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CHAPTER 26.

 COMMERCIAL INSPECTORS

**SECTION 40‑26‑10.** Definitions.

When used in this chapter:

(1) “Board” means the State Licensing Board for Contractors (excluding mechanical contractors), the State Board of Architectural Examiners, or the State Board of Registration for Professional Engineers (excluding land surveyors), as is applicable to the person performing a commercial inspection.

(2) “Commercial inspection” means the rendering of a written or oral report, for compensation of any sort, as to the condition of the construction or improvements to a commercial structure, including, but not limited to, structural problems and conditions, visible damage, safety problems or deterioration, and equipment and systems that are visible and readily accessible. Commercial inspection does not include a contract or proposal for design, repair, renovation, or remodeling of the improvements to a commercial structure. The parties to an agreement for a commercial inspection may limit or expand the scope of the inspection by agreement.

(3) “Commercial inspector” means a natural person licensed, registered, or certified pursuant to Chapter 3 of this title or a natural person licensed as a general contractor pursuant to Chapter 11 of this title or a natural person licensed or registered as a professional engineer pursuant to Chapter 22 of this title, and who, for compensation of any sort, performs a commercial inspection.

(4) “Commercial structure” means a building, highway, sewer, improvement, reimprovement, or structure, or part thereof, which is not a residence as defined in Article 3 of Chapter 59 of Title 40.

**SECTION 40‑26‑20.** Commercial inspectors must be licensed, registered, or certified; licenses for groups prohibited.

(A) No person may engage in or transact any commercial inspection business, or hold himself out to the public as a commercial inspector, or offer to engage in or transact any commercial inspection business in this State, unless the person is licensed, registered, or certified pursuant to Chapter 3 of this title or is licensed as a general contractor pursuant to Chapter 11 of this title or is licensed or registered as a professional engineer pursuant to Chapter 22 of this title.

(B) A person engaged in the business of performing commercial inspections on the date this chapter becomes effective who is not, on that date, qualified under the terms of this chapter to perform commercial inspections is allowed ninety days from such effective date to comply with the provisions of this chapter for the purpose of qualifying to perform commercial inspections.

(C) No license shall be issued under the provisions of this chapter to a partnership, association, corporation, firm, or group. However, nothing in this chapter precludes a person licensed pursuant to Chapter 3 of this title or licensed as a general contractor pursuant to Chapter 11 of this title or licensed or registered as a professional engineer pursuant to Chapter 22 of this title from performing commercial inspections for or on behalf of a partnership, association, corporation, firm, or group or from entering into contracts or enforcing contracts as a partnership, association, corporation, firm, or group.

**SECTION 40‑26‑30.** Applicability of chapter.

The provisions of this chapter do not apply to:

(A) a person employed by the State of South Carolina or any political subdivision of the State as a code enforcement official when acting within the scope of that employment;

(B) a person inspecting a commercial structure exclusively for the use of a bank, savings and loan association, or credit union, unless otherwise required by federal law or regulation.

**SECTION 40‑26‑40.** Disciplinary action for violations.

A violation of this chapter is considered a violation against the person’s license, registration, or certification and subjects the person to disciplinary action by the board under which the person is licensed, registered, or certified.

**SECTION 40‑26‑50.** Prohibited conduct; unlicensed inspector prohibited from enforcing contract.

(A) Any person who is licensed, registered, or certified pursuant to Chapter 3 of this title or who is licensed as a general contractor pursuant to Chapter 11 of this title or who is licensed or registered as a professional engineer pursuant to Chapter 22 of this title and who performs a commercial inspection is prohibited from engaging in any of the following conduct:

(1) making a false or misleading statement in that portion of a written report that deals with professional qualifications or in any testimony concerning professional qualifications;

(2) any act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit a commercial inspector or other person or with the intent to substantially injure another person;

(3) any act of fraud, misrepresentation, or deceit in the making of a commercial inspection;

(4) payment of a finder’s fee or a referral fee to any person in connection with an inspection of a commercial structure;

(5) failure or refusal without good cause to exercise reasonable diligence in developing a commercial inspection report, preparing a report, or communicating a report;

(6) accepting a commercial inspection assignment when the employment itself is contingent upon the commercial inspector reporting a predetermined estimate, analysis, or opinion or when the fee to be paid is contingent upon the opinion, the conclusions, analysis, or report reached or upon the consequences resulting from such assignment;

(7) the performing of any improvement to a commercial structure upon which the commercial inspector performed a commercial inspection within the previous twelve months;

(8) committing an act, or acts, of malpractice, gross negligence, or incompetence in the performance of commercial inspections;

(9) practicing as a commercial inspector without a current license, registration, or certification issued pursuant to Chapter 3 of this title or issued pursuant to Chapter 11 of this title for a general contractor or issued pursuant to Chapter 22 of this title for a professional engineer;

(10) engaging in conduct that could result in harm or injury to the public.

(B) A commercial inspector who is not duly licensed, certified, or registered as required by this chapter may not bring any action either at law or in equity to enforce the provisions of any contract for a commercial inspection which he entered into in violation of this chapter.

**SECTION 40‑26‑60.** Inspector to determine applicable building code provisions.

When an inspection report includes a deficiency that is alleged to be a building codes violation, the inspector is responsible for determining the construction dates and building codes in effect at the time of construction and must conduct the inspection using the building codes in effect at the time of construction.