

## CHAPTER 2019-86

### Committee Substitute for Committee Substitute for House Bill No. 827

An act relating to engineering; amending s. 337.14, F.S.; prohibiting specified services to the department for a project that is wholly or partially funded by the department and administered by a local governmental entity from being performed by the same entity; amending s. 455.271, F.S.; conforming a provision to changes made by the act; requiring the board, or the department if there is no board, to establish by rule a reinstatement process for void licenses; amending s. 471.005, F.S.; revising definitions; amending s. 471.011, F.S.; conforming a provision to changes made by the act; amending s. 471.013, F.S.; revising the prerequisites for examination; deleting an obsolete provision; amending s. 471.015, F.S.; revising licensure certification requirements to include active engineering experience and a minimum age; providing that the time period in which a licensure application must be granted or denied is tolled if an applicant is required to make a personal appearance before the board; authorizing the board to deny a license if such an applicant fails to appear before the board within a specified timeframe; amending s. 471.019, F.S.; requiring the board to establish by rule a reinstatement process for void licenses; amending s. 471.021, F.S.; conforming provisions to changes made by the act; amending s. 471.023, F.S.; providing requirements for qualification of a business organization; providing requirements for a qualifying agent; deleting the administration of disciplinary action against a business organization; amending s. 471.025, F.S.; requiring a successor engineer to be able to independently re-create certain work when seeking to reuse certain documents; specifying that a successor engineer assumes full professional and legal responsibility by signing or affixing his or her seal to assumed documents; releasing the engineer who previously sealed the documents from any professional responsibility or civil liability for her or his work that is assumed by a successor engineer; defining the term “successor engineer”; amending s. 553.79, F.S.; requiring that structural inspections on a threshold building be performed during new construction or during certain repair or restoration projects; amending s. 553.791, F.S.; revising the timeframes in which a fee owner or the fee owner’s contractor using a private provider to provide building code inspection services must notify the local building official; revising the timeframe in which the local building official shall issue the permit or provide notice to the permit applicant identifying noncompliant plan features; providing that a local building official may not prohibit a private provider from performing required inspections outside of normal operating hours; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (7) of section 337.14, Florida Statutes, is amended to read:

337.14 Application for qualification; certificate of qualification; restrictions; request for hearing.—

(7) A “contractor” as defined in s. 337.165(1)(d) or his or her “affiliate” as defined in s. 337.165(1)(a) qualified with the department under this section may not also qualify under s. 287.055 or s. 337.105 to provide testing services, construction, engineering, and inspection services to the department. This limitation does not apply to any design-build prequalification under s. 337.11(7) and does not apply when the department otherwise determines by written order entered at least 30 days before advertisement that the limitation is not in the best interests of the public with respect to a particular contract for testing services, construction, engineering, and inspection services. This subsection does not authorize a contractor to provide testing services, or provide construction, engineering, and inspection services, to the department in connection with a construction contract under which the contractor is performing any work. Notwithstanding any other provision of law to the contrary, for a project that is wholly or partially funded by the department and administered by a local governmental entity, the design services and construction engineering and inspection services may not be performed by the same entity.

Section 2. Paragraph (a) of subsection (6) of section 455.271, Florida Statutes, is amended to read:

455.271 Inactive and delinquent status.—

~~(6)(a) A delinquent status licensee must affirmatively apply with a complete application, as defined by rule of the board, or the department if there is no board, for active or inactive status during the licensure cycle in which a licensee becomes delinquent. Failure by a delinquent status licensee to become active or inactive before the expiration of the current licensure cycle shall render the license void without any further action by the board or the department. The board, or the department if there is no board, shall, by rule, establish a reinstatement process for void licenses.~~

This subsection does not apply to individuals subject to regulation under chapter 473.

Section 3. Subsection (13) of section 471.005, Florida Statutes, is renumbered as subsection (3), and present subsection (3) and subsection (8) of that section are amended, to read:

471.005 Definitions.—As used in this chapter, the term:

~~(3)—“Certificate of authorization” means a license to practice engineering issued by the management corporation to a corporation or partnership.~~

(8) “License” means the licensing of engineers or ~~certification of~~ businesses to practice engineering in this state.

Section 4. Subsection (4) of section 471.011, Florida Statutes, is amended to read:

471.011 Fees.—

(4) Qualification of a business organization under s. 471.023 shall not require payment of a fee ~~The fee for a certificate of authorization shall not exceed \$125.~~

Section 5. Paragraph (a) of subsection (1) of section 471.013, Florida Statutes, is amended to read:

471.013 Examinations; prerequisites.—

(1)(a) A person shall be entitled to take an examination for the purpose of determining whether she or he is qualified to practice in this state as an engineer if the person is of good moral character and:

1. Is a graduate from an approved engineering science curriculum of 4 years or more in a school, college, or university which has been approved by the board; ~~or and has a record of 4 years of active engineering experience of a character indicating competence to be in responsible charge of engineering;~~

2. Is a graduate of an approved engineering technology curriculum of 4 years or more in a school, college, or university which has been approved by the board within the State University System, having been enrolled or having graduated prior to July 1, 1979, and has a record of 4 years of active engineering experience of a character indicating competence to be in responsible charge of engineering; ~~or~~

3. ~~Has, in lieu of such education and experience requirements, 10 years or more of active engineering work of a character indicating that the applicant is competent to be placed in responsible charge of engineering. However, this subparagraph does not apply unless such person notifies the department before July 1, 1984, that she or he was engaged in such work on July 1, 1981.~~

The board shall adopt rules providing for the review and approval of schools or colleges and the courses of study in engineering in such schools and colleges. The rules shall be based on the educational requirements for engineering as defined in s. 471.005. The board may adopt rules providing for the acceptance of the approval and accreditation of schools and courses of study by a nationally accepted accreditation organization.

Section 6. Subsections (2), (3), and (6) of section 471.015, Florida Statutes, are amended to read:

471.015 Licensure.—

(2)(a) The board shall certify for licensure any applicant who has submitted proof satisfactory to the board that he or she is at least 18 years of age and who:

1. Satisfies the requirements of s. 471.013(1)(a)1. and has a record of at least 4 years of active engineering experience of a character indicating competence to be in responsible charge of engineering; or

2. Satisfies the requirements of s. 471.013(1)(a)2. and has a record of at least 6 years of active engineering experience of a character indicating competence to be in responsible charge of engineering s. 471.013.

~~(b) The board may refuse to certify any applicant who has violated any of the provisions of s. 471.031.~~

(3) The board shall certify as qualified for a license by endorsement an applicant who:

(a) Qualifies to take the fundamentals examination and the principles and practice examination as set forth in s. 471.013, has passed a United States national, regional, state, or territorial licensing examination that is substantially equivalent to the fundamentals examination and principles and practice examination required by s. 471.013, and has satisfied the experience requirements set forth in paragraph (2)(a) and s. 471.013; or

(b) Holds a valid license to practice engineering issued by another state or territory of the United States, if the criteria for issuance of the license were substantially the same as the licensure criteria that existed in this state at the time the license was issued.

(6) The board may require a personal appearance by any applicant for licensure under this chapter. Any applicant of whom a personal appearance is required must be given adequate notice of the time and place of the appearance and provided with a statement of the purpose of and reasons requiring the appearance. If an applicant is required to appear, the time period within which a licensure application must be granted or denied is tolled until such time as the applicant appears. However, if the applicant fails to appear before the board at either of the next two regularly scheduled board meetings, the application for licensure may be denied.

Section 7. Section 471.019, Florida Statutes, is amended to read:

471.019 Reactivation.—~~The board shall establish by rule a reinstatement process for void licenses. The rule board shall prescribe appropriate by rule continuing education requirements for reactivating a license. The continuing education requirements for reactivating a license for a licensed engineer may not exceed the continuing education requirements prescribed pursuant to 471.017 12 classroom hours for each year the license was inactive.~~

Section 8. Section 471.021, Florida Statutes, is amended to read:

471.021 Engineers and firms of other states; temporary registration certificates to practice in Florida.—

(1) Upon approval of the board and payment of the fee set in s. 471.011, the management corporation shall issue a temporary registration license for work on one specified project in this state for a period not to exceed 1 year to an engineer holding a certificate to practice in another state, provided Florida licensees are similarly permitted to engage in work in such state and provided that the engineer be qualified for licensure by endorsement.

(2) Upon approval by the board and payment of the fee set in s. 471.011, the management corporation shall issue a temporary registration certificate of authorization for work on one specified project in this state for a period not to exceed 1 year to an out-of-state corporation, partnership, or firm, provided one of the principal officers of the corporation, one of the partners of the partnership, or one of the principals in the fictitiously named firm has obtained a temporary registration license in accordance with subsection (1).

(3) The application for a temporary registration license shall require ~~constitute~~ appointment of the Department of State as an agent of the applicant for service of process in any action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to the practice of engineering for which the temporary registration license was issued.

Section 9. Section 471.023, Florida Statutes, is amended to read:

471.023 Qualification Certification of business organizations.—

(1) The practice of, or the offer to practice, engineering by licensees or offering engineering services to the public through a business organization, including a partnership, corporation, business trust, or other legal entity or by a business organization, including a corporation, partnership, business trust, or other legal entity offering such services to the public through licensees under this chapter as agents, employees, officers, or partners is permitted only if the business organization is qualified by an engineer licensed under this chapter ~~possesses a certification issued by the management corporation pursuant to qualification by the board~~, subject to the provisions of this chapter. One or more of the principal officers of the business organization or one or more partners of the partnership and all personnel of the business organization who act in its behalf as engineers in this state shall be licensed as provided by this chapter. All final drawings, specifications, plans, reports, or documents involving practices licensed under this chapter which are prepared or approved for the use of the business organization or for public record within the state shall be dated and shall bear the signature and seal of the licensee who prepared or approved them. Nothing in this section shall be construed to mean that a license to practice engineering shall be held by a business organization. Nothing herein prohibits business organizations from joining together to offer engineering services to the public, if each business organization otherwise

meets the requirements of this section. No business organization shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing engineering be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a business organization.

(2) ~~For the purposes of this section, a certificate of authorization shall be required for any business organization or other person practicing under a fictitious name, offering engineering services to the public must be qualified by an engineer licensed under this chapter. However, when an individual is practicing engineering in his or her own given name, he or she shall not be required to be licensed under this section.~~

(3) Except as provided in s. 558.0035, the fact that a licensed engineer practices through a business organization does not relieve the licensee from personal liability for negligence, misconduct, or wrongful acts committed by him or her. Partnerships and all partners shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity. Any officer, agent, or employee of a business organization other than a partnership shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by him or her or committed by any person under his or her direct supervision and control, while rendering professional services on behalf of the business organization. The personal liability of a shareholder or owner of a business organization, in his or her capacity as shareholder or owner, shall be no greater than that of a shareholder-employee of a corporation incorporated under chapter 607. The business organization shall be liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on its behalf in the rendering of professional services.

(4) ~~Each certification of authorization shall be renewed every 2 years. Each qualifying agent of a business organization qualified certified under this section must notify the board within 30 days ~~1 month~~ after any change in the information contained in the application upon which the qualification certification is based.~~

(a) A qualifying agent who terminates an affiliation with a qualified business organization shall notify the management corporation of such termination within 24 hours. If such qualifying agent is the only qualifying agent for that business organization, the business organization must be qualified by another qualifying agent within 60 days after the termination. Except as provided in paragraph (b), the business organization may not engage in the practice of engineering until it is qualified by another qualifying agent.

(b) In the event a qualifying agent ceases employment with a qualified business organization and the qualifying agent is the only licensed

individual affiliated with the business organization, the executive director of the management corporation or the chair of the board may authorize another licensee employed by the business organization to temporarily serve as its qualifying agent for a period of no more than 60 days to proceed with incomplete contracts. The business organization is not authorized to operate beyond such period under this chapter absent replacement of the qualifying agent.

(c) A qualifying agent shall notify the department in writing before engaging in the practice of engineering in the licensee's name or in affiliation with a different business organization.

~~(5) Disciplinary action against a business organization shall be administered in the same manner and on the same grounds as disciplinary action against a licensed engineer.~~

Section 10. Subsection (4) is added to section 471.025, Florida Statutes, to read:

471.025 Seals.—

(4) A successor engineer seeking to reuse documents previously sealed by another engineer must be able to independently re-create all of the work done by the original engineer. A successor engineer assumes full professional and legal responsibility by signing and affixing his or her seal to the assumed documents. Such documents must be treated as though they were the successor engineer's original product, and the original engineer is released from any professional responsibility or civil liability for prior work assumed by the successor engineer. For the purposes of this subsection, the term "successor engineer" means an engineer who is using or relying upon the work, findings, or recommendations of the engineer who previously sealed the pertinent documents.

Section 11. Paragraph (a) of subsection (5) of section 553.79, Florida Statutes, is amended to read:

553.79 Permits; applications; issuance; inspections.—

(5)(a) During new construction or during repair or restoration projects in which the structural system or structural loading of a building is being modified, the enforcing agency shall require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record. The structural inspection plan must be submitted to and approved by the enforcing agency before the issuance of a building permit for the construction of a threshold building. The purpose of the structural inspection plan is to provide specific inspection procedures and schedules so that the building can be adequately inspected for compliance with the permitted documents. The special inspector may not serve as a surrogate in carrying out the responsibilities of the building official, the architect, or the engineer of

record. The contractor's contractual or statutory obligations are not relieved by any action of the special inspector. The special inspector shall determine that a professional engineer who specializes in shoring design has inspected the shoring and reshoring for conformance with the shoring and reshoring plans submitted to the enforcing agency. A fee simple title owner of a building, which does not meet the minimum size, height, occupancy, occupancy classification, or number-of-stories criteria which would result in classification as a threshold building under s. 553.71(12), may designate such building as a threshold building, subject to more than the minimum number of inspections required by the Florida Building Code.

Section 12. Subsections (4) and (5), paragraphs (a), (b), and (c) of subsection (7), and subsection (9) of section 553.791, Florida Statutes, are amended to read:

553.791 Alternative plans review and inspection.—

(4) A fee owner or the fee owner's contractor using a private provider to provide building code inspection services shall notify the local building official at the time of permit application, or by 2 p.m. local time, 2 no less than 7 business days before ~~days prior to~~ the first scheduled inspection by the local building official or building code enforcement agency for a private provider performing required inspections of construction under this section, on a form to be adopted by the commission. This notice shall include the following information:

(a) The services to be performed by the private provider.

(b) The name, firm, address, telephone number, and facsimile number of each private provider who is performing or will perform such services, his or her professional license or certification number, qualification statements or resumes, and, if required by the local building official, a certificate of insurance demonstrating that professional liability insurance coverage is in place for the private provider's firm, the private provider, and any duly authorized representative in the amounts required by this section.

(c) An acknowledgment from the fee owner in substantially the following form:

I have elected to use one or more private providers to provide building code plans review and/or inspection services on the building or structure that is the subject of the enclosed permit application, as authorized by s. 553.791, Florida Statutes. I understand that the local building official may not review the plans submitted or perform the required building inspections to determine compliance with the applicable codes, except to the extent specified in said law. Instead, plans review and/or required building inspections will be performed by licensed or certified personnel identified in the application. The law requires minimum insurance requirements for such personnel, but I understand that I may require more insurance to protect my interests. By executing this form, I



acknowledge that I have made inquiry regarding the competence of the licensed or certified personnel and the level of their insurance and am satisfied that my interests are adequately protected. I agree to indemnify, defend, and hold harmless the local government, the local building official, and their building code enforcement personnel from any and all claims arising from my use of these licensed or certified personnel to perform building code inspection services with respect to the building or structure that is the subject of the enclosed permit application.

If the fee owner or the fee owner's contractor makes any changes to the listed private providers or the services to be provided by those private providers, the fee owner or the fee owner's contractor shall, within 1 business day after any change, update the notice to reflect such changes. A change of a duly authorized representative named in the permit application does not require a revision of the permit, and the building code enforcement agency shall not charge a fee for making the change. In addition, the fee owner or the fee owner's contractor shall post at the project site, prior to the commencement of construction and updated within 1 business day after any change, on a form to be adopted by the commission, the name, firm, address, telephone number, and facsimile number of each private provider who is performing or will perform building code inspection services, the type of service being performed, and similar information for the primary contact of the private provider on the project.

(5) After construction has commenced and if the local building official is unable to provide inspection services in a timely manner, the fee owner or the fee owner's contractor may elect to use a private provider to provide inspection services by notifying the local building official of the owner's or contractor's intention to do so by 2 p.m. local time, 2 no less than 7 business days before ~~days prior to~~ the next scheduled inspection using the notice provided for in paragraphs (4)(a)-(c).

(7)(a) No more than 20 ~~30~~ business days after receipt of a permit application and the affidavit from the private provider required pursuant to subsection (6), the local building official shall issue the requested permit or provide a written notice to the permit applicant identifying the specific plan features that do not comply with the applicable codes, as well as the specific code chapters and sections. If the local building official does not provide a written notice of the plan deficiencies within the prescribed 20-day ~~30-day~~ period, the permit application shall be deemed approved as a matter of law, and the permit shall be issued by the local building official on the next business day.

(b) If the local building official provides a written notice of plan deficiencies to the permit applicant within the prescribed 20-day ~~30-day~~ period, the 20-day ~~30-day~~ period shall be tolled pending resolution of the matter. To resolve the plan deficiencies, the permit applicant may elect to

dispute the deficiencies pursuant to subsection (13) or to submit revisions to correct the deficiencies.

(c) If the permit applicant submits revisions, the local building official has the remainder of the tolled ~~20-day~~ 30-day period plus 5 business days to issue the requested permit or to provide a second written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections. If the local building official does not provide the second written notice within the prescribed time period, the permit shall be issued by the local building official on the next business day.

(9) A private provider performing required inspections under this section shall provide notice to the local building official of the date and approximate time of any such inspection no later than the prior business day by 2 p.m. local time or by any later time permitted by the local building official in that jurisdiction. The local building official may not prohibit the private provider from performing any inspection outside the local building official's normal operating hours, including after hours, weekends, or holidays. The local building official may visit the building site as often as necessary to verify that the private provider is performing all required inspections. A deficiency notice must be posted at the job site by the private provider, the duly authorized representative of the private provider, or the building department whenever a noncomplying item related to the building code or the permitted documents is found. After corrections are made, the item must be reinspected by the private provider or representative before being concealed. Reinspection or reaudit fees shall not be charged by the local jurisdiction as a result of the local jurisdiction's audit inspection occurring before the performance of the private provider's inspection or for any other administrative matter not involving the detection of a violation of the building code or a permit requirement.

Section 13. This act shall take effect October 1, 2019.

Approved by the Governor June 7, 2019.

Filed in Office Secretary of State June 7, 2019.