

MAINE STATE LEGISLATURE

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E I G H T Y - N I N T H L E G I S L A T U R E

Legislative Document

No. 75

H. P. 250

House of Representatives, January 19, 1939.

Referred to the Committee on Legal Affairs. Sent up for concurrence and 500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Payson of Portland.

S T A T E O F M A I N E

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-NINE

**AN ACT to Regulate the Practice of Architecture and to Create a Board
to Provide for the Examination and Registration of Architects.**

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. Definitions. (a) "Architect" means a person who is technically and legally qualified to practice architecture.

(b) "Architecture." A person practices architecture within the meaning and intent of this act, who holds himself out as able to perform or who does perform any professional service, such as consultation, investigation, evaluation, planning, design, including aesthetic and structural design, or responsible supervision of construction, in connection with any private or public buildings, structures or projects, or the equipment of utilities thereof, or the accessories thereto, wherein the safeguarding of life, health or property is concerned or involved, when such professional service requires the application of the art and science of construction based upon the principles of mathematics, aesthetics and the physical sciences.

(c) The "board," as hereinafter used, is the professional board, legally constituted by this act.

Sec. 2. Provisions governing the practice of architecture. In order to safeguard life, health and property, no persons shall practice architecture

in this state or use the title "architect" or any title containing the word "architect" or derivative thereof, or display or use any title, card, sign, advertisement, or other device to indicate that such person practices or offers to practice architecture, or is an architect, unless such person shall have secured from the board a certificate of registration in the manner hereinafter provided, and shall thereafter comply with the laws of this state governing the registration of architects, excepting however, those persons named in section 3 of this act.

Sec. 3. Exemptions. The following named persons are exempt from the provisions of section 2 of this act.

(a) Professional engineers duly registered as such providing such persons do not use the word "architect" or any term derived therefrom.

(b) Landscape architects practicing their profession of landscape architect.

(c) Employees of those lawfully practicing architecture, who are acting under the control, instruction or supervision of their employer.

(d) Officers and employees of the government of the United States, while engaged within this state in the practice of architecture for said government.

(e) Residents of this state acting as designers for buildings that are to be constructed for their own personal use, provided such buildings are not intended for public employment, assembly or other occupancy by the public, and further provided that such persons do not use the title "architect" or any term derived therefrom.

(f) No corporation as such shall be registered to practice architecture in this state, but it shall be lawful for a corporation to practice architecture providing the chief executive officer of such corporation shall be a registered architect and all drawings and plans and specifications and supervision of construction or alterations of buildings or projects by such corporation shall be under the personal direction of such registered architect.

(g) No partnership, firm or association may be registered as such for the practice of architecture but this act shall not be construed as preventing such combinations of persons from using the term "architects" providing one member of the partnership, firm or association is registered.

(h) It shall not be unlawful for anyone to design any structure or project costing less than \$5000, providing it is not to be used for public employment, assembly or other occupation by the public and providing the designer does not use the word "architect" or any term derived therefrom.

Sec. 4. The board. A state board of registration for architects is hereby created whose duty it shall be to administer the provisions of this act.

The board shall be composed of 3 practicing architects, or of 2 practicing architects and 1 professor of architecture, who shall be appointed by the governor by and with the consent of the council, to serve for the following terms: one for 1 year, one for 2 years, and one for 3 years or until their successors are duly appointed and qualified. Thereafter each year all appointments shall be for 3 years or until a successor has been appointed and qualified.

The governor shall make his appointments from nominations submitted in the following manner: for the first 3, not more than 7 names nominated by the Maine chapter of the American Institute of Architects and thereafter from architects having the endorsement of at least 5 practicing architects of this state. All nominations shall be submitted not less than 10 days prior to the expiration of the term of office to be filled, or within 10 days from the date any vacancy occurs from any other cause. In case no nominations are made as above described, the governor shall have the power to appoint any architect who has been a resident of the state and has practiced architecture for 10 years or more.

Each member of the board shall receive a certificate of his appointment from the governor and before beginning his term of office shall file with the secretary of state his written oath for the faithful discharge of his duties. Each member of the board first appointed hereunder shall receive a certificate of registration under this act from said board.

Sec. 5. Qualifications for members of board. Each member of the board shall be a citizen of the United States, a resident of this state, and an architect of recognized standing who shall have been engaged in the independent practice of architecture for at least 10 years previous to his appointment, with the exception of one member who may be the head of a department of architecture in any college or university of this state and whose combined experience in practice and teaching shall be not less than 10 years—at least 2 of which shall have been in the active practice of architecture as a profession.

Sec. 6. Organization; meetings; quorum; seal. The board shall meet for organization within 30 days after appointment and thereafter shall hold at least 2 meetings each year for the purpose of examining candidates for registration. Special meetings shall be held at such times as the regularly adopted rules and regulations of the board shall provide.

Two members of the board shall constitute a quorum, but no action may be taken without at least 2 votes in accord.

The board shall annually elect a chairman, and a secretary. The secretary may or may not be a member of the board.

The board shall adopt and have an official seal.

Sec. 7. Powers and duties of the board. The board shall in accordance with the spirit and intent of the law, make such rules and regulations as may be desirable or necessary for the performance of its duties and for carrying out the purposes of this act.

In carrying into effect the provisions of this act, the board may, under the hand of its president and the seal of the board, subpoena witnesses and compel their attendance, and may require the production of books, papers and documents, in any case involving revocation of registration. The president or the secretary may administer oaths or affirmations to witnesses appearing before the board. If any persons shall refuse to obey any subpoena so issued or shall refuse to testify or produce any books, papers, or other documents, the board may present its petition to any justice of the superior or supreme courts, setting forth the facts, and thereupon such court, after notice and hearing, may issue its subpoena to such person, requiring his attendance before the court and there to testify or to produce books, papers, and documents as may be deemed necessary and pertinent. Any person failing or refusing to obey the subpoena or order of the said court may be proceeded against in the same manner as for refusal to obey any other subpoena.

The board, or any committee thereof, shall be entitled to the services of the attorney-general of the state, and the services of the prosecuting attorneys for the county in which enforcement is required; and the board shall also have the power to employ legal advice and such other assistance as may be deemed necessary for the proper conduct of its affairs, the expense of such assistance to be defrayed by the revenues provided by this act.

Sec. 8. Removal of members of board; vacancies. The governor by and with the consent of the council, may by due process of law, remove any member of the board for misconduct, incompetency, neglect of duty, or for any malfeasance in office. Vacancies in the membership of the board shall be immediately filled for the unexpired term after the expiration of time necessary for filing nominations as provided in section 4.

If the governor fails to name a successor for an unexpired term or to fill a vacancy within 2 months after the term of a member has expired or a vacancy occurred, then the remaining members of the board shall be

empowered to, and may, fill the vacancy by giving the governor 10 days' written notice that they are about to take such action, and at the expiration of the 10 days' notice, (unless the governor shall within that period make an appointment) may elect an architect having the necessary qualifications to serve out the vacant term.

Sec. 9. Compensation. Each member of the board shall serve without pay, except that when the state of the architects' fund will permit, the board may determine a per diem of not over \$10 per day for each member when actually attending to the work of the board, or any of its committees, and in addition thereto shall be reimbursed for all actual, reasonable and customary travelling, incidental and clerical expenses incurred in carrying out the provisions of this act. All such expenses shall be paid only from the architects' fund.

Sec. 10. Records. The board shall keep a record of its proceedings and a register of all applications for registration which shall show all necessary details as may be determined by the board.

Sec. 11. Reports. Not later than August 1st of each year, the board shall submit to the governor a report of its transactions of the preceding fiscal year ending June 30th, and shall also transmit to him a complete statement of all receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

Sec. 12. Receipts and expenditures. The secretary of the board shall receive and account for all moneys derived under the provisions of this act, and shall pay the same monthly to the treasurer of state, who shall keep such moneys in a separate fund to be known as the "architects' fund." Such fund shall be kept separate and apart from all other moneys in the treasury and shall be continued from year to year and shall be paid out only by warrant of the state controller upon itemized vouchers, approved by the chairman of the board. All moneys in the "architects' fund" are hereby specifically appropriated for the use of the board. The secretary of the board shall give a surety bond to this state in such sum as the board may determine. The premium on said bond shall be regarded as a proper and necessary expense of the board, and shall be paid out of the "architects' fund." The secretary of the board shall receive a salary and allowance for clerical hire as recommended by the board and approved by the state controller in addition to the expenses provided for in this act. The board may make such other expenditures from this fund as in the opinion of the board are reasonably necessary for the proper performance of its duties under this act. Under no circumstances shall the total amount of war-

rants issued by the state controller in payment of the expenses and compensations provided for in this act exceed the amount of the examination, registration and renewal fees collected as herein provided.

Sec. 13. Qualifications. To be qualified for admission to the examination to practice architecture in this state an applicant shall be at least 25 years of age, a graduate of an approved 4-year high school including not less than one year in the basic sciences of chemistry and physics, and 3 years of mathematics, or equivalent training, and after completion thereof he must have had: 1st, satisfactory training in a school or college of architecture approved by the board, with graduation therefrom as evidenced by a diploma setting forth a satisfactory degree, and 3 years practical experience in the office of an experienced architect, or architects, engaged in the practice of architecture as a profession; or 2nd, 9 years of practical experience in the office of an experienced architect, or architects, engaged in the practice of architecture as a profession; or 3rd, training fully equivalent to that required in 1st or 2nd.

Sec. 14. Examinations. The board shall have the power to make all necessary rules and regulations governing the time, place, and method of giving examinations to all applicants, and the grading thereof; and said board shall have the power to provide a reasonable division into classes of the various applicants and the examination to be taken in each class, said examinations to consist of such technical and professional subjects and oral questioning as the board may, from time to time, prescribe.

The rules for the examination shall follow the recommendations of the American Institute of Architects.

Sec. 15. Registration without examination. (a) At any time within 3 months after this act becomes effective, upon due application therefor and payment of the proper fee, the board may issue a certificate of registration without written or oral examination, to any person who shall submit evidence, under oath, that he is of good character, has been a resident of this state for at least 1 year immediately preceding the passage of this act, and has been engaged in the actual practice of architecture under the title "architect," as a principal means of livelihood for a period of not less than 10 months before this act became effective, or, at the discretion of the board, one who possesses the qualifications as set forth in section 13, and who during his practical experience has had, for at least 3 years, responsible charge of complete architectural services. Such certificate shall bear the words, "By exemption."

(b) Certificates of registration may, in the discretion of the board, be

issued to persons who have passed a standard National Council of Architectural Registration Boards' examination upon certification thereto by the National Council of Architectural Registration Boards, and the further evidence of continued honorable professional conduct after the passing of such examination.

(c) Certificates of registration may, at the discretion of the board, be issued to persons who hold or have held certificate of registration from other states, providing the requirements of such certificate of registration are deemed the equivalent of requirements for registration in this state by examination, and provided the applicant submit such other evidence of his ability as may be required by the board.

(d) For non-resident architects, the board may, upon application therefor, and the payment of a fee equivalent to that required for a regular written examination and certificate, issue a certificate of registration to any such applicant who holds an unexpired certificate of registration issued to him by any state or territory or possession of the United States, or any country, provided that the requirements of the registration of architects under which said certificate of registration was issued do not contravene the provisions of this act and are deemed the equivalent of requirements for registration in this state by examination, and provided the applicant submit such other evidence of his ability as may be required by the board.

Sec. 16. Certificates. The board shall issue a certificate of registration, upon payment of the fee provided for in this act, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this act. Certificates shall bear a serial number and the full name of the registrant, and shall bear the signatures of the chairman and secretary, and the seal of the board.

Issuance of a certificate of registration by the board shall be evidence that the person named therein is entitled to all the rights and privileges of a registered architect while said certificate remains unexpired and unrevoked; and said certificate shall be synonymous with registration, with the full meaning and effect of a license to practice architecture.

Certificates of registration shall expire on the last day of the month of June of each year, and shall become invalid on that date unless renewed. Renewal may be affected at any time during the month of June by payment of the renewal fee as herein provided.

In the case of a revoked, lapsed, or suspended registration, the board shall have the power to compel the return of the certificate within one month from the date of its expiration, providing there is no re-issue of said certificate.

Sec. 17. Seal and use of seal. Each registrant hereunder shall upon registration, obtain a seal of such design as the board shall authorize and direct. Plans and specifications prepared by, or under the direct supervision of a registered architect shall be stamped with said seal during the life of the registrant's certificate, and it shall be unlawful for anyone to stamp or seal any documents with said seal after the certificate of the registrant named thereon has expired or has been revoked, unless said certificate shall have been renewed, or reissued.

No official of this state, or of any county, city, town or village herein, now or hereafter charged with the enforcement of laws, ordinances or regulations relating to the construction or alterations of buildings, shall accept or approve any plans or specifications of any structure or project costing in excess of \$5000, which have not been prepared and submitted in full accord with all the provisions of this act; nor shall any payment be approved by any public body or officer for any work, the plans and specifications for which have not been so prepared.

Sec. 18. Penalties. Any person who shall practice or offer to practice the profession of architecture in this state without being registered, unless exempted therefrom in accordance with the provisions of this act, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof for the purpose of obtaining a certificate of registration, or to obtain exemption, or any person who shall impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked certificate of registration, or who shall violate, or aid or abet any violation of, any of the provisions of this act, shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment for not more than 3 months or by both such fine and imprisonment.

Sec. 19. Fees. For the purpose of defraying the expenses of the board, as herein provided, and as required for carrying out the provisions of this act, the following fees and penalties shall be paid:

(a) For an application for examination and registration an amount to be fixed by the board which shall at no time exceed the sum of \$25.

(b) For a certificate of registration by exemption, or by transfer of registration from another state or country, an amount to be fixed by the board which shall at no time exceed the sum of \$25.

(c) For the annual renewal of a registration certificate, an amount to be fixed by the board which shall at no time exceed the sum of \$10.

(d) For the restoration of a lapsed, suspended or revoked certificate, an amount to be fixed by the board which at no time shall exceed the sum of \$25.

(e) All fees must accompany applications and no part of these fees shall be refunded except such part as may be provided under the rules of the board, to be refunded when no certificate is issued.

Sec. 20. Revocation of certificate. The board shall have the power to revoke the registration of any architect upon proof of violation of the provisions of this act or of violation of such rules and regulations as the board may establish to govern the practice of architecture in this state.

Sec. 21. Charges and hearings. Any person may prefer charges of fraud, deceit, gross negligence, incompetency or misconduct against any registrant. Such charges shall be sworn to by the person making them and shall be filed with the secretary of the board.

All charges, deemed worthy of consideration by the board, shall be heard by the board within 3 months after the date upon which they are received by the secretary.

The time and place for said hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of hearing shall be personally served on the registrant accused, or mailed to the registrant at his last known address at least 30 days before the date fixed for the hearing.

At any hearing the accused registrant shall have the right to appear personally and by counsel, to cross examine witnesses, and to produce evidence and witnesses in his own defense.

If after such hearing, 2 or more members of the board vote in favor of finding the accused guilty, the board shall revoke the certificate of registration of such architect.

The board, for reasons it may deem sufficient may re-issue a certificate of registration to any person whose certificate has lapsed, or has been suspended or revoked, providing no charges of violation of this act are pending in any court of record in this state, and that the board is unanimous in its decision, except in the case where charges have been maintained and the registrant has been proven guilty, in which case no certificate shall be re-issued during 12 months from the date of revocation of the previous certificate.

Sec. 22. Enforcement. It shall be the duty of all duly constituted officers of the law in this state, and all political subdivisions thereof to en-

force the provisions of this act, and to prosecute any persons violating the provisions thereof.

Sec. 23. Invalid sections. If any sections or part of sections of this act shall be declared unconstitutional or invalid, this shall not invalidate any other portion of this act.

Sec. 24. Repeal of conflicting legislature. All laws or parts of laws in conflict with the provisions of this act shall be, and the same are, hereby, repealed, or amended to conform herewith.

Sec. 25. Saving clause. This act shall not be construed to affect or prevent the practice of any other legally recognized profession.

Sec. 26. How the board may be known and cited. The board, as provided for in this act may be known and cited as the "Maine State Board of Architects."

Sec. 27. How this act may be known and cited. This act may be known and cited as the "Maine Architectural Act."