

LEGISLATIVE HISTORY CHECKLIST

NJSA: 45:3-10 et al

**(Architecture
Statutes--Various
amendments)**

LAWS OF: 1989

CHAPTER: 275

Bill No: A5047

Sponsor(s): Penn

Date Introduced: November 27, 1989

Committee: Assembly: Higher Education

Senate: _____

**Amended during passage: Yes Amendments during passage
denoted by asterisks.**

Date of Passage: Assembly: December 18, 1989

Senate: December 21, 1989

Date of Approval: January 8, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: No

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

P.L.1989, CHAPTER 275, *approved January 8, 1990*
1989 Assembly No. 5047 (*First Reprint*)

1 AN ACT concerning the practice of architecture, supplementing
2 chapter 3 of Title 45 of the Revised Statutes and amending
3 P.L.1952, c.131 and R.S.45:3-10.

4
5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. (New section) For the purposes of this act:

8 a. "Aesthetic principles" means the concepts of order,
9 balance, proportion, scale, rhythm, color, texture, mass and form
10 as used in the design process.

11 b. "Architect" means an individual who through education,
12 training, and experience is skilled in the art and science of
13 building design and has been licensed by the ¹New Jersey¹ State
14 Board of Architects to practice architecture in the State of New
15 Jersey.

16 c. "Architecture" means the art and science of building design
17 and particularly the design of any structure for human use or
18 habitation. Architecture, further, is the art of applying human
19 values and aesthetic principles to the science and technology of
20 building methods, materials and engineering systems, required to
21 comprise a total building project with a coherent and
22 comprehensive unity of structure and site.

23 d. "Board" means the ¹New Jersey¹ State Board of Architects.

24 e. "Certificate of Authorization" means a certificate issued
25 by the board pursuant to this amendatory and supplementary act.

26 f. "Closely allied professional" means and is limited to
27 licensed architects, professional engineers, land surveyors, and
28 professional planners.

29 g. "Engineering systems" means those systems necessary for
30 the proper function of a building and the surrounding site, the
31 proper design of which requires engineering knowledge acquired

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
Assembly AHE committee amendments adopted December 7, 1989.

1 through engineering or architectural education, training, or
2 experience. These systems include but are not limited to
3 structural, electrical, heating, lighting, acoustical, ventilation,
4 air conditioning, grading, plumbing, and drainage. Drainage
5 facilities for sites of 10 acres or more or involving stormwater
6 detention facilities or traversed by a water course shall only be
7 designed by a professional engineer.

8 h. "Joint committee" means the Joint Committee of
9 Architects and Engineers established pursuant to the "Building
10 Design Services Act," P.L.....c.... (C.....)(now pending before
11 the Legislature as Assembly Bill No. 15049¹ of 1989).

12 i. "Human use or habitation" means the activities of living,
13 including, but not limited to fulfilling domestic, religious,
14 educational, recreational, employment, assembly, health care,
15 institutional, memorial, financial, commercial, industrial and
16 governmental needs.

17 j. "Human values" means the social, cultural, historical ^{1,1}
18 economic and environmental influences that have an impact on
19 the quality of life.

20 k. "Practice of architecture" or "architectural services"
21 means the rendering of services in connection with the design,
22 construction, enlargement, or alteration of a building or a group
23 of buildings and the space within or surrounding those buildings,
24 which have as their principal purpose human use or habitation.
25 These services include site planning, providing preliminary
26 studies, architectural designs, drawings, specifications, other
27 technical documentation, and administration of construction for
28 the purpose of determining compliance with drawings and
29 specifications.

30 l. "Responsible charge" means the rendering of regular and
31 effective supervision by a competent licensed architect to those
32 individuals performing services which directly and materially
33 affect the quality and competence of architectural services
34 rendered by the licensee. A licensee engaged in any of the
35 following acts or practices shall be deemed not to have rendered
36 regular and effective supervision:

37 (1) The regular and continuous absence from principal office
38 premises from which professional services are rendered, except
39 for performance of field work or presence in a field office

1 maintained exclusively for a specific project:

2 (2) The failure to personally inspect or review the work of
3 subordinates where necessary and appropriate:

4 (3) The rendering of a limited, cursory or perfunctory review
5 of plans for a building or structure in lieu of an appropriate
6 detailed review:

7 (4) The failure to personally be available on a reasonable basis
8 or with adequate advance notice for consultation and inspection
9 where circumstances require personal availability.

10 2. Section 1 of P.L.1952, c.131 (C.45:3-5.1) is amended to read
11 as follows:

12 1. Any professional engineer who is duly licensed to practice
13 professional engineering in this State, provided that he has a
14 college degree in an engineering program or curriculum of four
15 years or more, shall be entitled to be licensed to engage in the
16 practice of architecture in this State, upon application therefor
17 to the board and upon satisfactorily passing the parts pertaining
18 to site and building design of the examination regularly conducted
19 by the board pursuant to R.S. 45:3-5 for applicants for
20 registration to practice architecture.

21 (cf: P.L.1987, c.16, s.1)

22 3. R.S. 45:3-10 is amended to read as follows:

23 45:3-10. [Any person who shall pursue the practice of
24 architecture in this State, or shall engage in this State in the
25 business of preparing plans, specifications and preliminary data
26 for the erection or alteration of any building, except buildings
27 designed by licensed professional engineers incidental or
28 supplemental to engineering projects, or use the title architect or
29 registered architect, or shall advertise or use any title, sign, card
30 or device to indicate that such person is an architect, without a
31 certificate thereof or while his certificate is revoked, suspended
32 or forfeited in accordance with the provisions of this chapter, or
33 any person aiding or assisting such person not having a certificate
34 to practice architecture or while his certificate to practice
35 architecture is revoked, suspended or forfeited, or any person
36 who violates any provision of this act or any rule or regulation of
37 the board shall be liable to a penalty of not less than \$200.00, nor
38 more than \$500.00 for the first offense, and a penalty of not less
39 than \$500.00 nor more than \$1,000.00 for a second or each

1 subsequent offense, which penalty shall be sued for, and
2 recovered by and in the name of the board. The payment to the
3 board of an amount at least equal to the minimum penalty
4 prescribed in this act, prior or subsequent to the commencement
5 of proceedings for the recovery of a penalty shall be deemed and
6 construed to be a conviction, and any subsequent violation shall
7 be considered an additional offense.]

8 No person except an architect licensed in the State of New
9 Jersey shall engage in the practice of architecture, use the title
10 "architect" or its substantial equivalent or otherwise represent to
11 the public that that person is licensed to practice architecture in
12 this ¹[state] State¹ .

13 Any single act or transaction shall constitute engaging in
14 business or in the practice of architecture within the meaning of
15 this chapter.

16 Nothing herein contained shall prohibit students or employees
17 of licensed architects from acting upon the authority of such
18 licensed architects, whose certificates have not been revoked,
19 suspended or forfeited, where said students or employees are
20 under the immediate supervision of such licensed architect, or to
21 prohibit any person in this State from acting as designer of a
22 dwelling and all appurtenances thereto that are to be constructed
23 by himself solely as a residence for himself or for a member or
24 members of his immediate family.

25 No licensed architect shall permit his name to be used in
26 connection with the name of any other person not licensed to
27 practice architecture in this State in any advertisement, sign,
28 card or device in such a manner as to indicate that such other
29 person is a licensed architect.

30 Nothing herein contained shall prohibit professional engineers
31 from designing buildings consistent with section 7 of the
32 "Building Design Services Act," P.L. ,c. (C.) [now pending
33 before the Legislature as Assembly Bill No. 15049¹ of 1989).

34 Nothing herein contained shall prohibit professional engineers
35 from offering building design services consistent with sections 7
36 or 8 of the "Building Design Services Act," P.L. ,c. (C.)
37 [now pending before the Legislature as Assembly Bill No. 15049¹
38 of 1989).

39 (cf. F.L.1967, c.289, s.4)

1 4. (New section) Architectural services shall not be rendered
 2 or offered through any business associations other than a sole
 3 proprietorship of a licensed architect, a partnership of licensed
 4 architects, a partnership of closely allied professionals ¹[or
 5 certified landscape architects or both,]¹ including at least one
 6 licensed architect, a professional service corporation established
 7 pursuant to the "Professional Service Corporation Act,"
 8 P.L.1969, c.232 ¹[(C.14A-17-1 et. seq.)] (C.14A:17-1 et seq.)¹, a
 9 corporation authorized pursuant to section 4 of this amendatory
 10 and supplementary act or as prescribed in the "Building Design
 11 Services Act ¹[.],¹" ¹P.L., c. ... (C.)(now pending before
 12 the Legislature as Assembly Bill No. 5049 of 1989).¹

13 5. (New section) The board shall issue a certificate of
 14 authorization to certain corporations and those corporations shall
 15 be authorized to offer architectural services as follows:

16 a. A corporation may offer to provide architectural services in
 17 this State if: (1) two-thirds (2/3) of the directors are licensed
 18 architects; and, (2) two-thirds (2/3) of the shares of stock are
 19 owned by licensed architects. This subsection shall not apply to a
 20 professional service corporation established pursuant to the
 21 "Professional ¹[Services] Service¹ Corporation Act," P.L.1969,
 22 c.232 (C.14A:17-1 et seq.).

23 b. A corporation may offer to provide architectural and
 24 closely allied professional services in this State if: (1) at least
 25 two-thirds (2/3) of the directors are licensed architects and
 26 closely allied professionals; (2) at least one director is a licensed
 27 architect; (3) two-thirds (2/3) of the shares are owned by licensed
 28 architects or closely allied professionals; and, (4) a minimum of
 29 20% of the shares are owned by licensed architects. This
 30 subsection shall not apply to a professional ¹[services] service¹
 31 corporation established pursuant to the "Professional ¹[Services]
 32 Service¹ Corporation Act," P.L.1969, c.232 ¹[(C.14A;17-1 et
 33 seq.)] (C.14A:17-1 et seq.)¹.

34 The certificate of authorization shall designate a New Jersey
 35 licensee or licensees who are in responsible charge of the
 36 architectural activities and decisions of the corporation. All
 37 final drawings, papers or documents involving the practice of
 38 architecture, when issued by the corporation or filed for public
 39 record, shall be signed and sealed by the New Jersey licensee who

1 is in responsible charge of the work.

2 6. (New section) Prior to the issuance of a certificate of
3 authorization, a corporation shall file with the board an
4 application, on forms designated by the board, listing, where
5 applicable, the name and address of the corporation and its
6 satellite offices, and the name, address and signature of all
7 officers, corporate board members, directors, principals and any
8 licensees who shall be in responsible charge of the practice of
9 architecture through the corporation, together with such other
10 information as may be required by the board to ensure
11 compliance with its regulations. The same information shall
12 accompany the biennial renewal fee. A change in any of this
13 information shall be reported to the board within 30 days after
14 the effective date of that change.

15 7. (New section) A licensee shall maintain such records as are
16 reasonably necessary to establish that the licensee exercised
17 regular and effective supervision of professional services of
18 which such licensee was in responsible charge.

19 8. (New section) The board shall have the authority to review
20 the professional conduct of any corporation authorized to offer
21 architectural services under the provisions of P.L. C.
22 (C.)(now pending before the Legislature as this bill). In order
23 to implement those provisions, the board may:

24 a. Establish by regulations adopted pursuant to the
25 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
26 seq.) a biennial renewal fee for the certificate of authorization.

27 b. Suspend, revoke, or refuse to renew the certificate of
28 authorization of any corporation whose agent, employees,
29 directors or officers violate, or cause to be violated, any of the
30 provisions of this amendatory and supplementary act or chapter 8
31 of Title 45 of the Revised Statutes, in conformance with the
32 ¹["Uniform Enforcement Act", P.L.1971, c.60 (C.45:1-2.1 et
33 seq.)] provisions of P.L.1978, c. 73 (C.45:1-14 et seq.)¹.

34 c. Adopt such rules and regulations as required to carry out
35 the provisions of this ¹amendatory and supplementary¹ act
36 pursuant to the "Administrative Procedure Act ¹₁, P.L.1968,
37 c.410 (C.52:14B-1 et seq.).

38 9. (New section) No corporation shall be relieved of
39 responsibility for the conduct or acts of its agents, employees or

1 officers by reason of compliance with the provisions of this
2 amendatory and supplementary act.

3 10. (New section) Pursuant to the provisions of the "Building
4 Design Services Act," P.L.....c.....(C.....)¹[(Now pending before
5 the Legislature as Assembly Bill No..... of 1989)] [now pending
6 before the Legislature as Assembly Bill No. 5049 of 1989]¹ the
7 board:

8 a. May refer any complaint, question or controversy, involving
9 the application of that act to the joint committee.

10 b. Shall take no disciplinary action against any professional
11 engineer alleged to have engaged in a violation of that act or the
12 unlicensed practice of architecture.

13 c. Shall refer a request for a declaratory ruling to the joint
14 committee.

15 d. Shall provide any and all documents in its possession
16 regarding any matter referred to the joint committee.

17 e. Shall, where necessary and appropriate, exercise such
18 investigation or enforcement power conferred by law to aid and
19 assist the joint committee in its functions.

20 f. Shall, consistent with that act, discipline any licensed
21 architect who, or business association authorized to offer
22 architectural services which ^{1,1} violates that act. Such a
23 violation shall be deemed professional misconduct. Any violation
24 of that act by an unlicensed individual or unauthorized business
25 association shall be disciplined by the ¹New Jersey State¹ Board
26 of Architects ¹[, consistent with the Uniform Enforcement Act,
27 P.L.1978, c.73 (C.45:1-15 et seq.)] pursuant to the provisions of
28 P.L.1978, c.73 (C.45:1-14 et seq.)¹. Such a violation shall be
29 deemed the unlicensed practice of architecture. However, the
30 design of an engineering work by an unlicensed individual or
31 unauthorized business association shall be disciplined by the
32 ¹State¹ Board of Professional Engineers and Land Surveyors ¹[,
33 consistent with the Uniform Enforcement Act, P.L. 1978, c.73
34 (C.45:1-15 et seq.)] pursuant to the provisions of P.L.1978, c.73
35 (C.45:1-14 et seq.)¹. Such a violation shall be deemed the
36 unlicensed practice of ¹[Engineering] engineering¹.

37 11. This act shall take effect immediately but shall remain
38 inoperative until 120 days following the enactment into law of
39 P.L. c (C.) (now pending before the Legislature as

1 Assembly Bill No. 15048¹ of 1989) and P.L. c. (C.)now
2 pending before the Legislature as Assembly Bill No. 15049¹ of
3 1989).

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REGULATED PROFESSIONS

Building and Construction

9 Revises statutes regarding the practice of architecture.

1 the application of that act to the joint committee.

2 b. Shall take no disciplinary action against any professional
3 engineer alleged to have engaged in a violation of that act or the
4 unlicensed practice of architecture.

5 c. Shall refer a request for a declaratory ruling to the joint
6 committee.

7 d. Shall provide any and all documents in its possession
8 regarding any matter referred to the joint committee.

9 e. Shall, where necessary and appropriate, exercise such
10 investigation or enforcement power conferred by law to aid and
11 assist the joint committee in its functions.

12 f. Shall, consistent with that act, discipline any licensed
13 architect who, or business association authorized to offer
14 architectural services which violates that act. Such a violation
15 shall be deemed professional misconduct. Any violation of that
16 act by an unlicensed individual or unauthorized business
17 association shall be disciplined by the Board of Architects,
18 consistent with the Uniform Enforcement Act, P.L. 1978, c.73
19 (C.45:1-15 et seq.). Such a violation shall be deemed the
20 unlicensed practice of architecture. However, the design of an
21 engineering work by an unlicensed individual or unauthorized
22 business association shall be disciplined by the Board of
23 Professional Engineers and Land Surveyors, consistent with the
24 Uniform Enforcement Act, P.L. 1978, c.73 (C.45:1-15 et seq.).
25 Such a violation shall be deemed the unlicensed practice of
26 Engineering.

27 11. This act shall take effect immediately but shall remain
28 inoperative until 120 days following the enactment into law of
29 P.L. c (C.) (now pending before the Legislature as
30 Assembly Bill No. of 1989) and P.L. c (C.) (now
31 pending before the Legislature as Assembly Bill No. of 1989).

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Sponsors STATEMENT

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36 This bill clarifies certain of the provisions regarding the
37 practice of architecture by providing a clear definition of the
38 practice. The bill also provides a definition of "responsible
39 charge" and permits the State Board of Architects to issue

1 certificates of authorization to certain corporations for the
2 provision of architectural and closely allied services. The
3 corporations may provide architectural services if two thirds of
4 the directors and stockholders are licensed architects. It may
5 provide both architectural and closely allied services if (1) at
6 least two-thirds (2/3) of the directors are licensed architects and
7 closely allied professionals; (2) at least one director is a licensed
8 architect; (3) two-thirds (2/3) of the shares are owned by closely
9 allied professionals; and, (4) a minimum of 20% of the shares are
10 owned by licensed architects. Also, the certificate of
11 authorization shall designate a New Jersey licensee or licensees
12 who are in responsible charge of the architectural activities and
13 decisions of the corporation. All final drawings, papers or
14 documents involving the practice of architecture when issued by
15 the corporation or filed for public record, shall be signed and
16 sealed by the New Jersey licensee who is in responsible charge of
17 the work.

18 The bill also provides for review of complaints to the Joint
19 Committee of Architects and Engineers, which is to be
20 established by a companion bill, the "Building Design Services
21 Act," of 1989. Under the provisions of that bill, the board:

22 (1) May refer any complaint, question or controversy involving
23 the application of that act to the joint committee.

24 (2) Shall take no disciplinary action against any professional
25 engineer alleged to have engaged in a violation of that act or the
26 unlicensed practice of architecture.

27 (3) Shall refer a request for a declaratory ruling to the joint
28 committee.

29 (4) Shall provide any and all documents in its possession
30 regarding any matter referred to the joint committee.

31 (5) Shall, when necessary and appropriate, exercise the
32 investigation or enforcement powers conferred by law to aid and
33 assist the joint committee in its functions.

34 (6) Shall discipline any unlicensed individual who, or
35 unauthorized business association which, designs an engineering
36 work in violation of that act. Such a violation shall be deemed
37 the unlicensed practice of architecture. The design of an
38 engineering work by an unlicensed individual in violation of that
39 act shall be disciplined by the Board of Professional Engineers

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1 and Land Surveyors. Such a violation shall be deemed the
2 unlicensed practice of engineering.

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REGULATED PROFESSIONS

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Building and Construction

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Revises statutes regarding the practice of architecture.

**ASSEMBLY HIGHER EDUCATION AND REGULATED
PROFESSIONS COMMITTEE**

STATEMENT TO

ASSEMBLY, No. 5047

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 4, 1989

The Assembly Higher Education and Regulated Professions Committee favorably reports Assembly Bill No. 5047 with amendments.

As amended by committee, this bill clarifies certain of the provisions regarding the practice of architecture by providing a clear definition of the practice. The bill also provides a definition of "responsible charge" and permits the State Board of Architects to issue certificates of authorization to certain corporations for the provision of architectural and closely allied services. The corporations may provide architectural services if two thirds of the directors and stockholders are licensed architects. It may provide both architectural and closely allied services if (1) at least two-thirds (2/3) of the directors are licensed architects and closely allied professionals; (2) at least one director is a licensed architect; (3) two-thirds (2/3) of the shares are owned by closely allied professionals; and, (4) a minimum of 20% of the shares are owned by licensed architects. Also, the certificate of authorization shall designate a New Jersey licensee or licensees who are in responsible charge of the architectural activities and decisions of the corporation. All final drawings, papers or documents involving the practice of architecture when issued by the corporation or filed for public record, shall be signed and sealed by the New Jersey licensee who is in responsible charge of the work.

The bill also provides for review of complaints to the Joint Committee of Architects and Engineers, which is to be established by a companion bill, Assembly Bill No. 5049, the "Building Design Services Act". Under the provisions of that bill, the board:

(1) May refer any complaint, question or controversy involving the application of that act to the joint committee.

(2) Shall take no disciplinary action against any professional engineer alleged to have engaged in a violation of that act or the unlicensed practice of architecture.

(3) Shall refer a request for a declaratory ruling to the joint committee.

(4) Shall provide any and all documents in its possession regarding any matter referred to the joint committee.

(5) Shall, when necessary and appropriate, exercise the investigation or enforcement powers conferred by law to aid and assist the joint committee in its functions.

(6) Shall discipline any unlicensed individual who, or unauthorized business association which, designs an engineering work in violation of that act. Such a violation shall be deemed the unlicensed practice of architecture. The design of an engineering work by an unlicensed individual in violation of that act shall be disciplined by the State Board of Professional Engineers and Land Surveyors. Such a violation shall be deemed the unlicensed practice of engineering.

The committee amended the bill to delete a partnership of certified landscape architects as one of the groups eligible to offer architectural services under the bill's provisions. The committee also made a variety of technical amendments to the bill.