



SPONSOR: Sen. McBride & Rep. Gray & Rep. Bennett & Rep. B. Short

DELAWARE STATE SENATE

147th GENERAL ASSEMBLY

SENATE BILL NO. 126
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE DELAWARE ASSOCIATION OF PROFESSIONAL ENGINEERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 28, Title 24 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows and renumbering accordingly:

§ 2803. Definitions.

(12) "Continuing Professional Competency" shall mean and refer to compliance with or satisfaction of a published set of guidelines and requirements for the maintenance of professional competency in the practice of engineering.

(28) "Retired Member" shall mean a person who has elected to claim retired status as defined in §2806(g) of this title.

§ 2804. Delaware Association of Professional Engineers; objectives.

There is hereby established the Delaware Association of Professional Engineers, an instrumentality of the State. The objectives of the Association and of this chapter are to regulate the practice of engineering, to provide for the registration of qualified persons as professional engineers and the certification of engineer interns, to define the terms "engineer," "professional engineer," "engineer intern" and "the practice of engineering," to create an organization to regulate the practice of engineering to provide and administer qualifying examinations and grant registration to qualified persons as professional engineers, to provide for the appointment and election of members to the governing body of this Association, to define the powers and duties of the Council, to set forth the minimum qualifications and other requirements for registration as a professional engineer, for certification as an engineer intern, the granting of a permit to practice engineering, and the granting of a certificate of authorization, to set rules for the establishment of fees, expiration

requirements and renewal requirements, to establish Continuing Professional Competency guidelines and requirements, and to provide for the enforcement of this chapter together with penalties for violations of the provisions of this chapter.

(f) Expiration and renewals. --

(1) Members, associate members, adjunct members, and holders of certificates of authorization shall be billed for renewal fees ~~30~~60 days before expiration of the period for which fees have been paid. If fees are not paid ~~within 3 months after~~ by the expiration date, the member, associate member or holder of a certificate of authorization shall be declared ineligible to practice engineering in the State and shall be removed from the active roster.

§ 2806. Membership.

(f) Expiration and renewals. --

(3) Any member, associate member, or holder of certificate of authorization on the active roster who intends to withdraw from the practice of engineering in the State shall notify the Secretary of the Council in writing. That name will then be removed from the active roster and be placed in an inactive status file. That name may be reinstated to active status by a request for reinstatement, in writing, within 10 years of that removal from the active roster, to the Secretary of the Council ~~and~~, by payment of a reinstatement fee and by compliance with and satisfaction of the current Continuing Professional Competency guidelines and requirements. After the expiration of the 10-year period, reinstatement may be obtained only by reapplying for licensure pursuant to § 2817 of this title or for a certificate of authorization pursuant to § 2821 of this title. Any member, associate member or holder of a certificate of authorization in inactive status shall be ineligible to practice engineering in the State.

(g) – Any member, associate member or adjunct member in good standing on the active roster who intends to retire from the practice of engineering in the State shall notify the Secretary of the Council in writing on a form provided to such Member by Council at such member’s request. Following the filing of this form with the Secretary of Council, the member’s name will be removed from the active roster and placed in a retired status file. Retired members shall still be required to pay their biennial membership fee but shall be exempted from any Continuing Professional Competency requirements. Any member, associate member or adjunct member in retired status shall be ineligible to practice engineering in the State, however, a retired member shall be entitled to utilize the term “P.E. (ret.)” in any signature. After being placed on the retired status file, the retired member may not apply for reinstatement.

§ 2808. Council election and appointment procedure.

(d) The 12 Council members shall be elected by members of the Association ~~by means of a letter ballot returned within 30 days after the mailing thereof~~ through the procedure determined by Council, including, without limitation, electronic voting. The members in contest for each elected Council position receiving a plurality of votes from those voting within the prescribed time for that Council position shall be declared elected to that Council position.

§2817. Requirements for licensure.

The following requirements shall be considered as the minimum satisfactory evidence that an applicant is qualified for licensure as a professional engineer:

(1) Graduates from an engineering educational program approved by the Engineering Accreditation Commission (EAC) of ABET, Inc. (formerly the Accreditation Board for Engineering and Technology) or from an ABET recognized foreign accreditation agency approved educational program.

- a. Graduation with a baccalaureate degree from an engineering educational program accredited by the EAC of ABET, Inc. or by a foreign educational program accreditation agency adjudged by ABET to use substantially equivalent accreditation procedures; and
- b. Professional experience in engineering work of a character satisfactory to the Council in the amount of 4 years or more, such experience indicating that the applicant is competent to practice as a professional engineer; and
- c. Successful passing of ~~a written~~ an examination totaling 16 hours approved by Council; -and
- d. mMeeting the additional requirements of paragraph (7) of this section.

(2) Graduates from non-EAC of ABET accredited engineering programs, from engineering technology programs or from science programs related to engineering.

- a. Graduation with a baccalaureate degree from a Council approved 4-year educational program in engineering that is not EAC of ABET accredited, in engineering technology or in science related to engineering; and
- b. Professional experience in engineering work of a character satisfactory to the Council in the amount of 8 years or more, such experience indicating that the applicant is competent to practice as a professional engineer; and
- c. Successful passing of ~~written~~ an examination totaling 16 hours, approved by Council; -and
- d. mMeeting the additional requirements of paragraph (7) of this section.

(3) Graduates from non-EAC of ABET accredited engineering programs, from engineering technology programs or from science programs related to engineering who hold master's degrees in engineering from institutions that offer EAC of ABET-accredited engineering programs, or the equivalent:

- a. Graduation with a baccalaureate degree from a Council approved 4-year educational program in engineering that is not EAC of ABET accredited, in engineering technology or in science related to engineering; and
- b. Professional experience in engineering work of a character satisfactory to the Council in the amount of 5 years or more, such experience indicating that the applicant is competent to practice as a professional engineer; and
- c. Successful passing of ~~written an examination totaling 16 hours,~~ approved by Council; -and
- d. mMeeting the additional requirements of paragraph (7) of this section.

(4) Graduates from non-EAC of ABET accredited engineering programs, from engineering technology programs or from science programs related to engineering who hold doctoral degrees in engineering from institutions that offer EAC of ABET-accredited engineering programs, or the equivalent:

- a. Graduation with a baccalaureate degree from a Council approved 4-year educational program in engineering that is not EAC of ABET accredited, in engineering technology or in science related to engineering; and
- b. Professional experience in engineering work of a character satisfactory to the Council in the amount of 4 years or more, such experience indicating that the applicant is competent to practice as a professional engineer; and
- c. Successful passing of ~~written an examination totaling 16 hours,~~ approved by Council; and
- d. mMeeting the additional requirements of paragraph (7) of this section.

(5) Engineering experience and examination. --

- a. Professional experience in engineering work of a character satisfactory to the Council, consisting of 15 years or more of lawful practice and indicating that the applicant is competent to practice as a professional engineer; and
- b. Successful passing of ~~written an examinations totaling 16 hours~~ approved by Council; and
- c. mMeeting the additional requirements of paragraph (7) of this section.

(6) Comity. --

a. The Council may, upon application and payment of the required fee and without further examination, issue a license as a professional engineer to any person holding a valid certificate of registration or a license as a professional engineer issued to that person by a proper authority of a state, territory or possession of the United States, the District of Columbia, or a province or territory of Canada, provided the applicant's qualifications meet at least 1 of the following:

1. The professional engineering qualifications of the applicant on the effective date of such certificate of registration or a license would have satisfied the requirements for licensure in this State on that date.

2. The professional engineering qualifications of the applicant at any time subsequent to the effective date of such certificate of registration or a license would have satisfied the requirements for licensure in this State in effect at that time. A personal interview may be required by Council to ascertain the facts in the case.

3. The professional engineering qualifications of the applicant include successful passing of ~~written~~ an examinations ~~totaling 16 hours~~ approved by Council, meeting the additional requirements of paragraph (7) of this section, and having a minimum of 10 years of professional experience in engineering work of a character satisfactory to the Council, such experience indicating that the applicant is competent to practice as an engineer. Such experience shall have been obtained in states, territories or possessions of the United States, the District of Columbia, or provinces or territories of Canada, and at least 8 years of it shall have been obtained after the applicant has received the said valid certificate of registration or a license.

4. The professional engineering qualifications of the applicant include a minimum of 10 years of continuous and verifiable experience as a professional engineer. Such experience shall have been obtained in a state, territory, or possession of the United States, the District of Columbia, or a province or territory of Canada. The applicant must meet the additional requirements of paragraphs (7)a. and (9) of this section and must not have been subject to disciplinary action in the current or previous licensing jurisdictions.

b. A person holding a valid NCEES Council Record issued by the National Council of Examiners for Engineering and Surveying, whose qualifications meet the requirements of this chapter, may be registered by Council as a professional engineer upon receipt from the National Council of Examiners for

Engineering and Surveying of a certified copy of such registration Record together with the usual application form and fee from the applicant.

c. If the person who has been licensed in Delaware pursuant to paragraph (6)a. or b. of this section has that person's license to practice revoked in the state in which the person was registered or licensed at the time licensure in Delaware through comity was sought, then the authorization issued in Delaware shall be automatically revoked followed 30 days' written notice from the Council unless the person makes application to the Council for consideration for retaining the Delaware authorization and the Council acts favorably on such application.

(7) Additional requirements. --

a. Every applicant shall give not less than 5 references, people who state that in their opinion and by their personal knowledge the applicant is qualified to practice as a professional engineer. At least 3 such references shall be registered or licensed professional engineers in this or any other state or territory or possession of the United States, the District of Columbia, or the province or territory of Canada.

b. An applicant, otherwise qualified, shall not be required to be actively practicing the applicant's profession at the time of the applicant's application.

c. Every applicant must demonstrate knowledge of the Delaware Professional Engineers Act and the code of ethics to the satisfaction of the Council.

d. The required ~~16-hour written~~ examination shall consist of ~~an 8-hour~~ a Fundamentals of Engineering examination and ~~an 8-hour~~ a Principles and Practice of Engineering examination furnished by, and scored by, the National Council of Examiners for Engineering and Surveying, or other nationally normed examinations which are approved by the Council.

e. The examination in the Fundamentals of Engineering shall be taken after graduation, except it may be taken by a college or university senior in good academic standing in an educational program leading to a baccalaureate degree in engineering, related science or engineering technology. The Council may permit other students in such programs to take the Fundamentals of Engineering examination prior to graduation.

f. The examination in Principles and Practice of Engineering shall not be taken until after the completion of the professional experience requirement. The Council may waive this requirement in the case of an applicant who has previously passed the examination in any other state, territory, or possession of the United States, the District of Columbia, or province or territory of Canada.

g. Applicants with 4 failures of the Principles and Practice of Engineering examination may only apply to retake the examination after completing the following:

1. Present 3 new references to the Council, at least 2 of whom must be registered or licensed professional engineers in this or any other state or territory or possession of the United States, the District of Columbia, or any province or territory of Canada, pursuant to paragraph (7)a. of this section; and

~~2. Submit documentation to the Council that demonstrates, to the Council's satisfaction, that the applicant has acquired additional engineering education or experience, including a brief summary explaining how that education or experience has better prepared the applicant to pass the examination.~~

(2)(i) successful completion of six (6) college-level semester credit hours that are preapproved by Council to assure that the courses adequately address the subject matter weaknesses outlined in the diagnostic report resulting from the preceding failure of the Principles and Practice of Engineering Examination. Applicants must provide official transcripts of the courses that were taken demonstrating that a grade of "C minus" or higher was achieved; or

(ii) submit such documentation to Council that demonstrates, to Council's satisfaction, that the applicant has acquired at least two (2) years of additional engineering experience, including a brief summary explaining how that experience has better prepared the applicant to pass the examination; or

(iii) submit such documentation to Council that demonstrates, to Council's satisfaction, that the applicant has acquired sufficient educational and engineering experience, including a brief summary explaining how that educational and engineering experience has better prepared the applicant to pass the examination.

3. On the fifth and all subsequent attempts, applicants must reapply and meet the requirement stipulated in paragraphs (7)g.1. and 2. of this section above.

(8) Applicants for licensure as a professional engineer shall be exempt from the requirement to pass the ~~written 8-hour~~ Fundamentals of Engineering Examination, if they are qualified as follows:

a. An individual holding an earned doctoral degree in engineering from a university, which has an ABET accredited undergraduate program in that discipline at the time that individual earned the doctoral degree, providing that doctoral degree required the passing of a Ph.D. qualifying examination from that university; or,

b. An individual holding a baccalaureate degree from a Council-approved 4-year engineering educational program, who has at least 15 years of professional experience in the lawful practice of engineering of a character satisfactory to the Council, and which indicates that the applicant is competent to practice as a professional engineer.

(9) The Council may refuse an applicant for licensure if the Council finds that the applicant has:

a. Been convicted of a crime that is substantially related to the practice of engineering; or

b. Misstated or misrepresented a fact in connection with the applicant's application; or

c. Been found guilty of a violation of this chapter or of the Delaware Association of Professional Engineers' Code of Ethics; or

d. Engaged in the practice of engineering in this State without being licensed as a professional engineer.

Notwithstanding such a finding, the Council may allow licensure of such applicant if the applicant presents to the Council suitable evidence of reform; or

e. Used improper means to gain information usable by the applicant on or in connection with ~~a written~~ an examination taken by the applicant to obtain licensure as a professional engineer or certification as an engineer intern.

(10) Where an application of a person has been refused or rejected, and such applicant feels that the Council has acted without justification, has imposed higher or different standards for that person than for other applicants, or has in some other manner contributed to or caused the failure of such application, the applicant may appeal to the Superior Court.

§ 2818. Experience and educational equivalence.

(a) For applicants holding a baccalaureate degree in engineering as described in 2817(1)a. of this Title, ~~the~~ experience of a full-time faculty member teaching advanced engineering subjects in an ABET-accredited, or CEAB-accredited engineering curriculum may be accepted as part of the professional experience specified in § 2817(1) or (2) of this title.

(b) For applicants holding a baccalaureate degree in engineering as described in 2817(1)a of this Title, ~~the~~ award of a master's degree in engineering involving 1 year or more of post graduate study in an engineering educational program approved by the Council may be accepted as 1 year of professional experience required in § 2817 of this title; or

§ 2819. Requirements for certification as an engineer intern.

(2)a. Council-approved professional experience of 15 years or more; or

b. Successful passing of an ~~8-hour written~~ a Fundamentals of Engineering examination.

§ 2823. Grounds for discipline; appeals.

(a) Applicants, adjunct and affiliate members, and any person licensed under this chapter shall be subject to disciplinary penalties set forth in § 2824(c) of this title, if, after a hearing, the person is found to violate any of the following:

(9) Failure to comply with and satisfy the Continuing Professional Competency guidelines and requirements.

f. Any violation of the terms of any ~~written~~ examination security agreement entered into freely by the examinee with the Association outlining the examinee's responsibilities in taking the examination.

§ 2825. Unlicensed practice.

(h) Any applicant who misstates or misrepresents any fact in connection with the application or any such applicant who uses improper means to gain information usable by such applicant on or in connection with a ~~written~~ an examination taken by the applicant to obtain licensure as a professional engineer or certification as an engineer intern shall be in violation of the provisions of this chapter.

§ 2831 Continuing Professional Competency.

The Council shall prepare and publish guidelines and requirements for the maintenance of professional competency to further Council's charge to safeguard life, health and property, and to promote the public welfare. All active members shall be required to comply with and satisfy all Continuing Professional Competency guidelines and requirements approved by Council.