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AN ACT

RELATING TO ARCHITECTURE; REAUTHORIZING AND AMENDING THE ARCHITECTURAL ACT; PROVIDING FOR PENALTIES FOR VIOLATIONS OF THE ARCHITECTURAL ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-15-4 NMSA 1978 (being Laws 1931, Chapter 155, Section 3, as amended) is amended to read:

"61-15-4. POWERS AND DUTIES OF THE BOARD.--

A. The board shall hold at least four regular meetings each year. Any board member failing to attend three consecutive regular meetings is automatically removed as a member of the board. A majority of the board members constitutes a quorum.

B. A board member may participate in a meeting of the board by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person if:

(1) each member participating by conference telephone can be identified when speaking;

(2) all participants are able to hear each other at the same time; and

(3) members of the public attending the meeting are able to hear all board members who speak during the hearing.

1 C. The board may establish committees to carry out
2 the provisions of the Architectural Act. The board or any
3 committee of the board shall have the power to subpoena any
4 witness, to administer oaths and to take testimony concerning
5 matters within its jurisdiction. It is within the
6 jurisdiction of the board to determine and prescribe by rules
7 the professional and technical qualifications necessary for
8 the practice of architecture in New Mexico. The board shall
9 adopt and have an official seal, which shall be affixed to
10 all certificates of registration granted, and may make rules
11 not inconsistent with law.

12 D. The board may offer, engage in and promote
13 educational and other activities as it deems necessary to
14 fulfill its duty to promote the public welfare.

15 E. The board may, for the purpose of protecting
16 the citizens of New Mexico and promoting current
17 architectural knowledge and practice, adopt rules
18 establishing continuing education requirements as a condition
19 of registration renewal.

20 F. Members of the board shall receive per diem and
21 mileage as provided in the Per Diem and Mileage Act and shall
22 receive no other compensation, perquisite or allowance. All
23 expenses certified by the board as properly and necessarily
24 incurred in the discharge of its duties, including authorized
25 reimbursement and necessary expenses incident to cooperation

1 with like boards of other states, shall be paid by the state
2 treasurer out of the "fund of the board of examiners for
3 architects" on the warrant of the secretary of finance and
4 administration issued upon vouchers signed by the chair or
5 the chair's designee; provided, however, that at no time
6 shall the total warrants issued exceed the total amount of
7 funds accumulated under the Architectural Act. All money
8 derived from the operation of the Architectural Act shall be
9 deposited with the state treasurer, who shall keep the money
10 in the fund of the board of examiners for architects.

11 G. The board shall by rule provide for the
12 examinations required for registration. The board shall keep
13 a complete record of all examinations.

14 H. Upon application for registration, upon a
15 prescribed form and upon payment by the applicant of a fee
16 set by the board, the board shall consider the application
17 and, in cases as herein authorized, shall issue a certificate
18 of registration as an architect to any person who submits
19 evidence satisfactory to the board that the person is fully
20 qualified to practice architecture.

21 I. It is the duty of the board to report to the
22 district attorney of the district where the offense was
23 committed any criminal violation of the Architectural Act.

24 J. The board may deny, review, suspend or revoke a
25 registration to practice architecture and may censure, fine,

1 reprimand and place on probation and stipulation any
2 architect in accordance with the Uniform Licensing Act for
3 any cause as stated in the Architectural Act.

4 K. The board, in cooperation with the state board
5 of licensure for professional engineers and professional
6 surveyors and the board of landscape architects, shall create
7 a joint standing committee to be known as the "joint practice
8 committee". In order to safeguard life, health and property
9 and to promote public welfare, the purpose of the committee
10 is to promote and develop the highest professional standards
11 in design, planning and construction and the resolution of
12 ambiguities concerning the professions. The composition of
13 the committee and its duties and powers shall be in
14 accordance with identical resolutions adopted by each board.

15 L. Pursuant to the notice and hearing requirements
16 of the Uniform Licensing Act, the board may impose a civil
17 penalty in an amount not to exceed seven thousand five
18 hundred dollars (\$7,500) for each violation on any individual
19 found to be engaging in the practice of architecture without
20 being registered pursuant to the Architectural Act."

21 **SECTION 2.** Section 61-15-5 NMSA 1978 (being Laws 1931,
22 Chapter 155, Section 4, as amended) is amended to read:

23 "61-15-5. ADDITIONAL DUTIES OF THE BOARD.--

24 A. The board shall keep a record of its
25 proceedings. The records of the board shall be prima facie

1 evidence of the proceedings of the board set forth in the
2 record and a transcript of the record, duly certified by the
3 board under seal, shall be admissible in evidence with the
4 same force and effect as if the original were produced.

5 B. The board shall keep a register of all
6 applications for registration, which shall show the name, age
7 and residence of each applicant, the date of application, the
8 applicant's place of business, the applicant's educational
9 and other qualifications, whether an examination was
10 required, whether the applicant was rejected, whether a
11 certificate of registration was granted, the date of the
12 action of the board and any other information deemed
13 necessary by the board.

14 C. Annually, the board shall submit to the
15 governor a report of its transactions of the preceding year
16 accompanied by a complete statement of the receipts and
17 expenditures of the board. The report shall be available to
18 the public.

19 D. Board records and papers that are of a
20 confidential nature and are not public records include
21 examination material for examinations not yet given, file
22 records of examination problem solutions, letters of inquiry
23 and references concerning applicants, board inquiry forms
24 concerning applicants and investigation files. All data,
25 communications and information acquired by the board relating

1 to actual or potential disciplinary action is confidential
2 and shall not be disclosed except to the extent necessary to
3 fulfill the duties of the board.

4 E. A roster showing the names and addresses of all
5 registered architects shall be prepared annually by the board
6 and shall be made available to each registered architect and
7 placed on file with the secretary of state. Copies of the
8 roster may be distributed or sold to the public.

9 F. The board shall, by rule, set application,
10 registration, renewal, examination and other fees.

11 G. The board may, by rule, set criteria for the
12 training of intern architects."

13 **SECTION 3.** Section 61-15-6 NMSA 1978 (being Laws 1931,
14 Chapter 155, Section 5, as amended) is amended to read:

15 "61-15-6. REQUIREMENTS FOR REGISTRATION.--

16 A. To be eligible for registration, a person shall
17 be of good character and repute.

18 B. An applicant for registration shall submit
19 evidence satisfactory to the board that the applicant is
20 fully qualified to practice architecture in New Mexico.

21 C. All applicants for registration shall be
22 required to pass any examinations required by the board.

23 D. All applicants for registration shall be
24 required to complete all forms and affidavits required by the
25 board.

1 E. An applicant for registration by examination
2 shall have:

3 (1) a professional degree from an
4 architectural program accredited by the national
5 architectural accreditation board or its equivalent as
6 prescribed by rule;

7 (2) certified completion of the
8 architectural experience program of the national council of
9 architectural registration boards; and

10 (3) passed all divisions of the
11 architectural registration examination.

12 F. A person registered as an architect in another
13 jurisdiction who has been certified by the national council
14 of architectural registration boards may apply for
15 registration without an examination by presenting for review
16 by the board:

17 (1) a certificate of good standing issued by
18 the national council of architectural registration boards or
19 its equivalent as prescribed by rule;

20 (2) evidence satisfactory to the board of
21 qualification in comprehensive design as prescribed by rule
22 of the board; and

23 (3) evidence satisfactory to the board of
24 meeting all of the requirements prescribed by rule of the
25 board.

1 G. A person registered as an architect in another
2 jurisdiction who has held the registration in a position of
3 responsibility for a period of time as prescribed by the rule
4 of the board and who does not have a certificate issued by
5 the national council of architectural registration boards may
6 apply for registration by presenting evidence of broad
7 experience as an architect, as required by rule of the board,
8 of academic training and work experience directly related to
9 architecture, including evidence satisfactory to the board of
10 qualification in comprehensive design.

11 H. No sole proprietorship, partnership,
12 corporation, association or other business entity shall be
13 registered under the Architectural Act. No sole
14 proprietorship, partnership, corporation, association or
15 other business entity shall practice or offer to practice
16 architecture in the state except as provided in Subsections
17 I, J and K of this section.

18 I. Registered architects may practice under the
19 Architectural Act as individuals or through partnerships,
20 associations, corporations or other business entities.

21 J. In the case of practice through a business
22 entity primarily offering architectural services, at least
23 one of the owners shall be a registered architect under the
24 Architectural Act, and registered architects shall control a
25 majority interest in the business entity. All plans,

1 designs, drawings, specifications or reports issued by or for
2 the business entity for a project physically located within
3 New Mexico shall bear the seal of a registered architect who
4 shall be responsible for such work.

5 K. In the case of practice through a business
6 entity primarily offering engineering services, registrants
7 under the Architectural Act or licensees under the
8 Engineering and Surveying Practice Act may offer
9 architectural services; provided that:

10 (1) an architect registered in New Mexico is
11 in responsible charge of the architectural services of the
12 business entity and has the authority to bind the entity by
13 contract;

14 (2) the architect in responsible charge
15 provides the board with an affidavit documenting the
16 architect's authority;

17 (3) all plans, designs, drawings,
18 specifications or reports that are involved in the practice
19 and issued by or for the business shall bear the seal and
20 signature of the architect in responsible charge of the work
21 when issued; and

22 (4) the architect shall notify the board of
23 a termination of the architect's authority.

24 L. A business entity that offers project delivery
25 through a teaming of architectural and construction services

1 may render architectural services only with an architect in
2 responsible charge who is registered in New Mexico. This
3 provision does not apply to business entities providing
4 services that are exempted by Section 61-15-9 NMSA 1978."

5 SECTION 4. Section 61-15-8 NMSA 1978 (being Laws 1931,
6 Chapter 155, Section 7, as amended by Laws 1999, Chapter 263,
7 Section 6 and by Laws 1999, Chapter 272, Section 28) is
8 amended to read:

9 "61-15-8. EXEMPTIONS--FROM REGISTRATION.--

10 A. The following are exempt from the provisions of
11 the Architectural Act:

12 (1) architects who have no established
13 places of business in this state and who are not registered
14 pursuant to the Architectural Act may act as consulting
15 associates of an architect registered under the provisions of
16 the Architectural Act; provided that the architects are
17 registered as architects in another jurisdiction; and

18 (2) architects acting solely as officers or
19 employees of the United States or any interstate railroad
20 system or architects acting on a federally owned site where
21 architectural services are performed only on that site and
22 are subject to federal jurisdiction.

23 B. Nothing in the Architectural Act shall prevent
24 a registered architect from employing non-registrants to work
25 under the architect's responsible charge."

1 SECTION 5. Section 61-15-9 NMSA 1978 (being Laws 1931,
2 Chapter 155, Section 8, as amended by Laws 1999, Chapter 263,
3 Section 7 and by Laws 1999, Chapter 272, Section 29) is
4 amended to read:

5 "61-15-9. PROJECT EXEMPTIONS.--

6 A. The state and its political subdivisions are
7 not exempt from the requirements of the Architectural Act.

8 B. A person who is not an architect may prepare
9 building plans and specifications, unless the building plans
10 and specifications involve public safety or health, but the
11 work shall be done only on:

12 (1) single-family dwellings not more than
13 two stories in height;

14 (2) multiple dwellings not more than two
15 stories in height containing not more than four dwelling
16 units of wood-frame construction; provided that this
17 paragraph shall not be construed to allow a person who is not
18 registered under the Architectural Act to design multiple
19 clusters of up to four dwelling units each to form apartment
20 or condominium complexes where the total exceeds four
21 dwelling units on any lawfully divided lot;

22 (3) garages or other structures not more
23 than two stories in height that are appurtenant to buildings
24 described in Paragraphs (1) and (2) of this subsection; or

25 (4) nonresidential buildings, as defined in

1 applicable state or local building codes, unless the building
2 code official having jurisdiction has found that the
3 submission of plans, drawings, specifications or calculations
4 prepared and designed by an architect or engineer licensed by
5 the state is necessary to obtain compliance with minimum
6 standards governing the preparation of building plans and
7 specifications adopted by the construction industries
8 division of the regulation and licensing department. The
9 construction industries division shall set, by rule, minimum
10 standards for preparation of building plans and
11 specifications pursuant to this paragraph.

12 C. Nothing in the Architectural Act shall require
13 the state or a political subdivision of the state to secure
14 the services of an architect or engineer for a public work
15 project that consists of repair, replacement or remodeling if
16 the alteration does not affect structural or life safety
17 features of a building and does not require the issuance of a
18 building permit under any applicable code.

19 D. A New Mexico registered professional engineer
20 who has complied with all the laws of New Mexico relating to
21 the practice of engineering has a right to engage in the
22 incidental practice, as defined by rule, of activities
23 properly classified as architectural services; provided that
24 the engineer does not make any representation as being an
25 architect or as performing architectural services; and

1 further provided that the engineer performs only that part of
2 the work for which the engineer is professionally qualified
3 and uses qualified professional engineers, architects or
4 others for those portions of the work in which the
5 contracting professional engineer is not qualified. The
6 engineer shall assume all responsibility for compliance with
7 all laws, codes, rules and ordinances of the state or its
8 political subdivisions pertaining to documents bearing an
9 engineer's professional seal."

10 SECTION 6. Section 61-15-10 NMSA 1978 (being Laws 1979,
11 Chapter 362, Section 8, as amended) is amended to read:

12 "61-15-10. VIOLATIONS--PENALTIES.--

13 A. Any person who knowingly uses a forged
14 architectural registration seal on any document for the
15 purpose of permitting the constructing of any building for
16 human habitation or occupancy is guilty of a fourth degree
17 felony, punishable pursuant to Section 31-18-15 NMSA 1978.

18 B. Each of the following acts committed by any
19 person constitutes a misdemeanor, punishable pursuant to
20 Section 31-19-1 NMSA 1978:

21 (1) willfully forging or giving false
22 evidence of any kind to the board or any board member for the
23 purpose of obtaining a certificate of registration as an
24 architect;

25 (2) using or attempting to use an expired,

1 suspended or revoked certificate of registration as an
2 architect;

3 (3) using or permitting another to use the
4 person's official architect's seal to stamp or seal any
5 documents that have not been prepared either by the architect
6 or the architect's responsible charge;

7 (4) engaging or offering to engage in the
8 practice of architecture, unless exempted or duly registered
9 to do so under the Architectural Act;

10 (5) using a designation tending to imply to
11 the public that the person is an architect unless:

12 (a) the person is duly registered to do
13 so under the provisions of the Architectural Act;

14 (b) the title containing the
15 designation is allowed by rule of the board; or

16 (c) the title containing the
17 designation does not imply that the person using the
18 designation, when describing occupation, business name or
19 services, is offering to perform architectural services; or

20 (6) procuring, aiding or abetting any
21 violation of the provisions of the Architectural Act or the
22 rules adopted by the board.

23 C. If, after a disciplinary hearing, the board
24 determines that, based on the evidence, a person committed a
25 violation pursuant to the Architectural Act, the board, in

1 addition to any other sanction, shall issue an order that
2 imposes a civil penalty not to exceed seven thousand five
3 hundred dollars (\$7,500) for each violation on the person.
4 In determining the amount of the civil penalty, the board
5 shall consider:

- 6 (1) the seriousness of the violation;
- 7 (2) the degree of harm inflicted on
8 individuals or the public;
- 9 (3) the economic benefit received by the
10 person due to the violation;
- 11 (4) the person's history of violations; and
- 12 (5) any other aggravating or mitigating
13 factors relating to the violation."

14 **SECTION 7.** Section 61-15-12 NMSA 1978 (being Laws 1979,
15 Chapter 362, Section 9, as amended) is amended to read:

16 "61-15-12. DISCIPLINARY ACTIONS.--

17 A. In accordance with the provisions of the
18 Uniform Licensing Act, the board may refuse to issue, may
19 suspend or may revoke any certificate of registration as an
20 architect, and the board may impose disciplinary conditions,
21 including a letter of censure or reprimand, a civil penalty
22 pursuant to Section 61-15-10 NMSA 1978, probation, peer
23 review, remedial education and testing and other conditions
24 as deemed necessary by the board to promote the public
25 welfare, upon satisfactory proof being made to the board that

1 the registrant has:

2 (1) engaged in any fraud or deceit in
3 obtaining a certificate of registration;

4 (2) made a false statement under oath or a
5 false affidavit to the board;

6 (3) engaged in gross negligence,
7 incompetency or misconduct in the practice of architecture as
8 set forth by rule;

9 (4) stamped with the registrant's official
10 seal any plans, specifications, plats or reports in violation
11 of the Architectural Act;

12 (5) practiced architecture without a valid
13 and current registration in the jurisdiction in which the
14 practice took place;

15 (6) made any representation as being an
16 architect without having a valid and current certificate of
17 registration as an architect in the jurisdiction in which the
18 representation took place;

19 (7) violated any provisions of the
20 Architectural Act or the rules adopted by the board;

21 (8) refused to accept or to respond to a
22 certified mail communication from the board;

23 (9) failed to provide the board or its
24 representatives in a timely manner all documentation or
25 information in the registrant's possession or knowledge that

1 has been requested by the board for the purposes of
2 investigation of an alleged violation of the Architectural
3 Act or the rules adopted by the board;

4 (10) procured, aided or abetted a violation
5 of the Architectural Act or the rules adopted by the board;

6 (11) failed to comply with the minimum
7 standards of the practice of architecture;

8 (12) habitually or excessively used
9 intoxicants or controlled substances; or

10 (13) failed to report to the board any
11 adverse actions taken against the registrant by another
12 jurisdiction, any professional organization, any governmental
13 or law enforcement agency or any court for an act or conduct
14 that would constitute grounds for actions as provided by this
15 section.

16 B. The board may deny access to examination, may
17 refuse to issue, may suspend or may revoke any certificate of
18 registration as an architect:

19 (1) for any applicant found to have violated
20 any provision of the Architectural Act or the rules adopted
21 by the board; or

22 (2) for any registrant or applicant who is
23 convicted of a felony.

24 C. Disciplinary proceedings may be instituted by
25 any person, shall be instituted by sworn complaint and shall

1 conform to the provisions of the Uniform Licensing Act. Any
2 party to a hearing may obtain a copy of the hearing record
3 upon payment of the costs for the copy.

4 D. The board may modify any prior order of
5 revocation, suspension or refusal to issue a certificate of
6 registration of an architect, but only upon a finding by the
7 board that there no longer exist any grounds for disciplinary
8 action; provided, however, that any cessation of the practice
9 of architecture for twelve months or more shall require the
10 architect to undergo such additional examination as the board
11 determines necessary.

12 E. Nothing in the Architectural Act shall be
13 construed as requiring the board to report, for the
14 institution of proceedings, minor violations of that act;
15 provided that the board, after an informal hearing,
16 determines that the public interest will be adequately served
17 by a suitable written notice or warning or by the suspension
18 of the offender's license or certificate of registration for
19 a period not to exceed thirty days.

20 F. The applicant or registrant shall be liable for
21 all costs of disciplinary proceedings unless exonerated and
22 shall be liable for all costs associated with monitoring
23 compliance with any disciplinary action."

24 **SECTION 8.** Section 61-15-13 NMSA 1978 (being Laws 1979,
25 Chapter 362, Section 10, as amended) is amended to read:

1 "61-15-13. TERMINATION OF AGENCY LIFE--DELAYED
2 REPEAL.--The board of examiners for architects is terminated
3 on July 1, 2023 pursuant to the provisions of the Sunset Act.
4 The board shall continue to operate according to the
5 provisions of the Architectural Act until July 1, 2024.
6 Effective July 1, 2024, the Architectural Act is repealed."

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