

Substitute for HOUSE BILL No. 2224

AN ACT concerning technical professions; amending K.S.A. 2014 Supp. 74-7003 and repealing the existing section.

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

Section 1. K.S.A. 2014 Supp. 74-7003 is hereby amended to read as follows: 74-7003. As used in K.S.A. 74-7001 et seq., and amendments thereto:

(a) “Agricultural building” means any structure designed and constructed to house hay, grain, poultry, livestock or other horticultural products, or for farm storage of farming implements. Such structure shall not be a place for human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a building or structure for use by the public.

(b) “Architect” means a person who is qualified to engage in the practice of architecture and who is licensed by the board to practice architecture as provided in K.S.A. 74-7001 et seq., and amendments thereto.

(c) (1) “Architecture” or “practice of architecture” means providing, offering to provide or holding oneself out as able to provide professional architectural services or performing creative work which requires architectural education, training and experience as may be required in connection with the design and construction, restoration, enlargement or alteration of non-exempt public or private buildings intended for human habitation, occupancy or use, and the spaces within and the site surrounding such buildings.

(2) Professional architectural services include the following: Common technical services, as defined in subsection (g); pre-design and schematic design; programming; planning; preparing or providing *architectural* designs, drawings, specifications and other technical submissions; the design of items relating to building code requirements, as such items pertain to architecture; and the preparation of any architectural design features that are required on legal documents and those other professional architectural services as may be necessary for the rendering of services which have the purpose of protecting the health, safety, property and welfare of the public.

(3) The term “architecture” or “practice of architecture” shall not include those services specifically identified in the definition of “landscape architecture,” “professional engineering,” “professional geology” and “professional surveying” except for those services which are included in the term “common technical services,” as defined in subsection (g).

(d) “Board” means the state board of technical professions.

(e) “Building” means any permanent structure which is enclosed or partially enclosed that provides shelter for human habitation.

(f) “Business entity” means a general corporation, professional corporation, limited liability company, limited liability partnership, corporate partnership or other legal entity created by law.

(g) “Common technical services” means those services which may be offered or performed by any licensee, are performed within the licensee’s defined scope of practice and are further described as follows:

(1) Representation of clients in connection with contracts entered into between clients and others;

(2) coordination of elements of technical submissions prepared by the licensee’s consultants;

(3) administration of contracts for construction;

(4) observation of construction for general conformance with requirements of approved construction documents or technical submissions prepared by a licensee;

(5) performing acts of consultation and technical investigation;

(6) providing expert technical testimony or testimony evaluation;

(7) performing technical evaluations and research;

(8) teaching in a college or university offering an accredited technical professional curriculum recognized by the board; ~~and~~

(9) providing responsible supervision of these services, insofar as such services involve safeguarding the health, safety, property and welfare of the public; *and*

(10) *preparing and providing drawings, specifications and other technical submissions.*

(h) “Construction administration” means the provision of technical professional services during construction by licensees, or persons under

the licensee's responsible supervision, which act to confirm substantial compliance with the requirements and provisions of applicable technical documents prepared by the licensee or under the licensee's responsible supervision. Such technical professional services include, but are not limited to: Assisting with bidding or negotiation processes; reviewing and acting upon shop drawings and other submittals; providing clarification or interpretation of the licensee's technical documents; evaluating general progress of construction; observing or evaluating completed construction; and assisting the client in matters related to the licensee's technical professional expertise. Construction administration services do not include management of, or responsibility for, the contractor's construction activities, means or methods.

(i) "Government client" means any state, county or municipal governmental entity including, but not limited to, any department, agency, authority, planning district, board, commission, office or institution thereof, and any school district, college, university and any individual acting under authority to represent any such governmental entity.

(j) "Landscape architect" means a person who is qualified to engage in the practice of landscape architecture and who is licensed by the board to practice landscape architecture as provided in K.S.A. 74-7001 et seq., and amendments thereto.

(k) (1) "Landscape architecture" or "practice of landscape architecture" means performing professional landscape architectural services including the following: Common technical services, as defined in subsection (g); consultation, planning, designing or responsible supervision in connection with the development of land areas for preservation and enhancement; the development of sustainable designs and technology; preparation, review and analysis of master plans for land use and development; production of overall site development and land enhancement plans, grading and drainage plans, irrigation plans, planting plans and construction details; specifications, cost analysis and reports for land development; and the designing of land forms and non-habitable structures for aesthetic and functional purposes, such as pools, walls and structures for outdoor living spaces, for public and private use. The practice of landscape architecture also encompasses the determination of proper land use as it pertains to: Natural features; ground cover, use, nomenclature and arrangement of plant material adapted to soils and climate; naturalistic and aesthetic values; settings and approaches to structures and other improvements; soil conservation; erosion control; and the development of outdoor space in accordance with ideals of human use and enjoyment.

(2) The term "landscape architecture" or "practice of landscape architecture" shall not include those services specifically identified in the definition of "architecture," "professional engineering," "professional geology" and "professional surveying" except for those services which are included in the term "common technical services," as defined in subsection (g).

(l) "License" means a license to practice the technical professions granted under K.S.A. 74-7001 et seq., and amendments thereto.

(m) "Person" means a natural person or business entity.

(n) "Principal" means a person who serves in a business entity as an officer, member of a board of directors, member of a limited liability company or partner.

(o) "Professional engineer" means a person who is qualified to engage in the practice of engineering and who is licensed by the board to practice engineering as provided in K.S.A. 74-7001 et seq., and amendments thereto.

(p) (1) "Professional engineering" or "practice of engineering" means providing, offering to provide, or holding oneself out as able to provide professional engineering services, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences, including the following: Common technical services, as defined in subsection (g); consulting, investigating, evaluating, planning and designing of engineering works and systems; producing engineering surveys and studies; and preparing any engineering design features which embrace such service or work, either public or private, for any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment of a mechanical, electrical,

hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding the health, safety, property or welfare of the public.

(2) As used in this subsection, the term “engineering surveys” includes all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered projects, but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements and the dependent or independent surveys or resurveys of the public land survey system.

(3) The term “professional engineering” or “practice of professional engineering” shall not include those services specifically identified in the definition of “architecture,” “landscape architecture,” “professional geology” and “professional surveying” except for those services which are included in the term “common technical services,” as defined in subsection (g).

(q) “Professional geologist” means a person who is qualified to engage in the practice of geology and who is licensed by the board to practice geology as provided in K.S.A. 74-7001 et seq., and amendments thereto.

(r) (1) “Professional geology” or “practice of professional geology” means the performing of professional geology services including the following: Common technical services, as defined in subsection (g); planning or mapping, providing observation, or the responsible supervision thereof, in connection with the treatment of the earth and its origin and history, in general; the investigation of the earth’s constituent rocks, minerals, solids, fluids, including surface and underground waters, gases and other materials; and the study of the natural agents, forces and processes which cause changes in the earth.

(2) The term “professional geology” or “practice of professional geology” shall not include those services specifically identified in the definition of “architecture,” “landscape architecture,” “professional engineering” and “professional surveying” except for those services which are included in the term “common technical services,” as defined in subsection (g).

(s) “Professional surveyor” means any person who is engaged in the practice of surveying and who is licensed by the board to practice surveying as provided in K.S.A. 74-7001 et seq., and amendments thereto.

(t) (1) “Professional surveying” or “practice of professional surveying” means providing, or offering to provide, professional surveying services including the following: Common technical services, as defined in subsection (g); using such sciences as mathematics, geodesy and photogrammetry; and involving the making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth, improvements on the earth, the space above, on or below the earth and providing, utilizing or developing the same into survey products such as graphics, data, maps, plans, reports, descriptions or projects. Professional surveying services also include planning, mapping, assembling and interpreting gathered measurements and information related to any one or more of the following:

(A) Determining by measurement the configuration or contour of the earth’s surface or the position of fixed objects thereon;

(B) determining by performing geodetic surveys the size and shape of the earth or the position of any point on the earth;

(C) locating, relocating, establishing, re-establishing or retracing property lines or boundaries of any tract of land, road, right-of-way or easement;

(D) preparing the original descriptions of real property for the conveyance of or recording thereof and the preparation of graphics, data, maps, plans, reports, land subdivision plats, descriptions and projects that represent these surveys;

(E) determining, by the use of principles of surveying, the position for any survey monument, whether boundary or non-boundary, or reference point and establishing or replacing any such monument or reference point;

(F) making any survey for the division, subdivision or consolidation of any tract of land;

(G) locating or laying out alignments, positions or elevations where such work is part of the construction of engineering or architectural works; and

(H) creating, preparing or modifying electronic, computerized or other data relative to performance of the activities set forth in subparagraphs (A) through (G).

(2) The term “professional surveying” or “practice of professional surveying” shall not include those services specifically identified in the definition of “architecture,” “landscape architecture,” “professional engineering” and “professional geology” except for those services which are included in the term “common technical services,” as defined in subsection (g).

(u) “Responsible charge” means the application of personal supervision and professional judgment, and the incorporation of detailed knowledge with respect to the content of a technical submission by a licensee when applying the normal standard of care for the work that such licensee is licensed to perform.

(v) “Standard of care” means the duty to exercise the degree of learning and skill ordinarily possessed by a reputable licensee practicing in Kansas in the same or similar locality and under similar circumstances.

(w) “Technical professions” includes the professions of architecture, landscape architecture, professional engineering, professional geology and professional surveying as the practice of such professions are defined in K.S.A. 74-7001 et seq., and amendments thereto.

Sec. 2. K.S.A. 2014 Supp. 74-7003 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.