



SPONSOR: Rep. Ulbrich & Sen. Copeland & Sen. Sokola;  
Reps. Hudson, Valihura

HOUSE OF REPRESENTATIVES

143rd GENERAL ASSEMBLY

HOUSE BILL NO. 311

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO ARCHITECTURAL LICENSING AND DISCIPLINARY STANDARDS IN DELAWARE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

1 Section 1. Amend § 303(b), Title 24 of the Delaware Code, by adding subsections (6) through (15) to read as follows::

2 "(6) The preparation of submissions to architects by the manufacturer, supplier, installer, or others of any  
3 materials, components, or equipment incidental to the architect's design of the entire project that describe or illustrate the  
4 use of such items;

5 (7) The preparation of any details or shop drawings required of the contractor by the terms of the  
6 construction documents;

7 (8) The management of construction contracts by persons engaged in contracting work;

8 (9) The preparation of technical submissions or the administration of construction contracts by persons  
9 acting under the responsible control of a registered architect;

10 (10) Officers and employees of the United States of America from engaging in the practice of architecture as  
11 employees of said United States of America;

12 (11) A person who holds the certification issued by the National Council of Architectural Registration Boards  
13 (NCARB) but who is not currently registered in the jurisdiction, from offering to provide the professional services  
14 involved in the practice of architecture, provided that he/she shall not perform any of the professional services involved in  
15 the practice of architecture until registered as hereinbefore provided, and further provided that he/she notifies the Board in  
16 writing that (i) he/she holds an NCARB Certificate and is not currently registered in the jurisdiction, but will be present in  
17 Delaware for the purpose of offering to provide architectural services; (ii) he/she will deliver a copy of the notice referred  
18 to in (i) to every potential client to whom the person offers to render architectural services; and (iii) he/she will provide the

19 Board with a statement of intent that he/she will apply immediately to the Board for registration, if selected as the architect  
20 for a project in Delaware;

21 (12) A person who holds the certification issued by the National Council of Architectural Registration Boards  
22 but who is not currently registered in the jurisdiction from seeking an architectural commission by participating in an  
23 architectural design competition for a project in Delaware, provided that he/she notifies the Board in writing that (i) he/she  
24 holds an NCARB Certificate and is not currently registered in the jurisdiction, but will present in Delaware for the purpose  
25 of participating in an architectural design competition; (ii) he/she will deliver a copy of the notice referred to in (i) to every  
26 person conducting an architectural design competition in which the person participates; and (iii) he/she will provide the  
27 Board with a statement of intent that he/she will apply immediately to the Board for registration, if selected as the architect  
28 for the project;

29 (13) A person who is not currently registered in Delaware, but who is currently registered in another United  
30 States or Canadian jurisdiction, from providing uncompensated (other than reimbursement of expenses) professional  
31 services at the scene of an emergency at the request of a public officer, public safety officer, or municipal or county  
32 building inspector acting in an official capacity. 'Emergency' shall mean earthquake, eruption, flood, storm, hurricane, or  
33 other catastrophe that has been designated as a major disaster or emergency by the President of the United States or the  
34 Governor or other duly authorized office of the State of Delaware;

35 (14) An individual registered and practicing in a nation other than the United States or Canada (a 'foreign  
36 architect') from practicing in this jurisdiction, so long as such practice is in strict accordance with the provisions of this  
37 subsection:

38 (a) The foreign architect must show that he/she holds a current registration in good standing which  
39 allows him/her to use the title 'architect' and to engage in the 'unlimited practice of architecture' (defined as the  
40 ability to provide services on any type building in any state, province, territory, or other political subdivision of  
41 his/her national jurisdiction).

42 (b) The foreign architect must show that a bilateral agreement exists between NCARB and the  
43 national registration authority of his/her national jurisdiction.

44 (c) An architect registered in this jurisdiction shall take responsible control over all aspects of the  
45 architectural services for said project.

46 (d) The foreign architect may not seek, solicit, or offer to render architectural services in this  
47 jurisdiction, except with the material participation of the architect referred to in (c) above.

48 (e) Promptly after the foreign architect has been selected to provide architectural services for a  
49 project within this jurisdiction, the architect referred to in (c) above must file a statement with the Board, (1)  
50 identifying the foreign architect, (2) describing the project, and (3) describing the foreign architect's role.

51 (f) In all aspects of offering or providing architectural services within this jurisdiction, the foreign  
52 architect must use the title '{x}', a foreign architect in consultation with {y}, an architect registered in Delaware'.

53 (15) A person currently employed under the responsible control of an architect, and who maintains in good  
54 standing a National Council of Architectural Registration Boards Record, from using the title 'intern architect' or  
55 'architectural intern' in conjunctions with his/her current employment. Such person may not engage in the practice of  
56 architecture except to the extent permitted by other provisions of this Chapter.

57 The Owner of any real property who allows a Project to be constructed on such real property shall be  
58 engaged in the practice of architecture unless the Owner shall have employed or shall have caused others to have employed  
59 a registered architect to furnish Construction Contract Administration Services with respect to such project.

60 (a) For purposes of this Section, the following terms shall have the following meanings:

61 1. 'Owner' shall mean with respect to any real property any of the following persons: (i)  
62 the holder of a mortgage secured by such property; (ii) the holder, directly or indirectly, of an equity  
63 interest in such real property exceeding ten (10) percent of the aggregate equity interest in such real  
64 property; (iii) the record owner of such real property; or (iv) the lessee of all or any portion of such real  
65 property when the lease covers all of that portion of such real property upon which the project is being  
66 constructed, the lessee has significant approval rights with respect to the project, and the lease, at the  
67 time the construction of the project begins, has a remaining term of not less than ten (10) years.

68 2. 'Project' shall mean the construction, enlargement, or alteration of a building, other  
69 than a building exempted by the provisions of subsection (b)(5), which has as its principal purpose  
70 human occupancy or habitation.

71 3. 'Construction Contract Administration Services' shall comprise at least the following  
72 services: (i) visiting the construction site on a regular basis as is necessary to determine that the work is  
73 proceeding generally in accordance with the technical submissions submitted to the Building Official at  
74 the time the building permit was issued; (ii) processing shop drawings, samples, and other submittals  
75 required of the contractor by the terms of construction contract documents; and (iii) notifying an owner  
76 and the building official of any code violations, changes with affect code compliance, the use of any

77 materials, assemblies, components or equipment prohibited by a code, major or substantial changes  
78 between such technical submissions and the work in progress, or any deviation from the technical  
79 submissions which he/she identifies as constituting a hazard to the public, which he/she observes in the  
80 course of performing his/her duties.

81 4. 'Building Official' shall mean the person appointed by the municipality or state  
82 subdivision having jurisdiction over the project to have principal responsibility for the safety of the  
83 project as finally built.

84 (b) If the registered architect who sealed the technical submissions which were submitted to the  
85 building official at the time the building permit was issued has not been employed to furnish Construction  
86 Contract Administration Services at the time such registered architect issues such technical submissions, he/she  
87 shall note on such technical submissions that he/she has not been so employed. If he/she is not employed to  
88 furnish Construction Contract Administration Services when construction of the project begins, he/she shall file,  
89 not later than thirty (30) days after such construction begins, with the Board and with the Building Official, on a  
90 form prescribed by the Board, a notice setting forth the names of the Owner or Owners known to him/her, the  
91 address of the project, and the name, if known to him/her, of the registered architect employed to perform  
92 Construction Contract Administration Services. If he/she believes that no registered architect has been so  
93 employed, he/she shall so state on the form. Any registered architect who fails to place the note on his/her  
94 technical submissions or to file such notice, as required by this paragraph, shall have violated the provisions of  
95 this Chapter and shall be subject to disciplines as set forth herein.

96 (c) If the Board determines, with respect to a particular Project or class of Projects, that the public  
97 is adequately protected without the necessity of a registered architect performing Construction Contract  
98 Administration Services, the Board may waive the requirements of this subsection with respect to such Project or  
99 class of Projects."

100 Section 2. Amend § 307, Title 24 of the Delaware Code, by deleting subsection (b) in its entirety and substituting in lieu  
101 thereof the following:

102 "(b) Each applicant shall provide such information as may be required on an application form designed and  
103 furnished by the Board."

104 Section 3. Amend § 311(b), Title 24 of the Delaware Code, by deleting the last sentence in subsection (b) and inserting  
105 in lieu thereof the following:

106 "At the expiration of the period designated by the Board, the certification of registration of the registered  
107 architect shall be deemed to be lapsed and not renewable, unless the former Delaware registered architect, without further  
108 examination, files an application under the same conditions which govern the application for reciprocity pursuant to § 309,  
109 provided, however, that the former registered Delaware architect shall also pay a reinstatement fee in the amount which is  
110 three (3) times the amount of the annualized reciprocity fee, as determined by the Division."

111 Section 4. Amend § 317, Title 24 of the Delaware Code, by deleting subsection (a) in its entirety and  
112 substituting in lieu thereof the following new subsection (a) to read as follows:

113 "(a) Where the Board has determined, upon notice and hearing pursuant to Chapter 101 of Title 29 that a  
114 person is engaged in the practice of architecture regulated by this Chapter without having lawfully obtained a license or  
115 that a person previously licensed under this Chapter is engaged in a practice regulated by this Chapter notwithstanding that  
116 the person's license has been suspended or revoked, the Board may issue a cease and desist order. In addition to the power  
117 to issue a cease and desist order, the Board may seek an injunctive order prohibiting such unlawful practice and/or seek the  
118 imposition of other civil penalties defined by this Chapter."

119 Section 5. Further Amend § 317, Title 24 of the Delaware Code by redesignating existing subsections (b) and (c) as new  
120 subsections (c) and (d) and substituting in lieu thereof the following new subsection (b) to read as follows:

121 "(b) Upon notice and hearing pursuant to Chapter 101 of Title 29, the Board may fine any person who  
122 violates such cease and desist order not less than \$100 or more than \$1000. Each day a violation continues may be deemed  
123 a separate offense in the Board's discretion."

#### SYNOPSIS

This Bill implements the 2004 Joint Sunset Committee recommendations. The purpose of this legislation is to conform architectural licensing and disciplinary standards in Delaware with the National Council of Architectural Registration Boards (NCARB). NCARB is a national organization of state architectural registration boards responsible for promoting the uniform application of architectural licensing and discipline. The legislation defines the parameters in which architects from the other states, foreign jurisdictions or in the employ of the United States Government may provide services in Delaware under the supervision of a Delaware registered architect.

The legislation further addresses the need for owners of real property to engage registered architects to perform Construction Contract Administration Services. The legislation provides that an applicant submit to a criminal background check in the licensing process. Finally, the legislation grants the Board of Architecture a cease and desist authority to address the practice of unlicensed architecture.