

CHAPTER 22
Engineers and Surveyors

SECTION 40-22-2. Purpose.

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 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.

HISTORY: 2007 Act No. 58, Section 1; 2016 Act No. 259 (S.685), Section 1, eff June 3, 2016.
Effect of Amendment

2016 Act No. 259, Section 1, added the first sentence, and added references to surveying in the second and third sentences.

SECTION 40-22-5. Application of Chapter 1; conflicts.

Unless otherwise provided for in this chapter, Article 1, Chapter 1 of Title 40 applies to those professions of engineering and surveying regulated by the Department of Labor, Licensing and Regulation. If there is a conflict between this chapter and Article 1, Chapter 1 of Title 40, the provisions of this chapter control.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-10. Board of Registration for Professional Engineers and Land Surveyors: membership and qualifications; compensation; removal; meetings; liability.

(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 this State;
 - (b) be licensed in this State;
 - (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, which may include teaching engineering.
- (2) Each surveyor member of the board must:
- (a) be a citizen of the United States and a resident of this State;
 - (b) be licensed in this State;
 - (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.

HISTORY: 2000 Act No. 311, Section 1; 2016 Act No. 259 (S.685), Section 2, eff June 3, 2016.

Editor's Note

Prior Laws: 1991 Act No. 99, Section 1; 1976 Code Sections 40-22-70, 40-22-80, 40-22-100, 40-22-110, 40-22-120.

Effect of Amendment

2016 Act No. 259, Section 2, in (B), inserted ", at least two of whom must be actively engaged in the practice of engineering"; in (C), revised (1)(d), to include teaching, added (2)(d), and made other nonsubstantive changes; and deleted former (H), relating to membership on the board before and after January 1, 2008.

SECTION 40-22-20. Definitions.

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) "Board" means the South Carolina State Board of Registration for Professional Engineers and Surveyors created pursuant to this chapter.

(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.

(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.

(6) "Department" means the Department of Labor, Licensing and Regulation.

(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.

(8) "Direct responsibility", "direct supervisory control", "direct supervision", and "responsible charge" 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.

(11) "Engineer" means a professional engineer as defined in this section.

(12) "Engineering surveys" 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.

(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.

(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.

(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.

(17) "GIS" means geographic information systems.

(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.

(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.

(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.

(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.

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

(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.

(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.

(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.

(27) "Practice of TIER B land surveying" includes all rights and privileges of TIER A surveying discipline defined in 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.

(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.

(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.

(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 as attested by his license and registration as a professional engineer in this State.

(31) "Professional surveyor" means a 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 license and registration as a TIER A or TIER B professional surveyor in this State.

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

(33) "Registered" means the engineer or surveyor is licensed and registered in the State.

(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.

(35) "Retired from active practice" means not engaging or offering to engage in the practice of engineering or surveying as defined 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.

HISTORY: 2000 Act No. 311, Section 1; 2016 Act No. 259 (S.685), Section 3, eff June 3, 2016.

Editor's Note

Prior Laws: 1991 Act No. 99, Section 1; 1993 Act No. 185, Sections 2, 3; 1976 Code Section 40-22-10.

Effect of Amendment

2016 Act No. 259, Section 3, in (1), inserted "ETAC", and inserted "Engineering" before "Technology Accreditation"; in (2), inserted "or the NCEES Engineering Education Standard"; deleted former (3), reserved paragraph, and redesignated (4) through (9) as (3) through (8); in (4), inserted "project" following "undertaking an engineering" in the last sentence; in (8), substituted "means that" for "all mean that"; redesignated former (33) as (9), definition of "Emeritus engineer"; added (10), definition for "Engaged in practice"; redesignated former (10) through (12) as (11) through (13); in (11), substituted "means all" for "include all"; in (13), inserted "NCEES"; added (14), definition of "Ethics"; redesignated former (13) through (18) as (15) through (20); redesignated former (19) as (36); redesignated former (20) through (22) as (21) through (23); added (24), definition of "Person"; redesignated former (23) through (32) as (25) through (34); in (25), inserted "commissioning," following "creative work as", inserted "chemical," before "communications", and inserted "environmental," following "electrical,,"; in (25)(a), inserted "or discipline"; in (27), deleted "the" before "TIER A", and substituted "item (26)(a)" for "Section 40-22-20(24)(a)"; in (31), substituted "licensee" for "person", and deleted "legal" before "license"; redesignated former (34) as (35); and in (36), definition of "Surveyor-in-training", inserted "NCEES".

SECTION 40-22-30. Practice without a license; penalties.

(A) In addition to those penalties provided for in Section 40-1-200 and in order to safeguard life, health, and property and to promote the public welfare, it is unlawful for a:

(1) person in a public or private capacity to practice or offer to practice engineering or surveying without being licensed pursuant to this chapter;

(2) person to use in connection with his name or otherwise assume, use, or advertise a title or description tending to convey the impression that he is a professional engineer or professional surveyor unless the person is licensed and registered pursuant to this chapter;

(3) firm in a public or private capacity to practice or offer to practice engineering or surveying without being licensed and holding a valid authorization to practice, as provided in Section 40-22-250;

(4) person or firm to knowingly submit false information to the board for the purpose of obtaining licensure.

(B) It is unlawful for an individual or firm to engage in the practice of TIER A surveying or the practice of TIER B surveying in this State, to use the title "surveyor", or to use or display any title, verbal claim, sign, advertisement, letterhead, card, or other device or method to indicate that the individual or firm engages in or offers to engage in the practice of TIER A or TIER B surveying without being registered as a surveyor or firm.

(C) It is unlawful for an individual or firm to engage in the practice of engineering in this State, to use the title "engineer", or to use or display any title, verbal claim, sign, advertisement, letterhead, card, or other device or method to indicate that the individual or firm engages in or offers to engage in the practice of engineering without being registered as an engineer or firm.

(D) A violation of this section is punishable pursuant to Section 40-22-200.

HISTORY: 1991 Act No. 99, Section 1; 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-40. Nomination of board member candidates from general public.

A board member candidate from the general public may be nominated by an individual, group, or association. The public member must be appointed to the board by the Governor in accordance with Section 40-1-45.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-50. Duties of board; promulgation of examination, licensing, and registration fees; records; register of applications for certificates of authorization; roster.

(A) The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board.

(B) The board shall promulgate examination, licensing, and registration fees for professional engineers, engineers-in-training, professional surveyors, surveyors-in-training, and registered firms in regulation. If the board denies the issuance of a license to an applicant, once the processing of the application has commenced, the fee deposited must be retained as an application fee.

(C) The board shall keep a record of its proceedings, a register of all applications for individual licenses, and a register of all applications for certificates of authorization. The records of the board are prima facie evidence of the proceedings of the board set forth in the record. A transcript of the

proceedings, certified by the administrator or the director under seal, is admissible in evidence with the same force and effect as the original.

- (1) For professional licensure applications, the register shall state:
 - (a) the name, age, and residence of each applicant;
 - (b) the date and type of the application;
 - (c) the business address and telephone number of the applicant;
 - (d) the applicant's educational and other qualifications;
 - (e) whether or not an examination was required;
 - (f) whether the applicant was rejected;
 - (g) whether a license to practice was granted;
 - (h) the date of the action of the board; and
 - (i) other information considered necessary by the board.
- (2) For applications requesting a certificate of authorization, the register shall state:
 - (a) the name and type of business entity;
 - (b) the date of application;
 - (c) the business address and telephone number;
 - (d) the address for service of due process;
 - (e) the date of action by the board;
 - (f) approval or rejection of the application; and
 - (g) other information considered necessary by the board.

(D) The board shall 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; and
- (2) a listing of each business entity that holds a valid certificate of authorization to practice engineering, surveying, or both, in this State.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1; 2016 Act No. 259 (S.685), Section 4, eff June 3, 2016.

Effect of Amendment

2016 Act No. 259, Section 4, rewrote (D), providing the board shall maintain and update, rather than annually prepare, a roster of information concerning professional engineers and surveyors.

SECTION 40-22-60. Rules and regulations; seal; input to department.

(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(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.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1; 2016 Act No. 259 (S.685), Section 5, eff June 3, 2016.

Effect of Amendment

2016 Act No. 259, Section 5, in (B), substituted "Section 40-22-20(26) and (27)" for "Section 40-22-20(24)"; and added (C), relating to advice and recommendations.

SECTION 40-22-70. Additional powers and duties.

In addition to the powers and duties provided in this chapter, the board has those powers and duties set forth in Section 40-1-70.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-75. Waiver of licensing requirements during emergencies.

The board may waive all licensing and credentialing requirements 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.

HISTORY: 2007 Act No. 58, Section 1; 2016 Act No. 259 (S.685), Section 6, eff June 3, 2016.

Effect of Amendment

2016 Act No. 259, Section 6, substituted "of this chapter during a declared national or state public emergency, not to exceed ninety days" for "under state law for the period of a declared public emergency".

SECTION 40-22-80. Investigations of violations; subpoenas; administration of oaths and taking of testimony; charges.

(A) If the board or the director of the Department of Labor, Licensing and Regulation has reason to believe that a person has violated a provision of this chapter or a regulation promulgated under this chapter or if a person files a written complaint with the board or the director of the Department of Labor, Licensing and Regulation charging a person or a business with a violation of a provision of this chapter or a regulation promulgated under this chapter, the board may initiate an investigation.

(B) In accordance with Section 40-1-80, the board, under the hand of its chairman and the seal of the board, may issue subpoenas to compel the attendance of witnesses and the production of documents and also may administer oaths, take testimony, hear proofs, and receive exhibits in evidence for all purposes required in the discharge of duties under this chapter. Upon failure of an individual or firm to obey a subpoena or to answer questions propounded by the board, the board may apply to an administrative law judge for an order requiring the person or firm to comply.

(C) A person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against a registrant and charges of unlicensed practice against nonregistrants. The charges must be in writing, supported by affidavit of specific wrongdoing, and filed with the chairman of the board. All charges, unless dismissed by the board as unfounded, trivial, or otherwise without merit, must be investigated by the board to determine if a hearing is warranted.

(D) The board may not consider charges in a matter that would otherwise be precluded by prevailing statutes of limitation or repose.

HISTORY: 2000 Act No. 311, Section 1.

Editor's Note

Prior Laws: 1991 Act No. 99, Section 1; 1976 Code Sections 40-22-380, 40-22-400.

SECTION 40-22-90. Presentation of investigation results; hearing; notification of accused.

(A) The results of an investigation must be presented to the board. If from these results it appears that a violation has occurred or that a licensee has become unfit to practice engineering or surveying, the board, in accordance with the Administrative Procedures Act, may take disciplinary action authorized by Section 40-1-120.

(B) No disciplinary action may be taken unless the matter is presented to and voted upon by the board.

(C) The board may designate a hearing officer or hearing panel to conduct hearings or take other action as may be necessary under Section 40-1-90.

(D) If in the judgment of the board a hearing is warranted, the charges may be processed as provided for by the Administrative Procedures Act.

(1) The time and place for a hearing must be fixed by the board. The accused must be furnished a copy of the charges and a notice of the time and place of hearing. Notification must be personally serviced or served by certified mail, return receipt requested, at the last known address of the accused at least thirty days before the scheduled hearing date.

(2) The accused may appear personally and with counsel to cross-examine witnesses appearing against him and to produce evidence and witnesses in his own defense.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-100. Cease and desist orders; application for temporary restraining order.

(A) As provided for in Section 40-1-100, when the board has reason to believe that a person is violating or intends to violate a provision of this chapter or a regulation promulgated under this chapter, in addition to all other remedies, it may order the person immediately to cease and desist from engaging in the conduct. If a person is practicing engineering and/or surveying without being licensed under this chapter, is violating a board order or a provision of this chapter or a regulation promulgated under this chapter, the board also may apply to an administrative law judge for a temporary restraining order, in accordance with the rules of the Administrative Law Court.

(B) No board member or director of the department or other employee of the department may be held liable for damages resulting from a wrongful temporary restraining order issued pursuant to Section 40-1-100.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-110. Penalties; grounds.

(A) The board may seek administrative fines, pursuant to Section 40-1-120 or seek criminal penalties against a person or firm found guilty of unlicensed practice of engineering or surveying. In addition to the grounds provided for in Section 40-1-110, the board may cancel, suspend, refuse, revoke, or restrict a license as well as reprimand, fine, or require re-examination of an individual who is found guilty of:

(1) the practice of fraud or deceit in applying for or obtaining a certificate of registration;

(2) gross negligence, incompetency, or misconduct in the practice of engineering or surveying;

(3) a felony or misdemeanor which, in the judgment of the board, adversely affects the registrant's ability to perform satisfactorily within the licensed discipline;

(4) aiding or abetting any person in violation of a provision of this chapter or a regulation promulgated pursuant to this chapter;

(5) a violation of this chapter or a regulation promulgated by the board; and

(6) practicing in a registration category or tier for which the licensee has not been licensed by the board.

(B) The license of a person adjudged mentally incompetent is considered automatically suspended 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.

HISTORY: 2000 Act No. 311, Section 1; 2016 Act No. 259 (S.685), Section 7, eff June 3, 2016.

Editor's Note

Prior Laws: 1991 Act No. 99, Section 1; 1993 Act No. 185, Section 7; 1976 Code Section 40-22-390.

Effect of Amendment

2016 Act No. 259, Section 7, substituted "considered automatically suspended" for "deemed automatically suspended upon the adjudication".

SECTION 40-22-115. Jurisdiction of board.

The board has jurisdiction over practice undertaken by nonlicensed individuals and firms and the actions committed or omitted by current and former licensees during the entire period of licensure. The board has jurisdiction to act on any matter which arises during the practice authorization period of licensed practitioners and firms as provided for in Section 40-1-115.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-120. Civil fines and other penalties.

(A) If a majority of the board sustains the charges against the offending party, the board may levy a civil fine, as well as reprimand, suspend, refuse licensure, require requalification, or revoke the certificate of registration, as appropriate.

(B) The board may require the offending party to pay a fine of not more than one thousand dollars to the board for each violation of a provision of this chapter or a regulation promulgated by the board; however, the total of the fines imposed for these violations may not exceed twenty thousand dollars.

(C) A final order of the board disciplining a licensee under this chapter is public information in accordance with Section 40-1-120(C).

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-130. Grounds for denial of license.

As provided for in Section 40-1-130, the board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-140. Prior criminal record.

As provided for in Section 40-1-140, a license may not be denied solely based on a person's prior criminal record.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-150. Voluntary surrender of license.

A licensee under investigation for a violation of this chapter or a regulation promulgated under this chapter may voluntarily surrender the license to practice in accordance with and subject to the provisions of Section 40-1-150.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-160. Appeal.

A person aggrieved by a final action of the board may seek review of the decision to the Administrative Law Court in accordance with Section 40-1-160.

HISTORY: 2000 Act No. 311, Section 1.

Editor's Note

Prior Laws:1991 Act No. 99, Section 1; 1993 Act No. 181, Section 894; 1976 Code Section 40-22-420.

SECTION 40-22-170. Costs.

A person found in violation of this chapter or regulations promulgated under this chapter may be required to pay costs associated with the investigation and prosecution of the case in accordance with Section 40-1-170.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-180. Payment of fines; interest.

(A) All fines are payable immediately upon imposition. Unless the fine is paid within sixty days after the order becomes final, the order constitutes a judgment and must be filed and execution issued on the judgment in the same manner as the judgment of a court of common pleas. Interest accrues on the amount of the fine from the date imposed until the date paid at the rate specified in Section 34-31-20(B).

(B) No registrant against whom a fine is levied is eligible for reinstatement until the fine has been paid in full.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-190. Confidentiality of proceedings.

To the extent provided in Section 40-1-190, investigations and proceedings conducted under this chapter are confidential and all communications are privileged. Notwithstanding the provisions of this section, a final order of the board disciplining a licensee is public information as provided for in Section 40-1-120(C).

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-200. Violation of chapter; penalty.

A person who violates a provision of this chapter or a regulation promulgated pursuant to this chapter or who commits any of the following violations is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than six months or fined not less than five hundred dollars and not more than two

thousand dollars for each violation, or both; however, the total imposed for these violations may not exceed ten thousand dollars:

- (1) practices or offers to practice engineering or surveying in this State without being registered in accordance with this chapter;
- (2) presents or attempts to use as his own the certificate of registration or the seal of another;
- (3) gives false or forged evidence of any kind to the board or to a member of the board in obtaining a certificate of registration;
- (4) falsely impersonates another registrant of like or different name; or
- (5) attempts to use an expired or revoked certificate of registration.

HISTORY: 2000 Act No. 311, Section 1.

Editor's Note

Prior Laws: 1991 Act No. 99, Section 1; 1976 Code Section 40-22-430.

SECTION 40-22-210. Injunctions; rule to show cause.

To enforce this chapter or to restrain a violation of this chapter, the department, on behalf of the board, may petition an administrative law judge for an injunction in the name of the State as provided generally in civil cases. In these proceedings:

- (1) It is not necessary to establish the absence of an adequate remedy of law.
- (2) Board members are not personally liable for damages resulting from a wrongful injunction.
- (3) The initial order of injunction must include a rule to show cause and is temporary pending the return to the rule.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-220. Licensure requirements; engineer-in-training; professional engineer; examination.

(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 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 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 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 years from a school or college approved by the board as being in satisfactory standing;

(b) a specific record after graduation of 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; and

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

(2)(a) graduation in a bachelor's 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 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.

HISTORY: 2000 Act No. 311, Section 1; 2016 Act No. 259 (S.685), Section 8, eff June 3, 2016.

Editor's Note

Prior Laws: 1991 Act No. 99, Section 1; 1993 Act No. 185, Sections 1, 4, 5; 1976 Code Sections 40-22-190, 40-22-195, 40-22-200.

Effect of Amendment

2016 Act No. 259, Section 8, rewrote the section, revising education requirements.

SECTION 40-22-222. Licensing of existing engineers; review process.

(A) Through June 30, 2020, individuals who have graduated in 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 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.

(C) For the purposes of this section "associate professional engineer" means a Category B license holder who is qualified to practice within the profession of engineering in the manner defined in this chapter, and as attested by his recognition and registration as an associate professional engineer in this State.

HISTORY: 2007 Act No. 58, Section 1; 2016 Act No. 259 (S.685), Section 9, eff June 3, 2016.

Effect of Amendment

2016 Act No. 259, Section 9, in (A), substituted "an ETAC/ABET or TAC/ABET engineering technology curriculum" for "a TAC/ABET accredited engineering technology curriculum"; in (B), substituted "a

bachelor's ETAC/ABET or TAC/ABET accredited curriculum" for "a baccalaureate TAC/ABET accredited curriculum".

SECTION 40-22-225. Eligibility requirements for license as surveyor.

(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 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, 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(26) for which the applicant is requesting licensure and has passed 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 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, 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(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 the NCEES Fundamentals of Surveying examination and the Principles and Practice of Surveying examination in the discipline for which the applicant is requesting licensure.

(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 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 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 the NCEES Surveyor-in-Training Fundamentals of Surveying examination and the NCEES Principles and Practice of Surveying examination.

(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.

HISTORY: 2000 Act No. 311, Section 1; 2016 Act No. 259 (S.685), Section 10, eff June 3, 2016.

Editor's Note

Prior Laws: 1991 Act No. 99, Section 1; 1976 Code Sections 40-22-220, 40-22-230, 40-22-240, 40-22-250.

Effect of Amendment

2016 Act No. 259, Section 10, in (B) through (D), substituted "communicate effectively" for "effectively communicate", and amended the examination requirements; in (B) and (C), deleted "or a substantially equivalent program", following "related field,", and substituted "40-22-20(26)" for "40-22-20(24)"; in (B) deleted the requirement for a specific record of one or more years of progressive practical experience; in (D), deleted former (2), relating to persons registered as both Professional Land Surveyor and Professional Surveyor; and added (E), relating to state-specific examinations.

SECTION 40-22-230. Application forms; references; written examinations; reexaminations; issuance of certificate of registration; reissuance of revoked certificate.

(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) 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 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 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 additional undergraduate college courses,

attended seminars, or accomplished self-study to enhance his prospects for passing the exam. The board may refuse further examination until the candidate 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 to an applicant who 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 and have a license number.

(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.

HISTORY: 2000 Act No. 311, Section 1; 2016 Act No. 259 (S.685), Section 11, eff June 3, 2016.

Editor's Note

Prior Laws:1991 Act No. 99, Section 1; 1976 Code Sections 40-22-280, 40-22-300, 40-22-310, 40-22-320, 40-22-330, 40-22-340.

Effect of Amendment

2016 Act No. 259, Section 11, in (A)(1) and (A)(2), inserted ", or other references approved by the board"; in (B), substituted "Required examinations" for "When written examinations are required, they"; in (C), substituted "must pass an examination" for "must pass a written examination"; rewrote (D); and in (E), substituted "registration fee to an applicant who" for "registration fee as provided in this chapter to an applicant who, in the opinion of the board,", and substituted "full name of the licensee and have a license number" for "full name of the licensee, have a serial number, and must be signed by the chairman and the secretary of the board under seal of the board".

SECTION 40-22-240. Renewal of registration; fees and late fees; lapsed license; continuing professional competency requirement.

(A)(1) Every professional engineer and professional surveyor licensed under this chapter who decides to continue the practice of his profession shall, biennially during the month of June, pay the board a fee sufficient to support the costs of the board's operations, to be determined by the board in regulation, for which fee a renewal registration card for the ensuing registration year must be issued.

(2) The board shall assess a late renewal penalty of twenty percent of the biennial renewal fee against those persons who do not renew their license within one month of the biennial renewal date. The penalty must be assessed for each two months thereafter with a maximum grace period of three months following the biennial renewal date. A person not renewing his license within three months following the annual renewal date shall file a new application accompanied by the required application fee or, if he is in a position to do so, file a notarized affidavit with the board certifying that he has not been engaged in the practice of engineering or surveying in South Carolina during the period his license was not in a current condition, accompanied by the total amount of unpaid renewal fees and penalties.

(3) An individual whose license has lapsed due to nonpayment of the required renewal fee within three months of the due date is considered in the same category as a previously unlicensed person and, at the board's discretion, may be required to pass a written examination as a condition of relicensing.

(B) The board may promulgate regulations that as a condition of renewal or relicensure, a professional engineer must demonstrate continuing professional competency in engineering and a professional surveyor must demonstrate continuing professional competency in surveying. Any continuing professional competency requirement does not apply to a professional engineer or professional surveyor who has been continuously licensed in this State since January 1, 1969. Emeritus engineers and emeritus surveyors are not required to meet continuing education requirements.

(C) Emeritus engineers and emeritus surveyors who wish to return to active practice shall complete continuing education requirements for each exempted biennial renewal period not to exceed two renewal periods and shall submit applicable fees.

HISTORY: 2000 Act No. 311, Section 1.

Editor's Note

Prior Laws: 1991 Act No. 99, Section 1; 1995 Act No. 46, Section 1; 1976 Code Section 40-22-350.

SECTION 40-22-245. South Carolina Engineers and Surveyors Education and Research Fund; funding; report of expenditures.

(A) The board may allocate up to ten dollars of each renewal fee to the South Carolina Engineers and Surveyors Education and Research Fund, which must be established as a separate and distinct account and used exclusively for:

- (1) advancement of education and research for the benefit of individuals and firms licensed under this chapter and for individuals in training to become licensed;
- (2) analysis and evaluation of factors that affect the engineering and surveying professions in this State and activities that support initiatives of the board; and
- (3) dissemination of the results of the research.

(B) The board shall submit to the chairman of the House and Senate Labor, Commerce and Industry Committees by August first of each year a report on how the funds were expended for the preceding fiscal year.

HISTORY: 2007 Act No. 58, Section 1.

SECTION 40-22-250. Certificate of authorization to practice as firm; conditions; application and registration fee; discipline.

(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, provided:

- (1) one or more of the corporate officers, one or more of the principal owners, or a full-time licensed employee 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.

(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.

(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.

(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.

HISTORY: 2000 Act No. 311, Section 1; 2016 Act No. 259 (S.685), Section 12, eff June 3, 2016.

Editor's Note

Prior Laws: 1991 Act No. 99, Section 1; 1976 Code Section 40-22-40.

Effect of Amendment

2016 Act No. 259, Section 12, in (B)(1), substituted "one or more of the principal owners, or a full-time licensed employee" for "in the case of a corporation, or one or more of the principal owners, or a full-time employee, in the case of other firms,"; added (F), relating to branch offices; redesignated the remaining paragraphs accordingly; and made other nonsubstantive changes.

SECTION 40-22-260. Temporary licenses and certificates of authorization.

(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) 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 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 to an out-of-state firm if 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.

(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.

HISTORY: 2000 Act No. 311, Section 1; 2016 Act No. 259 (S.685), Section 13, eff June 3, 2016.

Editor's Note

Prior Laws: 1991 Act No. 99, Section 1; 1976 Code Section 40-22-50.

Effect of Amendment

2016 Act No. 259, Section 13, rewrote (B), and deleted former (C) and (D), relating to branch offices and the definition for "engaged in practice".

SECTION 40-22-270. Individual seals; stamping on plans and specifications.

Each licensee and each firm practicing under a certificate of authorization shall obtain a seal of the design authorized by the board and must comply with the following:

(1) Individual seals must be under the personal custody and control of the licensee and bear the licensee's name, registration license number, and the legend "Professional Engineer" or "Professional Surveyor" except for licenses issued before July 1, 2001, which may have the legend "Registered Professional Engineer" or "Registered Land Surveyor". The seal also shall bear evidence of the license category for professional engineers and the tier designation for professional surveyors.

(2) Seals for firms practicing under a certificate of authorization must bear the firm's name and authorization number.

(3) Plans, specifications, plats, and reports prepared by a licensee or prepared under the licensee's direct supervision must be stamped with seals when filed with public authorities during the life of the licensee's certificate.

(4) Plans and specifications prepared by a licensee or prepared under the licensee's direct supervision must be stamped with seals when issued for use as job site record documents at construction projects within this State.

(5) It is unlawful to seal documents with a seal after the certificate of the licensee or the certificate of authorization in the case of firms named on the seal has expired or has been revoked or suspended unless the certificate has been renewed, reissued, or reinstated.

(6) Where individual seals are affixed to plans, specifications, plats, and reports, the licensee shall affix his signature and date under or across the face and beyond the circumference of the seal. The signature and date must not be applied in a manner that obliterates or renders illegible the licensee's license number or name.

(7) The clerk of court or the register of deeds for any county shall refuse to accept for filing or recording a map, plat, survey, or other document within the definition of surveying, dated after July 1, 1977, which does not have affixed to it the personal signature and prescribed impression seal of a professional surveyor. No charge may be made by a professional surveyor for the application of his impression seal.

(8) The building official, or other designated authority charged with the responsibility of issuing building or similar permits, shall refuse to issue a permit for any undertaking, the plans and specifications for which would require the seal of a professional engineer, unless the permit applicant has furnished satisfactory evidence that the documents were prepared by an engineer licensed as required by this chapter or that the documents are exempt from the requirements of this chapter. The building official, or designated authority charged with the responsibility of issuing building or similar permits, shall report to the board the name and address of a person who has or is suspected to have violated a provision of this chapter or a regulation promulgated pursuant to this chapter relating to the unlicensed practice of engineering.

(9) 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.

HISTORY: 2000 Act No. 311, Section 1; 2016 Act No. 259 (S.685), Section 14, eff June 3, 2016.

Editor's Note

Prior Laws: 1991 Act No. 99, Section 1; 1976 Code Section 40-22-370.

Effect of Amendment

2016 Act No. 259, Section 14, added (9), relating to the significance of licensee seals and signatures on various documents.

SECTION 40-22-280. Exceptions from application of chapter.

(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 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 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 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 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 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 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;

(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.

HISTORY: 2000 Act No. 311, Section 1; 2013 Act No. 55, Section 1, eff June 7, 2013; 2014 Act No. 157 (H.4604), Section 1, eff April 14, 2014; 2016 Act No. 259 (S.685), Section 15, eff June 3, 2016.

Editor's Note

Prior Laws: 1991 Act No. 99, Section 1; 1976 Code Section 40-22-460.

Effect of Amendment

The 2013 amendment added subparagraph (A)(9).

2014 Act No. 157, Section 1, added subsection (A)(10), relating to exemptions for certain activities performed by full-time employees or other personnel of a manufacturing company, and made other non substantive changes.

2016 Act No. 259, Section 15, in (A), substituted "full-time, non-temporary" for "regular" throughout; rewrote (B)(2); and added (B)(3), relating to one- and two-family dwellings.

SECTION 40-22-290. TIER A surveying; exclusions.

The practice of TIER A surveying does not include:

- (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 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;
- (2) the transcription of existing documents or land records into geographic information systems/land information systems by manual or electronic means;
- (3) the transcription of public record data into a cadastre (tax maps and associated records) and the maintenance of that cadastre by either manual or electronic means, including tax maps and zoning maps;
- (4) the use of all documents or databases prepared by any federal agency and documents or databases using federal data by any person to prepare documents and databases including, but not limited to, federal and military versions of quadrangle topographic maps, military maps, and satellite imagery;
- (5) the use of all civilian or commercial remotely-sensed satellite data;
- (6) all maps and databases created by any firm, in either hardcopy or electronic form, by full-time employees of that firm, of features that are wholly contained within properties that the firm owns, leases, rents, or has exclusive use or shared easement to, are exempt from the definition of surveying. This exclusion includes public and private utility companies preparing inventory maps of their facilities as long as those maps and databases are not provided to anyone outside the company with any data that illustrates property ownership lines of property the firm does not own, lease, rent, or on which they have exclusive use or shared easement;
- (7) the creation of maps and databases depicting the distribution of natural or cultural resources prepared by foresters, geologists, soil scientists, geophysicists, biologists, geographers, archeologists, historians, urban and regional planners, or other individuals qualified to prepare such maps as long as any property boundaries shown are either supplied by a professional surveyor or transcribed from public deed or plat records converted from tax maps or cadastre, or are clearly not intended to serve as legal property boundaries;
- (8) the creation of all maps and geo-referenced databases depicting physical features and events prepared by any government agency where the access to that data is restricted by statute, including

geo-referenced data generated by law enforcement agencies involving crime statistics and criminal activities;

(9) the work of any official or employee of a political subdivision of this State while in the performance of their official duties involving Emergency 911 mapping, land use mapping, property tax mapping, remote sensing and implementation, maintenance, creation, and distribution of mapping grade GIS data as part of a political subdivision's geographic information system.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1; 2016 Act No. 259 (S.685), Section 16, eff June 3, 2016.

Effect of Amendment

2016 Act No. 259, Section 16, in (1), inserted "nontechnical", and in (1)(c), substituted "educational institutions" for "education institutions".

SECTION 40-22-295. Engineer immunity.

(A) A licensed engineer who voluntarily, without compensation, provides structural, electrical, mechanical, or other engineering services at the scene of a declared national or state emergency, at the request of the Governor, is not liable for any personal injury, wrongful death, property damage, or other loss caused by the licensed engineer's acts, errors, or omissions in performing the engineering services for a structure, building, piping, or other engineered system, either publicly or privately owned. Immunity from liability under this section is only effective as to services rendered during the thirty days following the event that gave rise to the declared state of emergency.

(B)(1) Any licensed engineer appointed pursuant to this section must not be held liable for any civil damages as a result of the providing of requested engineering services unless the damages result from providing, or failing to provide engineering services if the consequences of the services provided are proven by a preponderance of the evidence to be the result of gross negligence or recklessness.

(2) This section applies if the engineer does not receive payment other than as allowed in Section 8-25-40 for the appointed services and prescribed duties. However, if the engineer is an employee of the State, the engineer may continue to receive compensation from his employer.

(C) This section does not provide immunity from liability to persons providing services pursuant to Section 40-22-75.

HISTORY: 2012 Act No. 280, Section 3, eff June 26, 2012.

Editor's Note

2012 Act No. 280, Section 1, provides as follows:

"This act may be cited as the 'Architects' and Engineers' Volunteer Act'."

SECTION 40-22-300. Promulgation of regulations for practice by firms located in foreign countries.

The board shall promulgate regulations for the practice of engineering in this State by engineers and engineering firms located in foreign countries. In promulgating these regulations, the board must consider requirements prescribed by this chapter and other requirements as may be reasonably necessary to protect consumers of engineering services provided by cross-border practitioners.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-310. Status of regulations promulgated pursuant to Chapter 21.

Except where inappropriate, regulations promulgated pursuant to Chapter 21, Title 40 of the 1976 Code are considered to be promulgated pursuant to Chapter 22.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.

SECTION 40-22-320. Severability.

If a provision of this chapter or the application of a provision to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable as provided in Section 40-1-220.

HISTORY: 2000 Act No. 311, Section 1; 2007 Act No. 58, Section 1.