

Document No.
SOUTH CAROLINA BOARD OF ARCHITECTURAL EXAMINERS
CHAPTER 11

Statutory Authority: 1976 Code Sections 40-3-60 and 40-1-70

Preamble:

To satisfy the requirements of licensure for architects, Regulations 11-3, 11-6, 11-7, 11-8, 11-8.1, 11-10, 11-11, 11-12, 11-13, and 11-14 must be revised and updated in conformance with the Board of Architectural Examiners Practice Act.

Section-by-Section Discussion:

Regulation 11-3. Meetings.

Changes “mailed” to “distributed”.

Regulation 11-6. Registration by Examination.

(A) Deletes text and adds new text regarding applicants’ professional degree requirements from National Architectural Accrediting Board (NAAB) or Canadian Architectural Certification Board (CACB) accredited institutions.

(A)(1) Adds CACB as acceptable accreditation agency.

(A)(2) Deletes one year prior to application requirement for National Council of Architectural Registration Boards (NCARB) Council Record.

(A)(3) Deletes time period requirement for retaking of exams; deletes “machine graded”.

(B) Changes “year” to “licensure period” and rewords for clarity.

Regulation 11-7. Registration by Reciprocity.

Deletes “annual” before “fee” and changes “year” to “licensure period”.

Regulation 11-8. Renewals.

Changes renewal period from annual to biennial; changes “year” to “licensure period”.

Regulation 11-8.1. Continuing Education.

Deletes “annual” throughout and rewords for clarity.

(A) through (B)(2) no substantive changes.

(B)(2) deletes text and adds exemption.

(B)(3) deleted in its entirety. Renumbers following sections for clarity.

New (B)(4) adds exemption for emeritus architects.

(C)(1) changes minimum continuing education hours from 12 to 24 with biennial licensure period.

(C)(2) and (3) deleted in their entirety. Renumbers following sections for clarity.

New (C)(2) deletes June 30, 2003 and fiscal year. Changes maximum carry-over continuing education hours from 12 to 24 and “for one year” to “per renewal period”.

New (C)(3) changes language in accordance with biennial licensure requirements; adds statement for compliance with audits.

(D) no substantive changes.

Regulation 11-10. Practice of Firms.

Rewords for clarity, and deletes dual SC office locations in (D).

Regulation 11-11. Seals.

Rewords for clarity and adds electronic seal and signature and requirements in new section (E).

Regulation 11-12. Code of Professional Ethics.

Corrects spelling of judgment throughout.

(A) through (B) no changes.

(C)(2) adds clarification on prospective or existing projects.

(C)(3) through (D)(1) no changes.

(D)(2) adds clarification on prospective or existing projects.

(D)(3) through (E)(3) no changes.

Regulation 11-13. Manner of Discipline.

Deletes (C) regarding affidavit filing after revocation or suspension orders.

Regulation 11-14. Reinstatement Procedures.

(A) no changes.

(B) deletes year requirements for applications for reinstatement and adds that Board will only consider applications with evidence that all conditions of the Order are met.

(C) no substantive changes.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Board at 10:00 a.m. on Wednesday, December 9, 2009. Written comments may be directed to Jan B. Simpson, Administrator, South Carolina Board of Architectural Examiners, Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., Monday, November 23, 2009. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions.

Statement of Need and Reasonableness:

These regulations are amended in conformance with the Board of Architectural Examiners Practice Act.

DESCRIPTION OF REGULATION:

Purpose: The board is updating the regulations in conformance with the practice act.

Legal Authority: 1976 Code, Sections 40-3-60 and 40-1-70.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensed operators of the revised regulations and post the revised regulations on the agency's web site.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS THEREIN AND EXPECTED BENEFITS:

The proposed regulations reflect requirements for licensure of architects.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment. These regulations contribute to the board's function of protecting public health in the state of South Carolina.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

Statement of Rationale:

These regulations are updated in conformance with the current Board of Architectural Examiners Practice Act.

Text:

11-3. Meetings.

Notice of all meetings shall be ~~mailed~~ distributed to each member at least five (5) days in advance of such meeting, giving time, place, and general purpose of the meeting. The Annual meeting shall be held within ninety (90) days of the end of the fiscal year. Public notice of the meetings shall be made in accordance with the Freedom of Information Act.

11-6. Registration by Examination.

A. ~~Applicants must have first satisfied the education and experience requirements as set forth in Section 40-3-230 to be eligible to take the examination. Applicants must have completed a professional degree in architecture from a school or college program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB) as set forth in Section 40-3-230 and must have completed all requirements of the Intern Development Program (IDP) prior to licensure. Applicants may begin taking the Architect Registration Examination prior to completion of IDP but may not be licensed until evidence of completion of all training requirements is submitted to the Board.~~

(1) Education. An official school transcript shall serve as evidence of attainment of a professional degree in architecture from a program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB).

(2) Experience. Only a verified Council Record issued by the National Council of Architectural Registration Boards (NCARB) will be accepted as evidence of completion of all training requirements established for the Intern Development Program (IDP). ~~An NCARB Council Record must be initiated by the applicant in writing at least one (1) year prior to application to take the examination.~~

(3) Examination. The National Council of Architectural Registration Boards (NCARB) Architect Registration Examination (A.R.E.) will be administered to all qualified candidates for initial architectural registration in a manner and place prescribed by NCARB or the Board. Candidates must comply with all NCARB requirements. Examinees must pay all applicable examination fees. ~~Candidates must wait six (6)~~

_____Examinees will not have access to the ~~machine-graded~~ NCARB examinations, answers, or other related documents for reviewing, copying, or other purpose.

B. Applicants for registration by examination who pass the A.R.E. will be notified accordingly, ~~and upon determination by the Board that the~~ Once a candidate satisfies all licensure requirements as set forth in Section 40-3-230, he or she will be issued a license to practice architecture in South Carolina during the current ~~year~~ licensure period.

11-7. Registration by Reciprocity.

A. Any individual holding a current, active, and unrestricted license for the practice of architecture from another state or territory and holding a certificate of qualification issued by the National Council of Architectural Registration Boards (NCARB) may, upon application and within the discretion of the Board, be licensed without written examination.

B. Applicants who receive favorable action will be notified accordingly, and upon payment of the ~~annual~~ fee as determined by the Board, will be issued a license to practice architecture in South Carolina during the current ~~year~~ licensure period.

11-8. Renewals.

A. Certificates of Registration issued to individuals expire ~~annually on June 30~~ biennially. They must be renewed ~~annually~~ for the following ~~fiscal year~~ licensure period by payment of the renewal fee and by reporting completion of the required continuing education hours ~~on or before July 1~~. Certificates shall become invalid ~~after that date~~ unless renewed.

B. Certificates of Authorization issued to firms expire ~~annually on December 31~~ biennially. They must be renewed ~~annually~~ for the following ~~calendar year~~ licensure period by payment of the renewal fee ~~on or before January 1~~ and shall become invalid ~~after that date~~ unless renewed.

C. Lapsed Certificates may be reinstated by the Board at any time during the remainder of the ~~following year~~ licensure period on demonstration of qualification and payment of the ~~annual~~ renewal fee plus late penalties. In case of failure to reinstate ~~within a year from the date of expiration by the end of the~~ licensure period, the Certificate cannot be reissued except by a new application accompanied by the application fee and approval by the Board.

11-8.1. Continuing Education.

A. These requirements shall apply to every South Carolina registered architect as a condition for renewal of registration ~~on an annual basis~~.

B. Exemptions: A registrant may be exempt from the continuing education requirements for one of the following reasons:

(1) A first-time new registrant by examination or reciprocity will be exempt for the first renewal.

~~(2) Registrant is a civilian who serves on active duty in the Armed Forces of the United States for a period of time exceeding ninety consecutive days during the annual report period. A registrant is exempt from completing continuing education requirements for his profession while serving on active military duty.~~

~~(3) Registrants are non-residents of South Carolina and are required to obtain continuing education hours for license renewal by the licensing authority of any state in which he or she is registered. If the Board determines the continuing education requirements are substantially equivalent to those of South Carolina, the Board may accept a statement of compliance from the registrant.~~

~~(4)-(3) Hardship cases may be considered on an individual basis.~~

(4) Emeritus architects will be exempt from the continuing education requirements.

C. Requirements.

(1) Each South Carolina Registered architect shall complete a minimum of ~~twelve~~ twenty-four (24) continuing education hours ~~of structured course study each fiscal year~~ biennial licensure period in topics related to safeguarding life, health, property and promoting public welfare.

~~(2) Structured course study shall consist of participation in education activities presented by individuals or groups qualified by professional, practical, or academic experience to conduct courses of study.~~

~~(3) Topics for the twelve continuing education hours shall meet the following requirements:~~

~~(a) A minimum of eight continuing education hours shall include the study of relevant technical and professional architectural subjects related to safeguarding life, health, property, and promoting the public welfare.~~

~~(b) A maximum of four continuing education hours may consist of elective topics related to any other area in the practice of architecture.~~

~~(4)-(2) Each registrant shall submit, on a form provided by the board, a signed affidavit attesting to the fulfillment of continuing education requirements during the preceding period of one fiscal year ending June 30. The first report will be due before June 30, 2003. Reports will be due with each renewal thereafter. Carry-over of a maximum of twelve twenty-four (24) continuing education hours for one year per renewal period is permitted.~~

~~(5)-(3) Each affidavit may be subject to audit for verification of compliance with requirements. Registrants shall retain proof of fulfillment of requirements for a period of one year two (2) years after submission in the event the affidavit is selected for audit. Registrants must comply with audit deadlines and requirements.~~

~~(6)-(4) The Board may disallow claimed credit for continuing education hours. The registrant shall have one hundred eighty (180) calendar days after notification of disallowance of credit to substantiate the original claim or earn other continuing education credit which fulfills minimum requirements.~~

D. Noncompliance and Sanctions. Failure to fulfill the continuing education requirements, ~~or~~ to file the required ~~annual~~ report, properly completed and signed, or to comply with audit and verification requests shall be considered a violation of the Architectural Registration Law.

11-10. Practice of Firms.

A. A firm engaged in the practice of architecture in South Carolina must employ one (1) or more persons registered to practice architecture in South Carolina who are in full authority and responsible charge of the firm's architectural practice. Persons in full authority and responsible charge shall mean regularly employed persons who are in unrestricted, unchecked, and unqualified command of, and legally accountable for, the actions of such architectural practice.

B. An architect registered in South Carolina shall be responsible for complying with these regulations as they may apply to any association or joint venture with another architect or architects.

C. Each office maintained for the preparation of drawings, specifications, reports, and other professional work shall have an architect duly registered with this Board, in full authority and responsible charge, having direct knowledge and supervisory control of such work.

D. Each firm shall provide and maintain the current mailing address and physical address of its main office ~~and each office located in South Carolina.~~

11-11. Seals.

A. The ~~personal~~ seal and signature of the architect in responsible charge and the architectural firm's seal shall appear on all architectural documents to be filed for public record and shall be construed to obligate the architect and the firm. A firm seal alone is insufficient; documents shall be signed ~~personally~~ and sealed by the responsible architect. Record documents used for obtaining building permits ~~(not tracings, etc.)~~ shall be so signed. The signing and sealing of the index sheet(s) or the title page of specifications shall be considered adequate.

B. An architect shall not affix, or permit to be affixed, the architect's seal or name to any plans, specifications, drawings, or other related documents which were not prepared by the architect or under the architect's direct responsible charge. Architects shall not use their seal or perform any other service as an architect unless holding at the time a current Certificate of Registration.

C. Description of Registrant's Seal. The seal shall be circular in shape and 1 3/4 inches in diameter. Concentric with the outside of the seal there shall be a circle 1 3/16 inches in diameter; in the annular space between the circle and the outside of the seal shall be the words "State of South Carolina" at the top

and “Registered Architect” at the bottom. The name of only one (1) architect, business location, and registration number shall be placed within the inner circle.

D. Description of Firm Seals. The seal shall be circular in shape and 1 3/4 inches in diameter. Concentric with the outside of the seal there shall be a circle 1 3/16 inches in diameter; in the annular space between the circle and the outside of the seal shall be the words “State of South Carolina” at the top and “Registered Architects” at the bottom. The name, business location, and license number of the firm shall be placed within the inner circle.

E. An electronic seal and signature are permitted to be used in lieu of an original seal and signature when the following criteria, and all other requirements of this section, are met:

(1) It is a unique identification of the professional;

(2) It is verifiable;

(3) It is under the professional’s direct and sole control;

(4) It is linked to a document in such a manner that changes are readily determined and visually displayed if any data contained in the document file was changed subsequent to the electronic seal and signature having been affixed to the document, and

(5) Changes to the document after affixing the electronic seal and signature shall cause the electronic seal and signature to be removed or altered in such a way as to invalidate the electronic seal and signature;

(6) In addition, once the electronic seal and signature are applied to the document, the document shall be available in a view only format if the document is to be electronically transmitted;

(7) The graphic image of the electronic seal and signature shall be readily available and produced in a manner acceptable to the board. It shall contain the same words and shall have substantially the same graphic appearance and size as required above when the image of the electronically transmitted document is viewed at the same time as the document in its original form.

(8) The graphic display of the seal shall be in compliance with state law.

11-12. Code of Professional Ethics.

An architect or firm shall not engage in dishonest practice, unprofessional conduct, or incompetent practice.

A. Conflict of Interest.

(1) When conditions of compensation are submitted in a proposal for a study, pre-design, or preliminary design service, where future opportunity for additional work on the project is also available to the offerer, such conditions must be consistent and representative of the real cost of services to be performed.

(2) An architect or firm shall not accept compensation for services from more than one (1) party on a project unless the circumstances are fully disclosed and agreed to (such disclosure and agreement to be in writing) by all interested parties.

(3) If an architect or firm has any business association or direct or indirect financial interest which is substantial enough to influence judgments in connection with the performance of professional services, the architect or firm shall fully disclose in writing to the client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, the architect or firm will either terminate such association or interest, or withdraw from the commission or employment.

(4) An architect or firm shall not solicit or accept compensation from materials or equipment suppliers in return for specifying or endorsing their products.

(5) When acting as the interpreter of building contract documents and the judge of contract performance, the architect or firm shall render decisions impartially, favoring neither party to the contract.

B. Full Disclosure.

(1) An architect or firm making public statements on architectural questions shall disclose when being compensated for making such statements.

(2) An architect or firm shall be accurate in representing to a prospective or existing client or employer the qualifications and the scope of responsibility in connection with work for which credit is claimed.

(3) If in the course of work on a project, the architect or firm becomes aware of a decision taken by the employer or client, against the architect's or firm's advice, which violates applicable state or municipal building laws and regulations and which will materially affect adversely the safety to the public of the finished project, the architect or firm shall:

(a) report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations; and

(b) refuse to consent to the decision; and

(c) terminate services with reference to the project in circumstances where the architect or firm reasonably believes that other such decisions will be taken notwithstanding the architect's or firm's objections.

(4) On a project where a building permit has been issued and the sealing architect and the firm of record have not been engaged to perform at least minimum construction administration services, as defined in subsection (5) below, the sealing architect and firm must report to the permitting authority and the building owner that he and the firm have not been so engaged.

(5) The minimum construction administration services expected of the sealing architect and firm deemed necessary to protect the health, safety, and welfare of the public shall be periodic site observations of the construction progress and quality, review of contractor submittal data and drawings, and reporting to the building official and owner any violations of codes or substantial deviations from the contract documents which the architect observed.

(6) An architect or firm shall not deliberately make a false statement or fail deliberately to disclose a fact requested by the Board.

(7) An architect or firm shall not assist the application for registration of a person known by the architect or firm to be unqualified in respect to education, training, experience, or character.

(8) An architect or firm possessing knowledge of a violation of these rules by another architect or firm shall report such knowledge to the Board.

(9) An architect or firm shall cooperate fully upon request in matters pertaining to any investigation initiated by the Board.

C. Compliance with Laws.

(1) An architect or firm shall not violate any state or federal criminal or civil law, rule, or regulation.

(2) An architect or firm shall neither offer nor make any payment or gift to a government official (whether elected or appointed) with the intent of influencing the official's ~~judgement~~ judgment in connection with a prospective or existing project in which the architect or firm is interested.

(3) An architect or firm shall comply with the registration laws, rules, and regulations governing the practice of architecture in this State and in any other jurisdiction.

(4) An architect or firm shall not assist or aid any unlicensed person or firm in the unauthorized practice of architecture.

(5) No architect or firm shall be entitled to registration within this State who has been convicted of a felony or a crime of moral turpitude unless suitable evidence of reform is presented to the Board.

D. Professional Conduct.

(1) An architect or firm shall not sign or seal drawings, specifications, reports, or other professional work for which the architect or firm does not have direct professional knowledge and direct supervisory control; provided, however, that in the case of portions of such professional work prepared by the architect's, or firm's consultants, registered under this or another professional registration law of this jurisdiction, the architect or firm may sign or seal that portion of the professional work if the architect or firm has reviewed such portion, has coordinated its preparation, and intends to be responsible for its adequacy.

(2) An architect or firm shall neither offer nor make any gifts, other than gifts of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the ~~judgement~~ judgment of an existing or prospective client in connection with a project in which the architect or firm is interested.

(3) An architect or firm shall not engage in conduct involving fraud or wanton disregard of the rights of others.

(4) An architect or firm shall not act in any manner so as to mislead a client or the general public or so as to misrepresent its competence or qualifications.

E. Competence.

(1) An architect or firm shall act with reasonable care and competence and shall apply the technical knowledge and skill which is ordinarily applied by architects and firms in good standing in South Carolina.

(2) An architect or firm shall take into account all applicable state and municipal building laws and regulations. While an architect or firm may rely on the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, an architect or firm shall not design a project in violation of such laws and regulations.

(3) An architect or firm, together with those whom the architect or firm may engage as consultants, shall undertake to perform professional services only when qualified by education, training, and experience in the specific technical areas involved.

11-13. Manner of Discipline.

A. Any architect or firm found guilty of dishonest practice, unprofessional conduct, or incompetent practice shall be disciplined in accordance with Section 40-1-120, Section 40-3-110, Section 40-3-115, and Section 40-3-120.

B. Any architect or firm whose license has been revoked or suspended by the Board shall promptly notify, or cause to be notified, all clients being represented in pending matters of the revocation or suspension and their inability to act as the architect and shall advise said clients to seek the assistance of another architect of the client's own choice. The notice must be sent by registered or certified mail with return receipt requested.

~~C. Within fifteen (15) days after the effective date of the revocation or suspension Order, the architect or firm shall file with the Board an affidavit showing:~~

~~(1) residence or other address of the architect or firm where communications may thereafter be directed; and~~

~~(2) that the architect or firm has complied fully with the provisions of the Order and with this regulation; and~~

~~(3) all other state jurisdictions in which the architect is licensed to practice; and~~

~~(4) any other information the Board deems appropriate.~~

11-14. Reinstatement Procedures.

A. An architect or firm whose authorization to practice architecture has been suspended who wishes to be reinstated may file with the Board a petition setting forth:

(1) the mailing address and physical address where the architect resides at the time of filing the petition, and the mailing address and physical address where the firm proposes to maintain an office if reinstated; and

(2) suitable evidence of reform to establish clear and convincing proof that he or the firm has been rehabilitated; and

(3) suitable evidence that he or the firm has complied fully with all provisions set forth in the original Order.

~~B. No application for reinstatement to practice will be considered by the Board within two (2) years of the entry of an Order suspending or revoking the authorization to practice or within one (1) year after the denial of an application for reinstatement. No application for reinstatement for practice shall be considered by the Board until evidence is submitted that all conditions of the Order have been met.~~

C. In any Order of reinstatement, the Board may direct that the architect or architectural firm limit professional practice to certain areas of the profession; work under the supervision of another architect or

firm; require reports at intervals; or any other reasonable requirement which will ensure the protection of the public health, safety, and welfare.