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Indicates New Matter

COMMITTEE AMENDMENT ADOPTED

April 26, 2016

**S. 685**

Introduced by Senators Leatherman, Alexander, Campbell, S. Martin, Nicholson and O’Dell

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Read the first time April 21, 2015.

**A** **BILL**

TO AMEND SECTION 40‑22‑2, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PURPOSE OF CHAPTER 22, TITLE 40 CONCERNING THE REGULATION OF ENGINEERS AND SURVEYORS, SO AS TO PROVIDE THAT THE PRACTICE OF THE PROFESSION OF ENGINEERING AND SURVEYING IS SUBJECT TO REGULATION BY THIS STATE; TO AMEND SECTION 40‑22‑10, RELATING TO THE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS, SO AS TO PROVIDE ADDITIONAL QUALIFICATIONS; TO AMEND SECTION 40‑22‑20, RELATING TO DEFINITIONS, SO AS TO ADD, REDEFINE, AND DELETE DEFINITIONS; TO AMEND SECTION 40‑22‑30, RELATING TO ACTIVITIES PROHIBITED WITHOUT A LICENSE, SO AS TO PROHIBIT BROKERING OR COORDINATING ENGINEERING OR SURVEYING SERVICES FOR A FEE; BY ADDING SECTION 40‑22‑35 SO AS TO SPECIFY THE MANNER IN WHICH A REGISTERED ENGINEER OR SURVEYOR MAY NEGOTIATE A CONTRACT FOR HIS PROFESSIONAL SERVICES; TO AMEND SECTION 40‑22‑50, RELATING TO DUTIES OF THE BOARD, SO AS TO PROVIDE THE BOARD SHALL MAINTAIN AND UPDATE, RATHER THAN ANNUALLY PREPARE, A ROSTER OF INFORMATION CONCERNING PROFESSIONAL ENGINEERS AND SURVEYORS; TO AMEND SECTION 40‑22‑60, RELATING TO THE DUTY OF THE BOARD TO PROMULGATE CERTAIN REGULATIONS, SO AS TO UPDATE A CROSS REFERENCE AND TO PROVIDE ADDITIONAL DUTIES WITH RESPECT TO PROVIDING ADVICE AND RECOMMENDATIONS CONCERNING STATUTORY REVISIONS TO THE DEPARTMENT OF LABOR, LICENSING AND REGULATION; TO AMEND SECTION 40‑22‑75, RELATING TO EMERGENCY WAIVER OF LICENSE REQUIREMENTS, SO AS TO LIMIT APPLICATION OF THIS WAIVER TO DECLARED NATIONAL OR STATE EMERGENCIES, AND TO PROVIDE A WAIVER MAY NOT EXCEED NINETY DAYS; TO AMEND SECTION 40‑22‑110, RELATING TO THE AUTOMATIC SUSPENSION OF THE LICENSE OF MENTALLY INCOMPETENT PERSONS, SO AS TO DELETE A REDUNDANCY; TO AMEND SECTION 40‑22‑220, RELATING TO ELIGIBILITY REQUIREMENTS FOR LICENSURE AS AN ENGINEER, SO AS TO REVISE EDUCATION REQUIREMENTS; TO AMEND SECTION 40‑22‑222, RELATING TO LICENSING OF EXISTING ENGINEERS, SO AS TO ADD AN OPTIONAL ACCREDITATION SOURCE FOR AN EDUCATION REQUIREMENT; TO AMEND SECTION 40‑22‑225, RELATING TO ELIGIBILITY REQUIREMENTS FOR LICENSURE AS A SURVEYOR, SO AS TO REVISE THE REQUIREMENTS; TO AMEND SECTION 40‑22‑230, RELATING TO APPLICATION REQUIREMENTS, SO AS TO REVISE THE REQUIREMENTS; TO AMEND SECTION 40‑22‑250, RELATING TO A CERTIFICATE OF AUTHORIZATION TO PRACTICE AS A FIRM, SO AS TO REVISE REQUIREMENTS FOR THE CERTIFICATE AND TO PROVIDE REQUIREMENTS THROUGH WHICH A LICENSEE MAY MAINTAIN A BRANCH OFFICE; TO AMEND SECTION 40‑22‑260, RELATING TO TEMPORARY LICENSES, SO AS TO REVISE CIRCUMSTANCES IN WHICH THE DEPARTMENT MAY GRANT A TEMPORARY LICENSE TO AN OUT‑OF‑STATE FIRM, AND TO PROVIDE REQUIREMENTS FOR SUBMISSION OF PLANS PRODUCED AND SUBMITTED FOR PERMITTING BY A PERSON HOLDING A TEMPORARY CERTIFICATE OF AUTHORIZATION; TO AMEND SECTION 40‑22‑270, RELATING TO SEALS OF LICENSEES, SO AS TO PROVIDE THE SEAL AND SIGNATURE OF A LICENSEE ON A DOCUMENT CONSTITUTES A CERTIFICATION THAT THE DOCUMENT WAS PREPARED BY THE LICENSEE OR UNDER HIS DIRECT SUPERVISION, AMONG OTHER THINGS; TO AMEND SECTION 40‑22‑280, AS AMENDED, RELATING TO EXCEPTIONS FROM THE APPLICABILITY OF THE CHAPTER, SO AS TO MODIFY THE EXEMPTIONS; AND TO AMEND SECTION 40‑22‑290, RELATING TO “TIER A” SURVEYING, SO AS TO EXEMPT THE CREATION OF NONTECHNICAL MAPS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑22‑2 of the 1976 Code is amended to read:

“Section 40‑22‑2. In order to safeguard life, health, and property and to promote the public welfare, the practice of the profession of engineering and surveying in this State is subject to regulation. It is the policy of this State and the purpose of this chapter to encourage the development of professional engineers and surveyors in this State and to promote the accountability for engineering practice and surveying practice in a global economy. The State recognizes the need for ~~more~~ qualified engineers and surveyors to support the local and global economy and, to that end, encourages efforts to increase access to accredited education, the examinations, and the experience necessary and appropriate to protect the health, safety, and welfare of South Carolina citizens and to support licensure as the basis of accountability.”

SECTION 2. Section 40‑22‑10 of the 1976 Code is amended to read:

“Section 40‑22‑10. (A) There is created the South Carolina State Board of Registration for Professional Engineers and Surveyors under the administration of the Department of Labor, Licensing and Regulation. The purpose of the board is to protect the health, safety, and welfare of the public by ensuring that only properly qualified and competent engineers and surveyors are licensed to practice, by promoting technical competency and ethical standards consistent with the Rules of Professional Conduct applicable to engineers and surveyors, and by appropriately disciplining those found in violation of laws governing engineering and surveying.

(B) The board shall consist of eight members appointed by the Governor, recommendations for appointment may be made by any individual or group, including the South Carolina Council of Engineering and Surveying Societies. Five members must be professional engineers, at least two of whom must be actively engaged in the practice of engineering; two members must be professional surveyors, at least one of whom must be actively engaged in the practice of surveying; and one member must be from the general public appointed in accordance with Section 40‑22‑40. Professional engineer and professional surveyor members must be selected from a list of qualified candidates submitted to the Governor by the South Carolina Council of Engineering and Surveying Societies. Members of the board shall serve for terms of five years and until their successors are appointed and qualify. No more than two engineers’ terms shall expire in any calendar year; no more than one surveyor’s term shall expire in any calendar year. In the event of a vacancy, the Governor shall appoint a person to fill the vacancy for the unexpired portion of the term.

(C)(1) Each engineering member of the board must:

(a) be a citizen of the United States and a resident of ~~South Carolina, must~~ this State;

(b) be licensed in this State~~, must~~;

(c) have been engaged in the practice of engineering in this State for at least twelve years~~,~~; and

(d) must have been in responsible charge of important engineering work for at least five years~~. Responsible charge of engineering~~, which may include teaching ~~may be construed as responsible charge of important engineering work~~ engineering.

(2) Each surveyor member of the board must:

(a) be a citizen of the United States and a resident of this State~~, must~~;

(b) be licensed in this State~~, and must~~;

(c) have been engaged in the practice of surveying in this State for at least twelve years; and

(d) have been in responsible charge of important surveying work for at least five years, which may include teaching surveying in an academic setting.

(3) The public member of the board must be a citizen of the United States and a resident of this State for at least twelve consecutive years.

(D) Board members must be compensated for their services at the usual rate for mileage, subsistence, and per diem as provided by law for members of state boards, committees, and commissions and may be reimbursed for actual and necessary expenses incurred in connection with and as a result of their work as members of the board.

(E) The Governor may remove a member of the board pursuant to Section 1‑3‑240. Vacancies on the board must be filled for the unexpired portion of the term in the manner of the original appointment.

(F)(1) The board shall elect or appoint annually a chairman, a vice chairman, and a secretary.

(2) The board shall meet at least two times a year and at other times upon the call of the chairman or a majority of the board.

(3) A simple majority of the members of the board eligible to vote constitutes a quorum; however, if there is a vacancy on the board, a majority of the members serving constitutes a quorum.

(4) A board member is required to attend meetings or to provide proper notice and justification of inability to do so. Unexcused absences from meetings may result in removal from the board as provided for in Section 1‑3‑240.

(G) Neither the board nor any of its members, agents, or department employees are liable for acts performed in good faith during the course of their official duties.

~~(H)(1)~~ ~~Notwithstanding the provisions of this section, before January 1, 2008, the board shall assign numbers to the existing seats on the board. The terms of all members of the board serving on July 1, 2007, must be adjusted as of January 1, 2008, in accordance with this subsection.~~

~~(2)~~ ~~As of January 1, 2008, seats one and two must be filled by an engineer and the public member, respectively, and are for an initial term of two years. Seats three and four must be filled by an engineer and a surveyor, respectively, and are for an initial term of three years. Seats five and six must be filled by two engineers and are for an initial term of four years. Seats seven and eight are filled by an engineer and a surveyor and are for an initial term of five years. Upon expiration of the initial terms provided for in this subsection, members shall serve terms of five years in accordance with subsection (A).~~”

SECTION 3. Section 40‑22‑20 of the 1976 Code is amended to read:

“Section 40‑22‑20. As used in this chapter:

(1) ‘ABET’ means the Accreditation Board for Engineering and Technology. ‘EAC’ means the Engineering Accreditation Commission of ABET. ‘TAC’ or ‘ETAC’ means the Engineering Technology Accreditation Commission of ABET.

(2) ‘Approved engineering curriculum’ means an engineering program of four or more years determined by the board to be substantially equivalent to that of an EAC/ABET accredited curriculum or the NCEES Engineering Education Standard.

(3) ~~RESERVED.~~

~~(4)~~ ‘Board’ means the South Carolina State Board of Registration for Professional Engineers and Surveyors created pursuant to this chapter.

(~~5~~4) ‘Branch office’ means a place of business separate from the principal place of business where engineering services or surveying services are provided. A specific project or construction site office is not a branch office. Nothing contained in this chapter prevents a professional engineer or professional surveyor from undertaking an engineering project or a surveying project anywhere in the State.

(~~6~~5) ‘Current certificate of registration’ means a license to practice which has not expired or has not been revoked and which has not been suspended or otherwise restricted by the board.

(~~7~~6) ‘Department’ means the Department of Labor, Licensing and Regulation.

(~~8~~7) ‘Design coordination’ includes the review and coordination of those technical submissions prepared by others, including as appropriate and without limitation, consulting engineers, architects, landscape architects, surveyors, and other professionals working under the direction of the engineer.

(~~9~~8) ‘Direct responsibility’, ‘direct supervisory control’, ‘direct supervision’, and ‘responsible charge’ ~~all mean~~ means that there is a clear‑cut personal connection to the project or employee supervised, marked by firsthand knowledge and direct control and assumption of professional responsibility for the work.

(9) ‘Emeritus engineer’ or ‘emeritus surveyor’ means a professional engineer or surveyor who has been registered for fifteen consecutive years or longer and who is sixty‑five years of age or older and who has retired from active practice.

(10) ‘Engaged in practice’ means holding one’s self out to the public as being qualified and available to perform engineering or surveying services.

(~~10~~11) ‘Engineer’ means a professional engineer as defined in this section.

(~~11~~12) ‘Engineering surveys’ ~~include~~ means all minor survey activities required to support the sound conception, planning, design, construction, maintenance, operation, and investigation of engineered projects but exclude the surveying of real property for the establishment of land boundaries, rights‑of‑way, and easements and the independent surveys or resurveys of general land masses.

(~~12~~13) ‘Engineer‑in‑training’ means a person who has qualified for and passed the NCEES Fundamentals of Engineering examination as provided in this chapter and is entitled to receive a certificate as an engineer‑in‑training.

(14) ‘Ethics’ means conduct that conforms to professional standards of conduct.

(~~13~~15) ‘Firm’ means a business entity functioning as a sole proprietorship, partnership, limited liability partnership, professional association, professional corporation, business corporation, limited liability company, joint venture, or other legally constituted organization which practices or offers to practice engineering or surveying, or both.

(~~14~~16) ‘Fraud or deceit’ means intentional deception to secure gain, through attempts deliberately to conceal, mislead, or misrepresent the truth in a manner that others might take some action in reliance or an act which provides incorrect, false, or misleading information on which others might rely.

(~~15~~17) ‘GIS’ means geographic information systems.

(~~16~~18) ‘Good character’ refers to a person of good moral character and one who has not been convicted of a violent crime, as defined in Section 16‑1‑60, or a crime of moral turpitude.

(~~17~~19) ‘Gross negligence’ means an act or course of action, or inaction, which denotes a lack of reasonable care and a conscious disregard or indifference to the rights, safety, or welfare of others and which does or could result in financial loss, injury, or damage to life or property.

(~~18~~20) ‘Incompetence’ means the practice of engineering or surveying by a licensee determined to be either incapable of exercising ordinary care and diligence or lacking the ability and skill necessary to properly perform the duties undertaken.

~~(19)~~ ~~‘Surveyor‑in‑training’ means a person who has qualified for and passed the Fundamentals of Surveying examination as provided in this chapter and is entitled to receive a certificate as a surveyor‑in‑training.~~

(~~20~~21) ‘Licensed’ means authorized by this board, pursuant to the statutory powers delegated by the State to this board, to engage in the practice of engineering, or surveying, or engineering and surveying, as evidenced by the board’s certificate issued to the registered license holder.

(~~21~~22) ‘Misconduct’ means the violation of a provision of this chapter or of a regulation promulgated by the board pursuant to this chapter.

(~~22~~23) ‘NCEES examination’ means those written or electronic tests developed and administered by the National Council of Examiners for Engineering and Surveying for the purpose of providing one indication of competency to practice engineering.

(24) ‘Person’ means an individual human being, firm, partnership, or corporation.

(~~23~~25) ‘Practice of engineering’ means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as commissioning, consultation, investigation, expert technical testimony, evaluation, design and design coordination of engineering works and systems, design for development and use of land and water, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications, any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems projects, and industrial or consumer products or equipment of control systems, chemical, communications, mechanical, electrical, environmental, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property, and including such other professional services as may be necessary to the planning, progress, and completion of any engineering services. The mere execution, as a contractor, of work designed by a professional engineer or supervision of the construction of such work as a foreman or superintendent is not considered the practice of engineering. A person must be construed to practice or offer to practice engineering, within the meaning and intent of this chapter who:

(a) practices any branch of the profession or discipline of engineering;

(b) by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer or through the use of some other title implies that he is a professional engineer or that he is licensed under this chapter; or

(c) holds himself out as able to perform or does perform any engineering service or work or any other professional service designated by the practitioner or which is recognized as engineering.

(~~24~~26) ‘Practice of TIER A surveying’ means providing professional services including, but not limited to, consultation investigation, testimony evaluation, expert technical testimony, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location, size, shape, or physical features of the earth, the space above the earth, or part of the earth, and utilization and development of these facts and interpretation into an orderly survey map, site plan, report, description, or project. The practice of TIER A surveying consists of three separate disciplines: land surveying, photogrammetry, and geographic information systems. A surveyor may be licensed in one or more of the disciplines and practice is restricted to only the discipline or disciplines for which the land surveyor is licensed. The practice of TIER A surveying does not include the use of geographic information systems to create maps pursuant to Section 40‑22‑290, analyze data, or create reports. The scope of the individual disciplines are identified as follows:

(a) Land surveyor:

(1) locates, relocates, establishes, reestablishes, lays out, or retraces any property line or boundary of any tract of land or any road, right‑of‑way, easement, alignment, or elevation of any fixed works embraced within the practice of land surveying, or makes any survey for the subdivision of land;

(2) determines, by the use of principles of land surveying, the position for any survey monument or reference point; or sets, resets, or replaces such monument or reference; determines the topographic configuration or contour of the earth’s surface with terrestrial measurements; conducts hydrographic surveys;

(3) conducts geodetic surveying which includes surveying for determination of geographic position in an international three‑dimensional coordinate system, where the curvature of the earth must be taken into account when determining directions and distances; geodetic surveying includes the use of terrestrial measurements of angles and distances, as well as measured ranges to artificial satellites.

(b) A photogrammetric surveyor determines the configuration or contour of the earth’s surface or the position of fixed objects on the earth’s surface by applying the principles of mathematics on remotely sensed data, such as photogrammetry.

(c) A geographic information systems surveyor creates, prepares, or modifies electronic or computerized data including land information systems and geographic information systems relative to the performance of the activities described in subitems (a) and (b).

(d) An individual licensed only as a geodetic surveyor before July 1, 2004, determines the geographic position in an international three‑dimensional coordinate system, where the curvature of the earth must be taken into account when determining directions and distances; geodetic surveying includes the use of terrestrial measurements of angles and distances, as well as measured ranges to artificial satellites. A geodetic surveyor is not authorized to perform the other services a land boundary surveyor is authorized to perform.

(~~25~~27) ‘Practice of TIER B land surveying’ includes all rights and privileges of ~~the~~ TIER A surveying discipline defined in ~~Section 40‑22‑20(24)~~ item (26)(a); and in addition to these rights and privileges, TIER B land surveying includes, for subdivisions, preparing and furnishing subdivision plans for sedimentation and erosion control and storm drainage systems, if the systems do not require the structural design of system components and are restricted to the use, where relevant, of any standards prescribed by local, state, or federal authorities. Regulations defining the scope of the additional powers granted to TIER B land surveyors must be promulgated by the board.

(~~26~~28) ‘Private practice firm’ means a firm as defined herein through which the practice of engineering or surveying would require a certificate of authorization as described in this chapter.

(~~27~~29) ‘Private practitioner’ means a person who individually holds himself out to the general public as able to perform, or who individually does perform, the independent practice of engineering or surveying.

(~~28~~30) ‘Professional engineer’ means a license holder who, by reason of his special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as defined in this section~~, all~~ as attested by his ~~legal~~ license and registration as a professional engineer in this State.

(~~29~~31) ‘Professional surveyor’ means a ~~person~~ licensee who is qualified to practice any discipline of TIER A or TIER B surveying in this State, as defined in this section and as attested by his ~~legal~~ license and registration as a TIER A or TIER B professional surveyor in this State.

(~~30~~32) ‘Professions of architecture, landscape architecture, and geology’ mean those specified professions as defined by the laws of this State and applicable regulations.

(~~31~~33) ‘Registered’ means the engineer or surveyor is licensed and registered in the State.

(~~32~~34) ‘Resident professional engineer’ or ‘resident professional surveyor’, with respect to principal office and branch office requirements, means a licensed practitioner who spends a majority of each normal workday in the principal or branch office.

~~(33)~~ ~~‘Emeritus engineer’ or ‘emeritus surveyor’ means a professional engineer or surveyor who has been registered for fifteen consecutive years or longer and who is sixty‑five years of age or older and who has retired from active practice.~~

(~~34~~35) ‘Retired from active practice’ means not engaging or offering to engage in the practice of engineering or surveying asdefined in this section.

(36) ‘Surveyor‑in‑training’ means a person who has qualified for and passed the NCEES Fundamentals of Surveying examination as provided in this chapter and is entitled to receive a certificate as a surveyor‑in‑training.”

SECTION 4. Section 40‑22‑50(D) of the 1976 Code is amended to read:

“(D) ~~Annually~~ The board shall ~~prepare a~~ maintain a daily updated roster or supplements to the roster containing:

(1) the current names and places of business of all professional engineers and all professional surveyors~~. The roster and supplements to the roster also must provide~~; and

(2) a listing of each business ~~entities holding~~ entity that holds a valid certificate of authorization to practice engineering ~~or~~, surveying, or both, in this State.”

SECTION 5. Section 40‑22‑60 of the 1976 Code is amended to read:

“Section 40‑22‑60. (A) The board may adopt rules governing its proceedings and may promulgate regulations necessary to carry out the provisions of this chapter. The board shall adopt and have an official seal.

(B) The board may promulgate regulations defining the requirements for licensure for each of the surveying disciplines enumerated in Section 40‑22‑20(~~24~~26) and (27).

(C) The board may advise and recommend action to the department in the development of statutory revisions, and such other matters as the department may request in regard to the administration of this chapter.”

SECTION 6. Section 40‑22‑75 of the 1976 Code is amended to read:

“Section 40‑22‑75. The board may waive all licensing and credentialing requirements ~~under state law for the period of a~~ of this chapter during a declared national or state public emergency, not to exceed ninety days. The board shall establish the conditions as may be appropriate to enable engineers properly licensed in other jurisdictions having like standards as those currently in effect in this State or jurisdictions that meet the NCEES Model Law standards to render services in the geographic areas identified in the order declaring the emergency.”

SECTION 7. Section 40‑22‑110(B) of the 1976 Code is amended to read:

“(B) The license of a person adjudged mentally incompetent is ~~deemed~~ considered automatically suspended ~~upon the adjudication~~ until the person is adjudged as being restored to mental competency by a court of competent jurisdiction or in any other manner provided by law.”

SECTION 8. Section 40‑22‑220 of the 1976 Code is amended to read:

“Section 40‑22‑220. (A) A person having the necessary qualifications prescribed in this chapter to entitle him to registration is eligible for licensure. A person must be certified as an engineer‑in‑training as a prerequisite to licensure.

(B) To be eligible for certification as an engineer‑in‑training, an applicant must be of good character and reputation and be able to ~~effectively~~ communicate effectively in the English language. The minimum evidence satisfactory to the board that an applicant is qualified for certification as an engineer‑in‑training is:

(1) ~~graduation in an EAC/ABET accredited engineering curriculum of four or more scholastic years and passing of NCEES examinations as required by the board; or~~

~~(2)~~ ~~graduation in a baccalaureate degree program and completion of an engineering curriculum found to be substantially equivalent to an engineering curriculum accredited by EAC/ABET or graduation in a TAC/ABET accredited engineering technology curriculum of four or more years from a school or college approved by the board as being in satisfactory standing and passing NCEES examinations as required by the board.~~ graduation from an EAC/ABET accredited engineering curriculum of four or more years and passing NCEES Fundamentals of Engineering examinations required by the board;

(2) graduation in a bachelor’s degree program, completion of an engineering curriculum found to be substantially equivalent to an engineering curriculum accredited by EAC/ABET, and passing the NCEES Fundamentals of Engineering examination;

(3) graduation in a bachelor’s degree program, completion of an engineering curriculum found to meet the NCEES Engineering Education Standard, and passing the NCEES Fundamentals of Engineering examination; or

(4) graduation in a TAC/ABET accredited engineering technology curriculum of four or more years from a school or college approved by the board as being in satisfactory standing, and passing the NCEES Fundamentals of Engineering examination required by the board.

(C) To be eligible for licensure and registration as a professional engineer, an applicant must be of good character and reputation and be able to ~~effectively~~ communicate effectively in the English language. When the evidence presented in the application does not appear conclusive to the board or does not warrant the issuing of a license, the applicant may be required to present further evidence for consideration by the board. The applicant also shall meet the requirements of the other pertinent sections of this chapter. The minimum evidence satisfactory to the board that an applicant is qualified for licensure as a professional engineer is:

(1)(a) graduation in an EAC/ABET accredited engineering curriculum of four or more ~~scholastic~~ years from a school or college approved by the board as being in satisfactory standing ~~and~~;

(b) a specific record after graduation of ~~an additional~~ four or more years of progressive experience in engineering work, supervised by a licensed engineer and of a character satisfactory to the board, indicating that the applicant is competent to practice engineering ~~(in counting years of experience, the board may give one year credit for satisfactory completion of a Master’s Degree in engineering or maximum credit of two years for satisfactory completion of the doctorate level degree in engineering),~~; and

(c) passing ~~examinations~~ an NCEES examination required by the board; or

(2)(a) graduation in a ~~baccalaureate~~ bachelors degree program and completion of an engineering curriculum found to be substantially equivalent to an engineering curriculum accredited by EAC/ABET~~,~~;

(b) a specific record after graduation of four or more years of progressive experience in engineering work supervised by a licensed engineer or of a character satisfactory to the board, indicating that the applicant is competent to practice engineering~~,~~; and

(c) passing ~~a written or electronic examination designed to show knowledge and skill approximating that attained through graduation in an EAC/ABET accredited four‑year engineering curriculum, and then passing the examinations~~ the NCEES examination required by the board; or

(3)(a) graduation from a bachelor’s degree program;

(b) completion of an engineering curriculum that meets the NCEES Engineering Education Standard;

(c) accrual of a specific record after graduation of four or more years of progressive experience in engineering work:

(i) supervised by a licensed engineer or of a character satisfactory to the board; and

(ii) indicating that the applicant is competent to practice engineering, and passing NCEES examinations required by the board; or

(4) if not needed to satisfy education requirements, a:

(a) master’s degree in engineering from a school or college approved by the board as being in satisfactory standing may count as one year of experience upon approval by the board; and

(b) doctoral degree in engineering from a school or college approved by the board as being in satisfactory standing may count as a maximum of two years of experience upon approval by the board.

(D) The board shall admit the following individuals to an examination on the Principles and Practice of Engineering and must license a person who passes the exam as a professional engineer if he is otherwise qualified:

(1) an engineer‑in‑training with a bachelor’s degree in engineering accredited by EAC/ABET and with a specific record after graduation of four or more years of progressive experience in engineering work supervised by a licensed engineer or of a character satisfactory to the board, indicating that the applicant is competent to practice engineering;

(2) an engineer‑in‑training with:

(a) a bachelor’s degree from a school or college approved by the board as being in satisfactory standing then earns a master’s degree in engineering from a school or college that offers an EAC/ABET accredited undergraduate degree in the same field of study, and establishes a specific record after the master’s degree of three or more years of progressive experience in engineering work supervised by a licensed engineer or of a character satisfactory to the board, indicating that the applicant is competent to practice engineering;

(b) a master’s degree in engineering from an EAC/M‑ABET‑accredited program, establishes a specific record after graduation of three or more years of progressive experience in engineering work supervised by a licensed engineer or of a character satisfactory to the board, indicating that the applicant is competent to practice engineering; or

(c) a non‑EAC/ABET bachelor’s degree, evaluated and approved by the board’s education consultant, and holding a Master of Engineering or Master of Science in Engineering from a school or college that offers an EAC/ABET accredited undergraduate degree in the same field of study and establishes a specific record after graduation of four or more years of progressive experience in engineering work supervised by a licensed engineer or progressive experience in engineering work of a character satisfactory to the board, indicating that the applicant is competent to practice engineering;

(3) an engineer‑in‑training with an earned doctoral degree in engineering acceptable to the board and with a specific record after the doctoral degree of two or more years of progressive experience in engineering work supervised by a licensed engineer or of a character satisfactory to the board, indicating that the applicant is competent to practice engineering; or

(4) a person who has earned a doctoral degree in engineering that is acceptable to the board and with a specific record after the doctoral degree of two or more years of progressive experience in engineering work supervised by a licensed engineer or of a character satisfactory to the board, indicating that the applicant is competent to practice engineering.”

SECTION 9. Section 40‑22‑222(A) and (B) of the 1976 Code is amended to read:

“(A) Through June 30, 2020, individuals who have graduated in ~~a TAC/ABET accredited~~ an ETAC/ABET or TAC/ABET engineering technology curriculum of four or more years and who have a specific record after graduation of eight or more years of experience in engineering work of a character satisfactory to the board, who are of good character and reputation, who can communicate effectively in the English language may take the NCEES Principles of Practice and the Fundamentals of Engineering examinations and become an associate engineer licensed for Category B practice. An associate engineer licensed for Category B practice as of July 1, 2006, may continue to practice under the conditions provided for in Regulation 49‑202(B) or an identical successor regulation. As of July 1, 2020, Category B licensure ceases to exist.

(B) Through June 30, 2020, individuals who have graduated in a ~~baccalaureate~~ bachelor’s ETAC/ABET or TAC/ABET accredited curriculum and who have successfully passed the NCEES Principles of Practice and Fundamentals of Engineering examinations, and who have completed eight or more years of qualifying experience as an engineer and who are otherwise qualified for licensure, may present their credentials for evaluation by a committee of Professional Engineers licensed in this State composed of no less than three practicing engineers, a member or former member of the board, and a professor of engineering. Applicants for licensure under this subsection must demonstrate sufficient rigor in their scope or depth of qualifying experience, such that the committee can determine that they can meet established standards of engineering practice. Only applicants who are approved under the review process may be licensed as professional engineers. Absent a showing of a change or qualifications to correct deficiencies identified in the review process, no application may be reviewed by the committee more than twice.”

SECTION 10. Section 40‑22‑225 of the 1976 Code is amended to read:

“Section 40‑22‑225. (A) A person having the necessary qualifications prescribed in this chapter to entitle him for a license is eligible for licensure.

(B) To be eligible for certification as a surveyor‑in‑training, an applicant must be of good character and reputation and be able to ~~effectively~~ communicate effectively in the English language. When the evidence presented in the application does not appear to the board conclusive nor warranting the issuing of a certificate of registration, the applicant may be required to present further evidence for the consideration of the board. The applicant also must meet the requirements of the other pertinent sections of this chapter. The minimum evidence satisfactory to the board that an applicant is qualified for certification as a surveyor‑in‑training is~~:~~ graduation from a school or college of four or more years with a board‑approved degree~~,~~ or an ABET commission accredited curriculum in a related field~~, or a substantially equivalent program~~, including not less than twelve semester hours or the equivalent in quarter hours of discipline‑specific courses satisfactory to the board in each of the disciplines described in Section 40‑22‑20(~~24~~26) for which the applicant is requesting licensure~~, a specific record of one or more years of progressive practical experience of a character satisfactory to the board and performed under a practicing registered professional surveyor~~ and has passed ~~the written or electronic examinations in~~ the NCEES Fundamentals of Surveying examination as prescribed by the board.

(C) To be eligible for licensure and registration as a professional surveyor TIER A, an applicant must be of good character and reputation and be able to ~~effectively~~ communicate effectively in the English language. When the evidence presented in the application does not appear to the board conclusive or does not warrant the issuing of a certificate of registration, the applicant may be required to present further evidence for the consideration of the board. The applicant also must meet the requirements of the other pertinent sections of this chapter. The minimum evidence satisfactory to the board that an applicant is qualified for licensure as a TIER A Professional Surveyor is~~:~~ graduation from a school or college of four or more years with a board‑approved degree, an ABET commission accredited curriculum in a related field~~, or a substantially equivalent program~~, including completed discipline‑specific courses of not less than twelve semester hours or the equivalent in quarter hours satisfactory to the board in each of the disciplines described in Section 40‑22‑20(~~24~~26) for which the applicant is requesting licensure, a specific record of four or more years of progressive practical experience of a character satisfactory to the board and performed under a practicing registered professional surveyor, and passing ~~of~~ the NCEES Fundamentals of Surveying ~~examinations~~ examination and the ~~written or electronic examinations in the~~ Principles and ~~Practices~~ Practice of Surveying examination in the discipline for which the applicant is requesting licensure ~~as prescribed by the board~~.

(D) To be eligible for licensure and registration as a professional land surveyor TIER B, an applicant must be of good character and reputation and be able to ~~effectively~~ communicate effectively in the English language. The minimum evidence satisfactory to the board that an applicant is qualified for licensure as a TIER B Professional Land Surveyor is~~:~~

~~(1)~~ graduation from a school or college of four or more years with a board‑approved degree, including in the curriculum not less than fifteen semester hours or the equivalent in quarter hours of surveying, mapping, hydraulics, and hydrology courses satisfactory to the board, or a bachelor of engineering technology degree in an ABET commission accredited curriculum of surveying or engineering technology, including in the curriculum not less than twelve semester hours or the equivalent in quarter hours of surveying, mapping, hydraulics, and hydrology courses satisfactory to the board, a specific record of four or more years of progressive practical experience of a character satisfactory to the board and performed under a practicing registered surveyor, and passing ~~of~~ the NCEES Surveyor‑in‑Training Fundamentals of Surveying ~~examinations~~ examination and the ~~written or electronic examinations in the~~ NCEES Principles and ~~Practices~~ Practice of Surveying ~~as prescribed by the board~~ examination.

~~(2)~~ ~~Persons registered as both Professional Land Surveyor and Professional Engineer are classified TIER B Professional Surveyors.~~

(E) An applicant shall take state‑specific examinations the board considers necessary to establish that the applicant’s qualifications satisfy the requirements of this chapter and regulations promulgated pursuant to this chapter.”

SECTION 11. Section 40‑22‑230 of the 1976 Code is amended to read:

“Section 40‑22‑230. (A) Applications for licensure must be on forms prescribed and furnished by the board and must contain statements made under oath showing the applicant’s education and a detailed summary of his technical work.

(1) The application for engineering licensure must contain no fewer than five references of whom three or more are licensed engineers having personal knowledge of the applicant’s engineering experience, or other references approved by the board. In addition, the application must contain references to verify each employment period. The board shall solicit comments from references furnished; these comments must be confidential and privileged information for use only by the board.

(2) The application for surveying licensure must contain no fewer than five references of whom three or more must be licensed surveyors having personal knowledge of the applicant’s surveying experience, or other references approved by the board. In addition, the application must contain references to verify each employment period. The board shall solicit comments from references furnished; these comments must be confidential and privileged information for use only by the board.

(B) ~~When written examinations are required, they~~ Required examinations must be held at the time and place the board determines. Examinations must be given for the purpose of determining the qualifications of applicants for licensure separately in engineering and surveying.

(C) A person who holds a certificate of registration to engage in the practice of engineering or surveying issued on comparable qualifications from a state, territory, or possession of the United States, or of a foreign country, must be given comity consideration. The applicant is required to take such examinations as the board considers necessary to establish that his qualifications meet the requirements of this chapter and the regulations promulgated by the board; however, a surveying applicant must pass ~~a written~~ an examination including questions of law, procedures, and practices pertaining to the practice of surveying in this State.

(D)(1) A candidate who has failed an examination may apply for ~~re‑examination at the next examination date and must be re‑examined with payment of an additional fee sufficient to cover the cost of re‑examination to be determined by the board in regulation~~ reexamination after payment of applicable examination fees and after a period of time determined by the board, but:

(a) no earlier than three months following the date of the failed examination; and

(b) no more than three times in one calendar year.

(2) A candidate for licensure who has failed the same topical examination two times shall provide evidence satisfactory to the board that the candidate has taken ~~steps such as~~ additional ~~schooling, classes,~~ undergraduate college courses, attended seminars, or accomplished self‑study to ~~better prepare the candidate for a third examination on the same topical subject~~ enhance his prospects for passing the exam. The board may refuse further examination ~~unless~~ until ~~a~~ the candidate ~~failing the same topical examination twice has shown evidence satisfactory to the board that measures have been taken to enhance the candidate’s chances of success. A new application is required of a candidate having failed the same topical examination three times for a new determination by the board as to whether the candidate has the necessary experience and other qualifications for admittance to further examination~~ provides acceptable evidence. A candidate who has failed three times must submit a new application.

(E) The board shall issue a certificate of registration upon payment of the registration fee ~~as provided in this chapter~~ to an applicant who~~, in the opinion of the board,~~ has satisfactorily met all the requirements of this chapter. In the case of a professional surveyor, the certificate authorizes the practice of TIER A or TIER B surveying as applicable. A certificate of registration must state the full name of the licensee~~, have a serial~~ and have a license number~~, and must be signed by the chairman and the secretary of the board under seal of the board~~.

(F) The issuance of a certificate of registration by the board is prima facie evidence that the person is licensed and is entitled to all the rights and privileges of a professional engineer or of a professional surveyor while the license remains unrevoked or unexpired.

(G) The board, for sufficient reason, may reissue a certificate of registration to a person whose license has been revoked if a majority of the members of the board vote in favor of reissuance. A new certificate of registration to replace a revoked license or a certificate which has become lost, destroyed, or mutilated may be issued, subject to the rules of the board, and a charge to be determined by the board in regulation must be made for the issuance.”

SECTION 12. Section 40‑22‑250 of the 1976 Code is amended to read:

“Section 40‑22‑250. (A) The practice of or offer to practice professional engineering or surveying through a firm is permitted only through entities holding a valid certificate of authorization issued by the board. For the purposes of this section a certificate of authorization is also required for a firm practicing in this State under a fictitious name. However, when an individual is practicing engineering or surveying in his name as individually licensed, that person is not required to obtain a certificate of authorization.

(B) The practice or offer to practice of engineering and surveying by individual professional engineers or professional surveyors licensed under this chapter through a firm offering engineering services or surveying services to the public is permitted ~~if~~, provided:

(1) one or more of the corporate officers, ~~in the case of a corporation, or~~ one or more of the principal owners, or a full‑time licensed employee~~, in the case of other firms,~~ are designated as being responsible for the professional services regulated by this board and are licensed under this chapter;

(2) all personnel of the firm who act on behalf of the firm as professional engineers or surveyors in this State are licensed under this chapter; and

(3) the firm has been issued a certificate of authorization by the board as required by this section.

(C) Before the issuance of a certificate of authorization, the board must be in receipt of the firm’s appropriate documentation issued by the Secretary of State.

(D) A firm desiring a certificate of authorization shall file with the board an application on forms provided by the board accompanied by the registration fee as provided in regulation. Each certificate of authorization must be renewed biennially beginning April 1, 2009. A renewal form provided by the board must be completed and submitted with the biennial registration fee, the fee being an amount as provided in regulation.

(E) Disciplinary action against a firm must be administered in the same manner and on the same grounds as disciplinary action against an individual. No firm is relieved of responsibility for conduct or acts of its agents, officers, or employees by reason of its compliance with this section, and an individual practicing engineering or surveying is not relieved of responsibility for professional services performed by reason of his employment or relationship with the firm.

(F) A professional engineer and a professional surveyor engaged in practice through firms may maintain branch offices in addition to a principal place of business. A principal place of business as well as each branch office providing services in this State must have a resident professional engineer in responsible charge of engineering work or a resident professional surveyor in responsible charge of the field and office surveying work provided. A professional engineer must supervise the engineering activities of each branch office and a professional surveyor must supervise the surveying activities of each branch office. The resident professional engineer or resident professional surveyor is considered in residence in only one place of business at a given time.

(~~F~~G) Nothing in this section may be construed to prohibit firms from joining together to offer engineering or surveying services to the public, if each separate entity providing the services in this State otherwise meets the requirements of this section. For firms practicing as a professional corporation under the laws of this State, the joint practice of engineering or surveying or both with the professions of architecture, landscape architecture, and geology is specifically approved by the board.

(~~G~~H) If the requirements of this section are met, the board shall issue a certificate of authorization to the firm, and the firm may contract for and collect fees for professional engineering and or surveying services. The board, however, may refuse to issue a certificate or suspend or revoke an existing certificate for due cause. A person or firm aggrieved by an adverse determination of the board may file an appeal as provided for in this chapter.

(~~H~~I) Nothing in this section may be construed to mean that a firm may practice or offer to practice engineering or surveying without meeting individual licensure.”

SECTION 13. Section 40‑22‑260 of the 1976 Code is amended to read:

“Section 40‑22‑260. (A) Upon application to and approval by the board and payment of the fee provided in regulation, the board shall grant a temporary license for engineering work on one specified project in this State for a period not to exceed one year to an engineer who has recently become a resident of this State, or is a nonresident having no established place of business in this State, who meets the qualification requirements for licensure in this State and who holds a valid license to practice in another state. An engineer may not renew a temporary certificate at its expiration date and may not apply for temporary licensure in connection with more than one specific project in any three‑year period.

(B)~~(1)~~ Upon application to and approval by the board and payment of the fee provided in regulation, the board shall grant a temporary certificate of authorization to a firm ~~for work on one specified project in this State for a period not to exceed one year.~~ subject to the following:

(1) This temporary certificate of authorization must be for work on one specified project in this State for a period of not more than one year.

(2) This temporary certificate may be granted ~~only~~ to an out‑of‑state firm if ~~at least one of the principal officers of the firm is licensed under this chapter or has obtained a temporary registration license as provided by this chapter~~ one or more of the corporate officers, one or more of the principal owners, or a full‑time licensed employee is designated as responsible for the professional services regulated by the board and are licensed by the board.

(3) The approval of a temporary certificate of authorization constitutes appointment of the Secretary of State as an agent of the applicant for service of process in an action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to the practice of engineering.

~~(C)~~ ~~Professional engineers and professional surveyors engaged in practice through firms may maintain branch offices in addition to a principal place of business. Each principal place of business as well as each branch office providing services in this State must have a resident professional engineer in responsible charge of engineering work or a resident professional surveyor in responsible charge of the field and office surveying work provided. A professional engineer must supervise the engineering activities of each branch office and a professional surveyor must supervise the surveying activities of each branch office. The resident professional engineer or resident professional surveyor is considered in residence in only one place of business at a given time.~~

~~(D)~~ ~~For purposes of this subsection, ‘engaged in practice’ means holding oneself out generally to the public as qualified and available to perform engineering or surveying services.~~

(4) Plans produced and submitted for permitting under a registrant’s temporary license or certificate of authorization shall be sealed with the registrant’s home state seal. A Temporary Certificate of Authorization may be indicated by notation on plans submitted for permitting. This notation must include the temporary certificate of authorization number, date of expiration, and address of the firm. A copy of the letter of the board approving the temporary license or the certificate of authorization must be attached to the plans.”

SECTION 14. Section 40‑22‑270 of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( ) The seal and signature of a licensee certifies that the document was prepared by the licensee or his agent. For prototypical documents, the seal and signature of a licensee indicates that he has sufficiently reviewed the document and is able to fully coordinate and assume responsibility for application of the plans.”

SECTION 15. Section 40‑22‑280 of the 1976 Code, as last amended by Act 157 of 2014, is further amended to read:

“Section 40‑22‑280. (A) This chapter may not be construed to prevent or to affect:

(1) the practice of any other regulated profession or trade where the practice of the profession or trade may legitimately overlap the professions regulated by this chapter;

(2) the work of an employee or other subordinate of a person holding a certificate of registration under this chapter;

(3) the engineering work of ~~regular~~ full‑time, non‑temporary employees of the government of the United States officially performing their duties for their employer on federal lands within this State, in the practice of engineering for the government, and where specified by federal statute;

(4) the surveying work of ~~regular~~ full‑time, non‑temporary employees of the government of the United States officially performing their duties for their employer on lands within this State, in the practice of surveying for the government, and where specified by federal statute;

(5) the work or practice of a ~~regular~~ full‑time, non‑temporary employee of a public utility, a telephone utility, or an electrical utility by rendering to the employing company engineering service in connection with its facilities which are subject to regulation, supervision, and control in order to safeguard life, health, and property by the Public Service Commission of this State, so long as the person is actually and exclusively employed. Engineering work not related to the exemption in this item where the safety of the public is directly involved must be accomplished by or under the responsible charge of a professional engineer;

(6) the work or practice of a ~~regular~~ full‑time, non‑temporary employee of an electric cooperative, when rendering to the employing cooperative engineering service in connection with its facilities which are subject to regulations and inspections of the Rural Electric Administration, if the person is actually and exclusively employed. Engineering work not related to the exemption in this item where the safety of the public is directly involved must be accomplished by or under the responsible charge of a professional engineer;

(7) the work or practice of a ~~regular~~ full‑time, non‑temporary employee of a state authority which is licensed by and subject to the safety regulations of the Federal Energy Regulatory Commission and which sells and distributes electric power to consumers, so long as the person is actually and exclusively employed. Engineering work not related to the exemption in this item where the safety of the public is directly involved must be accomplished by or under the responsible charge of a registered professional engineer;

(8) the work of a general contractor, specialty contractor, or material supplier in the preparation and use of shop drawings or other graphic descriptions used to detail or illustrate a portion of the work required to construct the project in accordance with plans and specifications prepared under the requirements of this chapter.

(9) the work or practice of a person rendering engineering services to a corporation that operates in South Carolina under a production certificate issued by the Federal Aviation Authority, provided that the general business of the corporation does not consist, either wholly or in part, of the rendering of engineering services to the general public. For purposes of this section, ‘engineering services’ means design, construction, and maintenance of airplanes and airplane manufacturing equipment; and

(10) the activities of full‑time employees of a manufacturing company or other personnel under the direct supervision and control of the manufacturing company, or a subsidiary of the manufacturing company, on or in connection with activities related to the research, development, design, fabrication, production, assembly, integration, installation, or service of products manufactured by the manufacturing company. This exemption does not apply to activities where the seal of a professional engineer is expressly required by statute, regulation, or building code, or to engineering services offered to the public. For the purposes of this item, ‘manufacturing company’ means a company that produces or assembles tangible personal property and ‘other personnel’ includes individuals employed by a staffing company working for the manufacturing company.

(B) If drawings and specifications are signed by the authors with the true title of their occupations, this chapter does not apply to the preparation of plans and specifications for:

(1) farm buildings not designed or used for human occupancy;

(2) buildings and structures ~~less than three stories high and less than five thousand square feet in area, except that buildings of assembly, educational, hazardous, and institutional occupancies as defined by the International Code Series regardless of area are not exempt from the provisions of this chapter~~ not requiring a permit by the authority having jurisdiction, except that buildings and structures classified as assembly, business, educational, factory and industrial, high hazard, institutional, mercantile, storage, and utility occupancies or uses in the International Code Series, as adopted by the State of South Carolina, regardless of size or area, are not exempt from the provisions of this chapter; ~~and~~

(3) one‑ and two‑family dwellings in compliance with the prescriptive requirements of the International Residential Code, as adopted by the State of South Carolina. All other buildings and structures classified as residential occupancies or uses in the International Code Series and that are beyond the scope of the International Residential Code are not exempt from the provisions of this chapter; and

(4) alterations to a building to which this chapter does not apply, if the alterations do not result in a change which would otherwise place the building under the application of this chapter.

(C) This subsection may not be construed to prejudice a law, ordinance, regulation, or other directive enacted by another political body or a requirement by a contracting authority which would otherwise require preparation of plans and specifications under the responsible charge of a professional engineer or professional surveyor.”

SECTION 16. Section 40‑22‑290(1) of the 1976 Code is amended to read:

“(1) the creation of nontechnical maps:

(a) prepared by private firms or government agencies for use as guides to motorists, boaters, aviators, or pedestrians;

(b) prepared for publication in a gazetteer or atlas as an education tool or reference publication;

(c) prepared for or by ~~education~~ educational institutions for use in the curriculum of any course of study or academic research;

(d) produced by any broadcast or print media firm as an illustrative guide to the geographic location of any event;

(e) prepared by lay persons for conversational or illustrative purposes, including advertising material and use guides;”

SECTION 17. This act takes effect upon approval of the Governor.

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