

1 TITLE 40 - PROFESSIONS AND OCCUPATIONS,
2 ENGINEERS AND SURVEYORS
3 CHAPTER 22
4

5 **SECTION 40-22-2.** Purpose; Regulation of Engineers and Surveyors.

6 In order to safeguard life, health, and property and to promote the public welfare, the practice of
7 engineering and/or the practice of surveying in South Carolina is subject to regulation in the public
8 interest. It is the policy of this State and the purpose of this chapter to encourage the development of
9 professional engineers and surveyors in this State and to promote the accountability for engineering and
10 surveying practice in a global economy. The State recognizes the need for ~~more~~-qualified engineers and
11 surveyors to support the local and global economy and, to that end, encourages efforts to increase access
12 to accredited education, the examinations, and the experience necessary and appropriate to protect the
13 health, safety, and welfare of South Carolina citizens and to support licensure as the basis of
14 accountability.

15
16 **SECTION 40-22-5.** Application of Chapter 1; conflicts.

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

21
22 **SECTION 40-22-10.** Board of Registration for Professional Engineers and Surveyors; membership and
23 qualifications; compensation; removal; meetings; liability.

24 (A) There is created the South Carolina State Board of Registration for Professional Engineers and
25 Surveyors under the administration of the Department of Labor, Licensing and Regulation. The purpose
26 of the ~~board~~Board is to protect the health, safety, and welfare of the public by ensuring that only properly
27 qualified and competent engineers and surveyors are licensed to practice, by promoting technical
28 competency and ethical standards consistent with the Rules of Professional Conduct applicable to
29 engineers and surveyors, and by appropriately disciplining those found in violation of laws governing
30 engineering and surveying as described in Regulation 49-300.

31 (B) The ~~board~~Board shall consist of eight members appointed by the Governor, recommendations for
32 appointment may be made by any individual or group, including the South Carolina Council of
33 Engineering and Surveying Societies. Five members must be professional engineers, at least two of whom
34 must be actively engaged in the practice of engineering; two members must be professional surveyors, at
35 least one of whom must be actively engaged in the practice of surveying; and one member must be from
36 the general public appointed in accordance with Section 40-22-40. Professional engineer and professional
37 surveyor members must be selected from a list of qualified candidates submitted to the Governor by the
38 South Carolina Council of Engineering and Surveying Societies. Members of the ~~board~~Board shall serve
39 for terms of five years and until their successors are appointed and qualify. No more than two engineers'
40 terms shall expire in any calendar year; no more than one surveyor's term shall expire in any calendar
41 year. In the event of a vacancy, the Governor shall appoint a person to fill the vacancy for the unexpired
42 portion of the term.

43 (C) Members of the Board shall meet one of the following qualifications:

44 ~~(1)~~ (1) Each engineering member of the ~~board~~Board must be a citizen of the United States and a
45 resident of South Carolina, must be licensed in this State, must have been engaged in the practice of
46 engineering in this State for at least twelve years, and must have been in responsible charge of important
47 engineering work for at least five years. Responsible charge of engineering teaching may be construed as
48 responsible charge of important engineering work.

1 (2) Each surveyor member of the ~~board-Board~~ must be a citizen of the United States and a resident of
2 this State, must be licensed in this State, ~~and~~ must have been engaged in the practice of surveying in this
3 State for at least twelve years-, and must have been in responsible charge of important surveying work for
4 at least five years. Responsible charge of surveying teaching may be construed as responsible charge of
5 important surveying work.

6 (3) The public member of the ~~board-Board~~ must be a citizen of the United States and a resident of
7 this State for at least twelve consecutive years.

8 (D) Board members must be compensated for their services at the usual rate for mileage, subsistence,
9 and per diem as provided by law for members of state boards, committees, and commissions and may be
10 reimbursed for actual and necessary expenses incurred in connection with and as a result of their work as
11 members of the ~~board-Board~~.

12 (E) The governor may remove a member of the ~~board-Board~~ pursuant to Section 1-3-240. Vacancies on
13 the ~~board-Board~~ must be filled for the unexpired portion of the term in the manner of the original
14 appointment.

15 (F)(1) The ~~board-Board~~ shall elect or appoint annually a chairman, a vice chairman, and a secretary.

16 (2) The ~~board-Board~~ shall meet at least two times a year and at other times upon the call of the
17 chairman or a majority of the ~~board-Board~~.

18 (3) A simple majority of the members of the ~~board-Board~~ eligible to vote constitutes a quorum;
19 however, if there is a vacancy on the ~~board-Board~~, a majority of the members serving constitutes a
20 quorum.

21 (4) A ~~board-Board~~ member is required to attend meetings or to provide proper notice and
22 justification of inability to do so. Unexcused absences from meetings may result in removal from the
23 ~~board-Board~~ as provided for in Section 1-3-240.

24 (G) Neither the ~~board-Board~~ nor any of its members, agents, or ~~department-Department~~ employees are
25 liable for acts performed in good faith during the course of their official duties.

26 (H) ~~(1) Notwithstanding the provisions of this section, before January 1, 2008, tThe board-Board shall~~
27 ~~assign numbers to the existing seats on the board-Board. The terms of all members of the board serving~~
28 ~~on July 1, 2007, must be adjusted as of January 1, 2008, in accordance with this subsection. (2) As of~~
29 ~~January 1, 2008, sSeats one and two must be filled by an engineer and the public member, respectively,~~
30 ~~and are for an initial term of two years. Seats three and four must be filled by an engineer and a surveyor,~~
31 ~~respectively, and are for an initial term of three years. Seats five and six must be filled by two engineers~~
32 ~~and are for an initial term of four years. Seats seven and eight are must be filled by an engineer and a~~
33 ~~surveyor, respectively, and are for an initial term of five years. Upon expiration of the initial terms~~
34 ~~provided for in this subsection, mMembers shall serve terms of five years in accordance with subsection~~
35 ~~(A)-(B).~~

36
37 **SECTION 40-22-20. Definitions.**

38 As used in this chapter:

39 (1) "ABET" means the Accreditation Board for Engineering and Technology. "EAC" means the
40 Engineering Accreditation Commission of ABET. "TAC" or "ETAC" means the Engineering Technology
41 Accreditation Commission of ABET.

42 (2) "Approved engineering curriculum" means an engineering program of four or more years
43 determined by the ~~board-Board~~ to be substantially equivalent to that of an EAC/ABET accredited
44 curriculum or the NCEES Engineering Education Standard.

45 ~~(3) RESERVED.~~

46 ~~(4)-(3)~~ "Board" means the South Carolina State Board of Registration for Professional Engineers and
47 Surveyors created pursuant to this chapter.

48 ~~(5)-(4)~~ "Branch office" means a place of business separate from the principal place of business where
49 engineering services or surveying services are provided. A specific project or construction site office is

1 not a branch office. Nothing contained in this chapter prevents a professional engineer or professional
2 surveyor from undertaking an engineering project or a surveying project anywhere in the State.

3 ~~(6)~~(5) "Current certificate of registration" means a license to practice which has not expired or has not
4 been revoked and which has not been suspended or otherwise restricted by the ~~board~~Board.

5 ~~(7)~~(6) "Department" means the Department of Labor, Licensing and Regulation.

6 ~~(8)~~(7) "Design coordination" includes the review and coordination of those technical submissions
7 prepared by others, including as appropriate and without limitation, consulting engineers, architects,
8 landscape architects, surveyors, and other professionals working under the direction of the engineer.

9 ~~(9)~~(8) "Direct responsibility", "direct supervisory control", "direct supervision", and "responsible
10 charge" all mean that there is a clear-cut personal connection to the project or employee supervised,
11 marked by firsthand knowledge and direct control and assumption of professional responsibility for the
12 work.

13 ~~(33)~~(9) "Emeritus engineer" or "emeritus surveyor" means a professional engineer or surveyor who has
14 been registered for fifteen consecutive years or longer and who is sixty-five years of age or older and who
15 has retired from active practice. ~~(34)~~ "Retired from active practice" means not engaging or offering to
16 engage in the practice of engineering or surveying as defined in this section.

17 (10) "Engaged in practice" means holding oneself out generally to the public as qualified and available
18 to perform engineering or surveying services.

19 ~~(10)~~(11) "Engineer" means a professional engineer as defined in this section.

20 ~~(11)~~(12) "Engineering surveys" include all minor survey activities required to support the sound
21 conception, planning, design, construction, maintenance, operation, and investigation of engineered
22 projects but exclude the surveying of real property for the establishment of land boundaries, rights-of-
23 way, and easements and the independent surveys or resurveys of general land masses.

24 ~~(12)~~(13) "Engineer-in-training" means a person who has qualified for and passed the Fundamentals of
25 Engineering examination as provided in this chapter and is entitled to receive a certificate as an engineer-
26 in-training.

27 (14) "Ethics" means conduct that is professionally right or morally befitting; conforming to
28 professional standards of conduct.

29 ~~(13)~~(15) "Firm" means a business entity functioning as a sole proprietorship, partnership, limited
30 liability partnership, professional association, professional corporation, business corporation, limited
31 liability company, joint venture, or other legally constituted organization which practices or offers to
32 practice engineering or surveying, or both.

33 ~~(14)~~(16) "Fraud or deceit" means intentional deception to secure gain, through attempts deliberately to
34 conceal, mislead, or misrepresent the truth in a manner that others might take some action in reliance or
35 an act which provides incorrect, false, or misleading information on which others might rely.

36 ~~(15)~~(17) "GIS" means geographic information systems.

37 ~~(16)~~(18) "Good character" refers to a person of good moral character and one who has not been
38 convicted of a violent crime, as defined in Section 16-1-60, or a crime of moral turpitude.

39 ~~(17)~~(19) "Gross negligence" means an act or course of action, or inaction, which denotes a lack of
40 reasonable care and a conscious disregard or indifference to the rights, safety, or welfare of others and
41 which does or could result in financial loss, injury, or damage to life or property.

42 ~~(18)~~(20) "Incompetence" means the practice of engineering or surveying by a licensee determined to
43 be either incapable of exercising ordinary care and diligence or lacking the ability and skill necessary to
44 properly perform the duties undertaken.

45 ~~(19) "Surveyor in training" means a person who has qualified for and passed the Fundamentals of~~
46 ~~Surveying examination as provided in this chapter and is entitled to receive a certificate as a surveyor in~~
47 ~~training.~~

48 ~~(20)~~(21) "Licensed" means authorized by this ~~board~~Board, pursuant to the statutory powers delegated
49 by the State to this ~~board~~Board, to engage in the practice of engineering, or surveying, or engineering and
50 surveying, as evidenced by the ~~board~~Board's certificate issued to the registered license holder.

1 ~~(21)~~-(22) "Misconduct" means the violation of a provision of this chapter or of a regulation
2 promulgated by the ~~board~~ Board pursuant to this chapter.

3 ~~(22)~~-(23) "NCEES examination" means those written or electronic tests developed and administered by
4 the National Council of Examiners for Engineering and Surveying for the purpose of providing one
5 indication of competency to practice engineering.

6 | ~~(24)~~ "Person" means an individual, firm, partnership, or corporation.

7 ~~(23)~~-(25) "Practice of engineering" means any service or creative work, the adequate performance of
8 which requires engineering education, training, and experience in the application of special knowledge of
9 the mathematical, physical, and engineering sciences to such services or creative work as commissioning,
10 consultation, investigation, expert technical testimony, evaluation, design and design coordination of
11 engineering works and systems, design for development and use of land, air and water, performing
12 engineering surveys and studies, and the review of construction for the purpose of monitoring compliance
13 with drawings and specifications, any of which embraces such services or work, either public or private,
14 in connection with any utilities, structures, buildings, machines, equipment, processes, work systems
15 projects, and industrial or consumer products or equipment of control systems, communications,
16 mechanical, electrical, hydraulic, pneumatic, chemical, environmental, or thermal nature, insofar as they
17 involve safeguarding life, health, or property, and including such other professional services as may be
18 necessary to the planning, progress, and completion of any engineering services. The mere execution, as a
19 contractor, of work designed by a professional engineer or supervision of the construction of such work as
20 a foreman or superintendent is not considered the practice of engineering.

21 (a) A person must be construed to practice or offer to practice engineering, within the meaning and
22 intent of this chapter who:

23 ~~(a)~~-(1) practices any branch of the profession or discipline of engineering;

24 ~~(b)~~-(2) by verbal claim, sign, advertisement, letterhead, card, or in any other way represents
25 himself to be a professional engineer or through the use of some other title implies that he is a
26 professional engineer or that he is licensed under this chapter; or

27 ~~(c)~~-(3) holds himself out as able to perform or does perform any engineering service or work or
28 any other professional service designated by the practitioner or which is recognized as engineering.

29 ~~(24)~~-(26) "Practice of TIER A surveying" means providing professional services including, but not
30 limited to, consultation investigation, testimony evaluation, expert technical testimony, planning,
31 mapping, assembling, and interpreting reliable scientific measurements and information relative to the
32 location, size, shape, or physical features of the earth, the space above the earth, or part of the earth, and
33 utilization and development of these facts and interpretation into an orderly survey map, site plan, report,
34 description, or project. The practice of TIER A surveying consists of three separate disciplines: land
35 surveying, photogrammetry, and geographic information systems. A surveyor may be licensed in one or
36 more of the disciplines and practice is restricted to only the discipline or disciplines for which the land
37 surveyor is licensed. The practice of TIER A surveying does not include the use of geographic
38 information systems to create maps pursuant to Section 40-22-290, analyze data, or create reports. The
39 scope of the individual disciplines are identified as follows:

40 (a) Land surveyor:

41 (1) locates, relocates, establishes, reestablishes, lays out, or retraces any property line or boundary
42 of any tract of land or any road, right-of-way, easement, alignment, or elevation of any fixed works
43 embraced within the practice of land surveying, or makes any survey for the subdivision of land;

44 (2) determines, by the use of principles of land surveying, the position for any survey monument
45 or reference point; or sets, resets, or replaces such monument or reference; determines the topographic
46 configuration or contour of the earth's surface with terrestrial measurements; conducts hydrographic
47 surveys;

48 (3) conducts geodetic surveying which includes surveying for determination of geographic
49 position in an international three-dimensional coordinate system, where the curvature of the earth must be
50 taken into account when determining directions and distances; geodetic surveying includes the use of
51 terrestrial measurements of angles and distances, as well as measured ranges to artificial satellites.

1 (b) A photogrammetric surveyor determines the configuration or contour of the earth's surface or the
2 position of fixed objects on the earth's surface by applying the principles of mathematics on remotely
3 sensed data, such as photogrammetry.

4 (c) A geographic information systems surveyor creates, prepares, or modifies electronic or
5 computerized data including land information systems and geographic information systems relative to the
6 performance of the activities described in subitems (a) and (b).

7 (d) An individual licensed only as a geodetic surveyor before July 1, 2004, determines the
8 geographic position in an international three-dimensional coordinate system, where the curvature of the
9 earth must be taken into account when determining directions and distances; geodetic surveying includes
10 the use of terrestrial measurements of angles and distances, as well as measured ranges to artificial
11 satellites. A geodetic surveyor is not authorized to perform the other services a land boundary surveyor is
12 authorized to perform.

13 ~~(25)-(27)~~ "Practice of TIER B land surveying" includes all rights and privileges of the TIER A
14 surveying discipline defined in Section 40-22-20~~(24)-(26)~~(a); and in addition to these rights and
15 privileges, TIER B land surveying includes, for subdivisions, preparing and furnishing subdivision plans
16 for sedimentation and erosion control and storm drainage systems, if the systems do not require the
17 structural design of system components and are restricted to the use, where relevant, of any standards
18 prescribed by local, state, or federal authorities. Regulations defining the scope of the additional powers
19 granted to TIER B land surveyors must be promulgated by the ~~board~~ Board.

20 ~~(26)-(28)~~ "Private practice firm" means a firm as defined herein through which the practice of
21 engineering or surveying would require a certificate of authorization as described in this chapter.

22 ~~(27)-(29)~~ "Private practitioner" means a person who individually holds himself out to the general public
23 as able to perform, or who individually does perform, the independent practice of engineering or
24 surveying.

25 ~~(28)-(30)~~ "Professional engineer" means a license holder who, by reason of his or her special
26 knowledge of the mathematical and physical sciences and the principles and methods of engineering
27 analysis and design, acquired by professional education and practical experience, is qualified to practice
28 engineering as defined in this section, ~~all~~ and as attested by his or her ~~legal~~ license and registration as a
29 professional engineer in this State.

30 ~~(29)-(31)~~ "Professional surveyor" means a person-license holder who is qualified to practice any
31 discipline of TIER A or TIER B surveying in this State, as defined in this section and as attested by his or
32 her ~~legal~~ license and registration as a TIER A or TIER B professional surveyor in this State.

33 ~~(19)-(32)~~ "Surveyor-in-training" means a person who has qualified for and passed the Fundamentals of
34 Surveying examination as provided in this chapter and is entitled to receive a certificate as a surveyor-in-
35 training.

36 ~~(30)-(33)~~ "Professions of architecture, landscape architecture, and geology" mean those specified
37 professions as defined by the laws of this State and applicable regulations.

38 ~~(31)-(34)~~ "Registered" means the engineer or surveyor is licensed and registered in the State.

39 ~~(32)-(35)~~ "Resident professional engineer" or "resident professional surveyor", with respect to principal
40 office and branch office requirements, means a licensed practitioner who spends a majority of each
41 normal workday in the principal or branch office.

42
43 **SECTION 40-22-30. Practice without a license; penalties.**

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

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

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

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

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

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

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

14 (D) Brokering or coordinating of engineering and/or surveying services for a fee is prohibited.

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

16 **SECTION 40-22-35. Prohibition from entering into contract for professional services on any basis other**
17 **than direct negotiations; exceptions.**

18 A registered engineer or surveyor may not enter into a contract for professional services on public work
19 on any basis other than direct negotiation thereby precluding participation in any system requiring a
20 comparison of compensation. However, a registered engineer or surveyor may state compensation to a
21 prospective client as part of direct negotiation after their selection as the most qualified provider and
22 where engineering and surveying services necessary to protect the public health, safety, and welfare have
23 been defined.

24
25 **SECTION 40-22-40. Nomination of ~~board~~ Board member candidates from general public.**

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

29
30 **SECTION 40-22-50. Duties of ~~board~~ Board; promulgation of examination, licensing, and registration**
31 **fees; records; register of applications for certificates of authorization; roster.**

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

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

39 (C) The ~~board~~ Board shall keep a record of its proceedings, a register of all applications for individual
40 licenses, and a register of all applications for certificates of authorization. The records of the ~~board~~ Board
41 are prima facie evidence of the proceedings of the ~~board~~ Board set forth in the record. A transcript of the
42 proceedings, certified by the ~~administrator~~ Administrator or the ~~director~~ Director under seal, is admissible
43 in evidence with the same force and effect as the original.

44 (1) For professional licensure applications, the register shall state:

45 (a) the name, age, and residence of each applicant;

46 (b) the date and type of the application;

- 1 (c) the business address and telephone number of the applicant;
- 2 (d) the applicant's educational and other qualifications;
- 3 (e) whether or not an examination was required;
- 4 (f) whether the applicant was rejected;
- 5 (g) whether a license to practice was granted;
- 6 (h) the date of the action ~~of~~ by the ~~board~~ Board; and
- 7 (i) other information considered necessary by the ~~board~~ Board.

8 (2) For applications requesting a certificate of authorization, the register shall state:

- 9 (a) the name and type of business entity;
- 10 (b) the date of application;
- 11 (c) the business address and telephone number;
- 12 (d) the address for service of due process;
- 13 (e) the date of action by the ~~board~~ Board;
- 14 (f) approval or rejection of the application; and
- 15 (g) other information considered necessary by the ~~board~~ Board.

16 (D) ~~Annually~~ ~~†~~ ~~The~~ ~~board~~ ~~Board~~ shall ~~prepare~~ maintain an updated roster or supplements to the roster
17 containing the current names and places of business of all professional engineers and all professional
18 surveyors. ~~The roster and supplements to the roster also must provide as well as~~ a listing of business
19 entities holding a valid certificate of authorization to practice engineering or surveying, or both, in this
20 State.

21
22 **SECTION 40-22-60.** Rules and regulations; seal.

23 (A) The ~~board~~ Board may adopt rules governing its proceedings and may promulgate regulations
24 necessary to carry out the provisions of this chapter. The ~~board~~ Board shall adopt and have an official
25 seal.

26 (B) The ~~board~~ Board may promulgate regulations defining the requirements for licensure for each of
27 the surveying disciplines enumerated in Section 40-22-20~~(24)~~ (26).

28
29 **SECTION 40-22-70.** Additional powers and duties.

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

32
33 **SECTION 40-22-75.** Waiver of licensing requirements during emergencies.

34 The ~~board~~ Board may waive all licensing and credentialing requirements under ~~state~~ State law for the
35 period of a declared national or state public emergency, not to exceed ninety days. The ~~board~~ Board shall
36 establish the conditions as may be appropriate to enable engineers properly licensed in other jurisdictions
37 having like standards as those currently in effect in this State or jurisdictions that meet the NCEES Model
38 Law standards to render services in the geographic areas identified in the order declaring the emergency.

39
40 **SECTION 40-22-80.** Investigations of violations; subpoenas; administration of oaths and taking of
41 testimony; charges.

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

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

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

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

14
15 **SECTION 40-22-90.** Presentation of investigation results; hearing; notification of accused.

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

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

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

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

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

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

32
33 **SECTION 40-22-100.** Cease and desist orders; application for temporary restraining order.

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

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

44
45 **SECTION 40-22-110.** Penalties; grounds.

46 (A) The ~~board-Board~~ may seek administrative fines, pursuant to Section 40-1-120 or seek criminal
47 penalties against a person or firm found guilty of unlicensed practice of engineering or surveying. In
48 addition to the grounds provided for in Section 40-1-110, the ~~board-Board~~ may cancel, suspend, refuse,

1 revoke, or restrict a license as well as reprimand, fine, or require re-examination of an individual who is
2 found guilty of:

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

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

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

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

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

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

12 (B) The license of a person adjudged mentally incompetent is deemed automatically suspended ~~upon~~
13 ~~the adjudication~~ until the person is adjudged as being restored to mental competency by a court of
14 competent jurisdiction or in any other manner provided by law.

15
16 **SECTION 40-22-115.** Jurisdiction of ~~board~~Board.

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

21
22 **SECTION 40-22-120.** Civil fines and other penalties.

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

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

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

32
33 **SECTION 40-22-130.** Grounds for denial of license.

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

36
37 **SECTION 40-22-140.** Prior criminal record.

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

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

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

45
46 **SECTION 40-22-160.** Appeal.

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

3
4 **SECTION 40-22-170.** Costs.

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

8
9 **SECTION 40-22-180.** Payment of fines; interest.

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

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

16
17 **SECTION 40-22-190.** Confidentiality of proceedings.

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

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

24 A person who violates a provision of this chapter or a regulation promulgated pursuant to this chapter
25 or who commits any of the following violations is guilty of a misdemeanor and, upon conviction, must be
26 imprisoned for not more than six months or fined not less than five hundred dollars and not more than two
27 thousand dollars for each violation, or both; however, the total imposed for these violations may not
28 exceed ten thousand dollars:

29 (1) practices or offers to practice engineering or surveying in this State without being registered in
30 accordance with this chapter;

31 (2) presents or attempts to use as his or her own the certificate of registration or the seal of another;

32 (3) gives false or forged evidence of any kind to the ~~board~~Board or to a member of the ~~board~~Board in
33 obtaining a certificate of registration;

34 (4) falsely impersonates another registrant of like or different name; or

35 (5) attempts to use an expired or revoked certificate of registration.

36
37 **SECTION 40-22-210.** Injunctions; rule to show cause.

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

41 (1) It is not necessary to establish the absence of an adequate remedy of law.

42 (2) Board members are not personally liable for damages resulting from a wrongful injunction.

43 (3) The initial order of injunction must include a rule to show cause and is temporary pending the
44 return to the rule.

45
46 **SECTION 40-22-220.** Eligibility requirements for license as engineer.

1 (A) A person having the necessary qualifications prescribed in this chapter to entitle him to registration
2 is eligible for licensure. A person must be certified as an engineer-in-training as a prerequisite to
3 licensure.

4 (B) To be eligible for certification as an engineer-in-training, an applicant must be of good character
5 and reputation and be able to ~~effectively~~ communicate effectively in the English language. The minimum
6 evidence satisfactory to the ~~board~~ Board that an applicant is qualified for certification as an engineer-in-
7 training is:

8 ~~(1) graduation in an EAC/ABET accredited engineering curriculum of four or more scholastic years
9 and passing of NCEES examinations as required by the board; or~~

10 ~~—(2) graduation in a baccalaureate degree program and completion of an engineering curriculum found
11 to be substantially equivalent to an engineering curriculum accredited by EAC/ABET or graduation in a
12 TAC/ABET accredited engineering technology curriculum of four or more years from a school or college
13 approved by the board as being in satisfactory standing and passing NCEES examinations as required by
14 the board.~~

15 (1) graduation in an EAC/ABET accredited engineering curriculum of four or more years and
16 passing NCEES Fundamentals of Engineering examinations as required by the Board; or

17 (2) graduation in a bachelor's degree program and completion of an engineering curriculum found to
18 be substantially equivalent to an engineering curriculum accredited by EAC/ABET and passing the
19 NCEES Fundamentals of Engineering examination; or

20 (3) graduation in a bachelor's degree program and completion of an engineering curriculum found to
21 meet the NCEES Engineering Education Standard and passing the NCEES Fundamentals of Engineering
22 examination; or

23 (4) graduation in a TAC /ABET accredited engineering technology curriculum of four or more years
24 from a school or college approved by the Board as being in satisfactory standing and passing the NCEES
25 Fundamentals of Engineering examination as required by the Board.

26 (C) To be eligible for licensure and registration as a professional engineer, an applicant must be of
27 good character and reputation and be able to ~~effectively~~ communicate effectively in the English language.
28 When the evidence presented in the application does not appear conclusive to the ~~board~~ Board or does not
29 warrant the issuing of a license, the applicant may be required to present further evidence for
30 consideration by the ~~board~~ Board. The applicant also shall meet the requirements of the other pertinent
31 sections of this chapter. The minimum evidence satisfactory to the ~~board~~ Board that an applicant is
32 qualified for licensure as a professional engineer is:

33 (1) graduation in an EAC/ABET accredited engineering curriculum of four or more ~~scholastic~~ years
34 from a school or college approved by the ~~board~~ Board as being in satisfactory standing, ~~and~~ a specific
35 record after graduation of ~~an additional~~ four or more years of progressive experience in engineering work
36 supervised by a licensed engineer or of a character satisfactory to the ~~board~~ Board, indicating that the
37 applicant is competent to practice engineering, ~~(in counting years of experience, the board may give one~~
38 ~~year credit for satisfactory completion of a Master's Degree in engineering or maximum credit of two~~
39 ~~years for satisfactory completion of the doctorate level degree in engineering),~~ and passing NCEES
40 examinations required by the ~~board~~ Board; or

41 (2) graduation in ~~baccalaureate~~ bachelor's degree program and completion of an engineering
42 curriculum found to be substantially equivalent to an engineering curriculum accredited by EAC/ABET, a
43 specific record after graduation of four or more years of progressive experience in engineering work
44 supervised by a licensed engineer or of a character satisfactory to the ~~board~~ Board, indicating that the
45 applicant is competent to practice engineering, and ~~passing a written or electronic examination designed~~
46 ~~to show knowledge and skill approximating that attained through graduation in an EAC/ABET accredited~~
47 ~~four year engineering curriculum, and then passing the NCEES examinations required by the ~~board~~~~
48 Board; or

49 (3) graduation in a bachelor's degree program and completion of an engineering curriculum found to
50 meet the NCEES Engineering Education Standard, a specific record after graduation of four or more years
51 of progressive experience in engineering work supervised by a licensed engineer or of a character

1 satisfactory to the Board, indicating that the applicant is competent to practice engineering, and passing
2 NCEES examinations required by the Board.

3 (4) If not needed to satisfy education requirements, a master's degree in engineering from a school or
4 college approved by the Board as being in satisfactory standing, may count as one year of experience
5 upon approval of the Board. If not needed to satisfy education requirements, a doctoral degree in
6 engineering from a school or college approved by the Board as being in satisfactory standing may count
7 as a maximum of two years of experience upon approval of the Board.

8 (D) Experience Requirements prior to Examination The following individuals shall be admitted to an
9 examination in the Principles and Practice of engineering and, upon passing such examination, shall be
10 licensed as a professional engineer, if otherwise qualified:

11 (1) An engineer-in-training with a bachelor's degree in engineering accredited by EAC/ABET and
12 with a specific record after graduation of four or more years of progressive experience in engineering
13 work supervised by a licensed engineer or of a character satisfactory to the Board, indicating that the
14 applicant is competent to practice engineering.

15 (2) An engineer-in-training who satisfies one of the following education and experience
16 requirements:

17 (a) Obtains a bachelor's degree from a school or college approved by the board as being in
18 satisfactory standing then earns a master's degree in engineering from a school or college that offers an
19 EAC/ABET accredited undergraduate degree in the same field of study, and establishes a specific record
20 after the master's degree of three or more years of progressive experience in engineering work supervised
21 by a licensed engineer or of a character satisfactory to the Board, indicating that the applicant is
22 competent to practice engineering; or

23 (b) Obtains a master's degree in engineering from an EAC/M-ABET-accredited program,
24 establishes a specific record after graduation of three or more years of progressive experience in
25 engineering work supervised by a licensed engineer or of a character satisfactory to the Board, indicating
26 that the applicant is competent to practice engineering.

27 (3) An engineer-in-training with an earned doctoral degree in engineering acceptable to the Board
28 and with a specific record after the doctoral degree of two or more years of progressive experience in
29 engineering work supervised by a licensed engineer or of a character satisfactory to the Board, indicating
30 that the applicant is competent to practice engineering; or

31 (4) An individual with an earned doctoral degree in engineering acceptable to the Board and with a
32 specific record after the doctoral degree of two or more years of progressive experience in engineering
33 work supervised by a licensed engineer or of a character satisfactory to the Board, indicating that the
34 applicant is competent to practice engineering.

35
36 **SECTION 40-22-222.** Licensing of existing engineers; review process.

37 (A) Through June 30, 2020, individuals who have graduated in an ETAC/ABET or TAC/ABET
38 accredited engineering technology curriculum of four or more years and who have a specific record after
39 graduation of eight or more years of experience in engineering work of a character satisfactory to the
40 board-Board, who are of good character and reputation, who can communicate effectively in the English
41 language may take the NCEES Principles of Practice and the Fundamentals of Engineering examinations
42 and become an associate engineer licensed for Category B practice. An associate engineer licensed for
43 Category B practice as of July 1, 2006, may continue to practice under the conditions provided for in
44 Regulation 49-202(B) or an identical successor regulation. As of July 1, 2020, Category B licensure
45 ceases to exist.

46 (B) Through June 30, 2020, individuals who have graduated in a ~~baccalaureate~~-bachelor's
47 ETAC/ABET or TAC/ABET accredited curriculum and who have successfully passed the NCEES
48 Principles of Practice and Fundamentals of Engineering examinations, and who have completed eight or
49 more years of qualifying experience as an engineer and who are otherwise qualified for licensure, may
50 present their credentials for evaluation by a committee of Professional Engineers licensed in this State

1 composed of no less than three practicing engineers, a member or former member of the ~~board-Board~~, and
2 a professor of engineering. Applicants for licensure under this subsection must demonstrate sufficient
3 rigor in their scope or depth of qualifying experience, such that the committee can determine that they can
4 meet established standards of engineering practice. Only applicants who are approved under the review
5 process may be licensed as professional engineers. Absent a showing of a change ~~or~~ of qualifications to
6 correct deficiencies identified in the review process, no application may be reviewed by the committee
7 more than twice.

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

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

14 (A) A person having the necessary qualifications prescribed in this chapter to entitle him for a license is
15 eligible for licensure.

16 (B) To be eligible for certification as a surveyor-in-training, an applicant must be of good character and
17 reputation and be able to ~~effectively~~ communicate effectively in the English language. When the evidence
18 presented in the application does not appear to the ~~board-Board~~ conclusive nor warranting the issuing of a
19 certificate of registration, the applicant may be required to present further evidence for the consideration
20 of the ~~board-Board~~. The applicant also must meet the requirements of the other pertinent sections of this
21 chapter. The minimum evidence satisfactory to the ~~board-Board~~ that an applicant is qualified for
22 certification as a surveyor-in-training is:

23 (1) graduation from a school or college of four or more years with a ~~board-Board~~-approved degree,
24 an ABET commission accredited curriculum in a related field, ~~or a substantially equivalent program,~~
25 including not less than twelve semester hours or the equivalent in quarter hours of discipline-specific
26 courses satisfactory to the ~~board-Board~~ in each of the disciplines described in Section 40-22-20(24)-(26)
27 for which the applicant is requesting licensure, ~~a specific record of one or more years of progressive~~
28 ~~practical experience of a character satisfactory to the board and performed under a practicing registered~~
29 ~~professional surveyor and has passed the written or electronic examinations in the Fundamentals of~~
30 ~~Surveying examination~~ as prescribed by the ~~board-Board~~.

31 (C) To be eligible for licensure and registration as a professional surveyor TIER A, an applicant must
32 be of good character and reputation and be able to ~~effectively~~ communicate effectively in the English
33 language. When the evidence presented in the application does not appear to the ~~board-Board~~ conclusive
34 or does not warrant the issuing of a certificate of registration, the applicant may be required to present
35 further evidence for the consideration of the ~~board-Board~~. The applicant also must meet the requirements
36 of the other pertinent sections of this chapter. The minimum evidence satisfactory to the ~~board-Board~~ that
37 an applicant is qualified for licensure as a TIER A Professional Surveyor is:

38 (1) graduation from a school or college of four or more years with a ~~board-Board~~-approved degree,
39 an ABET commission accredited curriculum in a related field, ~~or a substantially equivalent program,~~
40 including completed discipline-specific courses of not less than twelve semester hours or the equivalent in
41 quarter hours satisfactory to the ~~board-Board~~ in each of the disciplines described in Section 40-22-
42 20(24)(26) for which the applicant is requesting licensure, a specific record of four or more years of
43 progressive practical experience of a character satisfactory to the ~~board-Board~~ and performed under a
44 practicing registered professional surveyor, and passing ~~of~~ the NCEES Fundamentals of Surveying
45 examinations and the NCEES ~~written or electronic examinations in the Principles and Practices of~~
46 ~~Surveying examination~~ in the discipline for which the applicant is requesting licensure ~~as prescribed by~~
47 ~~the board.~~

48 (D) To be eligible for licensure and registration as a professional land surveyor TIER B, an applicant
49 must be of good character and reputation and be able to ~~effectively~~ communicate effectively in the

1 English language. The minimum evidence satisfactory to the ~~board-Board~~ that an applicant is qualified for
2 licensure as a TIER B Professional Land Surveyor is:

3 (1) graduation from a school or college of four or more years with a ~~board-Board~~-approved degree,
4 including in the curriculum not less than fifteen semester hours or the equivalent in quarter hours of
5 surveying, mapping, hydraulics, and hydrology courses satisfactory to the ~~board-Board~~, or a bachelor of
6 engineering technology degree in an ABET commission accredited curriculum of surveying or
7 engineering technology, including in the curriculum not less than twelve semester hours or the equivalent
8 in quarter hours of surveying, mapping, hydraulics, and hydrology courses satisfactory to the ~~board-Board~~
9 ~~Board~~, a specific record of four or more years of progressive practical experience of a character
10 satisfactory to the ~~board-Board~~ and performed under a practicing registered surveyor, and passing of the
11 ~~NCEES Surveyor in Training-Fundamentals of Surveying examinations and the written or electronic~~
12 ~~examinations in the NCEES Principles and Practices of Surveying examination. as prescribed by the~~
13 ~~board.~~

14 (2) ~~Persons registered as both Professional Land Surveyor and Professional Engineer are classified~~
15 ~~TIER B Professional Surveyors.~~

16 (E) The applicant is required to take such state specific examinations as the Board considers necessary
17 to establish that his or her qualifications meet the requirements of this chapter and the regulations
18 promulgated by the Board in compliance with Section 40-22-230(C).

19
20 **SECTION 40-22-230.** Application forms; references; ~~written~~ examinations; reexaminations; issuance of
21 certificate of registration; reissuance of revoked certificate.

22 (A) Applications for licensure must be on forms prescribed and furnished by the ~~board-Board~~ and must
23 contain statements ~~made under oath~~ showing the applicant's education and a detailed summary of his or
24 her technical work.

25 (1) The application for engineering licensure must contain no fewer than five references of whom
26 three or more are licensed engineers having personal knowledge of the applicant's engineering experience
27 or other references as approved by the Board. In addition, the application must contain references to
28 verify each employment period. The ~~board-Board~~ shall solicit comments from references furnished; these
29 comments must be confidential and privileged information for use only by the ~~board-Board~~.

30 (2) The application for surveying licensure must contain no fewer than five references of whom three
31 or more must be licensed surveyors having personal knowledge of the applicant's surveying experience or
32 other references as approved by the Board. In addition, the application must contain references to verify
33 each employment period. The ~~board-Board~~ shall solicit comments from references furnished; these
34 comments must be confidential and privileged information for use only by the ~~board-Board~~.

35 (B) When ~~written~~ examinations are required, they must be held at the time and place the ~~board-Board~~
36 determines. Examinations must be given for the purpose of determining the qualifications of applicants
37 for licensure separately in engineering and surveying.

38 (C) A person who holds a certificate of registration to engage in the practice of engineering or
39 surveying issued on comparable qualifications from a state, territory, or possession of the United States,
40 or of a foreign country, must be given comity consideration. The applicant is required to take such
41 examinations as the ~~board-Board~~ considers necessary to establish that his or her qualifications meet the
42 requirements of this chapter and the regulations promulgated by the ~~board-Board~~; however, a surveying
43 applicant must pass an ~~written~~ examination including questions of law, procedures, and practices
44 pertaining to the practice of surveying in this State.

45 (D) A candidate who has failed an examination may apply for re-examination at the next examination
46 date and must be re-examined with payment of an additional fee sufficient to cover the cost of re-
47 examination to be determined by the board in regulation after a period of time determined by the Board,
48 but no earlier than three months following the date of the failed examination, and no more than three
49 times in any calendar year; and must pay all applicable examination fees. A candidate for licensure who
50 has failed the same topical examination two times shall provide evidence satisfactory to the ~~board-Board~~

1 that the candidate has taken ~~steps such as additional schooling, classes, undergraduate college courses,~~
2 attended seminars, or accomplished self-study that will enhance the candidate's prospects for passing the
3 exam to better prepare the candidate for a third examination on the same topical subject. The ~~board~~ Board
4 may refuse further examination ~~unless until the~~ a candidate failing the same topical examination twice has
5 ~~shown provides acceptable evidence, satisfactory to the board that measures have been taken to enhance~~
6 ~~the candidate's chances of success. A new application is required of a candidate having failed the same~~
7 ~~topical examination three times for a new determination by the board as to whether the candidate has the~~
8 ~~necessary experience and other qualifications for admittance to further examination.~~ A candidate who has
9 failed an examination three times must submit a new application.

10 (E) The ~~board~~ Board shall issue a certificate of registration upon payment of the registration fee as
11 ~~provided in this chapter to an applicant who, in the opinion of the board,~~ has satisfactorily met all the
12 requirements of this chapter. In the case of a professional surveyor, the certificate authorizes the practice
13 of TIER A or TIER B surveying as applicable. A certificate of registration must state the full name of the
14 licensee; and have a serial license number, ~~and must be signed by the chairman and the secretary of the~~
15 ~~board under seal of the board.~~

16 (F) The issuance of a certificate of registration by the ~~board~~ Board is prima facie evidence that the
17 person is licensed and is entitled to all the rights and privileges of a professional engineer or of a
18 professional surveyor while the license remains unrevoked or unexpired.

19 (G) The ~~board~~ Board, for sufficient reason, may reissue a certificate of registration to a person whose
20 license has been revoked if a majority of the members of the ~~board~~ Board vote in favor of reissuance. A
21 new certificate of registration to replace a revoked license or a certificate which has become lost,
22 destroyed, or mutilated may be issued, subject to the rules of the ~~board~~ Board, and a charge to be
23 determined by the ~~board~~ Board in regulation must be made for the issuance.

24
25 **SECTION 40-22-240.** Renewal of registration; fees and late fees; lapsed license; continuing professional
26 competency requirement.

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

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

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

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

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

4
5 **SECTION 40-22-245.** South Carolina Engineers and Surveyors Education and Research Fund; funding;
6 report of expenditures.

7
8 (A) The ~~board~~Board may allocate up to ten dollars of each renewal fee to the South Carolina Engineers
9 and Surveyors Education and Research Fund, which must be established as a separate and distinct account
10 and used exclusively for:

11 (1) advancement of education and research for the benefit of individuals and firms licensed under
12 this chapter and for individuals in training to become licensed;

13 (2) analysis and evaluation of factors that affect the engineering and surveying professions in this
14 State and activities that support initiatives of the ~~board~~Board; and

15 (3) dissemination of the results of the research.

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

19
20 **SECTION 40-22-250.** Certificate of authorization to practice as firm; conditions; application and
21 registration fee; discipline.

22 (A) The practice of or offer to practice professional engineering or surveying through a firm is
23 permitted only through entities holding a valid certificate of authorization issued by the ~~board~~Board. For
24 the purposes of this section a certificate of authorization is also required for a firm practicing in this State
25 under a fictitious name. However, when an individual is practicing engineering or surveying in his or her
26 name as individually licensed, that person is not required to obtain a certificate of authorization.

27 (B) The practice or offer to practice of engineering and surveying by individual professional engineers
28 or professional surveyors licensed under this chapter through a firm offering engineering services or
29 surveying services to the public is permitted, provided if:

30 (1) one or more of the corporate officers, ~~in the case of a corporation,~~ or one or more of the principal
31 owners, or a full-time licensed employee, ~~in the case of other firms,~~ are designated as being responsible
32 for the professional services regulated by this ~~board~~Board and are licensed under this chapter;

33 (2) all personnel of the firm who act on behalf of the firm as professional engineers or surveyors in
34 this State are licensed under this chapter; and

35 (3) the firm has been issued a certificate of authorization by the ~~board~~Board as required by this
36 section.

37 (C) Before the issuance of a certificate of authorization, the ~~board~~Board must be in receipt of the firm's
38 appropriate documentation issued by the Secretary of State.

39 (D) A firm desiring a certificate of authorization shall file with the ~~board~~Board an application on forms
40 provided by the ~~board~~Board accompanied by the registration fee as provided in regulation. Each
41 certificate of authorization must be renewed biennially beginning April 1, 2009. A renewal form provided
42 by the ~~board~~Board must be completed and submitted with the biennial registration fee, the fee being an
43 amount as provided in regulation.

44 (E) Disciplinary action against a firm must be administered in the same manner and on the same
45 grounds as disciplinary action against an individual. No firm is relieved of responsibility for conduct or
46 acts of its agents, officers, or employees by reason of its compliance with this section, and an individual
47 practicing engineering or surveying is not relieved of responsibility for professional services performed
48 by reason of his or her employment or relationship with the firm.

49 (F) Professional engineers and professional surveyors engaged in practice through firms may maintain
50 branch offices in addition to a principal place of business. Each principal place of business as well as each

1 branch office providing services in this State must have a resident professional engineer in responsible
2 charge of engineering work or a resident professional surveyor in responsible charge of the field and
3 office surveying work provided. A professional engineer must supervise the engineering activities of each
4 branch office and a professional surveyor must supervise the surveying activities of each branch office.
5 The resident professional engineer or resident professional surveyor is considered in residence in only one
6 place of business at a given time.

7 ~~(F)~~~~(G)~~ Nothing in this section may be construed to prohibit firms from joining together to offer
8 engineering or surveying services to the public, if each separate entity providing the services in this State
9 otherwise meets the requirements of this section. For firms practicing as a professional corporation under
10 the laws of this State, the joint practice of engineering or surveying or both with the professions of
11 architecture, landscape architecture, and geology is specifically approved by the ~~board~~Board.

12 ~~(G)~~~~(H)~~ If the requirements of this section are met, the ~~board~~Board shall issue a certificate of
13 authorization to the firm, and the firm may contract for and collect fees for professional engineering and
14 or surveying services. The ~~board~~Board, however, may refuse to issue a certificate or suspend or revoke
15 an existing certificate for due cause. A person or firm aggrieved by an adverse determination of the ~~board~~
16 Board may file an appeal as provided for in this chapter.

17 ~~(H)~~~~(I)~~ Nothing in this section may be construed to mean that a firm may practice or offer to practice
18 engineering or surveying without meeting individual licensure.

19
20 **SECTION 40-22-260. Temporary licenses and certificates of authorization;** ~~branch offices.~~

21
22 (A) Upon application to and approval by the ~~board~~Board and payment of the fee provided in
23 regulation, the ~~board~~Board shall grant a temporary license for engineering work on one specified project
24 in this State for a period not to exceed one year to an engineer who has recently become a resident of this
25 State, or is a nonresident having no established place of business in this State, who meets the qualification
26 requirements for licensure in this State and who holds a valid license to practice in another state. An
27 engineer may not renew a temporary certificate at its expiration date and may not apply for temporary
28 licensure in connection with more than one specific project in any three-year period.

29 ~~(B)~~~~(4)~~ Upon application to and approval by the ~~board~~Board and payment of the fee provided in
30 regulation, the ~~board~~Board shall grant a temporary certificate of authorization to a firm ~~for work on one~~
31 ~~specified project in this State for a period not to exceed one year, subject to the following:~~

32 (1) This temporary certificate of authorization shall be for work on one specified project in this State
33 for a period not to exceed one year.

34 (2) This temporary certificate may be granted only to an out-of-state firm if at least one of the
35 principal officers of the firm is licensed under this chapter or has obtained a temporary registration license
36 as provided by this chapter one or more of the corporate officers, or one or more of the principal owners,
37 or a full-time licensed employee are designated as being responsible for the professional services
38 regulated by this Board and are licensed under this chapter.

39 (3) The approval of a temporary certificate of authorization constitutes appointment of the Secretary
40 of State as an agent of the applicant for service of process in an action or proceeding against the applicant
41 arising out of any transaction or operation connected with or incidental to the practice of engineering.

42 (4) Plans produced and submitted for permitting under a registrant's temporary license or certificate
43 of authorization may be sealed with the registrant's home state seal. A Temporary Certificate of
44 Authorization may be indicated by notation on plans submitted for permitting. Such notation should
45 include the Temporary COA number, date of expiration, and address of the firm. A copy of the Board's
46 letter approving the temporary license or certificate of authorization must be attached to plans.

47 ~~(C)~~ ~~Professional engineers and professional surveyors engaged in practice through firms may maintain~~
48 ~~branch offices in addition to a principal place of business. Each principal place of business as well as each~~
49 ~~branch office providing services in this State must have a resident professional engineer in responsible~~
50 ~~charge of engineering work or a resident professional surveyor in responsible charge of the field and~~
51 ~~office surveying work provided. A professional engineer must supervise the engineering activities of each~~

1 ~~branch office and a professional surveyor must supervise the surveying activities of each branch office.~~
2 ~~The resident professional engineer or resident professional surveyor is considered in residence in only one~~
3 ~~place of business at a given time.~~

4 ~~(D) For purposes of this subsection, "engaged in practice" means holding oneself out generally to the~~
5 ~~public as qualified and available to perform engineering or surveying services.~~
6

7 **SECTION 40-22-270.** Individual seals; stamping on plans and specifications.
8

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

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

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

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

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

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

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

31 (7) The seal and signature of a licensee on a document constitutes a certification that the document was
32 prepared by the licensee or under his or her direct supervision, and in the case of prototypical documents,
33 that the licensee has reviewed the document in sufficient depth to fully coordinate and assume
34 responsibility for application of the plans.

35 ~~(7)-(8)~~ (8) The clerk of court or the register of deeds for any county shall refuse to accept for filing or
36 recording a map, plat, survey, or other document within the definition of surveying, dated after July 1,
37 1977, which does not have affixed to it the personal signature and prescribed impression or electronic seal
38 of a professional surveyor. No charge may be made by a professional surveyor for the application of his
39 or her impression or electronic seal.

40 ~~(8)-(9)~~ (9) The building official, or other designated authority charged with the responsibility of issuing
41 building or similar permits, shall refuse to issue a permit for any undertaking, the plans and specifications
42 for which would require the seal of a professional engineer, unless the permit applicant has furnished
43 satisfactory evidence that the documents were prepared by an engineer licensed as required by this
44 chapter or that the documents are exempt from the requirements of this chapter. The building official, or
45 designated authority charged with the responsibility of issuing building or similar permits, shall report to
46 the ~~board~~ Board the name and address of a person who has or is suspected to have violated a provision of
47 this chapter or a regulation promulgated pursuant to this chapter relating to the unlicensed practice of
48 engineering.
49

50 **SECTION 40-22-280.** Exceptions from application of chapter.
51

1 (A) This chapter may not be construed to prevent or to affect:

2 (1) the practice of any other regulated profession or trade where the practice of the profession or
3 trade may legitimately overlap the professions regulated by this chapter;

4 (2) the work of an employee or other subordinate of a person holding a certificate of registration
5 under this chapter;

6 (3) the engineering work of regular employees of the government of the United States officially
7 performing their duties for their employer on federal lands within this State, in the practice of engineering
8 for the government, and where specified by federal statute;

9 (4) the surveying work of regular employees of the government of the United States officially
10 performing their duties for their employer on lands within this State, in the practice of surveying for the
11 government, and where specified by federal statute;

12 (5) the work or practice of a ~~regular full-time, non-temporary~~ employee of a public utility, a
13 telephone utility, or an electrical utility by rendering to the employing company engineering service in
14 connection with its facilities which are subject to regulation, supervision, and control in order to
15 safeguard life, health, and property by the Public Service Commission of this State, so long as the person
16 is actually and exclusively employed. Engineering work not related to the exemption in this item where
17 the safety of the public is directly involved must be accomplished by or under the responsible charge of a
18 professional engineer;

19 (6) the work or practice of a ~~regular full-time, non-temporary~~ employee of an electric cooperative,
20 when rendering to the employing cooperative engineering service in connection with its facilities which
21 are subject to regulations and inspections of the Rural Electric Administration, if the person is actually
22 and exclusively employed. Engineering work not related to the exemption in this item where the safety of
23 the public is directly involved must be accomplished by or under the responsible charge of a professional
24 engineer;

25 (7) the work or practice of a ~~regular full-time, non-temporary~~ employee of a ~~state~~ State authority
26 which is licensed by and subject to the safety regulations of the Federal Energy Regulatory Commission
27 and which sells and distributes electric power to consumers, so long as the person is actually and
28 exclusively employed. Engineering work not related to the exemption in this item where the safety of the
29 public is directly involved must be accomplished by or under the responsible charge of a registered
30 professional engineer; and

31 (8) the work of a general contractor, specialty contractor, or material supplier in the preparation and
32 use of shop drawings or other graphic descriptions used to detail or illustrate a portion of the work
33 required to construct the project in accordance with plans and specifications prepared under the
34 requirements of this chapter.

35 (B) If drawings and specifications are signed by the authors with the true title of their occupations, this
36 chapter does not apply to the preparation of plans and specifications for:

37 (1) farm buildings not designed or used for human occupancy;

38 (2) buildings and structures ~~less than three stories high and less than five thousand square feet in~~
39 ~~area, except that buildings of assembly, educational, hazardous, and institutional occupancies as defined~~
40 ~~exempted by the International Code Series, as adopted by the State of South Carolina regardless of area~~
41 ~~are not exempt from the provisions of this chapter;~~ and

42 (3) alterations to a building to which this chapter does not apply, if the alterations do not result in a
43 change which would otherwise place the building under the application of this chapter.

44 (C) This subsection may not be construed to prejudice a law, ordinance, regulation, or other directive
45 enacted by another political body or a requirement by a contracting authority which would otherwise
46 require preparation of plans and specifications under the responsible charge of a professional engineer or
47 professional surveyor.

48
49 **SECTION 40-22-290. TIER A surveying; exclusions.**

50
51 The practice of TIER A surveying does not include:

- 1 (1) the creation of non-technical maps:
2 (a) prepared by private firms or government agencies for use as guides to motorists, boaters, aviators,
3 or pedestrians;
4 (b) prepared for publication in a gazetteer or atlas as an education tool or reference publication;
5 (c) prepared for or by educational institutions for use in the curriculum of any course of study or
6 academic research;
7 (d) produced by any broadcast or print media firm as an illustrative guide to the geographic location
8 of any event;
9 (e) prepared by lay persons for conversational or illustrative purposes, including advertising material
10 and use guides;
- 11 (2) the transcription of existing documents or land records into geographic information systems/land
12 information systems by manual or electronic means;
- 13 (3) the transcription of public record data into a cadastre (tax maps and associated records) and the
14 maintenance of that cadastre by either manual or electronic means, including tax maps and zoning maps;
- 15 (4) the use of all documents or databases prepared by any federal agency and documents or databases
16 using federal data by any person to prepare documents and databases including, but not limited to, federal
17 and military versions of quadrangle topographic maps, military maps, and satellite imagery;
- 18 (5) the use of all civilian or commercial remotely-sensed satellite data;
- 19 (6) all maps and databases created by any firm, in either hardcopy or electronic form, by full-time
20 employees of that firm, of features that are wholly contained within properties that the firm owns, leases,
21 rents, or has exclusive use or shared easement to, are exempt from the definition of surveying. This
22 exclusion includes public and private utility companies preparing inventory maps of their facilities as long
23 as those maps and databases are not provided to anyone outside the company with any data that illustrates
24 property ownership lines of property the firm does not own, lease, rent, or on which they have exclusive
25 use or shared easement;
- 26 (7) the creation of maps and databases depicting the distribution of natural or cultural resources
27 prepared by foresters, geologists, soil scientists, geophysicists, biologists, geographers, archeologists,
28 historians, urban and regional planners, or other individuals qualified to prepare such maps as long as any
29 property boundaries shown are either supplied by a professional surveyor or transcribed from public deed
30 or plat records converted from tax maps or cadastre, or are clearly not intended to serve as legal property
31 boundaries;
- 32 (8) the creation of all maps and geo-referenced databases depicting physical features and events
33 prepared by any government agency where the access to that data is restricted by statute, including geo-
34 referenced data generated by law enforcement agencies involving crime statistics and criminal activities;
- 35 (9) the work of any official or employee of a political subdivision of this State while in the performance
36 of their official duties involving Emergency 911 mapping, land use mapping, property tax mapping,
37 remote sensing and implementation, maintenance, creation, and distribution of mapping grade GIS data as
38 part of a political subdivision's geographic information system.

39
40 **SECTION 40-22-295. Engineer immunity.**

41
42 (A) A licensed engineer who voluntarily, without compensation, provides structural, electrical,
43 mechanical, or other engineering services at the scene of a declared national or state emergency, at the
44 request of the Governor, is not liable for any personal injury, wrongful death, property damage, or other
45 loss caused by the licensed engineer's acts, errors, or omissions in performing the engineering services for
46 a structure, building, piping, or other engineered system, either publicly or privately owned. Immunity
47 from liability under this section is only effective as to services rendered during the thirty days following
48 the event that gave rise to the declared state of emergency.

49 (B)(1) Any licensed engineer appointed pursuant to this section must not be held liable for any civil
50 damages as a result of the providing of requested engineering services unless the damages result from

1 providing, or failing to provide engineering services if the consequences of the services provided are
2 proven by a preponderance of the evidence to be the result of gross negligence or recklessness.

3 (2) This section applies if the engineer does not receive payment other than as allowed in Section 8-
4 25-40 for the appointed services and prescribed duties. However, if the engineer is an employee of the
5 State, the engineer may continue to receive compensation from his employer.

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

8
9 **SECTION 40-22-300.** Promulgation of regulations for practice by firms located in foreign countries.

10
11 The ~~board~~ Board shall promulgate regulations for the practice of engineering in this State by engineers
12 and engineering firms located in foreign countries. In promulgating these regulations, the ~~board~~ Board
13 must consider requirements prescribed by this chapter and other requirements as may be reasonably
14 necessary to protect consumers of engineering services provided by cross-border practitioners.

15
16 **SECTION 40-22-310.** Status of regulations promulgated pursuant to Chapter 21.

17
18 Except where inappropriate, regulations promulgated pursuant to Chapter 21, Title 40 of the 1976 Code
19 are considered to be promulgated pursuant to Chapter 22.

20
21 **SECTION 40-22-320.** Severability.

22
23 If a provision of this chapter or the application of a provision to a person or circumstance is held
24 invalid, the invalidity does not affect other provisions or applications of this chapter which can be given
25 effect without the invalid provision or application, and to this end the provisions of this chapter are
26 severable as provided in Section 40-1-220.