

HB161 INTRODUCED



1 HB161
2 18153L3-1
3 By Representative Lipscomb
4 RFD: State Government
5 First Read: 04-Feb-25



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SYNOPSIS:

Under existing law, the Division of Construction Management within the Department of Finance, which was formerly the State Building Commission, is required to adopt state building codes and state energy conservation codes. The codes apply only to state public buildings, public schools, hotels, and movie theatres. The codes do not apply to private residential or non-residential buildings and structures.

Also under existing law, each county commission and municipality may adopt local building codes for its jurisdiction. The codes are enforced at the local level.

This bill would provide for the standardization of the building codes across the state and would place the authority to adopt the codes with the Division of Construction Management. This bill would also include all non-residential buildings within the state building code and would specify that county and municipal governing bodies would have the primary authority to enforce the building codes with respect to the non-residential buildings.

This bill would establish a process for periodically updating the building codes.

This bill would authorize certain coastal



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29 counties and municipalities to adopt supplemental
30 coastal building codes for protection against
31 hurricanes, high winds, and erosion.

32 This bill would also further provide for the
33 scope of practice of architecture and the duties of a
34 local building code official and would provide criminal
35 penalties for a violation.

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A BILL

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TO BE ENTITLED

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AN ACT

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42 Relating to building codes; to amend Sections 41-9-160,
43 41-9-161, 41-9-162, 41-9-163, 41-9-164, 41-9-165, 41-9-166,
44 41-9-167, 41-9-170, 41-9-171, 41-9-172, 41-9-173, and
45 41-9-174, Code of Alabama 1975, to provide for the
46 standardization of certain building codes in the state; to
47 require the Division of Construction Management within the
48 Department of Finance to adopt certain building codes; to
49 further provide for the applicability and enforcement of the
50 codes; to add Section 41-9-166.1 to the Code of Alabama 1975,
51 to authorize certain coastal counties and municipalities to
52 adopt supplemental coastal building codes; and to amend
53 Sections 34-2-30 and 34-2-32, Code of Alabama 1975, to further
54 provide for the practice of architecture and duties of local
55 code officials; and to provide a criminal penalty for a
56 violation.



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57 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

58 Section 1. Sections 41-9-160, 41-9-161, 41-9-162,
59 41-9-163, 41-9-164, 41-9-165, 41-9-166, 41-9-167, 41-9-170,
60 41-9-171, 41-9-172, 41-9-173, and 41-9-174, Code of Alabama
61 1975, are amended to read as follows:

62 "§41-9-160

63 When used in this division, the following words and
64 phrases shall have the following meanings, respectively,
65 unless the context clearly indicates otherwise:

66 (1) BUILDING CODE OFFICIAL. The individual appointed by
67 the Division of Construction Management or the county,
68 municipality, or other political subdivision of this state
69 having responsibility for the issuance of building permits and
70 the administration of the state building code, or a fire
71 marshal where there is no such official.

72 (2) DIVISION OF CONSTRUCTION MANAGEMENT. The Division
73 of Construction Management within the Department of Finance.

74 (5) NON-RESIDENTIAL BUILDING. A building that is not a
75 residence.

76 (6) RESIDENCE. A single unit providing complete
77 independent residential living facilities for one or more
78 persons, including permanent provisions for living, sleeping,
79 eating, cooking, and sanitation.

80 ~~(1)~~ (8) STATE BUILDING AND CONSTRUCTION. All buildings
81 and other structures erected or acquired by or in behalf of
82 the State of Alabama or any of its agencies or
83 instrumentalities.

84 ~~(2)~~ (7) SCHOOLHOUSE. Any building or other structure



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85 erected or acquired by the public schools of Alabama and also
86 shall mean any private building in which 25 or more persons
87 are congregated regularly for the purpose of instruction in
88 any branch of knowledge.

89 (3) HOTEL. Any public inn or lodging house of 15 or
90 more bedrooms, in which transient guests are lodged for pay.

91 (4) ~~MOVING~~MOTION PICTURE THEATRE. Any building in which
92 ~~moving~~motion pictures are featured regularly for charge of
93 admission."

94 "§41-9-161

95 For the further protection of the people of Alabama,
96 the ~~Construction Management Division of the Department of~~
97 ~~Finance is authorized and directed hereby to promulgate and to~~
98 ~~enforce~~Division of Construction Management shall adopt a code
99 of minimum building standards pursuant to the Alabama
100 Administrative Procedure Act. ~~The code adopted by the~~
101 ~~Construction Management Division of the Department of Finance~~
102 ~~under the provisions of this section, after having been~~
103 ~~recorded in the office of Secretary of State for 60 days,~~
104 ~~shall become effective.~~

105 ~~The Construction Management Division of the Department~~
106 ~~of Finance shall have the code printed suitably immediately~~
107 ~~subsequent to its filing and shall distribute promptly the~~
108 ~~printed copies thereof in the same manner as acts of the~~
109 ~~Legislature are distributed; provided, however, that no charge~~
110 ~~may be collected by the Construction Management Division of~~
111 ~~the Department of Finance for copies of the code and that any~~
112 ~~person shall be furnished a copy upon request."~~



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113 "§41-9-162

114 (a) The code of minimum building standards ~~promulgated~~
115 ~~and enforced~~adopted by the ~~Construction Management Division of~~
116 ~~the Department of Finance~~Division of Construction Management
117 shall be applicable ~~only~~ to all state buildings and
118 construction, schoolhouses, hotels, ~~and~~ moving picture
119 theatres, and all other non-residential buildings in
120 ~~Alabama~~this state. The code of minimum building standards
121 shall not apply to any residence.

122 ~~(b) The effect of the building code shall be limited,~~
123 ~~in the cases of state building and construction and public~~
124 ~~schoolhouses, to buildings and structures erected or acquired~~
125 ~~after the operative date thereof. As to private schoolhouses,~~
126 ~~hotels and moving picture theatres, the code shall apply to~~
127 ~~the place of conduct of each such business activity not~~
128 ~~employed or in the process of erection for that purpose prior~~
129 ~~to the effective date thereof.~~

130 (b) The building code shall be enforced as follows:

131 (1) The Division of Construction Management shall have
132 the primary authority to enforce the building code with
133 respect to state buildings and construction, schoolhouses,
134 hotels, and motion picture theatres.

135 (2) County and municipal governing bodies shall have
136 the primary authority to enforce the building code with
137 respect to all other non-residential buildings.

138 (c) No building code official may impose additional or
139 more stringent code requirements than what is specified in the
140 building code."



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141 "§41-9-163

142 ~~(a) The requirements of the building code shall be such~~
143 ~~that the safety, health, general welfare and morals of the~~
144 ~~people of Alabama thereby will be protected.~~

145 ~~(b)~~ (a) It shall be unlawful for any ~~state~~ building or
146 structure subject to this division~~construction or any public~~
147 ~~schoolhouse which does not conform~~ to not meet the
148 requirements of the building code ~~to be erected or acquired.~~

149 ~~(c)~~ (b) It shall be unlawful for any person to operate a
150 private school, hotel, or moving picture theatre, or other
151 non-residential building that ~~which~~ does not meet ~~fully~~ the
152 requirements of the building code unless ~~such~~ the building was
153 used for that purpose prior to the effective date of the
154 building code."

155 "§41-9-164

156 (a) By July 1, 2025, the Division of Construction
157 Management shall submit a proposed rule to the Legislative
158 Services Agency to begin the formal rulemaking process to
159 adopt the 2021 version of the model building codes described
160 in Section 41-9-166.

161 (b) Beginning January 1, 2027, and every three years
162 thereafter, the Division of Construction Management shall
163 submit a proposed rule to the Legislative Services Agency to
164 begin the formal rulemaking process to adopt the International
165 Code Council's most recent publication of the revised model
166 building codes described in Section 41-9-166. ~~The Construction~~
167 ~~Management Division of the Department of Finance is authorized~~
168 ~~and directed to make such changes in the code from time to~~



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169 ~~time as seem advisable in the best interest of the people of~~
170 ~~Alabama. Changes in the code shall take effect and shall be~~
171 ~~printed and distributed in the same manner as the original~~
172 ~~code was made effective, printed and distributed.~~

173 (c) Every rule adopted under this section shall be
174 subject to the Alabama Administrative Procedure Act."

175 "§41-9-165

176 (a) The Division of Construction Management
177 ~~Construction Management Division of the Department of Finance~~
178 ~~is empowered to~~may provide adequate inspection service to
179 ~~insure~~ensure compliance with the building code.

180 (b) On request of the Division of Construction
181 Management, Other agencies and instrumentalities of the state
182 ~~government are directed hereby to cooperate, as requested by~~
183 ~~the commission, a state agency shall assist~~ in the enforcement
184 of the building code.

185 (c) The ~~commission~~Division of Construction Management
186 may appoint, subject to the Merit System, ~~such~~an adequate
187 number of persons, including architectural and technical
188 employees, as ~~are necessary for the duties hereby imposed to~~
189 perform the duties required by this article and as otherwise
190 required by law."

191 "§41-9-166

192 (a) The Division of Construction Management, by rule,
193 shall adopt the following model building codes published by
194 the International Code Council, which shall apply to every
195 non-residential building in the state:

196 (1) International Building Code.



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197 (2) International Existing Building Code.

198 (3) International Plumbing Code.

199 (4) International Fuel Gas Code.

200 (5) International Mechanical Code.

201 (b) To assure uniform application of the model building
202 codes, the Division of Construction Management shall offer and
203 provide guidance to any county or municipality within the
204 state.

205 ~~Any municipality in the State of Alabama may adopt any~~
206 ~~model building code published by the Southern Building Code~~
207 ~~Congress International and the National Electrical Code~~
208 ~~published by the National Fire Protection Association as a~~
209 ~~municipal ordinance, enlarging the applicability thereof to~~
210 ~~include private buildings and structures other than private~~
211 ~~schoolhouses, hotels, public and private hospitals, and moving~~
212 ~~picture houses as it deems necessary and to prescribe~~
213 ~~penalties for violations thereof in the same manner in which~~
214 ~~other ordinances and related penalty provisions are adopted~~
215 ~~and prescribed.~~

216 ~~Any county commission similarly may adopt and enlarge~~
217 ~~the applicability of any model building code published by the~~
218 ~~Southern Building Code Congress International and the National~~
219 ~~Electrical Code published by the National Fire Protection~~
220 ~~Association for the county, prescribing penalties for~~
221 ~~violations thereof, by resolution duly recorded in its minutes~~
222 ~~and, after notice of four weeks, by publication once weekly in~~
223 ~~some county newspaper, if there is one published in the~~
224 ~~county, and by posted notices at the door of each courthouse~~



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225 ~~in the county.~~

226 ~~Changes in the provisions of the building code effected~~
227 ~~by the Construction Management Division of the Department of~~
228 ~~Finance may be adopted similarly by counties and~~
229 ~~municipalities.~~

230 ~~No county or municipality shall apply the building code~~
231 ~~to state buildings and construction of public schoolhouses.~~

232 ~~Model building codes adopted by a county or~~
233 ~~municipality pursuant to this section shall only apply to~~
234 ~~structures and facilities on the customer's side of the~~
235 ~~electric meter and shall not apply to any electric power~~
236 ~~generation, transmission, or distribution facilities on the~~
237 ~~electric service provider's side of the electric meter.~~

238 ~~Nothing contained in this section shall be construed as~~
239 ~~requiring the advertising or posting of the code itself. The~~
240 ~~provisions of this section shall be satisfied by giving of~~
241 ~~notice that it is proposed to adopt a code."~~

242 "§41-9-167

243 (a) No provision of the state building code, ~~or any~~
244 ~~municipal or county building code,~~ or any other law or rule,
245 may prohibit or otherwise limit the use of a substitute
246 refrigerant or substitute refrigerant-equipped product that
247 complies with the National Clean Air Act pursuant to 42 U.S.C.
248 § 7671k and regulations adopted thereunder.

249 (b) Any heating, ventilation, air conditioning, or
250 refrigeration equipment containing a refrigerant described in
251 subsection (a) shall be listed and installed in accordance
252 with all applicable safety standards and use conditions



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253 imposed pursuant to the designation."

254 "§41-9-170

255 When used in this division, the following words and
256 phrases ~~shall~~ have the following meanings, respectively,
257 unless the context clearly indicates otherwise:

258 ~~(1) Commission~~ (3) DIVISION OF CONSTRUCTION MANGEMENT.

259 The ~~Construction Management Division of~~ Division of
260 Construction Management within the Department of Finance.

261 (2) DIRECTOR ~~Director~~. The Director of the Technical
262 Staff of the ~~Construction Management Division~~ Division of
263 Construction Management ~~of the Department of Finance.~~

264 ~~(3) Code~~ (1) CODE. The state energy conservation
265 building code ~~to be~~ adopted by the ~~Construction Management~~
266 ~~Division of the Department of Finance~~ Division of Construction
267 Management."

268 "§41-9-171

269 For the health and welfare of the people of Alabama,
270 the ~~Construction Management Division of the Department of~~
271 ~~Finance of the State of Alabama, which was created in 1945 by~~
272 ~~the Legislature, is authorized and hereby directed to adopt,~~
273 ~~promulgate~~ Division of Construction Management shall adopt and
274 enforce a state energy conservation building code pursuant to
275 the Alabama Administrative Procedure Act. ~~The code adopted by~~
276 ~~the commission under the provisions of this division, after~~
277 ~~having been recorded in the office of Secretary of State for~~
278 ~~60 days, shall become effective.~~ The code shall be applicable
279 to all buildings constructed or remodeled after May 2, 1978,
280 with state appropriated funds or funds from any other



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281 instrumentality of the state. ~~It~~The code shall include a
282 minimal energy conservation section which controls those items
283 affecting heat loss in the exterior envelopment of buildings
284 and affecting climatic control and illumination of buildings."

285 "§41-9-172

286 (a) The director ~~of the technical staff of the~~
287 ~~commission~~ shall adopt the code as required by law and~~have the~~
288 ~~responsibility for developing said code and presenting it to~~
289 ~~the commission for adoption and, in fulfillment of such~~
290 ~~responsibility, may~~, as it becomes necessary, may contract for
291 the consultant services of architects, engineers, and other
292 technicians with a portion of the funds provided. ~~It shall be~~
293 ~~the further responsibility of the director to~~

294 (b) The director shall keep the code updated and
295 consistent with acceptable engineering and architectural
296 practices. ~~by from time to time presenting the commission with~~
297 ~~recommended changes and modifications for adoption. The~~
298 ~~director shall, at the earliest possible date after the~~
299 ~~passage of this division, submit a state building code for any~~
300 ~~building or construction utilizing state funds to the~~
301 ~~commission for adoption. Said~~

302 (c) The code shall ~~contain provisions for an energy~~
303 ~~conservation code which regulates~~regulate the thermal
304 efficiency of the exterior of buildings and the efficiency of
305 lighting design and climatic control in buildings.

306 (d) The ~~director~~code shall include ~~in the said code~~
307 thermal and lighting efficiency standards ~~which will~~that meet
308 both of the following criteria:



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309 (1) Be applicable to all new and renovated buildings ~~+~~
310 and.

311 (2) Be no less stringent than ~~the~~ Appendix J of the
312 standard building code."

313 "§41-9-173

314 The director shall prepare and offer ~~such~~any training
315 and assistance as the ~~Construction Management Division of the~~
316 ~~Department of Finance~~Division of Construction Management deems
317 necessary in implementing ~~the provisions of~~ this division and
318 the ~~standards herein established~~state energy conservation
319 building code."

320 "§41-9-174

321 The ~~commission also shall cause the director to~~
322 ~~formulate~~state energy conservation building code shall include
323 guidelines for thermal and lighting efficiency applicable to
324 all new and renovated buildings, whether ~~such~~the buildings
325 are state funded or not, and guidelines for ~~the~~ manner of
326 implementation ~~therefor~~of the code."

327 Section 2. Section 41-9-166.1 is added to the Code of
328 Alabama 1975, to read as follows:

329 §41-9-166.1

330 (a) As used in this section, the following terms have
331 the following meanings:

332 (1) COASTAL COUNTY. A county whose borders include or
333 abut the waters of the Gulf of Mexico.

334 (2) COASTAL MUNICIPALITY. A municipal corporation whose
335 corporate limits, or a portion thereof, are within a coastal
336 county or are otherwise within 25 miles of the waters of the



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337 Gulf of Mexico.

338 (b) Notwithstanding any provision of this division to
339 the contrary, the governing body of a coastal county or
340 coastal municipality may adopt supplemental coastal building
341 code requirements to provide increased protections against
342 hurricanes, high winds, wind-driven rain, flooding, erosion,
343 and other hazards and circumstances, the likelihood of which
344 is substantially increased due to the entity's proximity to
345 the coast.

346 Section 3. Sections 34-2-30 and 34-2-32, Code of
347 Alabama 1975, are amended to read as follows:

348 "§34-2-30

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

352 (1) ARCHITECT. An individual ~~who is~~ technically and
353 legally qualified to engage in the practice of architecture
354 who is registered as an architect in the State of Alabama with
355 the State Board for Registration of Architects.

356 (2) ARCHITECTURAL SERVICES. The creation of drawings
357 and specifications and other technical documentation and
358 administration of construction for the purpose of determining
359 compliance with the drawings and specifications. These
360 drawings generally consist of, but are not limited to, plans,
361 elevations, sections, and details of the related construction
362 as well as code analysis.

363 (3) BOARD. The State Board for Registration of
364 Architects.



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365 ~~(2)~~ (4) BUILDING. A structure consisting of foundation,
366 walls, or supports and roof, with or without related
367 components, systems, or other parts comprising a completed
368 building ready for occupancy.

369 (5) BUILDING CODE OFFICIAL. The individual appointed by
370 the county, municipality, or other political subdivision of
371 this state having responsibility for the issuance of building
372 permits and the administration of the state building code, or
373 a fire marshal where there is no such local official.

374 ~~(3)~~ (6) PRACTICE ARCHITECTURE or PRACTICING
375 ARCHITECTURE. Performing or doing, or offering or attempting
376 to do or perform any service, work, act, or thing within the
377 scope of the practice of architecture. An individual shall be
378 construed to hold himself or herself out as practicing
379 architecture when, by verbal claim, sign, advertisement,
380 letterhead, card, or any other way, the individual represents
381 himself or herself to be an architect with or without
382 qualifying adjective, or when he or she implies that he or she
383 is an architect through the use of some other title.

384 ~~(4)~~ (7) PRACTICE OF ARCHITECTURE. When an individual
385 holds himself or herself out as able to render or when the
386 person does render any service by consultations,
387 investigations, evaluations, preliminary studies, plans,
388 specifications, contract documents, and a coordination of all
389 factors concerning the design and observation of construction
390 of buildings or any other service in connection with the
391 design, observation, or construction of buildings located
392 within the boundaries of the state, regardless of whether such



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393 services are performed in connection with one or all of these
394 duties, or whether they are performed in person or as the
395 directing head of an office or organization performing them.

396 (8) REGISTRATION. The certificate of registration
397 issued by the State Board for Registration of Architects.

398 ~~(5)~~ (9) RESPONSIBLE CONTROL. Control over all phases of
399 the practice of architecture, including, but not limited to,
400 control over and detailed knowledge of the content of
401 technical submissions during their preparation as is
402 ordinarily exercised by registered architects applying the
403 required professional standard of care."

404 "§34-2-32

405 (a) Nothing contained in this chapter shall prevent:

406 (1) Employees of registered architects from acting
407 under the instructions or responsible control of their
408 employers; or,

409 (2) The employment of on-site observers of the
410 construction or alteration of buildings.

411 (b) No person shall be required to register as an
412 architect in order to make plans and specifications for or
413 administer the ~~erection~~construction, enlargement, or
414 alteration of any of the following:

415 (1) Any building upon any farm for the use of any
416 farmer, irrespective of the cost of ~~such~~ the building, ~~or any.~~

417 (2) Any single family residence building ~~or any.~~

418 (3) Any utility works, structures, or building,
419 provided that the person performing ~~such~~ the architectural
420 works is employed by an electric, gas, or telephone public



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421 utility regulated pursuant to the laws of Alabama or by a
422 corporation affiliated with such utility, ~~or of any.~~

423 (4) Any other type building which has a total area of
424 less than 2,500 square feet, provided it is not intended for
425 ~~use as a school, church, auditorium, or other building~~
426 ~~intended for~~ the assembly occupancy of people, as defined by
427 the International Building Code and which includes, but is not
428 limited to, any building used for gatherings of people for
429 purposes such as civic, social, or religious functions,
430 recreation, food or drink consumption, or awaiting
431 transportation.

432 (c) The services of a registered architect shall be
433 required on all commercial construction projects, including
434 new construction and renovations and alterations, which are
435 ~~not buildings except those hereinabove~~ exempted pursuant to
436 subsection (b) and which are larger than 2,500 total square
437 feet and no.

438 (d) No building code official ~~of this state or of any~~
439 ~~city, town, or county herein~~ charged with the enforcement of
440 laws, ordinances, or ~~regulations~~ rules relating to the
441 construction or alteration of buildings, ~~shall accept or~~
442 approve any plans or specifications that are not ~~so~~ prepared
443 by a registered architect and stamped with the architect's
444 seal. A violation of this subsection is a Class C misdemeanor.

445 ~~(d)~~ (e) (1) Nothing in this chapter shall prevent
446 registered professional engineers or their employees or
447 subordinates under their responsible control from performing
448 architectural services incidental to their engineering



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449 practice.

450 (2) Nothing in this chapter shall prevent registered
451 architects or their employees or subordinates under their
452 responsible control from performing engineering services
453 incidental to their architectural practice.

454 (f) (1) No professional engineer shall practice
455 architecture or use the designation "architect" or any terms
456 derived therefrom unless that individual is registered
457 pursuant to this chapter.

458 (2) No architect shall practice professional
459 engineering or use the term "engineer" or any term derived
460 therefrom unless that individual is also qualified and
461 registered as an engineer."

462 Section 4. The Division of Construction Management
463 within the Department of Finance shall post the following
464 public notice on a website maintained by the division:

465 "All commercial construction projects (both new
466 construction and renovations), not excluded by Alabama law,
467 which are larger than 2,500 total square feet are required by
468 law to be designed by a registered architect in the State of
469 Alabama.

470 Construction documents required include all plans,
471 elevations, sections, and details related to the construction
472 project as well as code analysis. All documents shall be
473 stamped with the professional's seal."

474 Section 5. Each building code official, as defined by
475 Section 34-2-30, Code of Alabama 1975, shall post the
476 following public notice in a conspicuous manner at the permit



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477 office and, if applicable, on the website of the building code
478 official:

479 "All commercial construction projects (both new
480 construction and renovations), not excluded by Alabama law,
481 which are larger than 2,500 total square feet are required by
482 law to be designed by a registered architect in the State of
483 Alabama.

484 Construction documents required include all plans,
485 elevations, sections, and details related to the construction
486 project as well as code analysis. All documents shall be
487 stamped with the professional's seal."

488 Section 6. This act shall become effective on July 1,
489 2025.