

All moneys except assessments and penalties collected under the provisions of this chapter shall be paid into the nursery inspection fund in the state treasury which is hereby established. Such fund shall be used only in the administration and enforcement of this chapter. All moneys collected under the provisions of chapter 15.13 RCW and remaining in such nursery inspection account in the state general fund on July 1, 1975, shall likewise be used only in the administration and enforcement of this chapter: PROVIDED, That all fees collected for fruit tree, fruit tree seedling and fruit tree rootstock assessments as set forth in this chapter shall be deposited in the northwest nursery fund to be used only for the Washington fruit tree certification and nursery improvement programs as set forth in this chapter and chapter 15.14 RCW.

Sec. 6. Section 27, chapter 33, Laws of 1971 ex. sess. and RCW 15-.13.490 are each amended to read as follows:

(1) Any person violating the provisions of this chapter or rules adopted hereunder is guilty of a misdemeanor and guilty of a gross misdemeanor for any subsequent offense, however, any offense committed more than five years after a previous conviction shall be considered a first offense.

(2) In lieu of any other penalty imposed under this section, a person who acts as a nursery dealer without the license required by RCW 15.13-.280 or the permit required by RCW 15.13.270 is subject to a civil penalty of up to two hundred dollars for each violation. The director may impose the penalty and the penalty shall be subject to appeal in accordance with chapter 34.04 RCW. Penalties collected under this subsection shall be deposited in the state general fund.

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CHAPTER 37

[Engrossed House Bill No. 409]
ARCHITECTS—LICENSURE

AN ACT Relating to the practice of architecture; adding new sections to chapter 18.08 RCW; repealing RCW 18.08.100, 18.08.110, 18.08.120, 18.08.130, 18.08.140, 18.08.150, 18.08.160, 18.08.170, 18.08.180, 18.08.190, 18.08.200, 18.08.210, 18.08.220, 18.08.230, 18.08.250, 18.08.260, and 18.08.270; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that in order to safeguard life, health, and property and to promote the public welfare, it is necessary to regulate the practice of architecture.

NEW SECTION. Sec. 2. It is unlawful for any person to practice or offer to practice in this state, architecture, or to use in connection with his

or her name or otherwise assume, use, or advertise any title or description including the word "architect," "architecture," "architectural," or language tending to imply that he or she is an architect, unless the person is registered or authorized to practice in the state of Washington under this chapter. The provisions of this section shall not affect the use of the words "architect," "architecture," or "architectural" where a person does not practice or offer to practice architecture.

NEW SECTION. Sec. 3. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Administration of the construction contract" means the periodic observation of materials and work to observe the general compliance with the construction contract documents, and does not include responsibility for supervising construction methods and processes, site conditions, equipment operations, personnel, or safety on the work site.

(2) "Architect" means an individual who is registered under this chapter to practice architecture.

(3) "Board" means the state board of registration for architects.

(4) "Certificate of authorization" means a certificate issued by the director to a corporation or partnership that authorizes the entity to practice architecture.

(5) "Certificate of registration" means the certificate issued by the director to newly registered architects.

(6) "Department" means the department of licensing.

(7) "Director" means the director of licensing.

(8) "Engineer" means an individual who is registered as an engineer under chapter 18.43 RCW.

(9) "Person" means any individual, partnership, professional service corporation, corporation, joint stock association, joint venture, or any other entity authorized to do business in the state.

(10) "Practice of architecture" means the rendering of services in connection with the art and science of building design for construction of any structure or grouping of structures and the use of space within and surrounding the structures or the design for construction of alterations or additions to the structures, including but not specifically limited to schematic design, design development, preparation of construction contract documents, and administration of the construction contract.

(11) "Registered" means holding a currently valid certificate of registration or certificate of authorization issued by the director authorizing the practice of architecture.

(12) "Structure" means any construction consisting of load-bearing members such as the foundation, roof, floors, walls, columns, girders, and beams or a combination of any number of these parts, with or without other parts or appurtenances.

NEW SECTION. Sec. 4. There is hereby created a state board of registration for architects consisting of seven members who shall be appointed by the governor. Six members shall be registered architects who are residents of the state and have at least eight years' experience in the practice of architecture as registered architects in responsible charge of architectural work or responsible charge of architectural teaching. One member shall be a public member, who is not and has never been a registered architect and who does not employ and is not employed by or professionally or financially associated with an architect.

The terms of each newly appointed member shall be six years. The members of the board of registration for architects serving on the effective date of this act shall serve out the remainders of their existing five-year terms. The term of the public member shall coincide with the term of an architect.

Every member of the board shall receive a certificate of appointment from the governor. On the expiration of the term of each member, the governor shall appoint a successor to serve for a term of six years or until the next successor has been appointed.

The governor may remove any member of the board for cause. Vacancies in the board for any reason shall be filled by appointment for the unexpired term.

The board shall elect a chairman, a vice-chairman, and a secretary. The secretary may delegate his or her authority to the executive secretary.

Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 5. (1) The board may adopt such rules under chapter 34.04 RCW as are necessary for the proper performance of its duties under this chapter.

(2) The director shall employ an executive secretary subject to approval by the board. The director shall provide such secretarial and administrative support as may be required to carry out the purposes of this chapter.

(3) The board or the director may conduct investigations concerning alleged violations of this chapter. In making such investigations and in all proceedings of the board under this chapter, the chairman or any member of the board acting in place of the chairman may administer oaths or affirmations to witnesses appearing before the board, subpoena witnesses and compel their attendance, and require the production of books, records, papers, and documents. If any person refuses to obey a subpoena so issued, or refuses to testify or produce any books, records, papers, or documents so required to be produced, the board may present its petition in the superior court of Thurston county or the county in which the person resides, setting

forth the facts, and thereupon the court shall, in a proper case, enter a suitable order compelling compliance with this chapter and imposing such other terms and conditions as the court finds equitable.

NEW SECTION. Sec. 6. (1) A certificate of registration shall be granted by the director to all qualified applicants who are certified by the board as having passed the required examination and as having given satisfactory proof of completion of the required experience.

(2) Applications for examination shall be filed as the board prescribes by rule. The application and examination fees shall be determined by the director under RCW 43.24.086.

(3) An applicant for registration as an architect shall be of a good moral character, at least eighteen years of age, and shall:

(a) Have an accredited architectural degree and three years' practical architectural work experience approved by the board. At least two years' work experience must be under the direct supervision of an architect; or

(b) Have eight years' practical architectural work experience approved by the board. Each year spent in an accredited architectural program approved by the board shall be considered one year of practical experience. At least four years' practical work experience shall be under the direct supervision of an architect; or

(c) Be a person who has been designing buildings as a principal activity for eight years, or has an equivalent combination of education and experience, but who was not registered under chapter 323, Laws of 1959, as amended, as it existed before the effective date of this act, provided that application is made within four years after the effective date of this act. Nothing in this chapter prevents such a person from designing buildings for four years after the effective date of this act, or the five-year period allowed for completion of the examination process, after that person has applied for registration. A person who has been designing buildings and is qualified under this subsection shall, upon application to the board of registration for architects, be allowed to take the examination for architect registration on an equal basis with other applicants.

NEW SECTION. Sec. 7. (1) The examination for an architect's certificate of registration shall be held at least annually at such time and place as the board determines.

(2) The board shall determine the content, scope, and grading process of the examination. The board may adopt an appropriate national examination and grading procedure.

(3) Applicants who fail to pass any section of the examination shall be permitted to retake the parts failed as prescribed by the board. If the entire examination is not successfully completed within five years, a retake of the entire examination shall be required.

NEW SECTION. Sec. 8. (1) The director shall issue a certificate of registration to any applicant who has, to the satisfaction of the board, met all the requirements for registration upon payment of the registration fee as provided in this chapter. All certificates of registration shall show the full name of the registrant, have the registration number, and shall be signed by the chairman of the board and by the director. The issuance of a certificate of registration by the director is prima facie evidence that the person named therein is entitled to all the rights and privileges of a registered architect.

(2) Each registrant shall obtain a seal of the design authorized by the board bearing the architect's name, registration number, the legend "Registered Architect," and the name of this state. Drawings prepared by the registrant shall be sealed and signed by the registrant when filed with public authorities. It is unlawful to seal and sign a document after a registrant's certificate of registration or authorization has expired, been revoked, or is suspended.

NEW SECTION. Sec. 9. (1) The director may reinstate a certificate of registration to any person or a certificate of authorization to any corporation or joint stock association whose certificate has been revoked, if a majority of the board vote in favor of such reissuance: if the board finds that the circumstances or conditions that brought about the revocation are not likely to recur and that the person, corporation, or joint stockholders' association is then sufficiently trustworthy and reliable at the time reinstatement is sought, and that the best interests of the public will be served by reinstatement of the registration.

(2) A new certificate of registration or certificate of authorization to replace any certificate lost, destroyed, or mutilated may be issued by the director. A charge, determined as provided in RCW 43.24.086, shall be made for such issuance.

NEW SECTION. Sec. 10. All persons registered as architects under chapter 205, Laws of 1919, or registered as architects under chapter 323, Laws of 1959, as amended, before the effective date of this act, shall be registered as architects without examination.

NEW SECTION. Sec. 11. The director may, upon receipt of the current registration fee, grant a certificate of registration to an applicant who is a registered architect in another state or territory of the United States, the District of Columbia, or another country, if that individual's qualifications and experience are determined by the board to be equivalent to the qualifications and experience required of a person registered under section 6 of this act.

NEW SECTION. Sec. 12. This chapter shall not affect or prevent:

(1) The practice of naval architecture, landscape architecture, engineering, space planning, interior design, or any legally recognized profession or trade by persons not registered as architects;

(2) Drafters, clerks, project managers, superintendents, and other employees of architects, engineers, naval architects, or landscape architects from acting under the instructions, control, or supervision of their employers;

(3) The construction, alteration, or supervision of construction of buildings or structures by contractors or superintendents employed by contractors or the preparation of shop drawings in connection therewith;

(4) Owners or contractors from engaging persons who are not architects to observe and supervise construction of a project;

(5) Any person from doing design work including preparing construction contract documents and administration of the construction contract for the erection, enlargement, repair, or alteration of a structure or any appurtenance to a structure, if the structure is to be used for a residential building of up to and including four dwelling units or a farm building or is a structure used in connection with or auxiliary to such residential building or farm building such as a garage, barn, shed, or shelter for animals or machinery;

(6) Any person from doing design work including preparing construction contract documents and administering the contract for construction, erection, enlargement, alteration, or repairs of or to a building of any occupancy up to four thousand square feet of construction;

(7) Design-build construction by registered general contractors if the structural design services are performed by a registered engineer;

(8) Any person from designing buildings or doing other design work for any structure prior to the time of filing for a building permit; or

(9) Any person from designing buildings or doing other design work for structures larger than those exempted under subsections (5) and (6) of this section, if the plans, which may include such design work, are stamped by a registered engineer or architect.

NEW SECTION. Sec. 13. (1) An architect or architects may organize a corporation formed either as a business corporation under the provisions of Title 23A RCW or as a professional corporation under the provisions of chapter 18.100 RCW. For an architect or architects to practice architecture through a corporation or joint stock association organized by any person under Title 23A RCW, the corporation or joint stock association shall file with the board:

(a) The application for 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 under this chapter to practice architecture in this state;

(b) Its notices of incorporation and bylaws and a certified copy of a resolution of the board of directors of the corporation that designates individuals registered under this chapter as responsible for the practice of architecture by the corporation in this state and that provides that full

authority to make all final architectural decisions on behalf of the corporation with respect to work performed by the corporation in this state shall be granted and delegated by the board of directors to the individuals designated in the resolution. The filing of the resolution shall not relieve the corporation of any responsibility or liability imposed upon it by law or by contract; and

(c) A designation in writing setting forth the name or names of the person or persons registered under this chapter who are responsible for the architecture of the firm. If there is a change in the person or persons responsible for the architecture of the firm, the changes shall be designated in writing and filed with the board within thirty days after the effective date of the changes.

(2) Upon the filing with the board of the application for certificate of authorization, the certified copy of the resolution, and the information specified in subsection (1) of this section, the board shall authorize the director to issue to the corporation a certificate of authorization to practice architecture in this state upon a determination by the board that:

(a) The bylaws of the corporation contain provisions that all architectural decisions pertaining to any project or architectural activities in this state shall be made by the specified architects responsible for the project or architectural activities, or other responsible architects under the direction or supervision of the architects responsible for the project or architectural activities;

(b) The applicant corporation has the ability to provide, through qualified personnel, professional services or creative work requiring architectural experience, and with respect to the architectural services that the corporation undertakes or offers to undertake, the personnel have the ability to apply special knowledge to the professional services or creative work such as consultation, investigation, evaluation, planning, design, and administration of the construction contract in connection with any public or private structures, buildings, equipment, processes, works, or projects;

(c) The application for certificate of authorization contains the professional records of the designated person or persons who are responsible;

(d) The application for certificate of authorization states the experience of the corporation, if any, in furnishing architectural services during the preceding five-year period;

(e) The applicant corporation meets such other requirements related to professional competence in the furnishing of architectural services as may be established and promulgated by the board in furtherance of the purposes of this chapter; and

(f) The applicant corporation is possessed of the ability and competence to furnish architectural services in the public interest.

(3) Upon recommendation of the board, the director shall refuse to issue or may suspend or revoke a certificate of authorization to a corporation

if the board finds that any of the officers, directors, incorporators, or the stockholders holding a majority of stock of the corporation have committed an act prohibited under section 15 of this act or have been found personally responsible for misconduct under subsection (6) or (7) of this section.

(4) In the event a corporation, organized solely by a group of architects each registered under this chapter, applies for a certificate of authorization, the board may, in its discretion, grant a certificate of authorization to that corporation based on a review of the professional records of such incorporators, in lieu of the required qualifications set forth in subsections (1) and (2) of this section. In the event the ownership of such corporation is altered, the corporation shall apply for a revised certificate of authorization, based upon the professional records of the owners if exclusively architects, under the qualifications required by subsections (1) and (2) of this section.

(5) Any corporation authorized to practice architecture under this chapter, together with its directors and officers for their own individual acts, are responsible to the same degree as an individual registered architect and shall conduct their business without misconduct or malpractice in the practice of architecture as defined in this chapter.

(6) Any corporation that has been certified under this chapter and has engaged in the practice of architecture shall have its certificate of authorization either suspended or revoked by the board if, after a proper hearing, the board finds that the corporation has committed misconduct or malpractice under section 15 of this act. In such a case, any individual architect registered under this chapter who is involved in such misconduct is also subject to disciplinary measures provided in this chapter.

(7) All plans, specifications, designs, and reports when issued in connection with work performed by a corporation under its certificate of authorization shall be prepared by or under the direction of the designated architects and shall be signed by and stamped with the official seal of the designated architects in the corporation authorized under this chapter.

(8) For each certificate of authorization issued under this section there shall be paid a certification fee and an annual certification renewal fee as prescribed by the director under RCW 43.24.086.

(9) This chapter shall not affect the practice of architecture as a professional service corporation under chapter 18.100 RCW.

NEW SECTION. Sec. 14. (1) The renewal date for certificates of registration shall be set by the director in accordance with RCW 43.24.086. Registrants who fail to pay the renewal fee within thirty days of the due date shall pay all delinquent fees plus a penalty fee equal to one-third of the renewal fee. A registrant who fails to pay a renewal fee for a period of five years may be reinstated under such circumstances as the board determines. The renewal and penalty fees and the frequency of renewal assessment shall be authorized under this chapter. Renewal date for certificates of authorization shall be the anniversary of the date of authorization.

(2) Any registrant in good standing may withdraw from the practice of architecture by giving written notice to the director, and may within five years thereafter resume active practice upon payment of the then-current renewal fee. A registrant may be reinstated after a withdrawal of more than five years under such circumstances as the board determines.

NEW SECTION. Sec. 15. The board shall have the power to impose fines on any person practicing architecture in an amount not to exceed one thousand dollars for each offense and may reprimand a registrant and may suspend, revoke, or refuse to issue or renew a certificate of registration or authorization to practice architecture in this state upon the following grounds:

(1) Offering to pay, paying, or accepting, either directly or indirectly, any substantial gift, bribe, or other consideration to influence the award of professional work;

(2) Being wilfully untruthful or deceptive in any professional report, statement, or testimony;

(3) Having conviction in any court of any offense involving moral turpitude or fraud;

(4) Having a financial interest in the bidding for or the performance of a contract to supply labor or materials for or to construct a project for which employed or retained as an architect except with the consent of the client or employer after disclosure of such facts; or allowing an interest in any business to affect a decision regarding architectural work for which retained, employed, or called upon to perform;

(5) Signing or permitting a seal to be affixed to any drawings or specifications that were not prepared or reviewed by the architect or under the architect's personal supervision by persons subject to the architect's direction and control;

(6) Aiding or abetting any person not authorized to practice architecture under this chapter;

(7) Wilfully evading or trying to evade any law, ordinance, code, or regulation governing construction of buildings; or

(8) Violating any provision of this chapter or any regulation adopted under it.

NEW SECTION. Sec. 16. (1) The board may revoke or suspend a certificate of registration or a certificate of authorization to practice architecture in this state, or otherwise discipline a registrant or person authorized to practice architecture, as provided in this chapter.

(2) Proceedings for the revocation, suspension, refusal to issue, or imposition of a monetary fine may be initiated by the board on its own motion based on the complaint of any person. A copy of the charge or charges, along with a notice of the time and place of the hearing before the board shall be served on the registrant as provided for in chapter 34.04 RCW.

(3) All procedures related to hearings on such charges shall be in accordance with rules for a contested case in chapter 34.04 RCW, the administrative procedure act.

(4) If, after such hearing, the majority of the board vote in favor of finding the registrant guilty, the board shall take such disciplinary action as it deems appropriate under this chapter.

(5) The provisions of this section are in addition to and not in lieu of any other penalty or sanction provided by law.

NEW SECTION. Sec. 17. Any person who violates any provision of this chapter or any rule promulgated under it is guilty of a misdemeanor and may also be subject to a civil penalty in an amount not to exceed one thousand dollars for each offense.

(1) It shall be the duty of all officers in the state or any political subdivision thereof to enforce this chapter. Any public officer may initiate an action before the board to enforce the provisions of this chapter.

(2) The board may apply for relief by injunction without bond to restrain a person from committing any act that is prohibited by this chapter. In such proceedings, it is not necessary to allege or prove either that an adequate remedy at law does not exist or that substantial irreparable damage would result from the continued violation thereof. The members of the board shall not be personally liable for their actions in any such proceeding or in any other proceeding instituted by the board under this chapter. The board in any proper case shall cause prosecution to be instituted in any county or counties where any violation of this chapter occurs, and shall aid the prosecution of the violator.

(3) No person practicing architecture is entitled to maintain a proceeding in any court of this state relating to services in the practice of architecture unless it is alleged and proved that the person was registered or authorized under this chapter to practice or offer to practice architecture at the time the architecture services were offered or provided.

NEW SECTION. Sec. 18. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 323, Laws of 1959 and RCW 18.08.100;

(2) Section 2, chapter 323, Laws of 1959 and RCW 18.08.110;

(3) Section 3, chapter 323, Laws of 1959, section 27, chapter 34, Laws of 1975-'76 2nd ex. sess., section 21, chapter 287, Laws of 1984 and RCW 18.08.120;

(4) Section 4, chapter 323, Laws of 1959, section 194, chapter 35, Laws of 1982 and RCW 18.08.130;

(5) Section 5, chapter 323, Laws of 1959, section 18, chapter 292, Laws of 1971 ex. sess. and RCW 18.08.140;

(6) Section 6, chapter 323, Laws of 1959, section 1, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.08.150;

(7) Section 7, chapter 323, Laws of 1959 and RCW 18.08.160;

- (8) Section 8, chapter 323, Laws of 1959 and RCW 18.08.170;
- (9) Section 9, chapter 323, Laws of 1959 and RCW 18.08.180;
- (10) Section 10, chapter 323, Laws of 1959, section 1, chapter 266, Laws of 1971 ex. sess., section 2, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.08.190;
- (11) Section 11, chapter 323, Laws of 1959 and RCW 18.08.200;
- (12) Section 12, chapter 323, Laws of 1959, section 58, chapter 81, Laws of 1971 and RCW 18.08.210;
- (13) Section 13, chapter 323, Laws of 1959, section 3, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.08.220;
- (14) Section 14, chapter 323, Laws of 1959 and RCW 18.08.230;
- (15) Section 16, chapter 323, Laws of 1959 and RCW 18.08.250;
- (16) Section 17, chapter 323, Laws of 1959 and RCW 18.08.260; and
- (17) Section 18, chapter 323, Laws of 1959 and RCW 18.08.270.

NEW SECTION. Sec. 19. Sections 2 through 17 of this act are each added to chapter 18.08 RCW.

NEW SECTION. Sec. 20. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 5, 1985.

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CHAPTER 38

[Engrossed House Bill No. 601]

SELLING PRICE—ADVERTISED PRICE—CONDITIONS ON INCLUDING SALES TAX IN ADVERTISED PRICE

AN ACT Relating to excise taxes; amending RCW 82.08.050, 82.08.010, and 82.08.120; adding a new section to chapter 82.08 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 82.08.050, chapter 15, Laws of 1961 as last amended by section 7, chapter 299, Laws of 1971 ex. sess. and RCW 82.08.050 are each amended to read as follows:

The tax hereby imposed shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the tax payable in respect to each taxable sale in accordance with the schedule of collections adopted by the department pursuant to the provisions of RCW 82.08.060. The tax required by this chapter, to be collected by the seller, shall be deemed to be held in trust by the seller until paid to the department, and any seller who appropriates or converts the tax collected to his own use or to