

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1233 Session of
1995

INTRODUCED BY LLOYD, CAPPABIANCA, PESCI, TIGUE, BELARDI,
READSHAW, ROBINSON, COLAIZZO, WOZNIAK, YOUNGBLOOD, PISTELLA,
FARGO, MIHALICH, HALUSKA, ITKIN, STABACK AND CAWLEY,
MARCH 20, 1995

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MARCH 20, 1995

AN ACT

1 Amending the act of May 23, 1945 (P.L.913, No.367), entitled, as
2 amended, "An act relating to and regulating the practice of
3 the profession of engineering, including civil engineering,
4 mechanical engineering, electrical engineering, mining
5 engineering and chemical engineering, the profession of land
6 surveying and the profession of geology and constituent parts
7 and combinations thereof as herein defined; providing for the
8 licensing and registration of persons practicing said
9 profession, and the certification of engineers-in-training
10 and surveyors-in-training, and the suspension and revocation
11 of said licenses, registrations and certifications for
12 violation of this act; prescribing the powers and duties of
13 the State Registration Board for Professional Engineers, Land
14 Surveyors and Geologists, the Department of State and the
15 courts; prescribing penalties; and repealing existing laws,"
16 further providing for the State Registration Board for
17 Professional Engineers, Land Surveyors and Geologists.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. Sections 4(d) and (g) and 4.1 of the act of May
21 23, 1945 (P.L.913, No.367), known as the Engineer, Land Surveyor
22 and Geologist Registration Law, amended December 16, 1992
23 (P.L.1151, No.151), are amended to read:

24 Section 4. General Powers of Board.--The board shall have

1 power--

2 * * *

3 (d) Examinations; Fees.--To prescribe the subjects, manner,
4 time and place of examinations for licenses as professional
5 engineers, professional land surveyors and professional
6 geologists and for certificates for engineers-in-training and
7 surveyors-in-training, and the filing of applications for such
8 examinations, and to prepare or provide for the preparation of
9 such examinations, conduct or provide for the conduct of such
10 examinations, to make written reports of such examinations,
11 which reports shall be preserved for a period of not less than
12 three years, to collect such fees for such examinations, and for
13 licenses and certificates issued without examination, as may be
14 fixed according to law, and to issue licenses and certificates
15 to such persons as successfully pass such examinations. All
16 examinations shall be prepared and administered by a qualified
17 and approved professional testing agency in accordance with
18 section 812.1 of the act of April 9, 1929 (P.L.177, No.175),
19 known as "The Administrative Code of 1929."

20 * * *

21 (g) Suspension [and] of, Revocation of and other Corrective
22 Action against Licenses; Registrations and Certificates;
23 Reinstatements.--To suspend [or], revoke, deny, issue a
24 reprimand on, limit or otherwise restrict the license and
25 registration of any professional engineer, professional land
26 surveyor or professional geologist or the certificate of any
27 engineer-in-training or surveyor-in-training, who is found
28 guilty by the board, by a majority vote of all its members, of
29 the practice of any fraud, deceit or misrepresentation in
30 obtaining his license, certification or registration, or of

1 gross negligence, incompetency or misconduct in the practice of
2 engineering, in the practice of land surveying or in the
3 practice of geology, or of violation of the code of ethics of
4 the engineering profession, and to reinstate suspended licenses,
5 registrations and certificates in any cases where a majority of
6 all the members of the board shall determine the same to be just
7 and proper. Unless ordered to do so by a court, the board shall
8 not reinstate the license, certificate or registration of a
9 person to practice as a professional engineer, professional land
10 surveyor, professional geologist or an engineer-in-training or a
11 surveyor-in-training which has been revoked, and such person
12 shall be required to apply for a license, certificate or
13 registration after a period of five years in accordance with
14 section 2 if he desires to practice at any time after such
15 revocation. The board shall require a person whose license or
16 registration has been suspended or revoked to return the license
17 or registration in such manner as the board directs. Failure to
18 do so shall be a misdemeanor of the third degree. Misconduct in
19 the practice of engineering, land surveying or geology shall
20 include, but not be limited to conviction for a criminal offense
21 such as extortion, bribery or fraud or entry of a plea of nolo
22 contendere to a charge thereof for conduct relating to the
23 practice of engineering, land surveying or geology, or has
24 violated any provision of this act or any regulation promulgated
25 by the board. For the purposes of this subsection, the code of
26 ethics is as follows:

27 It shall be considered unprofessional and inconsistent with
28 honorable and dignified bearing for any professional engineer,
29 professional land surveyor or professional geologist:

30 (1) To act for his client or employer in professional

1 matters otherwise than as a faithful agent or trustee, or to
2 accept any remuneration other than his stated recompense for
3 services rendered.

4 (2) To attempt to injure falsely or maliciously, directly or
5 indirectly, the professional reputation, prospects or business
6 of anyone.

7 (3) To attempt to supplant another engineer, land surveyor
8 or geologist after definite steps have been taken toward his
9 employment.

10 (4) To compete with another engineer, land surveyor or
11 geologist for employment by the use of unethical practices.

12 (5) To review the work of another engineer, land surveyor or
13 geologist for the same client, except with the knowledge of such
14 engineer, land surveyor or geologist, or unless the connection
15 of such engineer, land surveyor or geologist with the work has
16 terminated.

17 (6) To attempt to obtain or render technical services or
18 assistance without fair and just compensation commensurate with
19 the services rendered: Provided, however, the donation of such
20 services to a civic, charitable, religious or eleemosynary
21 organization shall not be deemed a violation.

22 (7) To advertise in self-laudatory language, or in any other
23 manner, derogatory to the dignity of the profession.

24 (8) To attempt to practice in any field of engineering, land
25 surveying or geology in which the registrant is not proficient.

26 (9) To use or permit the use of his professional seal on
27 work over which he was not in responsible charge.

28 (10) To aid or abet any person in the practice of
29 engineering, land surveying or geology not in accordance with
30 the provision of this act or prior laws.

1 The board shall appoint, with the approval of the Governor,
2 such hearing examiners as shall be necessary to conduct hearings
3 as may be required under this subsection.

4 The board shall have the power to adopt and promulgate rules
5 and regulations setting forth the functions, powers, standards
6 and duties to be followed by the hearing examiners.

7 The hearing examiners shall have the power to conduct
8 hearings in accordance with the regulations of the board, and to
9 issue subpoenas requiring the attendance and testimony of
10 individuals or the production of, pertinent books, records,
11 documents and papers by persons whom they believe to have
12 information relevant to any matter pending before the examiner.
13 Such examiner shall also have the power to administer oaths.

14 The hearing examiner shall hear evidence submitted and
15 arguments of counsel, if any, with reasonable dispatch, and
16 shall promptly record his decision, supported by findings of
17 fact, and a copy thereof shall immediately be sent to the board
18 and to counsel of record, or the parties, if not represented.

19 If application for review is made to the board within twenty
20 days from the date of any decision made as a result of a hearing
21 held by a hearing examiner, the board shall review the evidence,
22 and if deemed advisable by the board, hear argument and
23 additional evidence. As soon as practicable, the board shall
24 make a decision and shall file the same with its finding of the
25 facts on which it is based and send a copy thereof to each of
26 the parties in dispute.

27 * * *

28 Section 4.1. State Registration Board for Professional
29 Engineers, Land Surveyors and Geologists.--(a) There is hereby
30 established within the Department of State the State

1 Registration Board for Professional Engineers, Land Surveyors
2 and Geologists. The board shall consist of the Commissioner of
3 Professional and Occupational Affairs, three members appointed
4 by the Governor who shall be persons representing the public at
5 large and nine members appointed by the Governor, five of whom
6 shall be registered professional engineers, two of whom shall be
7 registered professional land surveyors and two of whom shall be
8 registered professional geologists. Any land surveyor and
9 geologist appointed to serve on the board shall have received
10 the respective land surveyor license or geologist license upon
11 the passage of the appropriate examinations: Provided, however,
12 That for the initial board appointments, the two professional
13 geologist members need not be licensed by examination at the
14 time of appointment but must have satisfied the education and
15 experience requirements of this act for licensure as a
16 professional geologist. The professional members of the board
17 shall be so selected that not more than two of them shall
18 specialize in any one of the five major disciplines of
19 engineering: civil, mining and metallurgical, mechanical,
20 electrical and chemical. Each member of the board shall be a
21 citizen of the United States and a resident of this
22 Commonwealth. Each professional member shall have been engaged
23 in the practice of the respective profession for at least ten
24 years and shall have been in responsible charge of work for at
25 least five years.

26 (b) The terms of members of the board shall be six years, or
27 until his successor has been appointed and qualified but not
28 longer than six months beyond the six-year period. In the event
29 that any of said members shall die or resign during his term,
30 his successor shall be appointed in the same way and with the

1 same qualifications and shall hold office for the unexpired
2 term. No member shall be eligible for appointment to serve more
3 than two consecutive full terms.

4 (c) Seven members of the board shall constitute a quorum. A
5 member may not be counted as part of a quorum or vote on any
6 issue, other than temporary and automatic suspension, under this
7 act unless he is physically in attendance at the meeting.

8 (d) The board shall select annually a president from among
9 its members.

10 (e) Each member of the board, except the Commissioner of
11 Professional and Occupational Affairs [and the Director of the
12 Bureau of Consumer Protection in the Office of Attorney
13 General], or his designee, shall receive sixty dollars per diem
14 when actually attending to the work of the board. Members shall
15 also receive the amount of reasonable traveling, hotel and other
16 necessary expenses incurred in the performance of their duties.

17 [(f) The board is subject to evaluation, review and
18 termination within the time and in the manner provided in the
19 act of December 22, 1981 (P.L.508, No.142), known as the "Sunset
20 Act."]

21 (g) A member of the board who fails to attend three
22 consecutive meetings shall forfeit his seat unless the
23 Commissioner of Professional and Occupational Affairs, upon
24 written request from the member, finds that the member should be
25 excused from a meeting because of illness or the death of a
26 family member.

27 (h) A public member who fails to attend two consecutive
28 statutorily mandated training seminars in accordance with
29 section 813(e) of the act of April 9, 1929 (P.L.177, No.175),
30 known as "The Administrative Code of 1929," shall forfeit board

1 membership unless the Commissioner of Professional and
2 Occupational Affairs, upon written request from the public
3 member, finds that the public member should be excused from a
4 meeting because of illness or the death of a family member.

5 Section 2. This act shall take effect in 60 days.