

Document No. 5082

DEPARTMENT OF LABOR, LICENSING AND REGULATION

BOARD OF ARCHITECTURAL EXAMINERS

CHAPTER 11

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-3-50, and 40-3-60

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Synopsis:

The South Carolina Board of Architectural Examiners proposes to amend its regulations to: rename the Intern Development Program as the Architectural Experience Program in R.11-1 and R.11-6; update information regarding submission of applications and payment of fees in R.11-5; amend references to licensure periods for purposes of continuing education in R.11-8.1 to establish biennial as opposed to annual licensure periods; modify and delete language regarding seals in R.11-11; delete provisions in the code of ethics in R.11-12; and to clarify additional language in R.11-1, R.11-6, R.11-8.1 and throughout the chapter.

A Notice of Drafting was published in the *State Register* on August 27, 2021.

Instructions:

Replace regulation as shown below. All other items and sections remain unchanged.

Text:

11-1. Definitions.

Definitions found in Section 40-3-20 apply to this chapter.

(1) "AXP" means the Architectural Experience Program established by the National Council of Architectural Registration Boards.

(2) "NCARB" means the National Council of Architectural Registration Boards.

(3) "NAAB" means the National Architectural Accrediting Board.

(4) "A.R.E." means the Architect Registration Examination.

(5) "Continuing Education Hour" means one (1) contact hour of participation in a continuing education activity.

(6) "Contact hour" means a minimum of fifty (50) minutes of instruction.

11-2. Officers.

A. Officers of this Board shall be chairman, vice-chairman, and secretary, and shall be elected annually. The chairman shall exercise general supervision of the Board's affairs, except such as are placed under the Director of the Department of Labor, Licensing and Regulation, and shall preside at all meetings of the Board when present. The vice-chairman shall possess all the powers and perform all the duties of the chairman in the event of the absence, disability, refusal or failure to act of the chairman. The secretary shall act as its recording secretary; cause written minutes of every meeting of this Board to be kept in the Book of Minutes; affix the Board's Seal to such instruments as require it; and sign all instruments and matters that require attestation or approval of this Board.

B. No members may serve more than two (2) consecutive one-year terms in the office of chairman or vice-chairman, but election to fill an unexpired term shall not bar the serving of two (2) succeeding terms. A member must have served one (1) calendar year on the Board to be eligible for the office of chairman and vice-chairman.

11-3. Meetings.

Notice of all meetings shall be distributed to each member at least five (5) days in advance of such meeting, giving the 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.

11-4. Seal of the Board.

The Seal of the Board shall be circular in shape and 1 3/4 inches in diameter. Concentric with the outside of the seal there shall be a circle of 1 3/16 inches in diameter, in which there shall be the Seal of South Carolina. In the annular space between the circle and the outside of the Seal there shall be the following inscription: "Seal of South Carolina Board of Architectural Examiners".

11-5. Applications and Fees.

A. All applications must be accompanied by an application fee in the form of a check or money order made payable to South Carolina Board of Architectural Examiners. All online applications must be accompanied by an application fee in the form of an online payment on the South Carolina Board of Architectural Examiners website at <http://llr.sc.gov/POL/Architects>. Applications will be reviewed by the Board within ninety (90) days of receipt. If after review by the Board an application is approved, the applicant shall be advised in writing.

B. The Board may charge fees as shown in South Carolina Code of Regulations Chapter 10-3 and on the South Carolina Board of Architectural Examiners website at <http://llr.sc.gov/POL/Architects>.

11-6. Registration by Examination.

A. 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 of the South Carolina Code of Laws and must have completed all requirements of the Architectural Experience Program (AXP) prior to licensure. Applicants may begin taking the Architect Registration Examination prior to completion of AXP 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 Architectural Experience Program (AXP).

(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. Examinees will not have access to the 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. Once a candidate satisfies all licensure requirements as set forth in Section 40-3-230 of the South Carolina Code of Laws, he or she will be issued a license to practice architecture in South Carolina during the current 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 fee as determined by the Board, will be issued a license to practice architecture in South Carolina during the current licensure period.

11-8. Renewals.

A. Certificates of Registration issued to individuals expire biennially. They must be renewed for the following licensure period by payment of the renewal fee and by reporting completion of the required continuing education hours. Certificates shall become invalid unless renewed.

B. Certificates of Authorization issued to firms expire biennially. They must be renewed for the following licensure period by payment of the renewal fee and shall become invalid unless renewed.

C. Lapsed Certificates of Registration may be renewed by the Board at any time within one year from the date of expiration on payment of the renewal fee plus late penalties and demonstration of twenty-four (24) hours of continuing education in health, safety and welfare topics. In case of failure to renew within one year from the date of expiration, the Certificate cannot be reissued except by a new application accompanied by the application fee and approval by the Board.

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D. Lapsed Certificates of Authorization may be renewed by the Board at any time within one year from the date of expiration on payment of the renewal fee plus late penalties. In case of failure to renew within one year from the date of expiration, 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.

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 will be exempt for the first renewal.

(2) A registrant serving on active military duty may be exempt for some or all of the continuing education requirements.

(3) Hardship cases may be considered by the Board on an individual basis upon submittal of relevant documentation acceptable to the Board in its discretion.

(4) Architects in Emeritus status as defined in Section 40-3-20 of the South Carolina Code of Laws.

C. Requirements.

(1) Each South Carolina Registered architect shall complete a minimum of twenty-four (24) continuing education hours each biennial licensure period in topics related to health, safety and welfare. No carry-over of continuing education hours into the next biennial licensure period is permitted. However, carry-over within the licensing period is allowed.

(2) Each registrant shall submit, on a form provided by the board, a signed affidavit attesting to the fulfillment of continuing education requirements for the prior biennial licensure period.

(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 two (2) years after submission in the event the affidavit is selected for audit. Registrants must comply with audit deadlines and requirements.

(4) The Board may disallow claimed credit for continuing education hours. The registrant shall have forty-five (45) 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 shall be considered a violation of the Architectural Registration Law. Failure to file the required report, properly completed and signed, or to comply with audit and verification requests within thirty (30) days of notice shall be considered a violation of the Architectural Registration Law.

11-9. Duplicate Certificates.

A lost or destroyed Certificate may be replaced upon written request accompanied by the appropriate fee. Such Certificate shall bear the same date and number as the original and shall be marked "duplicate."

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.

11-11. Seals.

A. The 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 and sealed by the architect in responsible charge. Record documents used for obtaining building permits shall be so signed and dated. 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 architect in responsible charge;
- (2) It is verifiable, having been signed and dated;
- (3) It is under the professional's direct control;

(4) 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.

- (5) 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) 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.

(2) 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.

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

(4) 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

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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 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 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.

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 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.

Fiscal Impact Statement:

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

Statement of Rationale:

The updated regulation will: rename the Intern Development Program as the Architectural Experience Program in R.11-1 and R.11-6; update information regarding submission of applications and payment of fees in R.11-5; amend references to licensure periods for purposes of continuing education in R.11-8.1 to establish biennial as opposed to annual licensure periods; and modify and delete language regarding seals; delete provisions in the code of ethics in R.11-12; and to clarify additional language in R.11-1, R.11-6, R.11-8.1 and throughout the chapter.