

**OPINION  
47-189**

October 25, 1947 (OPINION)

OCCUPATIONS AND PROFESSIONS

RE: Architects - License Required

Your letter of October 22, 1947, regarding the right to practice architecture in this state of one who was practicing architecture before the passage of the architectural law, has been received and sent to my desk.

The law requiring architects to be licensed was originally enacted in 1917. This law, with few amendments, is now chapter 4303 of the 1943 Revised Code.

Section 43-0309 provides that no person shall practice architecture as a profession in this state unless he has obtained from the board a certificate of registration and is registered as an architect.

Section 43-0310 further provides that no one can advertise himself as a "licensed architect" unless he has been registered under the provisions of this law.

Section 43-0315 provides certain conditions under which an examination is not necessary.

There seems to be no provision in this chapter exempting those who were practicing architecture at the time the original law was enacted from examination. However, it is my opinion that one who was practicing architecture in the state at the time of the original enactment of this law could not be deprived of his right to practice by this law unless he could pass such an examination as the board provided by law might require. It is my opinion that to deprive him of his right to practice would be depriving him of property without due process of law in contravention of the constitutional provision to that effect. It is further my opinion that one actually practicing architecture in this state when this law was originally enacted had the right to be registered as a licensed architect under the provisions of this law without being required to pass an examination.

I am further of the opinion that his practice of architecture at that time need not have been his sole or principal means of livelihood, for it is conceivable that at the time the law was passed the services of architects were not in serious demand. The fact that one then entitled to be licensed without examination has not been in the active practice of this profession for a considerable time would not deprive him of his right to registration and license when he desired to commence active practice again. If such a person desires to resume the practice of architecture, it would be my opinion that he would be entitled to registration; however, if it appears after his licensing that he is grossly incompetent to practice architecture his license may be revoked under the provisions of section 43-0320 of the 1943 Revised Code.

NELS G. JOHNSON

Attorney General