its duties under this
42 chapter;

43 (4) To adopt rules setting the qualifications and fitness of applicants
44 for licensure under this chapter;

45 (5) To approve continuing education courses and prescribe by rule the
46 minimum number of continuing education hours required of each licensee seek-
47 ing to obtain or renew an architect's license in the state of Idaho;

48 (6) To examine for, deny, approve, issue, revoke, suspend or otherwise
49 discipline licenses pursuant to this chapter and to conduct investigations

1 and hearings in connection with such actions, in accordance with the provi-
2 sions of chapter 52, title 67, Idaho Code;

3 (7) To establish a procedure for an applicant to request an exemption
4 review for a felony or lesser crime conviction. The applicant shall bear the
5 burden and financial responsibility of providing all evidence, documenta-
6 tion and proof of suitability for licensure required by the board for exemp-
7 tion review;

8 (8) To administer or have its designee administer oaths or affirmations
9 to witnesses in any proceeding authorized by this chapter;

10 (9) (a) To engage in discovery as provided in the Idaho rules of civil
11 procedure and chapter 52, title 67, Idaho Code, including, but not lim-
12 ited to, the power to take depositions of witnesses within or without
13 the state in the manner provided by law in civil cases, and to require
14 the attendance of witnesses and the production of books, records and pa-
15 pers as it may desire at any hearing before it of any matter that it has
16 authority to investigate, and for that purpose the board or its desig-
17 nated hearing officer may issue a subpoena for any witness or a subpoena
18 duces tecum to compel the production of any books, records or papers,
19 directed to the sheriff of any county of the state of Idaho where the
20 witness resides or may be found, which shall be served and returned in
21 the same manner as a subpoena in a criminal case is served and returned.
22 The licensed person accused in the proceedings shall have the same right
23 of subpoena upon making application to the board.

24 (b) The fees and mileage of the witnesses shall be the same as that al-
25 lowed in the district courts in criminal cases and will be paid from the
26 occupational licenses account in the same manner as other expenses of
27 the board are paid.

28 (c) In any case of disobedience to, or neglect of, any subpoena or sub-
29 poena duces tecum served upon any person, or the refusal of any witness
30 to testify to any matter regarding which he may be interrogated, it
31 shall be the duty of the district court, or any judge thereof, of any
32 county in this state in which the disobedience, neglect or refusal oc-
33 curs, upon application by the board, to compel obedience by proceedings
34 for contempt as in the case of disobedience of the requirements of a sub-
35 poena issued from the court or for refusal to testify; and

36 (10) To take such action as may be necessary to enforce the provisions
37 of this chapter and to regulate the practice of architecture.

38 54-309. QUALIFICATIONS FOR LICENSURE. (1) An applicant shall be eli-
39 gible to be licensed as an architect if the applicant:

40 (a) Passes all examination divisions of the architectural registration
41 examination (ARE) or an examination that is approved by the board; and

42 (b) Has completed an architectural experience program deemed satisfac-
43 tory to the board indicating that the applicant is competent to practice
44 architecture.

45 (2) A person is eligible to take the ARE if that person:

46 (a) Holds a professional degree in architecture from a program that is
47 accredited by the national architectural accrediting board or that is
48 approved by the board; and

1 (b) Has started or completed an architectural experience program
2 deemed satisfactory to the board.

3 (3) In lieu of holding a professional degree in architecture as re-
4 quired by subsection (2) (a) of this section, an applicant may provide to
5 the board satisfactory evidence of knowledge and skill approximating that
6 attained through graduation from an approved architectural curriculum by
7 showing a specific record of eight (8) or more years of experience in ar-
8 chitectural work of a character deemed satisfactory to the board. This
9 experience may also include that necessary to satisfy the architectural work
10 experience program requirements of subsections (1) (b) and (2) (b) of this
11 section.

12 54-310. LICENSE BY ENDORSEMENT. The board may grant a license to any
13 person who, at the time of application, holds a valid and current license in
14 good standing as an architect issued by the authorized regulatory entity of
15 another state, territory or jurisdiction of the United States, provided that
16 the requirements for licensure are substantially equivalent to the require-
17 ments for licensure under this chapter, and upon payment of a fee set in rule
18 by the board.

19 54-311. TEMPORARY LICENSE. (1) The board may grant a temporary li-
20 cense to any person who, for the purpose of offering to render architectural
21 services and for that purpose only, has submitted to the board a complete
22 application for an architect's license under this chapter and who, at the
23 time of application, holds a valid and current license in good standing as
24 an architect issued by the authorized regulatory entity of another state,
25 territory or jurisdiction of the United States.

26 (2) A temporary license is valid for six (6) months from the date it is
27 issued. A temporary license is nonrenewable and shall expire automatically
28 upon issuance of a full initial license.

29 54-312. RENEWAL AND REINSTATEMENT. All licenses issued under the pro-
30 visions of this chapter, except for temporary licenses, shall be for a term
31 of one (1) year and shall expire on the birthday of the licensee unless re-
32 newed in the manner prescribed by rule. License renewal and reinstatement
33 shall be in accordance with section 67-2614, Idaho Code.

34 54-313. FEES. (1) The board shall establish by rule the following fees
35 for licensure under the provisions of this chapter:

- 36 (a) An application fee;
37 (b) A license fee;
38 (c) An endorsement license fee;
39 (d) A temporary license fee;
40 (e) An annual renewal fee; and
41 (f) A reinstatement fee as provided in section 67-2614, Idaho Code.

42 (2) All fees received under the provisions of this chapter shall be
43 nonrefundable and shall be deposited in the state treasury to the credit of
44 the occupational licenses account in the dedicated fund. All costs and ex-
45 penses incurred by the board for the administration of this chapter shall be
46 a charge against and paid from the account, and the funds collected hereun-

1 der shall be immediately available for such purposes, the provisions of any
2 other law notwithstanding.

3 54-314. DISCIPLINE -- INJUNCTION. (1) The board shall have the au-
4 thority to sanction any license issued pursuant to the provisions of this
5 chapter for any of the following:

6 (a) Fraud or deception in applying for, procuring or renewing a license
7 under this chapter;

8 (b) Fraud or deceit in the practice of architecture or in procuring any
9 contract in the practice of architecture;

10 (c) Incompetence or gross negligence or recklessness in the practice of
11 architecture;

12 (d) A conviction, finding of guilt, receipt of a withheld judgment or
13 suspended sentence in this or any other state, territory, country or ju-
14 risdiction for a felony or a misdemeanor, which misdemeanor involved
15 a violation of the provisions of this chapter, a willful violation of
16 state or local building codes, or a violation of other laws relating to
17 the public health and safety and that were committed in the course of
18 practicing architecture;

19 (e) Affixing his signature to, or impressing his seal upon, any plans,
20 drawings, specifications or other instruments of service that have not
21 been prepared by him, or under his responsible control, or permitting
22 his name to be used for the purpose of assisting any person who is not a
23 licensed architect to evade the provisions of this chapter;

24 (f) Receiving rebates, commissions, grants of money or other favors in
25 connection with the work, without the knowledge of the party for whom
26 he is working, or having a pecuniary interest in the performance of the
27 contract for the work designed, planned or supervised by him without the
28 knowledge and consent of the owner;

29 (g) Unethical or unprofessional conduct as defined by the rules of the
30 board or the code of ethics established by the rules of the board;

31 (h) Practicing architecture or representing oneself as a licensed ar-
32 chitect when unlicensed, in violation of licensing laws of the juris-
33 diction in which the conduct took place;

34 (i) Having had any professional or occupational license revoked, sus-
35 pended or otherwise disciplined in Idaho or any other state, territory,
36 country or jurisdiction;

37 (j) Failing to maintain the requirements for a license, including not
38 fulfilling the continuing education requirement for license renewal
39 established by the board in rule;

40 (k) Failing to comply with a board order; or

41 (l) Violating any of the provisions of this chapter or any of the rules
42 promulgated by the board under the authority of this chapter.

43 (2) Sanctions that the board may impose include one (1) or more of the
44 following:

45 (a) Refusal to grant or renew a license;

46 (b) Revocation of a license;

47 (c) Suspension of a license for a period not to exceed two (2) years;

1 (d) Restriction of a license to prohibit the offender from performing
 2 certain acts or from engaging in the practice of architecture in a par-
 3 ticular manner for a period not to exceed two (2) years;

4 (e) Placement of the offender on probation and supervision by the board
 5 for a period not to exceed two (2) years; and

6 (f) Imposition of an administrative fine not to exceed two thousand
 7 dollars (\$2,000) per violation.

8 (3) The procedures for disciplinary proceedings shall be in compliance
 9 with the Idaho administrative procedure act and the rules of the office of
 10 the attorney general and the bureau of occupational licenses.

11 (4) The board or any resident citizen may maintain an action in equity
 12 in the name of the state of Idaho to enjoin perpetually any person, firm, com-
 13 pany, corporation or partnership from persisting in the doing of any acts
 14 constituting a violation of this chapter. Such action shall be brought in
 15 the district court of the county in which said act or acts or some of them are
 16 claimed to have been or are being committed, by filing a complaint setting
 17 forth the acts. The court, or a judge thereof at chambers, if satisfied from
 18 the complaint or by affidavits that the acts complained of have been or are
 19 being committed and will probably be persisted in, may issue a temporary writ
 20 enjoining the defendant from the commission of any such act or acts pending
 21 final disposition of the case. The case shall proceed as in other cases for
 22 injunction. If at the trial the commission of the act or acts by the defen-
 23 dant is established, and the court further finds that it is probable that
 24 the defendant will continue therein or in similar violations, the court, or
 25 a judge thereof at chambers, shall enter a decree perpetually enjoining the
 26 defendant from thereafter committing said or similar acts.

27 54-315. CERTAIN ACTS A MISDEMEANOR. (1) The following acts shall be
 28 unlawful and punishable as a misdemeanor:

29 (a) Practicing or offering to engage in the practice of architecture,
 30 as defined in this chapter, without having at the time of so doing a
 31 valid, unexpired, unrevoked and unsuspended license issued under this
 32 chapter;

33 (b) Aiding and abetting the unlicensed practice of architecture in this
 34 state; and

35 (c) Representing oneself to be an architect or implying that he is an
 36 architect, as defined in this chapter, through the use of the word ar-
 37 chitect, architecture, architectural or similar terms, without having
 38 at the time of so doing a valid architect's license issued under this
 39 chapter.

40 (2) The provisions of this section do not apply to:

41 (a) Persons who use the term "landscape architect"; or

42 (b) Persons previously licensed as an architect in good standing in
 43 this or in any other state, territory, country or jurisdiction whose li-
 44 cense has lapsed based upon retirement, for the purpose of identifying
 45 the person's profession but not for the purpose of practicing architec-
 46 ture.

47 54-316. SEVERABILITY. The provisions of this chapter are hereby de-
 48 clared to be severable and if any provision of this chapter or the applica-

1 tion of such provision to any person or circumstance is declared invalid for
2 any reason, such declaration shall not affect the validity of the remaining
3 provisions of this chapter.