

**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.**

INTERIM STUDY PROPOSAL 2007-030

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

# A Bill

HOUSE BILL 1269

5  
6 By: Representative Garner

7 Referred to  
8 State Agencies & Gov't Affairs- House  
9 by the House of Representatives  
10 on 03/21/2007

## For An Act To Be Entitled

11  
12  
13 AN ACT TO TRANSFER VARIOUS STATE AGENCIES TO  
14 PROMOTE EFFICIENCY IN STATE GOVERNMENT; AND FOR  
15 OTHER PURPOSES.  
16

### Subtitle

17  
18 AN ACT TO TRANSFER VARIOUS STATE  
19 AGENCIES TO PROMOTE EFFICIENCY IN STATE  
20 GOVERNMENT.  
21  
22  
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25  
26 SECTION 1. (a) The State Board of Examiners of Alcoholism and Drug  
27 Abuse Counselors, established by § 17-27-404, is abolished, and its powers  
28 and duties are transferred to the Division of Behavioral Health of the  
29 Department of Health and Human Services by a type 3 transfer as prescribed in  
30 § 25-2-106.

31 (b) For purposes of this act, the Division of Behavioral Health of the  
32 Department of Health and Human Services shall be considered a principal  
33 department established by Acts 1971, No. 38.  
34

35 SECTION 2. (a) The State Board of Registration for Professional  
36 Geologists, established by § 17-32-201 et seq., is abolished, and its powers

1 and duties are transferred to the Arkansas Geological Commission by a type 3  
2 transfer as prescribed in § 25-2-106.

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

5  
6 SECTION 3. (a) The Arkansas State Board of Acupuncture and Related  
7 Techniques, established by § 17-102-201 et seq., is abolished, and its powers  
8 and duties are transferred to the Arkansas State Board of Massage Therapy and  
9 Related Techniques by a type 3 transfer as prescribed in § 25-2-106.

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

13  
14 SECTION 4. (a) The Arkansas State Board of Registration for  
15 Professional Soil Classifiers, established by § 17-47-101 et seq., is  
16 abolished, and its powers and duties are transferred to the Arkansas Soil and  
17 Water Conservation Commission by a type 3 transfer as prescribed in § 25-2-  
18 106.

19 (b) For purposes of this act, the Arkansas Soil and Water Conservation  
20 Commission shall be considered a principal department established by Acts  
21 1971, No. 38.

22  
23 SECTION 5. (a) The State Board of Registered Interior Designers,  
24 established by § 17-35-101 et seq., is abolished, and its powers and duties  
25 are transferred to the Arkansas State Board of Architects and Registered  
26 Interior Designers by a type 3 transfer as prescribed in § 25-2-106.

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

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

36 (b) For purposes of this act, the Arkansas State Board of Architects

1 and Registered Interior Designers shall be considered a principal department  
2 established by Acts 1971, No. 38.

3  
4 SECTION 7. (a) The Abstracters' Board of Examiners, established by §  
5 17-11-201 et seq., is abolished, and its powers and duties are transferred to  
6 the Arkansas Title Insurance Agents' and Abstractors' Licensing Board by a  
7 type 3 transfer as prescribed in § 25-2-106.

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

11  
12 SECTION 8. (a) The Arkansas Cemetery Board, established by § 20-17-  
13 1004, is abolished, and its powers and duties are transferred to the State  
14 Securities Department by a type 3 transfer as prescribed in § 25-2-106.

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

17  
18 SECTION 9. (a) The Arkansas State Board of Sanitarians, established  
19 by § 17-43-101, is abolished, and its powers and duties are transferred to  
20 the Arkansas Pollution Control and Ecology Commission by a type 3 transfer as  
21 prescribed in § 25-2-106.

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

25  
26 SECTION 10. Arkansas Code §§ 17-11-201 and 17-11-202 are repealed.

27 ~~17-11-201. Creation—Members.~~

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

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

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

34 ~~(3) One (1) member shall be knowledgeable of the abstract~~  
35 ~~business.~~

36 ~~(c) Vacancies on the board caused by death, resignation, or otherwise~~

1 shall be filled by appointment of the Governor, subject to confirmation by  
2 the Senate.

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

5 (e) ~~Each member of the board may receive expense reimbursement in  
6 accordance with § 25-16-901 et seq.~~

7  
8 ~~17-11-202. Organization and proceedings.~~

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

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

14

15 SECTION 11. Arkansas Code § 17-11-203 is amended to read as follows:  
16 17-11-203. Duties and powers.

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

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

27 (b) ~~†~~ The board may adopt rules and regulations as it ~~shall deem~~  
28 deems necessary for the proper administration of its powers and duties and  
29 the carrying out of the purposes of this chapter.

30 (c) The Chair of the Arkansas Title Insurance Agents' and Abstracters'  
31 Licensing Board and the Secretary-treasurer of the Arkansas Title Insurance  
32 Agents' and Abstracters' Licensing Board shall have the power to administer  
33 oaths.

34 (d) The board shall have the power to compel the attendance of  
35 witnesses.

36

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

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

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

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

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

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

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

(a) Any person desiring to become a registered abstractor under this chapter shall make application to the ~~Abstractors' Board of Examiners~~ Arkansas Title Insurance Agents' and Abstractors' Licensing Board for registration.

SECTION 14. Arkansas Code § 17-11-303 is amended to read as follows:

17-11-303. Certificate of registration - Examination.

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

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

1 (a) If the applicant satisfactorily passes ~~such the~~ examinations and  
2 is of good moral character, the applicant shall be certified as a registered  
3 abstracter, and the certificate ~~herein~~ provided for shall be issued to him or  
4 her. The privileges granted by the certificate shall continue unless revoked,  
5 as ~~hereinafter~~ provided in this chapter, or unless the certificate is  
6 otherwise surrendered to the ~~Abstractors' Board of Examiners~~ Arkansas Title  
7 Insurance Agents' and Abstracters' Licensing Board.

8  
9 SECTION 16. Arkansas Code § 17-11-305(a), concerning temporary  
10 certificates of registration, is amended to read as follows:

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

18  
19 SECTION 17. Arkansas Code § 17-11-320 is amended to read as follows:  
20 17-11-320. Certificate of authority required.

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

25  
26 SECTION 18. Arkansas Code § 17-11-321(a), concerning a certificate of  
27 authority, is amended to read as follows:

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

32  
33 SECTION 19. Arkansas Code § 17-11-322(b), concerning a certificate of  
34 authority, is amended to read as follows:

35 (b) Current and subsisting certificates of authority shall be renewed  
36 as provided for in this section for a one-year period upon payment of a

1 renewal fee in the sum to be set by the ~~Abstractors' Board of Examiners~~  
2 Arkansas Title Insurance Agents' and Abstractors' Licensing Board.

3  
4 SECTION 20. Arkansas Code § 17-11-324(a)(1)(A), concerning a bond, is  
5 amended to read as follows:

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

15  
16 SECTION 21. Arkansas Code § 17-11-340(a), concerning revocation of  
17 certificates, is amended to read as follows:

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

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

28  
29 SECTION 22. Arkansas Code § 17-11-341(a)(1), concerning verified  
30 complaints, is amended to read as follows:

31 (a)(1) Upon a verified complaint being filed with the ~~Abstractors'~~  
32 ~~Board of Examiners~~ Arkansas Title Insurance Agents' and Abstractors'  
33 Licensing Board or upon the board's own motion filing a complaint charging  
34 the holder of a certificate of registration with a violation of any of the  
35 provisions of this chapter, or conviction of a crime involving moral  
36 turpitude, or with habitual carelessness or fraudulent practices in the

1 conduct of the business of abstracting, or charging the holder of a  
2 certificate of authority with failure to furnish the bond or bonds, or other  
3 securities, required by § 17-11-324, or with failing to have employed a  
4 registered abstracter as provided in § 17-11-301, or with a violation of any  
5 of the provisions of this chapter, the board shall immediately notify in  
6 writing by registered mail, with return receipt, the holder of the  
7 certificate of the filing of the complaint and furnish the holder with a copy  
8 of the complaint.

9  
10 SECTION 23. Arkansas Code § 17-11-342 is amended to read as follows:  
11 17-11-342. Seal.

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

18  
19 SECTION 24. Arkansas Code § 17-15-102 is amended to read as follows:  
20 17-15-102. Definitions.

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

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

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

26 ~~(3)~~(2) "Direct supervision" means that degree of supervision by  
27 a person overseeing the work of another whereby the supervisor has both  
28 control over and detailed professional knowledge of the work prepared under  
29 his or her supervision;

30 ~~(4)~~(3)(A) "Good moral character" means character which will  
31 enable a person to discharge the fiduciary duties of an architect to his or  
32 her client and to the public for the protection of health, safety, and  
33 welfare.

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

36 ~~(5)~~(4)(A)(i) "Practice of architecture" means the provision of,



1 or offering to provide, those services hereinafter described in connection  
2 with the design and construction, enlargement, or alteration of a building or  
3 group of buildings, and the space within and surrounding such buildings,  
4 which is designed for human occupancy or habitation. The services referred to  
5 include planning, providing preliminary studies, designs, drawings,  
6 specifications, and other technical submissions, and administration of  
7 construction contracts.

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

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

23 ~~(6)~~(5) "Registered architect" means an architect holding a  
24 current registration in the State of Arkansas;

25 ~~(7)~~(6) "Registration" means the certificate of registration  
26 issued by the examining body; and

27 ~~(8)~~(7) "Technical submissions" means drawings, specifications,  
28 studies, and other technical reports prepared in the course of practicing  
29 architecture.

30

31 SECTION 25. Arkansas Code § 17-15-103 is amended to read as follows:  
32 17-15-103. Penalties.

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

36 (1) Practices or offers to practice the profession of

1 architecture in this state without being registered or exempted therefrom in  
2 accordance with the provisions of this chapter;

3 (2) Gives any false or forged evidence of any kind to the  
4 Arkansas State Board of Architects and Registered Interior Designers or to  
5 any member thereof for the purpose of obtaining a certificate of  
6 registration;

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

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

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

13  
14 SECTION 26. Arkansas Code § 17-15-104 is amended to read as follows:

15 17-15-104. Enforcement.

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

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

24  
25 SECTION 27. Arkansas Code § 17-15-105 is amended to read as follows:

26 17-15-105. Injunctions.

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

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

1 state.

2

3 SECTION 28. Arkansas Code § 17-15-201 is amended to read as follows:  
4 17-15-201. Members.

5 (a) The Arkansas State Board of Architects and Registered Interior  
6 Designers shall consist of:

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

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

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

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

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

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

36 (c)(1) By due process of law, the Governor may remove any member of

1 the examining body for misconduct, incompetency, neglect of duty, or for any  
 2 malfeasance in office.

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

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

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

14  
 15 SECTION 29. Arkansas Code § 17-15-202 is amended to read as follows:  
 16 17-15-202. Organization and proceedings.

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

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

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

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

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

31  
 32 SECTION 30. Arkansas Code § 17-15-203 is amended to read as follows:  
 33 17-15-203. Duties and powers.

34 (a) In accordance with the spirit and intent of the law, the Arkansas  
 35 State Board of Architects and Registered Interior Designers shall make such  
 36 rules and regulations as may be desirable or necessary for the performance of

1 its duties and for carrying out the purposes of this chapter and may bring  
 2 suit in its proper name to enforce, or restrain the violation of, any  
 3 provision of this chapter.

4 (b)(1) In carrying into effect the provisions of this chapter, the  
 5 examining body, under the hand of its president and the seal of the examining  
 6 body, may subpoena witnesses and compel their attendance and may require the  
 7 production of books, papers, documents, etc., in any case involving  
 8 revocation of registration.

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

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

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

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

33 (2) If the person or entity fails to respond to the advisory  
 34 notice, the examining body shall send a second notice advising the person or  
 35 entity that if the person or entity does not respond within five (5) days,  
 36 the examining body, in accordance with subdivision (d)(3) of this section,

1 will hold a hearing on the alleged violation. The notice shall be sent by  
2 certified mail with restricted delivery. The examining body shall take  
3 appropriate action upon receiving the reply.

4 (3) If the person or entity fails to respond to the second  
5 notice or if the examining body determines that there is a violation of this  
6 chapter or the rules and regulations promulgated thereunder, or both, after  
7 the advisory or second notice is sent, the examining body shall prepare an  
8 order and notice of hearing advising the person or entity of the date for the  
9 hearing to be held by the examining body. The order and notice of hearing  
10 shall be sent by certified mail with restricted delivery.

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

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

20 (iii) These penalties shall be in addition to other  
21 penalties which may be imposed by the examining body pursuant to this  
22 chapter.

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

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

30  
31 SECTION 31. Arkansas Code § 17-15-204 is amended to read as follows:  
32 17-15-204. Records and reports.

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

- 36 (1) Name, age, and residence of the applicant;

- 1 (2) Date of application;
- 2 (3) Educational and other qualifications;
- 3 (4) Whether or not an examination was required;
- 4 (5) Whether the applicant was rejected;
- 5 (6) Whether a certificate of registration was granted;
- 6 (7) Date of the action of the examining body; and
- 7 (8) Any other information as may be deemed necessary by the
- 8 examining body.

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

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

19  
 20 SECTION 32. Arkansas Code § 17-15-205 is amended to read as follows:

21 17-15-205. Continuing education.

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

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

31  
 32 SECTION 33. Arkansas Code § 17-15-301 is amended to read as follows:

33 17-15-301. License required.

34 In order to safeguard life, health, and property, no person shall  
 35 practice architecture in this state, or engage in preparing plans,  
 36 specifications, or preliminary data for the erection or alteration of any

1 building located within the boundaries of this state, or use the title  
2 "architect", or display or use any title, sign, card, advertisement, or other  
3 device to indicate that the person practices or offers to practice  
4 architecture, or is an architect, unless the person shall have secured from  
5 the Arkansas State Board of Architects and Registered Interior Designers a  
6 certificate of registration and license in the manner hereinafter provided  
7 and shall thereafter comply with the provisions of this chapter governing the  
8 registration and licensing of architects.

9  
10 SECTION 34. Arkansas Code § 17-15-303 is amended to read as follows:

11 17-15-303. Partnerships and corporations.

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

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

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

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

25  
26 SECTION 35. Arkansas Code § 17-15-30 is amended to read as follows:

27 17-15-304. Examinations.

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

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

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

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



1 Designers is empowered to make all necessary rules and regulations governing  
2 the content, grading, time, place, and method of conducting the examinations  
3 and may adopt the examinations and recommended grading procedures of the  
4 National Council of Architectural Registration Boards.

5  
6 SECTION 36. Arkansas Code § 17-15-305 is amended to read as follows:

7 17-15-305. Certification generally.

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

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

13 (2) Has been previously issued certificates of registration and  
14 license by an examining body created pursuant to legislative enactment of the  
15 State of Arkansas. Certificates shall show a serial number and the full name  
16 of the registrant and shall bear the signatures of the president and  
17 secretary and the seal of the examining body.

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

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

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

27 (e) Upon issuing the initial certificate of registration, the  
28 examining body shall include a copy of the Arkansas Architectural Act, § 17-  
29 15-101 et seq. The licensee shall return a signed form to the examining body  
30 stating that he or she has read and understands the Arkansas Architectural  
31 Act, § 17-15-101 et seq.

32  
33 SECTION 37. Arkansas Code § 17-15-306 is amended to read as follows:

34 17-15-306. Associate architects - Temporary license.

35 (a) Upon application therefor and the payment of a fee equivalent to  
36 that required for a regular written examination and certificate, the Arkansas

1 State Board of Architects and Registered Interior Designers may issue a  
2 certificate of registration and license to any architect who holds an  
3 unexpired certificate of registration issued to him or her by any state or  
4 territory or possession of the United States, or any country, if:

5 (1) The requirements for the registration of architects under  
6 which the certificate of registration was issued do not contravene the  
7 provisions of this chapter and are deemed the equivalent of requirements for  
8 registration in this state by examination; and

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

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

21  
22 SECTION 38. Arkansas Code § 17-15-307 is amended to read as follows:  
23 17-15-307. Official seal.

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

32 (b) No official of this state, or of any county, city, town, or  
33 village, now or hereafter charged with the enforcement of laws, ordinances,  
34 or regulations relating to the construction or alteration of buildings, shall  
35 accept or approve any plans or specifications which have not been prepared  
36 and submitted in full accord with all the provisions of this chapter. Nor

1 shall any payment be approved by any public body for any work, the plans and  
 2 specifications for which have not been so prepared and signed and sealed by  
 3 the author.

4  
 5 SECTION 39. Arkansas Code § 17-15-308 is amended to read as follows:

6 17-15-308. Grounds for revocation.

7 The Arkansas State Board of Architects and Registered Interior  
 8 Designers shall have the power to revoke the registration and license of any  
 9 architect upon proof:

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

13 (2) That the license or certificate has been obtained by fraud  
 14 or misrepresentation or the person named therein has obtained it by fraud or  
 15 misrepresentation;

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

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

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

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

26 (7) That the holder of the license or certificate has been  
 27 guilty of fraud or deceit or of gross negligence or misconduct in the  
 28 practice of architecture;

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

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

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

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

(a) Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against any registrant. The charges shall be in writing, shall be sworn to by the person making them, and shall be filed with the Secretary of the Arkansas State Board of Architects and Registered Interior Designers.

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

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

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

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

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

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

(a) For the purpose of defraying the expenses of the Arkansas State Board of Architects and Registered Interior Designers and as required for

1 carrying out the provisions of this chapter, the following fees and penalties  
2 shall be paid:

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

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

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

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

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

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

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

27 (c) It shall be unlawful for any unregistered person to collect a fee  
28 for architectural services, except as an employee collecting a fee as a  
29 representative of a registered architect who has performed architectural  
30 services.

31

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

33 17-15-312. Practice by architect not registered in Arkansas.

34 Nothing in this chapter shall be construed to prevent:

35 (1) A nonresident who holds the certification issued by the  
36 National Council of Architectural Registration Boards from offering to render

1 the professional services involved in the practice of architecture, provided  
 2 that for every project the person is involved in, he or she notifies the  
 3 Arkansas State Board of Architects and Registered Interior Designers in  
 4 writing that:

5 (A) He or she holds a National Council of Architectural  
 6 Registration Boards certificate and is not currently registered in Arkansas  
 7 but will be present in Arkansas for the purposes of offering to render  
 8 architectural services for a single project;

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

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

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

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

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

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

31 (3) A person who is not currently registered in this state but  
 32 who is currently registered in another jurisdiction from providing  
 33 uncompensated professional services at the scene of an emergency at the  
 34 request of a public officer, public safety officer, or municipal or county  
 35 building inspector acting in an official capacity. Emergency shall mean  
 36 earthquake, eruption, flood, storm, hurricane, or other catastrophe which has

1 been designated as a major disaster or emergency by the President of the  
2 United States or the Governor of Arkansas; and

3 (4) Individuals who possess a professional degree in  
4 architecture and are enrolled in the Intern Development Program of the  
5 National Council of Architectural Registration Boards or under the  
6 jurisdiction of the Arkansas State Board of Architects may use the title  
7 "Architectural Intern" or "Intern Architect" to identify themselves.

8  
9 SECTION 44. Arkansas Code § 17-27-401 is amended to read as follows:  
10 17-27-401. Definitions.

11 As used in this subchapter:

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

14 ~~(2)(1)~~ (1) "Certified clinical supervisor" means a person certified  
15 by the Arkansas Substance Abuse Certification Board or the ~~State Board of~~  
16 ~~Examiners of Alcoholism and Drug Abuse Counselors~~ Division of Behavioral  
17 Health of the Department of Health and Human Services to provide clinical  
18 supervision for applicants for certification or licensure;

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

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

- 34 (A) Counseling with individuals, families, and groups;
- 35 (B) Helping people obtain tangible services;
- 36 (C) Assisting communities or groups;

1 (D) Providing or improving social and health services; and

2 (E) Engaging in alcoholism and drug abuse education and  
3 prevention through the appropriate administration of alcoholism and drug  
4 abuse counseling services; and

5 ~~(5)~~(4) "Supervised work experience" means paid or voluntary work  
6 experience as an alcohol and drug abuse counselor who provides alcohol and  
7 drug abuse counseling services under the supervision of a credentialed  
8 alcohol and drug abuse counselor to persons with alcoholism or other drug  
9 dependency, or both.

10

11 SECTION 45. Arkansas Code § 17-27-402 is amended to read as follows:  
12 17-27-402. Purpose.

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

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

28

29 SECTION 46. Arkansas Code §§ 17-27-404 and 17-27-405 are repealed.  
30 ~~17-27-404. Establishment of licensure board.~~

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

34 ~~(2) Two (2) of the initial members shall be alcoholism and drug~~  
35 ~~abuse counselors certified by the Arkansas Substance Abuse Certification~~  
36 ~~Board who are licensed under the provisions of this subchapter and who have~~



1 rendered service, education, or research in alcoholism and drug abuse  
 2 counseling for at least five (5) years. Their successors shall be alcoholism  
 3 and drug abuse counselors licensed by the State Board of Examiners of  
 4 Alcoholism and Drug Abuse Counselors who have rendered service, education, or  
 5 research in alcoholism and drug abuse counseling for at least two (2) years.

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

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

22 (5) One (1) member shall be licensed by an Arkansas health or  
 23 behavioral sciences board and hold a specialty in alcohol and drug abuse  
 24 counseling or addiction and a current license from his or her licensing  
 25 boards.

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

28 (7) One (1) member shall be a citizen at large who is not  
 29 associated with or financially interested in the practice or business  
 30 regulated.

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

1 remainder of that unexpired term.

2 (c) ~~Upon the recommendation of the State Board of Examiners of~~  
3 ~~Alcoholism and Drug Abuse Counselors made after notice and hearing, the~~  
4 ~~Governor may remove any member of the State Board of Examiners of Alcoholism~~  
5 ~~and Drug Abuse Counselors for incompetence, neglect of duty, or malfeasance~~  
6 ~~in office.~~

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

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

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

20

21 ~~17-27-405. Compensation for board members.~~

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

27

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

29 17-27-406. Powers and duties of board division.

30 (a) ~~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 shall administer and enforce the provisions of this subchapter  
33 and shall adopt rules ~~and regulations~~ consistent with its provisions,  
34 including a code of ethical practice.

35 (b) ~~The board~~ division shall review and act upon applications for  
36 licensure and certification at least four (4) times a year and shall regulate

1 the renewal of licenses or certifications.

2 (c) The ~~board~~ division may conduct hearings on charges calling for the  
3 denial, revocation, or suspension of a license or certification, shall adopt  
4 rules for the conduct of the hearings, and shall cause the prosecution of all  
5 persons who violate any provisions of this subchapter or any rule ~~or~~  
6 ~~regulation~~ promulgated pursuant to its provisions.

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

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

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

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

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

19

20 SECTION 48. Arkansas Code § 17-27-407 is amended to read as follows:

21 17-27-407. Board to enjoin violations.

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

27

28 SECTION 49. Arkansas Code § 17-27-408 is amended to read as follows:

29 17-27-408. Alcoholism and drug abuse counselor - License requirements.

30 (a) 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 shall issue the license as a licensed alcoholism and drug  
33 abuse counselor to an applicant who meets the following requirements:

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

35 (2) Has successfully completed a minimum of three (3) years or  
36 six thousand (6,000) hours of supervised experience. Supervised experience

1 must be approved and documented by a certified clinical supervisor in good  
2 standing with the ~~board~~ division;

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

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

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

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

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

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

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

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

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

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

29 17-27-409. Alcoholism and drug abuse associate - Certification  
30 requirements.

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

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

36 (2) Has successfully completed a minimum of three (3) years or

1 six thousand (6,000) hours of supervised experience. Supervised experience  
 2 must be approved and documented by a certified clinical supervisor in good  
 3 standing with the ~~board~~ division;

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

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

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

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

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

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

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

22 (10) Holds a baccalaureate degree in the health or behavioral  
 23 sciences field or other appropriate field from an accredited college or  
 24 university;

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

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

33 (13) Has successfully completed a minimum of three hundred (300)  
 34 hours of supervised direct counseling practicum. Supervised experience must  
 35 be approved and documented by a certified clinical supervisor in good  
 36 standing with the ~~board~~ division. This practicum may be included in place of

1 the requirement in subdivision (a)(12) of this section of two (2) years'  
2 experience; and

3 (14) Has successfully completed the written examination and oral  
4 examination for certification as a certified alcoholism and drug abuse  
5 associate.

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

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

14

15 SECTION 51. Arkansas Code § 17-27-410 is amended to read as follows:  
16 17-27-410. Alcoholism and drug abuse technician - Certification  
17 requirements.

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

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

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

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

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

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

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

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

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

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

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

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

13 (c) Technicians certified by the ~~board~~ division may engage in the  
14 practice of alcoholism and drug abuse counseling only while under the direct  
15 supervision of a licensed alcoholism and drug abuse counselor or other health  
16 professional licensed under other behavioral sciences or health boards and  
17 practicing alcohol and drug abuse counseling.

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

22  
23 SECTION 52. Arkansas Code § 17-27-411 is amended to read as follows:  
24 17-27-411. Certified clinical supervisors.

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

29  
30 SECTION 53. Arkansas Code § 17-27-412 is amended to read as follows:  
31 17-27-412. Grandfather clause.

32 (a) ~~The State Board of Examiners of Alcoholism and Drug Abuse~~  
33 Counselors Division of Behavioral Health of the Department of Health and  
34 Human Services shall issue the appropriate license or certificate to any  
35 person who holds a current valid certification from the Arkansas Substance  
36 Abuse Certification Board as a certified substance abuse counselor or other

1 such persons holding a valid license under other health or behavioral science  
2 boards and practicing alcoholism and drug abuse counseling and who:

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

5 (2) Has submitted an application to the ~~State Board of Examiners~~  
6 ~~of Alcoholism and Drug Abuse Counselors~~ division on a form provided by the  
7 ~~board~~ division;

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

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

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

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

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

29  
30 SECTION 54. Arkansas Code § 17-27-413 is amended to read as follows:  
31 17-27-413. License and certificate renewal - Fee - Waiver.

32 (a) Each licensed alcoholism and drug abuse counselor, certified  
33 alcoholism and drug abuse associate, and certified alcoholism and drug abuse  
34 technician shall renew his or her license or certificate every two (2) years  
35 and shall pay the ~~State Board of Examiners of Alcoholism and Drug Abuse~~  
36 ~~Counselors~~ Division of Behavioral Health of the Department of Health and



1 Human Services a renewal fee fixed by the ~~board~~ division.

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

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

9

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

11 17-27-414. Grievance procedure - Denial, revocation, or suspension of  
12 license or certificate - Appeals.

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 may hear the grievances of any person whose application for a  
16 license or certificate has been denied.

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

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

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

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

35 (f) The ~~board~~ division or its authorized representative on his or her  
36 behalf shall have the authority to issue subpoenas to compel the attendance

1 of witnesses and the production of documents and may administer oaths. The  
 2 ~~board~~ division may invoke the aid of the circuit court for the county in  
 3 which the hearing is held to enforce compliance with its subpoenas.

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

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

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

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

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

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

20  
 21 SECTION 56. Arkansas Code § 17-27-415 is amended to read as follows:

22 17-27-415. Funding of ~~board~~ division.

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

28  
 29 SECTION 57. Arkansas Code § 17-32-102 is amended to read as follows:

30 17-32-102. Definitions.

31 As used in this chapter:

32 ~~(1) "Board" means the State Board of Registration for~~  
 33 ~~Professional Geologists;~~

34 ~~(2)(1)~~ (1) "Geologist" means a person engaged in the practice of  
 35 geology;

36 ~~(3)(2)~~ (2) "Geologist-in-training" means a person who meets all

1 requirements for registration except length of experience and who has applied  
 2 for and has been approved by the ~~board~~ Arkansas Geological Commission for  
 3 registration. Upon completion of his or her required length of experience and  
 4 after review by the ~~board~~ commission, he or she may be granted the title of  
 5 registered geologist;

6 ~~(4)~~(3) "Geology" means that science which treats of the earth in  
 7 general, investigation of the earth's crust and the rocks and other materials  
 8 which compose it, and the applied science of utilizing knowledge of the earth  
 9 and its constituent rocks, minerals, liquids, gases, and other materials for  
 10 the benefit of mankind;

11 ~~(5)~~(4)(A) "Public practice of geology" means any professional  
 12 service, work, or activity requiring formal geological education, training,  
 13 and experience and the understanding and application of special knowledge of  
 14 the mathematical, physical, and geological sciences as may be related to  
 15 those services.

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

18 (i) Practices any branch of the profession of  
 19 geology;

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

24 (iii) Represents that he or she is registered under  
 25 this chapter; or

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

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

31 ~~(6)~~(5) "Qualified geologist" means a person who is not  
 32 registered under this chapter but who possesses all the qualifications  
 33 specified in this chapter for registration;

34 ~~(7)~~(6) "Registered certified specialty geologist" means a person  
 35 who is certified as a specialty geologist under this chapter;

36 ~~(8)~~(7) "Registered geologist" means a person who is registered

1 as a geologist under this chapter;

2 ~~(9)~~(8) "Responsible charge of work" means the independent  
3 control and direction of geological work or the supervision of that work by  
4 the use of initiative, skill, and independent judgment; and

5 ~~(10)~~(9) "Subordinate" means any person who assists a registered  
6 geologist or a registered engineer in the practice of geology without  
7 assuming the responsible charge of work.

8

9 SECTION 58. Arkansas Code § 17-32-103 is amended to read as follows:  
10 17-32-103. Penalty.

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

13 (1) Publicly practices or offers to publicly practice geology  
14 for others in this state without being registered in accordance with this  
15 chapter;

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

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

22 (4) Falsely impersonates any other registrant of like or  
23 different name; or

24 (5) Attempts to use an expired or revoked certificate of  
25 registration or attempts to practice at any time during a period when the  
26 ~~board~~ commission has suspended or revoked his or her certificate of  
27 registration.

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

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

33

34 SECTION 59. Arkansas Code § 17-32-104 is amended to read as follows:  
35 17-32-104. Legal and other assistance.

36 (a) The Attorney General or one of his or her assistants shall act as

1 legal adviser to the ~~State Board of Registration for Professional Geologists~~  
2 Arkansas Geological Commission and render legal assistance needed to  
3 implement and enforce the provisions of this chapter and the rules ~~and~~  
4 ~~regulations~~ of the ~~board~~ commission.

5 (b) The ~~board~~ commission may employ additional counsel with approval  
6 of the Attorney General and any other necessary assistance to aid in the  
7 enforcement of this chapter and the ~~regulations~~ rules of the ~~board~~  
8 commission.

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

11

12 SECTION 60. Arkansas Code § 17-32-106 is amended to read as follows:  
13 17-32-106. Injunction - Liability of board.

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

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

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

24

25 SECTION 61. Arkansas Code §§ 17-32-201-17-32-203 are repealed.  
26 ~~17-32-201. Creation - Members - Compensation.~~

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

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

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

33 ~~(A) Five (5) members who shall be registered geologists,~~  
34 ~~one (1) of whom shall be an academic geologist, one (1) a governmental~~  
35 ~~geologist, one (1) a salaried company geologist, one (1) an independent or~~  
36 ~~consultant geologist, and one (1) a geologist-at-large;~~

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

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

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

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

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

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

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

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

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

25  
 26           ~~17-32-202. Meeting—Notice.~~

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

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

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

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

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

3  
4  
5       ~~17-32-203. Officers — Temporary assistance.~~

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

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

14  
15       SECTION 62. Arkansas Code § 17-32-204 is amended to read as follows:  
16       17-32-204. Powers and duties generally.

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

- 20               (1) Adopt, after notice and public hearing, modify, repeal,  
21 promulgate, and enforce regulations reasonably necessary to:  
22                       (A) Implement or effectuate its powers and duties;  
23                       (B) Regulate proceedings before the ~~board~~ commission; and  
24                       (C) Define terms in this chapter that are otherwise  
25 undefined, including, but not limited to, the professional services, works,  
26 and activities that constitute the public practice of geology as defined in §  
27 17-32-102;

28               (2) Be subject to the Arkansas Administrative Procedure Act, §  
29 25-15-201 et seq.;

30               (3) Adopt and have an official seal; and

31               (4) Have such other powers and duties as are necessary to  
32 implement this chapter.

33  
34       SECTION 63. Arkansas Code § 17-32-205 is amended to read as follows:  
35       17-32-205. Code of professional conduct.

36       ~~(a)(1) The State Board of Registration for Professional Geologists~~

1 Arkansas Geological Commission shall cause to have prepared and shall adopt a  
2 code of professional conduct which shall be made known in writing to every  
3 registrant and applicant for registration under this chapter and which shall  
4 be published in the roster provided for in this chapter.

5 (2) This publication shall constitute due notice to all  
6 registrants.

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

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

11

12 SECTION 64. Arkansas Code § 17-32-206 is amended to read as follows:  
13 17-32-206. Witnesses and documents - Subpoenas.

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

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

23

24 SECTION 65. Arkansas Code § 17-32-207 is amended to read as follows:  
25 17-32-207. Official records and registers - Publication and  
26 accounting.

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

30 (2) The register shall show:

- 31 (A) The name, age, and residence of each applicant;
- 32 (B) The date of application;
- 33 (C) The place of business of the applicant;
- 34 (D) The applicant's education and other qualifications;
- 35 (E) Whether or not an examination was required;
- 36 (F) Whether the applicant was registered;



- 1 (G) Whether a certificate of registration was granted;
- 2 (H) The dates of the action by the ~~board~~ commission; and
- 3 (I) Such other information as may be deemed necessary by
- 4 the ~~board~~ commission.

5 (b) All official records of the ~~board~~ commission, or affidavits by the  
 6 secretary-treasurer as to the content of such records, shall be prima facie  
 7 evidence of all matters required to be kept therein.

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

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

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

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

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

23  
 24 SECTION 66. Arkansas Code § 17-32-208 is amended to read as follows:

25 17-32-208. ~~Secretary-treasurer~~ Director, assistants - Indebtedness.

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

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

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

36 (c) The ~~board~~ commission shall employ assistants required to properly

1 perform its work and shall make expenditures from this account for any  
2 purpose that, in the opinion of the ~~board~~ commission, is reasonably necessary  
3 to perform its duties under law and its rules ~~and regulations~~.

4 (d) The ~~board~~ commission shall have no authority to incur  
5 indebtedness.

6  
7 SECTION 67. Arkansas Code § 17-32-302 is amended to read as follows:  
8 17-32-302. Persons subject to provisions - Exemptions.

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

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

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

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

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

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

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

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

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

35 (B)(i) The practice of geology or the offer to practice  
36 geology by a person not a resident of and having no established place of

1 business in this state if the person is licensed or registered to practice  
 2 the profession in another state where the requirements for a certificate of  
 3 registration or license are not lower than those specified in this state for  
 4 obtaining the registration required for the work.

5 (ii) The person shall apply in writing to the ~~State~~  
 6 ~~Board of Registration for Professional Geologists~~ Arkansas Geological  
 7 Commission and, after payment of a fee established by rule not to exceed six  
 8 hundred dollars (\$600), may be granted a written permit for a prescribed  
 9 period of time of less than one (1) year to perform a specific practice of  
 10 geology.

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

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

21 (D) The practice of registered professional engineers from  
 22 lawfully practicing soil mechanics, foundation engineering, geotechnical  
 23 engineering, hydrology as it pertains to the practice of engineering, and  
 24 environmental engineering.

25  
 26 SECTION 68. Arkansas Code § 17-32-303 is amended to read as follows:

27 17-32-303. Application - Recommendations.

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

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

34 (3) After examination of any dissertation, thesis, technical  
 35 report, study, or other similar material required of any applicant for  
 36 registration as a geologist or certification in a specialty, the ~~State Board~~

1 ~~of Registration for Professional Geologists, Arkansas Geological Commission~~  
2 may return it to the applicant.

3 (b)(1) The ~~board~~ commission shall require the applicant to provide the  
4 board with the names and addresses of three (3) qualified geologists who can  
5 attest to the experience and qualifications of the applicant and the names  
6 and addresses of two (2) people who can attest to the personal character and  
7 ethical practices of the applicant.

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

10  
11 SECTION 69. Arkansas Code § 17-32-304 is amended to read as follows:

12 17-32-304. Minimum qualifications - Ability of applicant - Geologist-  
13 in-training certificate.

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

16 (1) Be of good ethical character;

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

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

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

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

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

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

36 (ii) Credit for undergraduate study, graduate study,

1 and graduate courses, individually or in any combination thereof, shall in no  
2 case exceed a total of four (4) years toward meeting the requirements for at  
3 least seven (7) years of professional geological work as set forth in  
4 subdivision (a)(3)(A) of this section;

5 (iii) In lieu of the professional geological work as  
6 set out in this section, the ~~board~~ commission may consider the cumulative  
7 total of professional geological work or geological research of persons  
8 teaching at the college or university level if the work or research can be  
9 demonstrated to be of a sufficiently responsible nature to be equivalent to  
10 the professional requirements of this chapter.

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

12 (1) His or her having performed the work in a responsible  
13 position as determined by the ~~board~~ commission. The adequacy of the required  
14 supervision and experience shall be determined by the ~~board~~ commission in  
15 accordance with standards set forth in ~~regulations~~ rules adopted by the ~~board~~  
16 commission; and

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

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

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

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

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

33  
34 SECTION 70. Arkansas Code § 17-32-305 is amended to read as follows:  
35 17-32-305. Examinations.

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

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

4  
5 SECTION 71. Arkansas Code § 17-32-306 is amended to read as follows:  
6 17-32-306. Registration without examination.

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

14  
15 SECTION 72. Arkansas Code § 17-32-307 is amended to read as follows:  
16 17-32-307. Fees - Renewal - Date of filing.

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

18 (1) Application for registered geologist, twenty dollars  
19 (\$20.00);

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

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

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

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

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

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

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

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

36 (2) Any consideration for registration reinstatement after the

1 six-month penalty period shall be at the discretion of the ~~board~~ commission  
2 and requires submission of a reinstatement application with the required  
3 reinstatement fee of twice the renewal fee.

4 (e) The date of the filing fee when transmitted through the mail shall  
5 be that date shown by the post office cancellation mark appearing on the  
6 envelope containing the fee.

7

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

9 17-32-308. Issuance of certificates of registration.

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

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

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

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

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

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

30

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

32 17-32-309. Certification in specialty.

33 (a) In addition to registering as a geologist, qualified persons may  
34 also be eligible for certification in a specialty. Specialties may be  
35 designated by the ~~State Board of Registration for Professional Geologists~~  
36 Arkansas Geological Commission by regulation rule, with the regulations rules

1 to contain any required additional qualifications. Only a registered  
2 geologist is eligible for certification in a specialty. Application may be  
3 submitted for both registration as a geologist and certification in a  
4 specialty at the same time, but the applicant must be approved for  
5 registration as a geologist before being considered for certification in a  
6 specialty. The certification in a specialty is dependent, in every case, upon  
7 the approval of registration as a geologist.

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

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

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

19

20 SECTION 75. Arkansas Code § 17-32-310 is amended to read as follows:

21 17-32-310. Seal authorized - Authentication of documents.

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

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

36



1 SECTION 76. Arkansas Code § 17-32-311 is amended to read as follows:  
2 17-32-311. Denial, etc., of registration certificate - Grounds -  
3 Procedure.

4 (a) ~~The State Board of Registration for Professional Geologists~~  
5 Arkansas Geological Commission shall have the power to deny, suspend, revoke,  
6 or refuse to renew the certificate of registration of any registrant who is  
7 found to have been involved in:

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

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

12 (3) Any felony;

13 (4) Providing false testimony or information to the ~~board~~  
14 commission;

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

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

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

25 (8) Aiding or assisting another person in violating any  
26 provision of this chapter or the rules ~~or regulations~~ pertaining to this  
27 chapter.

28 (b) Any action by the ~~board~~ commission in this regard shall be after a  
29 hearing held in accordance with the Arkansas Administrative Procedure Act, §  
30 25-15-201 et seq. Any administrative or judicial review of the action shall  
31 likewise be in accordance with the Arkansas Administrative Procedure Act, §  
32 25-15-201 et seq.

33

34 SECTION 77. Arkansas Code § 17-32-312 is amended to read as follows:  
35 17-32-312. Disciplinary action - Procedures.

36 (a) Any person may prefer charges of fraud, deceit, gross negligence,

1 incompetence, or misconduct against any registrant or nonregistrant. The  
 2 charges shall be:

- 3 (1) In writing;
- 4 (2) Sworn to by the person or persons making them; and
- 5 (3) Filed with the ~~Secretary treasurer of the State Board of~~  
 6 ~~Registration for Professional Geologists~~ Director of the Arkansas Geological  
 7 Commission.

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

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

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

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

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

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

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

1 seq.

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

5 (2) Unless the amount of the penalty is paid within fifty (50)  
6 days after the order becomes final, the order shall constitute a judgment and  
7 shall be filed and an execution issued in the manner as any other judgment of  
8 a court of record.

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

12

13 SECTION 78. Arkansas Code § 17-32-313 is amended to read as follows:  
14 17-32-313. Reissuance of registration.

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

20

21 SECTION 79. Arkansas Code § 17-32-314 is amended to read as follows:  
22 17-32-314. Filing and service.

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

30

31 SECTION 80. Arkansas Code § 17-35-103 is amended to read as follows:  
32 17-35-103. Definitions.

33 (a) In §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-301 -  
34 17-35-304:

35 (1) ~~"Board" means the State Board of Registered Interior~~  
36 ~~Designers; and~~

1           ~~(2)(A)~~ "~~Registered~~ registered interior designer" means a person  
2 registered under §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-  
3 301 - 17-35-304.

4           ~~(B)(i)(b)(1)~~ A registered interior designer is a design  
5 professional who is qualified by education, experience, and examination as  
6 authorized by an authority.

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

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

16  
17           SECTION 81. Arkansas Code § 17-35-104 is amended to read as follows:  
18           17-35-104. Exemptions - Use of the title.

19           (a) Sections 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-  
20 301 - 17-35-304 shall not apply to persons holding themselves out as  
21 "interior decorators" or offering "interior decorating services", such as  
22 selection or assistance in selecting surface materials, window treatments,  
23 wall coverings, paint, floor coverings, surface-mounted lighting, or loose  
24 furnishings not subject to regulation under applicable building codes.

25           (b) Sections 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-  
26 301 - 17-35-304 shall not apply to architects licensed by the Arkansas State  
27 Board of Architects and Registered Interior Designers, provided that such  
28 architects do not refer to themselves as "registered interior designers"  
29 unless registered by §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-  
30 35-301 - 17-35-304.

31           (c) Nothing contained in §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-  
32 202, and 17-35-301 - 17-35-304 shall prevent any person from rendering  
33 interior design services, provided such a person does not use the title of  
34 "registered interior designer" unless registered under §§ 17-35-101 - 17-35-  
35 106, 17-35-201, 17-35-202, and 17-35-301 - 17-35-304.

36

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

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

(1) Use the title of "registered interior designer", unless registered under §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-301 - 17-35-304;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4                   ~~(2) Members shall be appointed for terms of five (5) years in~~  
5 ~~such a manner that the terms of not more than two (2) members expire in one~~  
6 ~~(1) year.~~

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

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

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

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

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

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

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

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

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

26  
27                  SECTION 85. Arkansas Code § 17-35-202 is amended to read as follows:  
28                  17-35-202. Powers and duties of the board.

29                  (a) ~~The State Board of Registered Interior Designers~~ Arkansas State  
30 Board of Architects and Registered Interior Designers:

31                   (1) Shall administer, coordinate, and enforce the provisions of;  
32 §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-301 - 17-35-304

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

36                   (3) Shall adopt regulations in the manner prescribed by the

1 Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out the  
 2 purposes and policies of §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and  
 3 17-35-301 - 17-35-304, including regulations relating to professional  
 4 conduct, standards of performance and professional examination and  
 5 registration, registration renewal requirements, application, renewal, and  
 6 late fees, suspension and revocation of registrations, and the establishment  
 7 of a code of ethics for persons registered under §§ 17-35-101 - 17-35-106,  
 8 17-35-201, 17-35-202, and 17-35-301 - 17-35-304;

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

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

13 (6) Shall maintain an official roster showing the name, address,  
 14 and registration number of each interior designer registered under §§ 17-35-  
 15 101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-301 - 17-35-304;

16 (7) Shall require registrants to display their registration  
 17 numbers on all business and advertising instruments, including business  
 18 cards, stationery, and contracts;

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

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

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

25 (11) Shall do all things reasonable and necessary to carry out  
 26 the purposes of §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-301  
 27 - 17-35-304.

28  
 29 SECTION 86. Arkansas Code § 17-35-301 is amended to read as follows:  
 30 17-35-301. Registration of interior designers.

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

1 35-201, 17-35-202, and 17-35-301 - 17-35-304.

2 (b) It is unlawful for any company, partnership, association,  
3 corporation, or other similar organization, after January 1, 1994, to  
4 advertise that it is in a position to provide the services of a registered  
5 interior designer unless the persons providing such services are in the  
6 responsible charge of a registered interior designer.

7 (c) An applicant for registration as an interior designer shall  
8 establish to the satisfaction of the ~~State Board of Registered Interior~~  
9 ~~Designers~~ Arkansas State Board of Architects and Registered Interior  
10 Designers that the applicant:

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

12 (2) Has not been convicted of an offense that bears directly on  
13 the fitness of the applicant to be registered;

14 (3) Has passed or supplied proof of passage of the examination  
15 required by §§ 17-35-101 - 17-35-106, 17-35-201, 17-35-202, and 17-35-301 -  
16 17-35-304; and

17 (4) Meets any other requirements established by the ~~State Board~~  
18 ~~of Registered Interior Designers~~ board.

19  
20 SECTION 87. Arkansas Code § 17-35-302 is amended to read as follows:

21 17-35-302. Requirements for registration.

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

25 (1) Has taken and passed the National Council for Interior  
26 Design Qualification examination or its predecessor examinations produced by  
27 the American Institute of Interior Designers and by the National Society of  
28 Interior Designers; and

29 (2)(A) Is a graduate of a five-year interior design program from  
30 an accredited institution and has completed at least one (1) year of  
31 diversified and appropriate interior design experience;

32 (B) Is a graduate of a four-year interior design program  
33 or a master's degree program in interior design from an accredited  
34 institution and has completed at least two (2) years of diversified and  
35 appropriate interior design experience; or

36 (C) Is a licensed architect certified by the ~~Arkansas~~



1 ~~State Board of Architects~~ board.

2 (b) Each interior design program must be accredited by the Foundation  
3 for Interior Design Education Research or be an interior design program of an  
4 institution accredited by the North Central Association of Colleges and  
5 Schools, or a program determined by the board to be substantially equivalent  
6 to such accredited programs.

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

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

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

20  
21 SECTION 88. Arkansas Code § 17-35-303 is amended to read as follows:

22 17-35-303. Registration renewal.

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

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

31  
32 SECTION 89. Arkansas Code § 17-35-304 is amended to read as follows:

33 17-35-304. Seal of interior designer.

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

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

5 (B) The signature, date, and seal shall be evidence of the  
 6 authenticity of the document.

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

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

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

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

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

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

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

36 (2) The seal shall be returned upon expiration of the suspension

1 period.

2

3 SECTION 90. Arkansas Code § 17-35-602 is amended to read as follows:  
4 17-35-602. Purpose.

5 The purpose of §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-  
6 35-801 - 17-35-803 is to register and regulate persons known as registered  
7 residential interior designers, in the public interest, and to prohibit the  
8 use of the title of "registered residential interior designer" by persons who  
9 are not registered.

10

11 SECTION 91. Arkansas Code § 17-35-603 is amended to read as follows:  
12 17-35-603. Definitions.

13 (a) As used in §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-  
14 35-801 - 17-35-803:-

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

17 ~~(2)(A)~~ "Registered registered residential interior designer"  
18 means a person registered under §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-  
19 702, and 17-35-801 - 17-35-803.

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

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

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

32

33 SECTION 92. Arkansas Code § 17-35-604 is amended to read as follows:  
34 17-35-604. Exemptions - Use of the title.

35 (a) Sections 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-  
36 801 - 17-35-803 shall not apply to persons holding themselves out as

1 "interior decorators" or offering "interior decorating services", such as  
2 selection or assistance in selecting surface materials, window treatments,  
3 wall coverings, paint, floor coverings, surface-mounted lighting, or loose  
4 furnishings not subject to regulation under applicable building codes.

5 (b) Sections 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-  
6 801 - 17-35-803 shall not apply to architects licensed by the Arkansas State  
7 Board of Architects and Registered Interior Designers, provided that such  
8 architects do not refer to themselves as "registered residential interior  
9 designers" unless registered under §§ 17-35-601 - 17-35-606, 17-35-701, 17-  
10 35-702, and 17-35-801 - 17-35-803.

11 (c) Nothing contained in §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-  
12 702, and 17-35-801 - 17-35-803 shall prevent any person from rendering  
13 residential interior design services, provided such a person does not use the  
14 title of "registered residential interior designer" unless registered under  
15 §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-801 - 17-35-803.  
16

17 SECTION 93. Arkansas Code § 17-35-605 is amended to read as follows:  
18 17-35-605. Penalties.

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

21 (1) Use the title of "registered residential interior designer",  
22 unless registered under §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and  
23 17-35-801 - 17-35-803;

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

25 (3) Give false or forged evidence to the ~~State Board of~~  
26 ~~Registered Residential Interior Designers~~ Arkansas State Board of Architects  
27 and Registered Interior Designers or any member thereof in obtaining a  
28 registration;

29 (4) Falsely impersonate any other practitioner of like or  
30 different name;

31 (5) Use or attempt to use a registration that has been revoked;  
32 or

33 (6) Otherwise violate any of the provisions of §§ 17-35-601 -  
34 17-35-606, 17-35-701, 17-35-702, and 17-35-801 - 17-35-803.  
35

36 SECTION 94. Arkansas Code § 17-35-606 is amended to read as follows:

1 17-35-606. Funds.

2 (a) All moneys collected by the ~~State Board of Registered Residential~~  
3 ~~Interior Designers~~ Arkansas State Board of Architects and Registered Interior  
4 Designers under §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-801  
5 - 17-35-803 shall be deposited into a financial institution in this state  
6 designated by the board.

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

9

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

11 ~~17-35-701.—Creation.—~~

12 ~~(a) There is created the State Board of Registered Residential~~  
13 ~~Interior Designers.—~~

14 ~~(b)(1) The board shall consist of seven (7) members.—Of the seven (7)~~  
15 ~~members of the board.—~~

16 ~~(A) Five (5) shall be registered residential interior~~  
17 ~~designers, one (1) of whom may be a professional full-time design educator,~~  
18 ~~registered or unregistered.—~~

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

21 ~~(C) One (1) shall be a consumer.—~~

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

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

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

26 ~~(c)(1) A majority of the members on the board shall constitute a~~  
27 ~~quorum.—~~

28 ~~(2) Decisions of the board shall be made by a majority vote of a~~  
29 ~~quorum.—~~

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

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

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

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

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

5  
6           SECTION 96. Arkansas Code § 17-35-702 is amended to read as follows:

7           17-35-702. Powers and duties of the board.

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

10           (1) Shall administer, coordinate, and enforce the provisions of  
11 §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-801 - 17-35-803;

12           (2) May investigate allegations of misconduct and suspend  
13 registrations concerning the provisions of §§ 17-35-601 - 17-35-606, 17-35-  
14 701, 17-35-702, and 17-35-801 - 17-35-803;

15           (3) Shall adopt regulations in the manner prescribed by the  
16 Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out the  
17 purposes and policies of §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and  
18 17-35-801 - 17-35-803, including regulations relating to professional  
19 conduct, standards of performance and professional examination and  
20 registration, registration renewal requirements, application, renewal, and  
21 late fees, suspension and revocation of registrations, and the establishment  
22 of a code of ethics for persons registered under §§ 17-35-601 - 17-35-606,  
23 17-35-701, 17-35-702, and 17-35-801 - 17-35-803;

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

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

28           (6) Shall maintain an official roster showing the name, address,  
29 and registration number of each interior designer registered under §§ 17-35-  
30 601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-801 - 17-35-803;

31           (7) Shall require registrants to display their registration  
32 numbers on all business and advertising instruments, including business  
33 cards, stationery, and contracts;

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

36           (9) May, to the extent moneys are appropriated therefor, employ

1 an executive secretary and other employees and fix their compensation; and  
2 (10) Shall do all things reasonable and necessary to carry out  
3 the purposes of §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-801  
4 - 17-35-803.

5  
6 SECTION 97. Arkansas Code § 17-35-801 is amended to read as follows:

7 17-35-801. Registration of residential interior designers.

8 (a) It is unlawful for any person who, after January 1, 1994, is not  
9 registered under §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-  
10 801 - 17-35-803 as a residential interior designer to advertise as a  
11 registered residential interior designer, to use the title of "registered  
12 residential interior designer" or any other words, letters, figures, or other  
13 devices for the purpose of implying, directly or indirectly, that the person  
14 is registered under §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-  
15 35-801 - 17-35-803.

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

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

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

26 (2) Has not been convicted of an offense that bears directly on  
27 the fitness of the applicant to be registered;

28 (3) Has passed or supplied proof of passage of the examination  
29 required by §§ 17-35-601 - 17-35-606, 17-35-701, 17-35-702, and 17-35-801 -  
30 17-35-803; and

31 (4) Meets any other requirements established by the board.

32  
33 SECTION 98. Arkansas Code § 17-35-802 is amended to read as follows:

34 17-35-802. Requirements for registration.

35 (a) Each applicant for registration shall provide substantial evidence  
36 to the ~~State Board of Registered Residential Interior Designers~~ Arkansas

1 State Board of Architects and Registered Interior Designers that the  
2 applicant:

3 (1) Has taken and passed the Council for Qualification of  
4 Residential Interior Designers examination; and

5 (2)(A) Is a graduate of a five-year interior design program from  
6 an accredited institution and has completed at least one (1) year of  
7 diversified and appropriate residential interior design experience;

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

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

14 (b) Each interior design program must be an interior design program of  
15 an institution accredited by the North Central Association of Colleges and  
16 Schools, or a program determined by the ~~State Board of Registered Residential~~  
17 ~~Interior Designers~~ board to be substantially equivalent to such an accredited  
18 program.

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

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

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

31

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

33 17-35-803. Registration renewal.

34 (a) Every registered residential interior designer shall annually  
35 renew his or her registration, submit proof of completion of continuing  
36 education units as required by the ~~State Board of Registered Residential~~



1 ~~Interior Designers~~ Arkansas State Board of Architects and Registered Interior  
 2 Designers, and pay the renewal fee established by the board.

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

6  
 7 SECTION 100. Arkansas Code § 17-47-101 is amended to read as follows:  
 8 17-47-101. Definitions.

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

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

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

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

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

36 (B) Notwithstanding the foregoing provisions, a person

1 shall not be construed to practice soil classifying unless he or she offers  
2 soil classifying services to, or performs soil classifying for, the public;

3 (3) "Professional soil classifier" means a person who, by reason  
4 of his or her special knowledge of the physical, chemical, and biological  
5 sciences applicable to soils as natural bodies and of the methods and  
6 principles of soil classification experienced in the formation, morphology,  
7 description, and mapping of soils, is qualified to practice soil classifying,  
8 and who has been registered by the ~~Arkansas State Board of Registration for~~  
9 ~~Professional Soil Classifiers~~ Arkansas Soil and Water Conservation

10 Commission;

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

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

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

20 (7) "Soil classifier-in-training" means a person who complies  
21 with the requirements for education and character and who has passed an  
22 examination in the fundamental soil and related subjects as provided for in  
23 §§ 17-47-304 and 17-47-305.

24  
25 SECTION 101. Arkansas Code § 17-43-101 is amended to read as follows:  
26 17-43-101. Definitions.

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

28 (1) "Continuing education unit" means value given for  
29 participation in organized continuing education experience under reasonable  
30 sponsorship, capable direction, and qualified instruction approved by the  
31 ~~Arkansas State Board of Sanitarians~~ Arkansas Pollution Control and Ecology

32 Commission;

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

36 (3) "Registered sanitarian" means an environmental health

1 professional educated in the field of environmental health, physical, and  
 2 biological sciences who meets the requirements of §§ 17-43-303(a) and (b) and  
 3 17-43-306. Such persons may be specifically trained to organize, implement,  
 4 and manage environmental health programs; and

5 (4) "Sanitarian-in-training" means a person who meets the  
 6 educational qualifications as provided in this chapter but does not meet the  
 7 experience requirements of this chapter for registration as a registered  
 8 sanitarian.

9  
 10 SECTION 102. Arkansas Code § 17-43-201 is repealed.

11 ~~17-43-201. Creation—Members.—~~

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

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

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

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

26 ~~(3) One (1) member shall not be actively engaged in or retired~~  
 27 ~~as a sanitarian and shall represent consumers. This member shall be appointed~~  
 28 ~~from the state at large subject to confirmation by the Senate. He or she~~  
 29 ~~shall be a full voting member but shall not participate in the grading of~~  
 30 ~~examinations.—~~

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

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

36 ~~(d) The Governor may remove any member of the board for misconduct,—~~

1 ~~incapacity, or neglect of duty.~~

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

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

6 ~~17-43-202. Organization and proceedings.~~

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

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

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

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

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

17 17-43-203. Duties and powers.

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

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

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

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

33 (e) As a means to maintain professional competency, the ~~board~~  
34 commission shall promulgate rules ~~and regulations~~ establishing standards for  
35 continuing education. The continuing education units shall be direct  
36 participation in a course or courses approved by the ~~board~~ commission. The

1 standards shall be established in a manner to assure that a variety of  
2 alternative forms of continuing education are available to registered  
3 sanitarians, including, but not limited to, academic studies, in-service  
4 education, institutes, seminars, lectures, conferences, workshops, extension  
5 courses, home study programs, articles published, and scientific papers  
6 published. The standards should recognize specialized areas of endeavor. The  
7 ~~board~~ commission may contract with another agency or association to perform  
8 part or all of the duties in establishing procedures to record and retain  
9 continuing education units data for all registered sanitarians in good  
10 standing.

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

15

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

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

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

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

26

27 SECTION 106. Arkansas Code § 17-43-205 is amended to read as follows:  
28 17-43-205. Operating expenses.

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

33

34 SECTION 107. Arkansas Code § 17-43-206 is amended to read as follows:  
35 17-43-206. Board seminars or workshops - Travel expenses.

36 The ~~Arkansas State Board of Sanitarians~~ Arkansas Pollution Control and

1 Ecology Commission may authorize payments to be made to each registered  
 2 sanitarian as partial reimbursement for actual travel expenses incurred, but  
 3 not to exceed the amounts authorized for state employees for such expenses  
 4 and not otherwise reimbursed, in attending seminars or workshops sponsored by  
 5 the ~~board~~ commission in accordance with state travel regulations.

6  
 7 SECTION 108. Arkansas Code § 17-43-301 is amended to read as follows:  
 8 17-43-301. Certificate required.

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

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

17  
 18 SECTION 109. Arkansas Code § 17-43-302 is amended to read as follows:  
 19 17-43-302. Examination - Scope.

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

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

27  
 28 SECTION 110. Arkansas Code § 17-43-303 is amended to read as follows:  
 29 17-43-303. Application for examination.

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

1 character.

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

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

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

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

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

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

25

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

27 17-43-304. Notice of time and place of examination.

28 ~~The Secretary of the Arkansas State Board of Sanitarians~~ Director of  
29 the Arkansas Pollution Control and Ecology Commission shall give reasonable  
30 notice by mail of the time and place of examination to each applicant  
31 accepted for examination.

32

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

34 17-43-305. Notice of examination results.

35 Within sixty (60) days after the examination is given, the ~~Arkansas~~  
36 ~~State Board of Sanitarians~~ Arkansas Pollution Control and Ecology Commission

1 shall notify by mail each person who took the examination as to whether he or  
2 she has passed or failed the examination.

3

4 SECTION 113. Arkansas Code § 17-43-306 is amended to read as follows:  
5 17-43-306. Issuance.

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

10

11 SECTION 114. Arkansas Code § 17-43-307 is amended to read as follows:  
12 17-43-307. Reciprocity.

13 The ~~Arkansas State Board of Sanitarians~~ Arkansas Pollution Control and  
14 Ecology Commission shall issue a certificate of registration without  
15 examination to any person who makes application on forms prescribed and  
16 furnished by the ~~board~~ commission, pays a registration fee of ten dollars  
17 (\$10.00), and submits satisfactory proof that he or she:

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

24

25 SECTION 115. Arkansas Code § 17-43-308 is amended to read as follows:  
26 17-43-308. Expiration and renewal.

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

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



1 after the expiration date of the last certificate issued to him or her, and  
2 who pays a renewal fee of forty dollars (\$40.00) and complies with continuing  
3 education requirements.

4  
5 SECTION 116. Arkansas Code § 17-43-309 is amended to read as follows:

6 17-43-309. Grounds for suspension, revocation, or refusal to renew.

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

10 (1) Is not of good character; or

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

13  
14 SECTION 117. Arkansas Code § 17-43-310 is amended to read as follows:

15 17-43-310. Proceedings for suspension, revocation, or refusal to  
16 renew.

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

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

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

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

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

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

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

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

(a) Each of the following shall be guilty of a misdemeanor and shall, for each offense of which he or she is convicted, be punished by a fine of not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200):

(1) Any person who:

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

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

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

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

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

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

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

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

(3) Any person, partnership, corporation, or other entity who shall violate any of the provisions of this chapter.

(b) Each violation and each day of any violation shall constitute a separate offense.

SECTION 119. Arkansas Code § 17-47-103 is amended to read as follows:  
17-47-103. Exemptions.

1 This chapter shall not be construed to prevent or affect:

2 (1) The practice or offer to practice of soil classifying by a  
3 person not a resident or having no established place of business in this  
4 state, provided that the person is legally qualified by the provisions of  
5 this chapter to practice soil classifying as defined in this chapter in his  
6 or her own state which extends similar privileges to persons registered under  
7 this chapter and provided that the person shall make application accompanied  
8 by the appropriate application fee to the ~~Arkansas State Board of~~  
9 ~~Registration for Professional Soil Classifiers~~ Arkansas Soil and Water  
10 Conservation Commission in writing prior to his or her practicing or offering  
11 to practice soil classifying. The applicant may be granted a temporary permit  
12 for a definite period of time not to exceed one (1) year to do a specific  
13 job. However, no right to practice soil classifying shall accrue to the  
14 applicant with respect to any other work not set forth in the permit;

15 (2) The work of an employee or a subordinate of a person holding  
16 a certificate or registration under this chapter or an employee of a person  
17 practicing lawfully under subdivision (1) of this section, provided that the  
18 work does not include final soil classifying decisions and is done under the  
19 direct supervision of, and verified by, a person holding a certificate of  
20 registration under this chapter or a person practicing lawfully under  
21 subdivision (4) of this section;

22 (3) The practice of any other legally recognized profession or  
23 trade; or

24 (4) The practice of soil classifying by any person regularly  
25 employed to perform soil classifying services solely for his or her employer  
26 or for a subsidiary or affiliated corporation of his or her employer, when  
27 the soil classifying performed is in connection with the property, products,  
28 or services of his or her employer.

29

30 SECTION 120. Arkansas Code § 17-47-201 is repealed.

31 ~~17-47-201. Creation and members.~~

32 ~~(a) There is created the Arkansas State Board of Registration for~~  
33 ~~Professional Soil Classifiers.~~

34 ~~(b)(1) The board shall consist of five (5) members to be appointed by~~  
35 ~~the Governor for terms of five (5) years. The Governor shall consider for~~  
36 ~~appointment a list of nominees submitted to him or her by the Arkansas~~

1 ~~Association of Professional Soil Classifiers.~~

2 ~~(2) Each member of the board shall be a citizen of the United~~  
3 ~~States and a resident of this state.~~

4 ~~(3) One (1) member of the board shall be a member of a board of~~  
5 ~~directors of a soil conservation district in this state.~~

6 ~~(4) Three (3) members of the board shall be registered~~  
7 ~~professional soil classifiers in this state.~~

8 ~~(5) One (1) member of the board shall be from the public at~~  
9 ~~large in this state.~~

10 ~~(c) A member may be reappointed to succeed himself or herself.~~

11 ~~(d) Each member shall hold office until a successor has been duly~~  
12 ~~appointed.~~

13 ~~(e) The Governor may remove any member of the board for misconduct,~~  
14 ~~incompetence, or neglect of duty.~~

15 ~~(f) Vacancies on the board, however created, shall be filled by the~~  
16 ~~Governor for the unexpired term.~~

17 ~~(g) All members shall be subject to confirmation of the Senate.~~

18 ~~(h) Each member of the board shall serve without compensation, except~~  
19 ~~that the board member may receive expense reimbursement in accordance with §~~  
20 ~~25-16-901 et seq.~~

22 SECTION 121. Arkansas Code § 17-47-202 is amended to read as follows:

23 17-47-202. Powers of the ~~board~~ commission.

24 The ~~Arkansas State Board of Registration for Professional Soil~~  
25 ~~Classifiers~~ Arkansas Soil and Water Conservation Commission shall have the  
26 power to:

27 (1) Administer this chapter;

28 (2) Adopt and amend all bylaws, rules of procedure, and  
29 regulations to administer and carry out the provisions of this chapter and  
30 for the conduct of its affairs and functions, consistent with this chapter  
31 and the Constitution and laws of this state, which may be reasonably  
32 necessary for the proper performance of its duties and the regulation of its  
33 proceedings, meetings, records, examinations, and the conduct thereof;

34 (3) Adopt and promulgate a code of ethics which shall be binding  
35 upon all persons registered under or subject to this chapter;

36 (4) Employ clerks, technical experts, and attorneys as it may

1 deem necessary or desirable to carry out the provisions of this chapter; and

2 (5) Apply in the name of the state for relief by injunction,  
 3 without bond, enforce the provisions of this chapter, or restrain any  
 4 violation thereof. In this proceeding it shall not be necessary to allege or  
 5 prove either that an adequate remedy at law does not exist or that  
 6 substantial or irreparable damage would result from the continued violation  
 7 thereof. The members of the ~~board~~ commission shall not be personally liable  
 8 under this proceeding; ~~and~~

9 ~~(6) Enter into agreements with the Arkansas Soil and Water~~  
 10 ~~Conservation Commission to share office, clerical, and secretarial services~~  
 11 ~~and to reimburse the commission for the cost of the services.~~

12  
 13 SECTION 122. Arkansas Code § 17-47-203 is amended to read as follows:  
 14 17-47-203. Records and reports - Disposition of funds.

15 The ~~Arkansas State Board of Registration for Professional Soil~~  
 16 ~~Classifiers~~ Arkansas Soil and Water Conservation Commission shall:

17 (1) Keep a record of its proceedings and of all applications for  
 18 registration which shall show the name, age, and last-known address of each  
 19 applicant, his or her education, experience, and other qualifications, type  
 20 of examination required, whether or not a certificate of registration was  
 21 granted, whether or not the applicant was rejected, the date of the action of  
 22 the ~~board~~ commission, and other information which may be deemed necessary by  
 23 the ~~board~~ commission. The record of the ~~board~~ commission shall be prima facie  
 24 evidence of the proceeding of the ~~board~~ commission. A transcript thereof  
 25 certified by the ~~secretary~~ Executive Director of the Arkansas Soil and Water  
 26 Conservation Commission under seal shall be admissible as evidence with the  
 27 same force and effect as if the original were produced;

28 (2) Annually submit to the Governor a report of its transactions  
 29 of the preceding year and transmit to him or her a complete statement of the  
 30 receipts and expenditures of the ~~board~~ commission attested by affidavits of  
 31 its ~~chair and its secretary~~ executive director; and

32 (3) Establish accounts in one (1) or more banks in this state,  
 33 chosen by the ~~board~~ commission, into which all funds collected by the ~~board~~  
 34 commission under this chapter shall be deposited and from which all  
 35 expenditures approved by the ~~board~~ commission, or by its ~~chair and secretary~~  
 36 executive director acting on authority of the ~~board~~ commission, shall be

1 made.

2

3 SECTION 123. Arkansas Code § 17-47-302 is amended to read as follows:  
4 17-47-302. Eligibility - Application.

5 (a) To be eligible for registration as a professional soil classifier  
6 or certification as a soil classifier-in-training, an applicant ~~must~~ shall:

7 (1) Be of good character and reputation; and

8 (2) Submit a written application to the ~~Arkansas State Board of~~

9 ~~Registration for Professional Soil Classifiers~~ Arkansas Soil and Water

10 Conservation Commission containing such information as the ~~board~~ commission

11 may require, together with five (5) references, three (3) of which shall be

12 professional soil classifiers having personal knowledge of his or her soil

13 classifying experience or, in the case of an application for certification as

14 a soil classifier-in-training, three (3) character references.

15 (b) Application for registration as a professional soil classifier and  
16 for certification as a soil classifier-in-training shall:

17 (1) Be on a form prescribed and furnished by the ~~board~~

18 commission;

19 (2) Contain statements made under oath showing the applicant's

20 education, a detailed summary of his or her experience, and references as

21 required by this chapter; and

22 (3) Be accompanied by an application fee established by the

23 ~~board~~ commission of not less than five dollars (\$5.00) nor more than twenty-

24 five dollars (\$25.00).

25

26 SECTION 124. Arkansas Code § 17-47-303 is amended to read as follows:  
27 17-47-303. Examinations.

28 (a) Examinations shall be held at times and places which the ~~Arkansas~~

29 ~~State Board of Registration for Professional Soil Classifiers~~ Arkansas Soil

30 and Water Conservation Commission shall determine.

31 (b) Examinations required on fundamental soil subjects may be taken at  
32 any time prescribed by the ~~board~~ commission.

33 (c) The final examinations may not be taken until the applicant has

34 completed a period of soil classifying experience as provided in this

35 chapter.

36 (d) A candidate failing one (1) examination may apply for

1 reexamination which may be granted upon payment of a fee established by the  
2 ~~board~~ commission of not less than ten dollars (\$10.00) nor more than twenty-  
3 five dollars (\$25.00).

4  
5 SECTION 125. Arkansas Code § 17-47-304 is amended to read as follows:

6 17-47-304. Professional soil classifiers - Qualifications -  
7 Registration.

8 (a) An applicant otherwise eligible shall be admitted to registration  
9 as a professional soil classifier if he or she has successfully passed an  
10 examination in the principles and practice of soil classifying as prescribed  
11 by the ~~Arkansas State Board of Registration for Professional Soil Classifiers~~  
12 Arkansas Soil and Water Conservation Commission and has one (1) of the  
13 following additional qualifications:

14 (1) Is a graduate of a soils curriculum approved by the ~~board~~  
15 commission as satisfactory and with a specific record of an additional one  
16 (1) year or more of experience of a grade and character which indicates to  
17 the ~~board~~ commission that the applicant is competent to practice soil  
18 classifying and who holds a valid soil classifier-in-training certificate;

19 (2) Is a person who has satisfactorily completed a soil  
20 curriculum not approved by the ~~board~~ commission and two (2) years or more of  
21 experience in soil classifying work of a character and grade which indicates  
22 to the ~~board~~ commission that the applicant is competent to practice soil  
23 classifying; or

24 (3) Is a person who holds a valid soil classifier-in-training  
25 certificate with a specific record of one (1) year or more of experience as a  
26 soil classifier-in-training of a grade and character which indicates to the  
27 ~~board~~ commission that the applicant is competent to practice soil  
28 classifying.

29 (b) An application otherwise qualified shall be admitted to  
30 registration as a professional soil classifier without examination if he or  
31 she is a person who holds a certificate of registration in the practice of  
32 soil classifying on the basis of comparable qualifications issued to him or  
33 her by a proper authority of another state, possession, or territory of the  
34 United States and who, in the opinion of the ~~board~~ commission, meets the  
35 requirements of this chapter.

36

1 SECTION 126. Arkansas Code § 17-47-305 is amended to read as follows:  
2 17-47-305. Soil classifier-in-training - Qualifications -  
3 Certification.

4 Unless otherwise qualified, a person shall be admitted to certification  
5 as a soil classifier-in-training. The certification shall be valid for four  
6 (4) years, if he or she is a person who:

7 (1) Is a graduate of a soils curriculum approved by the ~~Arkansas~~  
8 ~~State Board of Registration for Professional Soil Classifiers~~ Arkansas Soil  
9 and Water Conservation Commission and has passed an examination in the  
10 fundamentals of soil classification; or

11 (2) Is an applicant who has completed a soil curriculum not  
12 approved by the ~~board~~ commission, who has a specific record of one (1) year  
13 of soil classification experience of a grade and character satisfactory to  
14 the ~~board~~ commission, and who passes an examination in the fundamentals of  
15 soil classification.

16  
17 SECTION 127. Arkansas Code § 17-47-306 is amended to read as follows:  
18 17-47-306. Issuance - Form - Evidence.

19 (a) The ~~Arkansas State Board of Registration for Professional Soil~~  
20 ~~Classifiers~~ Arkansas Soil and Water Conservation Commission shall issue a  
21 certificate of registration upon payment of the registration fee as provided  
22 for in § 17-47-307 to any applicant who, in the opinion of the ~~board~~  
23 commission, has met the requirements of this chapter.

24 (b) Enrollment cards shall be issued to those who qualify as soil  
25 classifiers-in-training.

26 (c) Certificates of registration shall carry the designation  
27 "professional soil classifier", shall show the full name of the registrant  
28 without any titles, shall be numbered, and shall be signed by the ~~chair and~~  
29 ~~the secretary~~ Executive Director of the Arkansas Soil and Water Conservation  
30 Commission under the seal of the ~~board~~ commission.

31 (d) The issuance of a certificate of registration by the ~~board~~  
32 commission shall be prima facie evidence that the person is entitled to all  
33 rights and privileges of a professional soil classifier during the term for  
34 which the certificate is valid, providing it has not been revoked or  
35 suspended.

36



SECTION 128. Arkansas Code § 17-47-307 is amended to read as follows:  
 17-47-307. Registration fees.

Registration fees shall be established by the ~~Arkansas State Board of Registration for Professional Soil Classifiers~~ Arkansas Soil and Water Conservation Commission subject to the following limitations:

(1) The registration fee for professional soil classifiers shall be in an amount of not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100);

(2) The registration fee for soil classifier-in-training certification or enrollment shall be established by the ~~board~~ commission in an amount not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00); and

(3) Should the ~~board~~ commission deny the issuance of a certificate to an applicant, the fee paid may be retained as an application fee.

SECTION 129. Arkansas Code § 17-47-308 is amended to read as follows:  
 17-47-308. Expiration and renewal.

(a) Certificates of registration shall expire on June 30 following their issuance and shall become invalid after that date unless renewed.

(b)(1) It shall be the duty of the ~~secretary~~ Executive Director of the ~~Arkansas State Board of Registration for Professional Soil Classifiers~~ Arkansas Soil and Water Conservation Commission to notify every person registered under this chapter of the date of the expiration of the certificate of registration and the amount of the fee required for its renewal.

(2) Notice shall be mailed to the registrant at his or her last known address at least one (1) month in advance of the expiration of the certificate.

(c) Renewal may be effected at any time prior to or during the month of July by the payment of a fee established by the ~~Arkansas State Board of Registration for Professional Soil Classifiers~~ Arkansas Soil and Water Conservation Commission not to exceed the fees established for registration.

(d) Renewal of an expired certificate may be effected under rules promulgated by the ~~board~~ commission regarding requirements for reexamination and penalty fees.

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SECTION 130. Arkansas Code § 17-47-309 is amended to read as follows:  
17-47-309. Reissuance.

A new certificate of registration to replace any certificate lost, destroyed, or mutilated may be issued subject to the rules of the ~~Arkansas State Board of Registration for Professional Soil Classifiers~~ Arkansas Soil and Water Conservation Commission. A reasonable charge shall be made for reissuance.

SECTION 131. Arkansas Code § 17-47-310 is amended to read as follows:  
17-47-310. Code of ethics.

(a) The ~~Arkansas State Board of Registration for Professional Soil Classifiers~~ Arkansas Soil and Water Conservation Commission shall cause to have prepared and shall adopt a code of ethics, a copy of which shall be delivered to every registrant and applicant for registration under this chapter.

(b) The delivery shall constitute due notice to all registrants.

(c) The ~~board~~ commission may revise and amend this code of ethics from time to time and shall forthwith notify each registrant in writing of revisions and amendments.

(d) The code of ethics shall apply to all certificate holders.

SECTION 132. Arkansas Code § 17-47-311 is amended to read as follows:  
17-47-311. Disciplinary actions - Grounds.

The ~~Arkansas State Board of Registration for Professional Soil Classifiers~~ Arkansas Soil and Water Conservation Commission shall have the power to suspend, refuse to renew, or revoke the certificate of registration of, or reprimand, any registrant who is guilty of:

- (1) Fraud or deceit in obtaining a certificate of registration;
- (2) Gross negligence, incompetence, or misconduct in the practice of soil classifying;
- (3) A felony or crime involving moral turpitude; or
- (4) A violation of the code of ethics adopted and promulgated by

the ~~board~~ commission.

SECTION 133. Arkansas Code § 17-47-312 is amended to read as follows:

1 17-47-312. Disciplinary actions - Procedure.

2 (a) Any person may prefer charges of fraud, deceit, gross negligence,  
 3 incompetence, misconduct, or violation of the code of ethics against any  
 4 individual registrant.

5 (b) Charges shall be in writing, shall be sworn to by the person or  
 6 persons making them, and shall be filed with the ~~secretary of the Arkansas~~  
 7 ~~State Board of Registration for Professional Soil Classifiers~~ Executive  
 8 Director of the Arkansas Soil and Water Conservation Commission.

9 (c) All charges, unless dismissed by the ~~board~~ commission as unfounded  
 10 or trivial, shall be heard by the ~~board~~ commission within three (3) months  
 11 after the date on which they shall have been preferred.

12 (d) The time and place for the hearing shall be fixed by the ~~board~~  
 13 commission.

14 (e) A copy of the charges together with a notice of the time and place  
 15 of hearing shall be served upon the accused either personally or sent by  
 16 registered or certified mail to the last known address of the individual  
 17 registrant at least thirty (30) days before the date fixed for hearing.

18 (f) At any hearing, the accused registrant shall have the right to  
 19 appear in person or by counsel, or both, to cross-examine witnesses appearing  
 20 against the accused, and to produce evidence and witnesses in defense of the  
 21 accused.

22 (g) If the accused person fails or refuses to appear, the ~~board~~  
 23 commission may proceed to hear and determine the validity of the charges.

24 (h) If after the hearing a majority of the board votes in favor of  
 25 sustaining the charges, the ~~board~~ commission shall make findings of fact,  
 26 draw its conclusions, and issue its order therein and serve it upon the  
 27 accused.

28 (i) In the order the ~~board~~ commission may reprimand, suspend, refuse  
 29 to renew, or revoke the accused individual's certificate of registration.

30 (j) Any person who feels aggrieved by any action of the ~~board~~  
 31 commission in denying, suspending, refusing to renew, or revoking his or her  
 32 certificate of registration may appeal therefrom to the circuit court of the  
 33 county in which he or she resides or in Pulaski County as the aggrieved party  
 34 may elect.

35  
 36 SECTION 134. Arkansas Code § 17-102-102 is amended to read as follows:

1 17-102-102. Definitions.

2 As used in this chapter:

3 (1) "Acupuncture" means the insertion, manipulation, and removal  
 4 of needles from the body and the use of other modalities and procedures at  
 5 specific locations on the body for the prevention, cure, or correction of a  
 6 malady, illness, injury, pain, or other condition or disorder by controlling  
 7 and regulating the flow and balance of energy and functioning of the patient  
 8 to restore and maintain health, but acupuncture shall not be considered  
 9 surgery;

10 (2) "Acupuncturist" means a person licensed under this chapter  
 11 as a doctor of healing arts to practice acupuncture and related techniques in  
 12 this state and includes the terms licensed acupuncturist, certified  
 13 acupuncturist, acupuncture practitioner, and Oriental acupuncture  
 14 practitioner;

15 ~~(3) "Board" means the Arkansas State Board of Acupuncture and~~  
 16 ~~Related Techniques;~~

17 ~~(4)~~(3) "Chiropractic physician" means a person licensed under  
 18 the Arkansas Chiropractic Practices Act, § 17-81-101 et seq.

19 ~~(5)~~(4) "Moxibustion" means the use of heat on, or above, or on  
 20 acupuncture needles, at specific locations on the body for the prevention,  
 21 cure, or correction of a malady, illness, injury, pain, or other condition or  
 22 disorder; and

23 ~~(6)~~(5)(A) "Related techniques" means the distinct system of  
 24 basic health care that uses all allied diagnostic and treatment techniques of  
 25 acupuncture, Oriental, traditional, and modern, for the prevention or  
 26 correction of a malady, illness, injury, pain, or other condition or disorder  
 27 by controlling and regulating the flow and balance of energy and functioning  
 28 of the patient to restore and maintain health.

29 (B) As used in this subdivision ~~(6)~~(5) "related  
 30 techniques" include, but are not limited to, acupuncture, moxibustion or  
 31 other heating modalities, cupping, magnets, cold laser, electroacupuncture  
 32 including electrodermal assessment, application of cold packs, ion pumping  
 33 cord, lifestyle counseling, including general eating guidelines, tui na,  
 34 massage incidental to acupuncture, breathing and exercising techniques, and  
 35 the recommendation of Chinese herbal medicine lawfully and commercially  
 36 available in the United States. Provided, "related techniques", including,

1 but not limited to, tui na, shall not involve manipulation, mobilization, or  
2 adjustment to the spine or extraspinal articulations.

3  
4 SECTION 135. Arkansas Code § 17-102-103 is amended to read as follows:

5 17-102-103. Disposition of funds.

6 (a)(1) All fees authorized by this chapter are the property of the  
7 ~~Arkansas State Board of Acupuncture and Related Techniques~~ Arkansas State  
8 Board of Massage Therapy and Related Techniques and shall be provided to its  
9 treasurer to be disposed of as provided in this chapter.

10 (2) Any surplus in the treasury of the board at the end of the  
11 fiscal year shall remain in the treasury and may be expended in succeeding  
12 years for the purposes herein set out.

13 (b) All funds received by the board shall be deposited into a  
14 financial institution designated by the board and expended in the furtherance  
15 of the purposes of this chapter and the board's duties thereunder, which  
16 include, but are not limited to:

17 (1) The publication and distribution of the Arkansas Acupuncture  
18 Practices Act, § 17-102-101 et seq.;

19 (2) The publication and yearly distribution of a directory of  
20 all licensed acupuncturists;

21 (3) Investigations of violations of this chapter;

22 (4) Institution of actions to compel compliance with the  
23 provisions of this chapter; and

24 (5) Defense of actions brought against it as a result of its  
25 actions under the provisions of this chapter.

26  
27 SECTION 136. Arkansas Code § 17-102-106 is amended to read as follows:

28 17-102-106. Prosecution of violations.

29 It shall be the duty of the several prosecuting attorneys of the State  
30 of Arkansas to prosecute to final judgment every criminal violation of this  
31 chapter committed within their jurisdictions when requested and authorized by  
32 the ~~Arkansas State Board of Acupuncture and Related Techniques~~ Arkansas State  
33 Board of Massage Therapy and Related Techniques.

34  
35 SECTION 137. Arkansas Code §§ 17-102-201-17-102-205 are repealed.

36 ~~17-102-201. Creation of board Members Appointment.~~

1           ~~(a)(1) There is created the Arkansas State Board of Acupuncture and~~  
 2 ~~Related Techniques. The board shall consist of five (5) persons appointed by~~  
 3 ~~the Governor as full members and one (1) person appointed by the Governor as~~  
 4 ~~an ex officio member.~~

5           ~~(2) Three (3) full members of the board shall be qualified~~  
 6 ~~acupuncturists.~~

7           ~~(3)(A) Two (2) full members shall be appointed to represent the~~  
 8 ~~public and shall not have practiced acupuncture and related techniques in~~  
 9 ~~this or any other jurisdiction nor be retired from or have any financial~~  
 10 ~~interest in the occupation regulated.~~

11           ~~(B) The public members shall be subject to confirmation by~~  
 12 ~~the Senate.~~

13           ~~(C) The public members shall be full voting members but~~  
 14 ~~shall not participate in the grading of examinations.~~

15           ~~(4)(A) The ex officio member shall be a physician licensed~~  
 16 ~~pursuant to the Arkansas Medical Practices Act, §§ 17-95-201—17-95-207, 17-~~  
 17 ~~95-301—17-95-305, and 17-95-401—17-95-411, and shall be entitled to be~~  
 18 ~~notified of all board meetings and to participate in the deliberations of the~~  
 19 ~~board.~~

20           ~~(B) However, the ex officio member shall have no vote,~~  
 21 ~~shall not serve as an officer of the board, and shall not be counted to~~  
 22 ~~establish a quorum or a majority necessary to conduct business.~~

23           ~~(b)(1) The initial full members of the board shall be appointed by the~~  
 24 ~~Governor for staggered terms as follows:~~

25           ~~(A) One (1) member's term shall expire after one (1) year;~~

26           ~~(B) One (1) member's term shall expire after two (2)~~  
 27 ~~years; and~~

28           ~~(C) One (1) member's term shall expire after three (3)~~  
 29 ~~years.~~

30           ~~(2) Of the two (2) additional members appointed pursuant to Acts~~  
 31 ~~1999, No. 536, one (1) shall be appointed for a two-year term and the other~~  
 32 ~~for a three-year term.~~

33           ~~(3) The initial ex officio board member shall be appointed to a~~  
 34 ~~term of three (3) years.~~

35           ~~(4) Successors shall be appointed for three-year terms.~~

36           ~~(5) Vacancies shall be filled by appointment by the Governor for~~

1 ~~the unexpired term.~~

2 ~~(6) Board members shall serve until their successors have been~~  
 3 ~~appointed and qualified.~~

4 ~~(c) The Governor may remove any full member from the board for any~~  
 5 ~~reason that would justify the suspension or revocation of his or her license~~  
 6 ~~to practice acupuncture and related techniques.~~

7 ~~(d) A person who is or has been in the preceding two (2) years on the~~  
 8 ~~faculty of a school which is subject to review by the board may not serve on~~  
 9 ~~the board.~~

10  
 11 ~~17-102-202. Board members — Qualifications.~~

12 ~~(a) Each member of the Arkansas State Board of Acupuncture and Related~~  
 13 ~~Techniques shall be a citizen of the United States, a resident of this state,~~  
 14 ~~and shall, before entering upon the duties of the office, take the oath~~  
 15 ~~prescribed by the Constitution for state officers and shall file it with the~~  
 16 ~~Secretary of State who shall thereupon issue to each person so appointed a~~  
 17 ~~certificate of appointment.~~

18 ~~(b) Each full professional member also shall be a graduate of a~~  
 19 ~~reputable school or institute of acupuncture or Oriental medicine and be~~  
 20 ~~certified by the National Commission for the Certification of Acupuncturists.~~

21  
 22 ~~17-102-203. Board members — Liability.~~

23 ~~No member of the Arkansas State Board of Acupuncture and Related~~  
 24 ~~Techniques during the term of his or her office or thereafter shall be liable~~  
 25 ~~for damages as a result of any official act in the performance of his or her~~  
 26 ~~duty as such a member. Any action therefor shall upon motion be dismissed~~  
 27 ~~with prejudice at the cost of the plaintiff.~~

28  
 29 ~~17-102-204. Board organization — Meetings.~~

30 ~~(a) The Arkansas State Board of Acupuncture and Related Techniques~~  
 31 ~~shall within sixty (60) days of August 1, 1997, and every May thereafter hold~~  
 32 ~~a meeting and elect from its membership a president, a secretary, and a~~  
 33 ~~treasurer for terms set by the board.~~

34 ~~(b)(1) It shall be the duty of the board to meet regularly once in~~  
 35 ~~every six (6) months.~~

36 ~~(2) Special meetings of the board may be called at any time at~~

1 the pleasure of the president or by the secretary on the request of any two  
2 ~~(2) full members of the board.~~

3 ~~(3) Three (3) full members shall constitute a quorum at any~~  
4 ~~meeting of the board.~~

5 ~~(c) The board shall determine by its own rules the time and manner of~~  
6 ~~giving notice to members of meetings and other matters.~~

7 ~~(d) Any action of the board shall require an affirmative vote of a~~  
8 ~~majority of the full membership of the board, excluding the ex officio~~  
9 ~~member.~~

10  
11 ~~17-102-205. Board minutes — Records.~~

12 ~~(a) The Secretary of the Arkansas State Board of Acupuncture and~~  
13 ~~Related Techniques shall keep a record of the minutes of its meetings and a~~  
14 ~~record of all persons making application for license and the action of the~~  
15 ~~Arkansas State Board of Acupuncture and Related Techniques thereon.~~

16 ~~(b) The secretary shall also keep a record of the names, addresses,~~  
17 ~~and license numbers of all acupuncturists licensed by the board, together~~  
18 ~~with a record of license renewals, suspensions, and revocations.~~

19  
20 SECTION 138. Arkansas Code § 17-102-206 is amended to read as follows:

21 17-102-206. Board duties and powers.

22 (a)(1) ~~The Arkansas State Board of Acupuncture and Related Techniques~~  
23 Arkansas State Board of Massage Therapy and Related Techniques is empowered  
24 to incur whatever expenses it may deem necessary or expedient in performing  
25 its functions. It may employ or engage whatever personnel, legal counsel,  
26 independent contractors, or assistants it may deem necessary or expedient  
27 therefor and fix their compensation. However, no employee of the board shall  
28 have any financial interest in the occupation of acupuncture and related  
29 techniques.

30 (2) All of the disbursements provided for in this section shall  
31 be out of the fees and fines collected by the board.

32 (b) The board is authorized to:

33 (1) Make suitable bylaws for carrying out its duties under the  
34 provisions of this chapter;

35 (2) Sue and be sued;

36 (3) Have an official seal which shall bear the words "Arkansas



1 State Board of Acupuncture and Related Techniques";

2 (4) Provide a secretary's certificate. The certificate of the  
 3 Secretary of the ~~Arkansas State Board of Acupuncture and Related Techniques~~  
 4 Arkansas State Board of Massage Therapy and Related Techniques under seal  
 5 shall be accepted in the courts of the state as the best evidence as to the  
 6 minutes of the board and shall likewise be accepted in the courts of the  
 7 state as the best evidence as to the licensure or nonlicensure of any person  
 8 under the requirements of this chapter;

9 (5) Adopt, publish, and, from time to time, revise such rules  
 10 ~~and regulations~~ not inconsistent with the law as may be necessary to enable  
 11 it to carry into effect the provisions of this chapter;

12 (6) Keep a record of all its proceedings, receipts, and  
 13 disbursements;

14 (7) Adopt standards for applicants wishing to take the licensing  
 15 examination and conduct examinations or contract with persons or entities to  
 16 conduct examinations of applicants;

17 (8) Grant, deny, renew, suspend, or revoke licenses to practice  
 18 acupuncture and related techniques for any cause stated in this chapter.  
 19 Except as otherwise provided by this chapter, the board shall have exclusive  
 20 jurisdiction to determine who shall be permitted to practice acupuncture and  
 21 related techniques in the State of Arkansas; and

22 (9) Conduct disciplinary proceedings as provided in this  
 23 chapter.

24 (c)(1) In the performance of its duties, the board is empowered to  
 25 administer oaths and take testimony on any matters within the board's  
 26 jurisdiction and issue subpoenas and thereby compel the attendance of persons  
 27 before it for the purpose of examining any facts or conditions properly  
 28 pending before the board for its action.

29 (2) All subpoenas issued by the board shall be served in the  
 30 manner prescribed by law for the service of subpoenas issuing from the  
 31 courts, and all persons so served shall obey the subpoenas or be subject to  
 32 the penalties provided by law for the disobedience of subpoenas issuing from  
 33 the courts.

34  
 35 SECTION 139. Arkansas Code § 17-102-302 is amended to read as follows:  
 36 17-102-302. Effect on existing license.

1 (a) Notwithstanding the requirements set forth in § 17-102-304, any  
2 acupuncturist validly certified by the National Commission for the  
3 Certification of Acupuncturists as of August 1, 1997, and residing and  
4 practicing acupuncture in this state as of December 31, 1996, shall upon  
5 application to the ~~Arkansas State Board of Acupuncture and Related Techniques~~  
6 Arkansas State Board of Massage Therapy and Related Techniques be issued a  
7 license without an examination.

8 (b)(1)(A) Notwithstanding the requirements set forth in § 17-102-304,  
9 any acupuncturist not validly certified by the National Commission for the  
10 Certification of Acupuncturists as of August 1, 1997, but residing and  
11 practicing acupuncture in this state as of December 31, 1996, shall upon  
12 application to the board be issued a provisional license conditioned upon the  
13 acupuncturist's becoming certified by the commission within two (2) years of  
14 August 1, 1997.

15 (B) While the license is provisional, the acupuncturist  
16 may practice acupuncture and related techniques in this state pursuant to a  
17 scope of practice set forth in writing by the board after review of the  
18 qualifications, training, and practice experience of the acupuncturist.

19 (2) Upon obtaining certification and presenting it to the board,  
20 the acupuncturist shall be issued a nonprovisional license by the board.

21 (3) Should certification not be obtained within the two-year  
22 period, the board shall immediately revoke the provisional license.

23  
24 SECTION 140. Arkansas Code § 17-102-303 is amended to read as follows:  
25 17-102-303. Unlawful practice - Penalty - Injunction.

26 (a) Except as otherwise provided in this chapter, it shall be unlawful  
27 for any person not licensed under the provisions of this chapter:

28 (1) To practice or offer to practice acupuncture and related  
29 techniques; or

30 (2) To use any sign, card, or device to indicate that the person  
31 is an acupuncturist.

32 (b) Except as otherwise provided in this chapter, any person who shall  
33 attempt to practice acupuncture and related techniques as defined in this  
34 chapter without having first been licensed or otherwise permitted under the  
35 provisions of this chapter to do so, shall be deemed guilty of a misdemeanor.  
36 Upon conviction, he or she shall be punished by a fine of not less than one

1 thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or by  
2 imprisonment in the county jail for a period of not less than one (1) month  
3 nor more than eleven (11) months, or by both fine and imprisonment. Each day  
4 shall constitute a separate offense.

5 (c) The courts of this state having general equity jurisdiction are  
6 vested with jurisdiction and power to enjoin the unlawful practice of  
7 acupuncture and related techniques in a proceeding by the ~~Arkansas State~~  
8 ~~Board of Acupuncture and Related Techniques~~ Arkansas State Board of Massage  
9 Therapy and Related Techniques or any member thereof or by any citizen of  
10 this state in the county in which the alleged unlawful practice occurred or  
11 in which the defendant resides or in Pulaski County. The issuance of an  
12 injunction shall not relieve a person from criminal prosecution for violation  
13 of the provisions of this chapter, but the remedy of injunction shall be in  
14 addition to liability to criminal prosecution.

15

16 SECTION 141. Arkansas Code § 17-102-304 is amended to read as follows:  
17 17-102-304. Application - Fees - Qualifications.

18 (a)(1) No person shall be licensed to practice acupuncture and related  
19 techniques unless he or she has passed an examination and has been found to  
20 have the necessary qualifications as prescribed in the rules adopted by the  
21 ~~Arkansas State Board of Acupuncture and Related Techniques~~ Arkansas State  
22 Board of Massage Therapy and Related Techniques.

23 (2)(A) Applications for a license to practice acupuncture and  
24 related techniques in the State of Arkansas pursuant to this chapter shall be  
25 made to the Secretary of the ~~Arkansas State Board of Acupuncture and Related~~  
26 ~~Techniques~~ Arkansas State Board of Massage Therapy and Related Techniques in  
27 writing on forms furnished by the board.

28 (B) The application shall be signed by the applicant in  
29 his or her own handwriting and acknowledged before an officer authorized to  
30 administer oaths.

31 (3) Before any applicant shall be eligible for an examination,  
32 the applicant shall furnish satisfactory proof to the board that he or she:

33 (A) Is of good moral character by filing with his or her  
34 application the affidavits of at least two (2) reputable acupuncturists who  
35 attest to his or her character;

36 (B) Has successfully completed not fewer than sixty (60)

1 semester credit hours of college education, to include a minimum of thirty  
 2 (30) semester credit hours in the field of science; and

3 (C) Has completed a program in acupuncture and related  
 4 techniques and has received a certificate or diploma from an institute  
 5 approved by the board as described in this section. The training received in  
 6 the program shall be for a period of no fewer than four (4) academic years  
 7 and shall include a minimum of eight hundred (800) hours of supervised  
 8 clinical practice.

9 (b) Prior to approval of an institute of acupuncture and related  
 10 techniques, the board shall determine that the institute meets standards of  
 11 professional education. These standards shall provide that the institute:

12 (1) Require, as a prerequisite to graduation, a program of study  
 13 of at least four (4) academic years;

14 (2) Meet the minimum requirements of a board-approved national  
 15 accrediting body;

16 (3) Require participation in a carefully supervised clinical or  
 17 internship program; and

18 (4) Confer a certificate, diploma, or degree in acupuncture and  
 19 related techniques only after personal attendance in classes and clinics.

20 (c) To qualify to take the examination, an applicant additionally  
 21 must:

22 (1) Be at least twenty-one (21) years of age;

23 (2) Be a citizen of the United States or a legal resident;

24 (3) Not have had a license to practice acupuncture and related  
 25 techniques in any other state suspended or revoked nor have been placed on  
 26 probation for any cause;

27 (4) Not have been convicted of a felony; and

28 (5) Not be a habitual user of intoxicants, drugs, or  
 29 hallucinatory preparations.

30 (d) The board may charge the following fees:

31 (1) Initial application for licensing, a fee not to exceed two  
 32 hundred fifty dollars (\$250);

33 (2) Written and practical examination not including the cost of  
 34 the nationally recognized examination, a fee not to exceed three hundred  
 35 fifty dollars (\$350);

36 (3) Biennial licensing renewal, a fee not to exceed four hundred

dollars (\$400);

(4) Late renewal more than thirty (30) days, but not later than one (1) year, after expiration of a license, which late fee is in addition to any other fees, a fee not to exceed one hundred dollars (\$100);

(5) Reciprocal licensing, a fee not to exceed seven hundred fifty dollars (\$750);

(6) Annual continuing education provider registration, a fee not to exceed two hundred dollars (\$200); and

(7) Any and all fees to cover reasonable and necessary administrative expenses.

(e)(1)(A) If the applicant is approved, the applicant shall be admitted for examination.

(B) Should the applicant pass the examination, no part of the fee shall be returned, and the applicant shall be issued a license to practice acupuncture and related techniques in accordance with this chapter.

(C) Should an applicant be approved but fail to appear for the examination, no part of his or her fee shall be returned, but the applicant shall be eligible for examination at a later date.

(D) Should the approved applicant fail the examination, no part of his or her fee shall be returned, and the applicant shall be eligible for reexamination at a later date, at the discretion of the board, upon paying an examination fee of fifty dollars (\$50.00) per failed subject up to one hundred fifty dollars (\$150).

(2) If the applicant is not approved, the application and one-half (1/2) of the examination fee shall be returned to the applicant with the reasons for the disapproval clearly stated.

SECTION 142. Arkansas Code § 17-102-305 is amended to read as follows:  
17-102-305. Examinations.

(a) Examinations shall be given in English and in writing and shall include the following subjects:

(1) Anatomy and physiology;

(2) Pathology;

(3) Diagnosis;

(4) Hygiene, sanitation, and sterilization techniques;

(5) Acupuncture and related principles, practices, and

1 techniques; and

2 (6) Chinese herbal medicine.

3 (b) ~~The Arkansas State Board of Acupuncture and Related Techniques~~  
4 Arkansas State Board of Massage Therapy and Related Techniques shall hold an  
5 examination at least once each calendar year, and all applicants shall be  
6 notified in writing of the date and time of all examinations. The board may  
7 utilize a nationally recognized examination if it deems the national exam is  
8 sufficient to qualify a practitioner for licensure in this state.

9 (c) The board shall issue a license to every applicant whose  
10 application has been filed with and approved by the board and who has paid  
11 the required fees and who either:

12 (1) Has passed the board's examination with a score on each  
13 subject of not less than seventy percent (70%); or

14 (2) Has achieved a passing score on a board-approved nationally  
15 recognized examination.

16

17 SECTION 143. Arkansas Code § 17-102-307 is amended to read as follows:

18 17-102-307. License renewal.

19 Each licensee shall be required to pay biennial license renewal fees  
20 and meet continuing education requirements as specified in this chapter. A  
21 licensee who fails to renew his or her license within one (1) year after its  
22 expiration may not renew it, and it may not be restored, reissued, or  
23 reinstated thereafter, but that person may apply for and obtain a new license  
24 if he or she meets the following requirements:

25 (1) Meets all current standards of the ~~Arkansas State Board of~~  
26 ~~Acupuncture and Related Techniques~~ Arkansas State Board of Massage Therapy  
27 and Related Techniques; and

28 (2) Takes and passes the examination and pays all fees  
29 associated therewith as if seeking a license for the first time.

30

31 SECTION 144. Arkansas Code § 17-102-308 is amended to read as follows:

32 17-102-308. Continuing education.

33 (a) ~~The Arkansas State Board of Acupuncture and Related Techniques~~  
34 Arkansas State Board of Massage Therapy and Related Techniques shall not  
35 renew the license of any person engaged in the practice of acupuncture and  
36 related techniques unless the licensee presents to the board evidence of

1 attendance at a board-approved educational session or sessions of not fewer  
2 than twenty-four (24) hours of continuing education within the previous  
3 biennial period.

4 (b) Licensees residing out of state shall comply with the continuing  
5 education requirements.

6 (c) The presentation of a fraudulent or forged evidence of attendance  
7 at an educational session shall be a cause for suspension or revocation of  
8 the holder's license.

9

10 SECTION 145. Arkansas Code § 17-102-309 is amended to read as follows:

11 17-102-309. Disciplinary actions - Grounds - Action by the board.

12 (a) The following acts by an applicant for a license or by a licensed  
13 acupuncturist shall constitute grounds for which the disciplinary actions  
14 specified in subsection (b) of this section may be taken by the ~~Arkansas~~  
15 ~~State Board of Acupuncture and Related Techniques~~ Arkansas State Board of  
16 Massage Therapy and Related Techniques:

17 (1) Attempting to obtain, obtaining, or renewing a license to  
18 practice acupuncture and related techniques by bribery, fraud, or deceit;

19 (2) Having pled guilty or nolo contendere to, or having been  
20 found guilty of, a crime in any jurisdiction which directly relates to the  
21 practice of acupuncture and related techniques or to the ability to practice  
22 same;

23 (3) Advertising, practicing, or attempting to practice under a  
24 name other than one's own;

25 (4) Making deceptive, untrue, or fraudulent representations in  
26 the practice of acupuncture and related techniques;

27 (5) Becoming mentally incompetent or unfit or incompetent by  
28 reason of negligence, habits, or other causes;

29 (6) Becoming habitually intemperate or addicted to the use of  
30 habit-forming drugs, illegal drugs, or alcohol;

31 (7) Acting unprofessionally in the practice of acupuncture and  
32 related techniques;

33 (8) Committing fraud or deceit in filing insurance forms,  
34 documents, or information pertaining to the health or welfare of a patient;  
35 or

36 (9) Willfully or repeatedly violating any of the provisions of

1 this chapter or any rule or order of the board.

2 (b) When the board finds any person guilty of any of the acts set  
3 forth in subsection (a) of this section, it has the sole authority to:

- 4 (1) Refuse to issue a license to the offender;
- 5 (2) Revoke or suspend the offender's license;
- 6 (3) Restrict the practice of the offender;
- 7 (4) Impose an administrative fine not to exceed five thousand  
8 dollars (\$5,000) for each count or separate offense;
- 9 (5) Reprimand the offender; or
- 10 (6) Place the offender on probation for a period of time and  
11 subject to such conditions as the board may specify.

12 (c) The board shall not reinstate the license of a acupuncturist or  
13 cause a license to be issued to a person it has deemed to be unqualified  
14 until such time as the board is satisfied that he or she has complied with  
15 all the terms and conditions set forth in the final order and that he or she  
16 is capable of safely engaging in the practice of acupuncture and related  
17 techniques.

18 (d) Disciplinary proceedings taken under this section shall be as  
19 provided in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

20

21 SECTION 146. Arkansas Code § 19-6-415 is amended to read as follows:

22 19-6-415. ~~Abstracters' Examining~~ Arkansas Title Insurance Agents' and  
23 Abstracters' Licensing Board Fund.

24 The ~~Abstracters' Examining~~ Arkansas Title Insurance Agents' and  
25 Abstracters' Licensing Board Fund shall consist of those special revenues as  
26 specified in ~~subdivision (93) of § 19-6-301~~ § 19-6-301(93), there to be used  
27 for the maintenance, operation, and improvement of the ~~Abstracters' Board of~~  
28 ~~Examiners~~ Arkansas Title Insurance Agents' and Abstracters' Licensing Board.

29

30 SECTION 147. Arkansas Code § 20-17-1002 is amended to read as follows:

31 20-17-1002. Definitions.

32 As used in this subchapter:

- 33 ~~(1) "Board" means the Arkansas Cemetery Board;~~
- 34 ~~(2)~~(1) "Care and maintenance" means the continual maintenance of  
35 the cemetery grounds and graves in keeping with a properly maintained  
36 cemetery;



1           ~~(3)~~(2) "Cemetery" means any land or structure in this state  
2 dedicated to and used or intended to be used for interment of human remains.  
3 It may be either a burial park for earth interments, a mausoleum for vault or  
4 crypt interments, or a combination of one (1) or more thereof;

5           ~~(4)~~(3) "Cemetery company" means an individual, partnership,  
6 corporation, or association, now or hereafter organized, owning or  
7 controlling cemetery lands or property and conducting the business of a  
8 cemetery or making an application with the board to own or control the lands  
9 or conduct the business;

10           ~~(5)~~(4) "Columbarium" means a structure or room or space in a  
11 building or structure used or intended to be used for the interment of  
12 cremated human remains;

13           ~~(6)~~(5) "Crypt" means a chamber of sufficient size to inter the  
14 remains of a deceased person;

15           ~~(7)~~(6) "Interment" means any lawful disposition of the remains  
16 of a deceased person as provided by law;

17           ~~(8)~~(7) "Lot or grave space" means a space of ground in a  
18 cemetery used or intended to be used for interment therein;

19           ~~(9)~~(8) "Mausoleum" means a community-type structure or room or  
20 space in a building or structure used or intended to be used for the  
21 interment of human remains in crypts or niches;

22           ~~(10)~~(9) "Niche" means a space in a columbarium which is used or  
23 intended to be used for the interment of the cremated remains of one (1) or  
24 more deceased persons;

25           ~~(11)~~(10) "Permit holder" means any cemetery company that holds a  
26 permit issued by the board to own or operate a perpetual care cemetery; and

27           ~~(12)~~(11) "Perpetual care cemetery" means a cemetery for the  
28 benefit of which a perpetual care fund has been established in accordance  
29 with this subchapter; ~~and~~

30           ~~(13)~~ "Secretary" means the Securities Commissioner.

31  
32           SECTION 148. Arkansas Code § 20-17-1004 is repealed.

33           ~~20-17-1004. Arkansas Cemetery Board Creation Members.~~

34           ~~(a) The Arkansas Cemetery Board is to consist of seven (7) members~~  
35 ~~selected as follows:~~

36           ~~(1) The Securities Commissioner or his or her designated deputy~~

1 shall be a voting member of the board;

2 ~~(2) Six (6) members shall be appointed by the Governor for terms~~  
 3 ~~of four (4) years, as follows:~~

4 ~~(A) Four (4) of the six (6) members appointed by the~~  
 5 ~~Governor shall be owners or operators of licensed cemeteries in this state,~~  
 6 ~~and these members shall be appointed from lists of five (5) names for each~~  
 7 ~~appointment to be made which are submitted to the Governor by the Arkansas~~  
 8 ~~Cemetery Association;~~

9 ~~(B) One (1) member shall be appointed by the Governor and~~  
 10 ~~shall be a citizen of the State of Arkansas, of good character, and a~~  
 11 ~~qualified elector, but this person shall not have any interest in a cemetery~~  
 12 ~~or funeral home either within or without the State of Arkansas; and~~

13 ~~(C) One (1) member shall be sixty (60) years of age or~~  
 14 ~~older, appointed from the state at large, subject to the confirmation of the~~  
 15 ~~Senate, and shall represent the elderly. This member shall not be actively~~  
 16 ~~engaged in or retired from any profession or occupation which is regulated by~~  
 17 ~~the board.~~

18 ~~(b)(1) The Governor shall appoint one (1) alternate member for the~~  
 19 ~~same term and having the same qualifications as a regular member. This member~~  
 20 ~~shall substitute for any regular member when a conflict of interest~~  
 21 ~~disqualifies a regular member.~~

22 ~~(2) Whenever a matter comes before the board involving a~~  
 23 ~~cemetery in which any member has a financial interest, then the member shall~~  
 24 ~~be disqualified from participating in the discussion or vote on the matter,~~  
 25 ~~and the alternate member shall substitute for the disqualified member in that~~  
 26 ~~instance only.~~

27 ~~(c) Vacancies on the board due to death, resignation, or other cause~~  
 28 ~~of any appointed member shall be filled by appointment of the Governor for~~  
 29 ~~the unexpired portion of the term in the same manner as was required for the~~  
 30 ~~initial appointment.~~

31 ~~(d) Members shall serve without pay or other compensation for their~~  
 32 ~~services except that members may receive expense reimbursement and stipends~~  
 33 ~~in accordance with § 25-16-901 et seq.~~

34  
 35 SECTION 149. Arkansas Code § 20-17-1005 is repealed.  
 36 20-17-1005. Arkansas Cemetery Board Proceedings.

1           ~~(a) Any action taken by the Arkansas Cemetery Board shall be by the~~  
2 ~~majority vote of the board members who are present at the meeting when the~~  
3 ~~action is taken.~~

4           ~~(b) The cemeterian member of the board with the greatest seniority on~~  
5 ~~the board shall be chair of the board, but if the person declines the~~  
6 ~~chairship, then the cemeterian with the next highest seniority on the board~~  
7 ~~shall be chair.~~

8           ~~(c) Four (4) members of the board shall constitute a quorum.~~

9           ~~(d) The board shall meet subject to call of the chair or upon written~~  
10 ~~demand of any two (2) members.~~

11           ~~(e) Any order by the board under this subchapter shall be subject to~~  
12 ~~review by the Pulaski County Circuit Court or by the circuit court of the~~  
13 ~~county in which any part of the cemetery lies, provided that an application~~  
14 ~~for review of the order is made within thirty (30) days of the date of the~~  
15 ~~order.~~

16  
17           SECTION 150. Arkansas Code § 20-17-1006 is amended to read as follows:

18           20-17-1006. Arkansas Cemetery Board - Powers and duties.

19           The ~~Arkansas Cemetery Board~~ State Securities Department shall have the  
20 authority to:

21           (1) Conduct at any time and from time to time such reasonable  
22 periodic, special, or other examination of any cemetery or cemetery company,  
23 including, but not limited to, an examination of the physical condition or  
24 appearance of the cemetery, the financial condition of the company and any  
25 trust funds maintained by the company, and such other examinations as the  
26 ~~board or~~ Securities Commissioner deems necessary or appropriate in the public  
27 interest. The examinations shall be made by members or representatives of the  
28 ~~board~~ department or by a certified public accountant or registered public  
29 accountant as authorized in § 20-17-1007;

30           (2) Issue or amend permits to operate a cemetery in accordance  
31 with this subchapter;

32           (3) Suspend or revoke permits to operate a cemetery when any  
33 cemetery fails to comply with this subchapter, rules promulgated pursuant to  
34 this subchapter, or any order of the ~~board~~ department;

35           (4) Make rules, regulations, and forms to enforce this  
36 subchapter;

1           (5) Require every cemetery company to observe minimum accounting  
 2 principles and practices and make and keep such books and records in  
 3 accordance therewith for such period of time as the board may by rule  
 4 prescribe;

5           (6)(A) Subpoena witnesses, books, and records in connection with  
 6 alleged violations of this subchapter or rules or orders of the ~~board~~  
 7 department. With the approval of the ~~chair of the board or two (2) board~~  
 8 ~~members, the~~ Securities Commissioner, he or she may issue subpoenas.

9           (B) In case of contumacy or refusal to obey a subpoena  
 10 issued to any person, the Pulaski County Circuit Court, upon application by  
 11 the ~~board~~ department, may issue to the person an order requiring him or her  
 12 to appear before the ~~board~~ department or the person designated by the ~~board~~  
 13 department. Failure to obey the order of the court may be punished by the  
 14 court as a contempt of court;

15           (7) Require additional contributions to the permanent  
 16 maintenance fund of the cemetery where provided for in this subchapter,  
 17 including, but not limited to, contributions not to exceed three thousand  
 18 dollars (\$3,000) whenever any cemetery company fails to properly care for and  
 19 maintain or preserve the cemetery;

20           (8)(A) Apply to the Pulaski County Circuit Court to enjoin any  
 21 act or practice and to enforce compliance with this subchapter or any rule,  
 22 ~~regulation,~~ or order pursuant to this subchapter whenever it appears to the  
 23 ~~board~~ department, upon sufficient grounds or evidence satisfactory to the  
 24 ~~board~~ department, that any person has engaged in or is about to engage in any  
 25 act or practice constituting a violation of any provision of this subchapter  
 26 or any rule ~~or regulation~~ pursuant to this subchapter.

27           (B) The court may not require the ~~board~~ department to post  
 28 a bond;

29           (9) Apply to the circuit court of the county in which the  
 30 cemetery is located for appointment of a receiver or conservator of the  
 31 cemetery corporation or its permanent maintenance fund when it appears to the  
 32 ~~board~~ department that a cemetery corporation is insolvent or that the  
 33 cemetery corporation, its officers, directors, agents, or the trustees of its  
 34 permanent maintenance fund have violated this subchapter and the rules  
 35 promulgated under this subchapter or have failed to comply with any ~~board~~  
 36 department order; and

1 (10) Increase, in accordance with regulations adopted by the  
2 ~~board department~~, the percentage of the gross proceeds of the sale of any  
3 grave space, crypt, niche, or similar entombment required to be deposited  
4 into the permanent maintenance fund of the cemetery in accordance with § 20-  
5 17-1016 whenever it is determined that the principal of the permanent  
6 maintenance fund is or will be insufficient to generate enough income to  
7 operate and maintain the cemetery.

8  
9 SECTION 151. Arkansas Code § 20-17-1007 is amended to read as follows:  
10 20-17-1007. Examination of cemetery.

11 (a)(1)(A) Each cemetery company examined in accordance with § 20-17-  
12 1006 shall pay to the ~~Arkansas Cemetery Board~~ State Securities Department a  
13 fee for each examination as the board shall prescribe by rule.

14 (B) In addition, the cemetery company shall pay to the ~~board~~  
15 department the amount of expenses and stipends paid by the ~~board department~~  
16 to any ~~board department~~ member examining the physical condition or appearance  
17 of a cemetery when the examination is ordered by the ~~board department~~ on its  
18 own motion or on request of an interested individual.

19 (2) However, all examinations shall be conducted by a single  
20 examiner or ~~board department~~ member, and the examinations shall be conducted  
21 only pursuant to an order of the ~~board department~~.

22 (b)(1) In lieu of any financial examination which the ~~board department~~  
23 shall be authorized to make, the ~~board department~~ may accept the audit of an  
24 independent certified public accountant, provided that the Securities  
25 Commissioner has notified the cemetery company that the audit would be  
26 accepted and that the cemetery company has notified the commissioner in  
27 writing that an audit would be prepared.

28 (2) The costs of the audit shall be borne by the cemetery  
29 company, and the scope of the audit shall be at least equal to the scope of  
30 the examination required by the ~~board department~~.

31  
32 SECTION 152. Arkansas Code § 20-17-1008 is amended to read as follows:  
33 20-17-1008. Permit - Application.

34 (a)(1) Prior to making application to the ~~Arkansas Cemetery Board~~  
35 State Securities Department for a permit to establish and operate a new  
36 cemetery or for the extension of the boundaries of an existing cemetery, the

1 person proposing to make application shall cause to be published weekly for  
 2 three (3) weeks in a newspaper of general circulation in the county in which  
 3 the proposed cemetery is located a notice that an application will be filed  
 4 with the ~~board~~ department to establish or extend the boundaries of a cemetery  
 5 in the county.

6 (2) The publication shall contain a legal description of the  
 7 land to be used as a cemetery and a statement that any individual or group of  
 8 individuals desiring to protest the establishment or extension of the  
 9 cemetery may do so by filing a statement in writing with the ~~board~~  
 10 department.

11 (b)(1) Whenever it is proposed to locate a new cemetery or extend the  
 12 boundaries of an existing cemetery under this subchapter, then the cemetery  
 13 company so proposing shall file an application for the issuance of a permit  
 14 with the ~~board~~ department.

15 (2) The application shall describe accurately the location and  
 16 boundaries of the proposed cemetery or addition.

17 (3) The application shall be accompanied by:

18 (A) The recommendation of the mayor or governing official  
 19 of the municipality if the cemetery is to be located within the corporate  
 20 limits of a municipality or the recommendation of the county judge of the  
 21 county within which the cemetery is to be located if outside the corporate  
 22 limits of a municipality. The recommendation shall state the need and  
 23 desirability of the proposed cemetery or extension. This recommendation shall  
 24 be in lieu of the application and permit required in § 20-17-903;

25 (B) A fee of:

26 (i) One thousand five hundred dollars (\$1,500) for  
 27 filing an application for a new cemetery; or

28 (ii) Four hundred dollars (\$400) for filing an  
 29 application to extend the boundaries of an existing cemetery;

30 (C) A survey and map of the cemetery or extension;

31 (D) A set of rules ~~and regulations~~ for the use, care,  
 32 management, and protection of the cemetery;

33 (E) The proposed method of establishing a permanent  
 34 maintenance fund;

35 (F) Proof of publication as set forth in subsection (a) of  
 36 this section of the required notice of intention to apply with the ~~board~~

1 department;

2 (G) A copy of a current title opinion by an Arkansas-  
3 licensed attorney or title insurance policy which reflects that the applicant  
4 has or will have good and merchantable title to the land covered by the  
5 permit or extension;

6 (H) A notarized statement disclosing any current or future  
7 lien or mortgage on the land covered by the permit;

8 (I) A notarized statement from any current or future  
9 lienholder or mortgage holder on the land covered by the permit or extension  
10 that all paid-in-full burial spaces will be released from the lien or  
11 mortgage at least semi-annually;

12 (J) A copy of the perpetual care trust agreement if the  
13 application is for a new cemetery permit;

14 (K) A current balance sheet of the applicant prepared by  
15 an independent certified public accountant in accordance with generally  
16 accepted accounting principles which reflects that the applicant has a  
17 minimum of twenty thousand dollars (\$20,000) net worth; and

18 (L) Any other evidence which would tend to show a public  
19 need for the proposed cemetery or extension may be included, such as a  
20 petition from landowners in the county who believe that a need exists for any  
21 additional cemetery or extension.

22 (4) The burden of establishing public need shall be upon the  
23 applicant.

24 (c) All applications shall be made under oath and filed with the  
25 Securities Commissioner not less than twenty (20) days prior to the ~~board~~  
26 department meeting at which the application is to be considered.

27 (d) The board shall have authority to require any cemetery company to  
28 submit additional information as it may by rule or order prescribe.

29

30 SECTION 153. Arkansas Code § 20-17-1009 is amended to read as follows:

31 20-17-1009. Permit - Investigation by Division of Health of the  
32 Department of Health and Human Services.

33 (a) Upon receipt of an application for the issuance of a permit for a  
34 new cemetery or for an extension of the boundaries of an existing cemetery,  
35 the ~~Arkansas Cemetery Board~~ State Securities Department shall cause the  
36 Division of Health of the Department of Health and Human Services to make an

1 investigation of the proposed cemetery location or extension, with respect to  
2 a sanitary viewpoint.

3 (b) In making the investigation, the division shall take into  
4 consideration the proximity of the proposed cemetery, or extension, to human  
5 habitation, the nature of the soil, the drainage of the ground, the danger of  
6 pollution of springs or streams of water, and such other conditions as would  
7 bear upon the situation.

8 (c) Having completed this investigation, the division shall promptly  
9 submit in writing its approval or disapproval from a sanitary standpoint to  
10 the board. If the division disapproves the proposed cemetery location or  
11 extension, further action on the application shall be suspended until the  
12 applicant acquires a location which meets with the approval of the division  
13 or until other action, as necessary, is taken.

14 (d) The cemetery shall pay the division any fee required by law.

15

16 SECTION 154. Arkansas Code § 20-17-1010 is amended to read as follows:

17 20-17-1010. Permit - Investigation and issuance by the ~~Arkansas~~  
18 ~~Cemetery Board~~ State Securities Department.

19 (a) If the cemetery company has fully complied with this subchapter  
20 and if the Division of Health of the Department of Health and Human Services  
21 approves the location of the new cemetery or the extension of the boundaries  
22 of an existing cemetery, then the application shall be submitted to the  
23 ~~Arkansas Cemetery Board~~ State Securities Department for investigation and for  
24 approval or disapproval.

25 (b) Immediately upon the submission of each application, the ~~board~~  
26 department shall make such investigation as shall enable it to determine the  
27 fitness of the cemetery company, the need for the cemetery, and all other  
28 questions bearing directly or indirectly upon the need or desirability from  
29 the public standpoint of the proposed cemetery or extension.

30 (c)(1) If the application for a new cemetery is approved, the ~~board~~  
31 department shall issue a permit to the applicant only after the applicant has  
32 filed proof with the ~~board~~ department that an initial principal deposit of at  
33 least five thousand dollars (\$5,000) has been made to the permanent  
34 maintenance fund. This initial five thousand dollars (\$5,000) can be used to  
35 meet the liability due the permanent maintenance fund for the first paid-in-  
36 full burial space sales sold by the permit holder.



1 (2) The permit shall be filed in the court of the county in  
 2 which the cemetery is located and with the division.

3  
 4 SECTION 155. Arkansas Code § 20-17-1011 is amended to read as follows:  
 5 20-17-1011. Permit - Amendment.

6 (a) Whenever it is proposed that any cemetery subject to this  
 7 subchapter amend its present permit, whether for construction of a mausoleum,  
 8 reduction or increase in percentage of gross sales proceeds to be placed in  
 9 the permanent maintenance fund, or other amendment, then the cemetery company  
 10 shall file an application for amendment of the permit.

11 (b) The application shall be accompanied by:

12 (1) A fee of four hundred dollars (\$400);

13 (2) A statement of each proposed amendment;

14 (3) Statements, documents, and other information necessary to  
 15 provide justification for the amendment;

16 (4) If the amendment is for construction of a mausoleum or  
 17 similar structure, the application shall also include:

18 (A) Plans and specifications of the structure;

19 (B) A report of inspection of the plans by the Division of  
 20 Health of the Department of Health and Human Services;

21 (C) A copy of the sales contracts and conveyance documents  
 22 proposed to be used;

23 (D) A proposed contribution to the permanent maintenance  
 24 fund;

25 (E) A statement of whether the amount of the sales force  
 26 will be utilized and of how preconstruction sales and interments will be  
 27 handled;

28 (F) The location of the proposed structure;

29 (G) The estimated completion date;

30 (H) Either of the following, when sales proceeds may be  
 31 received by the cemetery company prior to completion of construction and  
 32 payment in full of the structure:

33 (i) An executed escrow agreement approved by the  
 34 ~~Arkansas Cemetery Board~~ State Securities Department with a federally insured  
 35 financial institution or other financial institution approved by the ~~board~~  
 36 department which provides among other things that one hundred percent (100%)

1 of the sales proceeds collected prior to the completion and payment in full  
 2 of the structure will be placed into escrow; or

3 (ii)(a) An executed copy of the construction  
 4 agreement for the structure which sets forth the total construction cost and  
 5 the date the construction will be completed with either an executed  
 6 irrevocable letter of credit from a federally insured financial institution  
 7 or other financial institution approved by the board equal to one hundred  
 8 twenty-five percent (125%) of the total cost of the structure, a cash bond  
 9 posted with a federally insured financial institution or other financial  
 10 institution approved by the ~~board~~ department equal to one hundred thirty  
 11 percent (130%) of the total cost of the structure, or a construction  
 12 performance bond payable to the ~~board~~ department in the amount equal to the  
 13 total cost of the structure as set forth in the construction agreement.

14 (b) All letters of credit and bonds, and their  
 15 issuers, shall be approved by the ~~board~~ department. The letter of credit  
 16 shall state that the funds provided shall be paid to the ~~board~~ department for  
 17 the purpose of completing the construction of the structure or paying in full  
 18 the completed structure if not done prior to the completion date set forth in  
 19 the construction agreement. The construction performance bond shall state  
 20 that the insurer shall advance the funds necessary to complete the  
 21 construction of the structure or pay for the completed structure, if not done  
 22 prior to the date set forth in the construction agreement. The cash bond  
 23 shall provide that the financial institution shall pay the cash proceeds of  
 24 the bond upon order of the ~~board~~ department. The letters of credit or  
 25 construction bonds shall state that if the structure is not completed and  
 26 paid for in full within the maximum time provided for construction under this  
 27 section, such letters of credit and bonds shall be used to complete and pay  
 28 for the structure; and

29 (I) Certification of an estimated start date for  
 30 construction to take place no later than thirty-six (36) months after the  
 31 date of the permit and further certifying completion within five (5) years  
 32 after the date of the permit unless extended for good cause by the ~~board~~  
 33 department; and

34 (J) Other information necessary to show that construction  
 35 will be done in a good and workmanlike manner and be fireproof; and

36 (5) Other information as the ~~board~~ department may by rule or

1 order require.

2 (c) Eight (8) complete copies of the application for the amendment of  
3 the permit shall be filed with the Securities Commissioner at least twenty  
4 (20) calendar days prior to the meeting at which the ~~board~~ department will  
5 consider the application.

6

7 SECTION 156. Arkansas Code § 20-17-1012 is amended to read as follows:  
8 20-17-1012. Permit - Transfer of ownership.

9 (a)(1) Whenever any change is proposed in the controlling interest or  
10 ownership of any perpetual care cemetery or any cemetery company or any  
11 organization that, directly or indirectly, owns a controlling interest in the  
12 cemetery company, the cemetery company that holds the current permit and the  
13 individual or organization proposing to obtain ownership or gain control  
14 shall file an application for the issuance of a new permit with the ~~Arkansas~~  
15 ~~Cemetery Board~~ State Securities Department.

16 (2) The application shall be accompanied by:

17 (A) A fee of one thousand five hundred dollars (\$1,500);

18 (B) A statement of changes, if any, in the survey and map  
19 of the cemetery;

20 (C) A set of rules ~~and regulations~~ for the use, care,  
21 management, and protection of the cemetery;

22 (D) The proposed method of continuing the permanent  
23 maintenance fund presently in existence;

24 (E) A statement of the proposed transfer;

25 (F) A copy of a current title opinion by an Arkansas-  
26 licensed attorney or title insurance policy that reflects that the current  
27 permit holder has good and merchantable title to the land covered by the  
28 permit;

29 (G) A notarized statement from the seller and purchaser  
30 disclosing any current or future lien or mortgage on the land covered by the  
31 permit;

32 (H) A notarized statement from any current or future  
33 lienholder or mortgage holder on the land covered by the permit that all  
34 paid-in-full burial spaces will be released from the lien or mortgage at  
35 least semiannually;

36 (I)(i) A current detailed accounting of all paid-in-full

1 merchandise contracts or accounts of the permit holder and seller for which  
 2 the merchandise has not been delivered to the purchaser or placed in  
 3 inventory for the benefit of the purchaser.

4 (ii) This accounting shall be on an individual  
 5 contract or account basis and contain the name of the purchaser, the contract  
 6 or account number, the date of the contract, the gross amount of the  
 7 contract, a description of the merchandise purchased, the date the contract  
 8 or account was paid in full, and the specific location where the merchandise  
 9 is stored;

10 (J) A current notarized statement from the permit holder  
 11 and seller that the application contains a complete and accurate accounting  
 12 of all his or her outstanding accounts receivable, discounted notes, and  
 13 paid-in-full merchandise accounts or contracts for which the merchandise has  
 14 not been delivered to the purchaser or placed in inventory for the benefit of  
 15 the purchaser;

16 (K) A current notarized statement from the purchaser or  
 17 organization gaining control that it will assume the responsibility and  
 18 liability for all the accounts, notes, and contracts of the seller that are  
 19 contained in the accountings and schedules that are filed as a part of the  
 20 application;

21 (L) The financial statements of the applicant and  
 22 purchaser required by the rules which reflect that the applicant and  
 23 purchaser has a minimum net worth of twenty thousand dollars (\$20,000); and

24 (M) Any additional information required by the ~~board~~  
 25 department or the Securities Commissioner.

26 (b) Each vendor or the transferor of the cemetery company or interest  
 27 therein shall remain liable for any funds and transactions up to the date of  
 28 the sale or transfer.

29 (c)(1) Prior to the sale or transfer, the vendor or the transferor  
 30 shall notify the ~~board~~ department of the proposed sale or transfer and shall  
 31 submit to the ~~board~~ department, under oath, any document or record the ~~board~~  
 32 department may require in order to demonstrate that the vendor or transferor  
 33 is not indebted to the permanent maintenance fund.

34 (2) After the transfer of ownership or control, the vendor or  
 35 transferor shall present to the ~~board~~ department proof of currency in the  
 36 permanent maintenance fund.

1 (3) The ~~board~~ department may additionally require the  
 2 presentation of proof of the continued current status of the permanent  
 3 maintenance fund by the vendee or transferee for such reasonable period of  
 4 time as the ~~board~~ department may determine to be necessary in the public  
 5 interest.

6 (4) The ~~board~~ department is further authorized to recover from  
 7 that vendor or transferor or vendee or transferee, for the benefit of the  
 8 permanent maintenance fund, all sums that the vendor or transferor or vendee  
 9 or transferee has not properly accounted for and paid into the trust fund,  
 10 together with reasonable expenses incurred by the ~~board~~ department by  
 11 bringing this action.

12 (d) The cemetery company that has been issued a permit to operate a  
 13 cemetery under this subchapter shall remain liable for the maintenance and  
 14 care of the cemetery and all amounts due the permanent maintenance fund until  
 15 a new permit is issued to the vendee or transferee.

16 (e) No new permit shall be issued to the vendee or transferee of any  
 17 cemetery until that vendee or transferee complies with this subchapter and  
 18 the ~~board~~ department orders a new permit to be issued to the vendee or  
 19 transferee.

20 (f) Any vendor or transferor or vendee or transferee who violates this  
 21 section shall be guilty of a violation and upon conviction shall be fined not  
 22 less than one hundred dollars (\$100) nor more than five hundred dollars  
 23 (\$500) for the violation.

24  
 25 SECTION 157. Arkansas Code § 20-17-1013 is amended to read as follows:  
 26 20-17-1013. Permanent maintenance fund generally.

27 (a)(1) The permanent maintenance fund is declared to be a trust fund  
 28 for the purpose of administration, care, and maintenance of the cemetery,  
 29 including lots, graves, spaces, crypts, niches, burial rights, or otherwise.

30 (2) The net income from the fund shall be paid to and be  
 31 exclusively used and expended by the owners, managers, or officers and  
 32 directors of the cemetery company for the care and maintenance of the  
 33 cemetery and for no other purpose.

34 (3) The principal of the fund shall be invested and remain  
 35 invested in such securities and funds as are permitted by the laws of  
 36 Arkansas for the investment of policy reserves of life insurance companies as

1 set forth in § 23-60-101 et seq., and in the common trust funds of state or  
 2 national banks.

3 (4) However, any permanent maintenance fund having assets of  
 4 more than two hundred fifty thousand dollars (\$250,000) may invest not more  
 5 than fifty percent (50%) of its assets in nonassessable common stocks which  
 6 are listed on a national securities exchange, preferred stocks meeting the  
 7 requirements of § 23-63-815, and investment trust securities meeting the  
 8 requirements of § 23-63-820, and the diversification restrictions of § 23-63-  
 9 805 shall not apply to investments in investment trust securities.

10 (5) In investing these funds, the trustee shall exercise the  
 11 judgment and care under the circumstances then prevailing which persons of  
 12 prudence, discretion, and intelligence exercise in management of their own  
 13 affairs, not in regard to speculation, but in regard to the permanent  
 14 disposition of their funds, considering the probable income and capital  
 15 appreciation as well as the probable safety of their capital.

16 (b) The permanent maintenance fund is authorized by this subchapter,  
 17 and all sums paid into it or contributed to it shall be deemed to be for  
 18 charitable and eleemosynary purposes.

19 (c) The rule against perpetuities shall not be applicable to funds as  
 20 mentioned in this section.

21 (d) The trust fund shall be established by executing a written trust  
 22 agreement approved by the ~~Arkansas Cemetery Board~~ State Securities  
 23 Department. The agreement may provide that the cemetery company may change  
 24 the trustee of its trust fund so long as the successor trustee is in  
 25 accordance with § 20-17-1014 and the present trustee and successor trustee  
 26 are parties to the amendment of the agreement.

27 (e) At a minimum, the trustee shall maintain the following:

28 (1) A general ledger and general journal or comparable books of  
 29 entry showing all receipts, disbursements, assets, liabilities, and income of  
 30 the trust fund;

31 (2) Documents supporting and verifying each asset of the trust  
 32 fund; and

33 (3) A trust agreement.

34 (f) In establishing a permanent maintenance fund, the cemetery company  
 35 may from time to time adopt plans for the general care and maintenance of its  
 36 cemetery.

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SECTION 158. Arkansas Code § 20-17-1014 is amended to read as follows:  
20-17-1014. Permanent maintenance fund - Trustees.

Each cemetery company subject to this subchapter shall establish or transfer the permanent maintenance fund, the income from which can only be used for general maintenance, administration, and preservation of the cemetery, to:

- (1) A state or national bank with trust powers; or
- (2) Three (3) trustees, only one (1) of whom may have any direct or indirect financial or pecuniary interest in the cemetery, provided all trustees who make disbursements from the trust fund shall furnish a fidelity bond with corporate surety thereon, payable to the trust fund, in a penal sum not less than one hundred percent (100%) of the value of the trust fund principal at the beginning of each calendar year. This bond shall be deposited with the ~~Arkansas Cemetery Board~~ State Securities Department; or
- (3) An individual trustee, who in behalf of the cemetery company, shall deposit designated permanent maintenance funds directly into a savings account or certificate of deposit in a state or national bank or savings and loan association in this state not less than forty-five (45) days after collection, provided:
  - (A) All funds so deposited are federally insured;
  - (B) The funds are restricted so that the principal amount of the funds cannot be withdrawn without the written approval of, and on a form approved by, the Securities Commissioner; and
  - (C) Not less than one (1) time a year, interest from the funds may be withdrawn by the individual trustee in behalf of the cemetery company for purposes permitted by this subchapter.

SECTION 159. Arkansas Code § 20-17-1015 is amended to read as follows:  
20-17-1015. Permanent maintenance fund - Annual report.

(a) Within sixty (60) days after the end of each calendar year, the ~~Arkansas Cemetery Board~~ State Securities Department shall require the trustee of the permanent maintenance fund to file, under oath, a detailed annual report of the condition of the fund, setting forth the description of the assets of the fund, a description of any property upon which any security constitutes a lien, the cost of acquisition of the asset, the market value of

1 any asset at the time of its acquisition with the current market value of the  
2 asset and its status with reference to default, and stating that they are not  
3 in any way encumbered by debt, that none of the assets of the fund constitute  
4 loans to the cemetery company for which the trust fund is established or to  
5 any officer or director thereof, and any other information the trustee or the  
6 ~~board~~ department deems pertinent.

7 (b) The report shall show the amounts of principal and undistributed  
8 income of the fund at the beginning of the period, the amounts deposited by  
9 the cemetery company into the fund during the period, the income earned and  
10 disbursements made during the period, the details of any investment or  
11 reinvestment during the period, and the balances of principal and income at  
12 the end of the period being reported on.

13 (c)(1) If the trustee of the fund fails to meet the requirements of  
14 this section, then it shall be the duty of the ~~board~~ department to apply to  
15 the Pulaski County Circuit Court for an order to require the trustee of the  
16 fund to file a proper report and to make any additional contributions due to  
17 the failure to timely file the annual report.

18 (2) If funds have been misappropriated by the trustee or are not  
19 being handled as required by law, then the ~~board~~ department shall apply to  
20 the circuit court in the county in which the cemetery is located to have a  
21 receiver or conservator appointed by the court to take custody of the trust  
22 funds for the benefit of the cestui que trust. The receiver or conservator is  
23 vested with full power to file such suits against the defaulting trustee as  
24 may be necessary to require a full accounting and restoration of the trust  
25 funds and to turn the residue over to another trustee as the cemetery shall  
26 select, in conformity with this subchapter, as the new trustee of the  
27 permanent maintenance fund.

28 (3) Failure by the trustee to make a timely filing of the annual  
29 report required by subsection (a) of this section shall be grounds for the  
30 trustee to pay an additional contribution to the permanent maintenance fund  
31 of fifty dollars (\$50.00) per day until the report is filed with the ~~board~~  
32 department.

33

34 SECTION 160. Arkansas Code § 20-17-1016 is amended to read as follows:  
35 20-17-1016. Permanent maintenance fund - Required deposits.

36 (a) Each cemetery company shall deposit not less than ten percent



1 (10%) of the gross proceeds of each sale into the permanent maintenance fund,  
 2 provided cemetery companies selling crypts, niches, or similar entombments  
 3 shall be required to deposit into a permanent maintenance fund an amount not  
 4 less than the ~~Arkansas Cemetery Board~~ State Securities Department shall by  
 5 order require if the cemetery company can demonstrate to the ~~board~~ department  
 6 that such lesser amount will be sufficient for perpetual maintenance and  
 7 upkeep.

8 (b)(1) The deposit shall be made by the cemetery company not later  
 9 than forty-five (45) days after the final payment has been made.

10 (2) However, any cemetery company making sales on installment  
 11 sales contracts shall deposit the required percentage in accordance with the  
 12 following:

13 (A) If the cemetery company receives installment payments  
 14 directly and if adequate records are maintained as to the full amount of  
 15 sale, the receipts received, and the balance due, then the cemetery company  
 16 shall deposit the required percentage of gross proceeds of sale into the  
 17 permanent maintenance fund not later than the forty-fifth day after the final  
 18 payment is made, or the cemetery company may deposit the required percentage  
 19 of each amount received not later than the forty-fifth day after each  
 20 installment payment by the purchaser; and

21 (B)(i) If the cemetery company elects to discount the  
 22 installment sales contracts at a bank or other financial institution and  
 23 receive a discounted value immediately in cash, the required percentage of  
 24 the gross sales price shall be placed in a separate restricted escrow account  
 25 at the time that the contract is discounted.

26 (ii) The amount so placed in escrow shall not be  
 27 withdrawn until the lot purchaser defaults on or fully satisfies his or her  
 28 contract obligations.

29 (iii) This restricted escrow account may be used by  
 30 the bank or other financial institution as a part of its required reserve and  
 31 may be used as recourse if the lot purchaser defaults on the contract.

32 (iv) Upon default, the required percentage of the  
 33 gross sales price which was placed in this escrow account may be withdrawn  
 34 and used by the cemetery company.

35 (v) Once final payment has been made, the required  
 36 percentage of the gross sales price which was placed in an escrow account

1 shall be withdrawn and placed immediately into the permanent maintenance  
2 fund.

3 (vi) If the cemetery corporation enters into an  
4 agreement with the bank or other financial institution, which in the  
5 Securities Commissioner's determination adequately provides for the  
6 safeguards set forth in subdivision (b)(2)(A) of this section, then that  
7 subdivision shall not be applicable to the cemetery corporation.

8 (3) If a cemetery company gives away a grave space or sells a  
9 grave space for a price less than the current market price, the gross sales  
10 proceeds received for a similar grave space in the immediately adjacent or  
11 similar location in the cemetery in a recent arms-length transaction shall be  
12 used as the basis to make the required permanent maintenance fund  
13 contribution for the gift or reduced price sale.

14 (c)(1) If the cemetery company fails to make the required deposits in  
15 accordance with this section or if the moneys placed in escrow are not  
16 deposited as required by this subchapter, then the cemetery company shall be  
17 liable for and the ~~board~~ department may collect as an additional contribution  
18 to the permanent maintenance fund ten dollars (\$10.00) per day but in no  
19 instance in amounts to exceed five thousand dollars (\$5,000) or the actual  
20 cost of the contract property or cemetery lots, whichever is greater, for the  
21 period of the failure.

22 (2) Upon the refusal of the cemetery company to pay the ~~board~~  
23 department the penalty, the ~~board~~ department may institute suit to recover  
24 the contribution and costs and such other relief as the state in its judgment  
25 deems proper and necessary.

26

27 SECTION 161. Arkansas Code § 20-17-1018 is amended to read as follows:  
28 20-17-1018. Permanent maintenance fund - Penalties.

29 (a) In addition to the civil provisions of this subchapter, it shall  
30 be unlawful for any person to:

31 (1) Advertise or operate all or part of a cemetery as a  
32 perpetual care or permanent maintenance cemetery without holding a valid  
33 permit issued by the ~~Arkansas Cemetery Board~~ State Securities Department; or

34 (2) Fail to place the required contributions into the permanent  
35 maintenance fund or to remove any principal of the permanent maintenance fund  
36 from trust.

1 (b) Any person who is in willful violation of subsection (a) of this  
2 section shall be guilty of a felony and upon conviction shall be punished by  
3 a fine of not more than six thousand dollars (\$6,000) or by imprisonment in  
4 the state penitentiary for not more than six (6) years, or by both fine and  
5 imprisonment.

6  
7 SECTION 162. Arkansas Code § 20-17-1019 is amended to read as follows:  
8 20-17-1019. Conveyance of lots.

9 (a) An instrument of conveyance or deed for burial lots, plots, or  
10 parts thereof shall be issued to the purchaser upon complete payment of the  
11 purchase price.

12 (b) Only the cemetery company or its agents may sell or convey lots,  
13 grave spaces, crypts, niches, or parts thereof, except that:

14 (1) The owner of any lot, grave space, niche, crypt, or part  
15 thereof may sell his or her lot or part thereof if he or she first has  
16 offered its transfer in writing to the cemetery company at the purchase price  
17 then being charged by the cemetery company for similar lots and if the  
18 cemetery company refused the offer within thirty (30) days after the offer;  
19 or

20 (2) An owner may convey or devise to the cemetery company his or  
21 her right and title in and to any lot, grave space, niche, crypt, or part  
22 thereof.

23 (c) The secretary or other responsible officer of the cemetery company  
24 shall file and record in its books all instruments of transfer.

25 (d) The conveyance shall be signed by the persons having proper  
26 authority.

27 (e) Any mortgage or lien on the cemetery land by a permit holder shall  
28 not encumber any burial space that has been sold prior to the granting of the  
29 mortgage or creation of the lien.

30 (f)(1) To ensure that all burial spaces remain unencumbered, the  
31 permit holder shall file with the ~~Arkansas Cemetery Board~~ State Securities  
32 department before execution of any mortgage or creation of any lien a  
33 notarized statement reflecting the specific description of the land to be  
34 affected by the mortgage or lien and a waiver or release by the proposed  
35 mortgagee or lienholder of any claim or right to any burial space for which  
36 an instrument of conveyance or deed has been or may be executed.

1 (2) The failure of a permit holder to comply with the  
2 requirements of this subsection shall be grounds for the ~~board~~ department to  
3 require an additional contribution to the permanent maintenance fund of the  
4 cemetery in an amount not exceeding one thousand dollars (\$1,000) for each  
5 burial space encumbered.

6  
7 SECTION 163. Arkansas Code § 20-17-1021 is amended to read as follows:  
8 20-17-1021. Disposition of contributions and fees.

9 (a) All contributions imposed pursuant to this subchapter shall be  
10 deposited into the respective permanent maintenance fund of the cemetery  
11 company upon which the contribution is imposed.

12 (b) All fees imposed pursuant to this subchapter shall be paid to the  
13 ~~Arkansas Cemetery Board~~ State Securities Department.

14  
15 SECTION 164. Arkansas Code § 20-17-1022 is amended to read as follows:  
16 20-17-1022. Records required.

17 (a) All cemetery companies shall make and keep accounts and records  
18 which shall indicate that they have made the required contributions to the  
19 permanent maintenance fund. The burden is upon the cemetery company to  
20 maintain the accounts and records.

21 (b) Unless otherwise approved by the ~~Arkansas Cemetery Board~~ State  
22 Securities Department, all sales contracts and deeds issued by the cemetery  
23 company shall be numbered prior to when they are executed by the cemetery  
24 company and shall contain those items that the ~~board~~ department by rule or  
25 order prescribes.

26  
27 SECTION 165. Arkansas Code § 20-17-1023 is amended to read as follows:  
28 20-17-1023. Annual report of condition of cemetery company.

29 (a) Within sixty (60) days after the end of the calendar year, each  
30 cemetery company shall file with the ~~Arkansas Cemetery Board~~ State Securities  
31 Department a report, under oath, of its condition. The report shall contain  
32 at least the following information:

33 (1) The name of the cemetery company, the location of the  
34 cemetery, the name of the person in charge of the records of the cemetery  
35 company, and the phone number of the company;

36 (2) The amount of sales of cemetery lots, graves, spaces,

1 mausoleums, crypts, or niches for which payment has been made in full and  
 2 certificates or deeds of conveyance have been issued during the preceding  
 3 calendar year;

4 (3) The amounts paid into the permanent maintenance fund and the  
 5 income received from the fund during the preceding calendar or fiscal year,  
 6 including the total amount due the fund whether paid in or not, the amounts  
 7 due the fund at the date of the report, and the amount expended for  
 8 maintenance of the cemetery;

9 (4) The names and addresses of the owners of the cemetery  
 10 company or the officers and directors of the company and stating any change  
 11 of control which has occurred during the past fiscal or calendar year, the  
 12 date of incorporation, and listing the resident agent and office if the  
 13 cemetery company is a corporation; and

14 (5) Such other information as the ~~board~~ department may by rule  
 15 or order require.

16 (b) The report shall be accompanied by:

17 (1) A filing fee of three hundred twenty-five dollars (\$325);

18 and

19 (2)(A) A fee of seven dollars (\$7.00) for each burial sale  
 20 contract entered into after July 1, 2005, by the cemetery company regardless  
 21 of the number of spaces sold under the contract regarding plots, crypts, and  
 22 niches.

23 (B)(i) The first payment of fees under subdivision  
 24 (b)(2)(A) of this section shall be due on or before March 1, 2006, and shall  
 25 be based on the number of contract sales entered into during the period of  
 26 July 1, 2005, through December 31, 2005.

27 (ii) Subsequent annual reports shall be based upon  
 28 contract sales entered into for the previous calendar year.

29 (c)(1) Failure by the cemetery company to make a timely filing of its  
 30 annual report shall be grounds for an additional contribution to the  
 31 permanent maintenance fund of fifty dollars (\$50.00) per day until the report  
 32 is filed with the ~~board~~ department.

33 (2) If the cemetery company refuses to pay the contribution or  
 34 fees, the ~~board~~ department shall institute suit to recover the penalty and  
 35 fee and costs and such other relief as the state in its judgment deems  
 36 proper.

1 (3) If the cemetery company shall fail to meet the requirements  
2 of this section, then the ~~board~~ department shall apply to the Pulaski County  
3 Circuit Court for the proper order to require a report.

4 (d) The beginning and ending dates of the report shall coincide with  
5 the dates of the report of the trustee required in § 20-17-1015.

6 (e) Upon receipt of a properly completed annual report from the  
7 trustee and the cemetery company, the ~~board~~ department shall issue to the  
8 cemetery company an annual operating permit which shall be prominently  
9 displayed at the main entrance to the cemetery.

10  
11 SECTION 166. Arkansas Code § 20-17-1024 is amended to read as follows:  
12 20-17-1024. Preexisting cemeteries.

13 (a) All cemetery companies in existence at the time of the passage of  
14 this act shall be permitted to continue operation under their present permits  
15 except that those cemetery companies which are subject to this subchapter and  
16 have not been filing annual reports with the ~~Arkansas Cemetery Board~~ State  
17 Securities Department shall, by January 1, 1978, file the following  
18 information and shall be subject to the jurisdiction of the ~~board~~ department:

19 (1) The name of the owner and operator of the cemetery and a  
20 statement of the form of business organization, that is, corporation,  
21 nonprofit corporation, partnership, etc., along with a copy of the articles,  
22 bylaws, or applicable organization documents;

23 (2) The location and legal description of the cemetery,  
24 including a survey and map of the cemetery delineating the lots, plots,  
25 pathways, etc.;

26 (3) The rules ~~and regulations~~ for the use, care, management, and  
27 protection of the cemetery, including a list of lot prices and all charges  
28 and assessments made by the cemetery company;

29 (4) Details concerning the permanent maintenance trust fund  
30 including a copy of the trust agreement, the name of the trustee, the report  
31 of the trustee, etc.;

32 (5) A copy of the present permit and proof of registration with  
33 the Division of Health of the Department of Health and Human Services;

34 (6) A fee as the ~~board~~ department by rule shall prescribe;

35 (7) A copy of the deed to the present cemetery company conveying  
36 land used as a cemetery and copies of any encumbrances, mortgages, etc., or a

1 statement that there are none;

2 (8) The name and address of any officers, directors, managers,  
3 the degrees of ownership of each, and a statement concerning subsidiaries and  
4 affiliates or the organization controlling the cemetery company;

5 (9) A statement as to whether there are any mausoleums or  
6 similar structures; and

7 (10) Any additional information necessary to make the filing  
8 complete.

9 (b) Failure to file the information shall result in the suspension or  
10 revocation of the permit, and the cemetery shall be considered not to be a  
11 registered cemetery. Until a new permit to operate a cemetery is obtained,  
12 all burials or sales shall be unlawful and the person operating the cemetery  
13 or allowing the burials shall be subject to the penalties and remedies set  
14 forth in §§ 20-17-1006, 20-17-1012(f), and 20-17-1018.

15

16 SECTION 167. Arkansas Code § 20-17-1025 is amended to read as follows:  
17 20-17-1025. Protection of cemeteries - Power to lend.

18 (a) On August 1, 2001, the ~~Arkansas Cemetery Board~~ State Securities  
19 Department shall segregate one hundred eighty thousand dollars (\$180,000)  
20 within its general operating fund to be administered by the Securities  
21 Commissioner and only used to lend a court-appointed receiver or conservator  
22 the funds necessary to assure that a cemetery will be properly maintained and  
23 will continue to be a going concern, including the funds necessary to pay any  
24 reasonable surety bond premium which is required to be posted by the court.

25 (b) The ~~board~~ department may take any legal action necessary against a  
26 cemetery company, receiver, or conservator to recover any funds loaned by the  
27 ~~board~~ department to or for the benefit of the cemetery, the cemetery company,  
28 receiver, or conservator for the payment of maintenance expenses or unpaid  
29 loans.

30 (c) Disbursement from such funds for loans to a receiver or  
31 conservator shall be made on a "first in, first out" basis as determined by  
32 the commissioner.

33 (d) Donations to the ~~board~~ department to fund such loans may be  
34 accepted by the commissioner from any cemetery company, organization, or  
35 individual.

36 (e) The ~~board~~ department may waive payment or extend the payment

1 period for any loan made to a receiver or conservator if the ~~board~~ department  
2 determines that it is unlikely that the receiver or conservator has or will  
3 receive sufficient funds to repay the loan and that the funds were or are  
4 needed to maintain and operate the cemetery for the benefit of the lot owners  
5 and the general public.

6  
7 SECTION 168. Arkansas Code § 20-17-1026 is amended to read as follows:  
8 20-17-1026. Annual permit fee.

9 (a) By March 1 of each year, each permit holder shall pay to the  
10 ~~Arkansas Cemetery Board~~ State Securities Department a permit renewal fee in  
11 the amount of one hundred dollars (\$100).

12 (b) All annual permit fees shall be classified as general funds of the  
13 board and shall be used to make loans to receivers and conservators as  
14 provided in § 20-17-1025.

15  
16 SECTION 169. Arkansas Code § 20-17-1027 is repealed.  
17 ~~20-17-1027. Duties of State Securities Department.~~

18 ~~(a) The State Securities Department shall assist the Arkansas Cemetery~~  
19 ~~Board in the performance of its duties.~~

20 ~~(b) Assistance under subsection (a) of this section shall include, but~~  
21 ~~is not limited to:~~

22 ~~(1) Receiving and disseminating filings, questions, and requests~~  
23 ~~on behalf of the board to the members of the board in advance of each~~  
24 ~~meeting;~~

25 ~~(2) Reviewing all filings, questions, and requests on behalf of~~  
26 ~~the board and offering its opinion on the resolution of the matter;~~

27 ~~(3) Issuing written responses regarding complaints received by~~  
28 ~~the board;~~

29 ~~(4) Scheduling all meetings in conjunction with the Chair of the~~  
30 ~~Arkansas Cemetery Board;~~

31 ~~(5) Providing appropriate legal notices for all scheduled~~  
32 ~~meetings;~~

33 ~~(6) Establishing a site where meetings of the board may be held;~~

34 ~~(7) Scheduling the services of a court reporter for all meetings~~  
35 ~~of the board;~~

36 ~~(8) Providing legal representation and assistance through the~~



1 ~~legal staff of the department to the board in matters pertaining to this~~  
 2 ~~subchapter;~~

3 ~~(9) Acting as a liaison between the board and any court involved~~  
 4 ~~in the administration of any perpetual care cemetery placed in receivership;~~

5 ~~(10) Performing inspections at cemeteries for which complaints~~  
 6 ~~have been received by the board;~~

7 ~~(11) Performing special audits as necessary;~~

8 ~~(12) Scheduling regular audits of perpetual care cemeteries;~~

9 ~~(13) Administering the annual perpetual care reporting for all~~  
 10 ~~perpetual care cemeteries; and~~

11 ~~(14) Assisting in the formulation of legislation on behalf of~~  
 12 ~~the cemetery industry and the board.~~

13  
 14 SECTION 170. Arkansas Code § 23-103-102(4), concerning definitions, is  
 15 amended to read as follows:

16 (4) "Inactive signing title insurance agent" means a person  
 17 having a signing agent's license that has been placed in inactive status by  
 18 the Arkansas Title Insurance Agents' and Abstracters' Licensing Board;

19  
 20 SECTION 171. Arkansas Code § 23-103-201 is amended to read as follows:  
 21 23-103-201. Creation - Members.

22 (a) There is created the Arkansas Title Insurance Agents' and  
 23 Abstracters' Licensing Board.

24 (b)(1) The board shall consist of ~~five (5)~~ seven (7) members ~~appointed~~  
 25 ~~by the Governor,~~ who shall serve four-year terms, subject to confirmation by  
 26 the Senate.

27 (2)(A) Two (2) members shall have been actively engaged in the  
 28 title insurance business in the state for a period of five (5) years prior to  
 29 appointment and shall serve an initial term of four (4) years each.

30 (B) The Speaker of the House of Representatives and the  
 31 President Pro Tempore of the Senate shall each appoint one (1) of these  
 32 members.

33 ~~(3) One (1) member shall be knowledgeable of the title insurance~~  
 34 ~~business and shall serve an initial term of three (3) years.~~

35 ~~(4)(3)(A) Two (2) members~~ One (1) member shall be citizens a  
 36 citizen of the State of Arkansas and shall serve an initial term of two (2)

1 years each.

2 (B) The Governor shall appoint this member.

3 (4)(A) One (1) member shall be actively involved in the banking  
4 industry in the state and shall serve an initial term of two (2) years.

5 (B) The President Pro Tempore of the Senate shall appoint  
6 this member.

7 (5)(A) One (1) member shall be actively involved in the real  
8 estate industry in the state and shall serve an initial term of three (3)  
9 years.

10 (B) The Governor shall appoint this member.

11 (6)(A) Two (2) members shall be actively involved in the making  
12 of abstracts of real estate titles in the state for a period of five (5)  
13 years prior to appointment and shall serve an initial term of four (4) years  
14 each.

15 (B) The Speaker of the House of Representatives and the  
16 President Pro Tempore of the Senate shall each appoint one (1) of these  
17 members.

18 (c) Vacancies on the board caused by death, resignation, or otherwise  
19 shall be filled by appointment of the Governor, subject to confirmation by  
20 the Senate.

21 (d) Any member may be appointed to successive terms, but no two (2)  
22 members shall be appointed from the same county.

23 (e) Each member shall serve without compensation but shall be  
24 reimbursed for travel and expenses in accordance with § 25-16-902.

25

26 SECTION 172. Arkansas Code § 23-103-202(a)(1), concerning organization  
27 of board, is amended to read as follows:

28 (a)(1) The Arkansas Title Insurance Agents' and Abstracters' Licensing  
29 Board shall organize by the election of a chair and a secretary-treasurer.

30

31 SECTION 173. Arkansas Code § 23-103-203(a), concerning applicant  
32 registry, is amended to read as follows:

33 (a) The Arkansas Title Insurance Agents' and Abstracters' Licensing  
34 Board shall keep a register of the names of each applicant for licensure,  
35 with the applicant's place of business and other information as may be deemed  
36 appropriate, including a notation of the action taken by the board and the

1 date upon which any licenses are issued. In addition, the board shall  
2 maintain other records, registers, and files as may be necessary for the  
3 proper administration of its duties under this chapter.

4  
5 SECTION 174. Arkansas Code § 23-103-204(a), concerning fees, is  
6 amended to read as follows:

7 (a) The Arkansas Title Insurance Agents' and Abstracters' Licensing  
8 Board shall collect fees as follows:

9 (1) For an issuing agent's license, the original license fee  
10 shall not exceed three hundred fifty dollars (\$350), and the renewal fee  
11 shall not exceed three hundred fifty dollars (\$350) annually;

12 (2) For a signing agent's license, the original license fee  
13 shall not exceed twenty-five dollars (\$25.00), and the renewal fee shall not  
14 exceed twenty-five dollars (\$25.00) annually;

15 (3) For an inactive status license fee, the original fee shall  
16 not exceed twenty-five dollars (\$25.00), and the renewal fee shall not exceed  
17 twenty-five dollars (\$25.00) annually; and

18 (4) The board shall have the authority to set reasonable fees  
19 established by regulation promulgated in accordance with the Arkansas  
20 Administrative Procedure Act, § 25-15-201 et seq., for the performance of its  
21 administrative duties, including, but not limited to, the testing of  
22 applicants for licenses, transferring licenses, replacing license  
23 certificates, and responding to inquiries from regulatory agencies in other  
24 states.

25  
26 SECTION 175. Arkansas Code § 23-103-302 is amended to read as follows:

27 23-103-302. Application of act and construction with other laws.

28 Without any further qualification or examination, an attorney at law  
29 licensed to practice law by the State of Arkansas, upon written request to  
30 the Arkansas Title Insurance Agents' and Abstracters' Licensing Board and  
31 payment of the original license fee, shall be immediately certified by the  
32 board as a licensed title insurance agent, and a license certificate shall be  
33 immediately issued to the attorney.

34  
35 SECTION 176. Arkansas Code § 23-103-303(a), concerning application, is  
36 amended to read as follows:

1 (a) Any person desiring to become a licensed title insurance agent  
2 shall make application to the Arkansas Title Insurance Agents' and  
3 Abstracters' Licensing Board for license registration.

4  
5 SECTION 177. Arkansas Code § 23-103-304 is amended to read as follows:  
6 23-103-304. License - Examination.

7 The examination shall be in the form of written interrogatories as may  
8 be prescribed by the Arkansas Title Insurance Agents' and Abstracters'  
9 Licensing Board from time to time to determine the proficiency of the  
10 applicant.

11  
12 SECTION 178. Arkansas Code § 23-103-305(a), concerning qualifications,  
13 is amended to read as follows:

14 (a) If the person satisfactorily passes the examination and is found  
15 by the Arkansas Title Insurance Agents' and Abstracters' Licensing Board to:

- 16 (1) Be at least eighteen (18) years of age;
- 17 (2) Be a resident of the State of Arkansas for at least six (6)  
18 months;
- 19 (3) Have not committed any act that is a ground for denial ,  
20 suspension, or revocation set forth in § 23-103-312;
- 21 (4) Have paid the original license fee prescribed by § 23-103-  
22 204; and
- 23 (5) Be qualified,

24 the person shall be certified as a licensed title insurance agent, and the  
25 license certificate provided for shall be issued to the person. The  
26 privileges granted by the license certificate shall continue unless revoked  
27 or unless the certificate is surrendered to the board.

28  
29 SECTION 179. Arkansas Code § 23-103-306 is amended to read as follows:  
30 23-103-306. Nonresident Licensing.

31 Unless denied licensure for having committed any act that is a ground  
32 for denial , suspension, or revocation set forth in § 23-103-312, a  
33 nonresident person shall receive a nonresident title insurance agent license  
34 without complying with the examination requirement prescribed by § 23-103-304  
35 if:

- 36 (1) The person is currently a licensed title insurance agent as

1 a resident and in good standing in that person's home state;

2 (2) The person has submitted the proper request for licensure as  
 3 prescribed by the Arkansas Title Insurance Agents' and Abstracters' Licensing  
 4 Board, including proof of licensure in the home state, and has paid the  
 5 original license fee prescribed by § 23-103-204; and

6 (3) The person's home state awards nonresident title insurance  
 7 agent licenses to residents of this state on the same basis.

8  
 9 SECTION 180. Arkansas Code § 23-103-307(a), concerning certificate of  
 10 registration, is amended to read as follows:

11 (a) Every person to whom the State of Arkansas has issued, as of  
 12 January 1, 2001, a certificate of registration as a registered abstractor or  
 13 a certificate of authority to engage in the business of abstracting shall be  
 14 exempt from the examination required in § 23-103-304, and the person,  
 15 including each natural person designated by a business entity to exercise the  
 16 powers to be conferred by the title insurance agent's license, who is an  
 17 Arkansas-registered abstractor on January 1, 2001, upon payment of the  
 18 original license fee, shall be certified by the Arkansas Title Insurance  
 19 Agents' and Abstracters' Licensing Board as a licensed title insurance agent,  
 20 and the license certificate shall be immediately issued to the person.

21  
 22 SECTION 181. Arkansas Code § 23-103-308(a), concerning temporary  
 23 licenses, is amended to read as follows:

24 (a) The Arkansas Title Insurance Agents' and Abstracters' Licensing  
 25 Board may issue a temporary title insurance agent's license for a period not  
 26 to exceed one hundred eighty (180) days without requiring an examination, if  
 27 the board deems that the temporary license is necessary in the following  
 28 cases:

29 (1) To the surviving spouse or court-appointed personal  
 30 representative of a licensed title insurance agent who dies or becomes  
 31 mentally or physically disabled, to allow adequate time for the sale of the  
 32 title insurance agent's business or for the recovery or return of the title  
 33 insurance agent, or to provide for the training and licensing of new  
 34 personnel to operate the title insurance agent's business; and

35 (2) Any circumstance in which the board deems that the public  
 36 interest will best be served by the issuance of the temporary license.

1  
 2 SECTION 182. Arkansas Code § 23-103-310(c)(1)(A), concerning notice  
 3 for renewal, is amended to read as follows:

4 (c)(1)(A) No more than sixty (60) days nor less than thirty (30) days  
 5 prior to the expiration date of the license issued, the Arkansas Title  
 6 Insurance Agents' and Abstracters' Licensing Board shall cause a notice of  
 7 expiration and application for renewal to be mailed to each of the holders of  
 8 a license.

9  
 10 SECTION 183. Arkansas Code § 23-103-312 is amended to read as follows:  
 11 23-103-312. Revocation of license - Grounds.

12 The Arkansas Title Insurance Agents' and Abstracters' Licensing Board  
 13 is authorized, after a hearing, to cancel and revoke any license issued to  
 14 any person under this chapter:

- 15 (1) For a violation of any of the provisions of this chapter;
- 16 (2) Upon a conviction of the holder of a license of a crime  
 17 involving moral turpitude; or
- 18 (3) If the board finds the holder of the license to be guilty of  
 19 habitual carelessness or of fraudulent practices.

20  
 21 SECTION 184. Arkansas Code § 23-103-313(a), concerning procedures  
 22 following a complaint, is amended to read as follows:

23 (a)(1) Upon a verified complaint's being filed with the Arkansas Title  
 24 Insurance Agents' and Abstracters' Licensing Board, or upon the board's own  
 25 motion filing a complaint charging the person holding a title insurance  
 26 agent's license or any natural person designated by a business entity holding  
 27 a title insurance agent's license to exercise the power conferred by that  
 28 license with:

- 29 (A) A violation of any of the provisions of this chapter;
  - 30 (B) Conviction of a crime involving moral turpitude; or
  - 31 (C) Habitual carelessness or fraudulent practices,
- 32 the board shall immediately notify the person in writing by registered mail,  
 33 with return receipt, of the filing of the complaint and furnish that person  
 34 with a copy of the complaint.

35 (2) The board shall at the same time require the person to  
 36 appear before it on a day fixed by the board, not less than twenty (20) days

1 nor more than forty (40) days from the date of the service of the complaint  
 2 on that person, and to show cause why the license should not be canceled and  
 3 revoked.

4 (3) Under the hand of its chair and the seal of the board, the  
 5 board may subpoena witnesses and compel their attendance and may require the  
 6 production of books, papers, and other documents.

7 (4) The Chair of the Arkansas Title Insurance Agents' and  
 8 Abstracters' Licensing Board or the Secretary-treasurer of the Arkansas Title  
 9 Insurance Agents' and Abstracters' Licensing Board may administer oaths or  
 10 affirmations to witnesses appearing before the board.

11 (5)(A) If any person refuses to obey any subpoena so issued or  
 12 refuses to testify or to produce any books, papers, or other documents, the  
 13 board may present its petition to any court of record, setting forth the  
 14 facts.

15 (B) In a proper case, the court shall issue its subpoena  
 16 to the person requiring his or her attendance before the court and there to  
 17 testify or produce the books, papers, and documents as may be deemed  
 18 necessary and pertinent.

19 (6) The person holding the license shall be entitled to counsel  
 20 at any hearing before the board or any other hearing involving revocation of  
 21 his or her license.

22 (7) The board shall cause a transcript of any testimony taken to  
 23 be made by a reporter or stenographer.

24  
 25 SECTION 185. Arkansas Code § 23-103-315(a)(1), concerning issuing  
 26 agents, is amended to read as follows:

27 (a)(1) An issuing agent may effect the transfer of a signing agent's  
 28 license or an inactive signing agent's license to the issuing agent by  
 29 furnishing evidence satisfactory to the Arkansas Title Insurance Agents' and  
 30 Abstracters' Licensing Board that the signing agent has:

31 (A) Been authorized to countersign commitments and  
 32 contracts of title insurance in the name of the issuing agent; and

33 (B) Otherwise satisfied the requirements for licensure  
 34 under this chapter.

35  
 36 SECTION 186. Arkansas Code § 23-103-316(a)(2)(B), concerning education

1 units, is amended to read as follows:

2 (B) At least one (1) hour or equivalent continuing  
3 education unit shall be in a specific topic or topics as identified by the  
4 Arkansas Title Insurance Agents' and Abstracters' Licensing Board.

5