

1 **SENATE FLOOR VERSION**

2 February 14, 2019

3 **AS AMENDED**

4 SENATE BILL NO. 101

5 By: Bergstrom

6 **[ professional licenses - qualifications - denial -**  
7 **procedures for reinstatement - effective date ]**

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9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. AMENDATORY 59 O.S. 2011, Section 46.8a, as  
11 amended by Section 6, Chapter 234, O.S.L. 2014 (59 O.S. Supp. 2018,  
12 Section 46.8a), is amended to read as follows:

13 Section 46.8a. A. It shall be unlawful for any person to  
14 directly or indirectly engage in the practice of architecture in  
15 this state or use the title "Architect", "Registered or Licensed  
16 Architect", "Architectural Designer", or display or use any words,  
17 letters, figures, titles, signs, cards, advertisements, or other  
18 symbols or devices indicating or tending to indicate that such  
19 person is an architect or is practicing architecture, unless the  
20 person is licensed under the provisions of this act. No person  
21 shall aid or abet any person, not licensed under the provisions of  
22 this act, in the practice of architecture.

23 B. Every person applying to the Board for an initial license  
24 shall submit an application accompanied by the fee established in

1 accordance with the rules of the Board, with satisfactory evidence  
2 that such person holds an accredited professional degree in  
3 architecture or has completed such other education as the Board  
4 deems equivalent to an accredited professional degree and with  
5 satisfactory evidence that such person has completed such practical  
6 training in architectural work as the Board requires. If an  
7 applicant is qualified in accordance with this subsection, the Board  
8 shall, by means of a written examination, examine the applicant on  
9 such technical and professional subjects as are prescribed by the  
10 Board. None of the examination materials shall be considered public  
11 records. The Board may exempt from such written examination an  
12 applicant who holds a certification issued by the National Council  
13 of Architectural Registration Boards or its successor or in any case  
14 the Board decides the interest of the public will be served and the  
15 person is determined to be qualified and competent by equivalent  
16 standards for education, training and examination.

17 The Board shall adopt as its own rules governing practical  
18 training and education and may use those guidelines published from  
19 time to time by the National Council of Architectural Registration  
20 Boards or its successor. The Board may also adopt the examinations  
21 and grading procedures of the National Council of Architectural  
22 Registration Boards or its successor and the accreditation decisions  
23 of the National Architectural Accrediting Board or its successor.  
24 The Board shall issue its license to each applicant who ~~is found to~~

1 ~~be of good moral character and who~~ satisfies the requirements set  
2 forth in this section and the Board's current rules. Such license  
3 shall be effective upon issuance.

4 C. Pursuant to this act and such rules as it may have adopted,  
5 the Board shall have the power to issue licenses without requiring  
6 an examination to persons who have been licensed to practice  
7 architecture in states other than the State of Oklahoma, in a  
8 territory of the United States, in the District of Columbia, or in a  
9 country other than the United States; provided that the state or  
10 country has a similar reciprocal provision to authorize the issuance  
11 of licenses to persons who have been licensed in this state. If a  
12 person who has been licensed in a state other than the State of  
13 Oklahoma, or in a territory of the United States, in the District of  
14 Columbia, or in a country other than the United States complies with  
15 this act and the rules of the Board, the secretary-treasurer, acting  
16 in the exercise of his or her discretion or upon the order of the  
17 Board in the exercise of its discretion and upon the receipt of the  
18 stated payment to the Board pursuant to the rules of the Board,  
19 shall issue to the person a license to practice architecture in this  
20 state.

21 SECTION 2. AMENDATORY 59 O.S. 2011, Section 46.14, as  
22 last amended by Section 1, Chapter 183, O.S.L. 2015 (59 O.S. Supp.  
23 2018, Section 46.14), is amended to read as follows:

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1 Section 46.14. A. The Board shall have power to suspend, to  
2 revoke or refuse to renew a license, registration, certificate of  
3 authority or certificate of title issued by it, pursuant to the  
4 provisions of the State Architectural and Registered Interior  
5 Designers Act, when the holder thereof:

6 1. Has been convicted of a felony crime that substantially  
7 relates to the practice of architecture, landscape architecture or  
8 interior design or poses a reasonable threat to public safety;  
9 provided, however, no felony conviction shall operate to deny the  
10 issuance or reinstatement of a previously held Oklahoma license  
11 after ten (10) years from the date of such conviction unless the  
12 conviction continues to pose a reasonable threat to public safety or  
13 continued education or other requirements have not been met;

14 2. Has been guilty of fraud or misrepresentation; provided,  
15 however, no conviction shall operate to deny the issuance or  
16 reinstatement of a previously held Oklahoma license after ten (10)  
17 years from the date of such conviction unless the conviction  
18 continues to pose a reasonable threat to public safety or continued  
19 education or other requirements have not been met;

20 3. Has been guilty of gross incompetence or recklessness in the  
21 practice of architecture relating to the construction of buildings  
22 or structures, or of dishonest practices;

23 4. Has been guilty of gross incompetence or recklessness in the  
24 practice of landscape architecture, or of dishonest practices;

1       5. Presents the license, registration or certification of  
2 another as his or her own;

3       6. Gives false or forged evidence to the Board;

4       7. Conceals information relative to any inquiry, investigation  
5 or violation of this act or rules promulgated under this act; or

6       8. Has been found to be guilty of a violation of a provision of  
7 the State Architectural and Registered Interior Designers Act, or  
8 the rules of the Board; provided, that a person or entity complained  
9 of shall be afforded the opportunity for a formal hearing carried  
10 out as described under the current Administrative Procedures Act or  
11 settled by the Board with a consent order or final order approved by  
12 the Board.

13       The Board shall keep a record of the evidence in, and a record  
14 of each proceeding for the suspension, revocation of or refusal to  
15 renew a license or certificate of authority and shall make findings  
16 of fact and render a decision therein. If, after a hearing, the  
17 charges shall have been found to have been sustained by the vote of  
18 a majority of the members of the Board it shall immediately enter  
19 its order of suspension, revocation, penalties, probation,  
20 educational course work and objectives or refusal to renew, as the  
21 case may be.

22       B. As used in this section:

23       1. "Substantially relates" means the nature of criminal conduct  
24 for which the person was convicted has a direct bearing on the

1 fitness or ability to perform one or more of the duties or  
2 responsibilities necessarily related to the occupation; and

3 2. "Poses a reasonable threat" means the nature of criminal  
4 conduct for which the person was convicted involved an act or threat  
5 of harm against another and has a bearing on the fitness or ability  
6 to serve the public or work with others in the occupation.

7 SECTION 3. AMENDATORY 59 O.S. 2011, Section 199.11, as  
8 last amended by Section 2, Chapter 183, O.S.L. 2015 (59 O.S. Supp.  
9 2018, Section 199.11), is amended to read as follows:

10 Section 199.11. A. The State Board of Cosmetology and  
11 Barbering is hereby authorized to deny, revoke, suspend, or refuse  
12 to renew any license, certificate, or registration that it is  
13 authorized to issue under the Oklahoma Cosmetology and Barbering Act  
14 for any of the following causes:

15 1. Conviction of a felony crime that substantially relates to  
16 the practice of cosmetology or poses a reasonable threat to public  
17 safety; provided, however, no felony conviction shall operate to  
18 deny the issuance or reinstatement of a previously held Oklahoma  
19 license after ten (10) years from the date of such conviction unless  
20 the conviction continues to pose a threat to public safety or  
21 continued education or other requirements have not been met;

22 2. Gross malpractice or gross incompetence;

23 3. Fraud practiced in obtaining a license or registration;

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1           4. A license or certificate holder's continuing to practice  
2 while afflicted with an infectious, contagious, or communicable  
3 disease;

4           5. Habitual drunkenness or addiction to use of habit forming  
5 drugs; provided, however, reinstatement shall be allowed as provided  
6 in Section 4000 of this title;

7           6. Advertising by means of statements known to be false or  
8 deceptive;

9           7. Continued or flagrant violation of any rules of the Board,  
10 or continued practice by a Board licensee in a cosmetology or barber  
11 establishment wherein violations of the rules of the Board are being  
12 committed within the knowledge of the licensee;

13           8. Failure to display license or certificate as required by the  
14 Oklahoma Cosmetology and Barbering Act;

15           9. Continued practice of cosmetology or barbering after  
16 expiration of a license therefor;

17           10. Employment by a salon or barber establishment owner or  
18 manager of any person to perform any of the practices of cosmetology  
19 or barbering who is not duly licensed to perform the services;

20           11. Practicing cosmetology or barbering in an immoral or  
21 unprofessional manner;

22           12. Unsanitary operating practices or unsanitary conditions of  
23 a school or establishment; or

24           13. Unsanitary operating practices of a licensee.

1 B. As used in this section:

2 1. "Substantially relates" means the nature of criminal conduct  
3 for which the person was convicted has a direct bearing on the  
4 fitness or ability to perform one or more of the duties or  
5 responsibilities necessarily related to the occupation; and

6 2. "Poses a reasonable threat" means the nature of criminal  
7 conduct for which the person was convicted involved an act or threat  
8 of harm against another and has a bearing on the fitness or ability  
9 to serve the public or work with others in the occupation.

10 SECTION 4. AMENDATORY 59 O.S. 2011, Section 396.12c, as  
11 amended by Section 4, Chapter 97, O.S.L. 2013 (59 O.S. Supp. 2018,  
12 Section 396.12c), is amended to read as follows:

13 Section 396.12c. A. After notice and hearing pursuant to  
14 Article II of the Administrative Procedures Act, the Oklahoma  
15 Funeral Board may refuse to issue or renew, or may revoke or  
16 suspend, any license or registration for any one or combination of  
17 the following:

18 1. Conviction of a felony shown by a certified copy of the  
19 record of the court of conviction that substantially relates to the  
20 funeral or embalming profession or poses a reasonable threat to  
21 public safety; provided, however, no felony conviction shall operate  
22 to deny the issuance or reinstatement of a previously held Oklahoma  
23 license after ten (10) years from the date of such conviction unless



1 the conviction continues to pose a threat to public safety or  
2 continued education or other requirements have not been met;  
3 2. Conviction of a misdemeanor involving funeral services;  
4 3. Gross malpractice or gross incompetency, which shall be  
5 determined by the Board;  
6 4. False or misleading advertising as a funeral director or  
7 embalmer;  
8 5. Violation of any of the provisions of the Funeral Services  
9 Licensing Act or any violation of Sections 201 through 231 of Title  
10 8 of the Oklahoma Statutes;  
11 6. Fraud or misrepresentation in obtaining a license;  
12 7. Using any casket or part thereof which has previously been  
13 used as a receptacle for, or in connection with, the burial or other  
14 disposition of dead human remains, unless the disclosure is made to  
15 the purchaser;  
16 8. Violation of any rules of the Board in administering the  
17 purposes of the Funeral Services Licensing Act;  
18 9. Use of intoxicating liquor sufficient to produce drunkenness  
19 in public, or habitual addiction to the use of habit-forming drugs  
20 or either; provided, however, reinstatement shall be allowed as  
21 provided in Section 4000 of this title;  
22 10. Solicitation of business, either personally or by an agent,  
23 from a dying individual or the relatives of a dead or individual  
24 with a terminal condition, as defined by the Oklahoma Rights of the

1 Terminally Ill or Persistently Unconscious Act, other than through  
2 general advertising;

3 11. Refusing to properly release a dead human body to the  
4 custody of the person entitled to custody;

5 12. Violating applicable state laws relating to the failure to  
6 file a death certificate, cremation permit, or prearrangement or  
7 prefinancing of a funeral;

8 13. Failing to obtain other necessary permits as required by  
9 law in a timely manner;

10 14. Failing to comply with the Funeral Rules of the Federal  
11 Trade Commission, 15 U.S.C., Section 57a(a);

12 15. Failing to comply with any applicable provisions of the  
13 Funeral Services Licensing Act at the time of issuance or renewal;

14 16. Improper issuance or renewal of a license or registration;

15 17. Violating the provisions of subsection B of Section 396.12  
16 of this title regarding advertisement of services at locations not  
17 licensed by the Board;

18 18. The abuse of a corpse whereby a person knowingly and  
19 willfully signs a certificate as having embalmed, cremated, or  
20 prepared a dead human body for disposition when, in fact, the  
21 services were not performed as indicated;

22 19. Simultaneous cremating of more than one human dead body  
23 without express written approval of the authorizing agent;

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1 20. Cremating human remains without the permit required by  
2 Section 1-329.1 of Title 63 of the Oklahoma Statutes;

3 21. Intentional interference with an investigation by the Board  
4 or failure to allow access to funeral records during an  
5 investigation or to produce records for an investigation; or

6 22. Failure to properly discharge financial obligations as  
7 established by rule of the Board.

8 B. As used in this section:

9 1. "Substantially relates" means the nature of criminal conduct  
10 for which the person was convicted has a direct bearing on the  
11 fitness or ability to perform one or more of the duties or  
12 responsibilities necessarily related to the occupation; and

13 2. "Poses a reasonable threat" means the nature of criminal  
14 conduct for which the person was convicted involved an act or threat  
15 of harm against another and has a bearing on the fitness or ability  
16 to serve the public or work with others in the occupation.

17 SECTION 5. AMENDATORY 59 O.S. 2011, Section 475.18, as  
18 last amended by Section 16, Chapter 259, O.S.L. 2017 (59 O.S. Supp.  
19 2018, Section 475.18), is amended to read as follows:

20 Section 475.18. A. As provided in subsections A and B of  
21 Section 475.8 of this title, the Board shall have the power to deny,  
22 place on probation, suspend, revoke or refuse to issue a certificate  
23 or license, or fine, reprimand, issue orders, levy administrative

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1 fines or seek other penalties, if a person or entity is found guilty  
2 of:

3 1. Any fraud or deceit in obtaining or attempting to obtain or  
4 renew a certificate of licensure, or a certificate of authorization  
5 or in taking the examinations administered by the Board or its  
6 authorized representatives;

7 2. Any fraud, misrepresentation, gross negligence, gross  
8 incompetence, misconduct or dishonest practice, in the practice of  
9 engineering or land surveying;

10 3. Conviction of or entry of a plea of guilty or nolo  
11 contendere to a felony crime that substantially relates to the  
12 practice of engineering or land surveying or poses a reasonable  
13 threat to public safety; or conviction of or entry of a plea of  
14 guilty or nolo contendere to a misdemeanor, an essential element of  
15 which is dishonesty or is a violation of the practice of engineering  
16 or land surveying; provided, however, no conviction shall operate to  
17 deny the issuance or reinstatement of a previously held Oklahoma  
18 license after ten (10) years from the date of such conviction unless  
19 the conviction continues to pose a threat to public safety or  
20 continued education or other requirements have not been met;

21 4. Failure to comply with any of the provisions of Section  
22 475.1 et seq. of this title or any of the rules or regulations  
23 pertaining thereto;

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1           5. Disciplinary action, including voluntary surrender of a  
2 professional engineer's or professional land surveyor's license in  
3 order to avoid disciplinary action by another state, territory, the  
4 District of Columbia, a foreign country, the United States  
5 government, or any other governmental agency, if at least one of the  
6 grounds for discipline is the same or substantially equivalent to  
7 those contained in this section;

8           6. Failure, within thirty (30) days, to provide information  
9 requested by the Board or its designated staff as a result of a  
10 formal or informal complaint to the Board which would indicate a  
11 violation of Section 475.1 et seq. of this title;

12           7. Knowingly making false statements or signing false  
13 statements, certificates or affidavits;

14           8. Aiding or assisting another person or entity in violating  
15 any provision of Section 475.1 et seq. of this title or the rules or  
16 regulations pertaining thereto;

17           9. Violation of any terms imposed by the Board, or using a seal  
18 or practicing professional engineering or professional land  
19 surveying while the professional engineer's license or professional  
20 land surveyor's license is suspended, revoked, nonrenewed, retired  
21 or inactive;

22           10. Signing, affixing the professional engineer's or  
23 professional land surveyor's seal, or permitting the professional  
24 engineer's or professional land surveyor's seal or signature to be

1 affixed to any specifications, reports, drawings, plans, design  
2 information, construction documents, calculations, other documents,  
3 or revisions thereof, which have not been prepared by, or under the  
4 direct control and personal supervision of the professional engineer  
5 or professional land surveyor in responsible charge;

6 11. Engaging in dishonorable, unethical or unprofessional  
7 conduct of a character likely to deceive, defraud, harm or endanger  
8 the public;

9 12. Providing false testimony or information to the Board;

10 13. Habitual intoxication or addiction to the use of alcohol or  
11 to the illegal use of a controlled dangerous substance; provided,  
12 however, reinstatement shall be allowed as provided in Section 4000  
13 of this title;

14 14. Performing engineering or surveying services outside any of  
15 the licensee's areas of competence or areas of competence designated  
16 in the official Board records;

17 15. Violating the Oklahoma Minimum Standards for the Practice  
18 of Land Surveying; and

19 16. Failing to obtain the required professional development  
20 hours, as approved by the Board, Board staff or Continuing Education  
21 Committee as required by an audit.

22 B. The Board shall prepare and adopt Rules of Professional  
23 Conduct for Professional Engineers and Professional Land Surveyors  
24 as provided for in Section 475.8 of this title, which shall be made

1 available in writing to every licensee and applicant for licensure  
2 under Section 475.1 et seq. of this title. The Board may revise and  
3 amend these Rules of Professional Conduct for Professional Engineers  
4 and Professional Land Surveyors and shall notify each licensee, in  
5 writing, of such revisions or amendments.

6 C. Principals of a firm who do not obtain a certificate or  
7 authorization for the firm as required by Section 475.1 et seq. of  
8 this title may be subject to disciplinary action.

9 D. As used in this section:

10 1. "Substantially relates" means the nature of criminal conduct  
11 for which the person was convicted has a direct bearing on the  
12 fitness or ability to perform one or more of the duties or  
13 responsibilities necessarily related to the occupation; and

14 2. "Poses a reasonable threat" means the nature of criminal  
15 conduct for which the person was convicted involved an act or threat  
16 of harm against another or has a bearing on the fitness or ability  
17 to serve the public or work with others in the occupation.

18 SECTION 6. AMENDATORY 59 O.S. 2011, Section 4000, is  
19 amended to read as follows:

20 Section 4000. A. All state entities that are charged with  
21 oversight of occupational licenses shall establish procedures by  
22 which individuals who are convicted of a felony or misdemeanor where  
23 substance abuse or mental illness is the underlying cause of the  
24 crime, or plead guilty or nolo contendere to a felony or misdemeanor

1 where substance abuse or mental illness is the underlying cause of  
2 the crime, may appeal or apply to have an occupational license  
3 reinstated.

4 B. All state entities that are charged with oversight of  
5 occupational licenses shall establish procedures by which  
6 individuals who were convicted of a felony or misdemeanor offense  
7 and thereby lost an occupational license may appeal or apply to have  
8 such license reinstated in the event such conviction is subsequently  
9 reclassified or decriminalized by the Legislature or by the vote of  
10 the people. The reinstatement shall be either full reinstatement or  
11 a conditional reinstatement. The conditional reinstatement shall  
12 not exceed one (1) year. The individual may be required to  
13 demonstrate competency in the occupation and completion of continued  
14 education or other requirements set by the board or commission  
15 charged with oversight of the licensee. Supervision shall be  
16 authorized during the period of conditional reinstatement. The  
17 requirements for license reinstatement shall not be more stringent  
18 than requirements for any other licensee in the occupation.

19 C. All state entities described in this section may consider  
20 the length of time since the plea or conviction. Other items that  
21 may be considered are education since the plea or conviction,  
22 recovery status since the plea or conviction ~~if the underlying crime~~  
23 ~~was alcohol or drug related~~, and the public safety of allowing an  
24 individual to return to the specific occupation.



1        E. D. After ten (10) years from the date of the conviction or  
2 plea was entered, an occupational license shall be reinstated unless  
3 the conviction or underlying conduct continues to pose a reasonable  
4 threat to public safety or the person is deemed unqualified to  
5 practice the occupation for failure to complete continued education  
6 requirements or failure to address the underlying alcohol, drug or  
7 mental illness that resulted in loss of licensure or certification  
8 in the occupation.

9        E. "Continues to pose a reasonable threat" means the nature of  
10 criminal conduct for which the person was convicted or pled guilty  
11 or nolo contendere involved an act or threat of harm against another  
12 and has a bearing on the fitness or ability to serve the public or  
13 work with others in the occupation.

14        F. The provisions of this section shall not apply to  
15 professional licensure boards or commissions that currently  
16 recognize and comply with the spirit and intent of this act.

17        SECTION 7. This act shall become effective November 1, 2019.

18        COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
19        February 14, 2019 - DO PASS AS AMENDED  
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