

HB235 ENGROSSED



1 HB235
2 IMPHZW6-2
3 By Representative Lipscomb
4 RFD: Boards, Agencies and Commissions
5 First Read: 27-Feb-24



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A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Board for Registration of Architects; to amend Sections 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 further provide for the duties of the board; to further regulate the practice of 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 34-2-33, 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:

"§34-2-33

(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 rulemaking process, the fee in no event exceeding two hundred



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29 ~~fifty dollars (\$250),~~ the board shall promptly notify the
30 applicant of examination requirements for registration, if
31 applicable.

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

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

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

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

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

56 (2) If the applicant is unable to satisfy the



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57 requirements of subdivision (1), the applicant may demonstrate
58 appropriate qualifications by a combination of education,
59 experience, and examination endorsed by NCARB and approved by
60 the board.

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

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

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

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

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

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

84 (g) A registrant whose certificate of registration has



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85 lapsed may have it reinstated, if in compliance with other
86 relevant requirements, by filing a reinstatement application
87 and paying, in addition to the appropriate renewal fee and
88 late penalty, a reinstatement fee ~~of two hundred fifty dollars~~
89 ~~(\$250)~~established by board rule.

90 (h) There is ~~hereby created, for renewal of certificate~~
91 ~~purposes,~~ a status to be known as "emeritus status architect,"
92 which shall apply to architects who have been registered for
93 10 consecutive years or longer, and who are 65 years of age or
94 older, and who have retired from active practice. ~~The annual~~
95 ~~renewal of registration for emeritus status shall be renewed~~
96 ~~without payment of a fee.~~ If an emeritus status architect
97 subsequently wishes to practice, he or she may do so without
98 penalty by proper application to the board."

99 "§34-2-34

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

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

104 ~~(1)~~(2) To issue reprimands to any licensee who violates
105 any provision of this chapter or the rules ~~and regulations~~ of
106 the board.

107 ~~(2)~~(3) To levy administrative fines for serious
108 violations of this chapter or the rules ~~and regulations~~ of the
109 board of not more than five thousand dollars (\$5,000) for each
110 day the violation continues, but in no event shall an
111 administrative fine exceed twenty-five thousand dollars
112 (\$25,000) total per violation.



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113 ~~(3)~~ (4) To refuse to issue a certificate, to suspend a
114 certificate for a definite period, or to revoke the
115 certificate of registration of an architect who is found
116 guilty of any of the following:

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

119 b. Gross negligence, incompetence, or misconduct in the
120 practice of architecture as determined by the board at a
121 hearing~~+~~.

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

124 d. Practicing architecture in this state in violation
125 of the standards of professional conduct established by the
126 board~~+~~.

127 e. Practicing architecture in this or any other state
128 or country in violation of the laws of that state or country~~+~~
129 ~~or~~.

130 f. Aiding or abetting any individual, partnership, or
131 corporation to engage in the practice of architecture in
132 violation of any provisions of law.

133 ~~(4)~~ (b) Pursuant to subdivision ~~(3)~~ (a), notice of the
134 nature of the charges placed against an architect and the time
135 and place of hearing these charges by the board must be sent
136 to the accused by certified mail, with return receipt
137 requested, and addressed to his or her last known place of
138 business, or residence, not less than 30 days before the date
139 fixed for such hearing. The notice shall inform the individual
140 that he or she is entitled to be represented by counsel of his



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141 or her choosing at the hearing, to have witnesses testify in
142 his or her behalf at the hearing, to confront and
143 cross-examine witnesses at the hearing, and to testify in his
144 or her own behalf at the hearing.

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

152 "§34-2-35

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

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

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

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

168 (e) It shall be unlawful for an architect or any other



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169 individual to stamp, to cause to be stamped, or to allow to be
170 stamped any document or documents which were not prepared
171 under the responsible control of the registered architect
172 whose stamp is to be affixed thereon.

173 (f) (1) On or after July 22, 1987, it shall be unlawful:

174 ~~(1)~~ a. ~~to~~ To practice architecture in a branch office not
175 under the day-to-day supervision of a registered architect ~~or.~~

176 ~~(2)~~ b. ~~for~~ For an architect to falsely represent himself
177 or herself as being in responsible control of architectural
178 work or to permit his or her seal, or ~~facsimile~~ image thereof,
179 to be used by another for any purpose.

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

182 "§34-2-36

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

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

195 (c) In addition to any other provisions of law, the
196 board may enter an order assessing a civil penalty against any



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197 nonregistered ~~person~~ individual, corporation, or other entity
198 found guilty by the board of, but not limited to, the
199 following violations of this chapter:

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

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

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

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

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

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

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

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



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

229 (f) Pursuant to the proceedings under this section, the
230 board may issue subpoenas to compel the attendance and
231 testimony of witnesses and disclosure of evidence and may
232 request the Attorney General to bring an action to enforce a
233 subpoena.

234 (g) A person aggrieved by the levy of a civil penalty
235 under this section may file an appeal to the Circuit Court of
236 Montgomery County exclusively for judicial review of the
237 penalty within 30 days, notwithstanding the Administrative
238 Procedure Act. Unless an appeal is taken or the penalty paid,
239 the order of the board imposing the civil penalty shall become
240 a judgment.

241 (h) If a person fails to pay a civil penalty within 30
242 days after entry of an order pursuant to subsection (c) or if
243 the order is stayed pending an appeal, within 10 days after
244 the court enters a final judgment in favor of the board of an
245 order appealed pursuant to subsection (g), the board shall
246 notify the Attorney General. The Attorney General may commence
247 a civil action to recover the amount of the penalty plus
248 ~~attorney's~~attorney fees and costs.

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

251 "§34-2-37

252 (a) It shall be lawful for a corporation, a



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253 professional corporation, a professional association, a
254 partnership, or a limited liability company (the entity) to
255 practice architecture in this state provided that:

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

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

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

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

278 (5) The entity shall furnish the board with such
279 information about its organization and activities as the board
280 shall require by rule and pay an annual administrative fee as



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281 the board may require, ~~not to exceed two hundred fifty dollars~~
282 ~~(\$250)~~as established by board rule. The board shall maintain a
283 public roster of such entities.

284 ~~(b) All corporations, professional corporations,~~
285 ~~professional associations, partnerships, and limited liability~~
286 ~~companies (entities) practicing architecture in the State of~~
287 ~~Alabama shall fully comply with the above requirements by July~~
288 ~~1, 2012.~~

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

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

295 (c) Certificates of Authorization shall expire on April
296 30 following their issuance or renewal and shall become
297 invalid on May 1 unless renewed.

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

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

307 (f) A registrant whose Certificate of Authorization has
308 lapsed may have the certificate reinstated, if he or she is in



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309 compliance with other relevant requirements, by filing a
310 renewal form and paying a reinstatement fee established by the
311 board by rule, in addition to the appropriate renewal fee and
312 late penalty."

313 "§34-2-38

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

318 (1) All appointments as members of the board shall be
319 architects registered and licensed pursuant to this chapter.
320 The board shall be appointed from the following districts: One
321 from the northern district; two from the north central
322 district; two from the central district; and one from the
323 southern district. The northern district shall be comprised of
324 the Counties of Colbert, Cullman, DeKalb, Franklin, Jackson,
325 Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall,
326 Morgan, and Winston; the north central district shall be
327 comprised of the Counties of Bibb, Blount, Calhoun, Cherokee,
328 Clay, Cleburne, Etowah, Fayette, Greene, Hale, Jefferson,
329 Lamar, Pickens, Randolph, Shelby, St. Clair, Sumter,
330 Talladega, Tuscaloosa, and Walker; the central district shall
331 be comprised of the Counties of Autauga, Barbour, Bullock,
332 Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw,
333 Dale, Dallas, Elmore, Geneva, Henry, Houston, Lee, Lowndes,
334 Macon, Marengo, Montgomery, Perry, Pike, Russell, Tallapoosa,
335 and Wilcox; and the southern district shall be comprised of
336 the Counties of Baldwin, Choctaw, Clarke, Conecuh, Escambia,



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337 Mobile, Monroe, and Washington.

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

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



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

369 "§34-2-39

370 (a) ~~Each member of the board shall receive a~~
371 ~~certificate of appointment from the Governor.~~ Before beginning
372 his or her term of office, each member of the board shall file
373 with the Secretary of State the constitutional oath of office.

374 (b) The board, or any committee thereof, shall be
375 entitled to the services of the Attorney General in connection
376 with the affairs of the board, and the board shall have the
377 power to compel attendance of witnesses, to require production
378 of documents, to administer oaths, and to take testimony and
379 proof concerning all matters within its jurisdiction.

380 (c) The board shall adopt and have an official seal
381 which shall be affixed to all certificates of registration
382 granted.

383 (d) The board shall have power and authority to make
384 and adopt bylaws, and rules ~~and regulations~~ consistent with ~~the~~
385 ~~provisions of~~ this chapter and pursuant to the state
386 administrative procedure law in order to comply with the
387 provisions of this chapter and to establish standards of
388 professional conduct of architects.

389 (e) The board shall adopt a program of continuing
390 education not later than October 1, 1993, in order to
391 ~~insure~~ insure that all registered architects remain informed of
392 those technical and professional subjects ~~which~~ that the board



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393 deems appropriate to professional architectural practice. The
394 board, by rule, may ~~by regulation~~ describe the methods by
395 which the requirements of ~~such~~ the program may be satisfied.
396 Failure to meet such requirements of continuing education
397 shall result in nonrenewal of an architect's certificate of
398 registration."

399 "§34-2-40

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

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

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

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

412 "§34-2-41

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

419 (b) The fiscal year shall commence on the first day of
420 October and end on the thirtieth day of September.



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

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

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

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

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

448 (h) For the purpose of attracting architects to the



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449 State of Alabama, the board may waive registration fees from
450 its surplus funds as approved by the board through board rule.

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

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

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

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

466 §34-2-43. Sunset Provision.

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

470 Section 4. This act shall become effective on October
471 1, 2024.



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House of Representatives

475 Read for the first time and referred27-Feb-24
476 to the House of Representatives
477 committee on Boards, Agencies and
478 Commissions
479
480 Read for the second time and placed21-Mar-24
481 on the calendar:
482 2 amendments
483
484 Read for the third time and passed11-Apr-24
485 as amended
486 Yeas 102
487 Nays 0
488 Abstains 0
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John Treadwell
Clerk

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