

House Bill 1672

By: Representative Gardner of the 42nd, Post 3

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 4 of Title 43 of the Official Code of Georgia Annotated, relating to
2 registration provisions for architects and interior designers, so as to provide for registration
3 of an architect who has been registered in another jurisdiction and who has education and
4 training substantially equivalent to that required for registration; to authorize the
5 establishment and maintenance of the architect and interior designer education, research, and
6 recovery fund; to provide for recovery from such fund by persons aggrieved by a violation
7 of the chapter or rules promulgated in accordance with the chapter; to provide for procedures,
8 limitations on the amount of recovery and the time for filing actions, termination of the
9 fund's liability, fees, notices of claims, interventions in actions, requirements for recovery
10 from the fund, exceptions, revocation of certificates of registration, eligibility to receive a
11 new certificate of registration, procedures when the money in the fund is insufficient to
12 satisfy a claim, deposits in the state treasury, investments, misdemeanor offenses,
13 subrogation, waiver, and educational and research programs; to repeal conflicting laws; and
14 for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 Chapter 4 of Title 43 of the Official Code of Georgia Annotated, relating to registration
18 provisions for architects and interior designers, is amended in Code Section 43-4-11, relating
19 to qualifications of applicants for registration as architects, by striking subsection (c) and
20 inserting in lieu thereof the following:

21 "(c) The applicant for a certificate of registration who has met the educational and training
22 requirements set forth in paragraph (1), (2), or (3) of subsection (b) of this Code section or
23 such substantially equivalent educational and training requirements as determined by the
24 board and who has been registered as an architect by another jurisdiction shall hold a
25 National Council of Architectural Registration Boards' certificate and a certificate of
26 registration in such other jurisdiction, both of which shall be current and in good standing."

1 return receipt requested, to this effect at the time of the commencement of such action.

2 The board shall have the right to intervene in and defend any such action.

3 (2) When any aggrieved person recovers a valid judgment in any court of competent
4 jurisdiction against any registrant under this chapter for any act, representation,
5 transaction, or conduct which is in violation of this chapter or of the regulations
6 promulgated pursuant to this chapter, the aggrieved person may, upon termination of all
7 proceedings, including reviews and appeals in connection with the judgment, file a
8 verified claim in the court in which the judgment was entered and, upon ten days' written
9 notice to the board, may apply to the court for an order directing payment out of the
10 architect and interior designer education, research, and recovery fund of the amount
11 unpaid upon the judgment, subject to the limitations stated in this Code section.

12 (3) The court shall proceed upon such application in a summary manner and, upon the
13 hearing thereof, the aggrieved person shall be required to show:

14 (A) That he or she is not a spouse of the judgment debtor or the personal representative
15 of such spouse;

16 (B) That he or she has complied with all the requirements of this Code section;

17 (C) That he or she has obtained a judgment, as set out in paragraph (2) of this
18 subsection, stating the amount thereof and the amount owing thereon at the date of the
19 application; and that, in such action, he or she had joined any and all bonding
20 companies which issued corporate surety bonds to the judgment debtors as principals
21 and all other necessary parties;

22 (D) That he or she has caused to be issued a writ of execution upon such judgment and
23 the officer executing the same has made a return showing that no personal or real
24 property of the judgment debtor liable to be levied upon in satisfaction of the judgment
25 could be found or that the amount realized on the sale of them or of such of them as
26 were found, under such execution, was insufficient to satisfy the judgment, stating the
27 amount so realized and the balance remaining due to the judgment after application
28 thereon of the amount realized;

29 (E) That he or she has caused the judgment debtor to make discovery under oath
30 concerning the debtor's property, in accordance with Chapter 11 of Title 9, the 'Georgia
31 Civil Practice Act';

32 (F) That he or she has made all reasonable searches and inquiries to ascertain whether
33 the judgment debtor is possessed of real or personal property or other assets liable to
34 be sold or applied in satisfaction of the judgment;

35 (G) That by such search he or she has discovered no personal or real property or other
36 assets liable to be sold or applied or that he or she has discovered certain of them,
37 describing them, owned by the judgment debtor and liable to be so applied and that he

1 or she has taken all necessary action and proceedings for the realization thereof and that
2 the amount thereby realized was insufficient to satisfy the judgment, stating the amount
3 so realized and the balance remaining due on the judgment after application of the
4 amount realized; and

5 (H) That the following items, if any, as recovered by him or her have been applied to
6 the actual or compensatory damages awarded by the court:

7 (i) Any amount recovered from the judgment debtor or debtors;

8 (ii) Any amount recovered from the bonding company or companies; or

9 (iii) Any amount recovered in out-of-court settlements as to particular defendants.

10 (4) Whenever the aggrieved person satisfies the court that it is not practical to comply
11 with one or more of the requirements enumerated in subparagraphs (D) through (H) of
12 paragraph (3) of this subsection and that the aggrieved person has taken all reasonable
13 steps to collect the amount of the judgment or the unsatisfied part thereof and has been
14 unable to collect the same, the court may, in its discretion, dispense with the necessity for
15 complying with such requirements.

16 (5) The court shall make an order directed to the board requiring payment from the
17 architect and interior designers education, research, and recovery fund of whatever sum
18 it shall find to be payable upon the claim, pursuant to the provisions of and in accordance
19 with the limitations contained in this Code section, if the court is satisfied, upon the
20 hearing, of the truth of all matters required to be shown by the aggrieved person by
21 paragraph (3) of this subsection and is satisfied that the aggrieved person has fully
22 pursued and exhausted all remedies available to him or her for recovering the amount
23 awarded by the judgment of the court.

24 (6) Should the board pay from the architect and interior designer education, research, and
25 recovery fund any amount in settlement of a claim or toward satisfaction of a judgment
26 against a registrant, the certificate of registration shall be automatically revoked upon the
27 issuance of a court order authorizing payment from the architect and interior designer
28 education, research, and recovery fund. If such certificate of registration is that of a
29 corporation, limited liability company, or partnership, the certificate of registration of the
30 supervising architect and interior designer of the corporation, limited liability company,
31 or partnership shall automatically be revoked upon the issuance of a court order
32 authorizing payment from the architect and interior designer education, research, and
33 recovery fund. No such registrant shall be eligible to receive a new certificate of
34 registration until such registrant has repaid in full, plus interest at the rate of 6 percent per
35 annum, the amount paid from the architect and interior designer education, research, and
36 recovery fund on such registrant's account. A discharge in bankruptcy shall not relieve
37 a person from the penalties and disabilities provided in this paragraph.

1 (7) If, at any time, the money deposited in the architect and interior designer education,
2 research, and recovery fund is insufficient to satisfy any duly authorized claim or portion
3 thereof, the board shall, when sufficient money has been deposited in the architect and
4 interior designers education, research, and recovery fund, satisfy such unpaid claims or
5 portions thereof in the order that such claims or portions thereof were originally filed,
6 plus accumulated interest at the rate of 4 percent per annum.

7 (e) The sums received by the board pursuant to any provisions of this Code section shall
8 be deposited into the state treasury and held in a special fund to be known as the 'Architect
9 and Interior Designer Education, Research, and Recovery Fund' and shall be held by the
10 board in trust for carrying out the purposes of this Code section. These funds may be
11 invested in any investments which are legal for domestic insurance companies under
12 Articles 1 and 3 of Chapter 11 of Title 33, and the interest from these investments shall be
13 deposited to the credit of the architect and interior designer education, research, and
14 recovery fund and shall be available for the same purposes as all other money deposited
15 in the architect and interior designer education, research, and recovery fund.

16 (f) It shall be unlawful for any person or the agent of any person to file with the board any
17 notice, statement, or other document required under this Code section which is false,
18 untrue, or contains any material misstatement of fact and any such filing shall constitute
19 a misdemeanor.

20 (g) When the board receives notice of a claim, as provided in subsection (d) of this Code
21 section, the board may enter an appearance, file an answer, appear at the court hearing,
22 defend the action, or take whatever other action it may deem appropriate on behalf of and
23 in the name of the defendant and take recourse through any appropriate method of review
24 on behalf of and in the name of the defendant.

25 (h) When, upon the order of the court, the board has paid from the architect and interior
26 designer education, research, and recovery fund any sum to the judgment creditor, the
27 board shall be subrogated to all of the rights of the judgment creditor. The judgment
28 creditor shall assign all his or her right, title, and interest in the judgment to the board
29 before any payment is made from the fund, and any amount and interest so recovered by
30 the board on the judgment shall be deposited in the fund. If the total amount collected on
31 the judgment by the board exceeds the amount paid from the fund to the original judgment
32 creditor plus interest and the cost of collection, the board may elect to pay any overage
33 collected to the original judgment creditor or reassign the remaining interest in the
34 judgment to the original judgment creditor. The payment or reassignment to the original
35 judgment creditor shall not subject the fund to further liability for payment to the original
36 judgment creditor based on that transaction or judgment. Any costs incurred by the board's
37 attempting to collect assigned judgments shall be paid from the fund.

- 1 (i) The failure of an aggrieved person to comply with all of the provisions of this Code
2 section shall constitute a waiver of any rights under this Code section.
- 3 (j) The board, in its discretion, may use any and all funds, in excess of the amount of
4 \$100,000.00 required by subsection (b) of this Code section, regardless of whether such
5 funds are from the architect and interior designer education, research, and recovery fund
6 or from accrued interest thereon, for the purpose of helping to underwrite the cost of
7 educational and research programs, including travel expenses to attend such programs, for
8 the benefit of registrants and the public as the board may approve in accordance with the
9 provisions of this chapter and its rules and regulations; provided, however, that the board
10 shall not expend or commit sums for educational or research purposes in such amounts as
11 would cause the architect and interior designer education, research, and recovery fund to
12 be reduced to an amount less than \$100,000.00.
- 13 (k) In addition to the registration fees provided for in this chapter, the board, in its
14 discretion and based upon the need to ensure that a minimum balance of \$100,000.00 is
15 maintained in the architect and interior designer education, research, and recovery fund,
16 may assess each registrant, only upon renewal of his or her registration, an amount not to
17 exceed \$150.00 per year."

18

SECTION 3.

19 All laws and parts of laws in conflict with this Act are repealed.