

EXPLANATION OF PROPOSED RULES REGULATING ARCHITECTURAL FIRMS

By: Paul H. Spaht, LSBAE Board Attorney

The differences among the states concerning the registration and practice of architecture by architectural firms are more remarkable than the similarities. At one extreme are jurisdictions which have very detailed and specific ownership and control requirements for architectural firms. For example, some jurisdictions require that a certain percentage of the directors (if a corporation), the general partners (if a partnership), or the members (if a limited liability company) be registered under the laws of any state as architects, professional engineers, surveyors, landscape architects, or some combination thereof; a certain percentage of the directors, partners, or members be architects, and/or a certain percentage of the firm be owned by architects. At the other extreme are jurisdictions which have no control or ownership requirements at all, but rather simply require that the architectural firm employ one or more architects registered in that state who are designated as being in full authority and responsible charge of the architectural practice of that firm.

In Louisiana, the practice of architecture by architectural firms is particularly complicated because the legislature has already enacted laws governing the practice of architecture by certain architectural firms, and the requirements for different types of firms are quite different. The legislature has mandated certain ownership and control requirements for professional architectural corporations; at the same time, no ownership or control requirements presently exist for architectural-engineering corporations.

Act 514 of 2012 – In 2012, the legislature enacted legislation authorizing the board to issue rules governing the activities of domestic and foreign architectural firms practicing architecture in Louisiana. Pursuant thereto, the board is considering adopting comprehensive rules regulating the practice of architecture by architectural firms in Louisiana. The proposed rules are published elsewhere in this newsletter. The following explanatory comments may be helpful:

Purpose: The purpose of the proposed rules is to: (i) protect the public health, safety and welfare by having the architectural firm identify the supervising professional architect who shall perform or directly supervise the performance of all architectural services by said firm in Louisiana and be responsible for the architectural work; (ii) treat all architectural firms equally and allow competition on a level playing field, and (iii) require all architectural firms to receive a certificate of authority to practice architecture in Louisiana from the board.

Professional Architectural Corporation: A professional architectural corporation currently practicing architecture in Louisiana as a professional architectural corporation under the Louisiana Professional Architectural Corporations Law may continue to practice architecture as it is currently practicing. See proposed Rule §1701 infra.

Architectural-Engineering Corporation: An architectural-engineering corporation currently practicing architecture in Louisiana as an architectural-engineering corporation under the Louisiana Architectural-Engineering Corporation Law may continue to practice architecture as it is currently practicing. See proposed Rule §1703 infra.

Limited Liability Company: A limited liability company currently practicing architecture in Louisiana as a limited liability company may continue to practice architecture as it is currently practicing. See proposed Rule §1705.A-E infra.

Partnership, Limited Liability Partnership, or Association: If you are practicing architecture in Louisiana as a partnership, limited liability partnership, association, or other entity not currently licensed by the board, you will need to obtain a certificate of authority for your entity from the board for the period commencing July 1, 2015, and thereafter. See proposed Rule §1705.E and .F for the procedure to follow.

Sole Proprietorship: If you are practicing architecture in Louisiana as a sole proprietorship in the name of an individual registered with the board, you will not be required to obtain a certificate of authority from the board. See proposed Rule §1705.N infra. However, a sole proprietorship practicing architecture in Louisiana under some name other than the name of an individual registered with the board will be required to obtain a certificate of authority. Id.

Design/Build Firm: A corporation, partnership, limited liability partnership, limited liability company, association, sole proprietorship, or other entity lawfully organized under the laws of Louisiana or other lawful jurisdiction for the purpose of offering a combination of architectural services together with construction services (i.e., a design/build firm) will be required to obtain a certificate of authority from the board for the period commencing July 1, 2015, and thereafter. See proposed Rule §1705.K infra.

Joint Venture: A joint venture practicing architecture in Louisiana will not be required to obtain a certificate of authority from the board; however, all architectural firms practicing architecture in Louisiana as members of a joint venture will be required to obtain a certificate of authority from the board. See proposed Rule §1705.L infra.

Non-Resident Architectural Firm Associated with Resident Architect: A non-resident architectural firm associated with a resident architect or architectural firm for a specific and isolated project will not be required to obtain a certificate of authority from the board, provided the resident architect is licensed in Louisiana or the resident architectural firm has obtained a certificate of authority from the board. See proposed Rule §1705.M infra.

Consultant: A non-resident architectural firm retained by a Louisiana architect as a consultant only will not be required to obtain a certificate of authority from the board. See proposed Rule §1705.O infra.

Fee: The application fee for a certificate of authority will be \$35.00, which will be a reduction in the current application fee (\$50.00). See proposed Rules §1701.B, §1703.B, and §1705.E infra.

Renewal: The procedure for renewals effective July 1, 2015, is set forth in proposed Rule §1705.Q infra.

PROPOSED RULES REGULATING ARCHITECTURAL FIRMS

CHAPTER 17. Professional Architectural Corporations, Architectural-Engineering Corporations, and Architectural Firms

§1701. Professional Architectural Corporations

- A. The practice of architecture in Louisiana by a professional architectural corporation is permissible when such corporation is lawfully constituted under the Professional Architectural Corporations Law, La. R.S. 12:1086 et. seq., and obtains a certificate of authority from the board authorizing it to so practice.
- B. A person seeking a certificate of authority for a professional architectural corporation to practice architecture in Louisiana shall obtain an application from the board website, www.lastbdarchs.com. The applicant is required to complete the application fully and file same with the board. Upon receipt of such application and a fee of \$35.00, the board shall either approve said application and issue a certificate of authority to the professional architectural corporation, or disapprove said application advising the applicant of the reason(s) therefor. The certificate of authority must be renewed on an annual basis.
- C. Architectural services rendered on behalf of a professional architectural corporation must be performed by or under the responsible supervision of one or more natural person(s) duly licensed to practice architecture in Louisiana. Performing or directly supervising the performance of all architectural services shall mean unrestricted, unchecked, and unqualified command of, and legal accountability for, the architectural services performed. Specifications, drawings, or other related documents will be deemed to have been prepared by the architect or under the architect's direct supervision only when the requirements of Rule § 1313 are fully satisfied.
- D. The architects licensed in this state who perform or directly supervise the performance of architectural services on behalf of a professional architectural corporation are responsible to the board for all of the acts and conduct of such corporation.
- E. It shall be the responsibility of the directors of a professional architectural corporation to advise the board of any organizational change that would relate to the authority granted under this rule. Any failure to do so could result in imposition by the board of one or more of the disciplines set forth in La. R.S. 37:153 and/or La. R.S. 37:154 against the professional architectural corporation and the directors. Possible disciplines include, but are not limited to, the suspension, revocation, or rescission of (i) the

certificate of authority issued to the professional architectural corporation and (ii) the license of the directors.

§1703. Architectural-Engineering Corporations

- A. The practice of architecture in Louisiana by an architectural-engineering corporation is permissible when such corporation is lawfully constituted under the Architectural-Engineering Corporations Law, La. R.S. 12:1171 et. seq., and obtains a certificate of authority from the board authorizing it to so practice.
- B. A person seeking a certificate of authority for an architectural-engineering corporation to practice architecture in Louisiana shall obtain an application from the board website, www.lastbdarchs.com. The applicant is required to complete the application fully and file same with the board. Upon receipt of such application and a fee of \$35.00, the board shall either approve said application and issue a certificate of authority to the architectural-engineering corporation, or disapprove said application advising the applicant of the reason(s) therefor. The certificate of authority must be renewed on an annual basis.
- C. Pursuant to La. R.S. 12:1173, the architectural-engineering corporation shall designate in its application for certificate of authority one or more supervising professional architect(s) who shall perform or directly supervise the performance of all architectural services by said corporation in Louisiana. Performing or directly supervising the performance of all architectural services shall mean unrestricted, unchecked, and unqualified command of, and legal accountability for, the architectural services performed. Specifications, drawings, or other related documents will be deemed to have been prepared by the architect or under the architect's direct supervision only when the requirements of Rule § 1313 are fully satisfied. Only natural persons (i) who are licensed by the board pursuant to the provisions of La. R.S. 37:141 through R.S. 37: 158, (ii) who are full-time active employees of the architectural-engineering corporation, and (iii) whose primary occupation is with the architectural-engineering corporation may be designated as a supervising professional architect.
- D. The architects licensed in this state who perform or directly supervise the performance of architectural services on behalf of an architectural-engineering corporation are responsible to the board for all of the acts and conduct of such corporation.
- E. It shall be the responsibility of the designated supervising professional architect(s) of an architectural-engineering corporation to advise the board of any organizational change that would relate to the authority granted under this rule. Any failure to do so could result in imposition by the board of one or more of the disciplines set forth in La. R.S. 37:153 and/or La. R.S. 37:154 against the architectural-engineering corporation and the designated supervising professional architect(s). Possible disciplines include, but are not limited to, the suspension, revocation, or rescission of (i) the certificate of authority issued to the architectural-engineering corporation and (ii) the license of the designated supervising professional architect(s).

§1705. Architectural Firms

- A. For purposes of this rule, the term "architectural firm" shall mean a corporation, partnership, limited liability partnership, limited liability company, association, sole proprietorship, or other entity lawfully organized under the laws of Louisiana or other lawful jurisdiction for the purpose of practicing architecture.

- B. The practice of architecture in Louisiana by an architectural firm is only permissible when such firm is lawfully constituted under the laws of Louisiana or under the laws of some other lawful jurisdiction for the purpose of practicing architecture and complies with all of the requirements of this rule.
- C. Except as provided *infra* in this rule, no architectural firm shall solicit, offer, execute, or perform architectural services in Louisiana without first receiving a certificate of authority from the board authorizing it to do so.
- D. An architectural firm soliciting, offering, contracting to perform, or performing the practice of architecture in Louisiana shall be subject to the discipline of the board and to its authority to adopt rules and regulations governing the practice of architecture.
- E. A person seeking a certificate of authority for an architectural firm to practice architecture in Louisiana shall obtain an application from the board website, www.lastbdarchs.com. The applicant is required to complete the application fully and file same with the board. Upon receipt of such application and a fee of \$35.00, the board shall either approve said application and issue a certificate of authority to the architectural firm, or disapprove said application advising the applicant of the reason(s) therefor. The certificate of authority must be renewed on an annual basis.
- F. The architectural firm shall designate in its application for certificate of authority one or more supervising professional architects who shall perform or directly supervise the performance of all architectural services by said firm in Louisiana. Performing or directly supervising the performance of all architectural services shall mean unrestricted, unchecked, and unqualified command of, and legal accountability for, the architectural services performed. Specifications, drawings, or other related documents will be deemed to have been prepared by the architect or under the architect's direct supervision only when the requirements of Rule § 1313 are fully satisfied. Only natural persons (i) who are licensed by the board pursuant to the provisions of La. R.S. 37:141 through R.S. 37: 158, (ii) who are full-time active employees of the architectural firm, and (iii) whose primary occupation is with the architectural firm may be designated as a supervising professional architect.
- G. When the architectural firm designates an architect as a supervising professional architect, the architectural firm authorizes that architect to appear for and act on behalf of the firm in connection with the execution and performance of contracts to provide architectural services.
- H. An architectural firm may practice architecture in Louisiana only as long as it employs a designated supervising professional architect who complies with Rule §1705.F above. If the architectural firm designates only one architect as the supervising professional architect and that architect ceases being a full-time active employee of the architectural firm on a primary basis, the authority of such firm to practice architecture in Louisiana is suspended until such time as the firm designates another supervising professional architect pursuant to Rule §1705.F above.
- I. The architect(s) designated as the supervising professional architect(s) of the architectural firm is responsible to the board for all of the acts and conduct of the architectural firm.
- J. The supervising professional architect(s) of the architectural firm shall advise the board of any organizational change that would relate to the authority granted under this rule. Any failure to do so could result in imposition by the board of one or more of the disciplines described in La. R.S. 37:153 and/or La. R.S. 37:154 against the architectural firm and the designated supervising professional architect(s). Possible disciplines include, but are not limited to, the suspension, revocation, or rescission of (i) the certificate of authority issued to the architectural firm and (ii) the license of the designated supervising professional architect(s).

- K. A corporation, partnership, limited liability partnership, limited liability company, association, sole proprietorship, or other entity lawfully organized under the laws of Louisiana or other lawful jurisdiction for the purpose of offering a combination of architectural services together with construction services (i.e., a design/build firm), must obtain a certificate of authority from the board as set forth in this rule and also comply with Rule § 1319.
- L. A joint venture practicing architecture in Louisiana shall not be required to obtain a certificate of authority from the board; however, all architectural firms practicing architecture in Louisiana as members of a joint venture are required to obtain a certificate of authority and otherwise comply with this rule.
- M. A non-resident architectural firm associated within the meaning of Rule § 1317 with a resident architect or architectural firm for a specific and isolated project is not required to obtain a certificate of authority from the board, provided the resident architect is licensed in Louisiana or the resident architectural firm has obtained a certificate of authority from the board.
- N. A sole proprietorship practicing architecture in Louisiana in the name of an individual registered with the board is not required to obtain a certificate of authority to practice architecture in Louisiana. A sole proprietorship practicing architecture in Louisiana under some name other than the name of an individual registered with the board is required to obtain a certificate of authority from the board.
- O. A non-resident architectural firm retained by a Louisiana architect as a consultant only is not required to obtain a certificate of authority from the board.
- P. The architectural firm shall satisfy all of the requirements of the Louisiana Secretary of State for doing business in this state.
- Q. A firm holding a certificate of authority and desiring to continue offering architectural services shall make application for renewal each year by downloading a renewal form from the board website, www.lastbdarchs.com. Upon receipt of the completed application and a renewal fee not to exceed \$50.00 prior to June 30, a renewal certificate will be issued.
- R. Rules regulating the names of architectural firms are contained in Chapter 15 *supra*.

§1707. Effective date

- A. Any license or certificate of authority issued by the board to a professional architectural corporation, architectural-engineering corporation, or limited liability company for the period ending June 30, 2015, shall expire no later than such date, and the rules in existence at the time such license or certificate is issued shall apply to the practice of architecture by such firm.
- B. These rules shall apply to any professional architectural corporation, architectural-engineering corporation, or architectural firm seeking to obtain an initial certificate of authority from the board to practice architecture in Louisiana, or to renew any such certificate, for the period after July 1, 2015.