

**SUNSET EVALUATION UPDATE
PROFESSIONAL ENGINEERS, ARCHITECTS,
SURVEYORS, AND LANDSCAPE ARCHITECTS**

Chapter 464, Hawaii Revised Statutes

A Report to the Governor and the Legislature of the State of Hawaii

**Submitted by the
Legislative Auditor of the State of Hawaii
Honolulu, Hawaii**

**Report No. 89-7
January 1989**

FOREWORD

Under the "Sunset Law," licensing boards and commissions and regulated programs are terminated at specific times unless they are reestablished by the Legislature. Hawaii's Sunset Law, or the Hawaii Regulatory Licensing Reform Act of 1977, scheduled for termination 38 licensing programs over a six-year period. These programs are repealed unless they are specifically reestablished by the Legislature. In 1979, the Legislature assigned the Office of the Legislative Auditor responsibility for evaluating each program prior to its repeal.

This report evaluates the regulation of professional engineers, architects, surveyors, and landscape architects under Chapter 464, Hawaii Revised Statutes. It presents our findings as to whether the program complies with the Sunset Law and whether there is a reasonable need to regulate these professions to protect public health, safety, and welfare. It includes our recommendations on whether the program should be continued, modified, or repealed. Draft legislation intended to improve the regulatory program is incorporated in this report as Appendix B.

We acknowledge the cooperation and assistance extended to our staff by the Board of Registration of Professional Engineers, Architects, Surveyors, and Landscape Architects, and the Department of Commerce and Consumer Affairs. We also appreciate the assistance of the Legislative Reference Bureau which drafted the recommended legislation.

Newton Sue
Acting Legislative Auditor
State of Hawaii

January 1989

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Sunset Evaluation Update

PROFESSIONAL ENGINEERS, ARCHITECTS, SURVEYORS, AND LANDSCAPE ARCHITECTS

This report evaluates the registration and regulation of professional engineers, architects, land surveyors, and landscape architects under Chapter 464, Hawaii Revised Statutes, to determine whether the public interest is best served by reenactment, modification, or repeal of that chapter. An evaluation of regulation for these four professions, first conducted by this office in 1983, was presented in Report No. 83-5. The current update summarizes the information contained in that report and reviews subsequent developments as a basis for our current findings and recommendations.

Background

The State began to regulate both the registration and practice of professional engineers, architects and surveyors in 1923 under Act 227 of that year. For the most part, the substance of that initial act has not changed significantly over the past six and a half decades with amendments limited mostly to details of administration. The one major change came in 1970 when Act 85 added the profession of landscape architects to those already regulated.

State actions to register architects occurred in most states during the first four decades of this century; for engineers during the 1920s through 1940s. Now all 50 states and the District of Columbia require registration of engineers, architects, and land surveyors and regulate their professional practices. Similar regulatory legislation for landscape architects did not begin until 1953 when California first established registration of that title.

As of 1985, 19 states, including Hawaii, regulated both the *title* of landscape architect and the *practice* of landscape architecture, 18 states regulated only the *title*, 2 states regulated only the *practice*, and 11 states had no regulation.¹ Colorado and Utah repealed their registration requirements for landscape architects in 1977 and 1981 respectively. Oregon took the same action, but it later reenacted registration the following year.

As of February 1988, a total of 4925 registrations fell within the purview of Chapter 464, HRS. Of these, 3376 were engineers (agricultural, chemical, civil, electrical, industrial, mechanical, and

structural), a 17 percent increase over the past six years. Registered architects numbered 1223, up 42 percent. Registered land surveyors totalled 203, a 14 percent increase, and registered landscape architects amounted to 123, up 29 percent.²

Previous Findings and Recommendations

Our previous evaluation of Chapter 464, HRS, found solid justification for continuing registration and regulation of professional engineers, architects, and land surveyors. We did not, however, find sufficient grounds for the same regulatory provisions over landscape architects. We therefore recommended retention of this statutory chapter, albeit with an amendment terminating those sections governing landscape architects. But if the Legislature chose to retain regulation of landscape architects, we recommended reducing the numbers of years of experience required both for those with degrees in this field and for those without degrees, as well as allowing advanced degrees to be applied toward work experience.

We also recommended other improvements in the regulation of the affected professions, including the following:

- Better guidelines to ensure the uniform and fair evaluation of qualifying experience among all applicants.
- Elimination of irrelevant and unnecessary provisions on applicant forms and in the application process.
- Utilization of national examinations to test land surveyors.
- Improved orientation to encourage active participation by public members in board deliberations and committee work.
- Elimination or reduction of the requirement of nine years of professional practice prior to the appointment of professional members to this board.

Subsequent Developments

In their response to the 1983 evaluation, the Board of Registration of Professional Engineers, Architects, and Land Surveyors, except for the two landscape architects, accepted our recommendation for terminating registration of landscape architects. Those two members submitted a minority report disputing the sunset evaluation and urging the retention of state regulation of landscape architects. The Legislature decided to continue regulation and added “Landscape Architects” to the title of the board.

In the interim since our previous evaluation, the Legislature has enacted three measures amending Chapter 464. Beside changing the board's title to conform to the statute's title, Act 155 of 1983 also eliminated the issuance of temporary permits for nonresidents to practice within Hawaii.

Act 24, SLH 1986, added new sections on cumulative penalties and the right of an aggrieved person to appeal an adverse decision by the board. It also provided for imposition of administrative fines of from \$500 to \$1000 per violation per day as a disciplinary sanction when suspension or revocation of registration may be inappropriate.

For the 1988 legislative session, the board drafted a more orderly format in defining the four professions, and the legislation was enacted as Act 226, SLH 1988. The 1988 legislation made several other revisions to Chapter 464, including the following:

- It granted a year's experience for a master's degree in engineering and in landscape architecture for meeting the experience requirements for registration in those fields.
- It raised the experience requirement from two to three years for architects with an appropriate five-year baccalaureate and from one to two years with a five-year baccalaureate and master's degree.
- It deleted the requirement that either the chairman or vice chairman be present in order to hold a meeting of the board.
- It required that persons failing to reinstate their certificates of registration within one year of the expiration dates of their prior certificates would have to reapply for registration.

Current Findings

Our latest evaluation of regulation for professional engineers, architects, land surveyors, and landscape architects results in findings similar to those in the 1983 report. We find the following:

1. Chapter 464, HRS, should be reenacted in the interest of protecting public health, safety, and welfare; however, amendments are needed to clarify certain provisions.
2. The professional experience qualifications require reexamination and study.
3. There is still insufficient evidence to justify continued regulation of landscape architects.
4. Workloads for board members differ so markedly among the four professions as to call for readjustment in the board's composition.
5. Requirements for "good character and reputation" of licensing applicants remain invalid.
6. With the enactment in 1988 of legislation that more clearly lists the distinct requirements for the four professions, the need for an overhaul of the board's rules has gained increased urgency.

7. Terminology used for registration and licensing is inconsistent and confusing and needs standardization.

Reenactment of Chapter 464, HRS

Justification for regulating the professions of engineering, architecture, and land surveying has long been established and accepted as necessary to protect the health, safety, and welfare of the general public. Too many thousands of lives depend on the proper design of buildings and public facilities and too many property interests are at stake to risk incompetent practitioners in these professions. As detailed in our previous sunset report on Chapter 464, these public considerations have not diminished. They remain valid.

However, some amendments appear to be in order in reenacting Chapter 464.

Character and reputation. Section 464-8, HRS, specifies that “no person shall be eligible for registration. . .who is not of good character and reputation.” But neither the statute nor the board’s rules provide any specifics on what constitutes “good character and reputation.” It is left unclear as to whether the restriction relates only to professional activity or also to one’s morality quite apart from public responsibility and relations with clients in the affected professional fields. In any event, we continue to maintain, as we did in our 1983 report, that there is no valid and reliable method to determine an applicant’s character and that the provision should be deleted.

Need to clarify penalty provisions. Act 24 of 1986 amended Chapter 464, HRS, with regard to penalties and appeals. In the process of doing so, however, some ambiguities have been created which require statutory clarification.

Prior to the passage of Act 24, Section 464-14 already provided for penalties for violations of Chapter 464. Those penalties included fines up to \$500, imprisonment up to one year, or both fine and imprisonment up to these limits. Without amending or repealing Section 464-14, Act 24 amended Section 464-10, the section which deals with suspension and revocation of certificates of registration. It added fines of between \$500 and \$1000 per violation of Chapter 464 or of the related rules, with each day of violation to constitute a separate offense. As a consequence, Chapter 464 now provides for two divergent levels of fines for violations covered by this chapter--one not to exceed \$500 and the other to range from \$500 to \$1,000 per day of violation. Moreover, Section 464-10 and 464-14 are not consistent in that the former refers only to persons in violation while the latter refers to both persons and firms.

Act 24 of 1986 also added Section 464-16 which authorizes appeals to the circuit court in cases where licenses have been refused, suspended, revoked, or not renewed. The new section makes no mention of cases involving the imposition of fines. However, under Chapter 91, HRS, the

Hawaii Administrative Procedure Act, judicial review of all contested cases is allowed (Section 91-14). The two chapters, therefore, are not consistent with each other. To remove this ambiguity, Chapter 464 should be brought into conformity with Chapter 91 by allowing all penalties to be appealed to the circuit courts.

Act 24 of 1986 created further ambiguity with regard to the discretionary authority of the board to impose penalties. Relevant legislative committee reports indicate that the legislation was intended to give the board greater flexibility in imposing penalties under Chapter 464 by allowing fines to be imposed as lesser penalties than suspension or revocation of certificates of registration.³ As now written, however, the amended Section 464-10 does not carry out this intention.

Instead of listing fines as an alternative punishment which the board can impose in place of suspension or revocation, the section mandates the imposition of fines by stating that violators “*shall* be fined no less than \$500 nor more than \$1,000 per violation and each day of violation or failure to comply *shall* constitute a separate offense.” (Emphasis added.)

Rather than give the board the discretion to substitute fines for suspension or revocation, the section now requires the imposition of fines in cases of violation regardless of what actions the board may take concerning suspensions or revocations of certificates of registration. If the intent is to provide the board with greater flexibility in this area, then this section should be amended accordingly.

Requirement for board membership. The requirement for a person to have nine years of professional practice immediately prior to appointment to the board (Sec. 464-6, HRS) is difficult to justify. We believe this stipulation keeps fresh ideas and new perspectives from board consideration by unduly restricting who may participate. Reducing the experience minimum from nine to five years could open board deliberations to a further balancing of views.

Experience Requirements for Registration

All states require professional-level experience or a combination of experience and relevant education to qualify for registration in engineering, architecture, land surveying, and landscape architecture. Unfortunately for all concerned, there is consistency neither between the standards established by the 50 states and their boards for a particular professional field nor between the standards for the various professions within a particular state.

This inconsistency becomes especially evident in providing for those professionals who lack an academic degree in their discipline to qualify for the state-required examinations. For example, for an applicant who lacks an academic degree in architecture, the requirements range from 7 years of professional experience in 1 state (Wisconsin) to 13 years in 13 other states.

Seven states require only 8 years; 1 state, 9 years; 4 states, 10 years; and 5 states, 12 years. According to the latest report of the National Council of Architectural Registration Boards (NCARB), 13 states apparently lack provisions for applicants to qualify if they have not achieved the relevant academic degree.⁴ Hawaii, with a requirement of 11 years, falls near the middle of the spectrum.

One state, Maine, allows any combination of experience and education in architecture that will fulfill NCARB qualifications; that appears to equate to eight years. California does the same for landscape architects to fulfill its six-year minimum stipulation.⁵ Hawaii, in contrast, requires 12 years of “fulltime lawful experience” for a landscape architect without an appropriate academic degree.

The range of years of professional experience required for applicants in engineering who lack a relevant academic degree spread even wider--from 6 to 20. California and Indiana require 6 and 7 years respectively; 11 states mandate 8 years; 4 states call for 10 years; 17 states, in addition to Hawaii, stipulate 12 years; 2 states set 15 years; and 3 states expect 20 years.⁶

Between professions in Hawaii, anomalous variations emerge, too. For example, although it requires eight years of combined professional experience and an appropriate university training for architects to qualify, the equivalent qualification for landscape architects is seven years. Yet, it takes only 11 years of professional architectural experience without a college degree to qualify, but 12 years for a landscape architect who lacks an appropriate academic degree. We can find no justification for more years of experience in a field that requires less years of education. Table 1 displays the present set of qualifying variations for the four disciplines in Hawaii.

The foregoing data points to two practical complications in the licensing of professions in these four disciplines. *First*, how to take into account the relative importance of an academic degree, of professional experience, and of the state-required examinations in determining the suitability of a practitioner to provide professional services directly to the public. *Second*, how to determine and administer requests for registration by endorsement from another state in fields where mobility runs exceedingly high and qualification requirements differ widely.

The difficulty of resting qualification so heavily on an academic and/or experiential background arises in how to ensure complete objectivity in evaluating those backgrounds. The fairest test of qualification in terms of objectivity occurs in the form of nationally developed examinations. Hawaii’s examinations involve 16 to 24 hours of tests for engineers. For the other three professions, examination hours total 32 for architects, 20 for land surveyors, and 17 for landscape architects. The rigors show up in rates of passage during years 1985 through 1987: 52

percent for engineers, 44 percent for landscape architects, 25 percent for architects, and 24 percent for land surveyors.⁷ (All successful applicants in those tests must also pass an examination on Hawaii's laws and board rules.)

Table 1

Education and Experience Required For Registration
As An Engineer, Architect, Land Surveyor, Or
Landscape Architect in Hawaii

Education (In terms of College Degree)	Number of Years of Experience in Relevant Field in Addition to Education			
	Engineers	Architects	Land Surveyors	Landscape Architects
Both Master's and Bachelor's in Relevant Field	3	2	*	2
Master's in Relevant Field	4	*	*	*
5-yr. Bachelor's in Relevant Field	*	3	*	*
4-yr. Bachelor's in Relevant Field	4	5	3	3
Bachelor's in Some Related Field	8	*	7	5
Two years of Tech- nical Training	*	8	7	*
No College Degree	12	11	11	12

* No provision for such combination of education and experience.

With the crucial requirement being the passing of a fully validated examination, lower rather than higher numbers of years of "lawful experience" could serve adequately to qualify an applicant for the examination. We acknowledge, however, the counter argument offered by some board members: that even the best written examination cannot substitute for practical experience and academic preparation.

Since answers to questions of setting qualifying standards are far from obvious and universally accepted, we believe there exists a need for the board to reexamine and study what combination

of experience, education, and testing would optimally determine entry-level professional competence in the four professions regulated by the board.

Landscape Architects

We continue to find that there is no need to regulate landscape architecture in a manner similar to that for the other three fields covered by Chapter 464, HRS. We do recognize that registration of this field is relatively recent and that professional landscape architects are taking on greater technical complexity as well as increased liability for direct responsibility of larger projects. Yet, available information fails to substantiate a convincing need for regulation at this time.

Several factors contribute to this conclusion. *First*, the average public consumer can obtain landscaping services from exempted professions--such as an “agriculturalist, horticulturalist, tree expert, arborist, forester, gardenshop operator, nurseryman or landscape nurseryman, gardener, landscape gardener, landscape contractor, landscape designer, landscape consultant, garden or lawn caretaker or cultivator of land,” so long as these exempt practitioners do not refer to themselves as landscape architects or to their work as landscape architecture.⁸ Whether landscape architects are licensed or not is, therefore, largely immaterial. Public benefit is not at issue, nor is public welfare protected or endangered with or without professional registration and licensure.

Second, a preponderance of contract work for landscape architects comes from large clients, be they public agencies or major land developers. Registration (or licensing) does, perhaps, facilitate the selection of professional landscape architectural services by those large-scale users. Section 464-4, HRS, currently mandates the selection of registered landscape architects for public projects. And registration probably facilitates the evaluation of projects by lending institutions and by agencies regulating land development.

But those corporate and governmental interests have other options for evaluating quality of service. They do not constitute the kind of disadvantaged public in need of the degree of protection which gives impetus to regulation and licensing.

What would significantly aid in this issue would be the results of studies which compared experiences in states lacking regulation of landscape architects against states that either only register the title or both license and regulate this field. If states lacking restrictions encounter more public dangers from landscape architectural practice than states with regulation, then the

need would be established. We asked for just such data from the proponents of landscape architectural licensing but learned that apparently no such studies have occurred, although some may be under way. Absent stronger evidence of need at present, continued regulation of this field does not appear warranted.

Board Organization

Probably the most important board function is screening applicants' qualifications; people's careers as well as public protection are at stake. Because members of each of the four professions can feel unqualified to judge professional competence and "lawful experience" in the other professions, screening occurs within committees composed along professional lines as prescribed in board rules. To complicate matters, one of the four, engineering, has seven major subdisciplines with diverse technologies.

Although representation by profession is virtually equal (three each for engineers, architects, and land surveyors, and two for landscape architects), the sharing of board work among the four professions diverges markedly.⁹ During the five fiscal years of 1982-83 through 1986-87, 59 percent of those newly registered under Chapter 464 were engineers and 36 percent were architects. In contrast, land surveyors comprised only three percent and landscape architects only two percent of all new registrants.¹⁰

Actual discrepancies in workloads for reviewing applications were more marked. Besides differences in the number of applicants for each field, qualification for registration as an engineer involves several steps, each requiring a board decision. Consequently, the number of decisions recorded in board minutes during years 1983 through 1987 concerned engineer candidates 74 percent of the time, architects 22 percent, land surveyors and landscape architects 2 percent each. Since these averaged 391 decisions per year for engineers, 115 for architects, 12.5 for land surveyors and 10 for landscape architects, the burden of committee work differed widely among members depending on their professional discipline.¹¹

At issue here is not how much work any board members might have to do; they accept it. The issue concerns having so few persons (at most two or three--in some cases just one, if the other members of a professional committee are not available) make so many crucial decisions at committee level which are then routinely approved by the board.

One possible approach to this issue is to split the current board, with its jurisdiction over four professions, into two boards, one for engineers and land surveyors, the other for architects and landscape architects. Hawaii is only one of four states which cover all four disciplines with a single

board.* Various states combine engineers and land surveyors since both disciplines use the same national organization to provide their tests and many professionals hold registrations in both. Four other states combine just architects and landscape architects.**

However, splitting the board into two would entail major restructuring. While it would be worthwhile for the board and DCCA to give the idea further study, perhaps the simplest solution for now would be to increase total board membership to 15 with the additional seat to be assigned to an engineer.

New Rules

Now that Chapter 464, HRS, has separated and clarified registration requirements for the four professions, the board has begun reworking its rules to conform. During this process, board members should also consider making other needed revisions.

Professional committees. Section 16-82-1 of the board's rules specifies professional committees limited to representatives of each of those professions. This rule precludes public members from serving on these committees as they now do. Since it is desirable for public members to participate fully in the activities of the board, the rule should be changed.

Photographs. Neither the statutes nor rules specify that applicants must include a photograph with their applications. Yet the application form calls for a photo, and the department has returned applications when one was omitted. We find neither justification nor legal basis for demanding a photo; we also question the utility and fairness of this practice.

The board may not judge an applicant on facial features. Yet requiring a photo conveys the appearance for potential discrimination. Although some board members like requiring photos, none of those interviewed could provide a sound justification for retaining this practice. The requirement for photos should be deleted.

Applications for registration by endorsement. According to Section 16-82-29 of the board's rules, an applicant for registration by endorsement from another state must state the reasons for wanting registration in Hawaii. It is highly unlikely that the board could deny a qualified applicant simply because it did not like that applicant's statement. Board responsibility involves evaluating professional qualifications, not career plans, of potential competitors. Therefore, we question the usefulness and purpose for this stipulation and urge its removal.

*Arizona, Iowa, and Michigan are the other states with combined boards for all four disciplines.

**Indiana, Maine, Mississippi, and Texas.

Clarification of Terminology

Three terms are used in Hawaii and in other states for professional and vocational regulation. They are: licensure, certification, and registration. And their degree of restrictiveness range in that order from most to least.

Licensure normally involves regulating the professional or vocational practice as well as who may rightfully claim to use the title. Certification usually has less to do with actual control over practice and more to do with who may use a title. For both, persons (in some cases, businesses) not licensed or certified may not engage in the practice. Registration simply allows a practitioner to advertise as being listed with the state and to append a title to his/her name. It does not prohibit others from engaging in that practice.

Qualified professionals under Chapter 464, HRS, receive a certificate of registration for what really amounts to licensure. For none of the four professions is state action limited to merely registration as the board's name would imply. Section 464-16 even uses the terms "license" and "licensee" rather than registration and certification.

This situation presents particular difficulties when professionals with varying levels of licensure or certification or registration from other states apply for an equivalent status in Hawaii, and when Hawaii's professionals apply for reciprocal recognition elsewhere. Since so many professionals either practice in more than one state or so readily change residences between states, this confusion has become a national problem. Combining certification and registration in terminology, as done in Hawaii, further clouds the meanings.

Several other states are beginning to address this issue. We believe DCCA should explore this issue in conjunction with other states and national organizations with the objective of standardizing terminology. In the meanwhile, Chapter 464, HRS, should be amended to use the term "license" instead of "registration" and its variants.

Recommendations

We recommend that:

1. Chapter 464, Hawaii Revised Statutes, be reenacted. In reenacting the chapter, consideration should be given to the following:

- Revision for clarity and consistency the sections dealing with penalties and appeals.*
- Lowering of professional experience requirements for board membership.*
- Discontinuance of registration (licensing) for landscape architects.*
- The addition of another seat to the board to be filled by an engineer.*
- Deletion of the requirement that persons registered under Chapter 464 be of good character and reputation.*

2. *The board undertake a study to determine optimal requirements for professional experience, both in addition to and in lieu of relevant academic education, for qualification to take the required examinations.*

3. *The board proceed expeditiously with revision of its rules and procedures, including the following:*

- *Removal of the inclusion of photographs on application forms.*
- *Elimination of the requirement for applicants to state reasons for wanting registration by endorsement.*

4. *The board and the Department of Commerce and Consumer Affairs study the idea of assigning responsibility for the four professions to two boards, one governing engineers and land surveyors and the other governing architects and landscape architects.*

5. *A review of current terminology be undertaken by the Department of Commerce and Consumer Affairs with the objective of standardizing such terminology as “licensure,” “certification,” and “registration” among all the occupations and professions being regulated.*

NOTES

1. *Members' Handbook for 1986-87*, American Society of Landscape Architects, Washington D.C., 1986, p. 348.
2. Hawaii, Department of Commerce and Consumer Affairs, *Geographic Report*, Honolulu, February 1988.
3. House Standing Committee Report No. 345-86 on House Bill 2052-86, Thirteenth Legislature, 1986, State of Hawaii.
4. National Council of Architectural Registration Boards, *Member Board Requirements Chart--July 1988*, Washington, D.C., 1988.
5. *The California Regulatory Law Reporter*, Vol. 8, No. 2, Spring 1988, p. 59.
6. National Society of Professional Engineers, *Summary of the Requirements for Engineering Registration*, 1988.
7. Hawaii, Department of Commerce and Consumer Affairs, Examination Branch record tabulations.
8. Hawaii Revised Statutes, Section 464-5.
9. Three public members bring total board membership to 14.
10. Hawaii, Department of Commerce and Consumer Affairs, *Geographic Reports*, Honolulu, 1982 and 1988.
11. Counted from actions recorded in board minutes for the years 1983 through 1987.

APPENDICES

APPENDIX A

COMMENTS ON AGENCY RESPONSES

A preliminary draft of this Sunset Evaluation Report was transmitted on December 21, 1988, to the Board of Registration of Professional Engineers, Architects, Surveyors, and Landscape Architects and to the Department of Commerce and Consumer Affairs for their review and comments. A copy of the transmittal letter to the board is included as Attachment 1 of this Appendix. A similar letter was sent to the department. The responses from the board and department are included as Attachments 2 and 3.

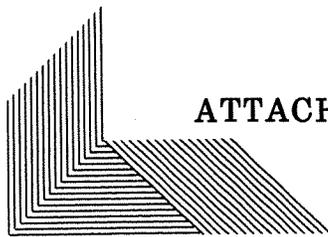
The board apparently agrees that Chapter 464, HRS, be reenacted and accepts the recommendation to expand board membership to fifteen so as to provide for another engineer. The board also agrees with recommendations to study optimal requirements for qualifications to take examinations and to eliminate the requiring of applicants to state a reason for wanting registration by endorsement. In response to the recommendation calling for a decrease in number of years of professional experience to be eligible for appointment to this board, the board believes the present 9-year requirement is warranted and should remain. The board also rejects the recommendation to eliminate statutory language requiring that persons registered under Chapter 464 be of good character and reputation.

Without addressing the lack of either statutory or regulatory provisions for including photographs on application forms, the board expresses reservation to the recommendation eliminating such photographs. Although it sees no problem with current statutory language on penalties, the board did not object to recommendations for statutory clarification. Lastly, the board does not object to a study of splitting this board into two separate boards.

Although the board did not take a position on the recommendation to remove landscape architects from licensure under Chapter 464, it did attach to its response a minority committee report which strongly defends the continued regulation of landscape architects.

The Department of Commerce and Consumer Affairs expresses its willingness to undertake a study on the feasibility of splitting this board into two as recommended. It acknowledged the need for consistency in regulatory terminology and explained steps already taken in that direction for other vocational and professional fields.

THE OFFICE OF THE AUDITOR
STATE OF HAWAII
465 S. KING STREET, RM. 500
HONOLULU, HAWAII 96813



ATTACHMENT 1

CLINTON T. TANIMURA
AUDITOR

December 21, 1988

COPY

Mr. E. Claude Moore, Chairperson
Board of Professional Engineers, Architects,
Surveyors, and Landscape Architects
Department of Commerce and Consumer Affairs
1010 Richards Street
Honolulu, Hawaii 96813

Dear Mr. Moore:

Enclosed are 15 preliminary copies, numbered 4 through 18, of our *Sunset Evaluation Update, Professional Engineers, Architects, Surveyors, and Landscape Architects, Chapter 464, Hawaii Revised Statutes*. These copies are for review by you, other members of the board, and your executive secretary. This preliminary report has also been transmitted to Robert Alm, Director of the Department of Commerce and Consumer Affairs.

The report contains our recommendations relating to the regulation of professional engineers, architects, surveyors, and landscape architects. If you have any comments on our recommendations, we would appreciate receiving them by January 20, 1989. Any comments we receive will be included as part of the final report which will be submitted to the Legislature.

Since the report is not in final form and changes may possibly be made to it, we request that you limit access to the report to those officials whom you wish to call upon for assistance in your response. Please do not reproduce the report. Should you require additional copies, please contact our office. Public release of the report will be made solely by our office and only after the report is published in its final form.

We appreciate the assistance and cooperation extended to us.

Sincerely,

Clinton T. Tanimura
Legislative Auditor

Enclosures

ATTACHMENT 2

JOHN WAIHEE
GOVERNOR



ROBERT A. ALM
DIRECTOR

NOE NOE TOM
LICENSING ADMINISTRATOR

BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS,
ARCHITECTS, SURVEYORS AND LANDSCAPE ARCHITECTS

STATE OF HAWAII

PROFESSIONAL & VOCATIONAL LICENSING DIVISION

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

P. O. BOX 3469

HONOLULU, HAWAII 96801

January 19, 1989

RECEIVED

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Mr. Newton Sue, Acting Legislative Auditor
Office of the Legislative Auditor
State of Hawaii
465 South King Street, Room 500
Honolulu, Hawaii 96813

OFFICE OF THE AUDITOR
STATE OF HAWAII

Dear Mr. Sue:

Thank you for the opportunity to comment on the sunset evaluation update on professional engineers, architects, surveyors and landscape architects.

After having reviewed the report, the Board agrees with the following recommendations:

1. That Board membership be increased to 15 with the additional seat to be assigned to an engineer;
2. That a study to determine optimal requirements for qualifications to take the exam be undertaken; and
3. That the requirements for applicants to state reasons for wanting registration by endorsement be eliminated.

The Board does not agree that the professional experience requirements for Board membership should be lowered. At the time of licensure, a professional has met minimum standards. Many more years beyond that is necessary to gain adequate experience and judgment in order to make the type of decisions required of Board members. With this in mind, the present requirement of 9 years appears to be reasonable.

The Board also does not agree with the recommendation to delete the requirement that persons registered under Chapter 464, HRS, be of good character and reputation. It is the Board's opinion that these are important traits where professional judgment and competence are required in the performance of professional services.

Mr. Newton Sue
January 19, 1989
Page 2

The recommendation that the inclusion of photographs on application forms be removed is one with which the Board and Department have reservations.

We find justification with the Department that the current practice is proper and reasonable. To remove the requirement would unduly limit a valuable source of information to the investigation division.

Finally, the Board is of the opinion that the sections dealing with penalties and appeals are not necessarily inconsistent. Because Section 464-14, HRS, provides for penalties for unlicensed activity while Section 464-10, HRS, provides for sanctions against licensees, both provisions are necessary and should be retained.

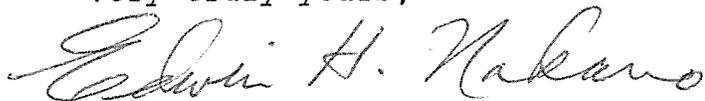
In retaining Section 464-10, HRS, the Board agrees that if the intent is to give the Board greater flexibility in imposing penalties by allowing for fines as an alternative punishment, then this section should be amended accordingly.

While Section 464-16, HRS, does not specifically allow appeals to the circuit court in cases where fines have been imposed, it does not prevent a person from appealing under that condition. Because the authority for such an appeal is contained in Chapter 91, HRS, the Board does not see this as a conflict. However, the Board would not object to providing additional language to Section 464-16, HRS, to inform licensees of their right to appeal, if fined.

The Board would also not object to a study of the idea of assigning responsibility for the four professions to two boards.

In response to the Legislative Auditor's recommendation that registration of landscape architects be discontinued, we have attached a minority report, prepared by the Landscape Architect Sub-Committee, opposing the deregulation of landscape architects. The Board has not taken a position on this issue.

Very truly yours,



Edwin H. Nakano
Chairman

Attachment

Introduction

This report is in response to the Sunset Evaluation Update on Professional Engineers, Architects, Surveyors, and Landscape Architects, Chapter 464, Hawaii Revised Statutes submitted by the Legislative Auditor of the State of Hawaii. This report conclusively shows how the Landscape Architects should be registered and regulated along with professional engineers, architects and surveyors, for the protection of the public health, safety, and welfare of the people of Hawaii and the visitors of Hawaii.

Summary of Landscape Architecture Issue

Landscape Architects are applied environmentalists, dealing on a daily basis with such critical Hawaii issues as land use planning, water and soil conservation, physical design of major public urban spaces used by Hawaii's people, as well as physical design of major resort facilities used by most of the approximately 6 million visitors to Hawaii each year. Landscape Architects are the primary site design and planning professionals for exterior spaces. Their work complements the work of other design professionals such as architects, civil, electrical, structural engineers and surveyors. Education, training, and experience have made Landscape Architects vital members of the professional design team that is responsible for both the natural and built environment.

The Landscape Architects section was added to the law in 1970. The Board is charged with providing the appropriate strategy for protecting public health, safety, and welfare. The board fulfills this purpose primarily by ensuring competency through examination and reviewing of applicant's qualifications and experience. All of the States that currently register and regulate the profession of Landscape Architecture require that an applicant pass the Uniform National Examination (UNE).

Eliminating Landscape Architects from the Board will adversely affect the public health, safety, and welfare in many ways. The public would be endangered and the environment would be damaged by incompetent design performed by unqualified persons holding themselves as professional landscape architects. All levels of government would be subject to higher liability claims, because Landscape Architects in most cases would be unable to obtain liability insurance coverage or if obtainable, at higher premiums. Higher costs for insurance and incompetent design would be passed on to consumers. Current registrants, students and recent graduates of landscape

architecture programs would be unable to successfully compete in the marketplace. A larger number of the current licensees are minorities and women.

Many national, Hawaii state, and local agencies hire Landscape Architects on staff and through consultant contracts. These agencies would have to return to expensive and subjective screening procedures to ensure competency. This would increase government staffing and expense at all levels. Non-licensure of Landscape Architects would cause reciprocity problems where Landscape Architects would be unable to compete with nonresident Landscape Architects for public agency work within the State. They also would be restricted from doing work in 40 other states.

No good reasons exist to subject the people of Hawaii to the costs which would be incurred by eliminating Landscape Architects from the Board. The state of Oregon 'sunsetting' their Board, then reestablished it when a host of problems became apparent. In Oregon, public agencies and private clients began going outside the state to hire professions registered in other states to provide these services. No suitable alternatives exist short of retaining Landscape Architects as a registered and regulated profession.

Results of studies which compared experiences in states lacking regulation of Landscape Architects against states that register and regulate Landscape Architects in this field do not currently exist. However, in November 1988, the national president of the American Society of Landscape Architects, Brian Kubota, appointed a task force on licensure. One of the task forces work assignment is to develop and document the experiences between states that regulate as compared to states that do not regulate Landscape Architects.

Overview of Legislative Auditor's Findings

In its current sunset update, the legislative auditor states that ... "Our latest evaluation of regulation for professional engineers, architects, land surveyors, and Landscape Architects results in finding similar to those in the 1983 report." Following are their findings and the Board's response:

1. Chapter 464, HRS, should be reenacted in the interest of protecting public health, safety and welfare; however, amendments are needed to clarify certain provisions.

We generally concur that Chapter 464, HRS, should be reenacted and that some amendments are needed to clarify certain provisions, however, we take exception to some of the amendments proposed specifically:

Item 3. Which states that: "There is still insufficient evidence to justify continued regulation of Landscape Architects".

Response to Sunsetting Landscape Architects

This report shows that the registration and regulation of Landscape Architects through the State Board of Professional Engineers, Architects, Surveyors, and Landscape Architects protects public health, safety and welfare and should be continued.

The Auditor states that "... the average public consumer can obtain landscaping services from exempted professions--such as an 'agriculturalist, horticulturists, tree expert, arborist, forester, gardenshop operator, nurseryman or landscape nurseryman, gardener, landscape gardener, landscape contractor, landscape designer, landscape consultant, garden or lawn caretaker or cultivator or land,' so long as their exempt practitioners do not refer to themselves as landscape architects or to their work as landscape architecture."

This is like comparing the services of an architect with businesses that provide building supplies, building contracting and construction expertise, and building janitorial services, so long as those persons don't call themselves architects. In fact, a home owner up to a specified dollar amount is authorized to construct a home addition without the services of an architect or engineer. The average public consumer obtains thousands of dollars worth of building services for the private home from these 'exempted professions.'

The Landscape Architect provides comprehensive expertise in the design, construction documentation and construction observation of exterior spaces, structures in the landscape, water features, landscape grading, irrigation systems, and storm water control. He/she is a licensed professional with the education and training for work outside building structures and assumes responsibility for the competency of the design.

As stated in the Legislative Auditor's report, it is widely recognized that, ".... professional Landscape Architects are taking on greater technical complexity as well as increased liability for direct responsibility of larger projects."

We agree with this statement but take exception to the auditor's conclusion that "... corporate and governmental interests have other options for evaluating quality of service", in the selection of Landscape Architects for public projects. Registration of a profession is not and should not be a measure of "quality of service," but rather a measure of the level of competency and professional skills for the protection of the public health, safety and welfare. While it is true that most of the larger landscape architectural firms in Hawaii provide services for government agencies and large landowner/developers, the ultimate user of the end product of these services is the general public (the consumer). This includes Hawaii residents as well as the approximately 6 million visitors to the Islands each year.

In recent years, more foreign investors (i.e. from Japan and Australia) are doing business in Hawaii. Often they have little or no understanding about the Hawaiian physical environment, environmental laws and permitting, or the political climate that exists. These foreign interests rely on the expertise of competent professionals to lead them through the development process. Registration of Landscape Architects, in this instance, facilitates consultant selection as well as serves to protect the public interest of health, safety and welfare.

How Public Health, Safety and Welfare are Protected by Licensing

Licensing of landscape architects was established to protect the public health, safety, and welfare. The profession of landscape architecture is founded upon formal, accredited education programs at established universities and field experiences under the direction of licensees.

The licensing law provides an appropriate strategy for protection of the public. The Board is charged with "weeding out": those who might endanger the public health, safety, and welfare.

There are two opposing strategies for accomplishing this. a) the State could open the doors to all applicants, then restrict licensure by revocation and suspension AFTER the public health, safety, and welfare has been endangered; or b) the State could restrict licensure by competency based on education, field, and testing, and AVOID or PREVENT damage to the public health, safety, and welfare.

The State takes extra measures to ensure competency by examination. In addition to the Uniform National Examination,

the "Hawaii Section", and a separate examination concerning the Hawaii State registration is administered.

That the law is fulfilling its purpose of protecting and enhancing the public health, safety, and welfare is indicated strongly in the few numbers of complaints received by the Board, and by the excellent reputation worldwide of Hawaii landscape architects.

Public Health, Safety and Welfare/Public Policy

The landscape architect's involvement with the public health, safety, and welfare is assured by the Hawaii State Board of Registration of Engineers, Architects, Surveyors and Landscape Architects. It functions by:

- a. Requiring conformity to public policy such as barrier-free access, OSHA, energy conservation, solar access, water conservation and resource management.
- b. Providing consumer protection through education, advocacy, information, and professional responsibility; determining and mandating the level of professional competence through policing, disciplinary action, and prosecution; enforcing the level or competence through policing, disciplinary action, and prosecution.
- c. Providing regress of public grievances through filing of complaints with the Board.
- d. Providing continued professional competence by insisting on high standards in the state-of-the-art and encouraging continuing education.
- e. Providing for a consistently high level of practice on a national basis through reciprocity with other states using the UNE.

The landscape architect's involvement with the public health, safety, and welfare is apparent in the following list of typical landscape architecture work:

Health

- a. Arrangement of structures and open spaces, together with the proper sloping and modeling of earth surfaces for adequate drainage; cut/fill and erosion control; and light, air and space in general.

- b. Arrangement of landscape elements for measurable insulation from - and control of - noise, heat, dust, winds, and unpleasant views.
- c. Arrangement and planting of vegetation in areas of heavy air pollution. Trees and other plants absorb carbon dioxide and pollutants, give off oxygen, and filter and purify the air around them - an extremely desirable factor in densely populated urban areas.
- d. Proper design and orientation of parks and playgrounds that can provide respite and sanctuary from the tensions and frustrations of modern urban existence.

Safety

- a. Design and arrangement of areas that handle both pedestrian and vehicular traffic; safety in the design of areas involving the transition from pedestrian to motor traffic, or combinations or conflicts of both. Safety in playground design involving equipment, parking services areas, points of vehicular and pedestrian access. Safety in the design, grading, and proper drainage of steps, walks, ramps, pools, fences, and the relation of land to water areas. These are the points of latent accident and injury which must be thoroughly and knowledgeably planned.
- b. For highways, development of a planting program that involves the placement of trees, shrubs, groundcover, and the installation of irrigation systems and other items along roadway systems in urban areas to provide safe, environmentally compatible, functional, and aesthetically pleasing roadsides. Proper highway planting projects contribute to the safety of drivers by helping to delineate the road ahead, direct attention to roadside obstacles and to potential traffic conflicts, screen headlight glare, and reduce driver fatigue and inattention.
- c. Selection of environmentally sound tree species in areas frequented by pedestrians and vehicles.
- d. Avoidance of trees that, although fast growing, have weak and brittle wood, that drop limbs, cones, fruit; avoidance of trees whose shallow root systems are susceptible to blowing over in high winds, or that predictably lift and damage sidewalks and gutters.

- e. Analysis of environmental characteristics, operational requirements, land use, and commensurate land values; production of overall plans and project design for integrated land development, including landscape grading and drainage plans, irrigation plans, construction details; and inspection of construction; restoration; and maintenance.
- f. Selection of nonpoisonous plants in heavily used areas.

Landscape architects are educated and trained to deal with many types of issues which affect public safety. In addition to those named previously, add slope erosion control, water management, brush fire control, public open space design, handicap access and barrier free design, housing development landscapes, public recreation resorts, solar access design (passive and active solar), landscape buffers to land use transitions, environmental preservation and enhancement.

Welfare

- a. Design for conservation of tree and vegetative cover, soil stabilization, proper drainage, and erosion control.
- b. Design for watershed and water table management to ensure water quality control and limit damage from drought.
- c. Adequate planning for the rapidly diminishing inventory of open land still available in metropolitan areas. This becomes of increasing importance and urgency in order to meet human requirements of community use, utility, and beauty in the land remaining, and to create a more relaxing, refreshing and rewarding environment.
- d. Protection of the public against fraudulent or incompetent designers.
- e. Protection of public and private funds through proper planning and administration of projects under development.
- f. Energy conservation site planning through shading and solar access.
- g. Public well-being which is dependent on elements of individual perception, including certain psychological aspects of how the design of outdoor spaces contributes to shaping human behavior, the sense of

"defensible space", the sense of a given space functioning as a "people place", and aesthetics.

Danger to the Public Health, Safety, and Welfare by Incompetent Design

1. Improperly specified relationships between water supplies, such as to artificial ponds, fountains, etc., and water drainage facilities could result in contamination of a water supply system of an entire community.
2. Improper design of outdoor lighting systems could result in hazards resulting from inadequate visibility and excessive glare.
3. Inadequate design of outdoor structures such as those used in parks and other recreational facilities could result in injury should those structures fail.
4. Specification or design of unsafe playground equipment could result in injury and consequent liabilities. Incorrect specification of surfaces would cause injury.
5. Improperly designed walkways, steps, ramps, handrails, etc. expose users to undue hazards.
6. Inadequate provision for storm drainage could result in flooding of foundations, walkways, highway rights of way, recreation areas, and other kinds of facilities used by the public.
7. Improper specification and observation for grading and filling could result in soil slippage and washing, even massive erosion.
8. Inadequate observation during construction could result in post construction problems with the specific project.
9. Improper design and specification of irrigation systems could result in overuse of water and soil erosion.

Examples of Major Public/Private Projects

Examples of major public projects where Landscape Architects have had a significant role in the design and contract documentation of major exterior spaces, plazas and

urban public spaces include: the Honolulu International Airport, the redevelopment of Kalakaua Avenue in Waikiki plus Tamarind Park and Amfac Plaza in downtown Honolulu, erosion control along all the major freeways. Most of the major open space/recreation areas in the resort complexes, visited and used by the tourists to Hawaii each year, have been designed or had significant design input by Hawaii Registered Landscape Architects. Examples include the Hilton Hawaiian Village, including the recent major renovations; the Royal Hawaiian Shopping Center; the recent Hemmeter projects, the Kauai Lagoons, the Maui Westin and the Hyatt Waikoloa project; the Mauna Kea Beach Hotel; and Resort Properties and the Mauna Lani Resort Properties.

Other significant projects include two of Hawaii's most visited places, the National Memorial Cemetery of the Pacific (Punchbowl) and the Pali Lookout Facility both were designed by Hawaii Landscape Architects. A major purpose of the recent plans for improvements to Punchbowl, undertaken by Landscape Architect Donald Wolbrink and Associates, was to protect the well being and safety of the more than 5 million visitors to the facility annually (1987). Visitation to the cemetery far exceeded original expectations. Thus problems of safe movement of automobiles, tour buses, and pedestrians while at the same time conducting memorial services for recently deceased in a dignified manner called for the skills of a professional able to preserve the beauty of the place as well as protect the safety and welfare of the users.

A number of Honolulu's rooftop gardens in high rise residential and office projects (an area demanding professional competence and expertise) were designed and have had construction documents prepared by Hawaii registered Landscape Architects, such as Kukui Plaza's 2.5 acre rooftop garden and the Amfac Center's rooftop garden.

Most, if not all, of the major outer island resort projects have had significant land planning, site and landscape design input and construction documentation provided by Hawaii registered Landscape Architects. Most of these projects have been designed and implemented since the enactment of the law which included Landscape Architects as a part of the professional board of Engineers, Architects, Surveyors and Landscape Architects.

Prior to Inclusion of Landscape Architects on the Board

Prior to registration of Landscape Architects in Hawaii in 1971, many credentialed Landscape Architectural professionals

from outside the state were imported to provide professional services for both public and private clients. Donald Wolbrink, FASLA, one of Hawaii's pioneers in the field of landscape architecture, came to Hawaii with the national firm of Harland Bartholomew and Associates. Mr. Wolbrink along with the late Russell H. Riley, FASLA, provided significant professional expertise for the drafting and of the Hawaii State Land Use Law.

Because the concept of statewide land use zoning neither had been applied or existed prior to this work, it was necessary to research and review planning practices for lesser governmental entities, and to develop creative approaches to the basic concept of a State government applying zoning to every square foot of land and water within its boundaries. The lead in this research was carried by Russell H. Riley, FASLA, who personally drafted the State land use law for Hawaii. Major support was provided by Donald Wolbrink, FASLA, and staff. The result of this research was reflected in the subsequent adoption by the State legislature of the law virtually as drafted. This adopted law became recognized as a national landmark in land use controls. The subsequent research and drawing of the proposed district boundaries for the entire State was directed by Mr. Wolbrink.

Other professionals registered by other states, primarily California, provided early input into the planning and design of major projects. Lawrence Halprin, FASLA, provided early planning for Mililani Town, EDAA, Inc. from California provided early planning and design services for Wailea Resort on Maui and the Mauna Kea Beach Resort on the Big Island.

In short, prior to the enactment of legislation including Landscape Architects on the state board, Hawaii had very few qualified Landscape Architect professionals and often imported this expertise to provide the level of competence required to adequately serve the public interest.

In State Expertise

Today, Hawaii has over 120 registered Landscape Architect professionals. The profession is small but growing. We've noted contributions by major firms to significant projects where health, safety and welfare were paramount design issues. However, many Landscape Architects are one and two person firms providing services to numerous individual home owners and small businesses. Their work contributes significantly to the health, safety and welfare of the environments used by many of the island's citizens.

Other registered Landscape Architects are in the employ of Federal, State and local governments such as the National Park Service, Housing and Urban Development, the Department of Land and Natural Resources, County agencies and so forth. Their expertise in land and forest management, water and soil conservation and preservation of unique ecosystems contributes to the health, safety and well-being of not only the Hawaii enjoyed by our 1 million residents but the Hawaii enjoyed by the 6 million tourists who come here each year, and, more importantly, our children in years to come.

Criteria for Licensure

The licensure issue is confused from state to state by the lack of uniformity between existing laws. No two laws are truly alike. The greatest difference lies in the distinction between a Title law and a Practice law. Title laws govern the use of the term Landscape Architect and limits its use to those who meet certain criteria. A practice law limits the performance of activities generally thought of as landscape architectural in nature to those people who meet the licensure criteria.

In all, 40 states have practice and/or title laws. The licensure criteria is usually the same for both types of laws and include a professional landscape architectural degree and/or several years of practical experience as well as successfully passing a minimum competency examination. The exact specifics of the criteria differ from state to state, however, in all 40 states requiring registration, taking and passing the Uniform National Exam (UNE) is required.

To update the information in the auditor's report, as of July 1987, of the 40 states with registration and regulation, there were 23 states regulating both title and practice, (including Hawaii), 15 regulating title only, 2 regulating practice only. Utah has recently reenacted legislation. In the 10 states with no registration most have Landscape Architect committees actively pursuing enactment of registration legislation.

Conclusion to Landscape Architecture Issue

The environmental awakening in the late '60s, occurred just prior to inclusion of Landscape Architects on the board of professional registration in the State of Hawaii. By education and training the Landscape Architect is professionally equipped to solve many of the environmental problems that could potentially

prove harmful if left to chance or to unqualified individuals. His/her expertise, as a part of the team that includes engineers, architects, and surveyors, requires registering and regulating along with these professionals to protect health, safety and welfare.

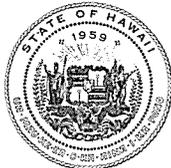
Submitted by:

Landscape Architecture Sub-Committee
Board of Registration of Professional
Engineers, Architects, Surveyors and
Landscape Architects

Mukul Dhillon
Thomas P. Papanicolaou

ATTACHMENT 3

JOHN WAIHEE
GOVERNOR



ROBERT A. ALM
DIRECTOR
COMMISSIONER OF SECURITIES

SUSAN DOYLE
DEPUTY DIRECTOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

1010 RICHARDS STREET
P. O. BOX 541
HONOLULU, HAWAII 96809

January 20, 1989

RECEIVED

JAN 19 5 01 PM '89

OFFICE OF THE AUDITOR
STATE OF HAWAII

Mr. Newton Sue, Acting Auditor
Office of the Legislative Auditor
State of Hawaii
465 S. King Street, Room 500
Honolulu, Hawaii 96813

Dear Mr. Sue:

Subject: Sunset Evaluation Update - Professional
Engineers, Architects, Surveyors, and Landscape
Architects

The Department of Commerce and Consumer Affairs offers the following comments to the recommendations presented for its consideration:

4. The board and the Department study the idea of assigning responsibility for the four professions to two boards, one governing engineers and land surveyors and the other governing architects and landscape architects.

The department is willing to undertake this study with the board, however we would note that your evaluation draws the conclusion that such restructuring is warranted and would assume a legislative bill is to be submitted accordingly. We would be happy to assist with the bill drafting should you desire our services.

5. A review of current terminology be undertaken by the Department with the objective of standardizing such terminology as "licensure", "certification", and "registration" among all the occupations and professions being regulated.

The department has well been aware of the use of different terminology by the various regulated professions and as such has made progressive moves to standardize

Mr. Newton Sue
January 20, 1989
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terminology where appropriate. As examples, in the 1985 legislative session the "certification" of psychologists was changed to "licensure", in 1987 the "registration" of travel agents and agencies was changed to "licensure", and this year a proposal is being submitted to clarify licensure of accountants (versus certification). We see only one more area where the terminology should be changed (barbers) and will work with the board on this matter in the future. Thereafter, changes in terminology do not appear necessary or appropriate for the other regulated professions or occupations.

In response to the terminology used in Chapter 464, HRS, the board and the department has left this intact because the term "registration" for this given profession is nationally and professionally recognized. From a regulatory perspective however, it would appear appropriate to use the term "license" instead of "registration", as you suggested in your report. Should you feel this change is warranted then we would believe a bill would be submitted accordingly, as you did on this very same issue with relation to the regulation of beauty culture (See Report No. 88-18, November 1988).

Very truly yours,

A handwritten signature in black ink that reads "Robert A. Alm". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

ROBERT A. ALM
Director

APPENDIX B

DIGEST

A BILL FOR AN ACT
RELATING TO PROFESSIONAL ENGINEERS,
ARCHITECTS, SURVEYORS, AND
LANDSCAPE ARCHITECTS

Extends to 12/31/95, and makes the following changes to laws regulating professional engineers, architects, surveyors, and landscape architects:

- (1) Discontinues regulation of landscape architects;
- (2) Clarifies sections dealing with penalties and appeals for violation of chapter provisions;
- (3) Changes number of engineers on the board from 3 to 4, and changes number of board members from 14 to 13;
- (4) Lowers from 9 years to 5 years the number of years of professional experience required for board membership;
- (5) Changes registration to licensing;
- (6) Deletes requirement that licensees be of good character and reputation.

(To be made one and ten copies)

HOUSE OF REPRESENTATIVES
FIFTEENTH LEGISLATURE, 19⁸⁹
STATE OF HAWAII

H. B. NO.

A BILL FOR AN ACT

RELATING TO PROFESSIONAL ENGINEERS, ARCHITECTS, SURVEYORS, AND
LANDSCAPE ARCHITECTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to implement the
2 findings and recommendations made by the legislative auditor in
3 the auditor's "Sunset Evaluation Update Report" regarding chapter
4 464, Hawaii Revised Statutes, which regulates the practices of
5 engineering, architecture, surveying and landscape architecture.
6 The legislature agrees with the auditor's findings that while
7 chapter 464 should be reenacted, chapter 464 should among other
8 things, be amended to clarify terminology, provide for
9 consistency in penalties and appeals, change requirements for
10 board membership, discontinue registration for landscape
11 architects, and delete good character and reputation as a
12 requirement for licensure.

13 SECTION 2. Section 26H-4, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§26H-4 Repeal dates. (a) The following chapters are
16 hereby repealed effective December 31, 1989:
17
18

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- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- [(3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)

(4)] (3) Chapter 466 (Board of Public Accountancy)

[(5)] (4) Chapter 467 (Real Estate Commission)

[(6)] (5) Chapter 439 (Board of Cosmetology)

[(7)] (6) Chapter 454 (Mortgage Brokers and Solicitors)

[(8)] (7) Chapter 454D (Mortgage and Collection Servicing Agents)

(b) The following chapter and sections are hereby repealed effective December 31, 1990:

(1) Chapter 466J (Board of Radiologic Technology)

(2) Sections 321-13 to 321-15 (midwives, laboratory directors, laboratory technologists, laboratory supervisors, laboratory technicians, tattoo artists, electrologists, and sanitarians)

(c) The following chapters are hereby repealed effective December 31, 1991:

(1) Chapter 447 (Dental Hygienists)

(2) Chapter 453 (Board of Medical Examiners)

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1 (3) Chapter 457 (Board of Nursing)

2 (4) Chapter 458 (Board of Dispensing Opticians)

3 (5) Chapter 460J (Pest Control Board)

4 (6) Chapter 462A (Pilotage)

5 (7) Chapter 438 (Board of Barbers)

6 (8) Chapter 468K (Travel Agencies)

7 (d) The following chapters are hereby repealed effective
8 December 31, 1992:

9 (1) Chapter 448H (Elevator Mechanics Licensing Board)

10 (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)

11 (3) Chapter 457B (Board of Examiners of Nursing Home
12 Administrators)

13 (4) Chapter 460 (Board of Osteopathic Examiners)

14 (5) Chapter 461 (Board of Pharmacy)

15 (6) Chapter 461J (Board of Physical Therapy)

16 (7) Chapter 463E (Podiatry)

17 (e) The following chapters are hereby repealed effective
18 December 31, 1993:

19 (1) Chapter 437 (Motor Vehicle Industry Licensing Board)

20 (2) Chapter 437B (Motor Vehicle Repair Industry Board)

21 (3) Chapter 440 (Boxing Commission)

22 (4) Chapter 446 (Debt Adjusters)

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1 (5) Chapter 436E (Board of Acupuncture)

2 (f) The following sections are hereby repealed effective
3 December 31, 1993:

4 (1) Sections 445-21 to 38 (Auctions)

5 (2) Sections 445-131 to 136 (Pawnbrokers)

6 (3) Sections 445-171 to 172 (Secondhand Dealers)

7 (4) Sections 445-231 to 235 (Scrap Dealers)

8 (g) The following chapters are hereby repealed effective
9 December 31, 1994:

10 (1) Chapter 441 (Cemetery and Funeral Trusts)

11 (2) Chapter 443B (Collection Agencies)

12 (3) Chapter 452 (Board of Massage)

13 (4) Chapter 455 (Board of Examiners in Naturopathy)

14 (5) Chapter 459 (Board of Examiners in Optometry)

15 (6) Chapter 442 (Board of Chiropractic Examiners)

16 (7) Chapter 373 (Commercial Employment Agencies)

17 (8) Chapter 448 (Board of Dental Examiners)

18 (9) Chapter 465 (Board of Psychology)

19 (10) Chapter 468E (Speech Pathology and Audiology)

20 (h) The following chapter is hereby repealed effective
21 December 31, 1995:

22 (1) Chapter 464 (Professional Engineers, Architects, and

H. B. NO.

Surveyors)

1 [(h)] (i) The following chapters are hereby repealed
2 effective December 31, 1997:

- 3 (1) Chapter 463 (Board of Private Detectives and Guards)
4 (2) Chapter 471 (Board of Veterinary Examiners)."

5 SECTION 3. Chapter 464, Hawaii Revised Statutes, is amended
6 by amending the title of the chapter to read as follows:

7 "Professional Engineers, Architects, and Surveyors [and
8 Landscape Architects]."

9 SECTION 4. Section 464-1, Hawaii Revised Statutes, is
10 amended by repealing the definition of "landscape architect".

11 ["Landscape architect" means a person who holds oneself out
12 as able to perform professional services such as consultation,
13 investigation, reconnaissance, research, design, preparation of
14 drawings and specifications, and observation of construction
15 where the dominant purpose of the services is:

- 16 (1) The preservation and enhancement of land uses and
17 natural land features;
18 (2) The location and construction of aesthetically pleasing
19 and functional approaches for structures, roadways, and
20 walkways; and
21 (3) The design for equestrian trails, plantings, landscape
22

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1 irrigation, landscape lighting, and landscape grading.

2 This practice shall include the location, arrangement, and
3 design of tangible objects and features as are incidental and
4 necessary to the purposes outlined herein. Nothing herein shall
5 preclude a duly registered landscape architect from planning the
6 development of land areas and elements used thereon or from
7 performing any of the services described in this section in
8 connection with the settings, approaches, or environment for
9 buildings, structures, or facilities; provided that nothing in
10 this chapter shall empower a landscape architect registered under
11 this chapter from practicing or offering to practice architecture
12 or engineering in any of its various recognized branches."]

13 SECTION 5. Section 464-2, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§464-2 [Registration] Licensing of practicing engineers,
16 etc. In order to safeguard life, health, and property, no person
17 except those exempted by sections 464-3 and 464-5 shall practice
18 professional engineering, architecture, or land surveying [or
19 landscape architecture] in the State unless the person is duly
20 [registered] licensed under this chapter."

21 SECTION 6. Section 464-3, Hawaii Revised Statutes, is
22 amended to read as follows:

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1 "§464-3 Persons exempt from [registration.] licensure. The
2 following shall be exempted from this chapter:

- 3 (1) Persons practicing professional engineering,
4 architecture, or land surveying [or landscape
5 architecture] solely as officers or employees of the
6 United States;
- 7 (2) Persons practicing professional engineering,
8 architecture, or land surveying [or landscape
9 architecture] solely as officers or employees of the
10 State or any political subdivision thereof on May 2,
11 1923, and thereafter only until the expiration of the
12 terms of office or employment of such persons."

13 SECTION 7. Section 464-4, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§464-4 Public works. The State and the political
16 subdivisions thereof and the officers thereof, respectively,
17 shall not engage in the construction of any public work involving
18 professional engineering, or architecture[, or landscape
19 architecture] for which the plans, specifications and estimates
20 have not been made nor supervised by and the construction of
21 which is not observed by a professional engineer[,] or
22 architect[, or landscape architect] duly [registered] licensed

H. B. NO.

1 hereunder; provided that nothing in this section shall apply to
2 any public work involving professional engineering[,] or
3 architecture[, or landscape architecture] wherein the expenditure
4 therefor does not exceed the sum of \$15,000. All land surveys
5 involving property boundaries for public purposes or plans
6 thereof shall be made or supervised by a [registered] licensed
7 land surveyor."

8 SECTION 8. Section 464-5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§464-5 Limitation upon application of chapter. Nothing in
11 this chapter shall prevent any person from engaging in
12 engineering[,] or architectural[, or landscape architectural]
13 work and undertakings upon property owned or exclusively
14 controlled or possessed by that person, or from hiring any person
15 to do the work and undertakings, unless the work and undertakings
16 involve the safety or health of the public, nor shall anything in
17 this chapter prevent any person from engaging in land surveying
18 upon property owned or exclusively controlled or possessed by
19 that person or from hiring any person to do the work, unless the
20 work involves a common boundary.

21 [Nothing in this chapter shall be construed as applying to
22 the business conducted in this State by any agriculturist,

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1 horticulturist, tree expert, arborist, forester, gardenshop
2 operator, nurseryman or landscape nurseryman, gardener, landscape
3 gardener, landscape contractor, landscape designer, landscape
4 consultant, garden or lawn caretaker, or cultivator of land, as
5 these terms are generally used, except that no person shall use
6 the designation "landscape architect", "landscape architectural",
7 or "landscape architecture" unless registered under the
8 provisions of this chapter.]

9 All engineering work, and architectural work[, and landscape
10 architectural work] in which the public safety or health is
11 involved shall be designed by and the construction observed by a
12 duly [registered] licensed professional engineer[, or
13 architect[, or landscape architect,] respectively."

14 SECTION 9. Section 464-6, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§464-6 Board of registration of professional engineers,
17 etc., members; appointment; tenure; qualifications. There shall
18 be a state board of [registration of] professional engineers,
19 architects, and surveyors[, and landscape architects] hereinafter
20 called "the board", to be appointed by the governor in the manner
21 prescribed in section 26-34. The board shall consist of
22 [fourteen] thirteen members, including at least [three] four

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1 professional engineers, three professional architects, three
2 professional surveyors, [two professional landscape architects]
3 and three public members. Each county shall be represented by at
4 least one member who is a resident of the county. Each member
5 shall hold over after the expiration of the member's term until
6 the member's successor is duly appointed and qualified.

7 Each member shall have been a resident of the State for at
8 least three years. A member representing the profession shall
9 have been engaged in the practice of the member's profession for
10 at least [nine] five years immediately preceding the date of the
11 member's appointment. Members of the board shall serve without
12 pay, except the secretary, who shall be allowed such compensation
13 as the board may fix with the approval of the governor. Any
14 member of the board, however, who incurs expenses in connection
15 with the preparation and grading of examination papers shall be
16 reimbursed for [such] those expenses with the approval of the
17 board.

18 The department of commerce and consumer affairs shall
19 employ, subject to chapters 76 and 77, a secretary and such other
20 clerical help as are necessary for the proper performance of the
21 board's work and may make any reasonable expenditures which are
22 necessary to carry out the functions of the board."

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1 SECTION 10. Section 464-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§464-7 Powers and duties of board; secretary; records.**

4 The board is entitled to the services of the attorney general in
5 connection with its affairs, and may compel the attendance of
6 witnesses upon subpoena, administer oaths, take testimony, and do
7 all other things necessary and proper to carry out this chapter
8 in all matters within its jurisdiction. It shall adopt and have
9 an official seal and make, subject to chapter 91 and with the
10 approval of the governor and the director of commerce and
11 consumer affairs, rules for the performance of its duties and the
12 carrying on of its business and the enforcement of this chapter.
13 It shall be provided with suitable office quarters by the State
14 and shall hold at least two regular meetings during each year.
15 It shall have a chairman, a vice-chairman, and a secretary, and a
16 quorum shall consist of not less than six members.

17 All fees and other moneys received by the board shall be
18 deposited by the director of commerce and consumer affairs with
19 the director of finance to the credit of the general fund.

20 The board shall keep a record of its proceedings and all
21 applicants for [registration] licensure as [engineer, architect,
22 surveyor, or landscape architect,] engineers, architects, or
23 surveyors, the date of application, name, age, educational, and

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1 other qualifications, place of business and residence, whether or
2 not an examination was required, and whether or not the applicant
3 was [registered] licensed and a certificate issued to the
4 applicant and the date of the action. The records shall be prima
5 facie evidence of all matters therein contained."

6 SECTION 11. Section 464-8, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§464-8 Qualifications for [registration.] licensure. (a)
9 No person shall be eligible for [registration] licensure as a
10 professional engineer unless:

- 11 (1) The person is the holder of an unexpired [certificate
12 of registration] license issued to the person by any
13 jurisdiction, domestic or foreign, in which the
14 requirements for [registration] licensure at the time
15 the person was first [registered] licensed were of a
16 standard satisfactory to the board; provided that if
17 the board is in doubt as to whether the standards were
18 satisfactory, or as to whether the holder was required
19 to fully comply with them, it shall require that the
20 holder successfully pass a written examination,
21 prescribed by the board and designed to test the
22 holder's knowledge, skill, and competency in the

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profession of engineering; [or]

1
2 (2) The person is the holder of a masters degree in
3 engineering from an institution of higher education
4 approved by the board; is a graduate of a school or
5 college approved by the board as of satisfactory
6 standing and has completed an engineering curriculum of
7 four years or more; has had three years of full-time
8 lawful experience in engineering work of a character
9 satisfactory to the board, or part-time experience
10 which the board finds to be the equivalent thereof; and
11 has successfully passed a written examination,
12 prescribed by the board and designed to test the
13 person's knowledge, skill, and competency in the
14 profession of engineering; [or]

15 (3) The person is the holder of a masters degree in
16 engineering from an institution of higher education
17 approved by the board; has had four years of full-time
18 lawful experience in engineering work of a character
19 satisfactory to the board, a part-time experience which
20 the board finds to be the equivalent thereof; and has
21 successfully passed a written examination, prescribed
22 by the board and designed to test the person's

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1 knowledge, skill, and competency in the profession of
2 engineering; [or]

3 (4) The person is a graduate of a school or college
4 approved by the board as of satisfactory standing, and
5 has completed an engineering curriculum of four years
6 or more; has had four years of full-time lawful
7 experience in engineering work of a character
8 satisfactory to the board, or part-time experience
9 which the board finds to be the equivalent thereof; and
10 has successfully passed a written examination,
11 prescribed by the board and designed to test the
12 person's knowledge, skill, and competency in the
13 profession of engineering; [or]

14 (5) The person is a graduate of a school or college
15 approved by the board as of satisfactory standing, and
16 has completed an engineering technology or arts and
17 science curriculum of four years or more; has had eight
18 years of full-time lawful experience in engineering
19 work of a character satisfactory to the board, or part-
20 time experience which the board finds to be the
21 equivalent thereof; and has successfully passed a
22 written examination, prescribed by the board and
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1 designed to test the person's knowledge, skill, and
2 competency in the profession of engineering; or

3 (6) The person has had twelve years of full-time lawful
4 experience in engineering work of a character
5 satisfactory to the board, or part-time experience
6 which the board finds to be the equivalent thereof; and
7 has successfully passed a written examination,
8 prescribed by the board and designed to test the
9 person's knowledge, skill, and competency in the
10 profession of engineering.

11 (b) No person shall be eligible for [registration]
12 licensure as a professional architect unless:

13 (1) The person is the holder of an unexpired [certificate
14 of registration] license issued to the person by any
15 jurisdiction, domestic or foreign, in which the
16 requirements for [registration] licensure at the time
17 the person was first [registered] licensed were of a
18 standard satisfactory to the board; provided that if
19 the board is in doubt as to whether the standards were
20 satisfactory, or as to whether the holder was required
21 to fully comply with them, it shall require that the
22 holder successfully pass a written examination,

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1 prescribed by the board and designed to test the
2 holder's knowledge, skill, and competency in the
3 profession of architecture; [or]

4 (2) The person is the holder of a masters degree in
5 architecture from an institution of higher education
6 approved by the board; is a graduate of a school or
7 college approved by the board as of satisfactory
8 standing and has completed an architectural curriculum
9 of five years or more; has had two years of full-time
10 lawful experience in architecture work of a character
11 satisfactory to the board; and has successfully passed
12 a professional written examination, prescribed by the
13 board and designed to test the person's knowledge,
14 skill, and competency in the profession of
15 architecture; [or]

16 (3) The person is a graduate of a school or college
17 approved by the board as of satisfactory standing, and
18 has completed an architectural curriculum of five
19 years; has had three years of full-time lawful
20 experience in architecture work of a character
21 satisfactory to the board; and has successfully passed
22 a professional written examination, prescribed by the
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1 board and designed to test the person's knowledge,
2 skill, and competency in the profession of
3 architecture; [or]

- 4 (4) The person is a graduate of a school or college
5 approved by the board as of satisfactory standing and
6 has completed an architectural curriculum of four years
7 or a pre-architecture or arts and science curriculum of
8 four years or more; has had five years of full-time
9 lawful experience in architecture work of a character
10 satisfactory to the board; and has successfully passed
11 a professional written examination, prescribed by the
12 board and designed to test the person's knowledge,
13 skill, and competency in the profession of
14 architecture; [or]

- 15 (5) The person is a graduate of a community college or
16 other technical training school approved by the board
17 as of satisfactory standing, and has completed an
18 architectural technology curriculum of two years or
19 more; has had eight years of full-time lawful
20 experience in architecture work of a character
21 satisfactory to the board; and has successfully passed
22 a professional written examination, prescribed by the
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1 board and designed to test the person's knowledge,
2 skill, and competency in the profession of
3 architecture; or

4 (6) The person has had eleven years of full-time lawful
5 experience in architecture work of a character
6 satisfactory to the board; and has successfully passed
7 a professional written examination, prescribed by the
8 board and designed to test the person's knowledge,
9 skill, and competency in the profession of
10 architecture.

11 (c) No person shall be eligible for [registration]
12 licensure as a professional land surveyor unless:

13 (1) The person is the holder of an unexpired [certificate
14 of registration] license issued to the person by any
15 jurisdiction, domestic or foreign, in which the
16 requirements for [registration] licensure at the time
17 the person was first [registered] licensed were of a
18 standard satisfactory to the board; provided that if
19 the board is in doubt as to whether the standards were
20 satisfactory, or as to whether the holder was required
21 to fully comply with them, it shall require that the
22 holder successfully pass a written examination,

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1 prescribed by the board and designed to test the
2 holder's knowledge, skill, and competency in the
3 profession of land surveying; [or]

4 (2) The person is a graduate of a school or college
5 approved by the board as of satisfactory standing, and
6 has completed a geo-science, civil engineering, or
7 general engineering curriculum of four years or more;
8 has had three years of full-time lawful experience in
9 land surveying of a character satisfactory to the
10 board; and has successfully passed a professional
11 written examination, prescribed by the board and
12 designed to test the person's knowledge, skill, and
13 competency in the profession of land surveying; [or]

14 (3) The person is a graduate of a school or college
15 approved by the board as of satisfactory standing, and
16 has completed a civil engineering technology (survey
17 option) curriculum of two years or more or arts and
18 sciences curriculum of four years or more; has had
19 seven years of full-time lawful experience in land
20 surveying of a character satisfactory to the board; and
21 has successfully passed a professional written
22 examination, prescribed by the board and designed to

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1 test the person's knowledge, skill, and competency in
2 the profession of land surveying; or

- 3 (4) The person has had eleven years of full-time lawful
4 experience in land surveying of a character
5 satisfactory to the board; and has successfully passed
6 a professional written examination, prescribed by the
7 board and designed to test the person's knowledge,
8 skill, and competency in the profession of land
9 surveying.

10 [(d) No person shall be eligible for registration as a
11 professional landscape architect unless:

- 12 (1) The person is the holder of an unexpired certificate of
13 registration issued to the person by any jurisdiction,
14 domestic or foreign, in which the requirements for
15 registration at the time the person was first
16 registered were of a standard satisfactory to the
17 board; provided that if the board is in doubt as to
18 whether the standards were satisfactory, or as to
19 whether the holder was required to fully comply with
20 them, it shall require that the holder successfully
21 pass a written examination, prescribed by the board and
22 designed to test the holder's knowledge, skill, and
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1 competency in the profession of landscape architecture;
2 or

- 3 (2) The person is the holder of a masters degree in
4 landscape architecture from an institution of higher
5 education approved by the board; is a graduate of a
6 school or college approved by the board as of
7 satisfactory standing and has completed a landscape
8 architectural curriculum of four years or more; has had
9 two years of full-time lawful experience in landscape
10 architecture work of a character satisfactory to the
11 board, or part-time experience which the board finds to
12 be the equivalent thereof; and has successfully passed
13 a written examination, prescribed by the board and
14 designed to test the person's knowledge, skill, and
15 competency in the profession of landscape architecture;
16 or

- 17 (3) The person is a graduate of a school or college
18 approved by the board as of satisfactory standing, and
19 has completed a landscape architectural curriculum of
20 four years or more; has had three years of full-time
21 lawful experience in landscape architecture work of a
22 character satisfactory to the board, or part-time
23 experience which the board finds to be the equivalent

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1 test the person's knowledge, skill, and competency in
2 the profession of landscape architecture.]

3 In addition to the foregoing requirements, the board [may],
4 in its discretion, may require additional proof that the
5 applicant is competent to practice professionally, and whenever
6 the board is not fully satisfied from the results of an
7 examination that any applicant is competent to practice
8 professionally, it may give the applicant a further examination
9 or examinations.

10 [No person shall be eligible for registration as a
11 professional engineer, architect, land surveyor, or landscape
12 architect who is not of good character and reputation.]"

13 SECTION 12. Section 464-9, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§464-9 Applications for [and certificates of**
16 **registration;] licensure; renewal; fees.** (a) Application for
17 [registration] licensure shall be made upon blanks to be
18 furnished by the board and shall be signed and sworn to by the
19 applicant. With each application there shall be paid to the
20 board an application fee, the fee to be nonreturnable after the
21 application has been entered in the records of the board.

22 For each examination, or repetition thereof in whole or in
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1 part as shall be limited or permitted by the rules of the board,
2 the candidate shall pay to the board an examination fee; provided
3 where the candidate is eligible to take only that part of the
4 examination pertaining to engineering fundamentals the candidate
5 shall pay the appropriate fee. The fee paid shall not be
6 refundable; provided if a candidate after having paid the fee is
7 unable for any reason beyond the candidate's control to
8 participate in the examination, the board may extend the time of
9 the candidate's participation to the next regular examination
10 date and credit the candidate the amount of the fee paid.

11 (b) Upon qualifying for [registration,] licensure the
12 applicant shall pay a [registration] license fee, and upon
13 receipt thereof by the board shall thereupon be [registered]
14 licensed as a professional engineer, architect, or land surveyor
15 [or landscape architect], and shall receive a certificate thereof
16 from the board signed by the chairman and secretary. Every
17 person [registered] licensed who, as an individual or as a member
18 of a firm or corporation, conducts an office or other place of
19 business for the practice of the profession shall display the
20 original certificate in a conspicuous manner, in the principal
21 office or place of business.

22 (c) Every [certificate of registration] license expires on
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1 April 30 of each even-numbered year following its issuance and
2 becomes invalid after that date unless renewed. The secretary of
3 the board, at least one month in advance of the date of
4 expiration of the [certificate of registration,] license, shall
5 mail a notice to every person [registered] licensed under this
6 section giving the date of expiration and the amount required for
7 the renewal thereof. The fee for renewal and all other fees in
8 this chapter shall be as provided in rules adopted by the
9 director of commerce and consumer affairs pursuant to chapter 91.
10 [Certificates of registration] Licenses which have expired for
11 failure to pay renewal fees on or before the date required in
12 this subsection may be reinstated within one year of the
13 expiration date upon payment of a fee for each renewal
14 [certificate]. Any person who fails to reinstate the person's
15 [certificate of registration] license within one year of the date
16 of its expiration shall reapply for [registration.] license."

17 SECTION 13. Section 464-10, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§464-10 [Suspension] Licensees; suspension or revocation
20 of [certificates;] licenses; fines; hearings. The board may
21 revoke [or] suspend, or refuse to renew the [certificate of
22 registration] license of any [person hereunder] licensee who is

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1 found guilty of any fraud or deceit in obtaining the
2 [certificate] license or of gross negligence, incompetency, or
3 misconduct in the practice of the profession or who is convicted
4 of violating this chapter or the rules of the board. Any person
5 may prefer charges in writing with the executive secretary of the
6 board against any person holding a [certificate.] license.

7 In every case where it is proposed to [revoke or suspend the
8 certificate of registration,] impose any penalty under this
9 section, the board shall give the [person] licensee concerned
10 notice and hearing in conformity with chapter 91. The notice
11 shall be given in writing by registered or certified mail with
12 return receipt requested at least fifteen days before the
13 hearing.

14 In all proceedings before it, the board and each member
15 thereof shall have the same powers respecting administering
16 oaths, compelling the attendance of witnesses and the production
17 of documentary evidence, and examining witnesses, as are
18 possessed by circuit courts. In case of disobedience by any
19 person of any order of the board, or of any member thereof, or of
20 any subpoena issued by it, or by a member, or the refusal of any
21 witness to testify to any matter regarding which the person may
22 be questioned lawfully, any circuit judge, on application by the
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1 board, or a member thereof, shall compel obedience as in the case
2 of disobedience of the requirements of a subpoena issued by a
3 circuit court, or a refusal to testify therein.

4 Any [person] licensee who violates this chapter or the rules
5 adopted pursuant thereto [shall] may be fined not less than \$500
6 nor more than \$1,000 per violation [and each]. Each day of
7 violation or failure to comply shall constitute a separate
8 offense."

9 SECTION 14. Section 464-11, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§464-11 Contents of [certificates;] licenses; use of seal
12 mandatory when. Each [certificate of registration] license
13 issued hereunder shall bear the date of the original
14 [registration] license and shall specify whether the person to
15 whom it is issued is authorized by the board to practice
16 professional engineering, architecture, or land surveying [or
17 landscape architecture].

18 In the case of a [certificate] license issued to a person
19 authorizing the person to practice professional engineering, the
20 [certificate] license shall furthermore indicate the major branch
21 or branches of engineering in which the person has especially
22 qualified.

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1 Every [registered] licensed person may use a seal or rubber
2 stamp of the design authorized by the board bearing the person's
3 name and the words ["registered] "licensed professional
4 engineer", ["registered] "licensed architect", ["registered] or
5 "licensed land surveyor"[, or "registered landscape architect"],
6 or otherwise as may be authorized by the board.

7 All plans, specifications, maps, and reports prepared by or
8 under the supervision of a [registered] licensed engineer,
9 architect, or surveyor[, or landscape architect] shall be stamped
10 with such seal or stamp when filed with public officials. It
11 shall be unlawful for anyone to seal or stamp any document with
12 such seal or stamp after the [certificate] license of the
13 [registrant] licensee named thereon has expired or has been
14 revoked or suspended unless such [certificate] license has been
15 renewed or reissued.

16 No official of the State nor of any political subdivision
17 thereof, charged with the enforcement of laws or ordinances
18 relating to the construction or alteration of buildings or
19 structures, shall accept or approve any plans or specifications
20 that are not stamped with the seal of a [registered] licensed
21 architect holding an unexpired certificate or with the seal of a
22 [registered] licensed engineer holding a [certificate] license on
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1 which has been indicated that the engineer has qualified in the
2 structural engineering branch, unless the building or structure,
3 for which the plans or specifications are submitted is exempted
4 from this chapter, and no map or survey shall be filed in the
5 land court unless stamped with the seal of a [registered]
6 licensed land surveyor."

7 SECTION 15. Section 464-12, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§464-12 Corporations and partnerships.** A corporation or
10 copartnership may engage in the practice of professional
11 engineering, architecture, or surveying [or landscape
12 architecture] in the State, provided the person or persons
13 connected with the corporation or copartnership directly in
14 charge of the professional work is duly [registered] licensed
15 hereunder, and provided further that the name or names of such
16 person or persons has or have been filed with the board by the
17 corporation or copartnership."

18 SECTION 16. Section 464-14, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§464-14 [Violations;] Unlicensed activity; penalties.** Any
21 person who practices, offers to practice, or holds oneself out as
22 authorized and qualified to practice professional engineering,
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1 architecture, or land surveying, [or landscape architecture] in
2 the State, except as provided in sections 464-3 and 464-5; or who
3 uses the title "engineer", "architect", or "land surveyor" [or
4 "landscape architect"], or any title, sign, card, or device to
5 indicate that such person is practicing professional engineering,
6 architecture, or land surveying [or landscape architecture], or
7 is a professional engineer, architect, or land surveyor [or
8 landscape architect,] without having first [registered] acquired
9 a license in accordance with this chapter and without having a
10 valid unexpired [certificate of registration;] license; or who
11 uses or attempts to use as the person's own the seal or the
12 [certificate of registration] license of another, or who falsely
13 impersonates any duly [registered] licensed practitioner
14 hereunder, or who uses or attempts to use an expired, suspended,
15 or revoked [certificate of registration; or any firm or
16 corporation which advertises that it will furnish architectural,
17 engineering or landscape architectural services in the making of
18 plans or specifications or in the construction of any building or
19 other structure, without first having complied with section
20 464-12; or any firm or corporation which furnishes or offers to
21 furnish architectural, engineering or landscape architectural
22 services for the construction of any building, structure,

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1 project, or utility in the State, without first having complied
2 with section 464-12; or any person or firm who violates any of
3 the provisions of this chapter] license shall be fined not more
4 than \$500 or imprisoned not more than one year, or both."

5 SECTION 17. Section 464-16, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[~~§~~464-16] Appeal to circuit court. An applicant who
8 has been refused a license [and], every licensee whose license
9 has been suspended, revoked, or not renewed, and any person
10 against whom any penalty has been imposed under section 464-10 or
11 464-14, may appeal the board's decision to the circuit court of
12 the circuit in which the applicant [or], licensee, or person
13 resides in the manner provided in chapter 91."

14 SECTION 18. Section 464-8.5, Hawaii Revised Statutes, is
15 repealed.

16 ["~~§~~464-8.5] Prior practitioners of landscape architecture.
17 Notwithstanding the provisions of section 464-8, where an
18 application for license to practice landscape architecture is
19 made prior to January 1, 1971, the board shall accept as
20 satisfactory evidence of the applicant's competency and
21 qualification for registration as a landscape architect, the
22 following:

23 (1) That the applicant has a diploma of graduation from a
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1 college or school offering an approved curriculum in
 2 landscape architecture, or the equivalent thereof as
 3 determined by the board, showing that the applicant has
 4 satisfactorily completed such curriculum, together with
 5 at least one year of actual, practical experience in
 6 landscape architectural work; or

7 (2) That the applicant has been actually engaged
 8 continuously in the active practice of landscape
 9 architecture, either in a governmental agency or in the
 10 office of one or more landscape architects, or both,
 11 for not less than four years, or in the applicant's own
 12 business for not less than two years prior to the date
 13 when this chapter shall take effect."]

14 SECTION 19. This Act does not affect rights and duties that
 15 matured, penalties that were incurred, or proceedings that were
 16 begun before its effective date.

17 SECTION 20. Statutory material to be repealed is bracketed.
 18 New statutory material is underscored.

19 SECTION 21. This Act shall take effect upon its approval.

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 21 INTRODUCED BY: _____