

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

A Bill

HOUSE BILL 1269

4
5 By: Representative Garner
6
7

For An Act To Be Entitled

8
9 AN ACT TO TRANSFER VARIOUS STATE AGENCIES TO
10 PROMOTE EFFICIENCY IN STATE GOVERNMENT; AND FOR
11 OTHER PURPOSES.
12

Subtitle

13
14 AN ACT TO TRANSFER VARIOUS STATE
15 AGENCIES TO PROMOTE EFFICIENCY IN STATE
16 GOVERNMENT.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. (a) The State Board of Examiners of Alcoholism and Drug
22 Abuse Counselors, established by § 17-27-404, is abolished, and its powers
23 and duties are transferred to the Division of Behavioral Health of the
24 Department of Health and Human Services by a type 3 transfer as prescribed in
25 § 25-2-106.

26 (b) For purposes of this act, the Division of Behavioral Health of the
27 Department of Health and Human Services shall be considered a principal
28 department established by Acts 1971, No. 38.
29

30 SECTION 2. (a) The State Board of Registration for Professional
31 Geologists, established by § 17-32-201 et seq., is abolished, and its powers
32 and duties are transferred to the Arkansas Geological Commission by a type 3
33 transfer as prescribed in § 25-2-106.

34 (b) For purposes of this act, the Arkansas Geological Commission shall
35 be considered a principal department established by Acts 1971, No. 38.
36



1 SECTION 3. (a) The Arkansas State Board of Acupuncture and Related
 2 Techniques, established by § 17-102-201 et seq., is abolished, and its powers
 3 and duties are transferred to the Arkansas State Board of Massage Therapy and
 4 Related Techniques by a type 3 transfer as prescribed in § 25-2-106.

5 (b) For purposes of this act, the Arkansas State Board of Massage
 6 Therapy and Related Techniques shall be considered a principal department
 7 established by Acts 1971, No. 38.

8
 9 SECTION 4. (a) The Arkansas State Board of Registration for
 10 Professional Soil Classifiers, established by § 17-47-101 et seq., is
 11 abolished, and its powers and duties are transferred to the Arkansas Soil and
 12 Water Conservation Commission by a type 3 transfer as prescribed in § 25-2-
 13 106.

14 (b) For purposes of this act, the Arkansas Soil and Water Conservation
 15 Commission shall be considered a principal department established by Acts
 16 1971, No. 38.

17
 18 SECTION 5. (a) The State Board of Registered Interior Designers,
 19 established by § 17-35-101 et seq., is abolished, and its powers and duties
 20 are transferred to the Arkansas State Board of Architects and Registered
 21 Interior Designers by a type 3 transfer as prescribed in § 25-2-106.

22 (b) For purposes of this act, the Arkansas State Board of Architects
 23 and Registered Interior Designers shall be considered a principal department
 24 established by Acts 1971, No. 38.

25
 26 SECTION 6. (a) The State Board of Registered Residential Interior
 27 Designers, established by § 17-35-701 et seq., is abolished, and its powers
 28 and duties are transferred to the Arkansas State Board of Architects and
 29 Registered Interior Designers by a type 3 transfer as prescribed in § 25-2-
 30 106.

31 (b) For purposes of this act, the Arkansas State Board of Architects
 32 and Registered Interior Designers shall be considered a principal department
 33 established by Acts 1971, No. 38.

34
 35 SECTION 7. (a) The Abstracters' Board of Examiners, established by §
 36 17-11-201 et seq., is abolished, and its powers and duties are transferred to

1 the Arkansas Title Insurance Agents' and Abstractors' Licensing Board by a
2 type 3 transfer as prescribed in § 25-2-106.

3 (b) For purposes of this act, the Arkansas Title Insurance Agents' and
4 Abstractors' Licensing Board shall be considered a principal department
5 established by Acts 1971, No. 38.

6
7 SECTION 8. (a) The Arkansas Cemetery Board, established by § 20-17-
8 1004, is abolished, and its powers and duties are transferred to the State
9 Securities Department by a type 3 transfer as prescribed in § 25-2-106.

10 (b) For purposes of this act, the State Securities Department shall be
11 considered a principal department established by Acts 1971, No. 38.

12
13 SECTION 9. (a) The Arkansas State Board of Sanitaricians, established
14 by § 17-43-101, is abolished, and its powers and duties are transferred to
15 the Arkansas Pollution Control and Ecology Commission by a type 3 transfer as
16 prescribed in § 25-2-106.

17 (b) For purposes of this act, the Arkansas Pollution Control and
18 Ecology Commission shall be considered a principal department established by
19 Acts 1971, No. 38.

20
21 SECTION 10. Arkansas Code §§ 17-11-201 and 17-11-202 are repealed.
22 ~~17-11-201. Creation—Members.~~

23 ~~(a) There is created the Abstractors' Board of Examiners.~~

24 ~~(b)(1) The board shall consist of three (3) members, appointed by the~~
25 ~~Governor, subject to confirmation by the Senate, for a term of six (6) years.~~

26 ~~(2) Two (2) members shall have been actively engaged in the~~
27 ~~making of abstracts of real estate titles in the state for a period of five~~
28 ~~(5) years prior to appointment.~~

29 ~~(3) One (1) member shall be knowledgeable of the abstract~~
30 ~~business.~~

31 ~~(c) Vacancies on the board caused by death, resignation, or otherwise~~
32 ~~shall be filled by appointment of the Governor, subject to confirmation by~~
33 ~~the Senate.~~

34 ~~(d) No member shall be appointed to succeed himself or herself, and no~~
35 ~~two (2) members shall be appointed from the same county.~~

36 ~~(e) Each member of the board may receive expense reimbursement in~~

1 ~~accordance with § 25-16-901 et seq.~~

2
3 ~~17-11-202. Organization and proceedings.~~

4 ~~(a) The Abstracters' Board of Examiners shall organize by the election~~
5 ~~of a chair and secretary treasurer. The chair and secretary treasurer of the~~
6 ~~board shall have the power to administer oaths.~~

7 ~~(b) The board shall have a seal and shall have power to compel the~~
8 ~~attendance of witnesses.~~

9
10 SECTION 11. Arkansas Code § 17-11-203 is amended to read as follows:

11 17-11-203. Duties and powers.

12 (a)(1) ~~The Abstracters' Board of Examiners~~ Arkansas Title Insurance
13 Agents' and Abstracters' Licensing Board shall keep a register ~~wherein in~~
14 which there shall be entered the name of each applicant for registration and
15 certification, with his or her place of business and ~~such~~ other information
16 as may be deemed appropriate, including a notation of the action taken by the
17 board thereon and the date upon which the certificate of registration and
18 certificate of authority are issued.

19 (2) The board shall maintain ~~such~~ other records, registers, and
20 files as may be necessary for the proper administration of its duties under
21 this chapter.

22 (b) ~~It~~ The board may adopt rules and regulations as it ~~shall deem~~
23 deems necessary for the proper administration of its powers and duties and
24 the carrying out of the purposes of this chapter.

25 (c) The Chair of the Arkansas Title Insurance Agents' and Abstracters'
26 Licensing Board and the Secretary-treasurer of the Arkansas Title Insurance
27 Agents' and Abstracters' Licensing Board shall have the power to administer
28 oaths.

29 (d) The board shall have the power to compel the attendance of
30 witnesses.

31
32 SECTION 12. Arkansas Code § 17-11-204 is amended to read as follows:

33 17-11-204. Disposition of funds - ~~Abstracters' Examining~~ Arkansas
34 Title Insurance Agents' and Abstracters' Licensing Board Fund.

35 (a) All fees and charges collected under this chapter shall be paid by
36 the ~~Abstracters' Board of Examiners~~ Arkansas Title Insurance Agents' and

1 Abstracters' Licensing Board within a period of thirty (30) days after their
 2 receipt, together with a detailed statement ~~thereof~~ to the Treasurer of State
 3 who shall place the fees and charges collected under this chapter to the
 4 credit of the ~~Abstracters' Examining~~ Arkansas Title Insurance Agents' and
 5 Abstracters' Licensing Board Fund, which is ~~hereby~~ expressly created.

6 (b)(1) All moneys so paid into the State Treasury and credited to the
 7 fund, or so much ~~thereof~~ as may be needed, are appropriated to the use of the
 8 board under its direction for the payment of all expenses and expenditures
 9 incurred under ~~the provisions of~~ this chapter.

10 (2) The Auditor of State shall draw warrants against the fund,
 11 upon request of the board, for such expenses and expenditures, and the
 12 Treasurer of State shall pay the warrants out of the fund.

13 (3) No expenditures under this chapter shall be made except out
 14 of moneys in the fund.

15
 16 SECTION 13. Arkansas Code § 17-11-302(a), concerning application to
 17 become a registered abstracter, is amended to read as follows:

18 (a) Any person desiring to become a registered abstracter under this
 19 chapter shall make application to the ~~Abstracters' Board of Examiners~~
 20 Arkansas Title Insurance Agents' and Abstracters' Licensing Board for
 21 registration.

22
 23 SECTION 14. Arkansas Code § 17-11-303 is amended to read as follows:
 24 17-11-303. Certificate of registration - Examination.

25 The examination required under this chapter shall be in ~~such~~ form of
 26 written interrogatories as may be prescribed by the ~~Abstracters' Board of~~
 27 ~~Examiners~~ Arkansas Title Insurance Agents' and Abstracters' Licensing Board
 28 to determine the proficiency of the applicant.

29
 30 SECTION 15. Arkansas Code § 17-11-304(a), concerning registered
 31 abstracters, is amended to read as follows:

32 (a) If the applicant satisfactorily passes ~~such~~ the examinations and
 33 is of good moral character, the applicant shall be certified as a registered
 34 abstracter, and the certificate ~~herein~~ provided for shall be issued to him or
 35 her. The privileges granted by the certificate shall continue unless revoked,
 36 as ~~hereinafter~~ provided in this chapter, or unless the certificate is

1 otherwise surrendered to the ~~Abstracters' Board of Examiners~~ Arkansas Title
 2 Insurance Agents' and Abstracters' Licensing Board.

3
 4 SECTION 16. Arkansas Code § 17-11-305(a), concerning temporary
 5 certificates of registration, is amended to read as follows:

6 (a) The ~~Abstracters' Board of Examiners~~ Arkansas Title Insurance
 7 Agents' and Abstracters' Licensing Board upon application to it by any person
 8 succeeding to the ownership of any abstract plant or business by any means
 9 other than by purchase, or any person who by reason of the incapacity of any
 10 registered abstracter owner of any abstract plant or business is required to
 11 assume the operation of the abstract plant or business, may grant to the
 12 person without examination a temporary certificate of registration.

13
 14 SECTION 17. Arkansas Code § 17-11-320 is amended to read as follows:
 15 17-11-320. Certificate of authority required.

16 No person, firm, or corporation shall engage in the business of
 17 abstracting in this state until a certificate of authority has been issued to
 18 the person, firm, or corporation by the ~~Abstracters' Board of Examiners~~
 19 Arkansas Title Insurance Agents' and Abstracters' Licensing Board.

20
 21 SECTION 18. Arkansas Code § 17-11-321(a), concerning a certificate of
 22 authority, is amended to read as follows:

23 (a) Any person, firm, or corporation desiring to engage in the
 24 business of abstracting in this state shall make application to the
 25 ~~Abstracters' Board of Examiners~~ Arkansas Title Insurance Agents' and
 26 Abstracters' Licensing Board for a certificate of authority.

27
 28 SECTION 19. Arkansas Code § 17-11-322(b), concerning a certificate of
 29 authority, is amended to read as follows:

30 (b) Current and subsisting certificates of authority shall be renewed
 31 as provided for in this section for a one-year period upon payment of a
 32 renewal fee in the sum to be set by the ~~Abstracters' Board of Examiners~~
 33 Arkansas Title Insurance Agents' and Abstracters' Licensing Board.

34
 35 SECTION 20. Arkansas Code § 17-11-324(a)(1)(A), concerning a bond, is
 36 amended to read as follows:

1 (a)(1)(A) Before the certificate of authority ~~shall be~~ is issued, the
 2 applicant shall file with the ~~Abstracters' Board of Examiners~~ Arkansas Title
 3 Insurance Agents' and Abstracters' Licensing Board a bond approved by the
 4 board conditioned upon the payment by the applicant of any and all damages
 5 that may be sustained by or may accrue to any person, firm, or corporation
 6 for whom the applicant may compile, make, or furnish abstracts of title by
 7 reason of or on account of any error, deficiency, or mistake in any abstract
 8 or certificate, or any continuation ~~thereof~~, made or issued by the abstracter
 9 over its authorized signature and seal.

10
 11 SECTION 21. Arkansas Code § 17-11-340(a), concerning revocation of
 12 certificates, is amended to read as follows:

13 (a) The ~~Abstracters' Board of Examiners~~ Arkansas Title Insurance
 14 Agents' and Abstracters' Licensing Board is authorized, after a hearing as
 15 provided in § 17-11-341, to cancel and revoke any certificate of registration
 16 issued to any person under the provisions of this chapter:

- 17 (1) For a violation of any of the provisions of this chapter;
- 18 (2) Upon a conviction of the holder of such a certificate of a
 19 crime involving moral turpitude; or
- 20 (3) If the board finds the holder to be guilty of habitual
 21 carelessness or of fraudulent practices in the conduct of the business of
 22 abstracting.

23
 24 SECTION 22. Arkansas Code § 17-11-341(a)(1), concerning verified
 25 complaints, is amended to read as follows:

26 (a)(1) Upon a verified complaint being filed with the ~~Abstracters'~~
 27 ~~Board of Examiners~~ Arkansas Title Insurance Agents' and Abstracters'
 28 Licensing Board or upon the board's own motion filing a complaint charging
 29 the holder of a certificate of registration with a violation of any of the
 30 provisions of this chapter, or conviction of a crime involving moral
 31 turpitude, or with habitual carelessness or fraudulent practices in the
 32 conduct of the business of abstracting, or charging the holder of a
 33 certificate of authority with failure to furnish the bond or bonds, or other
 34 securities, required by § 17-11-324, or with failing to have employed a
 35 registered abstracter as provided in § 17-11-301, or with a violation of any
 36 of the provisions of this chapter, the board shall immediately notify in

1 writing by registered mail, with return receipt, the holder of the
 2 certificate of the filing of the complaint and furnish the holder with a copy
 3 of the complaint.

4
 5 SECTION 23. Arkansas Code § 17-11-342 is amended to read as follows:
 6 17-11-342. Seal.

7 Any licensee under ~~the provisions of~~ this chapter shall provide a seal,
 8 which shall have stamped ~~thereon~~ on the license the name of the licensee, and
 9 shall deposit with the ~~Abstracters' Board of Examiners~~ Arkansas Title
 10 Insurance Agents' and Abstracters' Licensing Board an impression of the seal
 11 and the names of all persons authorized to sign certificates to abstracts on
 12 behalf of the licensee.

13
 14 SECTION 24. Arkansas Code § 17-15-102 is amended to read as follows:
 15 17-15-102. Definitions.

16 As used in this chapter, unless the context otherwise requires:

17 (1) "Architect" means a person who is technically and legally
 18 qualified to practice architecture;

19 ~~(2) "Examining body" means the Arkansas State Board of~~
 20 ~~Architects as established by this chapter;~~

21 ~~(3)~~(2) "Direct supervision" means that degree of supervision by
 22 a person overseeing the work of another whereby the supervisor has both
 23 control over and detailed professional knowledge of the work prepared under
 24 his or her supervision;

25 ~~(4)~~(3)(A) "Good moral character" means character which will
 26 enable a person to discharge the fiduciary duties of an architect to his or
 27 her client and to the public for the protection of health, safety, and
 28 welfare.

29 (B) Evidence of inability to discharge such duties shall
 30 include the commission of an offense justifying discipline under § 17-15-308;

31 ~~(5)~~(4)(A)(i) "Practice of architecture" means the provision of,
 32 or offering to provide, those services hereinafter described in connection
 33 with the design and construction, enlargement, or alteration of a building or
 34 group of buildings, and the space within and surrounding such buildings,
 35 which is designed for human occupancy or habitation. The services referred to
 36 include planning, providing preliminary studies, designs, drawings,

1 specifications, and other technical submissions, and administration of
2 construction contracts.

3 (ii) Provided, that the practice of architecture
4 shall not include the practice of engineering as defined in the Arkansas
5 Engineering Act, § 17-30-101 et seq., or the practice of contracting as
6 defined in the Contractors Licensing Law, § 17-25-101 et seq., but a
7 registered architect may perform such engineering work as is incidental to
8 the practice of architecture, and an engineer may practice such architectural
9 work as is incidental to the practice of engineering.

10 (B) The provisions of this chapter affirm the legal
11 authority of an engineer licensed under the Arkansas Engineering Act, § 17-
12 30-101 et seq., to provide consultation, investigation, evaluation, planning,
13 and design of buildings intended for the accomodation of equipment, vehicles,
14 goods, and/or processes or other utilitarian function, with human occupancy
15 including office space as required for the support of these functions,
16 provided the engineer is practicing within his or her area of competency as
17 defined in the Arkansas Engineering Act, § 17-30-101 et seq;

18 ~~(6)~~(5) "Registered architect" means an architect holding a
19 current registration in the State of Arkansas;

20 ~~(7)~~(6) "Registration" means the certificate of registration
21 issued by the examining body; and

22 ~~(8)~~(7) "Technical submissions" means drawings, specifications,
23 studies, and other technical reports prepared in the course of practicing
24 architecture.

25

26 SECTION 25. Arkansas Code § 17-15-103 is amended to read as follows:
27 17-15-103. Penalties.

28 A person shall be guilty of a Class B misdemeanor each day of the
29 unlawful practice to constitute a distinct and separate offense if that
30 person:

31 (1) Practices or offers to practice the profession of
32 architecture in this state without being registered or exempted therefrom in
33 accordance with the provisions of this chapter;

34 (2) Gives any false or forged evidence of any kind to the
35 Arkansas State Board of Architects and Registered Interior Designers or to
36 any member thereof for the purpose of obtaining a certificate of

1 registration;

2 (3) Falsely impersonates any other registrant of like or
3 different name;

4 (4) Attempts to use an expired or revoked certificate of
5 registration; or

6 (5) Violates, or aids or abets any violation of, any of the
7 provisions of this chapter.

8

9 SECTION 26. Arkansas Code § 17-15-104 is amended to read as follows:
10 17-15-104. Enforcement.

11 (a) It shall be the duty of all duly constituted officers of the law
12 in this state, and of all political subdivisions, to enforce the provisions
13 of this chapter and to prosecute any persons violating its provisions.

14 (b) The Attorney General or his or her assistants shall act as legal
15 advisor to the Arkansas State Board of Architects and Registered Interior
16 Designers and shall render any legal assistance that may be necessary in
17 carrying out the provisions of this chapter. The examining body, in its
18 discretion, may employ other legal assistance that it may require.

19

20 SECTION 27. Arkansas Code § 17-15-105 is amended to read as follows:
21 17-15-105. Injunctions.

22 (a) The violation of any provision of this chapter, and the
23 construction of any structure in violation of its provisions, or any of them,
24 is declared to constitute a nuisance and a threat to the public health and
25 welfare and may be enjoined by the Arkansas State Board of Architects and
26 Registered Interior Designers in the circuit courts of this state, even
27 though the violation may be punishable by fine, the intention of this section
28 being to provide a speedy means of protecting the public.

29 (b) The examining body shall not be required to execute or give a bond
30 for cost, indemnity, or stay, as a condition to the issuance of a restraining
31 order or injunction, either temporary or permanent, in any court of this
32 state.

33

34 SECTION 28. Arkansas Code § 17-15-201 is amended to read as follows:
35 17-15-201. Members.

36 (a) The Arkansas State Board of Architects and Registered Interior

1 Designers shall consist of:

2 (1) The Dean of the University of Arkansas School of
3 Architecture. The dean shall be a nonvoting member; and

4 (2)(A) ~~Seven (7)~~ Eleven (11) members, appointed by the Governor
5 and confirmed by the Senate for terms of five (5) years, or until their
6 successors are duly appointed and qualified. The American Institute of
7 Architects - Arkansas Chapter shall recommend three (3) members of the
8 Arkansas chapter who are in good standing for appointment on the examining
9 body. The Governor is strongly encouraged to appoint the members nominated by
10 the American Institute of Architects - Arkansas Chapter.

11 (B) Of the ~~seven (7)~~ eleven (11) members appointed by the
12 Governor, five (5) shall be citizens of the United States, residents of this
13 state, and architects of recognized standing who have been engaged in the
14 independent practice of architecture for at least ten (10) years prior to
15 appointment.

16 (C) Of the ~~seven (7)~~ eleven (11) members appointed by the
17 Governor, two (2) shall be citizens of the United States and residents of
18 this state and shall not be actively engaged in or retired from the
19 architecture profession. One (1) shall represent consumers, and one (1) shall
20 be sixty (60) years of age or older and shall represent the elderly. Both
21 shall be appointed from the state at large subject to confirmation by the
22 Senate. The two (2) positions may not be held by the same person. Both shall
23 be full voting members but shall not participate in the grading of
24 examinations.

25 (D) Of the eleven (11) members appointed by the Governor,
26 four (4) shall be registered interior designers.

27 (b) Each member of the examining body shall receive a certificate of
28 his or her appointment from the Governor and before beginning his or her term
29 of office shall file with the Secretary of State his or her written oath for
30 the faithful discharge of his or her duties.

31 (c)(1) By due process of law, the Governor may remove any member of
32 the examining body for misconduct, incompetency, neglect of duty, or for any
33 malfeasance in office.

34 (2) Vacancies in the membership of the examining body shall be
35 filled for the unexpired term by appointment by the Governor as provided for
36 in subsection (a) of this section.

1 (3) If the Governor does not name a successor for an unexpired
 2 term or fill a vacancy within three (3) months after the term of a member has
 3 expired or a vacancy occurred, then the remaining members of the examining
 4 body shall be empowered to, and may, fill the vacancy by electing a member
 5 having the qualifications required by subsection (a) of this section to serve
 6 out the vacant term.

7 (d) Each member of the examining body may receive expense
 8 reimbursement in accordance with § 25-16-901 et seq.

9
 10 SECTION 29. Arkansas Code § 17-15-202 is amended to read as follows:
 11 17-15-202. Organization and proceedings.

12 (a) The Arkansas State Board of Architects and Registered Interior
 13 Designers shall hold at least two (2) meetings each year for the purpose of
 14 examining the candidates for registration and license. Special meetings shall
 15 be held at such times as the regularly adopted rules and regulations of the
 16 examining body shall provide.

17 (b) Three (3) members of the examining body shall constitute a quorum,
 18 but no action may be taken without at least three (3) votes in accord.

19 (c) The examining body shall adopt and have an official seal.

20 (d) The examining body shall annually elect a president, a secretary,
 21 and a treasurer. The offices of secretary and treasurer may be held by the
 22 same person, and there may be included in the election, if deemed advisable
 23 by the examining body, a vice president.

24 (e) All expenses incurred by the examining body for the administration
 25 of this chapter are to be defrayed by revenues provided for in this chapter.

26
 27 SECTION 30. Arkansas Code § 17-15-203 is amended to read as follows:
 28 17-15-203. Duties and powers.

29 (a) In accordance with the spirit and intent of the law, the Arkansas
 30 State Board of Architects and Registered Interior Designers shall make such
 31 rules and regulations as may be desirable or necessary for the performance of
 32 its duties and for carrying out the purposes of this chapter and may bring
 33 suit in its proper name to enforce, or restrain the violation of, any
 34 provision of this chapter.

35 (b)(1) In carrying into effect the provisions of this chapter, the
 36 examining body, under the hand of its president and the seal of the examining

1 body, may subpoena witnesses and compel their attendance and may require the
 2 production of books, papers, documents, etc., in any case involving
 3 revocation of registration.

4 (2) The president or the secretary may administer oaths or
 5 affirmations to witnesses appearing before the examining body.

6 (3) If any person shall refuse to obey any subpoena so issued or
 7 shall refuse to testify or produce any books, papers, or other documents, the
 8 examining body may present its petition to any court of record, setting forth
 9 the facts. Thereupon, the court shall, in a proper case, issue its subpoena
 10 to the person requiring his or her attendance before the court and there to
 11 testify or produce such books, papers, and documents as may be deemed
 12 necessary and pertinent. Any person failing or refusing to obey the subpoena
 13 or order of the court may be proceeded against in the same manner as for
 14 refusal to obey any other subpoena.

15 (c) The examining body or any committee thereof shall be entitled to
 16 the services of the Attorney General and the services of the prosecuting
 17 attorneys for the county and district in which enforcement is required. The
 18 examining body shall have the power to employ legal advice deemed necessary
 19 for the proper conduct of its affairs.

20 (d)(1) Once a complaint has been received in the office of the
 21 examining body, the examining body shall first send an advisory notice to the
 22 person or entity allegedly committing the violation informing the person or
 23 entity of the violation, a copy of the law or regulation being violated, and
 24 a statement notifying the person or entity that the person or entity must
 25 reply to the examining body. The advisory notice shall be sent by certified
 26 mail with restricted delivery. The examining body shall take appropriate
 27 action upon receiving the reply.

28 (2) If the person or entity fails to respond to the advisory
 29 notice, the examining body shall send a second notice advising the person or
 30 entity that if the person or entity does not respond within five (5) days,
 31 the examining body, in accordance with subdivision (d)(3) of this section,
 32 will hold a hearing on the alleged violation. The notice shall be sent by
 33 certified mail with restricted delivery. The examining body shall take
 34 appropriate action upon receiving the reply.

35 (3) If the person or entity fails to respond to the second
 36 notice or if the examining body determines that there is a violation of this

1 chapter or the rules and regulations promulgated thereunder, or both, after
 2 the advisory or second notice is sent, the examining body shall prepare an
 3 order and notice of hearing advising the person or entity of the date for the
 4 hearing to be held by the examining body. The order and notice of hearing
 5 shall be sent by certified mail with restricted delivery.

6 (4)(A)(i) After providing notice and a hearing, the examining
 7 body may levy civil penalties, in an amount not to exceed five thousand
 8 dollars (\$5,000) for each violation, against those individuals or entities
 9 found to be in violation of this chapter or rules and regulations promulgated
 10 thereunder.

11 (ii) All revenue received under this section shall
 12 be deposited in one (1) or more financial institutions in the state and shall
 13 be used for the purposes of defraying the expenses of the examining body as
 14 required for carrying out the provisions of this chapter.

15 (iii) These penalties shall be in addition to other
 16 penalties which may be imposed by the examining body pursuant to this
 17 chapter.

18 (iv) Unless the penalty assessed under this section
 19 is paid within fifteen (15) days following the date for an appeal from the
 20 order, the examining body shall have the power to file suit in the Circuit
 21 Court of Pulaski County to obtain a judgment for the amount of penalty not
 22 paid.

23 (B) All actions taken by the examining body shall comply
 24 with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

25
 26 SECTION 31. Arkansas Code § 17-15-204 is amended to read as follows:
 27 17-15-204. Records and reports.

28 (a) The Arkansas State Board of Architects and Registered Interior
 29 Designers shall keep a record of its proceedings and a register of all
 30 applications for registration, which shall show:

- 31 (1) Name, age, and residence of the applicant;
- 32 (2) Date of application;
- 33 (3) Educational and other qualifications;
- 34 (4) Whether or not an examination was required;
- 35 (5) Whether the applicant was rejected;
- 36 (6) Whether a certificate of registration was granted;

- 1 (7) Date of the action of the examining body; and
- 2 (8) Any other information as may be deemed necessary by the
- 3 examining body.

4 (b) A roster showing the names, residences, and places of business of
 5 all registered architects shall be prepared by the secretary of the examining
 6 body at least once each year. Copies of this roster shall be mailed to each
 7 person so registered and placed on file with the Secretary of State. Copies
 8 shall also be furnished to any public officials of this state upon request.

9 (c) Annually, as of November 1 of each year, the examining body shall
 10 submit to the Governor a summarized report of its transactions of the
 11 preceding year and shall also transmit to him or her a complete statement of
 12 the receipts and expenditures of the examining body, attested by affidavits
 13 of the president and treasurer.

14

15 SECTION 32. Arkansas Code § 17-15-205 is amended to read as follows:
 16 17-15-205. Continuing education.

17 (a) The Arkansas State Board of Architects and Registered Interior
 18 Designers may adopt ~~regulations~~ rules setting minimum standards of continuing
 19 education to ensure that all registered architects remain informed of those
 20 technical and professional subjects which the examining body deems
 21 appropriate to professional architectural practice.

22 (b) The examining body may by rules ~~and regulations~~ describe the
 23 methods by which such standards may be satisfied, and may provide that
 24 failure to satisfy the minimum standards shall be grounds for nonrenewal of
 25 an architect's certificate of registration.

26

27 SECTION 33. Arkansas Code § 17-15-301 is amended to read as follows:
 28 17-15-301. License required.

29 In order to safeguard life, health, and property, no person shall
 30 practice architecture in this state, or engage in preparing plans,
 31 specifications, or preliminary data for the erection or alteration of any
 32 building located within the boundaries of this state, or use the title
 33 "architect", or display or use any title, sign, card, advertisement, or other
 34 device to indicate that the person practices or offers to practice
 35 architecture, or is an architect, unless the person shall have secured from
 36 the Arkansas State Board of Architects and Registered Interior Designers a

1 certificate of registration and license in the manner hereinafter provided
 2 and shall thereafter comply with the provisions of this chapter governing the
 3 registration and licensing of architects.

4
 5 SECTION 34. Arkansas Code § 17-15-303 is amended to read as follows:
 6 17-15-303. Partnerships and corporations.

7 (a) A partnership or a corporation may be admitted to practice
 8 architecture in this state if:

9 (1) Two-thirds (2/3) of the partners, if a partnership, or two-
 10 thirds (2/3) of the directors, if a corporation, are registered under the
 11 laws of any state to practice architecture or engineering; and

12 (2) The person having the practice of architecture in his or her
 13 charge is himself or herself a partner, if a partnership, or a director, if a
 14 corporation, and registered to practice architecture in this state.

15 (b) The Arkansas State Board of Architects and Registered Interior
 16 Designers is authorized to require by regulation any partnership or
 17 corporation practicing architecture in this state to file information
 18 concerning its officers, directors, beneficial owners, and other aspects of
 19 its business organization upon such forms as the board prescribes.

20
 21 SECTION 35. Arkansas Code § 17-15-30 is amended to read as follows:
 22 17-15-304. Examinations.

23 (a) To be registered and licensed, an applicant must pass an
 24 examination for licensure.

25 (b)(1) To be qualified for admission to an examination to practice
 26 architecture in the State of Arkansas, an applicant must be at least twenty-
 27 one (21) years of age and of good moral character.

28 (2) In addition, the applicant shall have all the qualifications
 29 required for admission to either the written examination or the senior
 30 examination of the National Council of Architectural Registration Boards.

31 (c) The Arkansas State Board of Architects and Registered Interior
 32 Designers is empowered to make all necessary rules and regulations governing
 33 the content, grading, time, place, and method of conducting the examinations
 34 and may adopt the examinations and recommended grading procedures of the
 35 National Council of Architectural Registration Boards.

1 SECTION 36. Arkansas Code § 17-15-305 is amended to read as follows:
 2 17-15-305. Certification generally.

3 (a) Upon payment of the proper fee as provided for in this chapter,
 4 the Arkansas State Board of Architects and Registered Interior Designers
 5 shall issue a certificate of registration and license to any applicant who:

6 (1) In the opinion of the examining body, has satisfactorily met
 7 all the requirements of this chapter; or

8 (2) Has been previously issued certificates of registration and
 9 license by an examining body created pursuant to legislative enactment of the
 10 State of Arkansas. Certificates shall show a serial number and the full name
 11 of the registrant and shall bear the signatures of the president and
 12 secretary and the seal of the examining body.

13 (b) Issuance of a certificate of registration by the examining body
 14 shall be evidence that the person named therein is entitled to all the rights
 15 and privileges of a registered architect while the certificate remains
 16 unexpired and unrevoked. Certification shall be synonymous with registration,
 17 with the full meaning and effect of a license to practice architecture.

18 (c) Certificates of registration shall expire on July 31 of each year
 19 and shall become invalid on that date unless renewed.

20 (d) Renewal may be effected at any time during the month of July by
 21 payment of the renewal fee as provided in § 17-15-311.

22 (e) Upon issuing the initial certificate of registration, the
 23 examining body shall include a copy of the Arkansas Architectural Act, § 17-
 24 15-101 et seq. The licensee shall return a signed form to the examining body
 25 stating that he or she has read and understands the Arkansas Architectural
 26 Act, § 17-15-101 et seq.

27
 28 SECTION 37. Arkansas Code § 17-15-306 is amended to read as follows:
 29 17-15-306. Associate architects - Temporary license.

30 (a) Upon application therefor and the payment of a fee equivalent to
 31 that required for a regular written examination and certificate, the Arkansas
 32 State Board of Architects and Registered Interior Designers may issue a
 33 certificate of registration and license to any architect who holds an
 34 unexpired certificate of registration issued to him or her by any state or
 35 territory or possession of the United States, or any country, if:

36 (1) The requirements for the registration of architects under

1 which the certificate of registration was issued do not contravene the
 2 provisions of this chapter and are deemed the equivalent of requirements for
 3 registration in this state by examination; and

4 (2) The applicant submits such other evidence of his or her
 5 ability as may be required by the examining body.

6 (b) Upon application therefor and the payment of a fee equivalent to
 7 that required for a regular written examination and certificate, the
 8 examining body may issue a temporary certificate or license to any person
 9 filing with the examining body a copy of a contract of association with a
 10 licensed architect, in which contract the architect previously registered
 11 assumes responsibility for the professional acts, omissions, or failures to
 12 act of his or her associate. The term and scope of the temporary license
 13 shall not extend beyond the term and scope of the contract and shall be
 14 renewable yearly the same as other licenses. In the event of termination of
 15 the contract, the temporary license shall terminate.

16
 17 SECTION 38. Arkansas Code § 17-15-307 is amended to read as follows:
 18 17-15-307. Official seal.

19 (a) Upon registration, each registrant hereunder shall obtain a seal
 20 of such design as the Arkansas State Board of Architects and Registered
 21 Interior Designers shall authorize and direct. Plans and specifications
 22 prepared by, or under the direct supervision of, a registered architect shall
 23 be stamped with this seal during the life of the registrant's certificate. It
 24 shall be unlawful for anyone to stamp or seal any documents with the seal
 25 after the certificate of the registrant named thereon has expired or has been
 26 revoked unless the certificate shall have been renewed or reissued.

27 (b) No official of this state, or of any county, city, town, or
 28 village, now or hereafter charged with the enforcement of laws, ordinances,
 29 or regulations relating to the construction or alteration of buildings, shall
 30 accept or approve any plans or specifications which have not been prepared
 31 and submitted in full accord with all the provisions of this chapter. Nor
 32 shall any payment be approved by any public body for any work, the plans and
 33 specifications for which have not been so prepared and signed and sealed by
 34 the author.

35
 36 SECTION 39. Arkansas Code § 17-15-308 is amended to read as follows:

1 17-15-308. Grounds for revocation.

2 The Arkansas State Board of Architects and Registered Interior
3 Designers shall have the power to revoke the registration and license of any
4 architect upon proof:

5 (1) That the holder of the registration or certificate of
6 license is practicing in violation of this chapter or of the proper rules and
7 regulations of the examining body governing this chapter;

8 (2) That the license or certificate has been obtained by fraud
9 or misrepresentation or the person named therein has obtained it by fraud or
10 misrepresentation;

11 (3) That any money except the regular fees provided for, has
12 been paid for the license or certificate;

13 (4) That the holder of the license or certificate is falsely
14 impersonating a practitioner or former practitioner of a like or different
15 name or is practicing under an assumed or fictitious name;

16 (5) That the holder of the license or certificate has been
17 guilty of a felony;

18 (6) That the holder of the license or certificate has aided or
19 abetted in the practice of architecture any person not duly authorized to
20 practice architecture under the provisions of this chapter;

21 (7) That the holder of the license or certificate has been
22 guilty of fraud or deceit or of gross negligence or misconduct in the
23 practice of architecture;

24 (8) That the holder of the certificate has been guilty of gross
25 incompetency or recklessness in the construction or designing of buildings;

26 (9) That the holder of the license or certificate affixed, or
27 permitted to be affixed, his or her seal or name to any plans,
28 specifications, drawings, or related documents which were not prepared by him
29 or her or under his or her responsible supervisory control; or

30 (10) That the holder of the license or certificate has been
31 adjudged mentally incapable by a court of competent jurisdiction.

32
33 SECTION 40. Arkansas Code § 17-15-309 is amended to read as follows:
34 17-15-309. Revocation proceedings.

35 (a) Any person may prefer charges of fraud, deceit, gross negligence,
36 incompetency, or misconduct against any registrant. The charges shall be in

1 writing, shall be sworn to by the person making them, and shall be filed with
 2 the Secretary of the Arkansas State Board of Architects and Registered
 3 Interior Designers.

4 (b) All charges deemed worthy of consideration by the examining body
 5 shall be heard by the examining body within three (3) months after the date
 6 upon which they are received by the secretary.

7 (c) The time and place for the hearing shall be fixed by the examining
 8 body. A copy of the charges, together with a notice of the time and place of
 9 hearing, shall be personally served on the registrant accused or shall be
 10 mailed to the registrant at his or her last known address at least thirty
 11 (30) days before the date fixed for the hearing. At any hearing, the accused
 12 registrant shall have the right to appear personally and by counsel, to
 13 cross-examine witnesses appearing against him or her, and to produce evidence
 14 and witnesses in his or her own defense.

15 (d) If after the hearing four (4) or more members of the examining
 16 body vote in favor of finding the accused guilty, the examining body shall
 17 revoke the certificate of registration and license of the architect.

18
 19 SECTION 41 . Arkansas Code § 17-15-310 is amended to read as follows:
 20 17-15-310. Reissuance of certificate.

21 The Arkansas State Board of Architects and Registered Interior
 22 Designers, for reasons it may deem sufficient, may reissue a certificate of
 23 registration to any person whose certificate has lapsed or has been suspended
 24 or revoked, provided that no charges of violation of this act are pending in
 25 any court of record in this state and that three (3) or more members of the
 26 examining body vote in favor of reissuance.

27
 28 SECTION 42. Arkansas Code § 17-15-311 is amended to read as follows:
 29 17-15-311. Fees.

30 (a) For the purpose of defraying the expenses of the Arkansas State
 31 Board of Architects and Registered Interior Designers and as required for
 32 carrying out the provisions of this chapter, the following fees and penalties
 33 shall be paid:

34 (1) For an application for examination and registration, an
 35 amount to be fixed by the examining body which shall at no time exceed the
 36 sum of two hundred fifty dollars (\$250);

1 (2) For a certificate of registration by exemption, or by
 2 transfer of registration from another state or country, an amount to be fixed
 3 by the examining body which shall at no time exceed the sum of two hundred
 4 fifty dollars (\$250);

5 (3) For annual renewal of the registration certificate, an
 6 amount to be fixed by the examining body which shall at no time exceed the
 7 sum of one hundred dollars (\$100);

8 (4) For the restoration of a revoked certificate or revoked
 9 corporate registration, an amount to be fixed by the examining body which
 10 shall at no time exceed the annual renewal fees in effect plus a penalty of
 11 fifty dollars (\$50.00) for each month for the first three (3) months during
 12 which time the certificate has been revoked. Thereafter, an additional
 13 penalty of one hundred dollars (\$100) for the balance of one (1) year for a
 14 maximum penalty of two hundred fifty dollars (\$250); and

15 (5) For a certificate of registration for a corporation, an
 16 amount to be fixed by the examining body which shall at no time exceed the
 17 sum of two hundred fifty dollars (\$250).

18 (b)(1) All fees must accompany applications.

19 (2) No part of these fees shall be refunded except such part as
 20 may be refunded when no certificate is issued, as may be provided under the
 21 rules of the examining body.

22 (c) It shall be unlawful for any unregistered person to collect a fee
 23 for architectural services, except as an employee collecting a fee as a
 24 representative of a registered architect who has performed architectural
 25 services.

26
 27 SECTION 43. Arkansas Code § 17-15-312 is amended to read as follows:

28 17-15-312. Practice by architect not registered in Arkansas.

29 Nothing in this chapter shall be construed to prevent:

30 (1) A nonresident who holds the certification issued by the
 31 National Council of Architectural Registration Boards from offering to render
 32 the professional services involved in the practice of architecture, provided
 33 that for every project the person is involved in, he or she notifies the
 34 Arkansas State Board of Architects and Registered Interior Designers in
 35 writing that:

36 (A) He or she holds a National Council of Architectural

1 Registration Boards certificate and is not currently registered in Arkansas
 2 but will be present in Arkansas for the purposes of offering to render
 3 architectural services for a single project;

4 (B) He or she will deliver a copy of the notice referred
 5 to in subdivision (1)(A) of this section to every potential client to whom
 6 the applicant offers to render architectural services; and

7 (C) He or she promises to apply to the examining board
 8 within thirty (30) days for registration if selected as the architect for the
 9 project;

10 (2) A person who holds the certification issued by the National
 11 Council of Architectural Registration Boards but who is not currently
 12 registered in Arkansas from seeking an architectural commission by
 13 participating in a single architectural design competition for a project in
 14 Arkansas, provided that for every project the person is involved in, the
 15 person notifies the examining body in writing that:

16 (A) The person holds a National Council of Architectural
 17 Registration Boards certificate and is not currently registered in the
 18 jurisdiction but will be present in Arkansas for the purpose of participating
 19 in an architectural design competition;

20 (B) The person will deliver a copy of the notice referred
 21 to in subdivision (2)(A) of this section to every person conducting an
 22 architectural design competition in which the applicant participates; and

23 (C) The person promises to apply to the examining body
 24 within thirty (30) days after being selected as the architect for the
 25 project;

26 (3) A person who is not currently registered in this state but
 27 who is currently registered in another jurisdiction from providing
 28 uncompensated professional services at the scene of an emergency at the
 29 request of a public officer, public safety officer, or municipal or county
 30 building inspector acting in an official capacity. Emergency shall mean
 31 earthquake, eruption, flood, storm, hurricane, or other catastrophe which has
 32 been designated as a major disaster or emergency by the President of the
 33 United States or the Governor of Arkansas; and

34 (4) Individuals who possess a professional degree in
 35 architecture and are enrolled in the Intern Development Program of the
 36 National Council of Architectural Registration Boards or under the

1 jurisdiction of the Arkansas State Board of Architects may use the title
2 "Architectural Intern" or "Intern Architect" to identify themselves.

3
4 SECTION 44. Arkansas Code § 17-27-401 is amended to read as follows:
5 17-27-401. Definitions.

6 As used in this subchapter:

7 ~~(1) "Board" means the State Board of Examiners of Alcoholism and~~
8 ~~Drug Abuse Counselors created by this subchapter;~~

9 ~~(2)(1)~~ "Certified clinical supervisor" means a person certified
10 by the Arkansas Substance Abuse Certification Board or the ~~State Board of~~
11 ~~Examiners of Alcoholism and Drug Abuse Counselors~~ Division of Behavioral
12 Health of the Department of Health and Human Services to provide clinical
13 supervision for applicants for certification or licensure;

14 ~~(3)(2)~~ "Licensed alcoholism and drug abuse counselor" means a
15 person who renders for compensation alcoholism and drug abuse counseling or
16 alcoholism and drug abuse counseling-related services to an individual,
17 group, organization, corporation, institution, or to the general public, and
18 who holds a license issued by the ~~State Board of Examiners of Alcoholism and~~
19 ~~Drug Abuse Counselors~~ division or by another health or behavioral sciences
20 board to engage in the practice of alcoholism and drug abuse counseling;

21 ~~(4)(3)~~ "Practice of alcoholism and drug abuse counseling" means
22 the professional activity of helping individuals, groups, organizations,
23 corporations, institutions, or the general public to develop an understanding
24 of alcoholism and drug dependency problems and to define goals and plan
25 action reflecting the individual's or group's interest, abilities, and needs
26 as affected by claimed alcoholism and drug dependency problems. It includes
27 the professional application of values, principles, and techniques to one (1)
28 or more of the following ends:

- 29 (A) Counseling with individuals, families, and groups;
- 30 (B) Helping people obtain tangible services;
- 31 (C) Assisting communities or groups;
- 32 (D) Providing or improving social and health services; and
- 33 (E) Engaging in alcoholism and drug abuse education and

34 prevention through the appropriate administration of alcoholism and drug
35 abuse counseling services; and

36 ~~(5)(4)~~ "Supervised work experience" means paid or voluntary work

1 experience as an alcohol and drug abuse counselor who provides alcohol and
 2 drug abuse counseling services under the supervision of a credentialed
 3 alcohol and drug abuse counselor to persons with alcoholism or other drug
 4 dependency, or both.

5
 6 SECTION 45. Arkansas Code § 17-27-402 is amended to read as follows:
 7 17-27-402. Purpose.

8 (a) It is the purpose and policy of the State of Arkansas to protect
 9 the public from being misled by incompetent and unauthorized persons and from
 10 unprofessional conduct on the part of qualified alcoholism and drug abuse
 11 counselors by providing regulatory authority over persons who hold themselves
 12 out to the public as licensed alcoholism and drug abuse counselors under this
 13 subchapter.

14 (b) The purpose of this subchapter is to allow the ~~State Board of~~
 15 ~~Examiners of Alcoholism and Drug Abuse Counselors~~ Division of Behavioral
 16 Health of the Department of Health and Human Services to establish
 17 appropriate licensure and certification requirements and define the practice
 18 of alcoholism and drug abuse counseling and to promote high standards of
 19 professional performance for those engaged in the practice of alcoholism and
 20 drug abuse counseling by setting standards of qualification, training, and
 21 experience for those who seek to engage in the practice of alcoholism and
 22 drug abuse counseling under this subchapter.

23
 24 SECTION 46. Arkansas Code §§ 17-27-404 and 17-27-405 are repealed.
 25 ~~17-27-404. Establishment of licensure board.~~

26 ~~(a)(1) There is hereby created the State Board of Examiners of~~
 27 ~~Alcoholism and Drug Abuse Counselors to be composed of thirteen (13) members~~
 28 ~~who shall be appointed by the Governor.~~

29 ~~(2) Two (2) of the initial members shall be alcoholism and drug~~
 30 ~~abuse counselors certified by the Arkansas Substance Abuse Certification~~
 31 ~~Board who are licensed under the provisions of this subchapter and who have~~
 32 ~~rendered service, education, or research in alcoholism and drug abuse~~
 33 ~~counseling for at least five (5) years. Their successors shall be alcoholism~~
 34 ~~and drug abuse counselors licensed by the State Board of Examiners of~~
 35 ~~Alcoholism and Drug Abuse Counselors who have rendered service, education, or~~
 36 ~~research in alcoholism and drug abuse counseling for at least two (2) years.~~

1 ~~(3) Four (4) of the initial members shall be alcoholism and drug~~
 2 ~~abuse counselors certified by the Arkansas Substance Abuse Certification~~
 3 ~~Board who are licensed under the provisions of this subchapter and who have~~
 4 ~~rendered service, education, or research in alcoholism and drug abuse~~
 5 ~~counseling for at least two (2) years. Their successors shall be alcoholism~~
 6 ~~and drug abuse counselors licensed by the State Board of Examiners of~~
 7 ~~Alcoholism and Drug Abuse Counselors who have rendered service, education, or~~
 8 ~~research in alcoholism and drug abuse counseling for at least five (5) years.~~

9 ~~(4) Four (4) of the initial members shall be alcoholism and drug~~
 10 ~~abuse counselors certified by the Arkansas Substance Abuse Certification~~
 11 ~~Board who are licensed under the provisions of this subchapter and who engage~~
 12 ~~in the independent practice of alcoholism and drug abuse counseling. Their~~
 13 ~~successors shall be alcoholism and drug abuse counselors licensed by the~~
 14 ~~State Board of Examiners of Alcoholism and Drug Abuse Counselors who have~~
 15 ~~rendered service, education, or research in alcoholism and drug abuse~~
 16 ~~counseling for at least five (5) years.~~

17 ~~(5) One (1) member shall be licensed by an Arkansas health or~~
 18 ~~behavioral sciences board and hold a specialty in alcohol and drug abuse~~
 19 ~~counseling or addiction and a current license from his or her licensing~~
 20 ~~boards.~~

21 ~~(6) One (1) member shall be a licensed professional counselor~~
 22 ~~with a specialty in alcohol and drug abuse counseling or addiction.~~

23 ~~(7) One (1) member shall be a citizen at large who is not~~
 24 ~~associated with or financially interested in the practice or business~~
 25 ~~regulated.~~

26 ~~(b) The initial members of the State Board of Examiners of Alcoholism~~
 27 ~~and Drug Abuse Counselors shall be appointed so that three (3) members serve~~
 28 ~~a one-year term, three (3) members serve a two-year term, three (3) members~~
 29 ~~serve a three-year term, and four (4) members serve a four-year term.~~
 30 ~~Successor members shall serve four-year terms except that persons appointed~~
 31 ~~to fill vacancies resulting in an unexpired term shall serve for the~~
 32 ~~remainder of that unexpired term.~~

33 ~~(c) Upon the recommendation of the State Board of Examiners of~~
 34 ~~Alcoholism and Drug Abuse Counselors made after notice and hearing, the~~
 35 ~~Governor may remove any member of the State Board of Examiners of Alcoholism~~
 36 ~~and Drug Abuse Counselors for incompetence, neglect of duty, or malfeasance~~

1 ~~in office.~~

2 ~~(d) Any vacancy on the State Board of Examiners of Alcoholism and Drug~~
 3 ~~Abuse Counselors shall be filled by the Governor.~~

4 ~~(e) The Governor shall call the first board meeting and designate a~~
 5 ~~member to preside at that meeting. The State Board of Examiners of Alcoholism~~
 6 ~~and Drug Abuse Counselors shall elect annually from its membership a chair, a~~
 7 ~~vice chair, and a secretary. The State Board of Examiners of Alcoholism and~~
 8 ~~Drug Abuse Counselors shall meet as frequently as it deems necessary, at such~~
 9 ~~times and places as the State Board of Examiners of Alcoholism and Drug Abuse~~
 10 ~~Counselors designates. Additional meetings may be held upon the call of the~~
 11 ~~chair or upon the written request of five (5) members of the State Board of~~
 12 ~~Examiners of Alcoholism and Drug Abuse Counselors.~~

13 ~~(f) Seven (7) members of the State Board of Examiners of Alcoholism~~
 14 ~~and Drug Abuse Counselors shall constitute a quorum.~~

15
 16 ~~17-27-405. Compensation for board members.~~

17 ~~The members of the State Board of Examiners of Alcoholism and Drug~~
 18 ~~Abuse Counselors may receive a stipend of sixty dollars (\$60.00) per day for~~
 19 ~~each day of attendance at a board meeting plus expense reimbursement pursuant~~
 20 ~~to § 25-16-901 et seq. The stipend and expense reimbursement shall not be~~
 21 ~~made if available funds are insufficient for this purpose.~~

22

23 SECTION 47. Arkansas Code § 17-27-406 is amended to read as follows:

24 17-27-406. Powers and duties of board division.

25 (a) ~~The State Board of Examiners of Alcoholism and Drug Abuse~~
 26 ~~Counselors~~ Division of Behavioral Health of the Department of Health and
 27 Human Services shall administer and enforce the provisions of this subchapter
 28 and shall adopt rules ~~and regulations~~ consistent with its provisions,
 29 including a code of ethical practice.

30 (b) The board division shall review and act upon applications for
 31 licensure and certification at least four (4) times a year and shall regulate
 32 the renewal of licenses or certifications.

33 (c) The board division may conduct hearings on charges calling for the
 34 denial, revocation, or suspension of a license or certification, shall adopt
 35 rules for the conduct of the hearings, and shall cause the prosecution of all
 36 persons who violate any provisions of this subchapter or any rule ~~or~~

1 regulation promulgated pursuant to its provisions.

2 ~~(d) The board may sue and be sued in its own name.~~

3 ~~(e) The board may employ any persons it deems necessary to carry on~~
 4 ~~the work of the board and shall define their duties and fix their~~
 5 ~~compensation within the limits prescribed by law.~~

6 ~~(f)~~(d) The ~~board~~ division shall maintain a register of all individuals
 7 licensed or certified under ~~the provisions of~~ this subchapter. The register
 8 shall be a public record.

9 ~~(g)~~(e) The ~~board~~ division shall keep a complete record of all of its
 10 proceedings relating to this subchapter.

11 ~~(h)~~(f) The ~~board~~ division shall set by regulation a fee schedule for
 12 examination. The fees shall be set at a level sufficient to cover the cost of
 13 preparations, administration, and grading of the examination.

14
 15 SECTION 48. Arkansas Code § 17-27-407 is amended to read as follows:
 16 17-27-407. Board to enjoin violations.

17 When it appears to the ~~State Board of Examiners of Alcoholism and Drug~~
 18 ~~Abuse Counselors~~ Division of Behavioral Health of the Department of Health
 19 and Human Services that a person is violating any provisions of this
 20 subchapter, the ~~board~~ division or any member thereof shall not be required to
 21 furnish bond for any cost or filing fees in connection with the proceeding.

22
 23 SECTION 49. Arkansas Code § 17-27-408 is amended to read as follows:
 24 17-27-408. Alcoholism and drug abuse counselor - License requirements.

25 (a) The ~~State Board of Examiners of Alcoholism and Drug Abuse~~
 26 ~~Counselors~~ Division of Behavioral Health of the Department of Health and
 27 Human Services shall issue the license as a licensed alcoholism and drug
 28 abuse counselor to an applicant who meets the following requirements:

29 (1) Is at least twenty-one (21) years of age;

30 (2) Has successfully completed a minimum of three (3) years or
 31 six thousand (6,000) hours of supervised experience. Supervised experience
 32 must be approved and documented by a certified clinical supervisor in good
 33 standing with the ~~board~~ division;

34 (3) Has successfully completed a minimum of two hundred seventy
 35 (270) clock hours of approved education. Approved education must be directly
 36 related to alcoholism or drug abuse counseling subjects, theory, practice, or

1 research;

2 (4) Has submitted an application on a form provided by the ~~board~~
 3 division;

4 (5) Has certified under penalty of perjury as evidenced by a
 5 notarized signature on the application for licensure that all education and
 6 experience requirements have been met;

7 (6) Has submitted three (3) letters of reference;

8 (7) Has paid to the ~~board~~ division an examination fee fixed by
 9 the board;

10 (8) Has passed a national qualifying written examination and
 11 oral examination prescribed by the ~~board~~ division, sufficient to ensure
 12 professional competence in keeping with the highest standards of the
 13 alcoholism and drug abuse counseling profession;

14 (9) Has signed a written agreement to abide by the code of
 15 ethics adopted by the ~~board~~ division; and

16 (10) Holds a master's degree in the health or behavioral
 17 sciences field or other appropriate field from an accredited college or
 18 university.

19 (b) The license shall be displayed in the licensee's principal place
 20 of practice and shall entitle the licensee to hold himself or herself forth
 21 to the public as providing services as authorized by this subchapter.

22

23 SECTION 50. Arkansas Code § 17-27-409 is amended to read as follows:

24 17-27-409. Alcoholism and drug abuse associate - Certification
 25 requirements.

26 (a) ~~The State Board of Examiners of Alcoholism and Drug Abuse~~
 27 Counselors Division of Behavioral Health of the Department of Health and
 28 Human Services shall issue the certification as a certified alcoholism and
 29 drug abuse associate to an applicant who meets the following requirements:

30 (1) Is at least twenty-one (21) years of age;

31 (2) Has successfully completed a minimum of three (3) years or
 32 six thousand (6,000) hours of supervised experience. Supervised experience
 33 must be approved and documented by a certified clinical supervisor in good
 34 standing with the ~~board~~ division;

35 (3) Has successfully completed a minimum of two hundred seventy
 36 (270) clock hours of approved education. Approved education must be directly

1 related to alcoholism or drug abuse counseling subjects, theory, practice, or
 2 research;

3 (4) Has submitted an application on a form provided by the ~~board~~
 4 division;

5 (5) Has certified under penalty of perjury as evidenced by a
 6 notarized signature on the application for licensure that all education and
 7 experience requirements have been met;

8 (6) Has submitted three (3) letters of reference;

9 (7) Has paid to the ~~board~~ division an examination fee fixed by
 10 the ~~board~~ division;

11 (8) Has passed a national qualifying written examination and
 12 oral examination prescribed by the ~~board~~ division, sufficient to ensure
 13 professional competence in keeping with the highest standards of the
 14 alcoholism and drug abuse counseling profession;

15 (9) Has signed a written agreement to abide by the code of
 16 ethics adopted by the ~~board~~ division;

17 (10) Holds a baccalaureate degree in the health or behavioral
 18 sciences field or other appropriate field from an accredited college or
 19 university;

20 (11) Has successfully completed a minimum of two hundred seventy
 21 (270) additional clock hours of ~~board-approved~~ division-approved training;

22 (12) Has successfully completed a minimum of two (2) years or
 23 two thousand (2,000) hours of supervised direct counseling experience in the
 24 alcoholism or drug abuse counseling field, either paid or voluntary. For
 25 national reciprocity, a minimum of four thousand (4,000) hours is required.
 26 Supervised experience must be approved and documented by a certified clinical
 27 supervisor in good standing with the ~~board~~ division;

28 (13) Has successfully completed a minimum of three hundred (300)
 29 hours of supervised direct counseling practicum. Supervised experience must
 30 be approved and documented by a certified clinical supervisor in good
 31 standing with the ~~board~~ division. This practicum may be included in place of
 32 the requirement in subdivision (a)(12) of this section of two (2) years'
 33 experience; and

34 (14) Has successfully completed the written examination and oral
 35 examination for certification as a certified alcoholism and drug abuse
 36 associate.

1 (b) The certification shall be displayed in the associate's principal
 2 place of practice and shall entitle the individual to hold himself or herself
 3 forth to the public as providing services as authorized by this subchapter.

4 (c) Associates certified by the ~~board~~ division may engage in the
 5 practice of alcoholism and drug abuse counseling only while under the direct
 6 supervision of a licensed alcoholism and drug abuse counselor or other health
 7 professional licensed under other behavioral sciences or health boards and
 8 practicing alcoholism and drug abuse counseling.

9
 10 SECTION 51. Arkansas Code § 17-27-410 is amended to read as follows:

11 17-27-410. Alcoholism and drug abuse technician - Certification
 12 requirements.

13 (a) ~~The State Board of Examiners of Alcoholism and Drug Abuse~~
 14 ~~Counselors~~ Division of Behavioral Health of the Department of Health and
 15 Human Services shall issue the certification as a certified alcoholism and
 16 drug abuse technician to an applicant who meets the following requirements:

17 (1) Is at least twenty-one (21) years of age;

18 (2) Has successfully completed a minimum of three (3) years or
 19 six thousand (6,000) hours of supervised experience. Supervised experience
 20 must be approved and documented by a certified clinical supervisor in good
 21 standing with the ~~board~~ division;

22 (3) Has successfully completed a minimum of two hundred seventy
 23 (270) clock hours of approved education. Approved education must be directly
 24 related to alcoholism or drug abuse counseling subjects, theory, practice, or
 25 research;

26 (4) Has submitted an application on a form provided by the ~~board~~
 27 division;

28 (5) Has certified under penalty of perjury as evidenced by a
 29 notarized signature on the application for licensure that all education and
 30 experience requirements have been met;

31 (6) Has submitted three (3) letters of reference;

32 (7) Has paid to the ~~board~~ division an examination fee fixed by
 33 the ~~board~~ division;

34 (8) Has passed a national qualifying written examination and
 35 oral examination prescribed by the ~~board~~ division, sufficient to ensure
 36 professional competence in keeping with the highest standards of the

1 alcoholism and drug abuse counseling profession;

2 (9) Has signed a written agreement to abide by the code of
3 ethics adopted by the ~~board~~ division; and

4 (10) Holds a high school diploma or equivalent.

5 (b) The certification shall be displayed in the associate's principal
6 place of practice and shall entitle the individual to hold himself or herself
7 forth to the public as providing services as authorized by this subchapter.

8 (c) Technicians certified by the ~~board~~ division may engage in the
9 practice of alcoholism and drug abuse counseling only while under the direct
10 supervision of a licensed alcoholism and drug abuse counselor or other health
11 professional licensed under other behavioral sciences or health boards and
12 practicing alcohol and drug abuse counseling.

13 (d) Technicians shall not receive a license as a licensed alcoholism
14 and drug abuse counselor or a certificate as a certified alcohol and drug
15 abuse associate, unless the provisions of §§ 17-27-408 and 17-27-409 have
16 been met.

17
18 SECTION 52. Arkansas Code § 17-27-411 is amended to read as follows:
19 17-27-411. Certified clinical supervisors.

20 ~~The State Board of Examiners of Alcoholism and Drug Abuse Counselors~~
21 Division of Behavioral Health of the Department of Health and Human Services
22 may issue certificates to persons who meet the qualifications and standards
23 established by the ~~board~~ division for certified clinical supervisors.

24
25 SECTION 53. Arkansas Code § 17-27-412 is amended to read as follows:
26 17-27-412. Grandfather clause.

27 (a) ~~The State Board of Examiners of Alcoholism and Drug Abuse~~
28 Counselors Division of Behavioral Health of the Department of Health and
29 Human Services shall issue the appropriate license or certificate to any
30 person who holds a current valid certification from the Arkansas Substance
31 Abuse Certification Board as a certified substance abuse counselor or other
32 such persons holding a valid license under other health or behavioral science
33 boards and practicing alcoholism and drug abuse counseling and who:

34 (1) Is in good standing with the ~~State Board of Examiners of~~
35 Alcoholism and Drug Abuse Counselors division;

36 (2) Has submitted an application to the ~~State Board of Examiners~~

1 ~~of Alcoholism and Drug Abuse Counselors~~ division on a form provided by the
 2 ~~board~~ division;

3 (3) Has paid to the ~~State Board of Examiners of Alcoholism and~~
 4 ~~Drug Abuse Counselors~~ division an application fee; and

5 (4) Has signed a written agreement to abide by the code of
 6 ethics adopted by the ~~State Board of Examiners of Alcoholism and Drug Abuse~~
 7 ~~Counselors~~ division.

8 (b)(1) Except as provided in subdivisions (b)(2) and (3) of this
 9 section, no person shall be grandfathered under the provisions of this
 10 section unless that person has the required educational qualification as
 11 required by this subchapter.

12 (2) Each person currently credentialed with a Certified Alcohol
 13 and Drug Counselor designation from the Arkansas Substance Abuse
 14 Certification Board who applies to the ~~State Board of Examiners of Alcoholism~~
 15 ~~and Drug Abuse Counselors~~ division within sixty (60) days of August 13, 2001,
 16 and who is in good standing shall be grandfathered as a licensed associate
 17 alcoholism and drug abuse counselor.

18 (3) Each person currently credentialed with an Advanced Alcohol
 19 and Drug Counselor designation from the Arkansas Substance Abuse
 20 Certification Board who applies to the ~~State Board of Examiners of Alcoholism~~
 21 ~~and Drug Abuse Counselors~~ division within sixty (60) days of August 13, 2001,
 22 and is in good standing shall be grandfathered as a licensed alcoholism and
 23 drug abuse counselor.

24
 25 SECTION 54. Arkansas Code § 17-27-413 is amended to read as follows:
 26 17-27-413. License and certificate renewal - Fee - Waiver.

27 (a) Each licensed alcoholism and drug abuse counselor, certified
 28 alcoholism and drug abuse associate, and certified alcoholism and drug abuse
 29 technician shall renew his or her license or certificate every two (2) years
 30 and shall pay the ~~State Board of Examiners of Alcoholism and Drug Abuse~~
 31 ~~Counselors~~ Division of Behavioral Health of the Department of Health and
 32 Human Services a renewal fee fixed by the ~~board~~ division.

33 (b) Renewal fees shall be waived for any licensee or person certified
 34 actually serving in the armed forces of the United States. The waiver shall
 35 be effective for six (6) months following honorable discharge, separation, or
 36 release from the armed forces, after which period a license or certificate

1 shall be considered lapsed.

2 (c) The ~~board~~ division, at its discretion, may require continuing
 3 education as a condition of license or certificate renewal.

4

5 SECTION 55. Arkansas Code § 17-27-414 is amended to read as follows:

6 17-27-414. Grievance procedure - Denial, revocation, or suspension of
 7 license or certificate - Appeals.

8 (a) The ~~State Board of Examiners of Alcoholism and Drug Abuse~~
 9 ~~Counselors~~ Division of Behavioral Health of the Department of Health and
 10 Human Services may hear the grievances of any person whose application for a
 11 license or certificate has been denied.

12 (b) The ~~board~~ division may deny, revoke, or suspend any license or
 13 certificate upon proof that the person has willfully or repeatedly violated
 14 any of the provisions of this subchapter or any rule ~~or regulation~~
 15 promulgated by the ~~board~~ division or upon proof that a person has practiced
 16 outside the scope of practice for which he or she is licensed or certified
 17 under this subchapter.

18 (c) The ~~board~~ division shall not suspend, revoke, or refuse to renew a
 19 license or certificate, except after a hearing held before the ~~board~~
 20 division, upon notice to the person charged.

21 (d) The notice shall be in writing, shall state the nature of the
 22 charges, the time and place of the hearing, and shall be served on the person
 23 charged by certified mail not less than thirty (30) days prior to the date of
 24 the hearing.

25 (e) The person charged may appear in person or by counsel, may
 26 testify, and may produce evidence and witnesses on his or her own behalf, may
 27 cross-examine witnesses, and shall be entitled on application to the ~~board~~
 28 division to the issuance of subpoenas to compel the attendance of witnesses
 29 and the production of documentary evidence.

30 (f) The ~~board~~ division or its authorized representative on his or her
 31 behalf shall have the authority to issue subpoenas to compel the attendance
 32 of witnesses and the production of documents and may administer oaths. The
 33 ~~board~~ division may invoke the aid of the circuit court for the county in
 34 which the hearing is held to enforce compliance with its subpoenas.

35 (g) A stenographic or mechanical record of the hearing shall be taken,
 36 and a transcript shall be preserved by the ~~board~~ division.

1 (h) At all hearings before the ~~board~~ division, the Attorney General of
 2 the State of Arkansas or one (1) of his or her assistants designated by him
 3 or her shall appear and represent the ~~board~~ division.

4 (i) The decision of the ~~board~~ division shall be by a majority vote
 5 thereof.

6 (j) A copy of the ~~board's~~ division's order shall be sent by certified
 7 mail to the last known address of the person charged.

8 (k) The ~~board~~ division may grant a rehearing when new and material
 9 evidence is offered for its consideration.

10 (l) Any person aggrieved by a final order of the ~~board~~ division,
 11 within thirty (30) days of the entry of the order, may appeal to the circuit
 12 court of the county in which he or she resides. The appeal shall be
 13 determined by the court upon the certified record, and no new or additional
 14 evidence shall be heard or considered by the court.

15
 16 SECTION 56. Arkansas Code § 17-27-415 is amended to read as follows:

17 17-27-415. Funding of ~~board~~ division.

18 All moneys received by the ~~State Board of Examiners of Alcoholism and~~
 19 ~~Drug Abuse Counselors~~ Division of Behavioral Health of the Department of
 20 Health and Human Services under this subchapter shall be deposited in one (1)
 21 or more financial institutions in this state. The moneys shall be used for
 22 the operation of the ~~board~~ division.

23
 24 SECTION 57. Arkansas Code § 17-32-102 is amended to read as follows:

25 17-32-102. Definitions.

26 As used in this chapter:

27 ~~(1) "Board" means the State Board of Registration for~~
 28 ~~Professional Geologists;~~

29 ~~(2)(1)~~ (1) "Geologist" means a person engaged in the practice of
 30 geology;

31 ~~(3)(2)~~ (2) "Geologist-in-training" means a person who meets all
 32 requirements for registration except length of experience and who has applied
 33 for and has been approved by the ~~board~~ Arkansas Geological Commission for
 34 registration. Upon completion of his or her required length of experience and
 35 after review by the ~~board~~ commission, he or she may be granted the title of
 36 registered geologist;

1 ~~(4)~~(3) "Geology" means that science which treats of the earth in
 2 general, investigation of the earth's crust and the rocks and other materials
 3 which compose it, and the applied science of utilizing knowledge of the earth
 4 and its constituent rocks, minerals, liquids, gases, and other materials for
 5 the benefit of mankind;

6 ~~(5)~~(4)(A) "Public practice of geology" means any professional
 7 service, work, or activity requiring formal geological education, training,
 8 and experience and the understanding and application of special knowledge of
 9 the mathematical, physical, and geological sciences as may be related to
 10 those services.

11 (B) A person shall be construed to publicly practice
 12 geology or offer to publicly practice geology if that person:

13 (i) Practices any branch of the profession of
 14 geology;

15 (ii) By verbal claim, sign, advertisement,
 16 letterhead, card, or in any other way represents himself or herself to be a
 17 geologist or, through the use of some other title, implies that he or she is
 18 a geologist;

19 (iii) Represents that he or she is registered under
 20 this chapter; or

21 (iv) Holds himself or herself out as able to perform
 22 or does perform any geological services or work recognized as geology.

23 (C) ~~The State Board of Registration for Professional~~
 24 ~~Geologists~~ commission shall have authority to expand by rule the definition
 25 of public practice of geology, as provided in § 17-32-204;

26 ~~(6)~~(5) "Qualified geologist" means a person who is not
 27 registered under this chapter but who possesses all the qualifications
 28 specified in this chapter for registration;

29 ~~(7)~~(6) "Registered certified specialty geologist" means a person
 30 who is certified as a specialty geologist under this chapter;

31 ~~(8)~~(7) "Registered geologist" means a person who is registered
 32 as a geologist under this chapter;

33 ~~(9)~~(8) "Responsible charge of work" means the independent
 34 control and direction of geological work or the supervision of that work by
 35 the use of initiative, skill, and independent judgment; and

36 ~~(10)~~(9) "Subordinate" means any person who assists a registered

1 geologist or a registered engineer in the practice of geology without
 2 assuming the responsible charge of work.

3

4 SECTION 58. Arkansas Code § 17-32-103 is amended to read as follows:
 5 17-32-103. Penalty.

6 (a) Any person who violates this chapter or who does any of the
 7 following shall be guilty of a Class B misdemeanor:

8 (1) Publicly practices or offers to publicly practice geology
 9 for others in this state without being registered in accordance with this
 10 chapter;

11 (2) Presents or attempts to use as his or her own the
 12 certificate of registration or the seal of another;

13 (3) Gives any false or forged evidence of any kind to the ~~State~~
 14 ~~Board of Registration for Professional Geologists~~ Arkansas Geological
 15 Commission or to any member of the ~~board~~ commission in obtaining a
 16 certificate of registration;

17 (4) Falsely impersonates any other registrant of like or
 18 different name; or

19 (5) Attempts to use an expired or revoked certificate of
 20 registration or attempts to practice at any time during a period when the
 21 ~~board~~ commission has suspended or revoked his or her certificate of
 22 registration.

23 (b) Any person who violates any provision of this chapter or any rule
 24 promulgated under this chapter shall be assessed a civil penalty by the ~~board~~
 25 commission not to exceed two thousand dollars (\$2,000).

26 (c) Each day of any violation of this chapter shall constitute a
 27 separate offense.

28

29 SECTION 59. Arkansas Code § 17-32-104 is amended to read as follows:
 30 17-32-104. Legal and other assistance.

31 (a) The Attorney General or one of his or her assistants shall act as
 32 legal adviser to the ~~State Board of Registration for Professional Geologists~~
 33 Arkansas Geological Commission and render legal assistance needed to
 34 implement and enforce the provisions of this chapter and the rules ~~and~~
 35 ~~regulations~~ of the ~~board~~ commission.

36 (b) The ~~board~~ commission may employ additional counsel with approval

1 of the Attorney General and any other necessary assistance to aid in the
 2 enforcement of this chapter and the ~~regulations~~ rules of the ~~board~~
 3 commission.

4 (c) The ~~board~~ commission may pay reasonable expenses incurred by the
 5 ~~board~~ commission for the administration of this chapter.

6
 7 SECTION 60. Arkansas Code § 17-32-106 is amended to read as follows:
 8 17-32-106. Injunction - Liability of board.

9 (a)(1) Upon proper determination that any person has violated the
 10 provisions of this chapter, the ~~State Board of Registration for Professional~~
 11 ~~Geologists~~ Arkansas Geological Commission may seek an injunction in the
 12 proper court of the county in which the violation occurred for the purpose of
 13 restraining or prohibiting a violation of this chapter.

14 (2) An injunction obtained pursuant to subdivision (a)(1) of
 15 this section shall be issued without bond.

16 (b) The members of the ~~board~~ commission acting in good faith may not
 17 be found personally liable for a proceeding commenced pursuant to this
 18 section.

19
 20 SECTION 61. Arkansas Code §§ 17-32-201-17-32-203 are repealed.

21 ~~17-32-201. Creation - Members - Compensation.~~

22 ~~(a)(1) There is created the State Board of Registration for~~
 23 ~~Professional Geologists.~~

24 ~~(2) It shall be the duty of the board to administer this chapter~~
 25 ~~and promulgate regulations for registration of qualified geological~~
 26 ~~applicants.~~

27 ~~(3) The board shall comprise:~~

28 ~~(A) Five (5) members who shall be registered geologists,~~
 29 ~~one (1) of whom shall be an academic geologist, one (1) a governmental~~
 30 ~~geologist, one (1) a salaried company geologist, one (1) an independent or~~
 31 ~~consultant geologist, and one (1) a geologist at large;~~

32 ~~(B) One (1) additional member who shall be appointed from~~
 33 ~~the public at large and who shall have no connection whatsoever with the~~
 34 ~~practice of geology; and~~

35 ~~(C) The Director of the Arkansas Geological Commission, or~~
 36 ~~his or her designated agent, as a permanent ex officio member.~~

1 ~~(b) The members of the board shall be appointed by the Governor and~~
 2 ~~confirmed by the Senate.~~

3 ~~(c) Each member of the board shall be a citizen of the United States~~
 4 ~~and shall have been a resident of this state for the two (2) years~~
 5 ~~immediately preceding his or her appointment.~~

6 ~~(d) The members shall serve five year terms.~~

7 ~~(e) No person shall serve as a member of the board for more than one~~
 8 ~~(1) consecutive five year term.~~

9 ~~(f) The Governor may remove any member of the board for misconduct,~~
 10 ~~incompetency, neglect of duty, or any other sufficient cause. Vacancies in~~
 11 ~~the membership of the board shall be filled for the unexpired term by~~
 12 ~~appointment by the Governor.~~

13 ~~(g) Before entering upon the discharge of their duty, the members of~~
 14 ~~the board shall subscribe to and file with the Secretary of State the~~
 15 ~~constitutional oath of officers, whereupon the Secretary of State shall issue~~
 16 ~~to each appointee a certificate of appointment.~~

17 ~~(h) The members of the board may receive expense reimbursement in~~
 18 ~~accordance with § 25-16-901 et seq. Board members, except the secretary-~~
 19 ~~treasurer, shall serve without compensation.~~

20
 21 ~~17-32-202. Meeting—Notice.~~

22 ~~(a) The State Board of Registration for Professional Geologists shall~~
 23 ~~hold a meeting within thirty (30) days after appointment and thereafter shall~~
 24 ~~hold at least two (2) regular meetings each year.~~

25 ~~(b)(1) An affirmative vote of a majority of a quorum present shall be~~
 26 ~~necessary to transact business.~~

27 ~~(2) The chair shall not vote unless there is a tie vote among~~
 28 ~~the board members, in which case his or her vote will be allowed for a~~
 29 ~~majority.~~

30 ~~(c) Regulations adopted by the board may provide for such additional~~
 31 ~~regular meetings as necessary and for special meetings.~~

32 ~~(d) Notice of all meetings shall be given as may be provided in the~~
 33 ~~regulations.~~

34
 35
 36 ~~17-32-203. Officers—Temporary assistance.~~

1 ~~(a) The State Board of Registration for Professional Geologists shall~~
 2 ~~elect a chair, vice chair, and secretary treasurer from among its members.~~
 3 ~~Elections shall be held annually and on a basis in which the officers will~~
 4 ~~serve for a period of one (1) year. Chairmanship shall be rotated annually~~
 5 ~~among the members~~

6 ~~(b) Administrative assistance, clerical work, and supplies will be~~
 7 ~~provided by the Arkansas Geological Commission until such time as the board~~
 8 ~~may assume those responsibilities.~~

9
 10 SECTION 62. Arkansas Code § 17-32-204 is amended to read as follows:
 11 17-32-204. Powers and duties generally.

12 In addition to other powers and duties specified in this chapter, the
 13 ~~State Board of Registration for Professional Geologists~~ Arkansas Geological
 14 Commission shall:

- 15 (1) Adopt, after notice and public hearing, modify, repeal,
 16 promulgate, and enforce regulations reasonably necessary to:
- 17 (A) Implement or effectuate its powers and duties;
 - 18 (B) Regulate proceedings before the ~~board~~ commission; and
 - 19 (C) Define terms in this chapter that are otherwise
- 20 undefined, including, but not limited to, the professional services, works,
 21 and activities that constitute the public practice of geology as defined in §
 22 17-32-102;
- 23 (2) Be subject to the Arkansas Administrative Procedure Act, §
 24 25-15-201 et seq.;
- 25 (3) Adopt and have an official seal; and
- 26 (4) Have such other powers and duties as are necessary to
 27 implement this chapter.

28
 29 SECTION 63. Arkansas Code § 17-32-205 is amended to read as follows:
 30 17-32-205. Code of professional conduct.

31 ~~(a)(1) The State Board of Registration for Professional Geologists~~
 32 Arkansas Geological Commission shall cause to have prepared and shall adopt a
 33 code of professional conduct which shall be made known in writing to every
 34 registrant and applicant for registration under this chapter and which shall
 35 be published in the roster provided for in this chapter.

36 (2) This publication shall constitute due notice to all

1 registrants.

2 (b)(1) The ~~board~~ commission may revise and amend this code of ethics
3 from time to time.

4 (2) The ~~board~~ commission shall immediately notify each
5 registrant in writing of any revisions or amendments.

6

7 SECTION 64. Arkansas Code § 17-32-206 is amended to read as follows:
8 17-32-206. Witnesses and documents - Subpoenas.

9 (a) In carrying into effect this chapter, the ~~State Board of~~
10 ~~Registration for Professional Geologists~~ Arkansas Geological Commission or
11 its hearing examiner may compel the attendance of witnesses and the
12 production of such books, records, and papers as may be required. For this
13 purpose, the ~~board~~ commission or the hearing examiner, at the request of any
14 party or on its own initiative, may issue a subpoena for any witness or a
15 subpoena to compel the production of any books, records, or papers.

16 (b) Subpoenas shall be issued and enforced in accordance with the
17 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

18

19 SECTION 65. Arkansas Code § 17-32-207 is amended to read as follows:
20 17-32-207. Official records and registers - Publication and
21 accounting.

22 (a)(1) The ~~State Board of Registration for Professional Geologists~~
23 Arkansas Geological Commission shall keep a public record of its proceedings
24 and a register of all applications for registration.

25 (2) The register shall show:

26 (A) The name, age, and residence of each applicant;

27 (B) The date of application;

28 (C) The place of business of the applicant;

29 (D) The applicant's education and other qualifications;

30 (E) Whether or not an examination was required;

31 (F) Whether the applicant was registered;

32 (G) Whether a certificate of registration was granted;

33 (H) The dates of the action by the ~~board~~ commission; and

34 (I) Such other information as may be deemed necessary by
35 the ~~board~~ commission.

36 (b) All official records of the ~~board~~ commission, or affidavits by the

1 secretary-treasurer as to the content of such records, shall be prima facie
 2 evidence of all matters required to be kept therein.

3 (c)(1) A complete roster showing the names, the classification, which
 4 will be geologist, specialty, or geologist-in-training, and the last known
 5 address of the registered geologists or certified geologists-in-training
 6 shall be published by the ~~secretary-treasurer of the board~~ Director of the
 7 Arkansas Geological Commission one (1) time each year or at such intervals as
 8 established by ~~board~~ commission regulations.

9 (2) Copies of the roster shall be placed on file with the
 10 Secretary of State and county officials.

11 (3) Copies may be sent to cities requesting the information and
 12 may be distributed or sold to the public.

13 (d) At the end of the fiscal year, the board shall submit to the
 14 Governor and the General Assembly a complete statement of the receipts and
 15 expenditures of the ~~board~~ commission.

16 (e) The ~~board~~ commission records shall be subject to audit by the
 17 Legislative Audit Division of the Legislative Joint Auditing Committee.

18
 19 SECTION 66. Arkansas Code § 17-32-208 is amended to read as follows:
 20 17-32-208. ~~Secretary-treasurer~~ Director, assistants - Indebtedness.

21 (a)(1) The ~~Secretary-treasurer of the State Board of Registration for~~
 22 ~~Professional Geologists~~ Director of the Arkansas Geological Commission shall
 23 receive and account for all moneys received in accordance with state law and
 24 the ~~regulations~~ rules of the ~~board~~ commission.

25 (2) These moneys shall be deposited in a financial institution
 26 located in this state and shall be disbursed only by the ~~secretary-treasurer~~
 27 director.

28 (b) The ~~secretary-treasurer~~ director shall receive such salary as the
 29 ~~board~~ commission determines within the limits set forth by the General
 30 Assembly.

31 (c) The ~~board~~ commission shall employ assistants required to properly
 32 perform its work and shall make expenditures from this account for any
 33 purpose that, in the opinion of the ~~board~~ commission, is reasonably necessary
 34 to perform its duties under law and its rules ~~and regulations~~.

35 (d) The ~~board~~ commission shall have no authority to incur
 36 indebtedness.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

SECTION 67. Arkansas Code § 17-32-302 is amended to read as follows:
17-32-302. Persons subject to provisions - Exemptions.

(a) Except as specifically exempted by this section, every person who shall publicly practice or offer to publicly practice geology in this state is subject to this chapter. The following persons are exempt:

(1) Persons engaged solely in teaching the science of geology or engaged in nonpublic geologic research in this state;

(2) Officers and employees of the United States or this state practicing solely as such officers or employees; and

(3) A subordinate to a geologist registered under this chapter, insofar as he or she acts solely in that capacity. This exemption, however, does not permit any subordinate to practice geology for others in his or her own right or to use the title of registered geologist.

(b)(1)(A) This chapter does not prohibit one (1) or more geologists from practicing through the medium of a sole proprietorship, partnership, or corporation.

(B) In a partnership or corporation whose primary activity consists of geological services, at least one (1) partner or officer shall be a registered geologist.

(2) This chapter does not prevent or prohibit an individual, firm, company, association, or corporation whose principal business is other than the public practice of geology from employing a nonregistered geologist to perform nonpublic geological services necessary to the conduct of its business.

(3) This chapter shall not be construed to prevent or to affect the following:

(A) The practice of any profession or trade for which a license is required under any other law of this state;

(B)(i) The practice of geology or the offer to practice geology by a person not a resident of and having no established place of business in this state if the person is licensed or registered to practice the profession in another state where the requirements for a certificate of registration or license are not lower than those specified in this state for obtaining the registration required for the work.

(ii) The person shall apply in writing to the ~~State~~

1 ~~Board of Registration for Professional Geologists~~ Arkansas Geological
 2 Commission and, after payment of a fee established by rule not to exceed six
 3 hundred dollars (\$600), may be granted a written permit for a prescribed
 4 period of time of less than one (1) year to perform a specific practice of
 5 geology.

6 (iii) No right to perform other practices of geology
 7 shall accrue to a person granted a written permit under this section;

8 (C) The practice by a person not a resident of and having
 9 no established place of business in this state or who has recently become a
 10 resident of this state practicing or offering to practice the profession of
 11 geology for more than ninety (90) days in any calendar year if the person has
 12 filed with the ~~board~~ commission an application for a certificate of
 13 registration and has paid the fee required by § 17-32-307. The practice shall
 14 continue only for such time as the ~~board~~ commission requires for the
 15 consideration of the applicant for registration; or

16 (D) The practice of registered professional engineers from
 17 lawfully practicing soil mechanics, foundation engineering, geotechnical
 18 engineering, hydrology as it pertains to the practice of engineering, and
 19 environmental engineering.

20
 21 SECTION 68. Arkansas Code § 17-32-303 is amended to read as follows:
 22 17-32-303. Application - Recommendations.

23 (a)(1) An application for registration as a geologist, for a
 24 geologist-in-training certificate, or for certification in a specialty shall
 25 be made under oath and shall show the applicant's education and a detailed
 26 summary of his or her geologic work.

27 (2) The application shall be accompanied by the application fee
 28 prescribed by § 17-32-307.

29 (3) After examination of any dissertation, thesis, technical
 30 report, study, or other similar material required of any applicant for
 31 registration as a geologist or certification in a specialty, the ~~State Board~~
 32 ~~of Registration for Professional Geologists~~ Arkansas Geological Commission
 33 may return it to the applicant.

34 (b)(1) The ~~board~~ commission shall require the applicant to provide the
 35 board with the names and addresses of three (3) qualified geologists who can
 36 attest to the experience and qualifications of the applicant and the names

1 and addresses of two (2) people who can attest to the personal character and
 2 ethical practices of the applicant.

3 (2) The application shall not be processed until all required
 4 information is received.

5
 6 SECTION 69. Arkansas Code § 17-32-304 is amended to read as follows:

7 17-32-304. Minimum qualifications - Ability of applicant - Geologist-
 8 in-training certificate.

9 (a) To be eligible for a certificate of registration, an applicant
 10 shall meet each of the following minimum qualifications:

11 (1) Be of good ethical character;

12 (2) Have graduated from an accredited college or university with
 13 a major in either geology, engineering geology, geological engineering, or an
 14 earth science-related major that has been approved by the ~~State Board of~~
 15 ~~Registration for Professional Geologists~~ Arkansas Geological Commission; and

16 (3)(A) Have at least seven (7) years of professional geological
 17 work which shall include either:

18 (i) A minimum of three (3) years of professional
 19 geological work under the supervision of a registered geologist, except that
 20 prior to July 20, 1987, professional geological work shall qualify under this
 21 subdivision if it is under the supervision of a qualified geologist; or

22 (ii) A minimum of five (5) years of experience in
 23 responsible charge of geological work.

24 (B) The following criteria of education and experience
 25 qualify, as specified, toward accumulation of the required seven (7) years of
 26 professional geological work:

27 (i) Each year of undergraduate study in the
 28 geological sciences shall count as one-half (1/2) year of training up to a
 29 maximum of two (2) years, and each year of graduate study shall count as one
 30 (1) year of training;

31 (ii) Credit for undergraduate study, graduate study,
 32 and graduate courses, individually or in any combination thereof, shall in no
 33 case exceed a total of four (4) years toward meeting the requirements for at
 34 least seven (7) years of professional geological work as set forth in
 35 subdivision (a)(3)(A) of this section;

36 (iii) In lieu of the professional geological work as

1 set out in this section, the ~~board~~ commission may consider the cumulative
2 total of professional geological work or geological research of persons
3 teaching at the college or university level if the work or research can be
4 demonstrated to be of a sufficiently responsible nature to be equivalent to
5 the professional requirements of this chapter.

6 (b) The ability of the applicant shall have been demonstrated by:

7 (1) His or her having performed the work in a responsible
8 position as determined by the ~~board~~ commission. The adequacy of the required
9 supervision and experience shall be determined by the ~~board~~ commission in
10 accordance with standards set forth in ~~regulations~~ rules adopted by the ~~board~~
11 commission; and

12 (2) The successful passage of such examinations as are
13 established by the ~~board~~ commission, except that in place of an examination,
14 the ~~board~~ commission may find that the receiving of a degree in geologic
15 science may be judged by the ~~board~~ commission as evidence of sufficient
16 knowledge and skill to qualify for registration.

17 (c)(1) The ~~board~~ commission may issue a geologist-in-training
18 certificate to any applicant who meets all qualifications, including
19 successful passage of the geological examination, except the required time of
20 professional geological work.

21 (2) An applicant with a geologist-in-training certificate shall
22 be awarded full registration upon presentation of:

23 (A) Proof that the required time of professional geologic
24 work has been completed; and

25 (B) Names and addresses of three (3) qualified geologists
26 and two (2) persons who can attest to the applicant's personal character and
27 ethics.

28
29 SECTION 70. Arkansas Code § 17-32-305 is amended to read as follows:

30 17-32-305. Examinations.

31 (a) Examinations shall be held at least annually.

32 (b) The ~~State Board of Registration for Professional Geologists~~
33 Arkansas Geological Commission shall determine the scope, form, and content
34 of the examinations.

35
36 SECTION 71. Arkansas Code § 17-32-306 is amended to read as follows:

1 17-32-306. Registration without examination.

2 A person holding a certificate of registration to engage in the
 3 practice of geology on the basis of comparable licensing requirements issued
 4 to him or her by a proper authority of a state, territory, or possession of
 5 the United States or the District of Columbia and who, in the opinion of the
 6 ~~State Board of Registration for Professional Geologists~~ Arkansas Geological
 7 Commission, otherwise meets the requirements of this chapter may be
 8 registered upon application without further examination.

9

10 SECTION 72. Arkansas Code § 17-32-307 is amended to read as follows:

11 17-32-307. Fees - Renewal - Date of filing.

12 (a) The schedule of fees is as follows:

13 (1) Application for registered geologist, twenty dollars
 14 (\$20.00);

15 (2) Initial or comity registration, sixty dollars (\$60.00);

16 (3) Geologist-in-training certificate, ten dollars (\$10.00);

17 (4) Geologist-in-training certificate renewal fee, twenty
 18 dollars (\$20.00);

19 (5) Geologist registration renewal fee, a maximum of sixty
 20 dollars (\$60.00) per year to be set by the ~~State Board of Registration for~~
 21 ~~Professional Geologists~~ Arkansas Geological Commission; and

22 (6) Temporary work permit fee, a maximum of six hundred dollars
 23 (\$600) per occurrence to be set by the ~~board~~ commission.

24 (b) The registration shall expire on a date to be set by rule by the
 25 ~~board~~ commission.

26 (c) Late renewal applications submitted during a six-month penalty
 27 period following expiration must be accompanied by a fee equal to the renewal
 28 fee plus a fifty percent (50%) penalty fee.

29 (d)(1) Registrations not renewed prior to the end of the six-month
 30 penalty period shall not be subject to renewal.

31 (2) Any consideration for registration reinstatement after the
 32 six-month penalty period shall be at the discretion of the ~~board~~ commission
 33 and requires submission of a reinstatement application with the required
 34 reinstatement fee of twice the renewal fee.

35 (e) The date of the filing fee when transmitted through the mail shall
 36 be that date shown by the post office cancellation mark appearing on the

1 envelope containing the fee.

2

3 SECTION 73. Arkansas Code § 17-32-308 is amended to read as follows:

4 17-32-308. Issuance of certificates of registration.

5 (a)(1) Upon payment of the registration fee, the ~~State Board of~~
 6 ~~Registration for Professional Geologists~~ Arkansas Geological Commission shall
 7 issue a certificate of registration to any applicant who, in the opinion of
 8 the ~~board~~ commission, has satisfactorily met all the requirements of this
 9 chapter.

10 (2) Certificates of registration shall show the full name of the
 11 registrant, shall give a serial number, and shall be under seal of the ~~board~~
 12 commission.

13 (b) The issuance of a certificate of registration by the ~~board~~
 14 commission shall be prima facie evidence that the person named in the
 15 certificate is entitled to all the rights and privileges of a registered
 16 geologist while the certificate remains unrevoked or unexpired.

17 (c)(1) All applications for renewal shall be filed with the ~~secretary-~~
 18 ~~treasurer~~ Director of the Arkansas Geological Commission prior to the
 19 expiration date, accompanied by the renewal fee.

20 (2) A license which has expired for failure to renew may only be
 21 restored after application and payment of the prescribed restoration fee.

22 (d) A new certificate of registration to replace any lost, destroyed,
 23 or mutilated certificate may be issued subject to the rules of the ~~board~~
 24 commission and payment of a fee set by the ~~board~~ commission.

25

26 SECTION 74. Arkansas Code § 17-32-309 is amended to read as follows:

27 17-32-309. Certification in specialty.

28 (a) In addition to registering as a geologist, qualified persons may
 29 also be eligible for certification in a specialty. Specialties may be
 30 designated by the ~~State Board of Registration for Professional Geologists~~
 31 Arkansas Geological Commission by ~~regulation~~ rule, with the ~~regulations~~ rules
 32 to contain any required additional qualifications. Only a registered
 33 geologist is eligible for certification in a specialty. Application may be
 34 submitted for both registration as a geologist and certification in a
 35 specialty at the same time, but the applicant must be approved for
 36 registration as a geologist before being considered for certification in a

1 specialty. The certification in a specialty is dependent, in every case, upon
 2 the approval of registration as a geologist.

3 (b) An applicant for certification in a specialty shall meet all of
 4 the requirements of a registered geologist and such other requirements as the
 5 ~~board~~ commission may establish by ~~regulation~~ rule. In addition, his or her
 6 seven (7) years of professional geological work shall include one (1) of the
 7 following:

8 (1) A minimum of three (3) years performed under the supervision
 9 of a registered geologist who is certified in the specialty for which the
 10 applicant is seeking certification; or

11 (2) A minimum of five (5) years of experience in responsible
 12 charge of geological work in the specialty for which the applicant is seeking
 13 certification.

14
 15 SECTION 75. Arkansas Code § 17-32-310 is amended to read as follows:
 16 17-32-310. Seal authorized - Authentication of documents.

17 (a) Each registrant under this chapter, upon issuance of a certificate
 18 of registration, may purchase from a source approved by the ~~State Board of~~
 19 ~~Registration for Professional Geologists~~ Arkansas Geological Commission a
 20 seal of such design as is authorized by the ~~board~~ commission, bearing the
 21 registrant's name, the name of this state, and the legend "Registered
 22 Professional Geologist" or "Certified (sub-specialty) Geologist".

23 (b) All drawings, reports, or other geologic papers or documents
 24 involving the practice of geology which shall have been prepared or approved
 25 by a registered geologist, or a subordinate employee under his or her
 26 direction, for the use of or for delivery to any person, or for public record
 27 within this state, shall be signed by him or her and impressed with the seal
 28 provided for in this section or with the seal of a nonresident practicing
 29 under this chapter, either of which shall indicate his or her responsibility
 30 for them.

31
 32 SECTION 76. Arkansas Code § 17-32-311 is amended to read as follows:
 33 17-32-311. Denial, etc., of registration certificate - Grounds -
 34 Procedure.

35 (a) The ~~State Board of Registration for Professional Geologists~~
 36 Arkansas Geological Commission shall have the power to deny, suspend, revoke,

1 or refuse to renew the certificate of registration of any registrant who is
2 found to have been involved in:

3 (1) The practice of any fraud or deceit in obtaining a
4 certificate of registration;

5 (2) Any gross negligence, incompetence, or misconduct in the
6 practice of geology as a professional geologist;

7 (3) Any felony;

8 (4) Providing false testimony or information to the ~~board~~
9 commission;

10 (5) Engaging in dishonorable, unethical, or unprofessional
11 conduct of a character likely to deceive, defraud, or harm the public;

12 (6) Signing, affixing the professional geologist's seal, or
13 permitting the professional geologist's seal or signature to be affixed to
14 any specifications, reports, drawings, plans, design information,
15 construction documents, calculations, or revisions that have not been
16 prepared or completely checked by the professional geologist or prepared
17 under the professional geologist's direct supervision or control;

18 (7) Failing to comply with this chapter or any of the rules
19 pertaining to this chapter; or

20 (8) Aiding or assisting another person in violating any
21 provision of this chapter or the rules ~~or regulations~~ pertaining to this
22 chapter.

23 (b) Any action by the ~~board~~ commission in this regard shall be after a
24 hearing held in accordance with the Arkansas Administrative Procedure Act, §
25 25-15-201 et seq. Any administrative or judicial review of the action shall
26 likewise be in accordance with the Arkansas Administrative Procedure Act, §
27 25-15-201 et seq.

28

29 SECTION 77. Arkansas Code § 17-32-312 is amended to read as follows:
30 17-32-312. Disciplinary action - Procedures.

31 (a) Any person may prefer charges of fraud, deceit, gross negligence,
32 incompetence, or misconduct against any registrant or nonregistrant. The
33 charges shall be:

34 (1) In writing;

35 (2) Sworn to by the person or persons making them; and

36 (3) Filed with the ~~Secretary-treasurer of the State Board of~~

1 ~~Registration for Professional Geologists~~ Director of the Arkansas Geological
 2 Commission.

3 (b) Unless dismissed by the ~~State Board of Registration for~~
 4 ~~Professional Geologists~~ Arkansas Geological Commission as unfounded or
 5 trivial or settled informally, all charges shall be heard by the ~~board~~
 6 commission within six (6) months after the date on which the charges were
 7 filed.

8 (c)(1) The time and place for the hearings shall be fixed by the ~~board~~
 9 commission, and a copy of the charges, together with a notice of the time and
 10 place of the hearing, shall be personally served or mailed to the last known
 11 address of the accused individual holding a certificate of authorization at
 12 least twenty (20) days before the date fixed for the hearing.

13 (2) At any hearing, the accused individual shall have the right
 14 to appear in person or by counsel, or both, to cross-examine witnesses, and
 15 to produce evidence and witnesses in his or her defense.

16 (3) If the accused individual fails or refuses to appear, the
 17 ~~board~~ commission may proceed to hear and determine the validity of the
 18 charges.

19 (d) If after the hearing a majority of the ~~board~~ commission votes in
 20 favor of sustaining the charges, the ~~board~~ commission may:

- 21 (1) Reprimand the individual;
- 22 (2) Refuse to issue, restore, or renew a registrant's
 23 certificate of registration;
- 24 (3) Place a registrant on probation for a period of time; or
- 25 (4) Suspend or revoke a registrant's certificate of registration
 26 subject to conditions as the ~~board~~ commission may specify.

27 (e) A registrant or a nonregistrant aggrieved by any action of the
 28 ~~board~~ commission in levying a fine or denying, suspending, or revoking his or
 29 her certificate of registration or refusing to issue, restore, or renew his
 30 or her certificate of registration may seek administrative or judicial review
 31 in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et
 32 seq.

33 (f)(1) In addition to or in lieu of any action under subsection (d) of
 34 this section, a civil penalty under § 17-32-103 may be assessed in a
 35 proceeding conducted under this section.

36 (2) Unless the amount of the penalty is paid within fifty (50)

1 days after the order becomes final, the order shall constitute a judgment and
 2 shall be filed and an execution issued in the manner as any other judgment of
 3 a court of record.

4 (g) Upon petition of a registrant, the ~~board~~ commission may reissue a
 5 certificate of registration upon the approval of a majority of the members of
 6 the ~~board~~ commission in favor of the reissuance.

7

8 SECTION 78. Arkansas Code § 17-32-313 is amended to read as follows:
 9 17-32-313. Reissuance of registration.

10 By majority vote of a quorum, the ~~State Board of Registration for~~
 11 ~~Professional Geologists~~ Arkansas Geological Commission may reissue a
 12 certificate of registration to any person whose certificate has been revoked,
 13 upon written application to the ~~board~~ commission by the applicant showing
 14 good cause to justify reissuance.

15

16 SECTION 79. Arkansas Code § 17-32-314 is amended to read as follows:
 17 17-32-314. Filing and service.

18 All appeals from a decision of the ~~State Board of Registration for~~
 19 ~~Professional Geologists~~ Arkansas Geological Commission, all documents or
 20 applications required by law to be filed with the ~~board~~ commission, and any
 21 notice or legal process to be served upon the ~~board~~ commission shall be filed
 22 with or served upon the ~~Secretary-treasurer of the State Board of~~
 23 ~~Registration for Professional Geologists~~ Director of the Arkansas Geological
 24 Commission at his or her office.

25

26 SECTION 80. Arkansas Code § 17-35-103 is amended to read as follows:
 27 17-35-103. Definitions.

28 (a) In §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-301 -
 29 17-35-304:

30 ~~(1) "Board" means the State Board of Registered Interior~~
 31 ~~Designers; and~~

32 ~~(2)(A)~~ "Registered registered interior designer" means a person
 33 registered under §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-
 34 301 - 17-35-304.

35 ~~(B)(i)(b)(1)~~ A registered interior designer is a design
 36 professional who is qualified by education, experience, and examination as

1 authorized by an authority.

2 ~~(ii)~~(2) In general, a registered interior designer
 3 performs services including preparation of working drawings and documents
 4 relative to nonload-bearing interior construction, materials, finishes, space
 5 planning, furnishings, fixtures, and equipment.

6 ~~(C)~~(c) Except as provided herein, interior design services
 7 do not include services that constitute the practice of architecture as
 8 defined in the Arkansas Architectural Act, § 17-15-101 et seq., or the
 9 practice of engineering as defined in the Arkansas Engineering Act, § 17-30-
 10 101 et seq.

11

12 SECTION 81. Arkansas Code § 17-35-104 is amended to read as follows:
 13 17-35-104. Exemptions - Use of the title.

14 (a) Sections 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-
 15 301 - 17-35-304 shall not apply to persons holding themselves out as
 16 "interior decorators" or offering "interior decorating services", such as
 17 selection or assistance in selecting surface materials, window treatments,
 18 wall coverings, paint, floor coverings, surface-mounted lighting, or loose
 19 furnishings not subject to regulation under applicable building codes.

20 (b) Sections 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-
 21 301 - 17-35-304 shall not apply to architects licensed by the Arkansas State
 22 Board of Architects and Registered Interior Designers, provided that such
 23 architects do not refer to themselves as "registered interior designers"
 24 unless registered by §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-
 25 35-301 - 17-35-304.

26 (c) Nothing contained in §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-
 27 202, and 17-35-301 - 17-35-304 shall prevent any person from rendering
 28 interior design services, provided such a person does not use the title of
 29 "registered interior designer" unless registered under §§ 17-35-101 - 17-35-
 30 106, 17-35-201, 17-35-202, and 17-35-301 - 17-35-304.

31

32 SECTION 82. Arkansas Code § 17-35-105 is amended to read as follows:
 33 17-35-105. Penalties.

34 It shall be a Class A misdemeanor for any person to:

35 (1) Use the title of "registered interior designer", unless
 36 registered under §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-

1 301 - 17-35-304;

2 (2) Present as his or her own the registration of another;

3 (3) Give false or forged evidence to the ~~State Board of~~
4 ~~Registered Interior Designers~~ Arkansas State Board of Architects and
5 Registered Interior Designers or any member thereof in obtaining a
6 registration;

7 (4) Falsely impersonate any other practitioner of like or
8 different name;

9 (5) Use or attempt to use a registration that has been revoked;
10 or

11 (6) Otherwise violate any of the provisions of §§ 17-35-101 -
12 17-35-106, 17-35-201, 17-35-202, and 17-35-301 - 17-35-304.

13
14 SECTION 83. Arkansas Code § 17-35-106 is amended to read as follows:
15 17-35-106. Disposition of funds.

16 (a) All moneys collected by the board under §§ 17-35-101 - 17-35-106,
17 17-35-201, 17-35-202, and 17-35-301 - 17-35-304 shall be deposited into a
18 financial institution in this state designated by the ~~State Board of~~
19 ~~Registered Interior Designers~~ Arkansas State Board of Architects and
20 Registered Interior Designers.

21 (b) No general revenues of this state shall be appropriated to the
22 board.

23
24 SECTION 84. Arkansas Code § 17-35-201 is repealed.

25 ~~17-35-201. Creation - Members.~~

26 ~~(a) There is created the State Board of Registered Interior Designers.~~

27 ~~(b)(1) The board shall consist of seven (7) members. Of the seven (7)~~
28 ~~members of the board:~~

29 ~~(A) Five (5) shall be registered interior designers, one~~
30 ~~(1) of whom may be a professional full-time design educator, registered or~~
31 ~~unregistered;~~

32 ~~(B) One (1) shall be an architect licensed by the Arkansas~~
33 ~~State Board of Architects who provides design services; and~~

34 ~~(C) One (1) shall be a consumer.~~

35 ~~(2) Members shall be appointed for terms of five (5) years in~~
36 ~~such a manner that the terms of not more than two (2) members expire in one~~

1 ~~(1) year.~~

2 ~~(3) Vacancies shall be filled by appointment by the Governor for~~
3 ~~the unexpired term.~~

4 ~~(4) No board member shall serve consecutive terms.~~

5 ~~(e)(1) A majority of the members on the board shall constitute a~~
6 ~~quorum.~~

7 ~~(2) Decisions of the board shall be made by a majority vote of a~~
8 ~~quorum.~~

9 ~~(d) The board shall hold at least two (2) regular meetings each year~~
10 ~~and such other meetings as are deemed necessary.~~

11 ~~(e)(1) The board shall elect annually from its members a chair and~~
12 ~~vice chair to hold office for one (1) year and an executive secretary who may~~
13 ~~or may not be a member of the board.~~

14 ~~(2) The executive secretary shall hold the office at the~~
15 ~~pleasure of the board and may receive a salary determined by the board.~~

16 ~~(f)(1) Board members shall serve without compensation but may, to the~~
17 ~~extent moneys are appropriated therefor, receive expense reimbursement in~~
18 ~~accordance with § 25-16-901 et seq.~~

19 ~~(2) The board shall fix the compensation of its employees by~~
20 ~~resolution adopted at a regular meeting of the board.~~

21
22 SECTION 85. Arkansas Code § 17-35-202 is amended to read as follows:
23 17-35-202. Powers and duties of the board.

24 (a) ~~The State Board of Registered Interior Designers~~ Arkansas State
25 Board of Architects and Registered Interior Designers:

26 (1) Shall administer, coordinate, and enforce the provisions of;
27 §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-301 - 17-35-304

28 (2) May investigate allegations of misconduct and suspend
29 registrations concerning the provisions of §§ 17-35-101 - 17-35-106, 17-35-
30 201, 17-35-202, and 17-35-301 - 17-35-304;

31 (3) Shall adopt regulations in the manner prescribed by the
32 Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out the
33 purposes and policies of §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and
34 17-35-301 - 17-35-304, including regulations relating to professional
35 conduct, standards of performance and professional examination and
36 registration, registration renewal requirements, application, renewal, and

1 late fees, suspension and revocation of registrations, and the establishment
 2 of a code of ethics for persons registered under §§ 17-35-101 - 17-35-106,
 3 17-35-201, 17-35-202, and 17-35-301 - 17-35-304;

4 (4) Shall set fees for registration, registration renewals,
 5 examinations, and all other administrative expenses;

6 (5) May require a registrant, as a condition of the renewal of
 7 his or her registration, to satisfy continuing education requirements;

8 (6) Shall maintain an official roster showing the name, address,
 9 and registration number of each interior designer registered under §§ 17-35-
 10 101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-301 - 17-35-304;

11 (7) Shall require registrants to display their registration
 12 numbers on all business and advertising instruments, including business
 13 cards, stationery, and contracts;

14 (8) May adopt a common seal for the use of registered interior
 15 designers;

16 (9) Shall conduct hearings and keep records and minutes
 17 necessary to carry out its functions;

18 (10) May, to the extent moneys are appropriated therefor, employ
 19 an executive secretary and other employees and fix their compensation; and

20 (11) Shall do all things reasonable and necessary to carry out
 21 the purposes of §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-301
 22 - 17-35-304.

23
 24 SECTION 86. Arkansas Code § 17-35-301 is amended to read as follows:
 25 17-35-301. Registration of interior designers.

26 (a) It is unlawful for any person who is not registered under §§ 17-
 27 35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-301 - 17-35-304 as an
 28 interior designer to advertise as a registered interior designer or to use
 29 the title of "registered interior designer" or any other words, letters,
 30 figures, or other devices for the purpose of implying, directly or
 31 indirectly, that the person is registered under §§ 17-35-101 - 17-35-106, 17-
 32 35-201, 17-35-202, and 17-35-301 - 17-35-304.

33 (b) It is unlawful for any company, partnership, association,
 34 corporation, or other similar organization, after January 1, 1994, to
 35 advertise that it is in a position to provide the services of a registered
 36 interior designer unless the persons providing such services are in the

1 responsible charge of a registered interior designer.

2 (c) An applicant for registration as an interior designer shall
 3 establish to the satisfaction of the ~~State Board of Registered Interior~~
 4 ~~Designers~~ Arkansas State Board of Architects and Registered Interior
 5 Designers that the applicant:

- 6 (1) Is at least twenty-one (21) years of age;
- 7 (2) Has not been convicted of an offense that bears directly on
 8 the fitness of the applicant to be registered;
- 9 (3) Has passed or supplied proof of passage of the examination
 10 required by §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-301 -
 11 17-35-304; and
- 12 (4) Meets any other requirements established by the ~~State Board~~
 13 ~~of Registered Interior Designers~~ board.

14
 15 SECTION 87. Arkansas Code § 17-35-302 is amended to read as follows:
 16 17-35-302. Requirements for registration.

17 (a) Each applicant for registration shall provide substantial evidence
 18 to the ~~State Board of Registered Interior Designers~~ Arkansas State Board of
 19 Architects and Registered Interior Designers that the applicant:

- 20 (1) Has taken and passed the National Council for Interior
 21 Design Qualification examination or its predecessor examinations produced by
 22 the American Institute of Interior Designers and by the National Society of
 23 Interior Designers; and
- 24 (2)(A) Is a graduate of a five-year interior design program from
 25 an accredited institution and has completed at least one (1) year of
 26 diversified and appropriate interior design experience;
- 27 (B) Is a graduate of a four-year interior design program
 28 or a master's degree program in interior design from an accredited
 29 institution and has completed at least two (2) years of diversified and
 30 appropriate interior design experience; or
- 31 (C) Is a licensed architect certified by the ~~Arkansas~~
 32 ~~State Board of Architects~~ board.

33 (b) Each interior design program must be accredited by the Foundation
 34 for Interior Design Education Research or be an interior design program of an
 35 institution accredited by the North Central Association of Colleges and
 36 Schools, or a program determined by the board to be substantially equivalent

1 to such accredited programs.

2 (c) Six (6) years from the date of passage, completion of a monitored
 3 internship development program may be required as part or all of the
 4 diversified interior design experience requirement.

5 (d) The board shall waive examination requirements for an individual
 6 who provides proof of passage of the National Council for Interior Design
 7 Qualification examination, or either of its predecessors, the American
 8 Institute of Interior Design or the National Society of Interior Design, and
 9 who is registered, licensed, or certified as an interior designer in another
 10 state, the District of Columbia, or a foreign country, provided that that
 11 jurisdiction's requirements for registration are substantially equivalent to
 12 those required for registration in this state.

13 (e) Every registration shall expire annually on a day designated by
 14 the board.

15

16 SECTION 88. Arkansas Code § 17-35-303 is amended to read as follows:
 17 17-35-303. Registration renewal.

18 (a) Every registered interior designer shall annually renew his or her
 19 registration, submit proof of completion of continuing education units as
 20 required by the ~~State Board of Registered Interior Designers~~ Arkansas State
 21 Board of Architects and Registered Interior Designers, and pay the renewal
 22 fee established by the board.

23 (b) It is unlawful for any interior designer who fails to renew his or
 24 her registration to continue to use the title of "registered interior
 25 designer".

26

27 SECTION 89. Arkansas Code § 17-35-304 is amended to read as follows:
 28 17-35-304. Seal of interior designer.

29 (a)(1) Each registered interior designer shall obtain a seal as
 30 prescribed by the ~~State Board of Registered Interior Designers~~ Arkansas State
 31 Board of Architects and Registered Interior Designers.

32 (2)(A) Any drawing, plan, specification, or report prepared or
 33 issued by the registered interior designer and being filed for public record
 34 shall bear the signature and seal of the interior designer who prepared or
 35 approved the document and the date on which it was sealed.

36 (B) The signature, date, and seal shall be evidence of the

1 authenticity of the document.

2 (b) No registered interior designer shall affix, or permit to be
 3 affixed, his or her seal or signature to any plan, specification, drawing, or
 4 other document which depicts work which he or she is not competent or
 5 certified to perform.

6 (c) The interior designer's contract documents shall contain a
 7 statement that the document is not an architectural or engineering drawing,
 8 specification, or design and is not to be used for construction of any load-
 9 bearing columns, load-bearing framing, or load-bearing walls or structures or
 10 for the issuance of any building permit, except as otherwise provided by law.

11 (d) Documents as defined in this section are not to be construed as
 12 those that are required to be filed in state or local building departments or
 13 municipalities, except as otherwise provided by law.

14 (e) No registered interior designer shall affix his or her signature
 15 or seal to any plan, specifications, or other document which was not prepared
 16 by him or her or under his or her responsible supervising control or by
 17 another interior designer and reviewed, approved, or modified and adopted by
 18 him or her as his or her own work according to the rules adopted by the
 19 board.

20 (f) Studies, drawings, specifications, and other related documents
 21 prepared by a registered interior designer in providing interior design
 22 services shall be of a sufficiently high standard to clearly and accurately
 23 indicate all essential parts of the work to which they refer.

24 (g) The shape and design of the seal will be different from the seals
 25 of architects, engineers, or landscape architects.

26 (h)(1) When the registration of a registered interior designer has
 27 been revoked or suspended by the board, the registered interior designer
 28 shall surrender his or her seal to the ~~Chair~~ President of the Arkansas State
 29 Board of Architects and Registered Interior Designers within thirty (30)
 30 calendar days after the revocation or suspension has become effective.

31 (2) The seal shall be returned upon expiration of the suspension
 32 period.

33

34 SECTION 90. Arkansas Code § 17-35-602 is amended to read as follows:
 35 17-35-602. Purpose.

36 The purpose of §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-

1 35-801 - 17-35-803 is to register and regulate persons known as registered
 2 residential interior designers, in the public interest, and to prohibit the
 3 use of the title of "registered residential interior designer" by persons who
 4 are not registered.

5
 6 SECTION 91. Arkansas Code § 17-35-603 is amended to read as follows:
 7 17-35-603. Definitions.

8 (a) As used in §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-
 9 35-801 - 17-35-803+

10 ~~(1) "Board" means the State Board of Registered Residential~~
 11 ~~Interior Designers; and~~

12 ~~(2)(A) "Registered registered residential interior designer"~~
 13 means a person registered under §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-
 14 702, and 17-35-801 - 17-35-803.

15 ~~(B)(i)(b)(1)~~ The registered residential interior designer
 16 is a design professional who is qualified by education, experience, and
 17 examination as authorized by an authority.

18 ~~(ii)(2)~~ In general, a registered residential
 19 interior designer performs services including preparation of working drawings
 20 and documents relative to nonload-bearing interior construction, materials,
 21 finishes, space planning, furnishings, fixtures, and equipment.

22 ~~(C)(c)~~ Except as provided herein, residential interior
 23 design services do not include services that constitute the practice of
 24 architecture as defined in the Arkansas Architectural Act, § 17-15-101 et
 25 seq., or the practice of engineering as defined in the Arkansas Engineering
 26 Act, § 17-30-101 et seq.

27
 28 SECTION 92. Arkansas Code § 17-35-604 is amended to read as follows:
 29 17-35-604. Exemptions - Use of the title.

30 (a) Sections 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-
 31 801 - 17-35-803 shall not apply to persons holding themselves out as
 32 "interior decorators" or offering "interior decorating services", such as
 33 selection or assistance in selecting surface materials, window treatments,
 34 wall coverings, paint, floor coverings, surface-mounted lighting, or loose
 35 furnishings not subject to regulation under applicable building codes.

36 (b) Sections 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-

1 801 - 17-35-803 shall not apply to architects licensed by the Arkansas State
2 Board of Architects and Registered Interior Designers, provided that such
3 architects do not refer to themselves as "registered residential interior
4 designers" unless registered under §§ 17-35-601 - 17-35-606, 17-35-701, 17-
5 35-702, and 17-35-801 - 17-35-803.

6 (c) Nothing contained in §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-
7 702, and 17-35-801 - 17-35-803 shall prevent any person from rendering
8 residential interior design services, provided such a person does not use the
9 title of "registered residential interior designer" unless registered under
10 §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-801 - 17-35-803.

11
12 SECTION 93. Arkansas Code § 17-35-605 is amended to read as follows:
13 17-35-605. Penalties.

14 Effective January 1, 1994, it shall be a Class A misdemeanor for any
15 person to:

16 (1) Use the title of "registered residential interior designer",
17 unless registered under §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and
18 17-35-801 - 17-35-803;

19 (2) Present as his or her own the registration of another;

20 (3) Give false or forged evidence to the ~~State Board of~~
21 ~~Registered Residential Interior Designers~~ Arkansas State Board of Architects
22 and Registered Interior Designers or any member thereof in obtaining a
23 registration;

24 (4) Falsely impersonate any other practitioner of like or
25 different name;

26 (5) Use or attempt to use a registration that has been revoked;
27 or

28 (6) Otherwise violate any of the provisions of §§ 17-35-601 -
29 17-35-606, 17-35-701, 17-35-702, and 17-35-801 - 17-35-803.

30
31 SECTION 94. Arkansas Code § 17-35-606 is amended to read as follows:
32 17-35-606. Funds.

33 (a) All moneys collected by the ~~State Board of Registered Residential~~
34 ~~Interior Designers~~ Arkansas State Board of Architects and Registered Interior
35 Designers under §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-801
36 - 17-35-803 shall be deposited into a financial institution in this state

1 designated by the board.

2 (b) No general revenues of this state shall be appropriated to the
3 board.

4

5 SECTION 95. Arkansas Code § 17-35-701 is repealed.

6 ~~17-35-701. Creation.~~

7 ~~(a) There is created the State Board of Registered Residential
8 Interior Designers.~~

9 ~~(b)(1) The board shall consist of seven (7) members. Of the seven (7)
10 members of the board:~~

11 ~~(A) Five (5) shall be registered residential interior
12 designers, one (1) of whom may be a professional full-time design educator,
13 registered or unregistered;~~

14 ~~(B) One (1) shall be an architect licensed by the Arkansas
15 State Board of Architects who provides design services; and~~

16 ~~(C) One (1) shall be a consumer.~~

17 ~~(2) Members shall be appointed for terms of five (5) years.~~

18 ~~(3) Vacancies shall be filled by appointment by the Governor for
19 the unexpired term.~~

20 ~~(4) No board member shall serve consecutive terms.~~

21 ~~(c)(1) A majority of the members on the board shall constitute a
22 quorum.~~

23 ~~(2) Decisions of the board shall be made by a majority vote of a
24 quorum.~~

25 ~~(d) The board shall hold at least two (2) regular meetings each year
26 and such other meetings as are deemed necessary.~~

27 ~~(e)(1) The board shall elect annually from its members a chair and
28 vice chair to hold office for one (1) year and an executive secretary who may
29 or may not be a member of the board.~~

30 ~~(2) The executive secretary shall hold the office at the
31 pleasure of the board and may receive a salary determined by the board.~~

32 ~~(f)(1) Board members shall serve without compensation but may receive
33 expense reimbursement in accordance with § 25-16-901 et seq.~~

34 ~~(2) The board shall fix the compensation of its employees by
35 resolution adopted at a regular meeting of the board.~~

36

1 SECTION 96. Arkansas Code § 17-35-702 is amended to read as follows:
 2 17-35-702. Powers and duties of the board.

3 (a) ~~The State Board of Registered Residential Interior Designers~~
 4 Arkansas State Board of Architects and Registered Interior Designers:

5 (1) Shall administer, coordinate, and enforce the provisions of
 6 §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-801 - 17-35-803;

7 (2) May investigate allegations of misconduct and suspend
 8 registrations concerning the provisions of §§ 17-35-601 - 17-35-606, 17-35-
 9 701, 17-35-702, and 17-35-801 - 17-35-803;

10 (3) Shall adopt regulations in the manner prescribed by the
 11 Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out the
 12 purposes and policies of §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and
 13 17-35-801 - 17-35-803, including regulations relating to professional
 14 conduct, standards of performance and professional examination and
 15 registration, registration renewal requirements, application, renewal, and
 16 late fees, suspension and revocation of registrations, and the establishment
 17 of a code of ethics for persons registered under §§ 17-35-601 - 17-35-606,
 18 17-35-701, 17-35-702, and 17-35-801 - 17-35-803;

19 (4) Shall set fees for registration, registration renewals,
 20 examinations, and all other administrative expenses;

21 (5) May require a registrant, as a condition of the renewal of
 22 his or her registration, to satisfy continuing education requirements;

23 (6) Shall maintain an official roster showing the name, address,
 24 and registration number of each interior designer registered under §§ 17-35-
 25 601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-801 - 17-35-803;

26 (7) Shall require registrants to display their registration
 27 numbers on all business and advertising instruments, including business
 28 cards, stationery, and contracts;

29 (8) Shall conduct hearings and keep records and minutes
 30 necessary to carry out its functions;

31 (9) May, to the extent moneys are appropriated therefor, employ
 32 an executive secretary and other employees and fix their compensation; and

33 (10) Shall do all things reasonable and necessary to carry out
 34 the purposes of §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-801
 35 - 17-35-803.

36

SECTION 97. Arkansas Code § 17-35-801 is amended to read as follows:
 17-35-801. Registration of residential interior designers.

(a) It is unlawful for any person who, after January 1, 1994, is not registered under §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-801 - 17-35-803 as a residential interior designer to advertise as a registered residential interior designer, to use the title of "registered residential interior designer" or any other words, letters, figures, or other devices for the purpose of implying, directly or indirectly, that the person is registered under §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-801 - 17-35-803.

(b) It is unlawful for any company, partnership, association, corporation, or other similar organization to advertise that it is in the position to provide the services of a registered residential interior designer unless the persons providing such services are in the responsible charge of a registered residential interior designer.

(c) An applicant for registration as a residential interior designer shall establish to the satisfaction of the ~~State Board of Registered Residential Interior Designers~~ Arkansas State Board of Architects and Registered Interior Designers that the applicant:

- (1) Is at least twenty-one (21) years of age;
- (2) Has not been convicted of an offense that bears directly on the fitness of the applicant to be registered;
- (3) Has passed or supplied proof of passage of the examination required by §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-801 - 17-35-803; and
- (4) Meets any other requirements established by the board.

SECTION 98. Arkansas Code § 17-35-802 is amended to read as follows:
 17-35-802. Requirements for registration.

(a) Each applicant for registration shall provide substantial evidence to the ~~State Board of Registered Residential Interior Designers~~ Arkansas State Board of Architects and Registered Interior Designers that the applicant:

- (1) Has taken and passed the Council for Qualification of Residential Interior Designers examination; and
- (2)(A) Is a graduate of a five-year interior design program from

1 an accredited institution and has completed at least one (1) year of
 2 diversified and appropriate residential interior design experience;

3 (B) Is a graduate of a four-year interior design program
 4 or a master's degree program in interior design from an accredited
 5 institution and has completed at least two (2) years of diversified and
 6 appropriate residential interior design experience; or

7 (C) Is a licensed architect certified by the ~~Arkansas~~
 8 ~~State Board of Architects~~ board.

9 (b) Each interior design program must be an interior design program of
 10 an institution accredited by the North Central Association of Colleges and
 11 Schools, or a program determined by the ~~State Board of Registered Residential~~
 12 ~~Interior Designers~~ board to be substantially equivalent to such an accredited
 13 program.

14 (c) Six (6) years from the date of passage, completion of a monitored
 15 internship development program may be required as part or all of the
 16 residential interior design experience requirement.

17 (d) The ~~State Board of Registered Residential Interior Designers~~ board
 18 shall waive examination requirements for an individual who provides proof of
 19 passage of the Council for Qualification of Residential Interior Designers
 20 examination and who is registered, licensed, or certified as an interior
 21 designer in another state, the District of Columbia, or a foreign country,
 22 provided that that jurisdiction's requirements for registration are
 23 substantially equivalent to those required for registration in this state.

24 (e) Every registration shall expire annually on a day designated by
 25 the ~~State Board of Registered Residential Interior Designers~~ board.

26
 27 SECTION 99. Arkansas Code § 17-35-803 is amended to read as follows:

28 17-35-803. Registration renewal.

29 (a) Every registered residential interior designer shall annually
 30 renew his or her registration, submit proof of completion of continuing
 31 education units as required by the ~~State Board of Registered Residential~~
 32 ~~Interior Designers~~ Arkansas State Board of Architects and Registered Interior
 33 Designers, and pay the renewal fee established by the board.

34 (b) It is unlawful for any residential interior designer who fails to
 35 renew his or her registration to continue to use the title of "registered
 36 residential interior designer".

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

SECTION 100. Arkansas Code § 17-47-101 is amended to read as follows:
17-47-101. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Kind of soil" means a group of natural bodies that has a discrete combination of landscape, morphological, chemical, and physical properties;

(2)(A) "Practice of soil classifying" or "practice of professional soil classifying":

(i) Means any service or work, the adequate performance of which requires education in the physical, chemical, biological, and soil sciences; training and experience in the application of the special knowledge of these sciences to soil classification; the soil classification by accepted principles and methods; investigation, evaluation, and consultation on the effect of measured, observed, and inferred soil properties upon the various uses; the preparation of soil descriptions, maps, and reports and interpretive drawings, maps, and reports of soil properties; the effect of soil properties upon the various uses; and the effect of the various uses upon kinds of soil, any of which embraces service or work either public or private incidental to the practice of soil classifying. A person shall be construed to practice or offer to practice soil classifying within the meaning and intent of this chapter who by verbal claim, sign, advertisement, letterhead, card, or use of some other title represents himself or herself to be a soil classifier; and

(ii) Does not mean or include the practice of soil classifying by persons exempt under the provisions of § 17-47-103, the work ordinarily performed by persons who sample and test soil for fertility status or construction materials, and engineering surveys and soundings to determine soil properties influencing the design and construction of engineering and architectural projects.

(B) Notwithstanding the foregoing provisions, a person shall not be construed to practice soil classifying unless he or she offers soil classifying services to, or performs soil classifying for, the public;

(3) "Professional soil classifier" means a person who, by reason of his or her special knowledge of the physical, chemical, and biological sciences applicable to soils as natural bodies and of the methods and

1 principles of soil classification experienced in the formation, morphology,
 2 description, and mapping of soils, is qualified to practice soil classifying,
 3 and who has been registered by the ~~Arkansas State Board of Registration for~~
 4 ~~Professional Soil Classifiers~~ Arkansas Soil and Water Conservation
 5 Commission;

6 (4) "Soil" means all of the groups of natural bodies occupying
 7 the unconsolidated portion of the earth's surface capable of supporting plant
 8 life and having properties due to the combined effect of climate and living
 9 organisms, as modified by topography and time, upon parent materials;

10 (5) "Soil classification" means plotting the boundaries,
 11 describing, and evaluating the kinds of soil as to their behavior and
 12 response to management under the various uses;

13 (6) "Soil classifier" means a professional soil classifier as
 14 defined in subdivision (3) of this section; and

15 (7) "Soil classifier-in-training" means a person who complies
 16 with the requirements for education and character and who has passed an
 17 examination in the fundamental soil and related subjects as provided for in
 18 §§ 17-47-304 and 17-47-305.

19
 20 SECTION 101. Arkansas Code § 17-43-101 is amended to read as follows:
 21 17-43-101. Definitions.

22 As used in this chapter, unless the context otherwise requires:

23 (1) "Continuing education unit" means value given for
 24 participation in organized continuing education experience under reasonable
 25 sponsorship, capable direction, and qualified instruction approved by the
 26 ~~Arkansas State Board of Sanitarians~~ Arkansas Pollution Control and Ecology
 27 Commission;

28 (2) "Environmental sanitation" means the study, art, and
 29 technique of applying scientific knowledge for the improvement of the
 30 environment of man for his health and welfare;

31 (3) "Registered sanitarian" means an environmental health
 32 professional educated in the field of environmental health, physical, and
 33 biological sciences who meets the requirements of §§ 17-43-303(a) and (b) and
 34 17-43-306. Such persons may be specifically trained to organize, implement,
 35 and manage environmental health programs; and

36 (4) "Sanitarian-in-training" means a person who meets the

1 educational qualifications as provided in this chapter but does not meet the
 2 experience requirements of this chapter for registration as a registered
 3 sanitarian.

4
 5 SECTION 102. Arkansas Code § 17-43-201 is repealed.

6 ~~17-43-201. Creation—Members.~~

7 ~~(a)(1) There is created the Arkansas State Board of Sanitarians to~~
 8 ~~consist of six (6) members who shall be appointed by the Governor.~~

9 ~~(2)(A) Five (5) members shall be sanitarians who have been~~
 10 ~~residents in the State of Arkansas for at least one (1) year, have had~~
 11 ~~experience in the field of environmental sanitation for at least five (5)~~
 12 ~~years, are presently engaged in the field of environmental sanitation, and~~
 13 ~~are not less than thirty (30) years of age. Each shall hold a current~~
 14 ~~certificate of registration issued by the board.~~

15 ~~(B) Terms of office shall be fixed so that one (1)~~
 16 ~~professional member of the board will be retired each year.~~

17 ~~(C) The Governor shall fill the expired term of the~~
 18 ~~retiring board member by choosing one (1) nominee from a list of three (3)~~
 19 ~~names which shall be submitted to him or her each year by the Arkansas~~
 20 ~~Society of Professional Sanitarians.~~

21 ~~(3) One (1) member shall not be actively engaged in or retired~~
 22 ~~as a sanitarian and shall represent consumers. This member shall be appointed~~
 23 ~~from the state at large subject to confirmation by the Senate. He or she~~
 24 ~~shall be a full voting member but shall not participate in the grading of~~
 25 ~~examinations.~~

26 ~~(b) Each member shall be appointed for a five year period except for a~~
 27 ~~person who is appointed to fill the unexpired term of another member. The~~
 28 ~~term of office shall expire on June 30 of each year.~~

29 ~~(c) The Governor shall fill any vacancy caused by death, resignation,~~
 30 ~~or removal for the unexpired term.~~

31 ~~(d) The Governor may remove any member of the board for misconduct,~~
 32 ~~incapacity, or neglect of duty.~~

33 ~~(e) The members of the board shall serve without compensation but may~~
 34 ~~receive expense reimbursement in accordance with § 25-16-901 et seq.~~

35
 36 SECTION 103. Arkansas Code § 17-43-202 is repealed.

~~17-43-202. Organization and proceedings.~~

~~(a) The Arkansas State Board of Sanitarians shall hold a meeting at least once a year and at such times as the chair of the board shall appoint.~~

~~(b) At the first meeting and annually thereafter, the board shall elect a chair and a secretary from its members appointed by the Governor.~~

~~(c) Three (3) members shall constitute a quorum, but no action may be taken on any questions unless at least three (3) members are in accord.~~

~~(d) The board shall adopt and have an official seal which shall be affixed to all certificates of registration.~~

SECTION 104. Arkansas Code § 17-43-203 is amended to read as follows:
17-43-203. Duties and powers.

(a) ~~The Arkansas State Board of Sanitarians~~ Arkansas Pollution Control and Ecology Commission shall have such authority as is reasonably necessary to administer this chapter.

(b) ~~The chair and the secretary of the board~~ Director of the Arkansas Pollution Control and Ecology Commission may administer oaths and subpoena witnesses.

(c) The ~~secretary~~ director shall keep a record of all proceedings of the ~~board~~ commission, including a register of all holders of a current certificate of registration. These records shall be open to the public at all reasonable times.

(d) The ~~board~~ commission may employ and fix the compensation of assistants, clerks, stenographers, typists, and other employees to serve at the pleasure of the ~~board~~ commission, and acquire office space, furniture, supplies, equipment, and other proper conveniences reasonably necessary for the performance of their duties under this chapter.

(e) As a means to maintain professional competency, the ~~board~~ commission shall promulgate rules ~~and regulations~~ establishing standards for continuing education. The continuing education units shall be direct participation in a course or courses approved by the ~~board~~ commission. The standards shall be established in a manner to assure that a variety of alternative forms of continuing education are available to registered sanitarians, including, but not limited to, academic studies, in-service education, institutes, seminars, lectures, conferences, workshops, extension courses, home study programs, articles published, and scientific papers

1 published. The standards should recognize specialized areas of endeavor. The
2 ~~board~~ commission may contract with another agency or association to perform
3 part or all of the duties in establishing procedures to record and retain
4 continuing education units data for all registered sanitarians in good
5 standing.

6 (f) The ~~board~~ commission shall have power to determine all matters
7 within its jurisdiction, subject to review of the circuit court or at the
8 option of the aggrieved party by the circuit court of the county in which he
9 or she resides.

10
11 SECTION 105. Arkansas Code § 17-43-204 is amended to read as follows:
12 17-43-204. Disposition of funds - Report.

13 (a) All fees or payments of any type collected by the ~~Arkansas State~~
14 ~~Board of Sanitarians~~ Arkansas Pollution Control and Ecology Commission under
15 this chapter shall be kept in a separate fund.

16 (b) The ~~board~~ commission shall make a report annually to the Governor
17 showing all receipts and disbursements of moneys and a summary of all
18 business transacted during the year.

19 (c) The expenses provided in this chapter shall be paid by the ~~board~~
20 commission from the fees collected by it.

21
22 SECTION 106. Arkansas Code § 17-43-205 is amended to read as follows:
23 17-43-205. Operating expenses.

24 The operating expenses of the ~~Arkansas State Board of Sanitarians~~
25 Arkansas Pollution Control and Ecology Commission shall be paid solely from
26 cash funds of the ~~board~~ commission, and no funds shall be used either
27 directly or indirectly from general revenues for such support.

28
29 SECTION 107. Arkansas Code § 17-43-206 is amended to read as follows:
30 17-43-206. Board seminars or workshops - Travel expenses.

31 The ~~Arkansas State Board of Sanitarians~~ Arkansas Pollution Control and
32 Ecology Commission may authorize payments to be made to each registered
33 sanitarian as partial reimbursement for actual travel expenses incurred, but
34 not to exceed the amounts authorized for state employees for such expenses
35 and not otherwise reimbursed, in attending seminars or workshops sponsored by
36 the ~~board~~ commission in accordance with state travel regulations.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

SECTION 108. Arkansas Code § 17-43-301 is amended to read as follows:

17-43-301. Certificate required.

(a) No person shall offer his or her service as a registered sanitarian or use, assume, or advertise in any way any title or description tending to convey the impression that he or she is a registered sanitarian unless he or she is the holder of a current certificate of registration issued by the ~~Arkansas State Board of Sanitarians~~ Arkansas Pollution Control and Ecology Commission.

(b) A holder of a current certificate of registration may append to his or her name the letters "R.S."

SECTION 109. Arkansas Code § 17-43-302 is amended to read as follows:

17-43-302. Examination - Scope.

(a) The ~~Arkansas State Board of Sanitarians~~ Arkansas Pollution Control and Ecology Commission shall hold examinations to test the fitness of applicants for registration at such times and places within this state as the ~~board~~ commission shall determine, but shall hold at least one (1) examination every year.

(b) The scope of the examination shall be determined by the ~~board~~ commission.

SECTION 110. Arkansas Code § 17-43-303 is amended to read as follows:

17-43-303. Application for examination.

(a) The ~~Arkansas State Board of Sanitarians~~ Arkansas Pollution Control and Ecology Commission shall admit to examination any person who makes application to the ~~Secretary of the Arkansas State Board of Sanitarians~~ Director of the Arkansas Pollution Control and Ecology Commission on forms prescribed and furnished by the ~~board~~ commission, pays an application fee of twenty dollars (\$20.00) to defray the expense of examination, and submits evidence satisfactory to the ~~board~~ commission that he or she is of good moral character.

(b) The minimum requirements for admission to examination as a registered sanitarian shall be as follows:

(1) A bachelor's degree or master's degree in public health with specialization in sanitary sciences from an approved school of public health;

1 or

2 (2) A college graduate in one (1) of the natural sciences, i.e.,
 3 biology, chemistry, physics, math, earth science, or geology, or engineering,
 4 with a minimum of thirty (30) semester hours or its equivalent of those
 5 subjects, plus one (1) year's experience in environmental sanitation or
 6 approved training courses.

7 (c) Any person who meets the educational qualifications of subdivision
 8 (b)(2) of this section but who does not meet the experience requirements of
 9 that subdivision may make application to the ~~board~~ commission through a
 10 process prescribed by the board for acceptance as a sanitarian-in-training.
 11 The ~~board~~ commission shall accept the application when submitted, if
 12 accompanied by the required fee, not to exceed ten dollars (\$10.00), as
 13 prescribed by the ~~board~~ commission.

14 (d) Within ninety (90) days after an application is filed with the
 15 ~~secretary~~ director, the ~~board~~ commission shall notify the applicant whether
 16 his or her application for examination was accepted or rejected and, if
 17 rejected, the reason ~~therefor~~.

18 (e) One-half (1/2) of the application fee shall be returned to each
 19 rejected applicant.

20
 21 SECTION 111. Arkansas Code § 17-43-304 is amended to read as follows:

22 17-43-304. Notice of time and place of examination.

23 The ~~Secretary of the Arkansas State Board of Sanitarians~~ Director of
 24 the Arkansas Pollution Control and Ecology Commission shall give reasonable
 25 notice by mail of the time and place of examination to each applicant
 26 accepted for examination.

27
 28 SECTION 112. Arkansas Code § 17-43-305 is amended to read as follows:

29 17-43-305. Notice of examination results.

30 Within sixty (60) days after the examination is given, the ~~Arkansas~~
 31 ~~State Board of Sanitarians~~ Arkansas Pollution Control and Ecology Commission
 32 shall notify by mail each person who took the examination as to whether he or
 33 she has passed or failed the examination.

34
 35 SECTION 113. Arkansas Code § 17-43-306 is amended to read as follows:

36 17-43-306. Issuance.

1 Each person who passes the examination to the satisfaction of the
 2 ~~Arkansas State Board of Sanitarians~~ Arkansas Pollution Control and Ecology
 3 Commission shall be issued a certificate of registration upon payment of a
 4 registration fee of ten dollars (\$10.00).

5
 6 SECTION 114. Arkansas Code § 17-43-307 is amended to read as follows:
 7 17-43-307. Reciprocity.

8 The ~~Arkansas State Board of Sanitarians~~ Arkansas Pollution Control and
 9 Ecology Commission shall issue a certificate of registration without
 10 examination to any person who makes application on forms prescribed and
 11 furnished by the ~~board~~ commission, pays a registration fee of ten dollars
 12 (\$10.00), and submits satisfactory proof that he or she:

- 13 (1) Is of good moral character;
- 14 (2) Has had at least two (2) years' experience in the field of
 15 environmental sanitation; and
- 16 (3) Is registered as a sanitarian in a state in which the
 17 qualifications for registration are not lower than the qualifications for
 18 registration in this state at the time he or she applies for registration.

19
 20 SECTION 115. Arkansas Code § 17-43-308 is amended to read as follows:
 21 17-43-308. Expiration and renewal.

22 Each certificate of registration issued by the ~~Arkansas State Board of~~
 23 ~~Sanitarians~~ Arkansas Pollution Control and Ecology Commission shall expire on
 24 June 30 following the date of issuance. A renewal certificate may be issued:

- 25 (1) To the holder of a current certificate of registration who
 26 makes application prior to the expiration of his or her current certificate
 27 and pays a renewal fee of twenty dollars (\$20.00). Satisfactory proof of
 28 complying with the ~~board's~~ commission's continuing education requirements
 29 must accompany renewal applications; and
- 30 (2) To a former registered sanitarian whose certificate has been
 31 suspended or revoked, who makes application not more than sixty (60) days
 32 after the expiration date of the last certificate issued to him or her, and
 33 who pays a renewal fee of forty dollars (\$40.00) and complies with continuing
 34 education requirements.

35
 36 SECTION 116. Arkansas Code § 17-43-309 is amended to read as follows:

1 17-43-309. Grounds for suspension, revocation, or refusal to renew.

2 The ~~Arkansas State Board of Sanitarians~~ Arkansas Pollution Control and
 3 Ecology Commission may refuse to renew or may suspend or revoke a certificate
 4 upon proof that the applicant:

5 (1) Is not of good character; or

6 (2) Is guilty of fraud, deceit, gross negligence, incompetency,
 7 or misconduct in relation to his or her duties as a sanitarian.

8
 9 SECTION 117. Arkansas Code § 17-43-310 is amended to read as follows:

10 17-43-310. Proceedings for suspension, revocation, or refusal to
 11 renew.

12 (a) Before the ~~Arkansas State Board of Sanitarians~~ Arkansas Pollution
 13 Control and Ecology Commission may suspend, revoke, or refuse to renew a
 14 certificate of registration, it shall set the matter for a hearing before the
 15 ~~board~~ commission.

16 (b) At least twenty (20) days prior to the date set for hearing, the
 17 ~~board~~ commission shall give written notice of the charges made and the date
 18 and place of the hearing to the accused.

19 (c) Service of the notice may be made by personal service or by
 20 sending it by registered mail to the last known business address of the
 21 accused.

22 (d) The accused shall have the opportunity to be heard in person and
 23 by counsel.

24 (e) A stenographic record of the hearing shall be kept and a
 25 transcript of the hearing filed with the ~~board~~ commission.

26 (f) The order of the ~~board~~ commission shall be made within thirty (30)
 27 days after the termination of the hearing.

28 (g) Notice of the order of the ~~board~~ commission shall be given to the
 29 accused, either by personal service or by registered mail sent to the last
 30 known business address of the accused within ten (10) days after the order is
 31 made.

32
 33 SECTION 118. Arkansas Code § 17-47-102 is amended to read as follows:

34 17-47-102. Penalties.

35 (a) Each of the following shall be guilty of a misdemeanor and shall,
 36 for each offense of which he or she is convicted, be punished by a fine of

1 not less than one hundred dollars (\$100) nor more than two hundred dollars
2 (\$200):

3 (1) Any person who:

4 (A) Practices or offers to practice professional soil
5 classifying in this state without being registered in accordance with the
6 provisions of this chapter;

7 (B) Attempts to use an expired or revoked or nonexistent
8 certificate of registration;

9 (C) Falsely claims that he or she is registered under this
10 chapter;

11 (D) Presents or attempts to use the certificate of
12 registration of another;

13 (E) Falsely impersonates any other registrant of like or
14 different names;

15 (F) Gives false or forged evidence of any kind to the
16 ~~Arkansas State Board of Registration for Professional Soil Classifiers~~
17 Arkansas Soil and Water Conservation Commission or to any member thereof in
18 obtaining or attempting to obtain a certificate of registration; or

19 (G) Practices or offers to practice when not qualified;

20 (2) Any person, firm, partnership, organization, association,
21 corporation, or other entity using or employing the words "soil classifier"
22 or "professional soil classifier" or any modification or derivative thereof in
23 its name or form of business or activity except as authorized in this
24 chapter; or

25 (3) Any person, partnership, corporation, or other entity who
26 shall violate any of the provisions of this chapter.

27 (b) Each violation and each day of any violation shall constitute a
28 separate offense.

29
30 SECTION 119. Arkansas Code § 17-47-103 is amended to read as follows:
31 17-47-103. Exemptions.

32 This chapter shall not be construed to prevent or affect:

33 (1) The practice or offer to practice of soil classifying by a
34 person not a resident or having no established place of business in this
35 state, provided that the person is legally qualified by the provisions of
36 this chapter to practice soil classifying as defined in this chapter in his

1 or her own state which extends similar privileges to persons registered under
 2 this chapter and provided that the person shall make application accompanied
 3 by the appropriate application fee to the ~~Arkansas State Board of~~
 4 ~~Registration for Professional Soil Classifiers~~ Arkansas Soil and Water
 5 Conservation Commission in writing prior to his or her practicing or offering
 6 to practice soil classifying. The applicant may be granted a temporary permit
 7 for a definite period of time not to exceed one (1) year to do a specific
 8 job. However, no right to practice soil classifying shall accrue to the
 9 applicant with respect to any other work not set forth in the permit;

10 (2) The work of an employee or a subordinate of a person holding
 11 a certificate or registration under this chapter or an employee of a person
 12 practicing lawfully under subdivision (1) of this section, provided that the
 13 work does not include final soil classifying decisions and is done under the
 14 direct supervision of, and verified by, a person holding a certificate of
 15 registration under this chapter or a person practicing lawfully under
 16 subdivision (4) of this section;

17 (3) The practice of any other legally recognized profession or
 18 trade; or

19 (4) The practice of soil classifying by any person regularly
 20 employed to perform soil classifying services solely for his or her employer
 21 or for a subsidiary or affiliated corporation of his or her employer, when
 22 the soil classifying performed is in connection with the property, products,
 23 or services of his or her employer.

24
 25 SECTION 120. Arkansas Code § 17-47-201 is repealed.

26 ~~17-47-201. Creation and members.~~

27 ~~(a) There is created the Arkansas State Board of Registration for~~
 28 ~~Professional Soil Classifiers.~~

29 ~~(b)(1) The board shall consist of five (5) members to be appointed by~~
 30 ~~the Governor for terms of five (5) years. The Governor shall consider for~~
 31 ~~appointment a list of nominees submitted to him or her by the Arkansas~~
 32 ~~Association of Professional Soil Classifiers.~~

33 ~~(2) Each member of the board shall be a citizen of the United~~
 34 ~~States and a resident of this state.~~

35 ~~(3) One (1) member of the board shall be a member of a board of~~
 36 ~~directors of a soil conservation district in this state.~~

1 ~~(4) Three (3) members of the board shall be registered~~
2 ~~professional soil classifiers in this state.~~

3 ~~(5) One (1) member of the board shall be from the public at~~
4 ~~large in this state.~~

5 ~~(e) A member may be reappointed to succeed himself or herself.~~

6 ~~(d) Each member shall hold office until a successor has been duly~~
7 ~~appointed.~~

8 ~~(e) The Governor may remove any member of the board for misconduct,~~
9 ~~incompetence, or neglect of duty.~~

10 ~~(f) Vacancies on the board, however created, shall be filled by the~~
11 ~~Governor for the unexpired term.~~

12 ~~(g) All members shall be subject to confirmation of the Senate.~~

13 ~~(h) Each member of the board shall serve without compensation, except~~
14 ~~that the board member may receive expense reimbursement in accordance with §~~
15 ~~25-16-901 et seq.~~

16
17 SECTION 121. Arkansas Code § 17-47-202 is amended to read as follows:

18 17-47-202. Powers of the ~~board~~ commission.

19 ~~The Arkansas State Board of Registration for Professional Soil~~
20 ~~Classifiers~~ Arkansas Soil and Water Conservation Commission shall have the
21 power to:

22 (1) Administer this chapter;

23 (2) Adopt and amend all bylaws, rules of procedure, and
24 regulations to administer and carry out the provisions of this chapter and
25 for the conduct of its affairs and functions, consistent with this chapter
26 and the Constitution and laws of this state, which may be reasonably
27 necessary for the proper performance of its duties and the regulation of its
28 proceedings, meetings, records, examinations, and the conduct thereof;

29 (3) Adopt and promulgate a code of ethics which shall be binding
30 upon all persons registered under or subject to this chapter;

31 (4) Employ clerks, technical experts, and attorneys as it may
32 deem necessary or desirable to carry out the provisions of this chapter; and

33 (5) Apply in the name of the state for relief by injunction,
34 without bond, enforce the provisions of this chapter, or restrain any
35 violation thereof. In this proceeding it shall not be necessary to allege or
36 prove either that an adequate remedy at law does not exist or that

1 substantial or irreparable damage would result from the continued violation
 2 thereof. The members of the ~~board~~ commission shall not be personally liable
 3 under this proceeding; ~~and~~

4 ~~(6) Enter into agreements with the Arkansas Soil and Water~~
 5 ~~Conservation Commission to share office, clerical, and secretarial services~~
 6 ~~and to reimburse the commission for the cost of the services.~~

7
 8 SECTION 122. Arkansas Code § 17-47-203 is amended to read as follows:
 9 17-47-203. Records and reports - Disposition of funds.

10 ~~The Arkansas State Board of Registration for Professional Soil~~
 11 ~~Classifiers~~ Arkansas Soil and Water Conservation Commission shall:

12 (1) Keep a record of its proceedings and of all applications for
 13 registration which shall show the name, age, and last-known address of each
 14 applicant, his or her education, experience, and other qualifications, type
 15 of examination required, whether or not a certificate of registration was
 16 granted, whether or not the applicant was rejected, the date of the action of
 17 the ~~board~~ commission, and other information which may be deemed necessary by
 18 the ~~board~~ commission. The record of the ~~board~~ commission shall be prima facie
 19 evidence of the proceeding of the ~~board~~ commission. A transcript thereof
 20 certified by the ~~secretary~~ Executive Director of the Arkansas Soil and Water
 21 Conservation Commission under seal shall be admissible as evidence with the
 22 same force and effect as if the original were produced;

23 (2) Annually submit to the Governor a report of its transactions
 24 of the preceding year and transmit to him or her a complete statement of the
 25 receipts and expenditures of the ~~board~~ commission attested by affidavits of
 26 its ~~chair and its secretary~~ executive director; and

27 (3) Establish accounts in one (1) or more banks in this state,
 28 chosen by the ~~board~~ commission, into which all funds collected by the ~~board~~
 29 commission under this chapter shall be deposited and from which all
 30 expenditures approved by the ~~board~~ commission, or by its ~~chair and secretary~~
 31 executive director acting on authority of the ~~board~~ commission, shall be
 32 made.

33
 34 SECTION 123. Arkansas Code § 17-47-302 is amended to read as follows:
 35 17-47-302. Eligibility - Application.

36 (a) To be eligible for registration as a professional soil classifier

1 or certification as a soil classifier-in-training, an applicant ~~must~~ shall:

2 (1) Be of good character and reputation; and

3 (2) Submit a written application to the ~~Arkansas State Board of~~
4 ~~Registration for Professional Soil Classifiers~~ Arkansas Soil and Water
5 Conservation Commission containing such information as the ~~board~~ commission
6 may require, together with five (5) references, three (3) of which shall be
7 professional soil classifiers having personal knowledge of his or her soil
8 classifying experience or, in the case of an application for certification as
9 a soil classifier-in-training, three (3) character references.

10 (b) Application for registration as a professional soil classifier and
11 for certification as a soil classifier-in-training shall:

12 (1) Be on a form prescribed and furnished by the ~~board~~
13 commission;

14 (2) Contain statements made under oath showing the applicant's
15 education, a detailed summary of his or her experience, and references as
16 required by this chapter; and

17 (3) Be accompanied by an application fee established by the
18 ~~board~~ commission of not less than five dollars (\$5.00) nor more than twenty-
19 five dollars (\$25.00).

20
21 SECTION 124. Arkansas Code § 17-47-303 is amended to read as follows:

22 17-47-303. Examinations.

23 (a) Examinations shall be held at times and places which the ~~Arkansas~~
24 ~~State Board of Registration for Professional Soil Classifiers~~ Arkansas Soil
25 and Water Conservation Commission shall determine.

26 (b) Examinations required on fundamental soil subjects may be taken at
27 any time prescribed by the ~~board~~ commission.

28 (c) The final examinations may not be taken until the applicant has
29 completed a period of soil classifying experience as provided in this
30 chapter.

31 (d) A candidate failing one (1) examination may apply for
32 reexamination which may be granted upon payment of a fee established by the
33 ~~board~~ commission of not less than ten dollars (\$10.00) nor more than twenty-
34 five dollars (\$25.00).

35
36 SECTION 125. Arkansas Code § 17-47-304 is amended to read as follows:

1 17-47-304. Professional soil classifiers - Qualifications -
 2 Registration.

3 (a) An applicant otherwise eligible shall be admitted to registration
 4 as a professional soil classifier if he or she has successfully passed an
 5 examination in the principles and practice of soil classifying as prescribed
 6 by the ~~Arkansas State Board of Registration for Professional Soil Classifiers~~
 7 Arkansas Soil and Water Conservation Commission and has one (1) of the
 8 following additional qualifications:

9 (1) Is a graduate of a soils curriculum approved by the ~~board~~
 10 commission as satisfactory and with a specific record of an additional one
 11 (1) year or more of experience of a grade and character which indicates to
 12 the ~~board~~ commission that the applicant is competent to practice soil
 13 classifying and who holds a valid soil classifier-in-training certificate;

14 (2) Is a person who has satisfactorily completed a soil
 15 curriculum not approved by the ~~board~~ commission and two (2) years or more of
 16 experience in soil classifying work of a character and grade which indicates
 17 to the ~~board~~ commission that the applicant is competent to practice soil
 18 classifying; or

19 (3) Is a person who holds a valid soil classifier-in-training
 20 certificate with a specific record of one (1) year or more of experience as a
 21 soil classifier-in-training of a grade and character which indicates to the
 22 ~~board~~ commission that the applicant is competent to practice soil
 23 classifying.

24 (b) An application otherwise qualified shall be admitted to
 25 registration as a professional soil classifier without examination if he or
 26 she is a person who holds a certificate of registration in the practice of
 27 soil classifying on the basis of comparable qualifications issued to him or
 28 her by a proper authority of another state, possession, or territory of the
 29 United States and who, in the opinion of the ~~board~~ commission, meets the
 30 requirements of this chapter.

31
 32 SECTION 126. Arkansas Code § 17-47-305 is amended to read as follows:

33 17-47-305. Soil classifier-in-training - Qualifications -
 34 Certification.

35 Unless otherwise qualified, a person shall be admitted to certification
 36 as a soil classifier-in-training. The certification shall be valid for four

1 (4) years, if he or she is a person who:

2 (1) Is a graduate of a soils curriculum approved by the ~~Arkansas~~
 3 ~~State Board of Registration for Professional Soil Classifiers~~ Arkansas Soil
 4 and Water Conservation Commission and has passed an examination in the
 5 fundamentals of soil classification; or

6 (2) Is an applicant who has completed a soil curriculum not
 7 approved by the ~~board~~ commission, who has a specific record of one (1) year
 8 of soil classification experience of a grade and character satisfactory to
 9 the ~~board~~ commission, and who passes an examination in the fundamentals of
 10 soil classification.

11
 12 SECTION 127. Arkansas Code § 17-47-306 is amended to read as follows:
 13 17-47-306. Issuance - Form - Evidence.

14 (a) The ~~Arkansas State Board of Registration for Professional Soil~~
 15 ~~Classifiers~~ Arkansas Soil and Water Conservation Commission shall issue a
 16 certificate of registration upon payment of the registration fee as provided
 17 for in § 17-47-307 to any applicant who, in the opinion of the ~~board~~
 18 commission, has met the requirements of this chapter.

19 (b) Enrollment cards shall be issued to those who qualify as soil
 20 classifiers-in-training.

21 (c) Certificates of registration shall carry the designation
 22 "professional soil classifier", shall show the full name of the registrant
 23 without any titles, shall be numbered, and shall be signed by the ~~chair and~~
 24 ~~the secretary~~ Executive Director of the Arkansas Soil and Water Conservation
 25 Commission under the seal of the ~~board~~ commission.

26 (d) The issuance of a certificate of registration by the ~~board~~
 27 commission shall be prima facie evidence that the person is entitled to all
 28 rights and privileges of a professional soil classifier during the term for
 29 which the certificate is valid, providing it has not been revoked or
 30 suspended.

31
 32 SECTION 128. Arkansas Code § 17-47-307 is amended to read as follows:
 33 17-47-307. Registration fees.

34 Registration fees shall be established by the ~~Arkansas State Board of~~
 35 ~~Registration for Professional Soil Classifiers~~ Arkansas Soil and Water
 36 Conservation Commission subject to the following limitations:

1 (1) The registration fee for professional soil classifiers shall
 2 be in an amount of not less than twenty dollars (\$20.00) nor more than one
 3 hundred dollars (\$100);

4 (2) The registration fee for soil classifier-in-training
 5 certification or enrollment shall be established by the ~~board~~ commission in
 6 an amount not less than ten dollars (\$10.00) nor more than fifty dollars
 7 (\$50.00); and

8 (3) Should the ~~board~~ commission deny the issuance of a
 9 certificate to an applicant, the fee paid may be retained as an application
 10 fee.

11
 12 SECTION 129. Arkansas Code § 17-47-308 is amended to read as follows:
 13 17-47-308. Expiration and renewal.

14 (a) Certificates of registration shall expire on June 30 following
 15 their issuance and shall become invalid after that date unless renewed.

16 (b)(1) It shall be the duty of the ~~secretary~~ Executive Director of the
 17 ~~Arkansas State Board of Registration for Professional Soil Classifiers~~
 18 Arkansas Soil and Water Conservation Commission to notify every person
 19 registered under this chapter of the date of the expiration of the
 20 certificate of registration and the amount of the fee required for its
 21 renewal.

22 (2) Notice shall be mailed to the registrant at his or her last
 23 known address at least one (1) month in advance of the expiration of the
 24 certificate.

25 (c) Renewal may be effected at any time prior to or during the month
 26 of July by the payment of a fee established by the ~~Arkansas State Board of~~
 27 ~~Registration for Professional Soil Classifiers~~ Arkansas Soil and Water
 28 Conservation Commission not to exceed the fees established for registration.

29 (d) Renewal of an expired certificate may be effected under rules
 30 promulgated by the ~~board~~ commission regarding requirements for reexamination
 31 and penalty fees.

32
 33 SECTION 130. Arkansas Code § 17-47-309 is amended to read as follows:
 34 17-47-309. Reissuance.

35 A new certificate of registration to replace any certificate lost,
 36 destroyed, or mutilated may be issued subject to the rules of the ~~Arkansas~~

1 ~~State Board of Registration for Professional Soil Classifiers~~ Arkansas Soil
 2 and Water Conservation Commission. A reasonable charge shall be made for
 3 reissuance.

4
 5 SECTION 131. Arkansas Code § 17-47-310 is amended to read as follows:
 6 17-47-310. Code of ethics.

7 (a) ~~The Arkansas State Board of Registration for Professional Soil~~
 8 ~~Classifiers~~ Arkansas Soil and Water Conservation Commission shall cause to
 9 have prepared and shall adopt a code of ethics, a copy of which shall be
 10 delivered to every registrant and applicant for registration under this
 11 chapter.

12 (b) The delivery shall constitute due notice to all registrants.

13 (c) The ~~board~~ commission may revise and amend this code of ethics from
 14 time to time and shall forthwith notify each registrant in writing of
 15 revisions and amendments.

16 (d) The code of ethics shall apply to all certificate holders.

17
 18 SECTION 132. Arkansas Code § 17-47-311 is amended to read as follows:
 19 17-47-311. Disciplinary actions - Grounds.

20 ~~The Arkansas State Board of Registration for Professional Soil~~
 21 ~~Classifiers~~ Arkansas Soil and Water Conservation Commission shall have the
 22 power to suspend, refuse to renew, or revoke the certificate of registration
 23 of, or reprimand, any registrant who is guilty of:

- 24 (1) Fraud or deceit in obtaining a certificate of registration;
- 25 (2) Gross negligence, incompetence, or misconduct in the
- 26 practice of soil classifying;
- 27 (3) A felony or crime involving moral turpitude; or
- 28 (4) A violation of the code of ethics adopted and promulgated by
- 29 the ~~board~~ commission.

30
 31 SECTION 133. Arkansas Code § 17-47-312 is amended to read as follows:
 32 17-47-312. Disciplinary actions - Procedure.

33 (a) Any person may prefer charges of fraud, deceit, gross negligence,
 34 incompetence, misconduct, or violation of the code of ethics against any
 35 individual registrant.

36 (b) Charges shall be in writing, shall be sworn to by the person or

1 persons making them, and shall be filed with the ~~secretary of the Arkansas~~
 2 ~~State Board of Registration for Professional Soil Classifiers~~ Executive
 3 Director of the Arkansas Soil and Water Conservation Commission.

4 (c) All charges, unless dismissed by the ~~board~~ commission as unfounded
 5 or trivial, shall be heard by the ~~board~~ commission within three (3) months
 6 after the date on which they shall have been preferred.

7 (d) The time and place for the hearing shall be fixed by the ~~board~~
 8 commission.

9 (e) A copy of the charges together with a notice of the time and place
 10 of hearing shall be served upon the accused either personally or sent by
 11 registered or certified mail to the last known address of the individual
 12 registrant at least thirty (30) days before the date fixed for hearing.

13 (f) At any hearing, the accused registrant shall have the right to
 14 appear in person or by counsel, or both, to cross-examine witnesses appearing
 15 against the accused, and to produce evidence and witnesses in defense of the
 16 accused.

17 (g) If the accused person fails or refuses to appear, the ~~board~~
 18 commission may proceed to hear and determine the validity of the charges.

19 (h) If after the hearing a majority of the board votes in favor of
 20 sustaining the charges, the ~~board~~ commission shall make findings of fact,
 21 draw its conclusions, and issue its order therein and serve it upon the
 22 accused.

23 (i) In the order the ~~board~~ commission may reprimand, suspend, refuse
 24 to renew, or revoke the accused individual's certificate of registration.

25 (j) Any person who feels aggrieved by any action of the ~~board~~
 26 commission in denying, suspending, refusing to renew, or revoking his or her
 27 certificate of registration may appeal therefrom to the circuit court of the
 28 county in which he or she resides or in Pulaski County as the aggrieved party
 29 may elect.
 30

31 SECTION 134. Arkansas Code § 17-102-102 is amended to read as follows:
 32 17-102-102. Definitions.

33 As used in this chapter:

34 (1) "Acupuncture" means the insertion, manipulation, and removal
 35 of needles from the body and the use of other modalities and procedures at
 36 specific locations on the body for the prevention, cure, or correction of a

1 malady, illness, injury, pain, or other condition or disorder by controlling
 2 and regulating the flow and balance of energy and functioning of the patient
 3 to restore and maintain health, but acupuncture shall not be considered
 4 surgery;

5 (2) "Acupuncturist" means a person licensed under this chapter
 6 as a doctor of healing arts to practice acupuncture and related techniques in
 7 this state and includes the terms licensed acupuncturist, certified
 8 acupuncturist, acupuncture practitioner, and Oriental acupuncture
 9 practitioner;

10 ~~(3) "Board" means the Arkansas State Board of Acupuncture and~~
 11 ~~Related Techniques;~~

12 ~~(4)~~(3) "Chiropractic physician" means a person licensed under
 13 the Arkansas Chiropractic Practices Act, § 17-81-101 et seq.

14 ~~(5)~~(4) "Moxibustion" means the use of heat on, or above, or on
 15 acupuncture needles, at specific locations on the body for the prevention,
 16 cure, or correction of a malady, illness, injury, pain, or other condition or
 17 disorder; and

18 ~~(6)~~(5)(A) "Related techniques" means the distinct system of
 19 basic health care that uses all allied diagnostic and treatment techniques of
 20 acupuncture, Oriental, traditional, and modern, for the prevention or
 21 correction of a malady, illness, injury, pain, or other condition or disorder
 22 by controlling and regulating the flow and balance of energy and functioning
 23 of the patient to restore and maintain health.

24 (B) As used in this subdivision ~~(6)~~(5) "related
 25 techniques" include, but are not limited to, acupuncture, moxibustion or
 26 other heating modalities, cupping, magnets, cold laser, electroacupuncture
 27 including electrodermal assessment, application of cold packs, ion pumping
 28 cord, lifestyle counseling, including general eating guidelines, tui na,
 29 massage incidental to acupuncture, breathing and exercising techniques, and
 30 the recommendation of Chinese herbal medicine lawfully and commercially
 31 available in the United States. Provided, "related techniques", including,
 32 but not limited to, tui na, shall not involve manipulation, mobilization, or
 33 adjustment to the spine or extraspinal articulations.

34

35 SECTION 135. Arkansas Code § 17-102-103 is amended to read as follows:
 36 17-102-103. Disposition of funds.

1 (a)(1) All fees authorized by this chapter are the property of the
2 ~~Arkansas State Board of Acupuncture and Related Techniques~~ Arkansas State
3 Board of Massage Therapy and Related Techniques and shall be provided to its
4 treasurer to be disposed of as provided in this chapter.

5 (2) Any surplus in the treasury of the board at the end of the
6 fiscal year shall remain in the treasury and may be expended in succeeding
7 years for the purposes herein set out.

8 (b) All funds received by the board shall be deposited into a
9 financial institution designated by the board and expended in the furtherance
10 of the purposes of this chapter and the board's duties thereunder, which
11 include, but are not limited to:

12 (1) The publication and distribution of the Arkansas Acupuncture
13 Practices Act, § 17-102-101 et seq.;

14 (2) The publication and yearly distribution of a directory of
15 all licensed acupuncturists;

16 (3) Investigations of violations of this chapter;

17 (4) Institution of actions to compel compliance with the
18 provisions of this chapter; and

19 (5) Defense of actions brought against it as a result of its
20 actions under the provisions of this chapter.

21
22 SECTION 136. Arkansas Code § 17-102-106 is amended to read as follows:
23 17-102-106. Prosecution of violations.

24 It shall be the duty of the several prosecuting attorneys of the State
25 of Arkansas to prosecute to final judgment every criminal violation of this
26 chapter committed within their jurisdictions when requested and authorized by
27 the ~~Arkansas State Board of Acupuncture and Related Techniques~~ Arkansas State
28 Board of Massage Therapy and Related Techniques.

29
30 SECTION 137. Arkansas Code §§ 17-102-201-17-102-205 are repealed.

31 ~~17-102-201. Creation of board Members Appointment.~~

32 ~~(a)(1) There is created the Arkansas State Board of Acupuncture and~~
33 ~~Related Techniques. The board shall consist of five (5) persons appointed by~~
34 ~~the Governor as full members and one (1) person appointed by the Governor as~~
35 ~~an ex-officio member.~~

36 ~~(2) Three (3) full members of the board shall be qualified~~

1 acupuncturists.

2 ~~(3)(A) Two (2) full members shall be appointed to represent the~~
 3 ~~public and shall not have practiced acupuncture and related techniques in~~
 4 ~~this or any other jurisdiction nor be retired from or have any financial~~
 5 ~~interest in the occupation regulated.~~

6 ~~(B) The public members shall be subject to confirmation by~~
 7 ~~the Senate.~~

8 ~~(C) The public members shall be full voting members but~~
 9 ~~shall not participate in the grading of examinations.~~

10 ~~(4)(A) The ex officio member shall be a physician licensed~~
 11 ~~pursuant to the Arkansas Medical Practices Act, §§ 17-95-201—17-95-207, 17-~~
 12 ~~95-301—17-95-305, and 17-95-401—17-95-411, and shall be entitled to be~~
 13 ~~notified of all board meetings and to participate in the deliberations of the~~
 14 ~~board.~~

15 ~~(B) However, the ex officio member shall have no vote,~~
 16 ~~shall not serve as an officer of the board, and shall not be counted to~~
 17 ~~establish a quorum or a majority necessary to conduct business.~~

18 ~~(b)(1) The initial full members of the board shall be appointed by the~~
 19 ~~Governor for staggered terms as follows:~~

20 ~~(A) One (1) member's term shall expire after one (1) year;~~

21 ~~(B) One (1) member's term shall expire after two (2)~~
 22 ~~years; and~~

23 ~~(C) One (1) member's term shall expire after three (3)~~
 24 ~~years.~~

25 ~~(2) Of the two (2) additional members appointed pursuant to Acts~~
 26 ~~1999, No. 536, one (1) shall be appointed for a two-year term and the other~~
 27 ~~for a three-year term.~~

28 ~~(3) The initial ex officio board member shall be appointed to a~~
 29 ~~term of three (3) years.~~

30 ~~(4) Successors shall be appointed for three-year terms.~~

31 ~~(5) Vacancies shall be filled by appointment by the Governor for~~
 32 ~~the unexpired term.~~

33 ~~(6) Board members shall serve until their successors have been~~
 34 ~~appointed and qualified.~~

35 ~~(c) The Governor may remove any full member from the board for any~~
 36 ~~reason that would justify the suspension or revocation of his or her license~~

1 ~~to practice acupuncture and related techniques.~~

2 ~~(d) A person who is or has been in the preceding two (2) years on the~~
3 ~~faculty of a school which is subject to review by the board may not serve on~~
4 ~~the board.~~

5
6 ~~17-102-202. Board members—Qualifications.~~

7 ~~(a) Each member of the Arkansas State Board of Acupuncture and Related~~
8 ~~Techniques shall be a citizen of the United States, a resident of this state,~~
9 ~~and shall, before entering upon the duties of the office, take the oath~~
10 ~~prescribed by the Constitution for state officers and shall file it with the~~
11 ~~Secretary of State who shall thereupon issue to each person so appointed a~~
12 ~~certificate of appointment.~~

13 ~~(b) Each full professional member also shall be a graduate of a~~
14 ~~reputable school or institute of acupuncture or Oriental medicine and be~~
15 ~~certified by the National Commission for the Certification of Acupuncturists.~~

16
17 ~~17-102-203. Board members—Liability.~~

18 ~~No member of the Arkansas State Board of Acupuncture and Related~~
19 ~~Techniques during the term of his or her office or thereafter shall be liable~~
20 ~~for damages as a result of any official act in the performance of his or her~~
21 ~~duty as such a member. Any action therefor shall upon motion be dismissed~~
22 ~~with prejudice at the cost of the plaintiff.~~

23
24 ~~17-102-204. Board organization—Meetings.~~

25 ~~(a) The Arkansas State Board of Acupuncture and Related Techniques~~
26 ~~shall within sixty (60) days of August 1, 1997, and every May thereafter hold~~
27 ~~a meeting and elect from its membership a president, a secretary, and a~~
28 ~~treasurer for terms set by the board.~~

29 ~~(b)(1) It shall be the duty of the board to meet regularly once in~~
30 ~~every six (6) months.~~

31 ~~(2) Special meetings of the board may be called at any time at~~
32 ~~the pleasure of the president or by the secretary on the request of any two~~
33 ~~(2) full members of the board.~~

34 ~~(3) Three (3) full members shall constitute a quorum at any~~
35 ~~meeting of the board.~~

36 ~~(c) The board shall determine by its own rules the time and manner of~~

1 ~~giving notice to members of meetings and other matters.~~

2 ~~(d) Any action of the board shall require an affirmative vote of a~~
3 ~~majority of the full membership of the board, excluding the ex-officio~~
4 ~~member.~~

5
6 ~~17-102-205. Board minutes—Records.~~

7 ~~(a) The Secretary of the Arkansas State Board of Acupuncture and~~
8 ~~Related Techniques shall keep a record of the minutes of its meetings and a~~
9 ~~record of all persons making application for license and the action of the~~
10 ~~Arkansas State Board of Acupuncture and Related Techniques thereon.~~

11 ~~(b) The secretary shall also keep a record of the names, addresses,~~
12 ~~and license numbers of all acupuncturists licensed by the board, together~~
13 ~~with a record of license renewals, suspensions, and revocations.~~

14
15 SECTION 138. Arkansas Code § 17-102-206 is amended to read as follows:
16 17-102-206. Board duties and powers.

17 (a)(1) ~~The Arkansas State Board of Acupuncture and Related Techniques~~
18 Arkansas State Board of Massage Therapy and Related Techniques is empowered
19 to incur whatever expenses it may deem necessary or expedient in performing
20 its functions. It may employ or engage whatever personnel, legal counsel,
21 independent contractors, or assistants it may deem necessary or expedient
22 therefor and fix their compensation. However, no employee of the board shall
23 have any financial interest in the occupation of acupuncture and related
24 techniques.

25 (2) All of the disbursements provided for in this section shall
26 be out of the fees and fines collected by the board.

27 (b) The board is authorized to:

28 (1) Make suitable bylaws for carrying out its duties under the
29 provisions of this chapter;

30 (2) Sue and be sued;

31 (3) Have an official seal which shall bear the words "Arkansas
32 State Board of Acupuncture and Related Techniques";

33 (4) Provide a secretary's certificate. The certificate of the
34 Secretary of the ~~Arkansas State Board of Acupuncture and Related Techniques~~
35 Arkansas State Board of Massage Therapy and Related Techniques under seal
36 shall be accepted in the courts of the state as the best evidence as to the

1 minutes of the board and shall likewise be accepted in the courts of the
2 state as the best evidence as to the licensure or nonlicensure of any person
3 under the requirements of this chapter;

4 (5) Adopt, publish, and, from time to time, revise such rules
5 ~~and regulations~~ not inconsistent with the law as may be necessary to enable
6 it to carry into effect the provisions of this chapter;

7 (6) Keep a record of all its proceedings, receipts, and
8 disbursements;

9 (7) Adopt standards for applicants wishing to take the licensing
10 examination and conduct examinations or contract with persons or entities to
11 conduct examinations of applicants;

12 (8) Grant, deny, renew, suspend, or revoke licenses to practice
13 acupuncture and related techniques for any cause stated in this chapter.
14 Except as otherwise provided by this chapter, the board shall have exclusive
15 jurisdiction to determine who shall be permitted to practice acupuncture and
16 related techniques in the State of Arkansas; and

17 (9) Conduct disciplinary proceedings as provided in this
18 chapter.

19 (c)(1) In the performance of its duties, the board is empowered to
20 administer oaths and take testimony on any matters within the board's
21 jurisdiction and issue subpoenas and thereby compel the attendance of persons
22 before it for the purpose of examining any facts or conditions properly
23 pending before the board for its action.

24 (2) All subpoenas issued by the board shall be served in the
25 manner prescribed by law for the service of subpoenas issuing from the
26 courts, and all persons so served shall obey the subpoenas or be subject to
27 the penalties provided by law for the disobedience of subpoenas issuing from
28 the courts.

29

30 SECTION 139. Arkansas Code § 17-102-302 is amended to read as follows:
31 17-102-302. Effect on existing license.

32 (a) Notwithstanding the requirements set forth in § 17-102-304, any
33 acupuncturist validly certified by the National Commission for the
34 Certification of Acupuncturists as of August 1, 1997, and residing and
35 practicing acupuncture in this state as of December 31, 1996, shall upon
36 application to the ~~Arkansas State Board of Acupuncture and Related Techniques~~

1 Arkansas State Board of Massage Therapy and Related Techniques be issued a
2 license without an examination.

3 (b)(1)(A) Notwithstanding the requirements set forth in § 17-102-304,
4 any acupuncturist not validly certified by the National Commission for the
5 Certification of Acupuncturists as of August 1, 1997, but residing and
6 practicing acupuncture in this state as of December 31, 1996, shall upon
7 application to the board be issued a provisional license conditioned upon the
8 acupuncturist's becoming certified by the commission within two (2) years of
9 August 1, 1997.

10 (B) While the license is provisional, the acupuncturist
11 may practice acupuncture and related techniques in this state pursuant to a
12 scope of practice set forth in writing by the board after review of the
13 qualifications, training, and practice experience of the acupuncturist.

14 (2) Upon obtaining certification and presenting it to the board,
15 the acupuncturist shall be issued a nonprovisional license by the board.

16 (3) Should certification not be obtained within the two-year
17 period, the board shall immediately revoke the provisional license.

18

19 SECTION 140. Arkansas Code § 17-102-303 is amended to read as follows:
20 17-102-303. Unlawful practice - Penalty - Injunction.

21 (a) Except as otherwise provided in this chapter, it shall be unlawful
22 for any person not licensed under the provisions of this chapter:

23 (1) To practice or offer to practice acupuncture and related
24 techniques; or

25 (2) To use any sign, card, or device to indicate that the person
26 is an acupuncturist.

27 (b) Except as otherwise provided in this chapter, any person who shall
28 attempt to practice acupuncture and related techniques as defined in this
29 chapter without having first been licensed or otherwise permitted under the
30 provisions of this chapter to do so, shall be deemed guilty of a misdemeanor.
31 Upon conviction, he or she shall be punished by a fine of not less than one
32 thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or by
33 imprisonment in the county jail for a period of not less than one (1) month
34 nor more than eleven (11) months, or by both fine and imprisonment. Each day
35 shall constitute a separate offense.

36 (c) The courts of this state having general equity jurisdiction are

1 vested with jurisdiction and power to enjoin the unlawful practice of
 2 acupuncture and related techniques in a proceeding by the ~~Arkansas State~~
 3 ~~Board of Acupuncture and Related Techniques~~ Arkansas State Board of Massage
 4 Therapy and Related Techniques or any member thereof or by any citizen of
 5 this state in the county in which the alleged unlawful practice occurred or
 6 in which the defendant resides or in Pulaski County. The issuance of an
 7 injunction shall not relieve a person from criminal prosecution for violation
 8 of the provisions of this chapter, but the remedy of injunction shall be in
 9 addition to liability to criminal prosecution.

10
 11 SECTION 141. Arkansas Code § 17-102-304 is amended to read as follows:
 12 17-102-304. Application - Fees - Qualifications.

13 (a)(1) No person shall be licensed to practice acupuncture and related
 14 techniques unless he or she has passed an examination and has been found to
 15 have the necessary qualifications as prescribed in the rules adopted by the
 16 ~~Arkansas State Board of Acupuncture and Related Techniques~~ Arkansas State
 17 Board of Massage Therapy and Related Techniques.

18 (2)(A) Applications for a license to practice acupuncture and
 19 related techniques in the State of Arkansas pursuant to this chapter shall be
 20 made to the Secretary of the ~~Arkansas State Board of Acupuncture and Related~~
 21 ~~Techniques~~ Arkansas State Board of Massage Therapy and Related Techniques in
 22 writing on forms furnished by the board.

23 (B) The application shall be signed by the applicant in
 24 his or her own handwriting and acknowledged before an officer authorized to
 25 administer oaths.

26 (3) Before any applicant shall be eligible for an examination,
 27 the applicant shall furnish satisfactory proof to the board that he or she:

28 (A) Is of good moral character by filing with his or her
 29 application the affidavits of at least two (2) reputable acupuncturists who
 30 attest to his or her character;

31 (B) Has successfully completed not fewer than sixty (60)
 32 semester credit hours of college education, to include a minimum of thirty
 33 (30) semester credit hours in the field of science; and

34 (C) Has completed a program in acupuncture and related
 35 techniques and has received a certificate or diploma from an institute
 36 approved by the board as described in this section. The training received in

1 the program shall be for a period of no fewer than four (4) academic years
 2 and shall include a minimum of eight hundred (800) hours of supervised
 3 clinical practice.

4 (b) Prior to approval of an institute of acupuncture and related
 5 techniques, the board shall determine that the institute meets standards of
 6 professional education. These standards shall provide that the institute:

7 (1) Require, as a prerequisite to graduation, a program of study
 8 of at least four (4) academic years;

9 (2) Meet the minimum requirements of a board-approved national
 10 accrediting body;

11 (3) Require participation in a carefully supervised clinical or
 12 internship program; and

13 (4) Confer a certificate, diploma, or degree in acupuncture and
 14 related techniques only after personal attendance in classes and clinics.

15 (c) To qualify to take the examination, an applicant additionally
 16 must:

17 (1) Be at least twenty-one (21) years of age;

18 (2) Be a citizen of the United States or a legal resident;

19 (3) Not have had a license to practice acupuncture and related
 20 techniques in any other state suspended or revoked nor have been placed on
 21 probation for any cause;

22 (4) Not have been convicted of a felony; and

23 (5) Not be a habitual user of intoxicants, drugs, or
 24 hallucinatory preparations.

25 (d) The board may charge the following fees:

26 (1) Initial application for licensing, a fee not to exceed two
 27 hundred fifty dollars (\$250);

28 (2) Written and practical examination not including the cost of
 29 the nationally recognized examination, a fee not to exceed three hundred
 30 fifty dollars (\$350);

31 (3) Biennial licensing renewal, a fee not to exceed four hundred
 32 dollars (\$400);

33 (4) Late renewal more than thirty (30) days, but not later than
 34 one (1) year, after expiration of a license, which late fee is in addition to
 35 any other fees, a fee not to exceed one hundred dollars (\$100);

36 (5) Reciprocal licensing, a fee not to exceed seven hundred

1 fifty dollars (\$750);

2 (6) Annual continuing education provider registration, a fee not
3 to exceed two hundred dollars (\$200); and

4 (7) Any and all fees to cover reasonable and necessary
5 administrative expenses.

6 (e)(1)(A) If the applicant is approved, the applicant shall be
7 admitted for examination.

8 (B) Should the applicant pass the examination, no part of
9 the fee shall be returned, and the applicant shall be issued a license to
10 practice acupuncture and related techniques in accordance with this chapter.

11 (C) Should an applicant be approved but fail to appear for
12 the examination, no part of his or her fee shall be returned, but the
13 applicant shall be eligible for examination at a later date.

14 (D) Should the approved applicant fail the examination, no
15 part of his or her fee shall be returned, and the applicant shall be eligible
16 for reexamination at a later date, at the discretion of the board, upon
17 paying an examination fee of fifty dollars (\$50.00) per failed subject up to
18 one hundred fifty dollars (\$150).

19 (2) If the applicant is not approved, the application and one-
20 half (1/2) of the examination fee shall be returned to the applicant with the
21 reasons for the disapproval clearly stated.

22

23 SECTION 142. Arkansas Code § 17-102-305 is amended to read as follows:
24 17-102-305. Examinations.

25 (a) Examinations shall be given in English and in writing and shall
26 include the following subjects:

27 (1) Anatomy and physiology;

28 (2) Pathology;

29 (3) Diagnosis;

30 (4) Hygiene, sanitation, and sterilization techniques;

31 (5) Acupuncture and related principles, practices, and
32 techniques; and

33 (6) Chinese herbal medicine.

34 (b) ~~The Arkansas State Board of Acupuncture and Related Techniques~~
35 Arkansas State Board of Massage Therapy and Related Techniques shall hold an
36 examination at least once each calendar year, and all applicants shall be

1 notified in writing of the date and time of all examinations. The board may
2 utilize a nationally recognized examination if it deems the national exam is
3 sufficient to qualify a practitioner for licensure in this state.

4 (c) The board shall issue a license to every applicant whose
5 application has been filed with and approved by the board and who has paid
6 the required fees and who either:

7 (1) Has passed the board's examination with a score on each
8 subject of not less than seventy percent (70%); or

9 (2) Has achieved a passing score on a board-approved nationally
10 recognized examination.

11
12 SECTION 143. Arkansas Code § 17-102-307 is amended to read as follows:
13 17-102-307. License renewal.

14 Each licensee shall be required to pay biennial license renewal fees
15 and meet continuing education requirements as specified in this chapter. A
16 licensee who fails to renew his or her license within one (1) year after its
17 expiration may not renew it, and it may not be restored, reissued, or
18 reinstated thereafter, but that person may apply for and obtain a new license
19 if he or she meets the following requirements:

20 (1) Meets all current standards of the ~~Arkansas State Board of~~
21 ~~Acupuncture and Related Techniques~~ Arkansas State Board of Massage Therapy
22 and Related Techniques; and

23 (2) Takes and passes the examination and pays all fees
24 associated therewith as if seeking a license for the first time.

25
26 SECTION 144. Arkansas Code § 17-102-308 is amended to read as follows:
27 17-102-308. Continuing education.

28 (a) The ~~Arkansas State Board of Acupuncture and Related Techniques~~
29 Arkansas State Board of Massage Therapy and Related Techniques shall not
30 renew the license of any person engaged in the practice of acupuncture and
31 related techniques unless the licensee presents to the board evidence of
32 attendance at a board-approved educational session or sessions of not fewer
33 than twenty-four (24) hours of continuing education within the previous
34 biennial period.

35 (b) Licensees residing out of state shall comply with the continuing
36 education requirements.

1 (c) The presentation of a fraudulent or forged evidence of attendance
2 at an educational session shall be a cause for suspension or revocation of
3 the holder's license.

4
5 SECTION 145. Arkansas Code § 17-102-309 is amended to read as follows:

6 17-102-309. Disciplinary actions - Grounds - Action by the board.

7 (a) The following acts by an applicant for a license or by a licensed
8 acupuncturist shall constitute grounds for which the disciplinary actions
9 specified in subsection (b) of this section may be taken by the ~~Arkansas~~
10 ~~State Board of Acupuncture and Related Techniques~~ Arkansas State Board of
11 Massage Therapy and Related Techniques:

12 (1) Attempting to obtain, obtaining, or renewing a license to
13 practice acupuncture and related techniques by bribery, fraud, or deceit;

14 (2) Having pled guilty or nolo contendere to, or having been
15 found guilty of, a crime in any jurisdiction which directly relates to the
16 practice of acupuncture and related techniques or to the ability to practice
17 same;

18 (3) Advertising, practicing, or attempting to practice under a
19 name other than one's own;

20 (4) Making deceptive, untrue, or fraudulent representations in
21 the practice of acupuncture and related techniques;

22 (5) Becoming mentally incompetent or unfit or incompetent by
23 reason of negligence, habits, or other causes;

24 (6) Becoming habitually intemperate or addicted to the use of
25 habit-forming drugs, illegal drugs, or alcohol;

26 (7) Acting unprofessionally in the practice of acupuncture and
27 related techniques;

28 (8) Committing fraud or deceit in filing insurance forms,
29 documents, or information pertaining to the health or welfare of a patient;
30 or

31 (9) Willfully or repeatedly violating any of the provisions of
32 this chapter or any rule or order of the board.

33 (b) When the board finds any person guilty of any of the acts set
34 forth in subsection (a) of this section, it has the sole authority to:

35 (1) Refuse to issue a license to the offender;

36 (2) Revoke or suspend the offender's license;

- 1 (3) Restrict the practice of the offender;
- 2 (4) Impose an administrative fine not to exceed five thousand
- 3 dollars (\$5,000) for each count or separate offense;
- 4 (5) Reprimand the offender; or
- 5 (6) Place the offender on probation for a period of time and
- 6 subject to such conditions as the board may specify.

7 (c) The board shall not reinstate the license of a acupuncturist or
 8 cause a license to be issued to a person it has deemed to be unqualified
 9 until such time as the board is satisfied that he or she has complied with
 10 all the terms and conditions set forth in the final order and that he or she
 11 is capable of safely engaging in the practice of acupuncture and related
 12 techniques.

13 (d) Disciplinary proceedings taken under this section shall be as
 14 provided in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.
 15

16 SECTION 146. Arkansas Code § 19-6-415 is amended to read as follows:

17 19-6-415. ~~Abstracters' Examining~~ Arkansas Title Insurance Agents' and
 18 Abstracters' Licensing Board Fund.

19 The ~~Abstracters' Examining~~ Arkansas Title Insurance Agents' and
 20 Abstracters' Licensing Board Fund shall consist of those special revenues as
 21 specified in ~~subdivision (93) of § 19-6-301~~ § 19-6-301(93), there to be used
 22 for the maintenance, operation, and improvement of the ~~Abstracters' Board of~~
 23 ~~Examiners~~ Arkansas Title Insurance Agents' and Abstracters' Licensing Board.
 24

25 SECTION 147. Arkansas Code § 20-17-1002 is amended to read as follows:

26 20-17-1002. Definitions.

27 As used in this subchapter:

28 ~~(1) "Board" means the Arkansas Cemetery Board;~~

29 ~~(2)(1)~~ (1) "Care and maintenance" means the continual maintenance of
 30 the cemetery grounds and graves in keeping with a properly maintained
 31 cemetery;

32 ~~(3)(2)~~ (2) "Cemetery" means any land or structure in this state
 33 dedicated to and used or intended to be used for interment of human remains.
 34 It may be either a burial park for earth interments, a mausoleum for vault or
 35 crypt interments, or a combination of one (1) or more thereof;

36 ~~(4)(3)~~ (3) "Cemetery company" means an individual, partnership,

1 corporation, or association, now or hereafter organized, owning or
 2 controlling cemetery lands or property and conducting the business of a
 3 cemetery or making an application with the board to own or control the lands
 4 or conduct the business;

5 ~~(5)~~(4) "Columbarium" means a structure or room or space in a
 6 building or structure used or intended to be used for the interment of
 7 cremated human remains;

8 ~~(6)~~(5) "Crypt" means a chamber of sufficient size to inter the
 9 remains of a deceased person;

10 ~~(7)~~(6) "Interment" means any lawful disposition of the remains
 11 of a deceased person as provided by law;

12 ~~(8)~~(7) "Lot or grave space" means a space of ground in a
 13 cemetery used or intended to be used for interment therein;

14 ~~(9)~~(8) "Mausoleum" means a community-type structure or room or
 15 space in a building or structure used or intended to be used for the
 16 interment of human remains in crypts or niches;

17 ~~(10)~~(9) "Niche" means a space in a columbarium which is used or
 18 intended to be used for the interment of the cremated remains of one (1) or
 19 more deceased persons;

20 ~~(11)~~(10) "Permit holder" means any cemetery company that holds a
 21 permit issued by the board to own or operate a perpetual care cemetery; and

22 ~~(12)~~(11) "Perpetual care cemetery" means a cemetery for the
 23 benefit of which a perpetual care fund has been established in accordance
 24 with this subchapter; ~~and~~

25 ~~(13) "Secretary" means the Securities Commissioner.~~

26
 27 SECTION 148. Arkansas Code § 20-17-1004 is repealed.

28 ~~20-17-1004. Arkansas Cemetery Board Creation Members.~~

29 ~~(a) The Arkansas Cemetery Board is to consist of seven (7) members~~
 30 ~~selected as follows:~~

31 ~~(1) The Securities Commissioner or his or her designated deputy~~
 32 ~~shall be a voting member of the board;~~

33 ~~(2) Six (6) members shall be appointed by the Governor for terms~~
 34 ~~of four (4) years, as follows:~~

35 ~~(A) Four (4) of the six (6) members appointed by the~~
 36 ~~Governor shall be owners or operators of licensed cemeteries in this state,~~

1 ~~and these members shall be appointed from lists of five (5) names for each~~
 2 ~~appointment to be made which are submitted to the Governor by the Arkansas~~
 3 ~~Cemetery Association;~~

4 ~~(B) One (1) member shall be appointed by the Governor and~~
 5 ~~shall be a citizen of the State of Arkansas, of good character, and a~~
 6 ~~qualified elector, but this person shall not have any interest in a cemetery~~
 7 ~~or funeral home either within or without the State of Arkansas; and~~

8 ~~(C) One (1) member shall be sixty (60) years of age or~~
 9 ~~older, appointed from the state at large, subject to the confirmation of the~~
 10 ~~Senate, and shall represent the elderly. This member shall not be actively~~
 11 ~~engaged in or retired from any profession or occupation which is regulated by~~
 12 ~~the board.~~

13 ~~(b)(1) The Governor shall appoint one (1) alternate member for the~~
 14 ~~same term and having the same qualifications as a regular member. This member~~
 15 ~~shall substitute for any regular member when a conflict of interest~~
 16 ~~disqualifies a regular member.~~

17 ~~(2) Whenever a matter comes before the board involving a~~
 18 ~~cemetery in which any member has a financial interest, then the member shall~~
 19 ~~be disqualified from participating in the discussion or vote on the matter,~~
 20 ~~and the alternate member shall substitute for the disqualified member in that~~
 21 ~~instance only.~~

22 ~~(c) Vacancies on the board due to death, resignation, or other cause~~
 23 ~~of any appointed member shall be filled by appointment of the Governor for~~
 24 ~~the unexpired portion of the term in the same manner as was required for the~~
 25 ~~initial appointment.~~

26 ~~(d) Members shall serve without pay or other compensation for their~~
 27 ~~services except that members may receive expense reimbursement and stipends~~
 28 ~~in accordance with § 25-16-901 et seq.~~

29
 30 SECTION 149. Arkansas Code § 20-17-1005 is repealed.

31 ~~20-17-1005. Arkansas Cemetery Board Proceedings.~~

32 ~~(a) Any action taken by the Arkansas Cemetery Board shall be by the~~
 33 ~~majority vote of the board members who are present at the meeting when the~~
 34 ~~action is taken.~~

35 ~~(b) The cemeterian member of the board with the greatest seniority on~~
 36 ~~the board shall be chair of the board, but if the person declines the~~

1 chairship, then the cemetarian with the next highest seniority on the board
 2 shall be chair.

3 ~~(c) Four (4) members of the board shall constitute a quorum.~~

4 ~~(d) The board shall meet subject to call of the chair or upon written
 5 demand of any two (2) members.~~

6 ~~(e) Any order by the board under this subchapter shall be subject to
 7 review by the Pulaski County Circuit Court or by the circuit court of the
 8 county in which any part of the cemetery lies, provided that an application
 9 for review of the order is made within thirty (30) days of the date of the
 10 order.~~

11
 12 SECTION 150. Arkansas Code § 20-17-1006 is amended to read as follows:
 13 20-17-1006. Arkansas Cemetery Board - Powers and duties.

14 The ~~Arkansas Cemetery Board~~ State Securities Department shall have the
 15 authority to:

16 (1) Conduct at any time and from time to time such reasonable
 17 periodic, special, or other examination of any cemetery or cemetery company,
 18 including, but not limited to, an examination of the physical condition or
 19 appearance of the cemetery, the financial condition of the company and any
 20 trust funds maintained by the company, and such other examinations as the
 21 ~~board or~~ Securities Commissioner deems necessary or appropriate in the public
 22 interest. The examinations shall be made by members or representatives of the
 23 ~~board~~ department or by a certified public accountant or registered public
 24 accountant as authorized in § 20-17-1007;

25 (2) Issue or amend permits to operate a cemetery in accordance
 26 with this subchapter;

27 (3) Suspend or revoke permits to operate a cemetery when any
 28 cemetery fails to comply with this subchapter, rules promulgated pursuant to
 29 this subchapter, or any order of the ~~board~~ department;

30 (4) Make rules, regulations, and forms to enforce this
 31 subchapter;

32 (5) Require every cemetery company to observe minimum accounting
 33 principles and practices and make and keep such books and records in
 34 accordance therewith for such period of time as the board may by rule
 35 prescribe;

36 (6)(A) Subpoena witnesses, books, and records in connection with

1 alleged violations of this subchapter or rules or orders of the ~~board~~
 2 department. With the approval of the ~~chair of the board or two (2) board~~
 3 ~~members, the~~ Securities Commissioner, he or she may issue subpoenas.

4 (B) In case of contumacy or refusal to obey a subpoena
 5 issued to any person, the Pulaski County Circuit Court, upon application by
 6 the ~~board~~ department, may issue to the person an order requiring him or her
 7 to appear before the ~~board~~ department or the person designated by the ~~board~~
 8 department. Failure to obey the order of the court may be punished by the
 9 court as a contempt of court;

10 (7) Require additional contributions to the permanent
 11 maintenance fund of the cemetery where provided for in this subchapter,
 12 including, but not limited to, contributions not to exceed three thousand
 13 dollars (\$3,000) whenever any cemetery company fails to properly care for and
 14 maintain or preserve the cemetery;

15 (8)(A) Apply to the Pulaski County Circuit Court to enjoin any
 16 act or practice and to enforce compliance with this subchapter or any rule,
 17 ~~regulation,~~ or order pursuant to this subchapter whenever it appears to the
 18 ~~board~~ department, upon sufficient grounds or evidence satisfactory to the
 19 ~~board~~ department, that any person has engaged in or is about to engage in any
 20 act or practice constituting a violation of any provision of this subchapter
 21 or any rule ~~or regulation~~ pursuant to this subchapter.

22 (B) The court may not require the ~~board~~ department to post
 23 a bond;

24 (9) Apply to the circuit court of the county in which the
 25 cemetery is located for appointment of a receiver or conservator of the
 26 cemetery corporation or its permanent maintenance fund when it appears to the
 27 ~~board~~ department that a cemetery corporation is insolvent or that the
 28 cemetery corporation, its officers, directors, agents, or the trustees of its
 29 permanent maintenance fund have violated this subchapter and the rules
 30 promulgated under this subchapter or have failed to comply with any ~~board~~
 31 department order; and

32 (10) Increase, in accordance with regulations adopted by the
 33 ~~board~~ department, the percentage of the gross proceeds of the sale of any
 34 grave space, crypt, niche, or similar entombment required to be deposited
 35 into the permanent maintenance fund of the cemetery in accordance with § 20-
 36 17-1016 whenever it is determined that the principal of the permanent

1 maintenance fund is or will be insufficient to generate enough income to
 2 operate and maintain the cemetery.

3

4 SECTION 151. Arkansas Code § 20-17-1007 is amended to read as follows:
 5 20-17-1007. Examination of cemetery.

6 (a)(1)(A) Each cemetery company examined in accordance with § 20-17-
 7 1006 shall pay to the ~~Arkansas Cemetery Board~~ State Securities Department a
 8 fee for each examination as the board shall prescribe by rule.

9 (B) In addition, the cemetery company shall pay to the ~~board~~
 10 department the amount of expenses and stipends paid by the ~~board~~ department
 11 to any ~~board~~ department member examining the physical condition or appearance
 12 of a cemetery when the examination is ordered by the ~~board~~ department on its
 13 own motion or on request of an interested individual.

14 (2) However, all examinations shall be conducted by a single
 15 examiner or ~~board~~ department member, and the examinations shall be conducted
 16 only pursuant to an order of the ~~board~~ department.

17 (b)(1) In lieu of any financial examination which the ~~board~~ department
 18 shall be authorized to make, the ~~board~~ department may accept the audit of an
 19 independent certified public accountant, provided that the Securities
 20 Commissioner has notified the cemetery company that the audit would be
 21 accepted and that the cemetery company has notified the commissioner in
 22 writing that an audit would be prepared.

23 (2) The costs of the audit shall be borne by the cemetery
 24 company, and the scope of the audit shall be at least equal to the scope of
 25 the examination required by the ~~board~~ department.

26

27 SECTION 152. Arkansas Code § 20-17-1008 is amended to read as follows:
 28 20-17-1008. Permit - Application.

29 (a)(1) Prior to making application to the ~~Arkansas Cemetery Board~~
 30 State Securities Department for a permit to establish and operate a new
 31 cemetery or for the extension of the boundaries of an existing cemetery, the
 32 person proposing to make application shall cause to be published weekly for
 33 three (3) weeks in a newspaper of general circulation in the county in which
 34 the proposed cemetery is located a notice that an application will be filed
 35 with the ~~board~~ department to establish or extend the boundaries of a cemetery
 36 in the county.

1 (2) The publication shall contain a legal description of the
 2 land to be used as a cemetery and a statement that any individual or group of
 3 individuals desiring to protest the establishment or extension of the
 4 cemetery may do so by filing a statement in writing with the ~~board~~
 5 department.

6 (b)(1) Whenever it is proposed to locate a new cemetery or extend the
 7 boundaries of an existing cemetery under this subchapter, then the cemetery
 8 company so proposing shall file an application for the issuance of a permit
 9 with the ~~board~~ department.

10 (2) The application shall describe accurately the location and
 11 boundaries of the proposed cemetery or addition.

12 (3) The application shall be accompanied by:

13 (A) The recommendation of the mayor or governing official
 14 of the municipality if the cemetery is to be located within the corporate
 15 limits of a municipality or the recommendation of the county judge of the
 16 county within which the cemetery is to be located if outside the corporate
 17 limits of a municipality. The recommendation shall state the need and
 18 desirability of the proposed cemetery or extension. This recommendation shall
 19 be in lieu of the application and permit required in § 20-17-903;

20 (B) A fee of:

21 (i) One thousand five hundred dollars (\$1,500) for
 22 filing an application for a new cemetery; or

23 (ii) Four hundred dollars (\$400) for filing an
 24 application to extend the boundaries of an existing cemetery;

25 (C) A survey and map of the cemetery or extension;

26 (D) A set of rules ~~and regulations~~ for the use, care,
 27 management, and protection of the cemetery;

28 (E) The proposed method of establishing a permanent
 29 maintenance fund;

30 (F) Proof of publication as set forth in subsection (a) of
 31 this section of the required notice of intention to apply with the ~~board~~
 32 department;

33 (G) A copy of a current title opinion by an Arkansas-
 34 licensed attorney or title insurance policy which reflects that the applicant
 35 has or will have good and merchantable title to the land covered by the
 36 permit or extension;

1 (H) A notarized statement disclosing any current or future
 2 lien or mortgage on the land covered by the permit;

3 (I) A notarized statement from any current or future
 4 lienholder or mortgage holder on the land covered by the permit or extension
 5 that all paid-in-full burial spaces will be released from the lien or
 6 mortgage at least semi-annually;

7 (J) A copy of the perpetual care trust agreement if the
 8 application is for a new cemetery permit;

9 (K) A current balance sheet of the applicant prepared by
 10 an independent certified public accountant in accordance with generally
 11 accepted accounting principles which reflects that the applicant has a
 12 minimum of twenty thousand dollars (\$20,000) net worth; and

13 (L) Any other evidence which would tend to show a public
 14 need for the proposed cemetery or extension may be included, such as a
 15 petition from landowners in the county who believe that a need exists for any
 16 additional cemetery or extension.

17 (4) The burden of establishing public need shall be upon the
 18 applicant.

19 (c) All applications shall be made under oath and filed with the
 20 Securities Commissioner not less than twenty (20) days prior to the ~~board~~
 21 department meeting at which the application is to be considered.

22 (d) The board shall have authority to require any cemetery company to
 23 submit additional information as it may by rule or order prescribe.
 24

25 SECTION 153. Arkansas Code § 20-17-1009 is amended to read as follows:
 26 20-17-1009. Permit - Investigation by Division of Health of the
 27 Department of Health and Human Services.

28 (a) Upon receipt of an application for the issuance of a permit for a
 29 new cemetery or for an extension of the boundaries of an existing cemetery,
 30 the ~~Arkansas Cemetery Board~~ State Securities Department shall cause the
 31 Division of Health of the Department of Health and Human Services to make an
 32 investigation of the proposed cemetery location or extension, with respect to
 33 a sanitary viewpoint.

34 (b) In making the investigation, the division shall take into
 35 consideration the proximity of the proposed cemetery, or extension, to human
 36 habitation, the nature of the soil, the drainage of the ground, the danger of

1 pollution of springs or streams of water, and such other conditions as would
 2 bear upon the situation.

3 (c) Having completed this investigation, the division shall promptly
 4 submit in writing its approval or disapproval from a sanitary standpoint to
 5 the board. If the division disapproves the proposed cemetery location or
 6 extension, further action on the application shall be suspended until the
 7 applicant acquires a location which meets with the approval of the division
 8 or until other action, as necessary, is taken.

9 (d) The cemetery shall pay the division any fee required by law.

10
 11 SECTION 154. Arkansas Code § 20-17-1010 is amended to read as follows:
 12 20-17-1010. Permit - Investigation and issuance by the ~~Arkansas~~
 13 ~~Cemetery Board~~ State Securities Department.

14 (a) If the cemetery company has fully complied with this subchapter
 15 and if the Division of Health of the Department of Health and Human Services
 16 approves the location of the new cemetery or the extension of the boundaries
 17 of an existing cemetery, then the application shall be submitted to the
 18 ~~Arkansas Cemetery Board~~ State Securities Department for investigation and for
 19 approval or disapproval.

20 (b) Immediately upon the submission of each application, the ~~board~~
 21 department shall make such investigation as shall enable it to determine the
 22 fitness of the cemetery company, the need for the cemetery, and all other
 23 questions bearing directly or indirectly upon the need or desirability from
 24 the public standpoint of the proposed cemetery or extension.

25 (c)(1) If the application for a new cemetery is approved, the ~~board~~
 26 department shall issue a permit to the applicant only after the applicant has
 27 filed proof with the ~~board~~ department that an initial principal deposit of at
 28 least five thousand dollars (\$5,000) has been made to the permanent
 29 maintenance fund. This initial five thousand dollars (\$5,000) can be used to
 30 meet the liability due the permanent maintenance fund for the first paid-in-
 31 full burial space sales sold by the permit holder.

32 (2) The permit shall be filed in the court of the county in
 33 which the cemetery is located and with the division.

34
 35 SECTION 155. Arkansas Code § 20-17-1011 is amended to read as follows:
 36 20-17-1011. Permit - Amendment.

1 (a) Whenever it is proposed that any cemetery subject to this
 2 subchapter amend its present permit, whether for construction of a mausoleum,
 3 reduction or increase in percentage of gross sales proceeds to be placed in
 4 the permanent maintenance fund, or other amendment, then the cemetery company
 5 shall file an application for amendment of the permit.

6 (b) The application shall be accompanied by:

7 (1) A fee of four hundred dollars (\$400);

8 (2) A statement of each proposed amendment;

9 (3) Statements, documents, and other information necessary to
 10 provide justification for the amendment;

11 (4) If the amendment is for construction of a mausoleum or
 12 similar structure, the application shall also include:

13 (A) Plans and specifications of the structure;

14 (B) A report of inspection of the plans by the Division of
 15 Health of the Department of Health and Human Services;

16 (C) A copy of the sales contracts and conveyance documents
 17 proposed to be used;

18 (D) A proposed contribution to the permanent maintenance
 19 fund;

20 (E) A statement of whether the amount of the sales force
 21 will be utilized and of how preconstruction sales and interments will be
 22 handled;

23 (F) The location of the proposed structure;

24 (G) The estimated completion date;

25 (H) Either of the following, when sales proceeds may be
 26 received by the cemetery company prior to completion of construction and
 27 payment in full of the structure:

28 (i) An executed escrow agreement approved by the
 29 ~~Arkansas Cemetery Board~~ State Securities Department with a federally insured
 30 financial institution or other financial institution approved by the ~~board~~
 31 department which provides among other things that one hundred percent (100%)
 32 of the sales proceeds collected prior to the completion and payment in full
 33 of the structure will be placed into escrow; or

34 (ii)(a) An executed copy of the construction
 35 agreement for the structure which sets forth the total construction cost and
 36 the date the construction will be completed with either an executed

1 irrevocable letter of credit from a federally insured financial institution
 2 or other financial institution approved by the board equal to one hundred
 3 twenty-five percent (125%) of the total cost of the structure, a cash bond
 4 posted with a federally insured financial institution or other financial
 5 institution approved by the ~~board~~ department equal to one hundred thirty
 6 percent (130%) of the total cost of the structure, or a construction
 7 performance bond payable to the ~~board~~ department in the amount equal to the
 8 total cost of the structure as set forth in the construction agreement.

9 (b) All letters of credit and bonds, and their
 10 issuers, shall be approved by the ~~board~~ department. The letter of credit
 11 shall state that the funds provided shall be paid to the ~~board~~ department for
 12 the purpose of completing the construction of the structure or paying in full
 13 the completed structure if not done prior to the completion date set forth in
 14 the construction agreement. The construction performance bond shall state
 15 that the insurer shall advance the funds necessary to complete the
 16 construction of the structure or pay for the completed structure, if not done
 17 prior to the date set forth in the construction agreement. The cash bond
 18 shall provide that the financial institution shall pay the cash proceeds of
 19 the bond upon order of the ~~board~~ department. The letters of credit or
 20 construction bonds shall state that if the structure is not completed and
 21 paid for in full within the maximum time provided for construction under this
 22 section, such letters of credit and bonds shall be used to complete and pay
 23 for the structure; and

24 (I) Certification of an estimated start date for
 25 construction to take place no later than thirty-six (36) months after the
 26 date of the permit and further certifying completion within five (5) years
 27 after the date of the permit unless extended for good cause by the ~~board~~
 28 department; and

29 (J) Other information necessary to show that construction
 30 will be done in a good and workmanlike manner and be fireproof; and

31 (5) Other information as the ~~board~~ department may by rule or
 32 order require.

33 (c) Eight (8) complete copies of the application for the amendment of
 34 the permit shall be filed with the Securities Commissioner at least twenty
 35 (20) calendar days prior to the meeting at which the ~~board~~ department will
 36 consider the application.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

SECTION 156. Arkansas Code § 20-17-1012 is amended to read as follows:
20-17-1012. Permit - Transfer of ownership.

(a)(1) Whenever any change is proposed in the controlling interest or ownership of any perpetual care cemetery or any cemetery company or any organization that, directly or indirectly, owns a controlling interest in the cemetery company, the cemetery company that holds the current permit and the individual or organization proposing to obtain ownership or gain control shall file an application for the issuance of a new permit with the ~~Arkansas Cemetery Board~~ State Securities Department.

(2) The application shall be accompanied by:

(A) A fee of one thousand five hundred dollars (\$1,500);

(B) A statement of changes, if any, in the survey and map of the cemetery;

(C) A set of rules ~~and regulations~~ for the use, care, management, and protection of the cemetery;

(D) The proposed method of continuing the permanent maintenance fund presently in existence;

(E) A statement of the proposed transfer;

(F) A copy of a current title opinion by an Arkansas-licensed attorney or title insurance policy that reflects that the current permit holder has good and merchantable title to the land covered by the permit;

(G) A notarized statement from the seller and purchaser disclosing any current or future lien or mortgage on the land covered by the permit;

(H) A notarized statement from any current or future lienholder or mortgage holder on the land covered by the permit that all paid-in-full burial spaces will be released from the lien or mortgage at least semiannually;

(I)(i) A current detailed accounting of all paid-in-full merchandise contracts or accounts of the permit holder and seller for which the merchandise has not been delivered to the purchaser or placed in inventory for the benefit of the purchaser.

(ii) This accounting shall be on an individual contract or account basis and contain the name of the purchaser, the contract

1 or account number, the date of the contract, the gross amount of the
 2 contract, a description of the merchandise purchased, the date the contract
 3 or account was paid in full, and the specific location where the merchandise
 4 is stored;

5 (J) A current notarized statement from the permit holder
 6 and seller that the application contains a complete and accurate accounting
 7 of all his or her outstanding accounts receivable, discounted notes, and
 8 paid-in-full merchandise accounts or contracts for which the merchandise has
 9 not been delivered to the purchaser or placed in inventory for the benefit of
 10 the purchaser;

11 (K) A current notarized statement from the purchaser or
 12 organization gaining control that it will assume the responsibility and
 13 liability for all the accounts, notes, and contracts of the seller that are
 14 contained in the accountings and schedules that are filed as a part of the
 15 application;

16 (L) The financial statements of the applicant and
 17 purchaser required by the rules which reflect that the applicant and
 18 purchaser has a minimum net worth of twenty thousand dollars (\$20,000); and

19 (M) Any additional information required by the ~~board~~
 20 department or the Securities Commissioner.

21 (b) Each vendor or the transferor of the cemetery company or interest
 22 therein shall remain liable for any funds and transactions up to the date of
 23 the sale or transfer.

24 (c)(1) Prior to the sale or transfer, the vendor or the transferor
 25 shall notify the ~~board~~ department of the proposed sale or transfer and shall
 26 submit to the ~~board~~ department, under oath, any document or record the ~~board~~
 27 department may require in order to demonstrate that the vendor or transferor
 28 is not indebted to the permanent maintenance fund.

29 (2) After the transfer of ownership or control, the vendor or
 30 transferor shall present to the ~~board~~ department proof of currency in the
 31 permanent maintenance fund.

32 (3) The ~~board~~ department may additionally require the
 33 presentation of proof of the continued current status of the permanent
 34 maintenance fund by the vendee or transferee for such reasonable period of
 35 time as the ~~board~~ department may determine to be necessary in the public
 36 interest.

1 (4) The ~~board~~ department is further authorized to recover from
 2 that vendor or transferor or vendee or transferee, for the benefit of the
 3 permanent maintenance fund, all sums that the vendor or transferor or vendee
 4 or transferee has not properly accounted for and paid into the trust fund,
 5 together with reasonable expenses incurred by the ~~board~~ department by
 6 bringing this action.

7 (d) The cemetery company that has been issued a permit to operate a
 8 cemetery under this subchapter shall remain liable for the maintenance and
 9 care of the cemetery and all amounts due the permanent maintenance fund until
 10 a new permit is issued to the vendee or transferee.

11 (e) No new permit shall be issued to the vendee or transferee of any
 12 cemetery until that vendee or transferee complies with this subchapter and
 13 the ~~board~~ department orders a new permit to be issued to the vendee or
 14 transferee.

15 (f) Any vendor or transferor or vendee or transferee who violates this
 16 section shall be guilty of a violation and upon conviction shall be fined not
 17 less than one hundred dollars (\$100) nor more than five hundred dollars
 18 (\$500) for the violation.

19
 20 SECTION 157. Arkansas Code § 20-17-1013 is amended to read as follows:

21 20-17-1013. Permanent maintenance fund generally.

22 (a)(1) The permanent maintenance fund is declared to be a trust fund
 23 for the purpose of administration, care, and maintenance of the cemetery,
 24 including lots, graves, spaces, crypts, niches, burial rights, or otherwise.

25 (2) The net income from the fund shall be paid to and be
 26 exclusively used and expended by the owners, managers, or officers and
 27 directors of the cemetery company for the care and maintenance of the
 28 cemetery and for no other purpose.

29 (3) The principal of the fund shall be invested and remain
 30 invested in such securities and funds as are permitted by the laws of
 31 Arkansas for the investment of policy reserves of life insurance companies as
 32 set forth in § 23-60-101 et seq., and in the common trust funds of state or
 33 national banks.

34 (4) However, any permanent maintenance fund having assets of
 35 more than two hundred fifty thousand dollars (\$250,000) may invest not more
 36 than fifty percent (50%) of its assets in nonassessable common stocks which

1 are listed on a national securities exchange, preferred stocks meeting the
 2 requirements of § 23-63-815, and investment trust securities meeting the
 3 requirements of § 23-63-820, and the diversification restrictions of § 23-63-
 4 805 shall not apply to investments in investment trust securities.

5 (5) In investing these funds, the trustee shall exercise the
 6 judgment and care under the circumstances then prevailing which persons of
 7 prudence, discretion, and intelligence exercise in management of their own
 8 affairs, not in regard to speculation, but in regard to the permanent
 9 disposition of their funds, considering the probable income and capital
 10 appreciation as well as the probable safety of their capital.

11 (b) The permanent maintenance fund is authorized by this subchapter,
 12 and all sums paid into it or contributed to it shall be deemed to be for
 13 charitable and eleemosynary purposes.

14 (c) The rule against perpetuities shall not be applicable to funds as
 15 mentioned in this section.

16 (d) The trust fund shall be established by executing a written trust
 17 agreement approved by the ~~Arkansas Cemetery Board~~ State Securities
 18 Department. The agreement may provide that the cemetery company may change
 19 the trustee of its trust fund so long as the successor trustee is in
 20 accordance with § 20-17-1014 and the present trustee and successor trustee
 21 are parties to the amendment of the agreement.

22 (e) At a minimum, the trustee shall maintain the following:

23 (1) A general ledger and general journal or comparable books of
 24 entry showing all receipts, disbursements, assets, liabilities, and income of
 25 the trust fund;

26 (2) Documents supporting and verifying each asset of the trust
 27 fund; and

28 (3) A trust agreement.

29 (f) In establishing a permanent maintenance fund, the cemetery company
 30 may from time to time adopt plans for the general care and maintenance of its
 31 cemetery.

32
 33 SECTION 158. Arkansas Code § 20-17-1014 is amended to read as follows:
 34 20-17-1014. Permanent maintenance fund - Trustees.

35 Each cemetery company subject to this subchapter shall establish or
 36 transfer the permanent maintenance fund, the income from which can only be

1 used for general maintenance, administration, and preservation of the
 2 cemetery, to:

- 3 (1) A state or national bank with trust powers; or
- 4 (2) Three (3) trustees, only one (1) of whom may have any direct
 5 or indirect financial or pecuniary interest in the cemetery, provided all
 6 trustees who make disbursements from the trust fund shall furnish a fidelity
 7 bond with corporate surety thereon, payable to the trust fund, in a penal sum
 8 not less than one hundred percent (100%) of the value of the trust fund
 9 principal at the beginning of each calendar year. This bond shall be
 10 deposited with the ~~Arkansas Cemetery Board~~ State Securities Department; or
- 11 (3) An individual trustee, who in behalf of the cemetery
 12 company, shall deposit designated permanent maintenance funds directly into a
 13 savings account or certificate of deposit in a state or national bank or
 14 savings and loan association in this state not less than forty-five (45) days
 15 after collection, provided:
 - 16 (A) All funds so deposited are federally insured;
 - 17 (B) The funds are restricted so that the principal amount
 18 of the funds cannot be withdrawn without the written approval of, and on a
 19 form approved by, the Securities Commissioner; and
 - 20 (C) Not less than one (1) time a year, interest from the
 21 funds may be withdrawn by the individual trustee in behalf of the cemetery
 22 company for purposes permitted by this subchapter.

23
 24 SECTION 159. Arkansas Code § 20-17-1015 is amended to read as follows:
 25 20-17-1015. Permanent maintenance fund - Annual report.

26 (a) Within sixty (60) days after the end of each calendar year, the
 27 ~~Arkansas Cemetery Board~~ State Securities Department shall require the trustee
 28 of the permanent maintenance fund to file, under oath, a detailed annual
 29 report of the condition of the fund, setting forth the description of the
 30 assets of the fund, a description of any property upon which any security
 31 constitutes a lien, the cost of acquisition of the asset, the market value of
 32 any asset at the time of its acquisition with the current market value of the
 33 asset and its status with reference to default, and stating that they are not
 34 in any way encumbered by debt, that none of the assets of the fund constitute
 35 loans to the cemetery company for which the trust fund is established or to
 36 any officer or director thereof, and any other information the trustee or the

1 ~~board~~ department deems pertinent.

2 (b) The report shall show the amounts of principal and undistributed
 3 income of the fund at the beginning of the period, the amounts deposited by
 4 the cemetery company into the fund during the period, the income earned and
 5 disbursements made during the period, the details of any investment or
 6 reinvestment during the period, and the balances of principal and income at
 7 the end of the period being reported on.

8 (c)(1) If the trustee of the fund fails to meet the requirements of
 9 this section, then it shall be the duty of the ~~board~~ department to apply to
 10 the Pulaski County Circuit Court for an order to require the trustee of the
 11 fund to file a proper report and to make any additional contributions due to
 12 the failure to timely file the annual report.

13 (2) If funds have been misappropriated by the trustee or are not
 14 being handled as required by law, then the ~~board~~ department shall apply to
 15 the circuit court in the county in which the cemetery is located to have a
 16 receiver or conservator appointed by the court to take custody of the trust
 17 funds for the benefit of the cestui que trust. The receiver or conservator is
 18 vested with full power to file such suits against the defaulting trustee as
 19 may be necessary to require a full accounting and restoration of the trust
 20 funds and to turn the residue over to another trustee as the cemetery shall
 21 select, in conformity with this subchapter, as the new trustee of the
 22 permanent maintenance fund.

23 (3) Failure by the trustee to make a timely filing of the annual
 24 report required by subsection (a) of this section shall be grounds for the
 25 trustee to pay an additional contribution to the permanent maintenance fund
 26 of fifty dollars (\$50.00) per day until the report is filed with the ~~board~~
 27 department.

28
 29 SECTION 160. Arkansas Code § 20-17-1016 is amended to read as follows:
 30 20-17-1016. Permanent maintenance fund - Required deposits.

31 (a) Each cemetery company shall deposit not less than ten percent
 32 (10%) of the gross proceeds of each sale into the permanent maintenance fund,
 33 provided cemetery companies selling crypts, niches, or similar entombments
 34 shall be required to deposit into a permanent maintenance fund an amount not
 35 less than the ~~Arkansas Cemetery Board~~ State Securities Department shall by
 36 order require if the cemetery company can demonstrate to the ~~board~~ department

1 that such lesser amount will be sufficient for perpetual maintenance and
 2 upkeep.

3 (b)(1) The deposit shall be made by the cemetery company not later
 4 than forty-five (45) days after the final payment has been made.

5 (2) However, any cemetery company making sales on installment
 6 sales contracts shall deposit the required percentage in accordance with the
 7 following:

8 (A) If the cemetery company receives installment payments
 9 directly and if adequate records are maintained as to the full amount of
 10 sale, the receipts received, and the balance due, then the cemetery company
 11 shall deposit the required percentage of gross proceeds of sale into the
 12 permanent maintenance fund not later than the forty-fifth day after the final
 13 payment is made, or the cemetery company may deposit the required percentage
 14 of each amount received not later than the forty-fifth day after each
 15 installment payment by the purchaser; and

16 (B)(i) If the cemetery company elects to discount the
 17 installment sales contracts at a bank or other financial institution and
 18 receive a discounted value immediately in cash, the required percentage of
 19 the gross sales price shall be placed in a separate restricted escrow account
 20 at the time that the contract is discounted.

21 (ii) The amount so placed in escrow shall not be
 22 withdrawn until the lot purchaser defaults on or fully satisfies his or her
 23 contract obligations.

24 (iii) This restricted escrow account may be used by
 25 the bank or other financial institution as a part of its required reserve and
 26 may be used as recourse if the lot purchaser defaults on the contract.

27 (iv) Upon default, the required percentage of the
 28 gross sales price which was placed in this escrow account may be withdrawn
 29 and used by the cemetery company.

30 (v) Once final payment has been made, the required
 31 percentage of the gross sales price which was placed in an escrow account
 32 shall be withdrawn and placed immediately into the permanent maintenance
 33 fund.

34 (vi) If the cemetery corporation enters into an
 35 agreement with the bank or other financial institution, which in the
 36 Securities Commissioner's determination adequately provides for the

1 safeguards set forth in subdivision (b)(2)(A) of this section, then that
 2 subdivision shall not be applicable to the cemetery corporation.

3 (3) If a cemetery company gives away a grave space or sells a
 4 grave space for a price less than the current market price, the gross sales
 5 proceeds received for a similar grave space in the immediately adjacent or
 6 similar location in the cemetery in a recent arms-length transaction shall be
 7 used as the basis to make the required permanent maintenance fund
 8 contribution for the gift or reduced price sale.

9 (c)(1) If the cemetery company fails to make the required deposits in
 10 accordance with this section or if the moneys placed in escrow are not
 11 deposited as required by this subchapter, then the cemetery company shall be
 12 liable for and the ~~board~~ department may collect as an additional contribution
 13 to the permanent maintenance fund ten dollars (\$10.00) per day but in no
 14 instance in amounts to exceed five thousand dollars (\$5,000) or the actual
 15 cost of the contract property or cemetery lots, whichever is greater, for the
 16 period of the failure.

17 (2) Upon the refusal of the cemetery company to pay the ~~board~~
 18 department the penalty, the ~~board~~ department may institute suit to recover
 19 the contribution and costs and such other relief as the state in its judgment
 20 deems proper and necessary.

21

22 SECTION 161. Arkansas Code § 20-17-1018 is amended to read as follows:
 23 20-17-1018. Permanent maintenance fund - Penalties.

24 (a) In addition to the civil provisions of this subchapter, it shall
 25 be unlawful for any person to:

26 (1) Advertise or operate all or part of a cemetery as a
 27 perpetual care or permanent maintenance cemetery without holding a valid
 28 permit issued by the ~~Arkansas Cemetery Board~~ State Securities Department; or

29 (2) Fail to place the required contributions into the permanent
 30 maintenance fund or to remove any principal of the permanent maintenance fund
 31 from trust.

32 (b) Any person who is in willful violation of subsection (a) of this
 33 section shall be guilty of a felony and upon conviction shall be punished by
 34 a fine of not more than six thousand dollars (\$6,000) or by imprisonment in
 35 the state penitentiary for not more than six (6) years, or by both fine and
 36 imprisonment.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

SECTION 162. Arkansas Code § 20-17-1019 is amended to read as follows:
20-17-1019. Conveyance of lots.

(a) An instrument of conveyance or deed for burial lots, plots, or parts thereof shall be issued to the purchaser upon complete payment of the purchase price.

(b) Only the cemetery company or its agents may sell or convey lots, grave spaces, crypts, niches, or parts thereof, except that:

(1) The owner of any lot, grave space, niche, crypt, or part thereof may sell his or her lot or part thereof if he or she first has offered its transfer in writing to the cemetery company at the purchase price then being charged by the cemetery company for similar lots and if the cemetery company refused the offer within thirty (30) days after the offer; or

(2) An owner may convey or devise to the cemetery company his or her right and title in and to any lot, grave space, niche, crypt, or part thereof.

(c) The secretary or other responsible officer of the cemetery company shall file and record in its books all instruments of transfer.

(d) The conveyance shall be signed by the persons having proper authority.

(e) Any mortgage or lien on the cemetery land by a permit holder shall not encumber any burial space that has been sold prior to the granting of the mortgage or creation of the lien.

(f)(1) To ensure that all burial spaces remain unencumbered, the permit holder shall file with the ~~Arkansas Cemetery Board~~ State Securities department before execution of any mortgage or creation of any lien a notarized statement reflecting the specific description of the land to be affected by the mortgage or lien and a waiver or release by the proposed mortgagee or lienholder of any claim or right to any burial space for which an instrument of conveyance or deed has been or may be executed.

(2) The failure of a permit holder to comply with the requirements of this subsection shall be grounds for the ~~board~~ department to require an additional contribution to the permanent maintenance fund of the cemetery in an amount not exceeding one thousand dollars (\$1,000) for each burial space encumbered.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

SECTION 163. Arkansas Code § 20-17-1021 is amended to read as follows:
20-17-1021. Disposition of contributions and fees.

(a) All contributions imposed pursuant to this subchapter shall be deposited into the respective permanent maintenance fund of the cemetery company upon which the contribution is imposed.

(b) All fees imposed pursuant to this subchapter shall be paid to the ~~Arkansas Cemetery Board~~ State Securities Department.

SECTION 164. Arkansas Code § 20-17-1022 is amended to read as follows:
20-17-1022. Records required.

(a) All cemetery companies shall make and keep accounts and records which shall indicate that they have made the required contributions to the permanent maintenance fund. The burden is upon the cemetery company to maintain the accounts and records.

(b) Unless otherwise approved by the ~~Arkansas Cemetery Board~~ State Securities Department, all sales contracts and deeds issued by the cemetery company shall be numbered prior to when they are executed by the cemetery company and shall contain those items that the ~~board~~ department by rule or order prescribes.

SECTION 165. Arkansas Code § 20-17-1023 is amended to read as follows:
20-17-1023. Annual report of condition of cemetery company.

(a) Within sixty (60) days after the end of the calendar year, each cemetery company shall file with the ~~Arkansas Cemetery Board~~ State Securities Department a report, under oath, of its condition. The report shall contain at least the following information:

(1) The name of the cemetery company, the location of the cemetery, the name of the person in charge of the records of the cemetery company, and the phone number of the company;

(2) The amount of sales of cemetery lots, graves, spaces, mausoleums, crypts, or niches for which payment has been made in full and certificates or deeds of conveyance have been issued during the preceding calendar year;

(3) The amounts paid into the permanent maintenance fund and the income received from the fund during the preceding calendar or fiscal year,

1 including the total amount due the fund whether paid in or not, the amounts
 2 due the fund at the date of the report, and the amount expended for
 3 maintenance of the cemetery;

4 (4) The names and addresses of the owners of the cemetery
 5 company or the officers and directors of the company and stating any change
 6 of control which has occurred during the past fiscal or calendar year, the
 7 date of incorporation, and listing the resident agent and office if the
 8 cemetery company is a corporation; and

9 (5) Such other information as the ~~board~~ department may by rule
 10 or order require.

11 (b) The report shall be accompanied by:

12 (1) A filing fee of three hundred twenty-five dollars (\$325);
 13 and

14 (2)(A) A fee of seven dollars (\$7.00) for each burial sale
 15 contract entered into after July 1, 2005, by the cemetery company regardless
 16 of the number of spaces sold under the contract regarding plots, crypts, and
 17 niches.

18 (B)(i) The first payment of fees under subdivision
 19 (b)(2)(A) of this section shall be due on or before March 1, 2006, and shall
 20 be based on the number of contract sales entered into during the period of
 21 July 1, 2005, through December 31, 2005.

22 (ii) Subsequent annual reports shall be based upon
 23 contract sales entered into for the previous calendar year.

24 (c)(1) Failure by the cemetery company to make a timely filing of its
 25 annual report shall be grounds for an additional contribution to the
 26 permanent maintenance fund of fifty dollars (\$50.00) per day until the report
 27 is filed with the ~~board~~ department.

28 (2) If the cemetery company refuses to pay the contribution or
 29 fees, the ~~board~~ department shall institute suit to recover the penalty and
 30 fee and costs and such other relief as the state in its judgment deems
 31 proper.

32 (3) If the cemetery company shall fail to meet the requirements
 33 of this section, then the ~~board~~ department shall apply to the Pulaski County
 34 Circuit Court for the proper order to require a report.

35 (d) The beginning and ending dates of the report shall coincide with
 36 the dates of the report of the trustee required in § 20-17-1015.

1 (e) Upon receipt of a properly completed annual report from the
 2 trustee and the cemetery company, the ~~board~~ department shall issue to the
 3 cemetery company an annual operating permit which shall be prominently
 4 displayed at the main entrance to the cemetery.

5
 6 SECTION 166. Arkansas Code § 20-17-1024 is amended to read as follows:
 7 20-17-1024. Preexisting cemeteries.

8 (a) All cemetery companies in existence at the time of the passage of
 9 this act shall be permitted to continue operation under their present permits
 10 except that those cemetery companies which are subject to this subchapter and
 11 have not been filing annual reports with the ~~Arkansas Cemetery Board~~ State
 12 Securities Department shall, by January 1, 1978, file the following
 13 information and shall be subject to the jurisdiction of the ~~board~~ department:

14 (1) The name of the owner and operator of the cemetery and a
 15 statement of the form of business organization, that is, corporation,
 16 nonprofit corporation, partnership, etc., along with a copy of the articles,
 17 bylaws, or applicable organization documents;

18 (2) The location and legal description of the cemetery,
 19 including a survey and map of the cemetery delineating the lots, plots,
 20 pathways, etc.;

21 (3) The rules ~~and regulations~~ for the use, care, management, and
 22 protection of the cemetery, including a list of lot prices and all charges
 23 and assessments made by the cemetery company;

24 (4) Details concerning the permanent maintenance trust fund
 25 including a copy of the trust agreement, the name of the trustee, the report
 26 of the trustee, etc.;

27 (5) A copy of the present permit and proof of registration with
 28 the Division of Health of the Department of Health and Human Services;

29 (6) A fee as the ~~board~~ department by rule shall prescribe;

30 (7) A copy of the deed to the present cemetery company conveying
 31 land used as a cemetery and copies of any encumbrances, mortgages, etc., or a
 32 statement that there are none;

33 (8) The name and address of any officers, directors, managers,
 34 the degrees of ownership of each, and a statement concerning subsidiaries and
 35 affiliates or the organization controlling the cemetery company;

36 (9) A statement as to whether there are any mausoleums or

1 similar structures; and

2 (10) Any additional information necessary to make the filing
3 complete.

4 (b) Failure to file the information shall result in the suspension or
5 revocation of the permit, and the cemetery shall be considered not to be a
6 registered cemetery. Until a new permit to operate a cemetery is obtained,
7 all burials or sales shall be unlawful and the person operating the cemetery
8 or allowing the burials shall be subject to the penalties and remedies set
9 forth in §§ 20-17-1006, 20-17-1012(f), and 20-17-1018.

10

11 SECTION 167. Arkansas Code § 20-17-1025 is amended to read as follows:
12 20-17-1025. Protection of cemeteries - Power to lend.

13 (a) On August 1, 2001, the ~~Arkansas Cemetery Board~~ State Securities
14 Department shall segregate one hundred eighty thousand dollars (\$180,000)
15 within its general operating fund to be administered by the Securities
16 Commissioner and only used to lend a court-appointed receiver or conservator
17 the funds necessary to assure that a cemetery will be properly maintained and
18 will continue to be a going concern, including the funds necessary to pay any
19 reasonable surety bond premium which is required to be posted by the court.

20 (b) The ~~board~~ department may take any legal action necessary against a
21 cemetery company, receiver, or conservator to recover any funds loaned by the
22 ~~board~~ department to or for the benefit of the cemetery, the cemetery company,
23 receiver, or conservator for the payment of maintenance expenses or unpaid
24 loans.

25 (c) Disbursement from such funds for loans to a receiver or
26 conservator shall be made on a "first in, first out" basis as determined by
27 the commissioner.

28 (d) Donations to the ~~board~~ department to fund such loans may be
29 accepted by the commissioner from any cemetery company, organization, or
30 individual.

31 (e) The ~~board~~ department may waive payment or extend the payment
32 period for any loan made to a receiver or conservator if the ~~board~~ department
33 determines that it is unlikely that the receiver or conservator has or will
34 receive sufficient funds to repay the loan and that the funds were or are
35 needed to maintain and operate the cemetery for the benefit of the lot owners
36 and the general public.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

SECTION 168. Arkansas Code § 20-17-1026 is amended to read as follows:
20-17-1026. Annual permit fee.

(a) By March 1 of each year, each permit holder shall pay to the ~~Arkansas Cemetery Board~~ State Securities Department a permit renewal fee in the amount of one hundred dollars (\$100).

(b) All annual permit fees shall be classified as general funds of the board and shall be used to make loans to receivers and conservators as provided in § 20-17-1025.

SECTION 169. Arkansas Code § 20-17-1027 is repealed.
~~20-17-1027. Duties of State Securities Department.~~

~~(a) The State Securities Department shall assist the Arkansas Cemetery Board in the performance of its duties.~~

~~(b) Assistance under subsection (a) of this section shall include, but is not limited to:~~

~~(1) Receiving and disseminating filings, questions, and requests on behalf of the board to the members of the board in advance of each meeting;~~

~~(2) Reviewing all filings, questions, and requests on behalf of the board and offering its opinion on the resolution of the matter;~~

~~(3) Issuing written responses regarding complaints received by the board;~~

~~(4) Scheduling all meetings in conjunction with the Chair of the Arkansas Cemetery Board;~~

~~(5) Providing appropriate legal notices for all scheduled meetings;~~

~~(6) Establishing a site where meetings of the board may be held;~~

~~(7) Scheduling the services of a court reporter for all meetings of the board;~~

~~(8) Providing legal representation and assistance through the legal staff of the department to the board in matters pertaining to this subchapter;~~

~~(9) Acting as a liaison between the board and any court involved in the administration of any perpetual care cemetery placed in receivership;~~

~~(10) Performing inspections at cemeteries for which complaints~~

1 ~~have been received by the board;~~

2 ~~(11) Performing special audits as necessary;~~

3 ~~(12) Scheduling regular audits of perpetual care cemeteries;~~

4 ~~(13) Administering the annual perpetual care reporting for all~~
 5 ~~perpetual care cemeteries; and~~

6 ~~(14) Assisting in the formulation of legislation on behalf of~~
 7 ~~the cemetery industry and the board.~~

8
 9 SECTION 170. Arkansas Code § 23-103-102(4), concerning definitions, is
 10 amended to read as follows:

11 (4) "Inactive signing title insurance agent" means a person
 12 having a signing agent's license that has been placed in inactive status by
 13 the Arkansas Title Insurance Agents' and Abstracters' Licensing Board;
 14

15 SECTION 171. Arkansas Code § 23-103-201 is amended to read as follows:
 16 23-103-201. Creation - Members.

17 (a) There is created the Arkansas Title Insurance Agents' and
 18 Abstracters' Licensing Board.

19 (b)(1) The board shall consist of ~~five (5)~~ seven (7) members ~~appointed~~
 20 ~~by the Governor~~, who shall serve four-year terms, subject to confirmation by
 21 the Senate.

22 (2)(A) Two (2) members shall have been actively engaged in the
 23 title insurance business in the state for a period of five (5) years prior to
 24 appointment and shall serve an initial term of four (4) years each.

25 (B) The Speaker of the House of Representatives and the
 26 President Pro Tempore of the Senate shall each appoint one (1) of these
 27 members.

28 ~~(3) One (1) member shall be knowledgeable of the title insurance~~
 29 ~~business and shall serve an initial term of three (3) years.~~

30 ~~(4)(3)(A) Two (2) members~~ One (1) member shall be ~~citizens a~~
 31 citizen of the State of Arkansas and shall serve an initial term of two (2)
 32 years each.

33 (B) The Governor shall appoint this member.

34 (4)(A) One (1) member shall be actively involved in the banking
 35 industry in the state and shall serve an initial term of two (2) years.

36 (B) The President Pro Tempore of the Senate shall appoint

1 this member.

2 (5)(A) One (1) member shall be actively involved in the real
 3 estate industry in the state and shall serve an initial term of three (3)
 4 years.

5 (B) The Governor shall appoint this member.

6 (6)(A) Two (2) members shall be actively involved in the making
 7 of abstracts of real estate titles in the state for a period of five (5)
 8 years prior to appointment and shall serve an initial term of four (4) years
 9 each.

10 (B) The Speaker of the House of Representatives and the
 11 President Pro Tempore of the Senate shall each appoint one (1) of these
 12 members.

13 (c) Vacancies on the board caused by death, resignation, or otherwise
 14 shall be filled by appointment of the Governor, subject to confirmation by
 15 the Senate.

16 (d) Any member may be appointed to successive terms, but no two (2)
 17 members shall be appointed from the same county.

18 (e) Each member shall serve without compensation but shall be
 19 reimbursed for travel and expenses in accordance with § 25-16-902.

20
 21 SECTION 172. Arkansas Code § 23-103-202(a)(1), concerning organization
 22 of board, is amended to read as follows:

23 (a)(1) The Arkansas Title Insurance Agents' and Abstracters' Licensing
 24 Board shall organize by the election of a chair and a secretary-treasurer.

25
 26 SECTION 173. Arkansas Code § 23-103-203(a), concerning applicant
 27 registry, is amended to read as follows:

28 (a) The Arkansas Title Insurance Agents' and Abstracters' Licensing
 29 Board shall keep a register of the names of each applicant for licensure,
 30 with the applicant's place of business and other information as may be deemed
 31 appropriate, including a notation of the action taken by the board and the
 32 date upon which any licenses are issued. In addition, the board shall
 33 maintain other records, registers, and files as may be necessary for the
 34 proper administration of its duties under this chapter.

35
 36 SECTION 174. Arkansas Code § 23-103-204(a), concerning fees, is

1 amended to read as follows:

2 (a) The Arkansas Title Insurance Agents' and Abstracters' Licensing
3 Board shall collect fees as follows:

4 (1) For an issuing agent's license, the original license fee
5 shall not exceed three hundred fifty dollars (\$350), and the renewal fee
6 shall not exceed three hundred fifty dollars (\$350) annually;

7 (2) For a signing agent's license, the original license fee
8 shall not exceed twenty-five dollars (\$25.00), and the renewal fee shall not
9 exceed twenty-five dollars (\$25.00) annually;

10 (3) For an inactive status license fee, the original fee shall
11 not exceed twenty-five dollars (\$25.00), and the renewal fee shall not exceed
12 twenty-five dollars (\$25.00) annually; and

13 (4) The board shall have the authority to set reasonable fees
14 established by regulation promulgated in accordance with the Arkansas
15 Administrative Procedure Act, § 25-15-201 et seq., for the performance of its
16 administrative duties, including, but not limited to, the testing of
17 applicants for licenses, transferring licenses, replacing license
18 certificates, and responding to inquiries from regulatory agencies in other
19 states.

20
21 SECTION 175. Arkansas Code § 23-103-302 is amended to read as follows:

22 23-103-302. Application of act and construction with other laws.

23 Without any further qualification or examination, an attorney at law
24 licensed to practice law by the State of Arkansas, upon written request to
25 the Arkansas Title Insurance Agents' and Abstracters' Licensing Board and
26 payment of the original license fee, shall be immediately certified by the
27 board as a licensed title insurance agent, and a license certificate shall be
28 immediately issued to the attorney.

29
30 SECTION 176. Arkansas Code § 23-103-303(a), concerning application, is
31 amended to read as follows:

32 (a) Any person desiring to become a licensed title insurance agent
33 shall make application to the Arkansas Title Insurance Agents' and
34 Abstracters' Licensing Board for license registration.

35
36 SECTION 177. Arkansas Code § 23-103-304 is amended to read as follows:

1 23-103-304. License - Examination.

2 The examination shall be in the form of written interrogatories as may
 3 be prescribed by the Arkansas Title Insurance Agents' and Abstracters'
 4 Licensing Board from time to time to determine the proficiency of the
 5 applicant.

6
 7 SECTION 178. Arkansas Code § 23-103-305(a), concerning qualifications,
 8 is amended to read as follows:

9 (a) If the person satisfactorily passes the examination and is found
 10 by the Arkansas Title Insurance Agents' and Abstracters' Licensing Board to:

- 11 (1) Be at least eighteen (18) years of age;
 - 12 (2) Be a resident of the State of Arkansas for at least six (6)
 13 months;
 - 14 (3) Have not committed any act that is a ground for denial,
 15 suspension, or revocation set forth in § 23-103-312;
 - 16 (4) Have paid the original license fee prescribed by § 23-103-
 17 204; and
 - 18 (5) Be qualified,
- 19 the person shall be certified as a licensed title insurance agent, and the
 20 license certificate provided for shall be issued to the person. The
 21 privileges granted by the license certificate shall continue unless revoked
 22 or unless the certificate is surrendered to the board.

23
 24 SECTION 179. Arkansas Code § 23-103-306 is amended to read as follows:
 25 23-103-306. Nonresident licensing.

26 Unless denied licensure for having committed any act that is a ground
 27 for denial, suspension, or revocation set forth in § 23-103-312, a
 28 nonresident person shall receive a nonresident title insurance agent license
 29 without complying with the examination requirement prescribed by § 23-103-304
 30 if:

- 31 (1) The person is currently a licensed title insurance agent as
 32 a resident and in good standing in that person's home state;
- 33 (2) The person has submitted the proper request for licensure as
 34 prescribed by the Arkansas Title Insurance Agents' and Abstracters' Licensing
 35 Board, including proof of licensure in the home state, and has paid the
 36 original license fee prescribed by § 23-103-204; and

1 (3) The person's home state awards nonresident title insurance
2 agent licenses to residents of this state on the same basis.

3
4 SECTION 180. Arkansas Code § 23-103-307(a), concerning certificate of
5 registration, is amended to read as follows:

6 (a) Every person to whom the State of Arkansas has issued, as of
7 January 1, 2001, a certificate of registration as a registered abstractor or
8 a certificate of authority to engage in the business of abstracting shall be
9 exempt from the examination required in § 23-103-304, and the person,
10 including each natural person designated by a business entity to exercise the
11 powers to be conferred by the title insurance agent's license, who is an
12 Arkansas-registered abstractor on January 1, 2001, upon payment of the
13 original license fee, shall be certified by the Arkansas Title Insurance
14 Agents' and Abstracters' Licensing Board as a licensed title insurance agent,
15 and the license certificate shall be immediately issued to the person.

16
17 SECTION 181. Arkansas Code § 23-103-308(a), concerning temporary
18 licenses, is amended to read as follows:

19 (a) The Arkansas Title Insurance Agents' and Abstracters' Licensing
20 Board may issue a temporary title insurance agent's license for a period not
21 to exceed one hundred eighty (180) days without requiring an examination, if
22 the board deems that the temporary license is necessary in the following
23 cases:

24 (1) To the surviving spouse or court-appointed personal
25 representative of a licensed title insurance agent who dies or becomes
26 mentally or physically disabled, to allow adequate time for the sale of the
27 title insurance agent's business or for the recovery or return of the title
28 insurance agent, or to provide for the training and licensing of new
29 personnel to operate the title insurance agent's business; and

30 (2) Any circumstance in which the board deems that the public
31 interest will best be served by the issuance of the temporary license.

32
33 SECTION 182. Arkansas Code § 23-103-310(c)(1)(A), concerning notice
34 for renewal, is amended to read as follows:

35 (c)(1)(A) No more than sixty (60) days nor less than thirty (30) days
36 prior to the expiration date of the license issued, the Arkansas Title

1 Insurance Agents' and Abstracters' Licensing Board shall cause a notice of
 2 expiration and application for renewal to be mailed to each of the holders of
 3 a license.

4
 5 SECTION 183. Arkansas Code § 23-103-312 is amended to read as follows:
 6 23-103-312. Revocation of license - Grounds.

7 The Arkansas Title Insurance Agents' and Abstracters' Licensing Board
 8 is authorized, after a hearing, to cancel and revoke any license issued to
 9 any person under this chapter:

- 10 (1) For a violation of any of the provisions of this chapter;
- 11 (2) Upon a conviction of the holder of a license of a crime
 12 involving moral turpitude; or
- 13 (3) If the board finds the holder of the license to be guilty of
 14 habitual carelessness or of fraudulent practices.

15
 16 SECTION 184. Arkansas Code § 23-103-313(a), concerning procedures
 17 following a complaint, is amended to read as follows:

18 (a)(1) Upon a verified complaint's being filed with the Arkansas Title
 19 Insurance Agents' and Abstracters' Licensing Board, or upon the board's own
 20 motion filing a complaint charging the person holding a title insurance
 21 agent's license or any natural person designated by a business entity holding
 22 a title insurance agent's license to exercise the power conferred by that
 23 license with:

- 24 (A) A violation of any of the provisions of this chapter;
 - 25 (B) Conviction of a crime involving moral turpitude; or
 - 26 (C) Habitual carelessness or fraudulent practices,
- 27 the board shall immediately notify the person in writing by registered mail,
 28 with return receipt, of the filing of the complaint and furnish that person
 29 with a copy of the complaint.

30 (2) The board shall at the same time require the person to
 31 appear before it on a day fixed by the board, not less than twenty (20) days
 32 nor more than forty (40) days from the date of the service of the complaint
 33 on that person, and to show cause why the license should not be canceled and
 34 revoked.

35 (3) Under the hand of its chair and the seal of the board, the
 36 board may subpoena witnesses and compel their attendance and may require the

1 production of books, papers, and other documents.

2 (4) The Chair of the Arkansas Title Insurance Agents' and
 3 Abstracters' Licensing Board or the Secretary-treasurer of the Arkansas Title
 4 Insurance Agents' and Abstracters' Licensing Board may administer oaths or
 5 affirmations to witnesses appearing before the board.

6 (5)(A) If any person refuses to obey any subpoena so issued or
 7 refuses to testify or to produce any books, papers, or other documents, the
 8 board may present its petition to any court of record, setting forth the
 9 facts.

10 (B) In a proper case, the court shall issue its subpoena
 11 to the person requiring his or her attendance before the court and there to
 12 testify or produce the books, papers, and documents as may be deemed
 13 necessary and pertinent.

14 (6) The person holding the license shall be entitled to counsel
 15 at any hearing before the board or any other hearing involving revocation of
 16 his or her license.

17 (7) The board shall cause a transcript of any testimony taken to
 18 be made by a reporter or stenographer.

19
 20 SECTION 185. Arkansas Code § 23-103-315(a)(1), concerning issuing
 21 agents, is amended to read as follows:

22 (a)(1) An issuing agent may effect the transfer of a signing agent's
 23 license or an inactive signing agent's license to the issuing agent by
 24 furnishing evidence satisfactory to the Arkansas Title Insurance Agents' and
 25 Abstracters' Licensing Board that the signing agent has:

26 (A) Been authorized to countersign commitments and
 27 contracts of title insurance in the name of the issuing agent; and

28 (B) Otherwise satisfied the requirements for licensure
 29 under this chapter.

30
 31 SECTION 186. Arkansas Code § 23-103-316(a)(2)(B), concerning education
 32 units, is amended to read as follows:

33 (B) At least one (1) hour or equivalent continuing
 34 education unit shall be in a specific topic or topics as identified by the
 35 Arkansas Title Insurance Agents' and Abstracters' Licensing Board.

36