

17103067D

**HOUSE BILL NO. 1824**

Offered January 11, 2017

Prefiled January 9, 2017

A *BILL to amend and reenact §§ 13.1-543, 13.1-544, 13.1-545.1, 13.1-549, 13.1-550, 13.1-553, 13.1-1102, 13.1-1103, 13.1-1106, 13.1-1111, 13.1-1115, 15.2-851, 15.2-2263, 22.1-140, 54.1-300, 54.1-400, 54.1-401, 54.1-402.2, 54.1-403, 54.1-404.2, 54.1-405, 54.1-407, 54.1-409, 54.1-410, 54.1-411, 54.1-2201, and 62.1-44.15:51, as it is currently effective and as it shall become effective, of the Code of Virginia and to repeal Article 2 (§§ 54.1-412, 54.1-413, and 54.1-414) of Chapter 4 and Chapter 18 (§§ 54.1-1800 through 54.1-1806) of Title 54.1 of the Code of Virginia, relating to the deregulation of interior designers, landscape architects, and polygraph examiners.*

Patrons—LaRock, Freitas and Lingamfelter

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 13.1-543, 13.1-544, 13.1-545.1, 13.1-549, 13.1-550, 13.1-553, 13.1-1102, 13.1-1103, 13.1-1106, 13.1-1111, 13.1-1115, 15.2-851, 15.2-2263, 22.1-140, 54.1-300, 54.1-400, 54.1-401, 54.1-402.2, 54.1-403, 54.1-404.2, 54.1-405, 54.1-407, 54.1-409, 54.1-410, 54.1-411, 54.1-2201, and 62.1-44.15:51, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

**§ 13.1-543. Definitions.**

A. As used in this chapter:

"Eligible employee stock ownership plan" means an employee stock ownership plan as such term is defined in § 4975(e)(7) of the Internal Revenue Code of 1986, as amended, sponsored by a professional corporation and with respect to which:

1. All of the trustees of the employee stock ownership plan are individuals who are duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter; however, if a conflict of interest exists for one or more trustees with respect to a specific issue or transaction, such trustees may appoint a special independent trustee or special fiduciary, who is not duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter, which special independent trustee shall be authorized to make decisions only with respect to the specific issue or transaction that is the subject of the conflict;

2. The employee stock ownership plan provides that no shares, fractional shares, or rights or options to purchase shares of the professional corporation shall at any time be issued, sold, or otherwise transferred directly to anyone other than an individual duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter, unless such shares are transferred as a plan distribution to a plan beneficiary and subject to immediate repurchase by the professional corporation, the employee stock ownership plan or another person authorized to hold such shares; however:

a. With respect to a professional corporation rendering the professional services of public accounting or certified public accounting:

(1) The employee stock ownership plan may permit individuals who are not duly licensed or otherwise legally authorized to render these services to participate in such plan, provided such individuals are employees of the corporation and hold less than a majority of the beneficial interests in such plan; and

(2) At least 51% of the total of allocated and unallocated equity interests in the corporation sponsoring such employee stock ownership plan are held (i) by the trustees of such employee stock ownership plan for the benefit of persons holding a valid CPA certificate as defined in § 54.1-4400, with unallocated shares allocated for these purposes pursuant to § 409(p) of the Internal Revenue Code of 1986, as amended, or (ii) by individual employees holding a valid CPA certificate separate from any interests held by such employee stock ownership plan; and

b. With respect to a professional corporation rendering the professional services of architects, professional engineers, or land surveyors; ~~landscape architects, or certified interior designers,~~ the employee stock ownership plan may permit individuals who are not duly licensed to render the services of architects, professional engineers, or land surveyors; ~~or landscape architects, or individuals legally authorized to use the title of certified interior designers~~ to participate in such plan, provided such individuals are employees of the corporation and together hold not more than one-third of the beneficial

INTRODUCED

HB1824

59 interests in such plan, and that the total of the shares (i) held by individuals who are employees but not  
60 duly licensed to render such services ~~or legally authorized to use a title~~ and (ii) held by the trustees of  
61 such employee stock ownership plan for the benefit of individuals who are employees but not duly  
62 licensed to render such services ~~or legally authorized to use a title~~, shall not exceed one-third of the  
63 shares of the corporation; and

64 3. The professional corporation, the trustees of the employee stock ownership plan, and the other  
65 shareholders of the professional corporation comply with the foregoing provisions of the plan.

66 "Professional business entity" means any entity as defined in § 13.1-603 that is duly licensed or  
67 otherwise legally authorized under the laws of the Commonwealth or the laws of the jurisdiction under  
68 whose laws the entity is formed to render the same professional service as that for which a professional  
69 corporation or professional limited liability company may be organized, including, but not limited to, (i)  
70 a professional limited liability company as defined in § 13.1-1102, (ii) a professional corporation as  
71 defined in this subsection, or (iii) a partnership that is registered as a registered limited liability  
72 partnership registered under § 50-73.132, all of the partners of which are duly licensed or otherwise  
73 legally authorized to render the same professional services as those for which the partnership was  
74 organized.

75 "Professional corporation" means a corporation whose articles of incorporation set forth a sole and  
76 specific purpose permitted by this chapter and that is either (i) organized under this chapter for the sole  
77 and specific purpose of rendering professional service other than that of architects, professional  
78 engineers, ~~or~~ land surveyors; ~~or landscape architects, or using a title other than that of certified interior~~  
79 ~~designers~~ and, except as expressly otherwise permitted by this chapter, that has as its shareholders or  
80 members only individuals or professional business entities that are duly licensed or otherwise legally  
81 authorized to render the same professional service as the corporation, including the trustees of an  
82 eligible employee stock ownership plan or (ii) organized under this chapter for the sole and specific  
83 purpose of rendering the professional services of architects, professional engineers, ~~or~~ land surveyors; ~~or~~  
84 ~~landscape architects, or using the title of certified interior designers, or any combination thereof, and at~~  
85 at least two-thirds of whose shares are held by persons duly licensed within the Commonwealth to perform  
86 the services of an architect, professional engineer, ~~or~~ land surveyor, ~~or landscape architect~~, including the  
87 trustees of an eligible employee stock ownership plan, ~~or by persons legally authorized within the~~  
88 ~~Commonwealth to use the title of certified interior designer~~; or (iii) organized under this chapter or  
89 under Chapter 10 (§ 13.1-801 et seq.) of this title for the sole and specific purpose of rendering the  
90 professional services of one or more practitioners of the healing arts, licensed under the provisions of  
91 Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more nurse practitioners, licensed under  
92 Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more optometrists licensed under the provisions  
93 of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, or one or more physical therapists and physical  
94 therapist assistants licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, or  
95 one or more practitioners of the behavioral science professions, licensed under the provisions of Chapter  
96 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.) or 37 (§ 54.1-3700 et seq.) of Title 54.1, or one or  
97 more practitioners of audiology or speech pathology, licensed under the provisions of Chapter 26  
98 (§ 54.1-2600 et seq.) of Title 54.1, or one or more clinical nurse specialists who render mental health  
99 services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and registered with the Board of  
100 Nursing, or any combination of practitioners of the healing arts, optometry, physical therapy, the  
101 behavioral science professions, and audiology or speech pathology, and all of whose shares are held by  
102 or all of whose members are individuals or professional business entities duly licensed or otherwise  
103 legally authorized to perform the services of a practitioner of the healing arts, nurse practitioners,  
104 optometry, physical therapy, the behavioral science professions, audiology or speech pathology or of a  
105 clinical nurse specialist who renders mental health services, including the trustees of an eligible  
106 employee stock ownership plan; however, nothing herein shall be construed so as to allow any member  
107 of the healing arts, optometry, physical therapy, the behavioral science professions, audiology or speech  
108 pathology or a nurse practitioner or clinical nurse specialist to conduct his practice in a manner contrary  
109 to the standards of ethics of his branch of the healing arts, optometry, physical therapy, the behavioral  
110 science professions, audiology or speech pathology, or nursing, as the case may be.

111 "Professional service" means any type of personal service to the public that requires as a condition  
112 precedent to the rendering of such service or use of such title the obtaining of a license, certification, or  
113 other legal authorization and shall be limited to the personal services rendered by pharmacists,  
114 optometrists, physical therapists and physical therapist assistants, practitioners of the healing arts, nurse  
115 practitioners, practitioners of the behavioral science professions, veterinarians, surgeons, dentists,  
116 architects, professional engineers, land surveyors, ~~landscape architects, certified interior designers~~, public  
117 accountants, certified public accountants, attorneys-at-law, insurance consultants, audiologists or speech  
118 pathologists, and clinical nurse specialists. For the purposes of this chapter, the following shall be  
119 deemed to be rendering the same professional service:

120 1. Architects, professional engineers, and land surveyors; and

2. Practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; nurse practitioners, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; optometrists, licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1; physical therapists and physical therapist assistants, licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1; practitioners of the behavioral science professions, licensed under the provisions of Chapters 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of Title 54.1; and one or more clinical nurse specialists who render mental health services, licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and are registered with the Board of Nursing.

B. Persons who practice the healing art of performing professional clinical laboratory services within a hospital pathology laboratory shall be legally authorized to do so for purposes of this chapter if such persons (i) hold a doctorate degree in the biological sciences or a board certification in the clinical laboratory sciences and (ii) are tenured faculty members of an accredited medical college or university that is an "educational institution" within the meaning of § 23.1-1101.

**§ 13.1-544. Who may organize and become shareholder.**

A. An individual or group of individuals (i) duly licensed or otherwise legally authorized to render the same professional services other than those of architects, professional engineers, or land surveyors, ~~or to use a title other than those of certified landscape architects or certified interior designers~~, of which at least one is duly licensed or otherwise legally authorized to render such professional services within the Commonwealth, or (ii) complying with the provisions of § 13.1-549 and duly licensed to render within the Commonwealth the professional services of architects, professional engineers, or land surveyors, ~~or legally authorized to use within the Commonwealth the title of certified landscape architects or certified interior designers~~, or any combination thereof, may organize a professional corporation for pecuniary profit under the provisions of Chapter 9 (§ 13.1-601 et seq.) ~~of this title~~ or organize a professional corporation as a nonstock corporation under the provisions of Chapter 10 (§ 13.1-801 et seq.) ~~of this title~~, for the sole and specific purpose of rendering the same and specific professional service, subject to any laws, not inconsistent with the provisions of this chapter, which are applicable to the practice of that profession in the corporate form.

B. An eligible employee stock ownership plan or any individual or group of individuals described in clause (i) or (ii) of subsection A may become a shareholder or shareholders of a professional corporation for pecuniary profit under the provisions of Chapter 9 (§ 13.1-601 et seq.) ~~of this title~~, for the sole and specific purpose of rendering the same and specific professional service, subject to any laws, not inconsistent with the provisions of this chapter, that are applicable to the practice of that profession in the corporate form.

C. Any individual or group of individuals described in clause (i) or (ii) of subsection A may become a member or members of a professional corporation organized as a nonstock corporation under the provisions of Chapter 10 (§ 13.1-801 et seq.) ~~of this title~~ for the sole and specific purpose of rendering such professional services, subject to any laws, not inconsistent with the provisions of this chapter, that are applicable to the practice of that profession in the corporate form.

**§ 13.1-545.1. Merger with foreign professional corporation or foreign professional limited liability company.**

Any corporation organized under this chapter may merge with one or more foreign professional corporations that have obtained a certificate of authority to transact business in the Commonwealth pursuant to § 13.1-544.2, or one or more foreign professional limited liability companies that have obtained a certificate of registration to transact business in the Commonwealth pursuant to § 13.1-1105, only if the professional corporations and the professional limited liability companies are organized to render the same professional service, provided that (i) the merger is permitted by the laws of the jurisdiction under which each such foreign professional corporation or foreign professional limited liability company is organized, (ii) if the surviving or new professional business entity is a professional corporation organized and operating under the laws of the Commonwealth, all of its shareholders shall be licensed or otherwise legally authorized to render the same professional service as the corporation, provided that if such service is that of architects, professional engineers, ~~or land surveyors or certified landscape architects~~, or any combination thereof, at least two-thirds of its shares shall be held by individuals who are licensed or otherwise legally authorized within the Commonwealth to render the applicable service, and (iii) if the surviving or new professional business entity is a professional limited liability company organized and operating under the laws of the Commonwealth, all of its members and managers shall be licensed or otherwise legally authorized to render the same professional service as the professional limited liability company, provided that if such service is that of architects, professional engineers, ~~or land surveyors or certified landscape architects~~, or any combination thereof, at least two-thirds of its membership interests shall be held by individuals or professional business entities that are licensed or otherwise legally authorized within the Commonwealth to render the applicable service.

**§ 13.1-549. Qualifications of shareholders; special provisions for corporations rendering services**

**of architects, professional engineers, and land surveyors.**

A. A corporation rendering the services of architects, professional engineers, *or* land surveyors, ~~or landscape architects, or using the title of certified interior designers,~~ or any combination thereof, shall issue not less than two-thirds of its shares to individuals or professional business entities duly licensed to render the services of architect, professional engineer, *or* land surveyor, ~~or landscape architect, or to individuals legally authorized to use the title of certified interior designer,~~ and the remainder of said shares may be issued only to and held by individuals who are employees of the corporation whether or not such employees are licensed to render professional services or authorized to use a title. ~~For a corporation using the title of certified interior designers and providing the services of architects, professional engineers or land surveyors, or any combination thereof, not less than two-thirds of its shares shall be held by individuals or professional business entities who are duly licensed.~~ No other professional corporation, except for a corporation engaged in the practice of accounting as described in § 13.1-549.1, may issue any of its shares to anyone other than an individual or professional business entity who is duly licensed or otherwise legally authorized to render the same specific professional services as those for which the corporation was incorporated, including trustees of an eligible employee stock ownership plan. Notwithstanding the above limitations, a professional corporation may (i) issue its shares to a partnership each of the partners of which is duly licensed or otherwise legally authorized to render the same professional services as those for which the corporation was incorporated or (ii) issue any of its shares to, and have as shareholders, directly or indirectly, whether through shares, fractional shares, or rights or options to purchase shares, the trustees of an eligible employee stock ownership plan.

B. As an additional prerequisite for a corporation engaging in the practice of the professions of architecture, professional engineering, *or* land surveying, ~~or landscape architecture, or using the title of certified interior designer,~~ or any combination thereof, such corporation shall secure a certificate of authority, which may be renewable and may be either general or limited, from the Board for Architects, Professional Engineers, *and* Land Surveyors, ~~Certified Interior Designers and Landscape Architects.~~ Such certificate of authority shall be issued or renewed by the Board when in its discretion such corporation is in compliance with rules and regulations which shall be promulgated by the said Board consistent with its jurisdiction to provide adequate safeguards for the public's health, welfare and safety. The fees for a certificate of authority as described ~~above in this subsection~~ shall be the same fees as provided for in Chapter 4 (§ 54.1-400 et seq.) of Title 54.1.

**§ 13.1-550. Transfer of shares.**

A. No shareholder of a corporation organized under this chapter may sell or transfer his shares in such corporation except to (i) the corporation, (ii) another individual or professional business entity who is eligible to be a shareholder of such corporation, (iii) a qualified charitable remainder trust as defined in subsection B, or (iv) the trustees of an eligible employee stock ownership plan. In the case of a corporation rendering the services of architects, professional engineers, *or* land surveyors ~~and certified landscape architects,~~ or any combination thereof, no person who is not duly licensed or otherwise legally authorized to render one such service shall be eligible unless at least two-thirds of the remaining shares after the sale or transfer shall be held by individuals or professional business entities duly licensed or otherwise legally authorized to perform one such service.

B. As used in this section, "qualified charitable remainder trust" means a trust meeting the requirements of § 664 of the United States Internal Revenue Code of 1986, as amended, and which meets all of the following conditions:

1. Has one or more current income beneficiaries, all of which are eligible to be a shareholder in the corporation under § 13.1-544.

2. Has a trustee or independent special trustee who:

a. Is eligible to be a shareholder in the corporation under § 13.1-544; and

b. Has exclusive authority over the shares of the corporation while the shares are held in the trust.

3. Has one or more irrevocably designated charitable remaindermen, all of which must at all times be domiciled or maintain a local chapter in the Commonwealth of Virginia.

4. When transferring any assets during the term of the trust to charitable organizations, the distributions are made only to charitable organizations described in § 170(c) of the Internal Revenue Code that are domiciled or maintain a local chapter in this Commonwealth.

**§ 13.1-553. Board of directors.**

A. Except as provided in an agreement adopted pursuant to § 13.1-671.1 or 13.1-852.1 that is not in conflict with § 13.1-544, a professional corporation organized pursuant to the provisions of this chapter shall be governed by a board of directors, which shall have the full management of the business and affairs of the corporation and continuing exclusive authority to make management decisions on its behalf, including the power and authority to delegate to its agents, officers, and employees, and to delegate by a management agreement or another agreement with, or otherwise to, other persons managerial duties and tasks related to the corporation's operations, and no shareholder or member shall have the power to bind the corporation within the scope of its business or profession merely by virtue of

his being a shareholder or member. To the extent the board of directors is eliminated or its make-up or manner of selection is modified by an agreement adopted pursuant to § 13.1-671.1 or 13.1-852.1, only individuals or entities licensed or otherwise legally authorized to render the same professional services within the Commonwealth as the services provided by the professional corporation or its shareholders or members shall supervise and direct the provision of professional services of that professional corporation or its shareholders or members within the Commonwealth; however, in the case of a corporation rendering the services of architects, professional engineers, *or* land surveyors, ~~landscape architects, or certified interior designers,~~ or any combination thereof, such supervision and direction may be provided by individuals who are employees of the corporation and are not duly licensed to render such professional services so long as at least two-thirds of the individuals providing such supervision and direction are employees of the corporation and duly licensed to render such professional services.

B. The articles of incorporation may prescribe the manner in which the board of directors shall be chosen and the number thereof. No individual not duly licensed or otherwise duly authorized to render the professional services of the corporation shall be a member of the board of directors, except that the board of directors of a corporation rendering the services of architects, professional engineers, *or* land surveyors, ~~landscape architects, or certified interior designers,~~ or any combination thereof, may have as members employees of the corporation who are not authorized to render the professional services of the corporation, provided that such employee-directors do not constitute more than one-third of all of the members of the board of directors.

C. The board of directors, including the first board of directors, shall consist of one or more individuals. The number of directors shall be fixed by the bylaws except as to the number of the first board of directors, which shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment of the bylaws, unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment of the articles of incorporation. In the absence of a bylaw fixing the number of directors, the number shall be the same as that stated in the articles of incorporation.

#### **§ 13.1-1102. Definitions.**

A. As used in this chapter:

"Professional business entity" means any entity as defined in § 13.1-603 that is duly licensed or otherwise legally authorized under the laws of the Commonwealth or the laws of the jurisdiction under whose laws the entity is formed to render the same professional service as that for which a professional corporation or professional limited liability company may be organized, including, but not limited to, (i) a professional limited liability company as defined in this subsection, (ii) a professional corporation as defined in subsection A of § 13.1-543, or (iii) a partnership that is registered as a registered limited liability partnership under § 50-73.132, all of the partners of which are duly licensed or otherwise legally authorized to render the same professional services as those for which the partnership was organized.

"Professional limited liability company" means a limited liability company whose articles of organization set forth a sole and specific purpose permitted by this chapter and that is either (i) organized under this chapter for the sole and specific purpose of rendering professional service other than that of architects, professional engineers, *or* land surveyors; ~~or landscape architects, or using a title other than that of certified interior designers~~ and, except as expressly otherwise permitted by this chapter, that has as its members only individuals or professional business entities that are duly licensed or otherwise legally authorized to render the same professional service as the professional limited liability company or (ii) organized under this chapter for the sole and specific purpose of rendering professional service of architects, professional engineers, *or* land surveyors, ~~or landscape architects or using the title of certified interior designers,~~ or any combination thereof, and at least two-thirds of whose membership interests are held by persons duly licensed within the Commonwealth to perform the services of an architect, professional engineer, *or* land surveyor; ~~or landscape architect, or by persons legally authorized within the Commonwealth to use the title of certified interior designer;~~ or (iii) organized under this chapter for the sole and specific purpose of rendering the professional services of one or more practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more nurse practitioners, licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more optometrists licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, or one or more physical therapists and physical therapist assistants licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, or one or more practitioners of the behavioral science professions, licensed under the provisions of Chapter 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.) or 37 (§ 54.1-3700 et seq.) of Title 54.1, or one or more practitioners of audiology or speech pathology, licensed under the provisions of Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1, or one or more clinical nurse specialists who render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and registered with the Board of Nursing, or any combination of practitioners of the healing arts, of optometry, physical therapy, the behavioral science professions, and

305 audiology or speech pathology and all of whose members are individuals or professional business  
306 entities duly licensed or otherwise legally authorized to perform the services of a practitioner of the  
307 healing arts, nurse practitioners, optometry, physical therapy, the behavioral science professions,  
308 audiology or speech pathology or of a clinical nurse specialist who renders mental health services;  
309 however, nothing herein shall be construed so as to allow any member of the healing arts, optometry,  
310 physical therapy, the behavioral science professions, audiology or speech pathology or a nurse  
311 practitioner or clinical nurse specialist to conduct that person's practice in a manner contrary to the  
312 standards of ethics of that person's branch of the healing arts, optometry, physical therapy, the  
313 behavioral science professions, or audiology or speech pathology, or nursing as the case may be.

314 "Professional services" means any type of personal service to the public that requires as a condition  
315 precedent to the rendering of that service or the use of that title the obtaining of a license, certification,  
316 or other legal authorization and shall be limited to the personal services rendered by pharmacists,  
317 optometrists, physical therapists and physical therapist assistants, practitioners of the healing arts, nurse  
318 practitioners, practitioners of the behavioral science professions, veterinarians, surgeons, dentists,  
319 architects, professional engineers, land surveyors, ~~landscape architects, certified interior designers,~~ public  
320 accountants, certified public accountants, attorneys at law, insurance consultants, audiologists or speech  
321 pathologists and clinical nurse specialists. For the purposes of this chapter, the following shall be  
322 deemed to be rendering the same professional services:

323 1. Architects, professional engineers, and land surveyors; and  
324 2. Practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.)  
325 of Title 54.1, nurse practitioners, licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1,  
326 optometrists, licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, physical  
327 therapists, licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, practitioners  
328 of the behavioral science professions, licensed under the provisions of Chapters 35 (§ 54.1-3500 et seq.),  
329 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of Title 54.1, and clinical nurse specialists who  
330 render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and  
331 registered with the Board of Nursing.

332 B. Persons who practice the healing art of performing professional clinical laboratory services within  
333 a hospital pathology laboratory shall be legally authorized to do so for purposes of this chapter if such  
334 persons (i) hold a doctorate degree in the biological sciences or a board certification in the clinical  
335 laboratory sciences and (ii) are tenured faculty members of an accredited medical college or university  
336 that is an "educational institution" within the meaning of § 23.1-1101.

337 C. Except as expressly otherwise provided, all terms defined in § 13.1-1002 shall have the same  
338 meanings for purposes of this chapter.

339 **§ 13.1-1103. Who may become a member.**

340 One or more individuals or professional business entities (i) duly licensed or otherwise legally  
341 authorized to render the same professional services other than those of architects, professional engineers,  
342 or land surveyors, ~~or to use a title other than those of certified landscape architects or certified interior~~  
343 ~~designers,~~ of which at least one is duly licensed or otherwise legally authorized to render such  
344 professional services within the Commonwealth or (ii) complying with the provisions of § 13.1-1111 and  
345 duly licensed to render within the Commonwealth the professional services of architects, professional  
346 engineers, or land surveyors, ~~or legally authorized to use within the Commonwealth the title of certified~~  
347 ~~landscape architects or certified interior designers,~~ or any combination thereof, may become members of  
348 a limited liability company for pecuniary profit under the provisions of Chapter 12 (§ 13.1-1000 et seq.)  
349 ~~of this title,~~ for the sole and specific purpose of rendering the same and specific professional service,  
350 subject to any laws, not inconsistent with the provisions of this chapter, which are applicable to the  
351 practice of that profession in the limited liability company form.

352 **§ 13.1-1106. Merger with foreign professional limited liability company or foreign professional**  
353 **corporation.**

354 Any limited liability company organized under this chapter may merge with one or more foreign  
355 professional limited liability companies that have obtained a certificate of registration to transact  
356 business in the Commonwealth pursuant to § 13.1-1105, or one or more foreign professional  
357 corporations that have obtained a certificate of authority to transact business in the Commonwealth  
358 pursuant to § 13.1-544.2, only if the professional limited liability companies and the professional  
359 corporations are organized to render the same professional services, provided that (i) the merger is  
360 permitted by the laws of the jurisdiction under which each such foreign professional limited liability  
361 company or foreign professional corporation is organized, (ii) if the surviving or new professional  
362 business entity is a professional limited liability company organized and operating under the laws of the  
363 Commonwealth, all of its members and managers shall be licensed or otherwise legally authorized to  
364 render the same professional service as the limited liability company, provided that if such service is  
365 that of architects, professional engineers, ~~or land surveyors or certified landscape architects,~~ or any  
366 combination thereof, at least two-thirds of its membership interests shall be held by individuals or

professional business entities that are licensed or otherwise legally authorized within the Commonwealth to render the applicable service, and (iii) if the surviving or new professional business entity is a professional corporation organized and operating under the laws of the Commonwealth, all of its shareholders shall be licensed or otherwise legally authorized to render the same professional service as the professional corporation, provided that if such service is that of architects, professional engineers, or land surveyors ~~or certified landscape architects~~, or any combination thereof, at least two-thirds of its shares shall be held by individuals who are licensed or otherwise legally authorized within the Commonwealth to render the applicable service.

**§ 13.1-1111. Qualifications of members and managers; special provisions for limited liability companies rendering service of architects, professional engineers, and land surveyors.**

Not less than two-thirds of the membership interests of a professional limited liability company rendering the services of architects, professional engineers, ~~or land surveyors, or landscape architects, or using the title of certified interior designers~~, or any combination thereof, shall be held by individuals duly licensed or professional business entities legally authorized to render the services of architects, professional engineers, ~~or land surveyors, or landscape architects, or by individuals or professional business entities legally authorized to use the title of certified interior designers~~, and the remainder of the membership interests may be held only by individuals who are employees of the professional limited liability company whether or not those employees are licensed to render professional services or authorized to use a title. ~~For those professional limited liability companies using the title of certified interior designers and providing the services of architects, professional engineers or land surveyors, or any combination thereof, not less than two-thirds of the membership interests of the professional limited liability company shall be held by individuals who are duly licensed.~~ No other professional limited liability company, except for a professional limited liability company engaged in the practice of accounting as described in § 13.1-1112, may have as a member anyone other than an individual or a professional business entity that is duly licensed or otherwise legally authorized to render the same professional services as those for which the professional limited liability company was organized.

As an additional prerequisite for a professional limited liability company's engaging in the practice of the professions of architecture, professional engineering, ~~or land surveying, or landscape architecture, or using the title of certified interior designer~~, or any combination thereof, that professional limited liability company shall secure a certificate of authority, which may be renewable and may be either general or limited, from the Board for Architects, Professional Engineers, ~~and Land Surveyors, Certified Interior Designers and Landscape Architects~~. The certificate of authority shall be issued or renewed by the Board when in its discretion the professional limited liability company is in compliance with rules and regulations which shall be promulgated by the Board consistent with its jurisdiction to provide adequate safeguards for the public's health, welfare and safety. The fees for a certificate of authority as described above shall be the same fees as provided for in Chapter 4 (§ 54.1-400 et seq.) of Title 54.1.

**§ 13.1-1115. Transfer of membership interests.**

A. No member of a professional limited liability company organized under this chapter may sell, assign in whole or in part, or otherwise transfer that member's membership interest in the professional limited liability company except to (i) the professional limited liability company, (ii) another individual or professional business entity that is eligible to be a member of that professional limited liability company, or (iii) a qualified charitable remainder trust as described in subsection B. In the case of a professional limited liability company rendering the services of architects, professional engineers, ~~or land surveyors and certified landscape architects~~, or any combination thereof, no person or professional business entity which is not duly licensed or otherwise legally authorized to render one of those services will be eligible unless at least two-thirds of the remaining membership interests after the sale or transfer are held by persons or professional business entities duly licensed or otherwise legally authorized to perform one of those services.

B. As used in this section, "qualified charitable remainder trust" means a trust meeting the requirements of § 664 of the United States Internal Revenue Code of 1986, as amended, and which meets all of the following conditions:

1. Has one or more current income beneficiaries, all of which are eligible to be members in the professional limited liability company under § 13.1-1103.

2. Has a trustee or independent special trustee who:

a. Is eligible to have a membership interest in the professional limited liability company under § 13.1-1103; and

b. Has exclusive authority over the membership interests while such interests are held in the trust.

3. Has one or more irrevocably designated charitable remaindermen, all of which must at all times be domiciled or maintain a local chapter in the Commonwealth of Virginia.

4. When transferring any assets during the term of the trust to charitable organizations, the distributions are made only to charitable organizations described in § 170(c) of the Internal Revenue

428 Code that are domiciled or maintain a local chapter in this Commonwealth.

429 **§ 15.2-851. Expedited land development review procedure.**

430 A. A county may establish, by ordinance, a separate processing procedure for the review of  
431 preliminary and final subdivision and site plans and other development plans certified by licensed  
432 professional engineers, architects, ~~landscape architects~~ and land surveyors who are also licensed pursuant  
433 to § 54.1-408 and recommended for submission by persons who have received special training in such  
434 county's land development ordinances and regulations. The purpose of such separate review procedure is  
435 to provide a procedure to expedite the county's review of certain qualified land development plans. If a  
436 separate procedure is established, the county shall establish within the adopted ordinance the criteria for  
437 qualification of persons and whose work is eligible to use the separate procedure as well as a procedure  
438 for determining if the qualifications are met by persons applying to use the separate procedure. Persons  
439 who satisfy the criteria of subsection B below shall qualify as plans examiners. Plans reviewed and  
440 recommended for submission by plans examiners and certified by the appropriately licensed professional  
441 engineer, architect, ~~landscape architect~~ or land surveyor shall qualify for the separate processing  
442 procedure.

443 B. The qualifications of those persons who may participate in this program shall include, but not be  
444 limited to, the following:

445 1. A bachelor of science degree in engineering, architecture, landscape architecture or related science  
446 or equivalent experience or a land surveyor certified pursuant to § 54.1-408.

447 2. Successful completion of an educational program specified by the county.

448 3. A minimum of two years of land development engineering design experience acceptable to the  
449 county.

450 4. Attendance at continuing educational courses specified by the county.

451 5. Consistent preparation and submission of plans which meet all applicable ordinances and  
452 regulations.

453 C. If an expedited review procedure is adopted by the board of supervisors pursuant to this section,  
454 the board of supervisors shall establish an advisory plans examiner board which shall make  
455 recommendations to the board of supervisors on the general operation of the program, on the general  
456 qualifications of those who may participate in the expedited processing procedure, on initial and  
457 continuing educational programs needed to qualify and maintain qualification for such a program, and  
458 on the general administration and operation of such a program. In addition, the plans examiner board  
459 shall submit recommendations to the board of supervisors as to those persons who meet the established  
460 qualifications for participation in the program and as to whether those persons who have previously  
461 qualified to participate in the program should be disqualified, suspended or otherwise disciplined. The  
462 plans examiner board shall consist of six members who shall be appointed by the board of supervisors  
463 for staggered four-year terms. Initial terms may be less than four years so as to provide for staggered  
464 terms. The plans examiner board shall consist of three persons in private practice as licensed  
465 professional engineers or land surveyors certified pursuant to § 54.1-408, at least one of whom shall be  
466 a certified land surveyor; one person employed by the county government; one person employed by the  
467 Virginia Department of Transportation who shall serve as a nonvoting advisory member; and one citizen  
468 member. All plans examiner board members who serve as licensed engineers or as certified surveyors  
469 must maintain their professional license or certification as a condition of holding office, and all such  
470 persons shall have at least two years of experience in land development procedures of the county. The  
471 citizen member shall meet the qualifications provided in § 54.1-107. However, such member,  
472 notwithstanding the proscription of provision (i) of § 54.1-107, shall have training as an engineer or  
473 surveyor and may be currently licensed, certified or practicing his profession.

474 D. The expedited land development program shall include an educational program conducted under  
475 the auspices of a state institution of higher education. The instructors in the educational program shall  
476 consist of persons in the private and public sectors who are qualified to prepare land development plans.  
477 The educational program shall include the comprehensive and detailed study of county ordinances and  
478 regulations relating to plans and how they are applied.

479 E. The separate processing system may include a review of selected or random aspects of plans  
480 rather than a detailed review of all aspects. However, it shall also include periodic detailed review of  
481 plans prepared by persons who qualify for the system.

482 F. In no event shall this section relieve persons who prepare and submit plans of the responsibilities  
483 and obligations which they would otherwise have with regard to the preparation of plans, nor shall it  
484 relieve the county of its obligation to review other plans in the time periods and manner prescribed by  
485 law.

486 **§ 15.2-2263. Expedited land development review procedure.**

487 A. The Counties of Hanover, Loudoun, Montgomery, Prince William, and Roanoke, and the Town of  
488 Leesburg, may establish, by ordinance, a separate processing procedure for the review of preliminary  
489 and final subdivision and site plans and other development plans certified by licensed professional



engineers, licensed architects, licensed land surveyors, and landscape architects who are also licensed pursuant to § 54.1-408 and recommended for submission by persons who have received special training in the locality's land development ordinances and regulations. The purpose of the separate review procedure is to provide a procedure to expedite the locality's review of certain qualified land development plans. If a separate procedure is established, the locality shall establish within the adopted ordinance the criteria for qualification of persons and whose work is eligible to use the separate procedure as well as a procedure for determining if the qualifications are met by persons applying to use the separate procedure. Persons who satisfy the criteria of subsection B below shall qualify as plans examiners. Plans reviewed and recommended for submission by plans examiners and certified by the appropriately licensed professional engineer, licensed architect, *or* licensed land surveyor; ~~or landscape architect~~ shall qualify for the separate processing procedure.

B. The qualifications of those persons who may participate in this program shall include, but not be limited to, the following:

1. A bachelor of science degree in engineering, architecture, landscape architecture or related science or equivalent experience or a licensed land surveyor pursuant to § 54.1-408.

2. Successful completion of an educational program specified by the locality.

3. A minimum of two years of land development engineering design experience acceptable to the locality.

4. Attendance at continuing educational courses specified by the locality.

5. Consistent preparation and submission of plans which meet all applicable ordinances and regulations.

C. If an expedited review procedure is adopted by the board of supervisors or town council pursuant to the authority granted by this section, the board of supervisors or town council shall establish an advisory plans examiner board, which shall make recommendations to the board of supervisors or town council on the general operation of the program, on the general qualifications of those who may participate in the expedited processing procedure, on initial and continuing educational programs needed to qualify and maintain qualification for such a program and on the general administration and operation of the program. In addition, the plans examiner board shall submit recommendations to the board of supervisors or town council as to those persons who meet the established qualifications for participation in the program, and the plans examiner board shall submit recommendations as to whether those persons who have previously qualified to participate in the program should be disqualified, suspended or otherwise disciplined. The plans examiner board shall consist of six members who shall be appointed by the board of supervisors or town council for staggered four-year terms. Initial terms may be less than four years so as to provide for staggered terms. The plans examiner board shall consist of three persons in private practice as licensed professional engineers or licensed land surveyors pursuant to § 54.1-408, at least one of whom shall be a licensed land surveyor; one person employed by the government of the locality; one person employed by the Virginia Department of Transportation who shall serve as a nonvoting advisory member; and one citizen member. All members of the board who serve as licensed engineers or as licensed surveyors must maintain their professional license as a condition of holding office and shall have at least two years of experience in land development procedures of the locality. The citizen member of the board shall meet the qualifications provided in § 54.1-107 and, notwithstanding the proscription of clause (i) of § 54.1-107, shall have training as an engineer or surveyor and may be currently licensed or practicing his profession.

D. The expedited land development program shall include an educational program conducted under the auspices of a state institution of higher education. The instructors in the educational program shall consist of persons in the private and public sectors who are qualified to prepare land development plans. The educational program shall include the comprehensive and detailed study of local ordinances and regulations relating to plans and how they are applied.

E. The separate processing system may include a review of selected or random aspects of plans rather than a detailed review of all aspects; however, it shall also include a periodic detailed review of plans prepared by persons who qualify for the system.

F. In no event shall this section relieve persons who prepare and submit plans of the responsibilities and obligations that they would otherwise have with regard to the preparation of plans, nor shall it relieve the locality of its obligation to review other plans in the time periods and manner prescribed by law.

#### **§ 22.1-140. Plans for buildings to be approved by division superintendent.**

No public school building or addition or alteration thereto, for either permanent or temporary use, shall be advertised for bid, contracted for, erected, or otherwise acquired until the plans and specifications therefor have been approved in writing by the division superintendent and are accompanied by a statement by an architect or professional engineer licensed by the Board for Architects, Professional Engineers, and Land Surveyors; ~~Certified Interior Designers and Landscape~~

Architects that such plans and specifications are, in his professional opinion and belief, in compliance with the regulations of the Board of Education and the Uniform Statewide Building Code. The division superintendent's approval, architect's or engineer's statement, and a copy of the final plans and specifications shall be submitted to the Superintendent of Public Instruction.

**§ 54.1-300. Definitions.**

As used in this chapter unless the context requires a different meaning:

"Board" means the Board for Professional and Occupational Regulation.

"Certification" means the process whereby the Department or any regulatory board issues a certificate on behalf of the Commonwealth to a person certifying that he possesses the character and minimum skills to engage properly in his profession or occupation.

"Department" means the Department of Professional and Occupational Regulation.

"Director" means the Director of the Department of Professional and Occupational Regulation.

"Inspection" means a method of regulation whereby a state agency periodically examines the activities and premises of practitioners of an occupation or profession to ascertain if the practitioner is carrying out his profession or occupation in a manner consistent with the public health, safety and welfare.

"Licensure" means a method of regulation whereby the Commonwealth, through the issuance of a license, authorizes a person possessing the character and minimum skills to engage in the practice of a profession or occupation that is unlawful to practice without a license.

"Registration" means a method of regulation whereby any practitioner of a profession or occupation may be required to submit information concerning the location, nature and operation of his practice.

"Regulatory board" means the Auctioneers Board, Board for Architects, Professional Engineers, *and* Land Surveyors; ~~Certified Interior Designers and Landscape Architects~~, Board for Barbers and Cosmetology, Board for Branch Pilots, Board for Contractors, Board for Hearing Aid Specialists and Opticians, Board for Professional Soil Scientists, Wetland Professionals, and Geologists, Board for Waste Management Facility Operators, Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals, Cemetery Board, Real Estate Appraiser Board, Real Estate Board, Fair Housing Board, Virginia Board for Asbestos, Lead, and Home Inspectors, and Common Interest Community Board.

CHAPTER 4.

ARCHITECTS, ENGINEERS, *AND* LAND SURVEYORS; LANDSCAPE ARCHITECTS *AND*  
INTERIOR DESIGNERS.

Article 1.

Architects, Engineers, *and* Land Surveyors ~~and~~ Landscape Architects.

**§ 54.1-400. Definitions.**

As used in this chapter unless the context requires a different meaning:

"Architect" means a person who, by reason of his knowledge of the mathematical and physical sciences, and the principles of architecture and architectural design, acquired by professional education, practical experience, or both, is qualified to engage in the practice of architecture and whose competence has been attested by the Board through licensure as an architect.

The "practice of architecture" means any service wherein the principles and methods of architecture are applied, such as consultation, investigation, evaluation, planning and design, and includes the responsible administration of construction contracts, in connection with any private or public buildings, structures or projects, or the related equipment or accessories.

"Board" means the Board for Architects, Professional Engineers, *and* Land Surveyors; ~~Certified Interior Designers and Landscape Architects~~.

"Certified interior designer" means a design professional who meets the criteria of education, experience, and testing in the rendering of interior design services established by the Board through certification as an interior designer.

"Improvements to real property" means any valuable addition or amelioration made to land and generally whatever is erected on or affixed to land which is intended to enhance its value, beauty or utility, or adapt it to new or further purposes. Examples of improvements to real property include, but are not limited to, structures, buildings, machinery, equipment, electrical systems, mechanical systems, roads, and water and wastewater treatment and distribution systems.

"Interior design" by a certified interior designer means any service rendered wherein the principles and methodology of interior design are applied in connection with the identification, research, and creative solution of problems pertaining to the function and quality of the interior environment. Such services relative to interior spaces shall include the preparation of documents for nonload-bearing interior construction, furnishings, fixtures, and equipment in order to enhance and protect the health, safety, and welfare of the public.

"Land surveyor" means a person who, by reason of his knowledge of the several sciences and of the principles of land surveying, and of the planning and design of land developments acquired by practical

experience and formal education, is qualified to engage in the practice of land surveying, and whose competence has been attested by the Board through licensure as a land surveyor.

The "practice of land surveying" includes surveying of areas for a determination or correction, a description, the establishment or reestablishment of internal and external land boundaries, or the determination of topography, contours or location of physical improvements, and also includes the planning of land and subdivisions thereof. The term "planning of land and subdivisions thereof" shall include, but not be limited to, the preparation of incidental plans and profiles for roads, streets and sidewalks, grading, drainage on the surface, culverts and erosion control measures, with reference to existing state or local standards.

"Landscape architect" means a person who, by reason of his special knowledge of natural, physical and mathematical sciences, and the principles and methodology of landscape architecture and landscape architectural design acquired by professional education, practical experience, or both, is qualified to engage in the practice of landscape architecture ~~and whose competence has been attested by the Board through licensure as a landscape architect.~~

The "practice of landscape architecture" by a ~~licensed~~ landscape architect means any service wherein the principles and methodology of landscape architecture are applied in consultation, evaluation, planning (including the preparation and filing of sketches, drawings, plans and specifications) and responsible supervision or administration of contracts relative to projects principally directed at the functional and aesthetic use of land.

"Professional engineer" means a person who is qualified to practice engineering by reason of his special knowledge and use of mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design acquired by engineering education and experience, and whose competence has been attested by the Board through licensure as a professional engineer.

The "practice of engineering" means any service wherein the principles and methods of engineering are applied to, but are not necessarily limited to, the following areas: consultation, investigation, evaluation, planning and design of public or private utilities, structures, machines, equipment, processes, transportation systems and work systems, including responsible administration of construction contracts. The term "practice of engineering" shall not include the service or maintenance of existing electrical or mechanical systems.

"Residential wastewater" means sewage (i) generated by residential or accessory uses, not containing storm water or industrial influent, and having no other toxic, or hazardous constituents not routinely found in residential wastewater flows, or (ii) as certified by a professional engineer.

"Responsible charge" means the direct control and supervision of the practice of architecture, professional engineering, ~~landscape architecture~~, or land surveying.

#### **§ 54.1-401. Exemptions.**

The following shall be exempted from the provisions of this chapter:

1. Practice of professional engineering and land surveying by a licensed architect when such practice is incidental to what may be properly considered an architectural undertaking.

2. Practice of architecture and land surveying by a licensed professional engineer when such practice is incidental to an engineering project.

3. Practice as a professional engineer, ~~or architect or landscape architect~~ in ~~this the~~ Commonwealth by any person not a resident of and having no established place of business in ~~this the~~ Commonwealth, or by any person resident in ~~this the~~ Commonwealth whose arrival is recent, provided that such person is otherwise qualified for such professional service in another state or country and qualifies in Virginia and files prior to commencement of such practice an application, with the required fee, for licensure as a professional engineer, ~~or architect or landscape architect~~. The exemption shall continue until the Board has had sufficient time to consider the application and grant or deny licensure or certification.

4. Engaging in the practice of professional engineering as an employee under a licensed professional engineer, engaging in the practice of architecture as an employee under a licensed architect, ~~engaging in the practice of landscape architecture as an employee under a licensed landscape architect~~, or engaging in the practice of land surveying as an employee under a licensed land surveyor; provided, that such practice shall not include responsible charge of design or supervision.

5. Practice of professional engineering, architecture, ~~landscape architecture~~, or land surveying solely as an employee of the United States. However, the employee shall not be exempt from other provisions of this chapter if he furnishes advisory service for compensation to the public in connection with engineering, architectural, ~~landscape architecture~~, or land surveying matters.

6. Practice of architecture or professional engineering by an individual, firm or corporation on property owned or leased by such individual, firm or corporation, unless the public health or safety is involved.

7. Practice of engineering solely as an employee of a corporation engaged in interstate commerce, or as an employee of a public service corporation, by rendering such corporation engineering service in

connection with its facilities which are subject to regulation by the State Corporation Commission; provided, that corporation employees who furnish advisory service to the public in connection with engineering matters other than in connection with such employment shall not be exempt from the provisions of this chapter.

**§ 54.1-402.2. Cease and desist orders for unlicensed activity; civil penalty.**

A. Notwithstanding § 54.1-111, the Board may issue an order requiring any person to cease and desist from (i) practicing or offering to practice as an architect, professional engineer, *or* land surveyor, ~~or landscape architect~~ when such person is not licensed or registered by the Board in accordance with this chapter ~~or (ii) holding himself out as a certified interior designer when such person is not certified or registered by the Board in accordance with this chapter.~~ The order shall be effective upon its entry and shall become final unless such person files an appeal with the Board in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) within 21 days of the date of entry of the order.

B. If the person fails to cease and desist the unlicensed, uncertified, or unregistered activity after entry of an order in accordance with subsection A, the Board may refer the matter for enforcement pursuant to § 54.1-306.

C. Any person engaging in unlicensed, ~~uncertified~~, or unregistered activity shall be subject to further proceedings before the Board and the Board may impose a civil penalty not to exceed \$2,500. Any penalties collected under this section shall be paid to the Literary Fund after deduction of the administrative costs of the Board in furtherance of this section.

D. Nothing contained in this section shall apply to any person engaged in activity exempted from the provisions of this chapter.

**§ 54.1-403. Board members and officers; quorum.**

The Board for Architects, Professional Engineers, *and* Land Surveyors; ~~Certified Interior Designers and Landscape Architects~~ shall be composed of ~~thirteen~~ *nine* members as follows: three architects, three professional engineers, *and* three land surveyors; ~~two landscape architects and two certified interior designers.~~ Each interior designer appointment to the Board may be made from nominations submitted by the Council of Certified Virginia Interior Designers, who shall nominate three persons for each interior designer vacancy. In no case shall the Governor be bound to make any appointment from the nominees.

Board members shall have actively practiced or taught their professions for at least ~~ten~~ 10 years prior to their appointments. The terms of Board members shall be four years.

The Board shall elect a president and vice-president from its membership.

~~Eight~~ Six Board members, consisting of two engineers, two architects, *and* two land surveyors; ~~one landscape architect and one interior designer,~~ shall constitute a quorum.

**§ 54.1-404.2. Continuing education.**

A. The Board shall promulgate regulations governing continuing education requirements for architects, professional engineers, *and* land surveyors; ~~and landscape architects~~ licensed by the Board. Such regulations shall require the completion of the equivalent of 16 hours per biennium of Board-approved continuing education activities as a prerequisite to the renewal or reinstatement of a license issued to an architect, professional engineer, *or* land surveyor; ~~or landscape architect.~~ The Board shall establish criteria for continuing education activities, including, but not limited to (i) content and subject matter; (ii) curriculum; (iii) standards and procedures for the approval of activities, courses, sponsors, and instructors; (iv) methods of instruction for continuing education courses; and (v) the computation of course credit.

B. The Board may grant exemptions or waive or reduce the number of continuing education hours required in cases of certified illness or undue hardship.

**§ 54.1-405. Examinations and issuance of licenses.**

A. The Board shall hold at least one examination each year at times and locations designated by the Board. A license to practice as a professional engineer, an architect, *or* a land surveyor; ~~or a landscape architect~~ shall be issued to every applicant who complies with the requirements of this chapter and the regulations of the Board. A license shall be valid during the life of the holder unless revoked or suspended by the Board. A license holder must register with the Board to practice in the Commonwealth. The licenses shall be signed by at least four members of the Board.

B. Notwithstanding the provisions of § 54.1-111, a license holder who has retired from practice may use the designation granted by such license, followed by the word "emeritus," without possessing a current registration from the Board provided (i) the license has not been revoked or suspended by the Board and (ii) the license holder does not practice or offer to practice architecture, engineering, *or* land surveying; ~~or landscape architecture.~~

**§ 54.1-407. Land surveying.**

Notwithstanding the provisions of any regulation promulgated by the Board for Architects, Professional Engineers, *and* Land Surveyors; ~~Certified Interior Designers and Landscape Architects~~, a land surveyor shall not be required by Board regulations to set corner monumentation or perform a boundary survey on any property when (i) corner monumentation has been set or is otherwise required

to be set pursuant to the provisions of a local subdivision ordinance as mandated by § 15.2-2240 or subdivision 7 of § 15.2-2241, or where the placing of such monumentation is covered by a surety bond, cash escrow, set-aside letter, letter of credit, or other performance guaranty, or (ii) the purpose of the survey is to determine the location of the physical improvements on the said property only, if the prospective mortgagor or legal agent ordering the survey agrees in writing that such corner monumentation shall not be provided in connection with any such physical improvements survey. The provisions of this section shall apply only to property located within the Counties of Arlington, Fairfax, King George, Loudoun, Prince William, Spotsylvania and Stafford; and the Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Manassas and Manassas Park.

**§ 54.1-409. Practice of landscape architecture by licensed land surveyors; limitations.**

A. Beginning July 1, 2010, a person who engages in the practice of landscape architecture as defined in ~~§ 54.1-400~~ and who holds himself out as a landscape architect shall hold a valid license prior to engaging in such practice. Resulting site plans, plans of development, preliminary plats, drawings, technical reports, and specifications, submitted under the seal, stamp or certification of a licensed landscape architect, shall be accepted for review by local and state authorities, in connection with both public and private projects. However, ~~no~~ *No* landscape architect, unless he is also licensed as a land surveyor, shall provide boundary surveys, plats or descriptions for any purpose, except in conjunction with or under the supervision of an appropriately licensed professional, who shall provide certification, as required. Landscape architects shall only engage in projects which they are qualified to undertake based on education, training, and examination and in accordance with the practice of landscape architecture as defined in § 54.1-400.

Any person who (i) holds a valid certification as a landscape architect issued by the Board on June 30, 2010, and (ii) is a Virginia-certified landscape architect in good standing with the Board, shall be licensed to practice landscape architecture as of July 1, 2010.

B. Nothing contained herein or in the definition of "practice of landscape architecture" or in the definition of "landscape architect" in § 54.1-400 shall be construed to restrict or otherwise affect the right of any architect, professional engineer, land surveyor, nurseryman, landscape designer, landscape contractor, land planner, community planner, landscape gardener, golf course designer, turf maintenance specialist, irrigation designer, horticulturist, arborist, or any other similar person from engaging in their occupation or the practice of their profession or from rendering any service in connection therewith that is not otherwise proscribed.

C. Any person, partnership, corporation, or other entity that is not licensed to practice landscape architecture in accordance with the provisions of this chapter and that advertises or promotes through the use of the words "landscape architecture" or any modification or derivation thereof in its name or description of its business activity in a manner that indicates or implies that it practices or offers to practice landscape architecture as defined in this chapter shall be subject to the provisions of ~~§ 54.1-111~~. Nothing contained herein or in the definitions of "landscape architect" or "practice of landscape architecture" in § 54.1-400 shall be construed to restrict or otherwise affect the right of any person undertaking the occupations or professions referred to in subsection B of this section to engage in their occupation, or the practice of their profession, or from rendering any service in connection therewith that is not otherwise proscribed.

D. ~~Any person, partnership, corporation, or other entity offering to practice landscape architecture without being registered or licensed to practice landscape architecture in accordance with the provisions of this chapter, shall be subject to the provisions of § 54.1-111.~~ Nothing contained herein or in the definitions of "landscape architect" and "practice of landscape architecture" in § 54.1-400 shall be construed to restrict or otherwise affect the right of any person undertaking the occupations or professions referenced in subsection B of this section to engage in their occupation, or the practice of their profession, or from rendering any service in connection therewith that is not otherwise proscribed.

**§ 54.1-410. Other building laws not affected; duties of public officials.**

A. Nothing contained in this chapter or in the regulations of the Board shall be construed to limit the authority of any public official authorized by law to approve plans, specifications or calculations in connection with improvements to real property. This shall include, but shall not be limited to, the authority of officials of local building departments as defined in § 36-97, to require pursuant to the Uniform Statewide Building Code, state statutes, local ordinances, or code requirements that such work be prepared by a person licensed or certified pursuant to this chapter.

B. Any public body authorized by law to require that plans, specifications or calculations be prepared in connection with improvements to real property shall establish a procedure to ensure that such plans, specifications or calculations be prepared by an architect, professional engineer, *or* land surveyor ~~or~~ landscape architect licensed or authorized pursuant to this chapter in any case in which the exemptions contained in §§ § 54.1-401, 54.1-402 or § 54.1-402.1 are not applicable.

Drafting of permits, reviewing of plans or inspection of facilities for compliance with an adopted

code or standard by any public body or its designated agent shall not require the services of an architect, professional engineer, or land surveyor or landscape architect licensed pursuant to this chapter.

**§ 54.1-411. Organization for practice; registration.**

A. Nothing contained in this chapter or in the regulations of the Board shall prohibit the practice of architecture, engineering, or land surveying, landscape architecture or the offering of the title of certified interior designer by any corporation, partnership, sole proprietorship, limited liability company, or other entity provided such practice or certification is rendered through its officers, principals or employees who are correspondingly licensed or certified. No individual practicing architecture, engineering, or land surveying, landscape architecture, or offering the title of certified interior designer under the provisions of this section shall be relieved of responsibility that may exist for services performed by reason of his employment or other relationship with such entity. No such corporation, partnership, sole proprietorship, limited liability company, or other entity, or any affiliate thereof, shall, on its behalf or on behalf of any such licensee or certificate holder, nor any licensee or certificate holder, be prohibited from (i) purchasing or maintaining insurance against any such liability; (ii) entering into any indemnification agreement with respect to any such liability; (iii) receiving indemnification as a result of any such liability; or (iv) limiting liability through contract.

B. Except for professional corporations holding a certificate of authority issued in accordance with § 13.1-549, professional limited liability companies holding a certificate of authority issued in accordance with § 13.1-1111, and sole proprietorships that do not employ other individuals for which licensing is required, any person, corporation, partnership, limited liability company, or other entity offering or rendering the practice of architecture, engineering, or land surveying, landscape architecture or offering the title of certified interior designer shall register with the Board. As a condition of registration, the entity shall name at least one licensed architect, professional engineer, or land surveyor, landscape architect or certified interior designer for such profession offered or rendered. The person or persons named shall be responsible and have control of the regulated services rendered by the entity.

C. The Board shall adopt regulations governing the registration of persons, corporations, partnerships, limited liability companies, sole proprietors and other entities as required in subsections A and B which:

1. Provide for procedural requirements to obtain and renew registration on a periodic basis;
2. Establish fees for the application and renewal of registration sufficient to cover costs;
3. Assure that regulated services are rendered and controlled by persons authorized to do so; and
4. Ensure that conflicts of interests are disclosed.

**§ 54.1-2201. Exceptions.**

A. The certification program for wetland delineation set forth in this chapter shall be voluntary and shall not be construed to prohibit:

1. The practice of wetland delineation by individuals who are not certified professional wetland delineators as defined in this chapter;
2. The work of an employee or a subordinate of a certified professional wetland delineator or of an individual who is practicing wetland delineation without being certified;
3. The work of any professional engineer, landscape architect, or land surveyor as defined by § 54.1-400 in rendering any of the services that constitute the practice of wetland delineation or the practice of soil evaluation; or
4. The practice of any profession or occupation that is regulated by another regulatory board within the Department.

B. The licensing program for professional soil scientists shall not be construed to prohibit:

1. The work of an employee or a subordinate of a licensed soil scientist;
2. The work of any professional engineer, landscape architect, or land surveyor as defined in § 54.1-400 in rendering any services that constitute the practice of soil evaluation; or
3. The practice of any profession or occupation that is regulated by another regulatory board within the Department.

C. Nothing in this chapter shall authorize an individual to engage in the practice of engineering, or the practice of land surveying or the practice of landscape architecture, unless such individual is licensed or certified pursuant to Chapter 4 (§ 54.1-400 et seq.).

**§ 62.1-44.15:51. (For expiration date, see Acts 2016, cc. 68 and 758) Definitions.**

As used in this article, unless the context requires a different meaning:

"Agreement in lieu of a plan" means a contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

"Applicant" means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

"Certified inspector" means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after

enrollment.

"Certified plan reviewer" means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of plan review, (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, ~~landscape architect~~, or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1, or professional soil scientist as defined in § 54.1-2200.

"Certified program administrator" means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"District" or "soil and water conservation district" means a political subdivision of the Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

"Erosion and sediment control plan" or "plan" means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

"Erosion impact area" means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

"Land-disturbing activity" means any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:

1. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work;

2. Individual service connections;

3. Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;

4. Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

5. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1;

6. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163;

7. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;

8. Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (§ 10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation;

9. Disturbed land areas of less than 10,000 square feet in size or 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations; however, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;

10. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or

920 poles;

921 11. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are  
922 within the regulatory authority of and approved by local wetlands boards, the Marine Resources  
923 Commission, or the United States Army Corps of Engineers; however, any associated land that is  
924 disturbed outside of this exempted area shall remain subject to this article and the regulations adopted  
925 pursuant thereto; and

926 12. Emergency work to protect life, limb, or property, and emergency repairs; however, if the  
927 land-disturbing activity would have required an approved erosion and sediment control plan, if the  
928 activity were not an emergency, then the land area disturbed shall be shaped and stabilized in  
929 accordance with the requirements of the VESCP authority.

930 "Natural channel design concepts" means the utilization of engineering analysis and fluvial  
931 geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the  
932 purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and  
933 allows larger flows to access its bankfull bench and its floodplain.

934 "Owner" means the owner or owners of the freehold of the premises or lesser estate therein,  
935 mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person,  
936 firm, or corporation in control of a property.

937 "Peak flow rate" means the maximum instantaneous flow from a given storm condition at a particular  
938 location.

939 "Permittee" means the person to whom the local permit authorizing land-disturbing activities is issued  
940 or the person who certifies that the approved erosion and sediment control plan will be followed.

941 "Person" means any individual, partnership, firm, association, joint venture, public or private  
942 corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county,  
943 city, town, or other political subdivision of the Commonwealth, governmental body, including a federal  
944 or state entity as applicable, any interstate body, or any other legal entity.

945 "Runoff volume" means the volume of water that runs off the land development project from a  
946 prescribed storm event.

947 "Town" means an incorporated town.

948 "Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the  
949 Board that has been established by a VESCP authority for the effective control of soil erosion, sediment  
950 deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the  
951 unreasonable degradation of properties, stream channels, waters, and other natural resources and shall  
952 include such items where applicable as local ordinances, rules, permit requirements, annual standards  
953 and specifications, policies and guidelines, technical materials, and requirements for plan review,  
954 inspection, enforcement where authorized in this article, and evaluation consistent with the requirements  
955 of this article and its associated regulations.

956 "Virginia Erosion and Sediment Control Program authority" or "VESCP authority" means an  
957 authority approved by the Board to operate a Virginia Erosion and Sediment Control Program. An  
958 authority may include a state entity, including the Department; a federal entity; a district, county, city, or  
959 town; or for linear projects subject to annual standards and specifications, electric, natural gas, and  
960 telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies,  
961 or authorities created pursuant to § 15.2-5102.

962 "Water quality volume" means the volume equal to the first one-half inch of runoff multiplied by the  
963 impervious surface of the land development project.

964 **§ 62.1-44.15:51. (For effective date, see Acts 2016, cc. 68 and 758) Definitions.**

965 As used in this article, unless the context requires a different meaning:

966 "Agreement in lieu of a plan" means a contract between the VESCP authority and the owner that  
967 specifies conservation measures that must be implemented in the construction of a single-family  
968 detached residential structure; this contract may be executed by the VESCP authority in lieu of a formal  
969 site plan.

970 "Applicant" means any person submitting an erosion and sediment control plan for approval in order  
971 to obtain authorization for land-disturbing activities to commence.

972 "Certified inspector" means an employee or agent of a VESCP authority who (i) holds a certification  
973 from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for  
974 project inspection and successfully completes such program within one year after enrollment.

975 "Certified plan reviewer" means an employee or agent of a VESCP authority who (i) holds a  
976 certification from the Board in the area of plan review, (ii) is enrolled in the Board's training program  
977 for plan review and successfully completes such program within one year after enrollment, or (iii) is  
978 licensed as a professional engineer, architect, ~~landscape architect~~, or land surveyor pursuant to Article 1  
979 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1, or professional soil scientist as defined in § 54.1-2200.

980 "Certified program administrator" means an employee or agent of a VESCP authority who (i) holds a  
981 certification from the Board in the area of program administration or (ii) is enrolled in the Board's



training program for program administration and successfully completes such program within one year after enrollment.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"District" or "soil and water conservation district" means a political subdivision of the Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

"Erosion and sediment control plan" or "plan" means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

"Erosion impact area" means an area of land that is not associated with a current land-disturbing activity but is subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

"Land disturbance" or "land-disturbing activity" means any man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including the clearing, grading, excavating, transporting, and filling of land.

"Natural channel design concepts" means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

"Owner" means the same as provided in § 62.1-44.3. For a land-disturbing activity that is regulated under this article, "owner" also includes the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a given storm condition at a particular location.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

"Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.

"Soil erosion" means the movement of soil by wind or water into state waters or onto lands in the Commonwealth.

"Town" means an incorporated town.

"Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the Board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, policies and guidelines, technical materials, and requirements for plan review, inspection, and evaluation consistent with the requirements of this article.

"Virginia Erosion and Sediment Control Program authority" or "VESCP authority" means a locality approved by the Board to operate a Virginia Erosion and Sediment Control Program. A locality that has chosen not to establish a Virginia Erosion and Stormwater Management Program pursuant to subdivision B 3 of § 62.1-44.15:27 is required to become a VESCP authority in accordance with this article.

"Virginia Stormwater Management Program" or "VSMP" means a program established by the Board pursuant to § 62.1-44.15:27.1 on behalf of a locality on or after July 1, 2014, to manage the quality and quantity of runoff resulting from any land-disturbing activity that (i) disturbs one acre or more of land or (ii) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or greater of land disturbance.

**2. That Article 2 (§§ 54.1-412, 54.1-413, and 54.1-414) of Chapter 4 and Chapter 18 (§§ 54.1-1800 through 54.1-1806) of Title 54.1 of the Code of Virginia are repealed.**

**3. That any professional corporation in existence before July 1, 2017, that is affected by the provisions of this act shall be converted into, and shall operate on or after July 1, 2017, solely as, a corporation under applicable provisions of Title 13.1, exclusive of Chapter 7 (§ 13.1-542 et seq.)**

**1043 of Title 13.1 of the Code of Virginia in accordance with § 13.1-552 of the Code of Virginia.**