



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

HOUSE OF REPRESENTATIVES

143rd GENERAL ASSEMBLY

HOUSE BILL NO. 311
AS AMENDED BY
HOUSE AMENDMENT NOS. 1,2 & 3

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):

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

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

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

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

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

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

(11) A person who holds the certification issued by the National Council of Architectural Registration Boards (NCARB) but who is not currently registered in the jurisdiction, from offering to provide the professional services involved in the practice of architecture, provided that he/she shall not perform any of the professional services involved in the practice of architecture until registered as hereinbefore provided, and further provided that he/she notifies the Board in writing that (i) he/she holds an NCARB Certificate and is not currently registered in the

jurisdiction, but will be present in Delaware for the purpose of offering to provide architectural services; (ii) he/she will deliver a copy of the notice referred to in (i) to every potential client to whom the person offers to render architectural services; and (iii) he/she will provide the Board with a statement of intent that he/she will apply immediately to the Board for registration, if selected as the architect for a project in Delaware;

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

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

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

- a. The foreign architect must show that he/she holds a current registration in good standing which allows him/her to use the title 'architect' and to engage in the 'unlimited practice of architecture' (defined as the ability to provide services on any type building in any state, province, territory, or other political subdivision of his/her national jurisdiction).
- b. The foreign architect must show that a bilateral agreement exists between NCARB and the national registration authority of his/her national jurisdiction.
- c. An architect registered in this jurisdiction shall take responsible control over all aspects of the architectural services for said project.

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

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

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

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

Section 2. Amend §303, Title 24 of the Delaware Code, by inserting therein a new subsection (c) to read as follows:

“(c) The Owner of any real property who allows a Project to be constructed on such real property shall be engaged in the practice of architecture unless the Owner shall have employed or shall have caused others to have employed a registered architect and/or a registered engineer to furnish Construction Contract Administration Services with respect to such project.

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

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

b. 'Project' shall mean the construction, enlargement, or alteration of a building, other than a building exempted by the provisions of subsection (b)(5) of this section.

c. 'Construction Contract Administration Services' shall comprise at least the following services: (i) visiting the construction site on a regular basis as is necessary to determine that the work is proceeding generally in accordance with the technical submissions submitted to the Building Official at the time the building permit was issued; (ii) processing shop drawings, samples, and other submittals required of the contractor by the terms of construction contract documents; and (iii) notifying an owner and the building official of any code violations, changes with affect code compliance, the use of any materials, assemblies, components or equipment prohibited by a code, major or substantial changes between such technical submissions and the work in progress, or any deviation from the technical submissions which he/she identifies as constituting a hazard to the public, which he/she observes in the course of performing his/her duties.

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

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

(3) If the Board determines, with respect to a particular Project or class of Projects, that the public is adequately protected without the necessity of a registered architect performing Construction

Contract Administration Services, the Board may waive the requirements of this subsection with respect to such Project or class of Projects."

Section 3. Amend § 307, Title 24 of the Delaware Code, by deleting subsection (b) in its entirety and substituting in lieu thereof the following:

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

Section 4. Amend § 311(b), Title 24 of the Delaware Code, by deleting the last sentence in subsection (b) and inserting in lieu thereof the following:

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

Section 5. Amend § 317, Title 24 of the Delaware Code, by deleting subsection (a) in its entirety and substituting in lieu thereof the following new subsection (a) to read as follows:

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

Section 6. Further Amend § 317, Title 24 of the Delaware Code by redesignating existing subsections (b) and (c) as new subsections (c) and (d) and substituting in lieu thereof the following new subsection (b) to read as follows:

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