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HOUSE BILL NO. 2863

Offered January 21, 2005

A BILL to amend and reenact §§ 54.1-402, 54.1-404, and 54.1-406 of the Code of Virginia, relating to the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects; land surveying.

Patrons—Bryant, Abbitt, Albo, Armstrong, BaCote, Barlow, Cox, Gear, Hull, Jones, S.C., Marshall, D.W., Oder, Phillips, Reid, Rust, Saxman, Suit and Ward

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-402, 54.1-404, and 54.1-406 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-402. Further exemptions from license requirements for architects, professional engineers, and land surveyors.

A. No license as an architect or professional engineer shall be required pursuant to § 54.1-406 for persons who prepare plans, specifications, documents and designs for the following, provided any such plans, specifications, documents or designs bear the name and address of the author and his occupation:

1. Single- and two-family homes, townhouses and multi-family dwellings, excluding electrical and mechanical systems, not exceeding three stories; or

2. All farm structures used primarily in the production, handling or storage of agricultural products or implements, including, but not limited to, structures used for the handling, processing, housing or storage of crops, feeds, supplies, equipment, animals or poultry; or

3. Buildings and structures classified with respect to use as business (Use Group B) and mercantile (Use Group M), as provided in the Uniform Statewide Building Code and churches with an occupant load of 100 or less, excluding electrical and mechanical systems, where such building or structure does not exceed 5,000 square feet in total net floor area, or three stories; or

4. Buildings and structures classified with respect to use as factory and industrial (Use Group F) and storage (Use Group S) as provided in the Uniform Statewide Building Code, excluding electrical and mechanical systems, where such building or structure does not exceed 15,000 square feet in total net floor area, or three stories; or

5. Additions, remodeling or interior design without a change in occupancy or occupancy load and without modification to the structural system or a change in access or exit patterns or increase in fire hazard; or

6. Electric installations which comply with all applicable codes and which do not exceed 600 volts and 800 amps, where work is designed and performed under the direct supervision of a person licensed as a master's level electrician or Class A electrical contractor by written examination, and where such installation is not contained in any structure exceeding three stories or located in any of the following categories:

a. Use Group A-1 theaters which exceed assembly of 100 persons;

b. Use Group A-4 except churches;

c. Use Group I, institutional buildings, except day care nurseries and clinics without life-support systems; or

7. Plumbing and mechanical systems using packaged mechanical equipment, such as equipment of catalogued standard design which has been coordinated and tested by the manufacturer, which comply with all applicable codes. These mechanical systems shall not exceed gauge pressures of 125 pounds per square inch, other than refrigeration, or temperatures other than flue gas of 300/d F (150 degrees C) where such work is designed and performed under the direct supervision of a person licensed as a master's level plumber, master's level heating, air conditioning and ventilating worker, or Class A contractor in those specialties by written examination. In addition, such installation may not be contained in any structure exceeding three stories or located in any structure which is defined as to its use in any of the following categories:

a. Use Group A-1 theaters which exceed assembly of 100 persons;

b. Use Group A-4 except churches;

c. Use Group I, institutional buildings, except day care nurseries and clinics without life-support systems; or

8. The preparation of shop drawings, field drawings and specifications for components by a contractor who will supervise the installation and where the shop drawings and specifications (i) will be

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58 reviewed by the licensed professional engineer or architect responsible for the project or (ii) are
59 otherwise exempted; or

60 9. Buildings, structures, or electrical and mechanical installations which are not otherwise exempted
61 but which are of standard design, provided they bear the certification of a professional engineer or
62 architect registered or licensed in another state, and provided that the design is adapted for the specific
63 location and for conformity with local codes, ordinances and regulations, and is so certified by a
64 professional engineer or architect licensed in Virginia; or

65 10. Construction by a state agency or political subdivision not exceeding \$75,000 in value keyed to
66 the January 1, 1991, Consumer Price Index (CPI) and not otherwise requiring a licensed architect,
67 engineer, or land surveyor by an adopted code and maintenance by that state agency or political
68 subdivision of water distribution, sewage collection, storm drainage systems, sidewalks, streets, curbs,
69 gutters, culverts, and other facilities normally and customarily constructed and maintained by the public
70 works department of the state agency or political subdivision.

71 B. No person shall be exempt from licensure as an architect or engineer who engages in the
72 preparation of plans, specifications, documents or designs for:

73 1. Any unique design of structural elements for floors, walls, roofs or foundations; or

74 2. Any building or structure classified with respect to its use as high hazard (Use Group H).

75 *C. No license as a land surveyor shall be required pursuant to § 54.1-406 for persons utilizing*
76 *photogrammetric methods or similar remote sensing technology to determine topography, contours, or*
77 *depiction of physical improvements provided such determination shall not be used for the design,*
78 *modification, or construction of improvements to real property, or for flood plain determination.*

79 *Any determination of topography, contours, or depiction of physical improvements utilizing*
80 *photogrammetric methods or similar remote sensing technology shall not show any property lines or*
81 *boundaries, property monumentation or property metes and bounds, nor provide any measurement*
82 *showing the relationships of any physical improvements to any property line or boundary.*

83 *It shall be clearly noted on any documentation prepared pursuant to this subsection that such*
84 *determination is not to be used for the design, modification, or construction of improvements to real*
85 *property, or for flood plain determination.*

86 D. Terms used in this section, and not otherwise defined in this chapter, shall have the meanings
87 provided in the Uniform Statewide Building Code in effect on July 1, 1982, including any subsequent
88 amendments.

89 § 54.1-404. Regulations; code of professional practice and conduct.

90 A. The Board shall promulgate regulations not inconsistent with this chapter governing its own
91 organization, the professional qualifications of applicants, the requirements necessary for passing
92 examinations in whole or in part, the proper conduct of its examinations, the implementation of
93 exemptions from license requirements, and the proper discharge of its duties.

94 *B. The Board may impose different licensure requirements for a limited area of the practice of land*
95 *surveying for persons who determine topography, contours, or depiction of physical improvements*
96 *utilizing photogrammetric methods or similar remote sensing technology who are not otherwise exempt*
97 *pursuant to subsection C of § 54.1-402. Any such requirements shall include reasonable provisions for*
98 *licensure without examination of persons deemed by the Board to be qualified to provide*
99 *photogrammetric and remote sensing surveying services.*

100 *Any license issued pursuant to this subsection shall be distinctive, reflecting the limited area of the*
101 *practice of land surveying so authorized, and considered as a land survey and the practice of land*
102 *surveying for the purposes of §§ 13.1-549, 13.1-1111, subsection C of § 54.1-402 and §§ 54.1-405 and*
103 *54.1-411. The establishment of any such limited license shall not prohibit any duly qualified land*
104 *surveyor licensed pursuant to § 54.1-400 from engaging in any such limited area of practice.*

105 C. The regulations may include a code of professional practice and conduct, the provisions of which
106 shall serve any or all of the following purposes:

107 1. The protection of the public health, safety and welfare;

108 2. The maintenance of standards of objectivity, truthfulness and reliability in public statements by
109 professionals;

110 3. The avoidance by professionals of conflicts of interests;

111 4. The prohibition of solicitation or acceptance of work by professionals on any basis other than their
112 qualifications for the work offered;

113 5. The restriction by the professional in the conduct of his professional activity from association with
114 any person engaging in illegal or dishonest activities; or

115 6. The limitation of professional service to the area of competence of each professional.

116 § 54.1-406. License required.

117 A. Unless exempted by §§ 54.1-401, 54.1-402, or § 54.1-402.1, a person shall hold a valid license
118 prior to engaging in the practice of architecture or engineering which includes design, consultation,
119 evaluation or analysis and involves proposed or existing improvements to real property.

120 Unless exempted by § 54.1-401, 54.1-402, or §54.1-402.1, a person shall hold a valid license prior
121 to engaging in the practice of land surveying.

122 B. Unless exempted by § 54.1-402, any person, partnership, corporation or other entity offering to
123 practice architecture, engineering, or land surveying without being registered or licensed in accordance
124 with the provisions of this chapter, shall be subject to the provisions of § 54.1-111 of this title.

125 C. Any person, partnership, corporation or other entity which is not licensed or registered to practice
126 in accordance with this chapter and which advertises or promotes through the use of the words
127 "architecture," "engineering" or "land surveying" or any modification or derivative thereof in its name or
128 description of its business activity in a manner that indicates or implies that it practices or offers to
129 practice architecture, engineering or land surveying as defined in this chapter shall be subject to the
130 provisions of § 54.1-111.

131 D. Notwithstanding these provisions, any state agency or political subdivision of the Commonwealth
132 unable to employ a qualified licensed engineer, architect, or land surveyor to fill a responsible charge
133 position, after reasonable and unsuccessful search, may fill the position with an unlicensed person upon
134 the determination by the chief administrative officer of the agency or political subdivision that the
135 person, by virtue of education, experience, and expertise, can perform the work required of the position.

136 E. Through June 30, 2002, any full-time, salaried employee of the Commonwealth or any political
137 subdivision of the Commonwealth on June 30, 1992, who has graduated from an engineering,
138 engineering technology, or related science curriculum of four years or more, and who has acquired a
139 specific record of thirty years or more of approved progressive professional experience on engineering
140 projects of a grade and character which the Board judges to be pertinent to acquiring professional skills,
141 demonstrating that the individual is eminently qualified to practice engineering, shall qualify for an oral
142 examination for licensure in accordance with the rules and regulations of the Board as adopted May 17,
143 1990.

144 F. Notwithstanding the provisions of this section, a contractor who is licensed pursuant to the
145 provisions of Chapter 11 (§ 54.1-1100 et seq.) of this title shall not be required to be licensed or
146 registered to practice in accordance with this chapter when bidding upon or negotiating design-build
147 contracts or performing services other than architectural, engineering or land surveying services under a
148 design-build contract. The architectural, engineering or land surveying services offered or rendered in
149 connection with such contracts shall only be rendered by an architect, professional engineer or land
150 surveyor licensed in accordance with this chapter.