CHAPTER 107

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.

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

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

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

F. Members of the board shall receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance. All expenses certified by the board as properly and necessarily incurred in the discharge of its duties, including authorized reimbursement and necessary expenses incident to cooperation.
with like boards of other states, shall be paid by the state
treasurer out of the "fund of the board of examiners for
architects" on the warrant of the secretary of finance and
administration issued upon vouchers signed by the chair or
the chair's designee; provided, however, that at no time
shall the total warrants issued exceed the total amount of
funds accumulated under the Architectural Act. All money
derived from the operation of the Architectural Act shall be
deposited with the state treasurer, who shall keep the money
in the fund of the board of examiners for architects.

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

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

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

J. The board may deny, review, suspend or revoke a
registration to practice architecture and may censure, fine,
reprimand and place on probation and stipulation any
architect in accordance with the Uniform Licensing Act for
any cause as stated in the Architectural Act.

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

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

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

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

A. The board shall keep a record of its
proceedings. The records of the board shall be prima facie
evidence of the proceedings of the board set forth in the
record and a transcript of the record, duly certified by the
board under seal, shall be admissible in evidence with the
same force and effect as if the original were produced.

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

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

D. Board records and papers that are of a
confidential nature and are not public records include
examination material for examinations not yet given, file
records of examination problem solutions, letters of inquiry
and references concerning applicants, board inquiry forms
concerning applicants and investigation files. All data,
communications and information acquired by the board relating
to actual or potential disciplinary action is confidential
and shall not be disclosed except to the extent necessary to
fulfill the duties of the board.

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

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

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

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

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

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

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

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

D. All applicants for registration shall be
required to complete all forms and affidavits required by the
board.
E. An applicant for registration by examination shall have:

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

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

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

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

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

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

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

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

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

J. In the case of practice through a business entity primarily offering architectural services, at least one of the owners shall be a registered architect under the Architectural Act, and registered architects shall control a majority interest in the business entity. All plans,
designs, drawings, specifications or reports issued by or for the business entity for a project physically located within New Mexico shall bear the seal of a registered architect who shall be responsible for such work.

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

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

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

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

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

L. A business entity that offers project delivery through a teaming of architectural and construction services
may render architectural services only with an architect in
responsible charge who is registered in New Mexico. This
provision does not apply to business entities providing
services that are exempted by Section 61-15-9 NMSA 1978."

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

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

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

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

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

B. Nothing in the Architectural Act shall prevent
a registered architect from employing non-registrants to work
under the architect's responsible charge."
SECTION 5. Section 61-15-9 NMSA 1978 (being Laws 1931,  
Chapter 155, Section 8, as amended by Laws 1999, Chapter 263,  
Section 7 and by Laws 1999, Chapter 272, Section 29) is  
amended to read:  

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

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

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

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

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

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

(4) nonresidential buildings, as defined in
applicable state or local building codes, unless the building
code official having jurisdiction has found that the
submission of plans, drawings, specifications or calculations
prepared and designed by an architect or engineer licensed by
the state is necessary to obtain compliance with minimum
standards governing the preparation of building plans and
specifications adopted by the construction industries
division of the regulation and licensing department. The
construction industries division shall set, by rule, minimum
standards for preparation of building plans and
specifications pursuant to this paragraph.

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

D. A New Mexico registered professional engineer
who has complied with all the laws of New Mexico relating to
the practice of engineering has a right to engage in the
incidental practice, as defined by rule, of activities
properly classified as architectural services; provided that
the engineer does not make any representation as being an
architect or as performing architectural services; and
further provided that the engineer performs only that part of
the work for which the engineer is professionally qualified
and uses qualified professional engineers, architects or
others for those portions of the work in which the
contracting professional engineer is not qualified. The
engineer shall assume all responsibility for compliance with
all laws, codes, rules and ordinances of the state or its
political subdivisions pertaining to documents bearing an
engineer's professional seal."

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

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

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

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

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

(2) using or attempting to use an expired,
suspended or revoked certificate of registration as an
architect;

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

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

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

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

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

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

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

C. If, after a disciplinary hearing, the board
determines that, based on the evidence, a person committed a
violation pursuant to the Architectural Act, the board, in
addition to any other sanction, shall issue an order that
imposes a civil penalty not to exceed seven thousand five
hundred dollars ($7,500) for each violation on the person.
In determining the amount of the civil penalty, the board
shall consider:

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

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

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

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

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

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

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

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

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

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

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

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

(9) failed to provide the board or its representatives in a timely manner all documentation or information in the registrant's possession or knowledge that
has been requested by the board for the purposes of investigation of an alleged violation of the Architectural Act or the rules adopted by the board;

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

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

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

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

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

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

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

C. Disciplinary proceedings may be instituted by any person, shall be instituted by sworn complaint and shall
conform to the provisions of the Uniform Licensing Act. Any party to a hearing may obtain a copy of the hearing record upon payment of the costs for the copy.

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

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

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

SECTION 8. Section 61-15-13 NMSA 1978 (being Laws 1979, Chapter 362, Section 10, as amended) is amended to read:
"61-15-13. TERMINATION OF AGENCY LIFE--DELAYED

REPEAL.--The board of examiners for architects is terminated on July 1, 2023 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the Architectural Act until July 1, 2024. Effective July 1, 2024, the Architectural Act is repealed."
Approved by me this 6th day of April, 2017