SENATE BILL No. 211
By Committee on Federal and State Affairs

AN ACT concerning technical professions; relating to scope of practice; amending K.S.A. 2014 Supp. 74-7003, 74-7031, 74-7032, 74-7033, 74-7034 and 74-7040 and repealing the existing sections.

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 human habitation or use by the public.

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

(c) (1) "Professional 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 qualifications of architectural education, training and practical experience in application of the general knowledge of mathematics, applied physical sciences, principles of architecture and principles of engineering, including architectural engineering as related to architecture, as may be required in connection with the planning, design and construction, restoration, enlargement or alteration of non-exempt public or private buildings intended for human habitation, occupancy or use, but not limited to such buildings or structures for the principle purpose of human habitation or use, building projects or an integral part or parts of buildings, or other services and instruments of service related to architecture, and the spaces within and the site surrounding such buildings.

(2) "Professional—architectural architecture" or "practice of architecture" services include the following: Common technical services, as defined in subsection (g); pre-design and schematic and preliminary...
design; programming; planning; preparing or providing overall interior and exterior architectural building designs, drawings, specifications and other technical submissions, including coordination of such submissions for elements and features of a technical nature for building project design prepared by the architect or the architect's consultants for architectural and engineering-related building features and system design with those design services of an architectural nature, as well as basic architectural, structural, mechanical and electrical engineering-related services and incidental services that licensees of the architectural profession may logically and justifiably perform when qualified by education, training and experience; the design and coordination of all features, systems and items relating to applicable local, state or federal building code requirements, as such items pertain to the practice of architecture; and the preparation of any technical submissions for architectural practice design features and systems that are required on legal for construction documents and those other basic professional architectural services as may be necessary for the rendering of professional services which have the purpose of protecting the health, safety, property and welfare of the public.

(3) The term "professional architecture" or "practice of architecture" shall not include those performance of design and practice services as specifically identified in the definition of "professional landscape architecture," "professional engineering," "professional geology" and "professional surveying" except for: Those grading and drainage plans, structures and walls for outdoor spaces of sites surrounding such buildings which are also included in the practices of landscape architecture and engineering; performance of only such design work for landscape architecture and engineering-related features and systems which are incidental and necessary to the scope of architectural work being performed and shall not be and include the practices of landscape architecture and engineering as defined; and 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, but not limited to the principle purpose for human habitation or such use as to enclose or shelter equipment or processing items of a mechanical, electrical, industrial product or utility nature. "Building" also means any enclosed or partially enclosed structure for shelter consisting of foundation, footings, slab, floors, mezzanines, balconies, decks, load-bearing and non-load-bearing walls, exterior veneers and finishes, interior partitions, fire separation walls, interior finishes, furnishings, door and window assemblies, columns, girders, beams, CMU bond beams,
joists, lintels, roof deck, and roof membrane, or a combination of any
number of these features, components or items, with or without other
components and apprentices thereto, including site work surrounding such
building or structure, architectural, structural, mechanical, plumbing,
HVAC and electrical work or systems, special electronic systems, fire
protection systems, electronic alarm, sprinkler, utility services and other
facilities or systems as may be required for a complete structure with
sheltering purposes under the jurisdiction of governmental entities for
review of technical submissions for sufficiency of compliance with
applicable accessibility requirements, local building codes and state
statutory laws to safeguard the public.

(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 or field 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 for project
elements prepared by others such as the licensee's consultants within the
licensee's field of responsibility as the project's "professional in charge";
(3) administration of contracts for construction;

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

(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 under the jurisdiction of 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;

(10) preparing and providing design drawings, specifications and
other technical submissions as may be required for construction
documents, as the prime professional or the prime professional's
consultant;

(11) licensees' performance of design and practice services, including
design work as incidental to such technical profession, shall also include
the scope of services, practice rights and privileges saved as provided in
K.S.A. 74-7040, and amendments thereto, for licensee's competence as was and is determined by their qualifications of education, training and practical experience as defined by the practice of such licensee's profession when first registered to be licensed and until the time this act takes effect; and

(12) licensees may undertake an assignment outside of the their field of practice as defined, but only to the extent services are restricted to those phases of a licensee's project in which a licensee is competent with qualifications of education, training and experience.

(h) "Construction administration" means the provision of technical professional on site observation or project representation 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 technical or non-technical submittals prepared by others; providing clarification or interpretation of the licensee's technical submittal 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 and coordination of the work, or responsibility for, the contractor's or sub-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) "Professional landscape architect" means a person who is qualified to engage in the practice of the field 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) "Professional 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 "professional landscape architecture" or "practice of landscape architecture" shall not include those performance of design and practice services as specifically identified in the definition of "professional 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); and performance of only such design work for architectural and engineering-related features and systems as are incidental and necessary to the scope of landscape architecture work being performed and shall not be and include the practices of architecture or engineering as defined.

(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 in the fields of civil, architectural, structural, mechanical and electrical 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 or systems, such as, but not limited to, the scope of practice and fields for civil, architectural, structural, mechanical and electrical engineering
which embrace such service or work, either public or private, for any
utilities, storm water management, fire protection, structures, and
buildings, including structure or building design submittals prepared by
an engineer as such engineer may be qualified or the engineer's
consultants for architectural-related design services, for the principle
purpose of enclosing or sheltering 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 relate to building code requirements and 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 performance of design and practice
services as specifically identified in the definition of "professional
architecture," "professional landscape architecture," "professional
geology" and "professional surveying" except for: Performance of such
design work for architecture and landscape architecture related features
which are incidental and necessary to the scope of engineering work being
performed and shall not be and include the practice of architecture or
landscape architecture; those design services for development of sites
surrounding buildings specifically identified in architecture; those design
services for grading and drainage plans, irrigation plans, land forms for
pools, walls and structures and erosion control specifically identified in
landscape architecture; and 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 the field 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 performance of practice services specifically identified in the definition of "professional architecture," "professional 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 in the field of 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 performance of practice services specifically identified in the definition of "professional architecture," "professional 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.

(x) "Incidental" means any part, component, feature or system which is of minor accompaniment and liable to occur in consequence of or in connection with the scope of an entire project, including those design services for such project under the jurisdiction of one or more of the technical professions.

Sec. 2. K.S.A. 2014 Supp. 74-7031 is hereby amended to read as follows: 74-7031. The provisions of K.S.A. 74-7001 et seq., and amendments thereto, requiring licensure or the issuance of a certificate of authorization under K.S.A. 74-7036, and amendments thereto, or not requiring new licensure under K.S.A. 74-7040, and amendments thereto, to engage in the practice of architecture shall not be construed to prevent or to affect:

(a) The practice of any person engaging in the publication of books or pamphlets illustrating architectural designs.

(b) Persons preparing plans, drawings or specifications for buildings housing no more than two dwelling units in one contiguous structure or for agricultural buildings.

(c) Persons furnishing, individually or with subcontractors, labor and materials, with or without plans, drawings, specifications, instruments of service, or other data concerning the labor and materials to be used for any of the following, provided, compliance with the most recent edition of the international building code adopted by the international code conference and rules and regulations adopted by the state fire marshal, is not required:
1. (1) Store fronts or facades, interior alterations or additions, fixtures, cabinet work, furniture, appliances or other equipment;
2. (2) work necessary to provide for installation of any item designated in subsection (c)(1);
3. (3) alterations or additions to a building necessary to, or attendant upon, installation of any item designated in subsection (c)(1), if the alteration or addition does not change or affect:
   A. The structural system of the building, which structural system includes, but is not limited to, foundations, walls, floors, roofs, footings, bearing partitions, beams, columns or joists and does not exceed the structural capacity of the system;
   B. the required exit capacities or exiting travel distances; or
   C. the required fire ratings of assemblies, fire separation walls or fire ratings required by building type.
4. (d) Work involving matters of rates, rating and loss prevention by employees of insurance rating organizations and insurance service organizations and insurance companies and agencies.
5. (e) The performance of those services described in K.S.A. 74-7003(c)(1) or (c)(2), and amendments thereto, by a licensed landscape architect or business entity issued a certificate of authorization to provide services in landscape architecture under K.S.A. 74-7036, and amendments thereto, in connection with landscape and site planning for the sites, approaches or environment for buildings, structures or facilities.
6. (f) The performance of those services described in K.S.A. 74-7003(c)(1) and (c)(2), and amendments thereto, by a licensed professional engineer or business entity issued a certificate of authorization to provide services in professional engineering under K.S.A. 74-7036, and amendments thereto, in connection with engineering works and systems for the design of such architectural engineering and engineering-related features and systems for buildings, structures or facilities and site planning and development for sites surrounding buildings, structures or facilities, and such building design for the principle purpose of enclosing or sheltering machines, equipment, processes or processing, work systems, industrial consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature.

Sec. 3. K.S.A. 2014 Supp. 74-7032 is hereby amended to read as follows: 74-7032. The provisions of K.S.A. 74-7001 et seq., and amendments thereto, requiring licensure or the issuance of a certificate of authorization under K.S.A. 74-7036, and amendments thereto, or not requiring new licensure under K.S.A. 74-7040, and amendments thereto, to engage in the practice of landscape architecture shall not be construed to prevent or to affect:

(a) The right of any individual to engage in the occupation of growing
and marketing nursery stock, to use the title nurseryman, landscape
nurseryman or gardener, or to prohibit any individual to plan or plant such
individual's own property.
(b) The right of unlicensed nurserymen or licensed technical
professionals when competent with or without nurseryman or landscape
architect consultants to engage in preparing and executing planting plans.
(c) The practice of site development planning, in accordance with the
practice of architecture or engineering.
(d) The performance of those services described in subsection (k)(1)
of K.S.A. 74-7003(k)(1), and amendments thereto, by a licensed
professional architect or engineer or business entity issued a certificate of
authorization to provide services in professional architecture or
engineering under K.S.A. 74-7036, and amendments thereto, except that
no licensed professional architect or engineer shall perform the following
services: (1) Planting plans; or (2) 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.
Sec. 4. K.S.A. 2014 Supp. 74-7033 is hereby amended to read as
follows: 74-7033. The provisions of K.S.A. 74-7001 et seq., and
amendments thereto, requiring licensure or the issuance of a certificate of
authorization under K.S.A. 74-7036, and amendments thereto, or not
requiring new licensure under K.S.A. 74-7040, and amendments thereto, to
engage in the practice of engineering shall not be construed to prevent or
to affect:
(a) Except as provided by subsection (b), the design or erection of
any structure or work by a person who owns the structure or work, upon
such person's own premises for such person's own use if the structure or
work is not to be used for human habitation, is not to serve as a place of
employment, and is not to be open to the public for any purpose
whatsoever.
(b) Persons designing or erecting or preparing plans, drawings or
specifications for buildings housing no more than two dwelling units in
one contiguous structure or for agricultural buildings.
(c) Persons engaged in planning, drafting and designing of products
manufactured for resale to the public.
(d) The performance of those services described in K.S.A. 74-7003(p)
(1), and amendments thereto, by a licensed landscape architect or business
entity issued a certificate of authorization to provide services in
professional landscape architecture under K.S.A. 74-7036, and
amendments thereto, in connection with landscape and site planning for
the sites, approaches or environment for buildings, structures or facilities.
(e) The performance of those services described in K.S.A. 74-7003(p)
(1), and amendments thereto, by a licensed architect or business entity
issued a certificate of authorization to practice services in professional
architecture under K.S.A. 74-7036, and amendments thereto, in connection
with engineering-related works and systems for the design of architectural
engineering-related features and systems for buildings, structures or
facilities; site planning and development for sites surrounding buildings,
structures or facilities; and such building design for the intent of human
habitation, occupancy or use or for the principle purpose of enclosing or
sheltering machines, equipment, processes or processing, work systems,
industrial consumer products or equipment of a mechanical, electrical,
hydraulic, pneumatic or thermal nature.

Sec. 5. K.S.A. 2014 Supp. 74-7034 is hereby amended to read as
follows: 74-7034. The provisions of K.S.A. 74-7001 et seq., and
amendments thereto, requiring licensure or the issuance of a certificate of
authorization under K.S.A. 74-7036, and amendments thereto, or not
requiring new licensure under K.S.A. 74-7040, and amendments thereto, to
engage in the practice of surveying shall not be construed to prevent or to
affect:

(a) Those surveying activities, which include locating or laying out of
alignments, positions or elevations where such work is part of the
construction of engineering or architectural works, when such activities
are for purposes other than the conveyance of an interest in real property.

(b) The practice of surveying by an individual of such individual's
own real property or that of such individual's employer for purposes other
than the conveyance of an interest in such real property.

(c) The surveying on farms for agricultural purposes other than the
conveyance of an interest in such farm property.

(d) The performance of those services described in K.S.A. 74-7003(t)
(1), and amendments thereto, by a licensed landscape architect or by a
business entity issued a certificate of authorization to provide services in
landscape architecture under K.S.A. 74-7036, and amendments thereto, in
connection with landscape and site planning for the sites, approaches or
environment for buildings, structures or facilities.

(e) The performance of those services described in K.S.A. 74-7003(t)
(1), and amendments thereto, by a licensed architect or professional
engineer or by a business entity issued a certificate of authorization to
provide services in architecture and professional engineering under K.S.A.
74-7036, and amendments thereto, in connection with site planning and
development design for sites surrounding buildings, structures or
facilities.

(e) Mapping by governmental agencies when such activity does not
involve the locating, relocating, or physical establishment of land
boundaries and related monuments or the preparation of original or field
retracement of existing descriptions of real property.
Sec. 6. K.S.A. 2014 Supp. 74-7040 is hereby amended to read as follows: 74-7040. Any person who was or is registered to be licensed to practice the technical professions in the state of Kansas at the time this act takes effect, including the time since such person was first licensed, shall thereafter continue to possess the same rights and privileges, including those saved previously, with respect to the practice of the technical profession for which such person was and is licensed, in accordance with the current definition of definitions for the saved practice rights and privileges of such technical profession since the time such person was first licensed, without being required to obtain a new license under the provisions of this act, subject to applicable court case opinion for interpretation of prior and current statutory laws for practice rights and privileges saved, and the power of the board as provided in this act to suspend or revoke the license of any such person for any of the causes set forth in K.S.A. 74-7026, and amendments thereto, and subject to the power of the board to require any such person to renew such license as provided in K.S.A. 74-7025, and amendments thereto.

Sec. 7. K.S.A. 2014 Supp. 74-7003, 74-7031, 74-7032, 74-7033, 74-7034 and 74-7040 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.