

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2806 Session of
2008

INTRODUCED BY MARKOSEK, BRENNAN, GEIST, HENNESSEY, KORTZ,
R. MILLER, MUSTIO, PASHINSKI, PAYNE, REICHLEY, ROCK AND
VULAKOVICH, SEPTEMBER 29, 2008

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,
SEPTEMBER 29, 2008

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 providing for the definition of "geologist-in-training" and
17 for the use of the terms "engineer" and "engineering";
18 further providing for general powers of the board and for
19 procedure for licensing as professional geologist; and
20 providing for continuing professional engineering competency
21 and education requirements.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 1. Section 2 of the act of May 23, 1945 (P.L.913,
25 No.367), known as the Engineer, Land Surveyor and Geologist
26 Registration Law, is amended by adding a subsection to read:

1 Section 2. Definitions.--As used in this act--

2 * * *

3 (o) "Geologist-in-training" means a candidate for licensure
4 as a professional geologist who has been granted a certificate
5 as a geologist-in-training after successfully passing the
6 required written examination in fundamental geology subjects and
7 who shall be eligible, upon completion of the requisite years of
8 experience in geology under the supervision of a professional or
9 similarly qualified geologist, for the final examination
10 prescribed for licensure as a professional geologist.

11 Section 2. Sections 4(d) and (g) and 4.4(a) of the act,
12 amended or added December 16, 1992 (P.L.1151, No.151), are
13 amended and the sections are amended by adding subsections to
14 read:

15 Section 4. General Powers of Board.--The board shall have
16 power--

17 * * *

18 (d) Examinations; Fees.--To prescribe the subjects, manner,
19 time and place of examinations for licenses as professional
20 engineers, professional land surveyors and professional
21 geologists and for certificates for engineers-in-training,
22 geologists-in-training and surveyors-in-training, and the filing
23 of applications for such examinations, and to prepare or provide
24 for the preparation of such examinations, conduct or provide for
25 the conduct of such examinations, to make written reports of
26 such examinations, which reports shall be preserved for a period
27 of not less than three years, to collect such fees for such
28 examinations, and for licenses and certificates issued without
29 examination, as may be fixed according to law, and to issue
30 licenses and certificates to such persons as successfully pass

1 such examinations.

2 * * *

3 (g) Suspension and Revocation of Licenses; Registrations and
4 Certificates; Reinstatements.--To suspend or revoke the license
5 and registration of any professional engineer, professional land
6 surveyor or professional geologist or the certificate of any
7 engineer-in-training, geologist-in-training or surveyor-in-
8 training, who is found guilty by the board, by a majority vote
9 of all its members, of the practice of any fraud, deceit or
10 misrepresentation in obtaining his license, certification or
11 registration, or of gross negligence, incompetency or misconduct
12 in the practice of engineering, in the practice of land
13 surveying or in the practice of geology, or of violation of the
14 code of ethics of the engineering profession, and to reinstate
15 suspended licenses, registrations and certificates in any cases
16 where a majority of all the members of the board shall determine
17 the same to be just and proper. Unless ordered to do so by a
18 court, the board shall not reinstate the license, certificate or
19 registration of a person to practice as a professional engineer,
20 professional land surveyor, professional geologist or an
21 engineer-in-training, geologist-in-training or a surveyor-in-
22 training which has been revoked, and such person shall be
23 required to apply for a license, certificate or registration
24 after a period of five years in accordance with section 2 if he
25 desires to practice at any time after such revocation. The board
26 shall require a person whose license or registration has been
27 suspended or revoked to return the license or registration in
28 such manner as the board directs. Failure to do so shall be a
29 misdemeanor of the third degree. Misconduct in the practice of
30 engineering, land surveying or geology shall include, but not be

1 limited to conviction for a criminal offense such as extortion,
2 bribery or fraud or entry of a plea of nolo contendere to a
3 charge thereof for conduct relating to the practice of
4 engineering, land surveying or geology, or has violated any
5 provision of this act or any regulation promulgated by the
6 board. For the purposes of this subsection, the code of ethics
7 is as follows:

8 It shall be considered unprofessional and inconsistent with
9 honorable and dignified bearing for any professional engineer,
10 professional land surveyor or professional geologist:

11 (1) To act for his client or employer in professional
12 matters otherwise than as a faithful agent or trustee, or to
13 accept any remuneration other than his stated recompense for
14 services rendered.

15 (2) To attempt to injure falsely or maliciously, directly or
16 indirectly, the professional reputation, prospects or business
17 of anyone.

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

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

23 (5) To review the work of another engineer, land surveyor or
24 geologist for the same client, except with the knowledge of such
25 engineer, land surveyor or geologist, or unless the connection
26 of such engineer, land surveyor or geologist with the work has
27 terminated.

28 (6) To attempt to obtain or render technical services or
29 assistance without fair and just compensation commensurate with
30 the services rendered: Provided, however, the donation of such

1 services to a civic, charitable, religious or eleemosynary
2 organization shall not be deemed a violation.

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

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

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

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

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

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

18 The hearing examiners shall have the power to conduct
19 hearings in accordance with the regulations of the board, and to
20 issue subpoenas requiring the attendance and testimony of
21 individuals or the production of, pertinent books, records,
22 documents and papers by persons whom they believe to have
23 information relevant to any matter pending before the examiner.

24 The hearing examiners shall have the power to conduct
25 hearings in accordance with the regulations of the board, and to
26 issue subpoenas requiring the attendance and testimony of
27 individuals or the production of, pertinent books, records,
28 documents and papers by persons whom they believe to have
29 information relevant to any matter pending before the examiner.
30 Such examiner shall also have the power to administer oaths.

1 The hearing examiner shall hear evidence submitted and
2 arguments of counsel, if any, with reasonable dispatch, and
3 shall promptly record his decision, supported by findings of
4 fact, and a copy thereof shall immediately be sent to the board
5 and to counsel of record, or the parties, if not represented.

6 If application for review is made to the board within twenty
7 days from the date of any decision made as a result of a hearing
8 held by a hearing examiner, the board shall review the evidence,
9 and if deemed advisable by the board, hear argument and
10 additional evidence. As soon as practicable, the board shall
11 make a decision and shall file the same with its finding of the
12 facts on which it is based and send a copy thereof to each of
13 the parties in dispute.

14 * * *

15 (n) Member of National Association of State Boards of
16 Geology; Dues.--To become a member of the National Association
17 of State Boards of Geology, to pay dues as the association shall
18 establish, to send delegates to the annual meeting of the
19 association and to defray their expenses.

20 Section 4.4. Procedure for Licensing as Professional
21 Geologist.--(a) [The board shall provide for a licensure
22 examination. All written, oral and practical examinations shall
23 be prepared and administered by a qualified and approved
24 professional testing organization in the manner prescribed for
25 written examinations by the provisions of section 812.1 of the
26 act of April 9, 1929 (P.L.177, No.175), known as "The
27 Administrative Code of 1929." However, during the first two
28 years after the effective date of this act, the board shall
29 issue licenses without examination to applicants who meet the
30 requirements of subsection (b)(1), (2), (3) and (5). The board

1 may further postpone the examination for up to two additional
2 years if necessary in order to provide for an examination in
3 accordance with section 812.1 of "The Administrative Code of
4 1929."] An applicant for licensure as a professional geologist
5 shall satisfactorily complete the fundamentals of geology
6 examination and provide the board with satisfactory evidence of
7 experience that would have prepared the applicant for the
8 practice of geology.

9 * * *

10 (c) (1) An applicant for the geologist-in-training
11 certificate shall provide satisfactory evidence of graduation
12 from an approved geology curriculum of four or more years.

13 (2) A geology student that has completed two or more years
14 of an approved program in geology may sit for the fundamentals
15 of geology examination if approved by the board but may not be
16 certified until proof of graduation is submitted to the board.

17 (d) Upon graduation an applicant that has satisfactorily
18 completed the fundamentals of geology examination shall be
19 certified as a geologist-in-training and may retain that
20 certification until the applicant becomes licensed as a
21 professional geologist.

22 Section 3. Section 4.5 of the act, added November 29, 2006
23 (P.L.1534, No.170), is amended to read:

24 Section 4.5. [Mandatory Continuing Education.--(a) The
25 board shall adopt, promulgate and enforce administrative rules
26 and regulations establishing requirements of continuing
27 education to be fulfilled by individuals licensed and registered
28 under this act. Except as otherwise provided in this section,
29 beginning with the licensure period designated by regulation,
30 individuals licensed and registered under this act shall be

1 required to complete twenty-four hours of mandatory continuing
2 education during each two-year licensure period as a condition
3 of biennial renewal.

4 (b) An individual applying for initial licensure and
5 registration shall be exempt from the requirement set forth in
6 subsection (a) for the licensure period immediately following
7 initial licensure and registration.

8 (c) The board may waive all or a portion of the continuing
9 education requirement established in subsection (a) for an
10 individual licensed and registered under this act who shows to
11 the satisfaction of the board that the individual was unable to
12 complete the requirements due to serious illness, military
13 service or other demonstrated hardship. The request shall be
14 made in writing, with appropriate documentation, and shall
15 include a description of circumstances sufficient to show why
16 the individual is unable to comply with the continuing education
17 requirement set forth in subsection (a). Requests for waiver of
18 the continuing education requirement shall be evaluated by the
19 board on a case-by-case basis. The board shall send the
20 individual written notification of its approval or denial of the
21 request for waiver.

22 (d) An individual seeking to reinstate an inactive or lapsed
23 license and registration shall show proof of compliance with the
24 continuing education requirement for the preceding biennial
25 renewal period.

26 (e) All courses, locations, instructors and providers of
27 mandatory continuing education shall be approved by the board.
28 However, no credit shall be given for a course in practice
29 building or office management.

30 (f) The board shall promulgate regulations to carry out the

provisions of this section within eighteen months of the effective date of this section.] Continuing Professional Competency Requirements.--(a) In order to help safeguard life, health and property and to promote the public welfare, the practice of professional engineering, professional land surveying and professional geology in this Commonwealth requires continuing professional competency.

(b) Each in-State and out-of-State licensee shall be required to meet the continuing professional competency requirements of this section as a condition for licensure renewal. Continuing professional competency obtained by a licensee should maintain, improve or expand skills and knowledge obtained prior to initial licensure or develop new and relevant skills and knowledge.

(c) Each licensee shall be required to obtain twenty-four PDH units during the biennial renewal period. If a licensee exceeds the requirement in any renewal period, a maximum of twelve PDH units may be carried forward into the subsequent renewal period. PDH units may be earned as follows:

(1) Successful completion of college courses relevant to professional practice.

(2) Successful completion of continuing education courses relevant to professional practice of engineering.

(3) Successful completion of correspondence, televised, videotaped and other short courses or tutorials relevant to professional practice.

(4) Presenting or attending qualifying seminars, in-house courses, workshops or professional or technical presentations made at meetings, conventions or conferences relevant to professional practice.

1 (5) Teaching or instructing in any of the activities listed
2 in clauses (1) through (4).

3 (6) Authoring published papers, articles, books or accepted
4 licensing examination items.

5 (7) Actively participating in professional or technical
6 societies relevant to professional practice. A licensee shall
7 serve as an officer or actively participate in a committee of
8 the organization in order to receive credit. PDH credits shall
9 not be earned until the end of each year of service completed.

10 (8) Obtaining patents.

11 (d) (1) Except as provided in clause (2), units of other
12 types of credit shall be converted to PDH units as follows:

13 (i) One college or unit semester hour shall equal forty-five
14 PDH units.

15 (ii) One college or unit quarter hour shall equal thirty PDH
16 units.

17 (iii) One continuing education unit shall equal ten PDH
18 units.

19 (iv) One hour of professional development in course work,
20 seminars or professional or technical presentations made at
21 meetings, conventions or conferences shall equal one PDH unit.

22 (v) Each published paper, article or book shall equal ten
23 PDH units.

24 (vi) Active participation in a professional and technical
25 society relevant to the professional practice shall equal, for
26 each organization, two PDH units.

27 (vii) Each patent obtained shall equal ten PDH units.

28 (2) Teaching any of the activities listed in clause (1)(i),
29 (ii), (iii) and (iv) shall equal double the amount of PDH units
30 provided for in those subclauses. Teaching credit shall be

1 awarded for teaching a course or seminar for the first time
2 only, but shall not be awarded to full-time faculty in the
3 performance of their duties at their employing institutions.

4 (e) The board shall have final authority with respect to
5 approval of courses, credit, PDH value for courses and other
6 methods of earning credit. Credit determination for activities
7 listed in subsection (d)(1)(v) and (vii) shall be the
8 responsibility of the licensee.

9 (f) The licensee shall be responsible for maintaining
10 records to be used to support credits claimed. Required records
11 shall include all of the following:

12 (1) A log showing the type of activity claimed, sponsoring
13 organization, location, duration, instructor's or speaker's name
14 and PDH credits earned.

15 (2) Attendance verification records in the form of
16 completion certificates or other documents supporting evidence
17 of attendance.

18 (g) A licensee may be exempt from the requirements of this
19 section for any of the following reasons:

20 (1) New licensees who are licensed as a result of
21 examination or comity shall be exempt for their first renewal
22 period.

23 (2) A licensee serving on temporary active duty in the armed
24 forces of the United States for a period of time exceeding one
25 hundred twenty consecutive days in a year shall be exempt from
26 obtaining the professional development hours required during
27 that year.

28 (3) Licensees experiencing physical disability, illness or
29 other extenuating circumstances as reviewed and approved by the
30 board may be exempt. Supporting documentation must be furnished

1 to the board.

2 (4) Licensees who list their occupation as retired or
3 inactive on the board-approved renewal form and who certify that
4 they are no longer receiving any remuneration for providing
5 professional services shall be exempt from the professional
6 development hours requirement. In the event such a person elects
7 to return to active practice, professional development hours
8 must be earned before returning to active practice for each year
9 exempted, not to exceed the biennial renewal requirements.

10 (h) A licensee may bring an inactive license to active
11 status by obtaining all delinquent PDH units, except that under
12 no circumstance shall a licensee be required to obtain more than
13 twenty-four PDH units to restore an inactive license.

14 (i) The continuing professional competency requirements of
15 this section are satisfied when a nonresident certifies to be
16 licensed in and has met the mandatory continuing professional
17 competency requirements of any jurisdiction approved and listed
18 by the board.

19 (j) The following words and phrases shall have the meanings
20 given to them in this subsection:

21 "Activity" shall mean any qualifying activity with a clear
22 purpose and objective which will maintain, improve or expand the
23 skills and knowledge relevant to a licensee's professional
24 practice.

25 "College or Unit Semester Hour" or "College or Unit Quarter
26 Hour" shall mean credit for courses in ABET-approved programs or
27 other related college courses.

28 "Continuing Education Unit" shall mean a unit of credit
29 customarily used for continuing education courses.

30 "Course" shall mean any qualifying course with a clear

1 purpose and objective which will maintain, improve or expand the
2 skills and knowledge relevant to a licensee's professional
3 practice.

4 "Professional Development Hour" or "PDH" shall mean a contact
5 hour of instruction or presentation relevant to professional
6 practice.

7 Section 4. Section 6 of the act, amended December 16, 1992
8 (P.L.1151, No.151), is amended to read:

9 Section 6. Practice by Firms and Corporations.--The practice
10 of engineering, of land surveying and of geology being the
11 function of an individual or of individuals working in concerted
12 effort, it shall be unlawful for any firm or corporation to
13 engage in such practice, or to offer to practice, or to assume
14 use or advertise any title or description, including the use of
15 the term "engineer" or "engineering" in its firm or corporate
16 name, conveying the impression that such firm or corporation is
17 engaged in or is offering to practice such profession, unless
18 the directing heads and employes of such firm or corporation in
19 responsible charge of its activities in the practice of such
20 profession are licensed and registered in conformity with the
21 requirements of this act, and whose name, seal and signature,
22 along with the date of signature, shall be stamped on all plans,
23 specifications, plats and reports issued by such firm or
24 corporation.

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