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Document No. 4382

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**

**OFFICE OF ELEVATORS AND AMUSEMENT RIDES**

CHAPTER 71

Statutory Authority: 1976 Code Sections 41-16-40, 41-16-70, 41-18-70, 41-18-80, and 41-18-120

71-4800. Qualifications of Approved Special Inspectors

71-5400. Qualification of Special Inspectors

**Synopsis:**

 The South Carolina Office of Elevators and Amusement Rides is amending Regulations 71-4800 and 71-5400 regarding qualification of special inspectors.

 The Notice of Drafting was published in the *State Register* on February 22, 2013.

**Instructions:**

 The following sections of Chapter 71 are modified as provided below. All other items and sections remain unchanged.

**Text:**

71-4800. Qualifications of Approved Special Inspectors.

1. A special inspector shall have the following qualifications:

A.(1) At least five (5) years experience in amusement device maintenance and safety and completion of approved courses in materials inspection and testing and in fasteners or in the alternative.

(2) A four-year college degree in engineering or architecture with a minimum of twelve (12) semester hours of course work in the area of mechanics and strength of materials.

B. Evidence of successful completion of an approved Rides Safety Inspection course within the previous two (2) calendar years.

2. Each applicant for approval as a special inspector shall submit with his annual application evidence of insurance against errors and omissions (or approved general liability insurance) covering inspections of amusement rides and devices in an amount of no less than $500,000 per occurrence, procured from one or more insurers licensed to transact insurance in South Carolina or approved as a non- admitted surplus lines carrier for risks located in this State. Each policy, by its original terms or an endorsement, shall obligate the insurer that it will not cancel, suspend, or nonrenew the policy without thirty (30) days written notice of the proposed cancellation, suspension, or nonrenewal and a complete report of the reasons for the cancellation, suspension, or nonrenewal being given to the Director of the Department of Labor, Licensing and Regulation. In the event the liability insurance is cancelled, suspended or nonrenewed, the insurer shall give immediate notice to the Director.

3. Each applicant for approval as a special inspector shall submit with his annual application a license fee in the amount of $200.00.

4. Applications for approval as a special inspector shall be made annually on a form to be provided by the Director.

5. Special inspectors shall conduct all follow up, safety related complaint inspections, and abatement inspections as called for by the division and shall be responsible for submitting all associated paperwork.

6. Special inspectors shall record and report the findings of all inspections conducted pursuant to S.C. Code 41-18-10 et seq. on forms supplied by the Department. Special inspectors shall execute and convey the form in a manner prescribed by the Department. The Director may suspend or revoke a special inspector’s license for failure to complete the inspection form as prescribed by the Department. The Director may also suspend or revoke a special inspector’s license for any misrepresentation or omission of any material fact related to the inspection. In addition to the foregoing, the director may withhold issuance of an Operating Certificate for failure to complete the inspection form as prescribed by the Department or misrepresentation or omission of any material fact related to the inspection.

 7. Any special inspector may have his license revoked or may have a license denied to him who:

 A. uses or discloses information gained in the course of or by reason of his official position for any purpose other than making official inspections;

 B. receives compensation to influence his inspections;

 C. uses a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining licensure as a special inspector;

 D. has had a license to practice a regulated profession or occupation including special inspector in another state or jurisdiction canceled, revoked, or suspended or who has otherwise been disciplined;

 E. has intentionally or knowingly, directly or indirectly, violated or has aided or abetted in the violation or conspiracy to violate this article or a regulation promulgated under this article;

 F. has intentionally used a fraudulent statement in a document connected with practice as a special inspector;

 G. has obtained fees or assisted in obtaining fees under fraudulent circumstances;

 H. has committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public;

 I. lacks the professional or ethical competence to practice as a special inspector;

 J. has been convicted of or has pled guilty to or *nolo contendere* to a felony or a crime involving drugs or moral turpitude;

 K. has practiced as a special inspector while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice as a special inspector;

 L. has sustained a physical or mental disability which renders further practice dangerous to the public;

 M. has violated a provision of this article or of a regulation promulgated under this article.

 8. Any special inspector whose license has been revoked or to whom a license has been denied may appeal this decision to the Director or his designee within thirty days of receipt of written notice of the decision revoking or denying his license. The Director or his designee will conduct a hearing to review the decision and will issue a written order of decision thereafter.

 9. Any person aggrieved by the final action of the Director may appeal the decision to the Administrative Law Court in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court. Service of a petition requesting a review does not stay the Director’s decision pending completion of the appellate process.

71-5400. Qualification of Special Inspectors.

1. Any applicant for a license as a special inspector shall present evidence of all qualifications as stated in the 1984 edition of QEI-1, The American National Standard for Qualification of Elevator Inspectors, and supplements thereto as adopted by the American National Standards Institute. Submission of a copy of a valid Inspector's Certificate issued by any authority accredited by the American Society of Mechanical Engineers shall be evidence that the applicant has all required qualifications.

2. Each applicant for approval as a special inspector shall submit with his annual application evidence of insurance against errors and omissions (or approved general liability insurance) covering inspections of elevators in an amount of no less than $500,000 per occurrence, procured from one or more insurers licensed to transact insurance in South Carolina or approved as a non-admitted surplus lines carrier for risks located in this State. Each policy, by its original terms or an endorsement, shall obligate the insurer that it will not cancel, suspend, or nonrenew the policy without thirty (30) days written notice of the proposed cancellation, suspension, or nonrenewal and a complete report of the reasons for the cancellation, suspension, or nonrenewal being given to the Commissioner. In the event the liability insurance is cancelled, suspended or nonrenewed, the insurer shall give immediate notice to the Commissioner.

3. Special inspectors shall conduct all follow-up, safety related complaints, and abatement inspections as called for by the division and shall be responsible for submitting all associated paperwork.

4. Special Inspectors shall record and report the findings of all inspections conducted pursuant to S.C. Code 41-16-10 et seq. on forms supplied by the Department. Special inspectors shall execute and convey the form in a manner prescribed by the Department. The Director may suspend or revoke a special inspector’s license for failure to complete the inspection form as prescribed by the Department. The Director may also suspend or revoke a special inspector’s license for any misrepresentation or omission of any material fact related to the inspection. In addition to the foregoing, the Director may withhold issuance of an Operating Certificate for failure to complete the inspection form as prescribed by the Department or misrepresentation or omission of any material fact related to the inspection.

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 A. uses or discloses information gained in the course of or by reason of his official position for any purpose other than making official inspections;

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 C. uses a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining licensure as a special inspector;

 D. has had a license to practice a regulated profession or occupation including special inspector in another state or jurisdiction canceled, revoked, or suspended or who has otherwise been disciplined;

 E. has intentionally or knowingly, directly or indirectly, violated or has aided or abetted in the violation or conspiracy to violate this article or a regulation promulgated under this article;

 F. has intentionally used a fraudulent statement in a document connected with practice as a special inspector;

 G. has obtained fees or assisted in obtaining fees under fraudulent circumstances;

 H. has committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public;

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 J. has been convicted of or has pled guilty to or *nolo contendere* to a felony or a crime involving drugs or moral turpitude;

 K. has practiced as a special inspector while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice as a special inspector;

 L. has sustained a physical or mental disability which renders further practice dangerous to the public;

 M. has violated a provision of this article or of a regulation promulgated under this article.

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 7. Any person aggrieved by the final action of the Commissioner may appeal the decision to the Administrative Law Court in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court. Service of a petition requesting a review does not stay the Commissioner’s decision pending completion of the appellate process.

**Fiscal Impact Statement:**

 There will be no cost incurred by the State or any of its political subdivisions.

**Statement of Rationale:**

 These regulations are updated to require special inspectors to make reports on forms prescribed by the Department.