

LEGISLATIVE BILL 440

Approved by the Governor March 24, 1999

Introduced by Health and Human Services Committee: Jensen, 20, Chairperson; Byars, 30; Dierks, 40; Price, 26; Thompson, 14; Tyson, 19; and Matzke, 47; Dw. Pedersen, 39; D. Pederson, 42; Robak, 22; Wickersham, 49

AN ACT relating to the Engineers and Architects Regulation Act; to amend sections 81-3449 and 81-3453, Revised Statutes Supplement, 1998; to provide an exemption from the act for certain commercial or industrial buildings; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 81-3449, Revised Statutes Supplement, 1998, is amended to read:

81-3449. The provisions of the Engineers and Architects Regulation Act regulating the practice of architecture do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of (a) a detached single-family through four-family dwelling of less than five thousand square feet of above grade finished space or (b) a one-story commercial or industrial building or structure of less than five thousand square feet of above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space;

(2) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage, if the structures are designed to be occupied by no more than twenty persons;

(3) Any public works project with contemplated expenditures for a completed project that do not exceed forty thousand dollars;

(4) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(5) The teaching, including research and service, of architectural subjects in a college or university offering a degree in architecture accredited by the National Architectural Accreditation Board;

(6) The preparation of submissions to architects, building officials, or other regulating authorities by the manufacturer, supplier, or installer of any materials, assemblies, components, or equipment that describe or illustrate the use of such items, the preparation of any details or shop drawings required of the contractor by the terms of the construction documents, or the management of construction contracts by persons customarily engaged in contracting work;

(7) The preparation of technical submissions or the administration of construction contracts by employees of a person or organization lawfully engaged in the practice of architecture if such employees are acting under the direct supervision of an architect;

(8) The offering by an organization of a combination of services involved in the practice of architecture and construction services if:

(a) An architect or person otherwise permitted under subdivision (10) of this section to offer architectural services participates substantially in all material aspects of the offering;

(b) There is written disclosure at the time of the offering that an architect is engaged by and contractually responsible to such organization;

(c) Such organization agrees that the architect will have direct supervision of the work and that such architect's services will not be terminated without the consent of the person engaging the organization; and

(d) The rendering of architectural services by such architect will conform to the act and the rules and regulations;

(9) A public service provider or an organization who employs a design professional from performing professional services for itself;

(10) A nonresident who holds the certification issued by the National Council of Architectural Registration Boards from offering to render the professional services involved in the practice of architecture. The nonresident shall not perform any of the professional services involved in the practice of architecture until licensed as provided in the act. The

nonresident shall notify the board in writing that (a) he or she holds a National Council of Architectural Registration Boards certificate and is not currently licensed in Nebraska but will be present in Nebraska for the purpose of offering to render architectural services, (b) he or she will deliver a copy of the notice to every potential client to whom the applicant offers to render architectural services, and (c) he or she promises to apply immediately to the board for licensure if selected as the architect for the project;

(11) The practice of any other certified trade or legally recognized profession;

(12) Financial institutions making disbursements of funds in connection with construction projects;

(13) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Water Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality; and

(14) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance.

Sec. 2. Section 81-3453, Revised Statutes Supplement, 1998, is amended to read:

81-3453. The provisions of the Engineers and Architects Regulation Act regulating the practice of engineering do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of (a) a detached single-family through four-family dwelling of less than five thousand square feet above grade finished space or (b) a one-story commercial or industrial building or structure of less than five thousand square feet above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space;

(2) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage and if the structures are designed to be occupied by no more than twenty persons;

(3) Any public works project with contemplated expenditures for the completed project that do not exceed forty thousand dollars;

(4) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(5) The teaching, including research and service, of engineering subjects in a college or university offering an Accrediting Board for Engineering and Technology accredited engineering curriculum of four years or more;

(6) The act does not prevent a public service provider or an organization who employs a design professional from performing professional services for itself;

(7) The practice of any other certified trade or legally recognized profession;

(8) The offer to practice engineering by a person not a resident of and having no established place of business in this state if the person is legally qualified by licensure to practice engineering in his or her own state or country. The person shall make application to the board in writing and after payment of a fee established by the board may be granted a temporary permit for a definite period of time not to exceed one year to do a specific job. No right to practice engineering accrues to such applicant with respect to any other work not set forth in the permit;

(9) The work of an employee or a subordinate of a person holding a certificate of licensure under the act or an employee of a person practicing lawfully under subdivision (8) of this section if the work is done under the direct supervision of a person holding a certificate of licensure or a person practicing lawfully under such subdivision;

(10) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;

(11) Financial institutions making disbursements of funds in connection with construction projects;

(12) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Water Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality;

(13) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance;

(14) Work performed exclusively in the exploration for and development of energy resources and base, precious, and nonprecious minerals, including sand, gravel, and aggregate, which does not have a substantial impact upon public health, safety, and welfare, as determined by the board, or require the submission of reports or documents to public agencies;

(15) The construction of water wells as defined in section 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the owner thereof to be designed or supervised by an engineer or unless legal requirements are imposed upon the owner of a water well as a part of a public water supply; and

(16) Work performed in the exploration, development, and production of oil and gas or before the Nebraska Oil and Gas Conservation Commission.

Sec. 3. Original sections 81-3449 and 81-3453, Revised Statutes Supplement, 1998, are repealed.