

# PROPOSED AMENDMENT

## HB 1138 # 1

### DIGEST

Professional licensing matters. Removes references to a quality review in provisions relating to the licensing of accountants. Requires the Indiana board of accountancy (board) to adopt rules requiring the firm to allow the administering entity to provide access to the results of its most recently accepted peer review and other objective information to the board. Removes language requiring the administering entity to make a peer review report available to the oversight committee not more than 30 days after the issuance of the peer review report. Provides that the results of a peer review may be treated as a complaint submitted by the board. Removes language requiring the peer review committee issuing a report to cooperate with an investigation of a complaint. Allows the use of certain titles by an individual who is enrolled in or has graduated from a school or college of architecture or an accredited curriculum of landscape architecture.

- 
- 1           Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:  
3           "SECTION 1. IC 25-1-11-12, AS AMENDED BY P.L.197-2011,  
4 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2024]: Sec. 12. (a) The board may impose any of the  
6 following sanctions, singly or in combination, if the board finds that a  
7 practitioner is subject to disciplinary sanctions under sections 5  
8 through 9 of this chapter:  
9           (1) Permanently revoke a practitioner's license.  
10           (2) Suspend a practitioner's license.  
11           (3) Censure a practitioner.  
12           (4) Issue a letter of reprimand.  
13           (5) Place a practitioner on probation status and require the  
14 practitioner to:  
15           (A) report regularly to the board upon the matters that are the  
16 basis of probation;  
17           (B) limit practice to those areas prescribed by the board;  
18           (C) continue or renew professional education approved by the  
19 board until a satisfactory degree of skill has been attained in  
20 those areas that are the basis of the probation;  
21           (D) perform or refrain from performing any acts, including  
22 community restitution or service without compensation, that

- 1 the board considers appropriate to the public interest or to the  
 2 rehabilitation or treatment of the practitioner; or  
 3 (E) satisfactorily complete a ~~quality review (before July 1,~~  
 4 ~~2012)~~ or peer review (~~after June 30, 2012)~~ specified by the  
 5 board as a condition for termination of probationary status if  
 6 the practitioner is a licensee (as defined in IC 25-2.1-1-8).
- 7 (6) Assess a civil penalty against the practitioner for not more  
 8 than one thousand dollars (\$1,000) for each violation listed in  
 9 sections 5 through 9 of this chapter except for a finding of  
 10 incompetency due to a physical or mental disability.
- 11 (7) Order a practitioner to pay consumer restitution to a person  
 12 who suffered damages as a result of the conduct or omission that  
 13 was the basis for the disciplinary sanctions under this chapter.
- 14 (b) When imposing a civil penalty under subsection (a)(6), the board  
 15 shall consider a practitioner's ability to pay the amount assessed. If the  
 16 practitioner fails to pay the civil penalty within the time specified by  
 17 the board, the board may suspend the practitioner's license without  
 18 additional proceedings. However, a suspension may not be imposed if  
 19 the sole basis for the suspension is the practitioner's inability to pay a  
 20 civil penalty.
- 21 (c) The board may withdraw or modify the probation under  
 22 subsection (a)(5) if the board finds after a hearing that the deficiency  
 23 that required disciplinary action has been remedied or that changed  
 24 circumstances warrant a modification of the order.
- 25 SECTION 2. IC 25-2.1-1-6.3 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 6.3. "Compilation"  
 27 means providing a service **of any compilation engagement** to be  
 28 performed in accordance with AICPA Statements on Standards for  
 29 Accounting and Review Services (SSARS). ~~or other similar standards~~  
 30 ~~adopted by reference under IC 25-2.1-2-15 that is presenting, in the~~  
 31 ~~form of financial statements, information that is the representation of~~  
 32 ~~the management or owners without undertaking to express any~~  
 33 ~~assurance on the statements.~~
- 34 SECTION 3. IC 25-2.1-1-8.7, AS ADDED BY P.L.197-2011,  
 35 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2024]: Sec. 8.7. (a) "Peer review" means a study, an appraisal,  
 37 or a review of at least one (1) aspect of the professional work of:  
 38 (1) an individual who; or  
 39 (2) a firm in the practice of accountancy that;  
 40 attests or issues compilation reports, by at least one (1) individual who

1 holds a certificate from any state and possesses qualifications that meet  
 2 the applicable substantial equivalency standards and who is  
 3 independent of the individual or firm being reviewed. ~~The term~~  
 4 ~~includes any part of a quality review conducted before July 1, 2012;~~  
 5 ~~that becomes part of a peer review conducted or peer review report~~  
 6 ~~issued after June 30, 2012.~~

7 (b) After June 30, 2012, any reference in any law, rule, or other  
 8 document to "quality review" as that term was applied under this article  
 9 before July 1, 2012, shall be treated as a reference to peer review.

10 SECTION 4. IC 25-2.1-2-15, AS AMENDED BY P.L.197-2011,  
 11 SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2024]: Sec. 15. The board may adopt rules under IC 4-22-2  
 13 governing the administration and enforcement of this article and the  
 14 conduct of licensees, including the following:

15 (1) The board's meetings and conduct of business.

16 (2) The procedure of investigations and hearings.

17 (3) The educational and experience qualifications required for the  
 18 issuance of certificates under this article and the continuing  
 19 professional education required for renewal of certificates under  
 20 IC 25-2.1-4.

21 (4) Rules of professional conduct directed to controlling the  
 22 quality and probity of the practice of accountancy by licensees,  
 23 including independence, integrity, and objectivity, competence  
 24 and technical standards, and responsibilities to the public and  
 25 clients.

26 (5) The actions and circumstances that constitute professing to be  
 27 a licensee in connection with the practice of accountancy.

28 (6) The manner and circumstances of use of the title "certified  
 29 public accountant" and the abbreviation "CPA".

30 (7) ~~Quality reviews (before July 1, 2012) or Peer reviews (after~~  
 31 ~~June 30, 2012)~~ that may be required to be performed under this  
 32 article.

33 (8) Methods of applying for and conducting the examinations,  
 34 including methods for grading examinations and determining a  
 35 passing grade required of an applicant for a certificate. However,  
 36 the board shall to the extent possible provide that the  
 37 examination, grading of the examination, and the passing grades  
 38 are uniform with those applicable in other states.

39 (9) Substantial equivalency.

40 (10) Administration of the accountant investigative fund

1 established by IC 25-2.1-8-4.

2 SECTION 5. IC 25-2.1-5-8, AS AMENDED BY P.L.168-2016,  
3 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2024]: Sec. 8. (a) The board shall adopt rules that require as  
5 a condition to renew a permit under this chapter, that an applicant  
6 undergo, not more than once every three (3) years, a peer review  
7 conducted in a manner the board specifies.

8 (b) The rules adopted under subsection (a) must:

9 (1) be adopted reasonably in advance of the time when a peer  
10 review first becomes effective;

11 (2) include reasonable provision for compliance by an applicant  
12 showing that the applicant has in the preceding three (3) years  
13 undergone a peer review that is a satisfactory equivalent to the  
14 peer review required under this section;

15 (3) require the firm to ~~submit a copy of~~ **allow the administering**  
16 **entity to provide access to** the results of its most recently  
17 accepted peer review **and other objective information specified**  
18 **by the rules** to the board; ~~either directly or through the~~  
19 ~~administering entity;~~

20 (4) require, with respect to peer reviews under subdivision (2),  
21 that the peer review be subject to review by an oversight ~~body~~  
22 **committee** established or sanctioned by the board that shall:

23 (A) comply with IC 25-2.1-9-4; and

24 (B) periodically report to the board on the effectiveness of the  
25 review program and provide to the board a listing of firms that  
26 have participated in a peer review program; and

27 (5) subject to section 9 of this chapter and IC 25-2.1-9-4, require,  
28 with respect to peer reviews under subdivision (2), that:

29 (A) the proceedings, records, and work papers of a review  
30 committee are privileged and are not subject to discovery,  
31 subpoena, or other means of legal process or introduction into  
32 evidence in a civil action, arbitration, administrative  
33 proceeding, or ~~Indiana board of accountancy~~ proceeding; and

34 (B) a member of the review committee or individual who was  
35 involved in the peer review process is not permitted or  
36 required to testify in a civil action, arbitration, administrative  
37 proceeding, or board proceeding to matters:

38 (i) produced, presented, disclosed or discussed during, or in  
39 connection with, the peer review process; or

40 (ii) that involve findings, recommendations, evaluations,

1 opinions, or other actions of the committee or a committee  
2 member.

3 SECTION 6. IC 25-2.1-8-2, AS AMENDED BY P.L.197-2011,  
4 SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2024]: Sec. 2. In place of or in addition to any remedy  
6 specifically provided in IC 25-1-11, the board may require the  
7 following of a licensee:

8 (1) To undergo a ~~quality review (before July 1, 2012) or a peer~~  
9 ~~review. (after June 30, 2012).~~

10 (2) To satisfactorily complete continuing professional education  
11 programs.

12 SECTION 7. IC 25-2.1-9-4, AS ADDED BY P.L.197-2011,  
13 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2024]: Sec. 4. (a) This section applies to a licensee that  
15 receives a peer review rating of fail ~~on a peer review report issued after~~  
16 ~~June 30, 2012~~, for a peer review conducted under IC 25-2.1-5-8.

17 (b) The following definitions apply throughout this section:

18 (1) "Administering entity" refers to the ~~oversight~~ body established  
19 or sanctioned by the board to conduct a peer review program.

20 (2) "Director" refers to the director of the division of consumer  
21 protection in the office of the attorney general.

22 (3) "Oversight committee" refers to a committee of licensees who  
23 are not board members that is designated by the board to receive  
24 ~~a report. the results of a peer review.~~

25 ~~(4) "Report" refers to a peer review report described in subsection~~  
26 ~~(a); including any description of the deficiencies on which the~~  
27 ~~peer review rating of fail is based.~~

28 (c) The board shall provide the director with the name and contact  
29 information for the administering entity.

30 (d) ~~Not more than thirty (30) days after the issuance of a report, the~~  
31 ~~administering entity shall make the report available to the oversight~~  
32 ~~committee. The oversight committee may forward the report results of~~  
33 ~~a peer review to the director. Receipt of the report shall results may~~  
34 be treated under IC 25-1-7-4, IC 25-1-7-5, and IC 25-1-7-6 as a  
35 complaint submitted by the board. If, after conducting an investigation,  
36 the director believes that a licensee should be subjected to disciplinary  
37 sanctions by the board, the director shall report the director's  
38 determination to the attorney general. Upon receiving the director's  
39 report, the attorney general may prosecute the matter, on behalf of the  
40 state of Indiana, before the board. IC 25-1-7-7(b) does not apply to a

1 determination related to a complaint filed under this section.

2 (e) The administering entity ~~and the peer review committee issuing~~  
 3 ~~a report~~ shall cooperate with an investigation under IC 25-1-7 of a  
 4 ~~complaint filed under this section. and with any resulting proceeding;~~  
 5 ~~including compliance with any request for access to or production of~~  
 6 ~~the proceedings; records; and work papers of the review committee by~~  
 7 ~~the director; the office of the attorney general; or a party to any~~  
 8 ~~proceeding initiated as a result of the filing of a complaint under this~~  
 9 ~~section.~~ However, all complaints and information pertaining to a  
 10 complaint are confidential until the attorney general files notice with  
 11 the board of the attorney general's intent to prosecute a licensee under  
 12 IC 25-1-7-7. Any meeting of the board, the oversight committee, or a  
 13 designee of the board or oversight committee that is required in an  
 14 investigation conducted before the attorney general files notice of  
 15 intent to prosecute shall be conducted as an executive session under  
 16 IC 5-14-1.5-6.1.

17 SECTION 8. IC 25-2.1-9-5, AS ADDED BY P.L.197-2011,  
 18 SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2024]: Sec. 5. An:

20 (1) entity administering a ~~quality review program before July 1,~~  
 21 ~~2012; or a peer review program; after June 30, 2012;~~

22 (2) officer, member, or employee of an entity administering a  
 23 ~~quality review program before July 1, 2012; or a peer review~~  
 24 ~~program; after June 30, 2012;~~

25 (3) employee or member of a ~~quality review committee before~~  
 26 ~~July 1, 2012; or a peer review committee; after June 30, 2012;~~ and

27 (4) entity in which or for which a member of a ~~quality review~~  
 28 ~~committee (before July 1, 2012) or peer review committee (after~~  
 29 ~~June 30, 2012) is a sole proprietor, a partner, a shareholder, a~~  
 30 ~~member, or an employee;~~

31 is immune from civil liability that would otherwise arise from  
 32 communications, supervision, findings, recommendations, evaluations,  
 33 reports, opinions, or other actions taken or omissions occurring in good  
 34 faith in the course and scope of the duties of a ~~quality review~~  
 35 ~~administering entity (before July 1, 2012) or peer review administering~~  
 36 ~~entity (after June 30, 2012) or a quality review committee (before July~~  
 37 ~~1, 2012) or peer review committee (after June 30, 2012) that arise~~  
 38 ~~under this article, including the rules adopted by the board. The~~  
 39 ~~immunity granted under this section includes immunity for an act or~~  
 40 ~~omission related to any part of a quality review conducted under this~~

1 ~~article before July 1, 2012, that becomes part of a peer review~~  
 2 ~~conducted or peer review report issued after June 30, 2012.~~

3 SECTION 9. IC 25-2.1-11-2, AS AMENDED BY P.L.197-2011,  
 4 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2024]: Sec. 2. Before reinstating a suspended certificate or  
 6 permit under IC 25-1-11-14, the board may require the applicant to  
 7 show successful completion of specified continuing professional  
 8 education **or other actions**, and the board may make the reinstatement  
 9 of a certificate or permit conditional on satisfactory completion of a  
 10 **quality review (before July 1, 2012) or peer review (after June 30,**  
 11 **2012)** specified by the board.

12 SECTION 10. IC 25-2.1-14-2, AS AMENDED BY P.L.197-2011,  
 13 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2024]: Sec. 2. The information derived from or as the result  
 15 of professional services is confidential and privileged. However, this  
 16 section does not prohibit a certified public accountant, a public  
 17 accountant, or an accounting practitioner from disclosing any data  
 18 required to be disclosed by the standards of the profession:

- 19 (1) in rendering an opinion on the presentation of financial
- 20 statements;
- 21 (2) in ethical investigations conducted by private professional
- 22 organizations;
- 23 (3) in the course of **quality reviews (before July 1, 2012) or peer**
- 24 **reviews (after June 30, 2012) or an investigation or proceeding**
- 25 **related to a quality review (before July 1, 2012) or peer review;**
- 26 **(after June 30, 2012); or**
- 27 (4) in making disclosure where the financial statements or the
- 28 professional services of an accountant are contested.

29 SECTION 11. IC 25-2.1-14-5, AS AMENDED BY P.L.197-2011,  
 30 SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2024]: Sec. 5. (a) This chapter does not prohibit a temporary  
 32 transfer of work papers or other material necessary to carry out **quality**  
 33 **reviews (before July 1, 2012) or peer reviews, (after June 30, 2012);**  
 34 **conduct an investigation or proceeding related to a quality review**  
 35 **(before July 1, 2012) or peer review, (after June 30, 2012); or comply**  
 36 **with the disclosure of information under this chapter.**

37 (b) A licensee is not required to keep any work paper beyond the  
 38 period prescribed in any applicable statute.

39 SECTION 12. IC 25-4-1-18.5 IS ADDED TO THE INDIANA  
 40 CODE AS A **NEW SECTION TO READ AS FOLLOWS**

1 [EFFECTIVE JULY 1, 2024]: **Sec. 18.5. (a) An individual who has**  
 2 **graduated from a school or college of architecture accredited by**  
 3 **the National Architectural Accrediting Board, Inc., or its successor**  
 4 **may profess to be an "architectural graduate" and use the term to**  
 5 **describe the individual.**

6 **(b) An individual currently enrolled in, but not yet graduated**  
 7 **from, a school or college of architecture accredited by the National**  
 8 **Architectural Accrediting Board, Inc., or its successor may profess**  
 9 **to be an "architectural intern" and use the term to describe the**  
 10 **individual.**

11 SECTION 13. IC 25-4-2-10.5 IS ADDED TO THE INDIANA  
 12 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 13 [EFFECTIVE JULY 1, 2024]: **Sec. 10.5. (a) An individual who has**  
 14 **graduated from an accredited curriculum of landscape**  
 15 **architecture presented by a college or school approved by the**  
 16 **board may profess to be a "landscape architectural graduate" and**  
 17 **use the term to describe the individual.**

18 **(b) An individual currently enrolled in, but not yet graduated**  
 19 **from, an accredited curriculum of landscape architecture**  
 20 **presented by a college or school approved by the board may**  
 21 **profess to be a "landscape architectural intern" and use the term**  
 22 **to describe the individual."**

23 Page 2, after line 8, begin a new paragraph and insert:

24 "SECTION 15. IC 34-30-2.1-366, AS ADDED BY P.L.105-2022,  
 25 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2024]: Sec. 366. IC 25-2.1-9-5 (Concerning immunity of an  
 27 entity administering a ~~quality review (before July 1, 2012)~~ or peer  
 28 review ~~(after June 30, 2012)~~ program and members of a ~~quality review~~  
 29 ~~committee (before July 1, 2012)~~ or peer review committee). ~~(after June~~  
 30 ~~30, 2012))~~:"

31 SECTION 16. IC 34-46-2-17, AS AMENDED BY P.L.197-2011,  
 32 SECTION 126, IS AMENDED TO READ AS FOLLOWS  
 33 [EFFECTIVE JULY 1, 2024]: Sec. 17. IC 25-2.1-5-8 (Concerning  
 34 proceedings, records, and work papers of a ~~quality review committee~~  
 35 ~~that conducts a quality review of an accounting firm before July 1,~~  
 36 ~~2012; or a peer review committee that conducts a peer review of an~~  
 37 ~~accounting firm). ~~after June 30, 2012)~~:"~~

38 Renumber all SECTIONS consecutively.  
 (Reference is to HB 1138 as introduced.)