

HB235 INTRODUCED



1 HB235
2 68JW111-1
3 By Representative Lipscomb
4 RFD: Boards, Agencies and Commissions
5 First Read: 27-Feb-24



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SYNOPSIS:

Under existing law, the Alabama Board for Registration of Architects regulates the practice of architecture in this state.

This bill would clarify definitions.

This bill would further provide for the duties of the board.

This bill would further regulate the practice of architecture by entities.

This bill would also make nonsubstantive, technical revisions to update existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Board for Registration of Architects; to amend Sections 34-2-30, 34-2-33, 34-2-34, 34-2-35, 34-2-36, 34-2-37, 34-2-38, 34-2-39, 34-2-40, and 34-2-41, Code of Alabama 1975; to repeal Section 34-2-42, Code of Alabama 1975; and to add Section 34-2-43 to the Code of Alabama 1975, to clarify definitions; to further provide for the duties of the board; to further regulate the practice of



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29 architecture by entities; and to make nonsubstantive,
30 technical revisions to update existing code language to
31 current style.

32 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

33 Section 1. Sections 34-2-30, 34-2-33, 34-2-34, 34-2-35,
34 34-2-36, 34-2-37, 34-2-38, 34-2-39, 34-2-40, and 34-2-41, Code
35 of Alabama 1975, are amended to read as follows:

36 "§34-2-30

37 For the purposes of this chapter, the following words
38 ~~and phrases shall~~ have the following meanings ~~respectively~~
39 ~~ascribed by this section~~:

40 (1) ARCHITECT. An individual who is legally qualified
41 to practice architecture.

42 (2) BUILDING. A structure consisting of foundation,
43 walls, or supports and roof, with or without related
44 components, systems, or other parts comprising a completed
45 building ready for occupancy.

46 (3) PRACTICE ARCHITECTURE or PRACTICING ARCHITECTURE.
47 Performing ~~or doing~~, or offering or attempting to ~~do or~~
48 perform any service, education, training, work, act, or thing
49 within the scope of the practice of architecture. An
50 individual shall be construed to hold himself or herself out
51 as practicing architecture when, by verbal claim, sign,
52 advertisement, letterhead, card, or any other way, the
53 individual represents himself or herself to be an architect
54 with or without qualifying adjective, or when he or she
55 implies that he or she is an architect through the use of some
56 other title.



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57 (4) PRACTICE OF ARCHITECTURE. When an individual holds
58 himself or herself out as able to render or when the person
59 does render any service, education, or training by
60 consultations, investigations, evaluations, preliminary
61 studies, plans, specifications, contract documents, and a
62 coordination of all factors concerning the design and
63 observation of construction of buildings or any other service
64 in connection with the design, observation, or construction of
65 buildings or any other service, education, or training in
66 connection with the design, observation, or construction of
67 buildings located within the boundaries of the state,
68 regardless of whether such services, education, or training
69 are performed in connection with one or all of these duties,
70 or whether they are performed in person or as the directing
71 head of an office, institution, or organization performing
72 them.

73 (5) RESPONSIBLE CONTROL. Control over all phases of the
74 practice of architecture, including, but not limited to,
75 control over and detailed knowledge of the content of
76 technical submissions during their preparation as is
77 ordinarily exercised by registered architects applying the
78 required professional standard of care."

79 "§34-2-33

80 (a) The board shall receive applications for
81 registration as an architect only on forms prescribed and
82 furnished by the board.

83 (1) Upon receipt of the application and the payment of
84 a fee, as established by the board through the public



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85 rulemaking process, ~~the fee in no event exceeding two hundred~~
86 ~~fifty dollars (\$250)~~, the board shall promptly notify the
87 applicant of examination requirements for registration, if
88 applicable.

89 (2) The board may contract with an independent testing
90 agency to prepare, grade, or conduct the examination. If the
91 board determines the applicant requires examination, the
92 applicant shall pay the actual cost of the examination
93 directly to the board-authorized testing agency.

94 (b) The board may issue to an applicant, without
95 further examination, a certificate of registration as an
96 architect, provided the applicant holds an unexpired
97 certificate issued to him or her by the National Council of
98 Architectural Registration Boards, ~~hereinafter referred to as~~
99 (NCARB).

100 (c) (1) The following facts established in the
101 application shall be regarded as prima facie evidence
102 satisfactory to the board that the applicant is fully
103 qualified to be examined for registration:

104 ~~(1)~~ a. Graduation after a course of study of a length as
105 the board shall by regulation determine from a school or
106 college of architecture accredited by the National
107 Architectural Accrediting Board, ~~hereinafter referred to as~~
108 (NAAB); and

109 ~~(2)~~ b. An additional period of practical experience in
110 architectural work under the responsible control of a
111 registered architect or architects as the board by regulation
112 shall deem appropriate.



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113 (2) If the applicant is unable to satisfy the
114 requirements of subdivision (1), the applicant may demonstrate
115 appropriate qualifications by a combination of education,
116 experience, and examination endorsed by NCARB and approved by
117 the board.

118 (d) Unless exempted, applicants shall take and pass the
119 professional examination administered by the board or an
120 independent testing agency approved by the board.

121 ~~(d) In determining the sufficiency of the~~
122 ~~qualifications of the applicant for registration, a majority~~
123 ~~vote of the members of the board shall be required.~~

124 (e) (1) Certificates for registration shall expire on
125 December 31 following their issuance or renewal and shall
126 become invalid on ~~that day~~ January 1 unless renewed.

127 (2) Certificates of registrants who are or may be in
128 the Armed Forces of the United States shall not expire until
129 December 31 following the discharge or final separation of the
130 registrant from the Armed Forces of the United States.

131 (f) (1) Renewal may be accomplished at any time prior to
132 or during the month of December by the payment of a fee
133 established by rule by the board ~~not to exceed two hundred~~
134 ~~fifty dollars (\$250).~~

135 (2) A penalty ~~not to exceed the sum of seventy-five~~
136 ~~dollars (\$75)~~ established by board rule may be added to the
137 renewal fee for failure to renew a certificate upon such terms
138 and conditions as the board may by regulation determine.
139 Failure to renew a certificate of registration by March 31
140 shall result in a lapse of registration.



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141 (g) A registrant whose certificate of registration has
142 lapsed may have it reinstated, if in compliance with other
143 relevant requirements, by filing a reinstatement application
144 and paying, in addition to the appropriate renewal fee and
145 late penalty, a reinstatement fee ~~of two hundred fifty dollars~~
146 ~~(\$250)~~established by board rule.

147 (h) There is ~~hereby created, for renewal of certificate~~
148 ~~purposes,~~ a status to be known as "emeritus status architect,"
149 which shall apply to architects who have been registered for
150 10 consecutive years or longer, and who are 65 years of age or
151 older, and who have retired from active practice. ~~The annual~~
152 ~~renewal of registration for emeritus status shall be renewed~~
153 ~~without payment of a fee.~~ If an emeritus status architect
154 subsequently wishes to practice, he or she may do so without
155 penalty by proper application to the board."

156 "§34-2-34

157 (a) The board shall have the following disciplinary
158 powers:

159 (1) To issue cease and desist letters to persons who
160 are practicing architecture without a license.

161 ~~(1)~~ (2) To issue reprimands to any licensee who violates
162 any provision of this chapter or the rules ~~and regulations~~ of
163 the board.

164 ~~(2)~~ (3) To levy administrative fines for serious
165 violations of this chapter or the rules ~~and regulations~~ of the
166 board of not more than five thousand dollars (\$5,000) for each
167 day the violation continues, but in no event shall an
168 administrative fine exceed twenty-five thousand dollars



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169 (\$25,000) total per violation.

170 ~~(3)~~ (4) To refuse to issue a certificate, to suspend a
171 certificate for a definite period, or to revoke the
172 certificate of registration of an architect who is found
173 guilty of any of the following:

174 a. Any fraud or deceit in obtaining a certificate of
175 registration as determined by the board at a hearing~~†~~.

176 b. Gross negligence, incompetence, or misconduct in the
177 practice of architecture as determined by the board at a
178 hearing~~†~~.

179 c. A felony or misdemeanor involving moral turpitude by
180 a court of competent jurisdiction~~†~~.

181 d. Practicing architecture in this state in violation
182 of the standards of professional conduct established by the
183 board~~†~~.

184 e. Practicing architecture in this or any other state
185 or country in violation of the laws of that state or country~~†~~
186 ~~or~~.

187 f. Aiding or abetting any individual, partnership, or
188 corporation to engage in the practice of architecture in
189 violation of any provisions of law.

190 ~~(4)~~ (b) Pursuant to subdivision ~~(3)~~ (a), notice of the
191 nature of the charges placed against an architect and the time
192 and place of hearing these charges by the board must be sent
193 to the accused by certified mail, with return receipt
194 requested, and addressed to his or her last known place of
195 business, or residence, not less than 30 days before the date
196 fixed for such hearing. The notice shall inform the individual



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197 that he or she is entitled to be represented by counsel of his
198 or her choosing at the hearing, to have witnesses testify in
199 his or her behalf at the hearing, to confront and
200 cross-examine witnesses at the hearing, and to testify in his
201 or her own behalf at the hearing.

202 (c) In all cases of reprimand, administrative fine,
203 refusal, suspension, or revocation of a certificate of
204 registration, or any other disciplinary action of the board,
205 the accused may appeal to the Circuit Court of Montgomery
206 County, Alabama. Either party, the accused or the board, has
207 the right to appeal from the final decree of the circuit court
208 as provided by law."

209 "§34-2-35

210 (a) Each registrant must obtain a seal of a design
211 authorized by the board bearing the registrant's name, the
212 legend registered architect, the words State of Alabama, and
213 the registrant's license registration number.

214 (b) Nothing in this chapter shall prevent a registered
215 architect from being employed by a person, firm, partnership,
216 corporation, or professional corporation.

217 (c) Plans, specifications, plates, and reports, and all
218 documents prepared by an architect which are issued by a
219 registrant must be stamped with the seal during the life of a
220 registrant's certificate.

221 (d) It shall be unlawful for anyone to stamp or seal
222 any document with the seal after the certificate or the
223 registrant named thereon has expired or been suspended or
224 revoked.



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225 (e) It shall be unlawful for an architect or any other
226 individual to stamp, to cause to be stamped, or to allow to be
227 stamped any document or documents which were not prepared
228 under the responsible control of the registered architect
229 whose stamp is to be affixed thereon.

230 (f) (1) On or after July 22, 1987, it shall be unlawful:

231 ~~(1)~~ a. ~~to~~ To practice architecture in a branch office not
232 under the day-to-day supervision of a registered architect ~~or.~~

233 ~~(2)~~ b. ~~for~~ For an architect to falsely represent himself
234 or herself as being in responsible control of architectural
235 work or to permit his or her seal, or ~~facsimile~~ image thereof,
236 to be used by another for any purpose.

237 (2) Violations described in subdivisions (1) and (2)

238 shall be penalized as provided in Section 34-2-36."

239 "§34-2-36

240 (a) On or after April 28, 1999, any person who
241 knowingly, willfully, or intentionally violates any provision
242 of this chapter shall be guilty of a Class A misdemeanor. Each
243 day of violation shall constitute a distinct and separate
244 offense.

245 (b) When it appears to the board that any person is
246 violating ~~any of the provisions of~~ this chapter, the board may
247 in its own name bring an action in the circuit court for an
248 injunction, and the court may enjoin any person from violating
249 this chapter regardless of whether the proceedings have been
250 or may be instituted before the board or whether criminal
251 proceedings have been or may be instituted.

252 (c) In addition to any other provisions of law, the



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253 board may enter an order assessing a civil penalty against any
254 nonregistered ~~person~~ individual, corporation, or other entity
255 found guilty by the board of, but not limited to, the
256 following violations of this chapter:

257 (1) Engaging in the practice or offer to practice
258 architecture in this jurisdiction without being registered in
259 accordance with this chapter.

260 (2) Using or employing the words architect,
261 architecture, or any modification or derivative thereof in its
262 name or form of business activity, except as authorized in
263 this chapter.

264 (3) Presenting to the board ~~or a member of the board~~ or
265 attempting to use the certificate of registration or the seal
266 of another registered architect to obtain or attempt to obtain
267 a certificate of registration.

268 (4) Giving false or forged evidence of any kind to the
269 board ~~or a member of the board~~ in obtaining or attempting to
270 obtain a certificate of registration.

271 (5) Falsely impersonating another registered architect
272 of like or different name.

273 (6) Using or attempting to use a revoked or nonexistent
274 certificate of registration.

275 (7) Directing the professional judgment of a registered
276 architect who is responsible for the practice of architecture.

277 (d) The board shall determine the amount of the civil
278 penalty which shall not exceed five thousand dollars (\$5,000)
279 for each day the violation continues and shall not be greater
280 than twenty-five thousand dollars (\$25,000) total per



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281 violation.

282 (e) Before issuing an order under this section, the
283 board shall provide the person written notice and the
284 opportunity to request, within 30 days of the notice by the
285 board, a hearing on the record.

286 (f) Pursuant to the proceedings under this section, the
287 board may issue subpoenas to compel the attendance and
288 testimony of witnesses and disclosure of evidence and may
289 request the Attorney General to bring an action to enforce a
290 subpoena.

291 (g) A person aggrieved by the levy of a civil penalty
292 under this section may file an appeal to the Circuit Court of
293 Montgomery County exclusively for judicial review of the
294 penalty within 30 days, notwithstanding the Administrative
295 Procedure Act. Unless an appeal is taken or the penalty paid,
296 the order of the board imposing the civil penalty shall become
297 a judgment.

298 (h) If a person fails to pay a civil penalty within 30
299 days after entry of an order pursuant to subsection (c) or if
300 the order is stayed pending an appeal, within 10 days after
301 the court enters a final judgment in favor of the board of an
302 order appealed pursuant to subsection (g), the board shall
303 notify the Attorney General. The Attorney General may commence
304 a civil action to recover the amount of the penalty plus
305 ~~attorney's~~attorney fees and costs.

306 (i) The cost to the board of the action shall be paid
307 by the respondent if found in violation."

308 "§34-2-37



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309 (a) It shall be lawful for a corporation, a
310 professional corporation, a professional association, a
311 partnership, or a limited liability company (the entity) to
312 practice architecture in this state provided that:

313 (1) A minimum of two-thirds of those responsible for
314 controlling the activities of the entity, including officers,
315 partners, directors, members, and others depending on the
316 legal structure of the entity, are voting stockholders who are
317 architects or professional engineers, or both, registered
318 under the laws of any United States jurisdiction and at least
319 one is an architect registered in Alabama.

320 (2) Any agreement to perform such services shall be
321 executed on behalf of the entity by a stockholding officer,
322 partner, director, or member with authority to contractually
323 bind the entity, who is an architect registered in the State
324 of Alabama.

325 (3) A stockholding officer, partner, director, or
326 member who is an architect registered in the State of Alabama
327 shall exercise responsible control over the particular
328 services contracted for by the entity and that architect's
329 name and seal shall appear on all documents prepared by the
330 entity in its practice of architecture.

331 (4) Other officers, partners, directors, or members
332 shall not direct the professional judgment of the architect in
333 responsible control over the practice of architecture by the
334 entity.

335 (5) The entity shall furnish the board with such
336 information about its organization and activities as the board



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337 shall require by rule and pay an annual administrative fee as
338 the board may require, ~~not to exceed two hundred fifty dollars~~
339 ~~(\$250)~~ as established by board rule. The board shall maintain a
340 public roster of such entities.

341 ~~(b) All corporations, professional corporations,~~
342 ~~professional associations, partnerships, and limited liability~~
343 ~~companies (entities) practicing architecture in the State of~~
344 ~~Alabama shall fully comply with the above requirements by July~~
345 ~~1, 2012.~~

346 ~~(e) (b)~~ Applications to practice as an entity ~~described~~
347 ~~in subsection (b)~~ shall be made on an annual basis.

348 Disciplinary action for the entities shall be the same as for
349 registered architects. Approved entities shall be responsible
350 for the acts of their agents, employees, general partners,
351 directors, or officers.

352 (c) Certificates of Authorization shall expire on April
353 30 following their issuance or renewal and shall become
354 invalid on May 1 unless renewed.

355 (d) Renewal may be effected at any time prior to or
356 during the month of April by the payment of a fee established
357 by the board by rule.

358 (e) A civil penalty in an amount established by the
359 board by rule may be added to the renewal fee for failure to
360 renew a certificate upon terms and conditions as the board may
361 determine by rule. Failure to renew a certificate of
362 authorization by April 30 shall result in a lapse of the
363 certificate.

364 (f) A registrant whose Certificate of Authorization has



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365 lapsed may have the certificate reinstated, if he or she is in
366 compliance with other relevant requirements, by filing a
367 renewal form and paying a reinstatement fee established by the
368 board by rule, in addition to the appropriate renewal fee and
369 late penalty."

370 "§34-2-38

371 To carry out the provisions of this chapter, there
372 shall be a State Board for Registration of Architects,
373 consisting of six members, each of whom shall be appointed by
374 the Governor from a list of three persons selected as follows:

375 (1) All appointments as members of the board shall be
376 architects registered and licensed pursuant to this chapter.
377 The board shall be appointed from the following districts: One
378 from the northern district; two from the north central
379 district; two from the central district⁷; and one from the
380 southern district. The northern district shall be comprised of
381 the Counties of Colbert, Cullman, DeKalb, Franklin, Jackson,
382 Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall,
383 Morgan, and Winston; the north central district shall be
384 comprised of the Counties of Bibb, Blount, Calhoun, Cherokee,
385 Clay, Cleburne, Etowah, Fayette, Greene, Hale, Jefferson,
386 Lamar, Pickens, Randolph, Shelby, St. Clair, Sumter,
387 Talladega, Tuscaloosa, and Walker; the central district shall
388 be comprised of the Counties of Autauga, Barbour, Bullock,
389 Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw,
390 Dale, Dallas, Elmore, Geneva, Henry, Houston, Lee, Lowndes,
391 Macon, Marengo, Montgomery, Perry, Pike, Russell, Tallapoosa,
392 and Wilcox; and the southern district shall be comprised of



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393 the Counties of Baldwin, Choctaw, Clarke, Conecuh, Escambia,
394 Mobile, Monroe, and Washington.

395 (2) Thirty days before the expiration of a board
396 member's term, or for filling a vacancy otherwise occurring, a
397 nominating committee of six members shall be selected by
398 secret ballot from the district entitled to fill the vacancy.
399 The nominating committee shall be elected at a meeting in the
400 district called by the executive director of the board, who
401 shall give notice in writing of the time and place of the
402 called meeting to each architect in the district at least 30
403 days in advance of the date set for the meeting. Those
404 architects present at the called meeting may vote on the
405 membership of the nominating committee. After the selection of
406 the nominating committee from the district where the vacancy
407 occurs, there shall be a meeting of the committee with the
408 board ~~at the same place within five days~~ to select, ~~by secret~~
409 ~~ballot~~, the names of three persons to be sent to the Governor
410 by the executive director of the board. The board may conduct
411 the nominating committee meeting virtually or provide a
412 process of selection by mail-in ballot. The Governor shall
413 appoint one of the named persons to the board. In appointing
414 members to the board, the Governor shall select those persons
415 whose appointments, to the extent possible, ensure that the
416 membership of the board is inclusive and reflects the racial,
417 gender, geographic, ~~urban/rural~~ urban, rural, and economic
418 diversity of the state.

419 (3) The term of office of the members of the board
420 shall be four years and until their successors are appointed



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421 and qualified.

422 (4) A member shall reside and have his or her principal
423 office in the district from which appointed. A member's place
424 on the board shall become vacant if the member removes either
425 his or her residence or principal office from that district."

426 "§34-2-39

427 (a) ~~Each member of the board shall receive a~~
428 ~~certificate of appointment from the Governor.~~ Before beginning
429 his or her term of office, each member of the board shall file
430 with the Secretary of State the constitutional oath of office.

431 (b) The board, or any committee thereof, shall be
432 entitled to the services of the Attorney General in connection
433 with the affairs of the board, and the board shall have the
434 power to compel attendance of witnesses, to require production
435 of documents, to administer oaths, and to take testimony and
436 proof concerning all matters within its jurisdiction.

437 (c) The board shall adopt and have an official seal
438 which shall be affixed to all certificates of registration
439 granted.

440 (d) The board shall have power and authority to make
441 and adopt bylaws, and rules ~~and regulations~~ consistent with ~~the~~
442 ~~provisions of~~ this chapter and pursuant to the state
443 administrative procedure law in order to comply with the
444 provisions of this chapter and to establish standards of
445 professional conduct of architects.

446 (e) The board shall adopt a program of continuing
447 education not later than October 1, 1993, in order to
448 ~~insure~~ ensure that all registered architects remain informed of



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449 those technical and professional subjects ~~which~~that the board
450 deems appropriate to professional architectural practice. The
451 board, by rule, may ~~by regulation~~ describe the methods by
452 which the requirements of ~~such~~ the program may be satisfied.
453 Failure to meet such requirements of continuing education
454 shall result in nonrenewal of an architect's certificate of
455 registration."

456 "§34-2-40

457 (a) The board shall hold at least four regular meetings
458 each year.

459 (b) The board shall elect annually a ~~chairman~~chair and
460 vice ~~chairman~~chair who must be members of the board. The board
461 may employ an executive director, clerks, experts, attorneys,
462 and others, as may be necessary in the carrying out of the
463 provisions of this chapter.

464 (c) The board shall have the power, with the approval
465 of the Governor, to fix the compensation of the executive
466 director and other employees.

467 (d) A quorum of the board shall consist of not less
468 than a majority of the duly appointed board members."

469 "§34-2-41

470 (a) The executive director of the board shall receive
471 and account for all ~~moneys~~ monies derived from the operation
472 of this chapter. Such ~~moneys~~ monies shall be certified into
473 the treasury in a fund to be known as the Fund of the Board
474 for the Registration of Architects. Such fund shall be drawn
475 against only for the purposes of this chapter.

476 (b) The fiscal year shall commence on the first day of



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477 October and end on the thirtieth day of September.

478 (c) Each member of the board shall receive a per diem
479 as recommended by the board consistent with applicable state
480 laws for attending in person or virtual sessions of the board
481 or its committee, and for the time spent in necessary travel
482 to attend meetings of the board or its committee. In addition,
483 each member of the board shall be reimbursed for traveling and
484 ~~clerical~~necessary expenses incurred in carrying out ~~the~~
485 ~~provisions of this chapter~~ official duties.

486 (d) Expenses certified by the board as properly and
487 necessarily incurred in the discharge of its duties,
488 including, but not limited to, authorized compensations,
489 additional legal services, experts, clerks, office rent, and
490 supplies, shall be paid out of the fund on the warrant of the
491 Comptroller ~~of the state~~. Such warrant shall be issued on
492 requisitions signed by the ~~chairman~~ chair and executive
493 director of the board. At no time in any fiscal year shall the
494 total amount of warrants issued exceed the total amount of
495 ~~moneys~~monies accumulated in this fund.

496 (e) The board may make donations from its surplus funds
497 to any state educational institution ~~which~~ that has ~~an~~ a NAAB
498 accredited school of architecture for assistance in promoting
499 education and research programs in architecture.

500 (f) The board may provide educational information and
501 programs to the public regarding the service of architecture
502 from its surplus funds.

503 (g) The board may purchase promotional items for
504 outreach and educational programs from its surplus funds.



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505 (h) For the purpose of attracting architects to the
506 State of Alabama, the board may waive registration fees from
507 its surplus funds as approved by the board through board rule.

508 (i) The board, by rule, may set registration fees
509 including, but not limited to, application, initial renewal,
510 manual renewal, late renewal, and reinstatement, as well as
511 fees for copies, certificate replacement, and mailing lists.

512 ~~The chairman and the executive director of the board~~
513 ~~shall give a surety bond in an amount no less than the~~
514 ~~previous year's budget payable to the State of Alabama and~~
515 ~~conditioned upon the faithful performance of their duties~~
516 ~~under this chapter. The premium of the bond shall be paid out~~
517 ~~of the moneys in the Fund of the Board for the Registration of~~
518 ~~Architects."~~

519 Section 2. Section 34-2-42, Code of Alabama 1975,
520 relating to the submission of an annual report, is repealed.

521 Section 3. Section 34-2-43 is added to the Code of
522 Alabama 1975, to read as follows:

523 §34-2-43. Sunset Provision.

524 The board shall be subject to the Alabama Sunset Law,
525 as provided in Chapter 20 of Title 41, as an enumerated agency
526 as provided in Section 41-20-3.

527 Section 4. This act shall become effective on October
528 1, 2024.