

HB235 INTRODUCED



1 HB235
2 68JW111-1
3 By Representative Lipscomb
4 RFD: Boards, Agencies and Commissions
5 First Read: 27-Feb-24



SYNOPSIS:

Under existing law, the Alabama Board for Registration of Architects regulates the practice of architecture in this state.

This bill would clarify definitions.

This bill would further provide for the duties of the board.

This bill would further regulate the practice of architecture by entities.

This bill would also make nonsubstantive, technical revisions to update existing code language to current style.

A BILL

TO BE ENTITLED

AN ACT

Relating to the Alabama Board for Registration of Architects; to amend Sections 34-2-30, 34-2-33, 34-2-34, 34-2-35, 34-2-36, 34-2-37, 34-2-38, 34-2-39, 34-2-40, and 34-2-41, Code of Alabama 1975; to repeal Section 34-2-42, Code of Alabama 1975; and to add Section 34-2-43 to the Code of Alabama 1975, to clarify definitions; to further provide for the duties of the board; to further regulate the practice of



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architecture by entities; and to make nonsubstantive, technical revisions to update existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-2-30, 34-2-33, 34-2-34, 34-2-35, 34-2-36, 34-2-37, 34-2-38, 34-2-39, 34-2-40, and 34-2-41, Code of Alabama 1975, are amended to read as follows:

"§34-2-30

For the purposes of this chapter, the following words ~~and phrases shall~~ have the following meanings ~~respectively ascribed by this section~~:

(1) ARCHITECT. An individual who is legally qualified to practice architecture.

(2) BUILDING. A structure consisting of foundation, walls, or supports and roof, with or without related components, systems, or other parts comprising a completed building ready for occupancy.

(3) PRACTICE ARCHITECTURE or PRACTICING ARCHITECTURE. Performing ~~or doing~~, or offering or attempting to ~~do or~~ perform any service, education, training, work, act, or thing within the scope of the practice of architecture. An individual shall be construed to hold himself or herself out as practicing architecture when, by verbal claim, sign, advertisement, letterhead, card, or any other way, the individual represents himself or herself to be an architect with or without qualifying adjective, or when he or she implies that he or she is an architect through the use of some other title.



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(4) PRACTICE OF ARCHITECTURE. When an individual holds himself or herself out as able to render or when the person does render any service, education, or training by consultations, investigations, evaluations, preliminary studies, plans, specifications, contract documents, and a coordination of all factors concerning the design and observation of construction of buildings or any other service in connection with the design, observation, or construction of buildings or any other service, education, or training in connection with the design, observation, or construction of buildings located within the boundaries of the state, regardless of whether such services, education, or training are performed in connection with one or all of these duties, or whether they are performed in person or as the directing head of an office, institution, or organization performing them.

(5) RESPONSIBLE CONTROL. Control over all phases of the practice of architecture, including, but not limited to, control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered architects applying the required professional standard of care."

"§34-2-33

(a) The board shall receive applications for registration as an architect only on forms prescribed and furnished by the board.

(1) Upon receipt of the application and the payment of a fee, as established by the board through the public



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rulemaking process, ~~the fee in no event exceeding two hundred fifty dollars (\$250),~~ the board shall promptly notify the applicant of examination requirements for registration, if applicable.

(2) The board may contract with an independent testing agency to prepare, grade, or conduct the examination. If the board determines the applicant requires examination, the applicant shall pay the actual cost of the examination directly to the board-authorized testing agency.

(b) The board may issue to an applicant, without further examination, a certificate of registration as an architect, provided the applicant holds an unexpired certificate issued to him or her by the National Council of Architectural Registration Boards, ~~hereinafter referred to as~~ (NCARB).

(c) (1) The following facts established in the application shall be regarded as prima facie evidence satisfactory to the board that the applicant is fully qualified to be examined for registration:

~~(1)~~ a. Graduation after a course of study of a length as the board shall by regulation determine from a school or college of architecture accredited by the National Architectural Accrediting Board, ~~hereinafter referred to as~~ (NAAB); and

~~(2)~~ b. An additional period of practical experience in architectural work under the responsible control of a registered architect or architects as the board by regulation shall deem appropriate.



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(2) If the applicant is unable to satisfy the requirements of subdivision (1), the applicant may demonstrate appropriate qualifications by a combination of education, experience, and examination endorsed by NCARB and approved by the board.

(d) Unless exempted, applicants shall take and pass the professional examination administered by the board or an independent testing agency approved by the board.

~~(d) In determining the sufficiency of the qualifications of the applicant for registration, a majority vote of the members of the board shall be required.~~

(e) (1) Certificates for registration shall expire on December 31 following their issuance or renewal and shall become invalid on ~~that day~~ January 1 unless renewed.

(2) Certificates of registrants who are or may be in the Armed Forces of the United States shall not expire until December 31 following the discharge or final separation of the registrant from the Armed Forces of the United States.

(f) (1) Renewal may be accomplished at any time prior to or during the month of December by the payment of a fee established by rule by the board ~~not to exceed two hundred fifty dollars (\$250).~~

(2) A penalty ~~not to exceed the sum of seventy-five dollars (\$75)~~ established by board rule may be added to the renewal fee for failure to renew a certificate upon such terms and conditions as the board may by regulation determine. Failure to renew a certificate of registration by March 31 shall result in a lapse of registration.



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(g) A registrant whose certificate of registration has lapsed may have it reinstated, if in compliance with other relevant requirements, by filing a reinstatement application and paying, in addition to the appropriate renewal fee and late penalty, a reinstatement fee ~~of two hundred fifty dollars (\$250)~~ established by board rule.

(h) There is ~~hereby created, for renewal of certificate purposes,~~ a status to be known as "emeritus status architect," which shall apply to architects who have been registered for 10 consecutive years or longer, and who are 65 years of age or older, and who have retired from active practice. ~~The annual renewal of registration for emeritus status shall be renewed without payment of a fee.~~ If an emeritus status architect subsequently wishes to practice, he or she may do so without penalty by proper application to the board."

"§34-2-34

(a) The board shall have the following disciplinary powers:

(1) To issue cease and desist letters to persons who are practicing architecture without a license.

~~(1)~~ (2) To issue reprimands to any licensee who violates any provision of this chapter or the rules ~~and regulations~~ of the board.

~~(2)~~ (3) To levy administrative fines for serious violations of this chapter or the rules ~~and regulations~~ of the board of not more than five thousand dollars (\$5,000) for each day the violation continues, but in no event shall an administrative fine exceed twenty-five thousand dollars



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169 (\$25,000) total per violation.

170 ~~(3)~~ (4) To refuse to issue a certificate, to suspend a
171 certificate for a definite period, or to revoke the
172 certificate of registration of an architect who is found
173 guilty of any of the following:

174 a. Any fraud or deceit in obtaining a certificate of
175 registration as determined by the board at a hearing~~+~~.

176 b. Gross negligence, incompetence, or misconduct in the
177 practice of architecture as determined by the board at a
178 hearing~~+~~.

179 c. A felony or misdemeanor involving moral turpitude by
180 a court of competent jurisdiction~~+~~.

181 d. Practicing architecture in this state in violation
182 of the standards of professional conduct established by the
183 board~~+~~.

184 e. Practicing architecture in this or any other state
185 or country in violation of the laws of that state or country~~+~~
186 ~~or~~.

187 f. Aiding or abetting any individual, partnership, or
188 corporation to engage in the practice of architecture in
189 violation of any provisions of law.

190 ~~(4)~~ (b) Pursuant to subdivision ~~(3)~~ (a), notice of the
191 nature of the charges placed against an architect and the time
192 and place of hearing these charges by the board must be sent
193 to the accused by certified mail, with return receipt
194 requested, and addressed to his or her last known place of
195 business, or residence, not less than 30 days before the date
196 fixed for such hearing. The notice shall inform the individual



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that he or she is entitled to be represented by counsel of his or her choosing at the hearing, to have witnesses testify in his or her behalf at the hearing, to confront and cross-examine witnesses at the hearing, and to testify in his or her own behalf at the hearing.

(c) In all cases of reprimand, administrative fine, refusal, suspension, or revocation of a certificate of registration, or any other disciplinary action of the board, the accused may appeal to the Circuit Court of Montgomery County, Alabama. Either party, the accused or the board, has the right to appeal from the final decree of the circuit court as provided by law."

"§34-2-35

(a) Each registrant must obtain a seal of a design authorized by the board bearing the registrant's name, the legend registered architect, the words State of Alabama, and the registrant's license registration number.

(b) Nothing in this chapter shall prevent a registered architect from being employed by a person, firm, partnership, corporation, or professional corporation.

(c) Plans, specifications, plates, and reports, and all documents prepared by an architect which are issued by a registrant must be stamped with the seal during the life of a registrant's certificate.

(d) It shall be unlawful for anyone to stamp or seal any document with the seal after the certificate or the registrant named thereon has expired or been suspended or revoked.



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(e) It shall be unlawful for an architect or any other individual to stamp, to cause to be stamped, or to allow to be stamped any document or documents which were not prepared under the responsible control of the registered architect whose stamp is to be affixed thereon.

(f) (1) On or after July 22, 1987, it shall be unlawful:
~~(1)~~ a. ~~to~~ To practice architecture in a branch office not under the day-to-day supervision of a registered architect ~~or.~~
~~(2)~~ b. ~~for~~ For an architect to falsely represent himself or herself as being in responsible control of architectural work or to permit his or her seal, or ~~faesimile~~ image thereof, to be used by another for any purpose.

(2) Violations described in subdivisons (1) and (2) shall be penalized as provided in Section 34-2-36."

"§34-2-36

(a) On or after April 28, 1999, any person who knowingly, willfully, or intentionally violates any provision of this chapter shall be guilty of a Class A misdemeanor. Each day of violation shall constitute a distinct and separate offense.

(b) When it appears to the board that any person is violating ~~any of the provisions of~~ this chapter, the board may in its own name bring an action in the circuit court for an injunction, and the court may enjoin any person from violating this chapter regardless of whether the proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

(c) In addition to any other provisions of law, the



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board may enter an order assessing a civil penalty against any nonregistered ~~person~~ individual, corporation, or other entity found guilty by the board of, but not limited to, the following violations of this chapter:

(1) Engaging in the practice or offer to practice architecture in this jurisdiction without being registered in accordance with this chapter.

(2) Using or employing the words architect, architecture, or any modification or derivative thereof in its name or form of business activity, except as authorized in this chapter.

(3) Presenting to the board ~~or a member of the board~~ or attempting to use the certificate of registration or the seal of another registered architect to obtain or attempt to obtain a certificate of registration.

(4) Giving false or forged evidence of any kind to the board ~~or a member of the board~~ in obtaining or attempting to obtain a certificate of registration.

(5) Falsely impersonating another registered architect of like or different name.

(6) Using or attempting to use a revoked or nonexistent certificate of registration.

(7) Directing the professional judgment of a registered architect who is responsible for the practice of architecture.

(d) The board shall determine the amount of the civil penalty which shall not exceed five thousand dollars (\$5,000) for each day the violation continues and shall not be greater than twenty-five thousand dollars (\$25,000) total per



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281 violation.

282 (e) Before issuing an order under this section, the
283 board shall provide the person written notice and the
284 opportunity to request, within 30 days of the notice by the
285 board, a hearing on the record.

286 (f) Pursuant to the proceedings under this section, the
287 board may issue subpoenas to compel the attendance and
288 testimony of witnesses and disclosure of evidence and may
289 request the Attorney General to bring an action to enforce a
290 subpoena.

291 (g) A person aggrieved by the levy of a civil penalty
292 under this section may file an appeal to the Circuit Court of
293 Montgomery County exclusively for judicial review of the
294 penalty within 30 days, notwithstanding the Administrative
295 Procedure Act. Unless an appeal is taken or the penalty paid,
296 the order of the board imposing the civil penalty shall become
297 a judgment.

298 (h) If a person fails to pay a civil penalty within 30
299 days after entry of an order pursuant to subsection (c) or if
300 the order is stayed pending an appeal, within 10 days after
301 the court enters a final judgment in favor of the board of an
302 order appealed pursuant to subsection (g), the board shall
303 notify the Attorney General. The Attorney General may commence
304 a civil action to recover the amount of the penalty plus
305 ~~attorney's~~attorney fees and costs.

306 (i) The cost to the board of the action shall be paid
307 by the respondent if found in violation."

308 "§34-2-37



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(a) It shall be lawful for a corporation, a professional corporation, a professional association, a partnership, or a limited liability company (the entity) to practice architecture in this state provided that:

(1) A minimum of two-thirds of those responsible for controlling the activities of the entity, including officers, partners, directors, members, and others depending on the legal structure of the entity, are voting stockholders who are architects or professional engineers, or both, registered under the laws of any United States jurisdiction and at least one is an architect registered in Alabama.

(2) Any agreement to perform such services shall be executed on behalf of the entity by a stockholding officer, partner, director, or member with authority to contractually bind the entity, who is an architect registered in the State of Alabama.

(3) A stockholding officer, partner, director, or member who is an architect registered in the State of Alabama shall exercise responsible control over the particular services contracted for by the entity and that architect's name and seal shall appear on all documents prepared by the entity in its practice of architecture.

(4) Other officers, partners, directors, or members shall not direct the professional judgment of the architect in responsible control over the practice of architecture by the entity.

(5) The entity shall furnish the board with such information about its organization and activities as the board



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shall require by rule and pay an annual administrative fee as the board may require, ~~not to exceed two hundred fifty dollars (\$250)~~ as established by board rule. The board shall maintain a public roster of such entities.

~~(b) All corporations, professional corporations, professional associations, partnerships, and limited liability companies (entities) practicing architecture in the State of Alabama shall fully comply with the above requirements by July 1, 2012.~~

~~(e)~~ (b) Applications to practice as an entity ~~described in subsection (b)~~ shall be made on an annual basis.

Disciplinary action for the entities shall be the same as for registered architects. Approved entities shall be responsible for the acts of their agents, employees, general partners, directors, or officers.

(c) Certificates of Authorization shall expire on April 30 following their issuance or renewal and shall become invalid on May 1 unless renewed.

(d) Renewal may be effected at any time prior to or during the month of April by the payment of a fee established by the board by rule.

(e) A civil penalty in an amount established by the board by rule may be added to the renewal fee for failure to renew a certificate upon terms and conditions as the board may determine by rule. Failure to renew a certificate of authorization by April 30 shall result in a lapse of the certificate.

(f) A registrant whose Certificate of Authorization has



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lapsed may have the certificate reinstated, if he or she is in compliance with other relevant requirements, by filing a renewal form and paying a reinstatement fee established by the board by rule, in addition to the appropriate renewal fee and late penalty."

"§34-2-38

To carry out the provisions of this chapter, there shall be a State Board for Registration of Architects, consisting of six members, each of whom shall be appointed by the Governor from a list of three persons selected as follows:

(1) All appointments as members of the board shall be architects registered and licensed pursuant to this chapter. The board shall be appointed from the following districts: One from the northern district; two from the north central district; two from the central district⁷; and one from the southern district. The northern district shall be comprised of the Counties of Colbert, Cullman, DeKalb, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, and Winston; the north central district shall be comprised of the Counties of Bibb, Blount, Calhoun, Cherokee, Clay, Cleburne, Etowah, Fayette, Greene, Hale, Jefferson, Lamar, Pickens, Randolph, Shelby, St. Clair, Sumter, Talladega, Tuscaloosa, and Walker; the central district shall be comprised of the Counties of Autauga, Barbour, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Henry, Houston, Lee, Lowndes, Macon, Marengo, Montgomery, Perry, Pike, Russell, Tallapoosa, and Wilcox; and the southern district shall be comprised of



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the Counties of Baldwin, Choctaw, Clarke, Conecuh, Escambia, Mobile, Monroe, and Washington.

(2) Thirty days before the expiration of a board member's term, or for filling a vacancy otherwise occurring, a nominating committee of six members shall be selected by secret ballot from the district entitled to fill the vacancy. The nominating committee shall be elected at a meeting in the district called by the executive director of the board, who shall give notice in writing of the time and place of the called meeting to each architect in the district at least 30 days in advance of the date set for the meeting. Those architects present at the called meeting may vote on the membership of the nominating committee. After the selection of the nominating committee from the district where the vacancy occurs, there shall be a meeting of the committee with the board ~~at the same place within five days to select, by secret ballot,~~ the names of three persons to be sent to the Governor by the executive director of the board. The board may conduct the nominating committee meeting virtually or provide a process of selection by mail-in ballot. The Governor shall appoint one of the named persons to the board. In appointing members to the board, the Governor shall select those persons whose appointments, to the extent possible, ensure that the membership of the board is inclusive and reflects the racial, gender, geographic, ~~urban/rural~~ urban, rural, and economic diversity of the state.

(3) The term of office of the members of the board shall be four years and until their successors are appointed



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421 and qualified.

422 (4) A member shall reside and have his or her principal
423 office in the district from which appointed. A member's place
424 on the board shall become vacant if the member removes either
425 his or her residence or principal office from that district."

426 "§34-2-39

427 (a) ~~Each member of the board shall receive a~~
428 ~~certificate of appointment from the Governor.~~ Before beginning
429 his or her term of office, each member of the board shall file
430 with the Secretary of State the constitutional oath of office.

431 (b) The board, or any committee thereof, shall be
432 entitled to the services of the Attorney General in connection
433 with the affairs of the board, and the board shall have the
434 power to compel attendance of witnesses, to require production
435 of documents, to administer oaths, and to take testimony and
436 proof concerning all matters within its jurisdiction.

437 (c) The board shall adopt and have an official seal
438 which shall be affixed to all certificates of registration
439 granted.

440 (d) The board shall have power and authority to make
441 and adopt bylaws, and rules ~~and regulations~~ consistent with ~~the~~
442 ~~provisions of~~ this chapter and pursuant to the state
443 administrative procedure law in order to comply with the
444 provisions of this chapter and to establish standards of
445 professional conduct of architects.

446 (e) The board shall adopt a program of continuing
447 education not later than October 1, 1993, in order to
448 ~~insure~~ ensure that all registered architects remain informed of



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those technical and professional subjects ~~which~~that the board deems appropriate to professional architectural practice. The board, by rule, may ~~by regulation~~ describe the methods by which the requirements of ~~such~~ the program may be satisfied. Failure to meet such requirements of continuing education shall result in nonrenewal of an architect's certificate of registration."

"§34-2-40

(a) The board shall hold at least four regular meetings each year.

(b) The board shall elect annually a ~~chairman~~chair and vice ~~chairman~~chair who must be members of the board. The board may employ an executive director, clerks, experts, attorneys, and others, as may be necessary in the carrying out of the provisions of this chapter.

(c) The board shall have the power, with the approval of the Governor, to fix the compensation of the executive director and other employees.

(d) A quorum of the board shall consist of not less than a majority of the duly appointed board members."

"§34-2-41

(a) The executive director of the board shall receive and account for all ~~moneys~~ monies derived from the operation of this chapter. Such ~~moneys~~ monies shall be certified into the treasury in a fund to be known as the Fund of the Board for the Registration of Architects. Such fund shall be drawn against only for the purposes of this chapter.

(b) The fiscal year shall commence on the first day of



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October and end on the thirtieth day of September.

(c) Each member of the board shall receive a per diem as recommended by the board consistent with applicable state laws for attending in person or virtual sessions of the board or its committee, and for the time spent in necessary travel to attend meetings of the board or its committee. In addition, each member of the board shall be reimbursed for traveling and ~~clerical~~necessary expenses incurred in carrying out ~~the provisions of this chapter~~ official duties.

(d) Expenses certified by the board as properly and necessarily incurred in the discharge of its duties, including, but not limited to, authorized compensations, additional legal services, experts, clerks, office rent, and supplies, shall be paid out of the fund on the warrant of the Comptroller ~~of the state~~. Such warrant shall be issued on requisitions signed by the ~~chairman~~ chair and executive director of the board. At no time in any fiscal year shall the total amount of warrants issued exceed the total amount of ~~moneys~~monies accumulated in this fund.

(e) The board may make donations from its surplus funds to any state educational institution ~~which~~ that has ~~an~~ a NAAB accredited school of architecture for assistance in promoting education and research programs in architecture.

(f) The board may provide educational information and programs to the public regarding the service of architecture from its surplus funds.

(g) The board may purchase promotional items for outreach and educational programs from its surplus funds.



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(h) For the purpose of attracting architects to the State of Alabama, the board may waive registration fees from its surplus funds as approved by the board through board rule.

(i) The board, by rule, may set registration fees including, but not limited to, application, initial renewal, manual renewal, late renewal, and reinstatement, as well as fees for copies, certificate replacement, and mailing lists.

~~The chairman and the executive director of the board shall give a surety bond in an amount no less than the previous year's budget payable to the State of Alabama and conditioned upon the faithful performance of their duties under this chapter. The premium of the bond shall be paid out of the moneys in the Fund of the Board for the Registration of Architects."~~

Section 2. Section 34-2-42, Code of Alabama 1975, relating to the submission of an annual report, is repealed.

Section 3. Section 34-2-43 is added to the Code of Alabama 1975, to read as follows:

§34-2-43. Sunset Provision.

The board shall be subject to the Alabama Sunset Law, as provided in Chapter 20 of Title 41, as an enumerated agency as provided in Section 41-20-3.

Section 4. This act shall become effective on October 1, 2024.