WEST VIRGINIA CODE CHAPTER 30 ARTICLE 12

WV Legislature

§30-12-1. Board of architects.

In order to safeguard the life, health, property and public welfare of the people of this state and to protect the people against the unauthorized, unqualified and improper practice of architecture, the West Virginia board of architects, heretofore created, shall continue in existence and shall consist of seven members, five of whom shall be architects, appointed by the Governor by and with the advice and consent of the Senate, and two of whom shall be lay members, not of the same political party affiliation, appointed by the Governor by and with the advice and consent of the Senate. Each member who is an architect shall have been engaged in the active practice of his profession in the State of West Virginia for not fewer than ten years previous to his appointment. The members of the board in office on the date this article takes effect, in the year one thousand nine hundred ninety, shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and have qualified. Each member shall be appointed for a term of five years.

The board shall pay each member the same compensation and expense reimbursement as is paid to members of the Legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law for each day or portion thereof engaged in the discharge of official duties.

Pursuant to the provisions of chapter twenty-nine-a of this code, the board, in addition to the authority, powers and duties granted to it by this article, has the authority to promulgate rules relating to the regulation of the practice of architecture and may include rules pertaining to the registration of architects. Any disciplinary proceedings held by the board shall be held in accordance with the provisions of the administrative procedures act for contested cases pursuant to the provisions of article five of said chapter.

WV Legislature

§30-12-2. Definitions.

The following words as used in this article, unless the context otherwise requires, have the following meanings:

(1) "Architect" means any person who engages in the practice of architecture as hereinafter defined.

(2) "Board" means the West Virginia board of architects established by section one of this article.

(3) "Direct supervision" means that degree of supervision by a person overseeing the work of another person whereby the supervisor has both control over and detailed professional knowledge of the work prepared under his or her supervision.

(4) "Good moral character" means such character as will enable a person to discharge the fiduciary duties of an architect to his client and to the public for the protection of health, safety and welfare. Evidence of inability to discharge such duties include the commission of an offense justifying discipline under section eight of this article.

(5) "Practice of architecture" means rendering or offering to render those services, hereinafter described, in connection with the design and construction, enlargement or alteration of a building or group of buildings and the space within and surrounding such buildings, which have as their principal purpose human occupancy or habitation; the services referred to include planning, providing preliminary studies, designs, drawings, specifications and other technical submissions and administration of construction contracts.

(6) "Registered architect" means an architect holding a current registration.

(7) "Registration" means the certificate of registration issued by board.

(8) "Technical submissions" means designs, drawings, specifications, studies and other technical reports prepared in the course of practicing architecture.

WV Legislature

§30-12-3. Fees.

(a) Notwithstanding any other provision of the law to the contrary, the board is authorized and empowered to establish by legislative rule in accordance with the provisions of article three, chapter twenty-nine-a of this code a schedule of fees to be charged to applicants. The board shall charge for: Examination, reexamination, renewal of certificates, restoration of expired certificates, reciprocal registration and for any other matters deemed appropriate by the board.

(b) Until such time as the board establishes otherwise, the fees previously set by legislative rule remain in effect.

WV Legislature

§30-12-4. Registration qualifications.

Every person applying to the board for initial registration shall submit an application accompanied by the fee established in accordance with section three of this article with satisfactory evidence that such person holds an accredited professional degree in architecture or has completed such other education as the board considers equivalent to an accredited professional degree and with satisfactory evidence that such person has completed such practical training in architectural work as the board requires. If an applicant is qualified, the board shall, by means of a written examination, examine the applicant on such technical and professional subjects as prescribed by it. None of the examination materials are public records as defined in article one, chapter twenty-nine-b of this code. The board may exempt from such written examination an applicant who holds certification issued by the national council of architectural registration boards. The board may adopt as its own rules governing practical training and education those guidelines published from time to time by the national council of architectural registration boards. The board may also adopt the examinations and grading procedures of the national council of architectural registration board and the accreditation decisions of the national architectural accrediting board. The board shall issue its registration to each applicant who is found to be of good moral character and who satisfies the requirements set forth in this section. The registration is effective upon issuance.

WV Legislature

§30-12-5. Registration renewal.

The board shall mail each year to every registered architect an application for renewal of registration. The application, properly filled out and accompanied by the renewal fee established in accordance with section three of this article, shall be returned to the board on or before the date established by the board. After verification of the facts stated in the renewal application, the board shall issue a registration which is valid for one year, expiring on June 30 of each year. Any holder of a registration who fails to renew his or her application on or before the prescribed date, before again engaging in the practice of architecture within the state, is required to apply for reinstatement, pay the prescribed fee and, in circumstances considered appropriate by the board, may be required to be reexamined.

WV Legislature

§30-12-6. Certificate of registration.

Every registered architect having a place of business or employment within the state shall display his or her certificate of registration in a conspicuous place in such place of business or employment. A new certificate of registration, to replace a lost, destroyed or mutilated certificate, shall be issued by the board upon payment of a fee established in accordance with section three of this article and such certificate shall be stamped or marked "duplicate."

WV Legislature

§30-12-7. Seal.

(a) Every registered architect shall have a seal of a design authorized by the board by rule. All technical submissions prepared by such architect, or under his or her direct supervision, shall be stamped with the impression of his or her seal. No architect holding a registration may impress his or her seal on any technical submissions unless they were prepared under his or her direct supervision: Provided, That in the case of the portions of such technical submissions prepared under the direct supervision of persons consulting with or employed by the architect, the architect may sign or seal those portions of the technical submission if the architect has reviewed such portions and has coordinated their preparation.

(b) No public official charged with the enforcement duties of a municipal building inspector may accept or approve any technical submissions involving the practice of architecture unless the technical submissions have been stamped as required by this section or by a registered engineer or the applicant has certified thereon the applicability of a specific exception under section twelve of this article permitting the preparation of such technical submissions by a person not registered thereunder. A building permit issued with respect to technical submissions which do not conform with the requirements of this section is invalid.

WV Legislature

§30-12-8. Disciplinary powers.

The board may revoke, suspend or annul a registration, or impose a civil penalty in an amount not more than $2,000 for each violation, upon satisfactory proof to the board that any person has violated the provisions of this article or any rules promulgated by the board under this article. In hearing matters arising under this section, the board may take into account suitable evidence of reform.

WV Legislature

§30-12-9. Disciplinary proceedings.

Charges against any person involving any matter coming within the jurisdiction of the board shall be in writing and shall be filed with the board. Such charges, at the discretion of the board, shall be heard within a reasonable time after being so filed. The accused person has the right at such hearing to appear personally, with or without counsel, to cross-examine adverse witnesses and to produce evidence and witnesses in his or her defense. The board shall set the time and place for such hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be sent by registered mail to the accused person, at his or her latest place or residence or business known to the board, at least thirty days before such date. If after such hearing the board finds the accused person has violated any of the provisions of this article or any of the rules promulgated by the board, it may issue any order described in section eight of this article. If the board finds no such violation, then it shall enter an order dismissing the charges. If the order revokes, suspends or annuls an architect's registration, the board shall so notify, in writing, the Secretary of State and the clerk of the municipality in the state wherein such architect has a place of business, if any.

The board may reissue a registration to any person whose registration has been revoked. Application for the reissuance of the registration shall be made in such a manner as the board may direct and shall be accompanied by a fee established in accordance with section three of this article.

WV Legislature

§30-12-10. Registration; prima facie evidence.

Every registration issued and remaining in force is prima facie evidence in all courts of the state that the person named therein is legally registered as an architect for the period for which it is issued and of all other facts stated therein.

WV Legislature

§30-12-11. Prohibition.

Except as hereinafter set forth in section twelve of this article, no person may directly or indirectly engage in the practice of architecture in the state or use the title "architect," "registered architect," "architectural designer," or display or use any words, letters, figures, titles, sign, card, advertisement or other symbol or device indicating that such person is an architect or is practicing architecture, unless he or she is registered under the provisions of this article. No person may aid or abet any person, not registered under the provisions of this chapter, in the practice of architecture.

WV Legislature

§30-12-11a. Construction administration services required.

(a) The owner of any real property who allows a project to be constructed on such real property shall be engaged in the practice of architecture unless such owner may have employed or may have caused others to have employed a registered architect or registered engineer to furnish "construction administration services" with respect to such project.

(b) For purposes of this section, the following terms shall have the following meanings:

(1) "Building official" means the person appointed by the municipality or state subdivision having jurisdiction over the project to have principal responsibility for the safety of the project as finally built.

(2) "Construction administration services" comprises at the following services: (A) Visiting the construction site on a regular basis as is necessary to determine that the work is proceeding generally in accordance with the technical submissions submitted to the building official at the time the building permit was issued; (B) processing shop drawings, samples, and other submittals required of the contractor by the terms of construction contract documents; and (C) notifying an owner and the building official of any code violations, changes which affect code compliance, the use of any materials, assemblies, components, or equipment prohibited by a code, major or substantial changes between such technical submissions which he or she identifies as constituting a hazard to the public, which he or she observes in the course of performing his or her duties.

(3) "Owner" means with respect to any real property and of the following persons: (A) The holder of a mortgage secured by such real property; (B) the holder, directly or indirectly, of an equity interest in such real property exceeding ten percent of the aggregate equity interests in such real property; (C) the record owner of such real property; or (D) the lessee of all or any portion of such real property when the lease covers all of that portion of such real property upon which the project is being constructed, the lessee has significant approval rights with respect to the project, and the lease, at the time the construction of the project begins, has a remaining term of not less than ten years.

(4) "Project" means the construction, enlargement, or alteration of a building, other than a building exempted by the provisions of section twelve of this article, which has as its principal purpose human occupancy or habitation.

(c) If the registered engineer or registered architect who sealed the technical submissions which were submitted to the building official at the time the building permit was issued has not been employed to furnish construction administration services at the time such registered architect or registered engineer issued such technical submissions, he or she shall note on such technical submissions that he or she has not been so employed. If he or she is not employed to furnish construction administration services when construction of the project begins, he or she shall file, not later than thirty days after such construction begins, with the board and with the building official, on a form prescribed by the board, a notice

WV Legislature

setting forth the names of the owner or owners known to him or her, the address of the project, and the name, if known to him or her, of the registered architect employed to perform construction administration services. If he or she believes that no registered architect or registered engineer has been so employed, he or she shall so state on the form. Any registered architect or registered engineer who fails to place the note on his or her technical submissions or to file such notice, as required by this paragraph, shall have violated the provisions of this chapter and shall be subject to discipline as set forth herein.

(d) If the board determines, with respect to a particular project or class of projects, that the public is adequately protected without the necessity of a registered architect or registered engineer performing construction administrative services, the board may waive the requirements of this section with respect to such project or class of projects.

WV Legislature

§30-12-12. Exceptions.

Nothing in this article may be construed to prevent:

(a) Any of the activities that, apart from this exemption, would constitute the practice of architecture, if performed in connection with any of the following:

(1) A detached single family dwelling and any sheds, storage buildings and garages incidental thereto;

(2) A multifamily residential structure not in excess of three stories excluding any basement area;

(3) Farm buildings, including barns, silos, sheds or housing for farm equipment and machinery, livestock, poultry or storage, if such structures are designed to be occupied by no more than ten persons;

(4) Any alteration, renovation or remodeling of a building, if such alteration, renovation or remodeling does not affect structural or other safety features of the building or if the work contemplated by the design does not require the issuance of a permit under any applicable building code;

(5) Preengineered buildings, including mobile classrooms purchased by county school boards; and

(6) A commercial structure which is to contain not more than seventy-six hundred square feet and not in excess of one story excluding any basement area.

(b) The preparation of any detailed or shop drawings required to be furnished by a contractor, or the administration of construction contracts by persons customarily engaged in contracting work.

(c) The preparation of technical submissions or the administration of construction contracts by employees of a person or organization lawfully engaged in the practice of architecture when such employees are acting under the direct supervision of a registered architect.

(d) Officers and employees of the United States of America from engaging in the practice of architecture as employees of said United States of America.

(e) A partnership, corporation or other business entity from performing or holding itself out as able to perform any of the services involved in the practice of architecture, provided such practice is actually carried on under the direct supervision of architects registered in the State of West Virginia.

(f) A nonresident, who holds a certificate to practice architecture in the state in which he resides and in addition holds the certification issued by the national council of architectural

WV Legislature

registration boards, from agreeing to perform or holding herself or himself out as able to perform any of the professional services involved in the practice of architecture: Provided, That he or she may not perform any of the professional services involved in the practice of architecture until registered as hereinbefore provided and he or she notifies the board in writing if, prior to registration, he or she engages in any of the activities permitted by this paragraph.

(g) The practice of landscape architecture as defined in section two, article twenty-two of this chapter.

WV Legislature

§30-12-13. Enforcement.

The board shall enforce the provisions of this article and of the rules adopted hereunder. If any person refuses to obey any decision or order of the board, the board or, upon the request of the board, the Attorney General or the appropriate prosecuting attorney, may file an action for the enforcement of such decision or order, including injunctive relief, in the circuit court of the county of residence of such person. After due hearing, the court shall order the enforcement of such decision or order, or any part thereof, if legally and properly made by the board and, where appropriate, injunctive relief.

WV Legislature

§30-12-14. Penalties.

Whoever violates any provision of this article is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned in the county jail for not more then twelve months, or both fined and imprisoned.

WV Legislature

§30-12-15.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

WV Legislature