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HOUSE BILL NO. 555

Offered January 10, 2018

Prefiled January 8, 2018

A *BILL to amend and reenact §§ 13.1-543, 13.1-549, 13.1-553, 13.1-1102, 13.1-1111, 15.2-851, 15.2-2263, 54.1-400, 54.1-401, 54.1-402.2, 54.1-403, 54.1-404.2, 54.1-405, 54.1-409, 54.1-410, 54.1-411, 54.1-700, 54.1-2201, and 62.1-44.15:51, as it is currently effective and as it may become effective, of the Code of Virginia, relating to professions and occupations; landscape architecture and hair braiding; removal of licensure requirements.*

Patrons—Freitas and Cole

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-543, 13.1-549, 13.1-553, 13.1-1102, 13.1-1111, 15.2-851, 15.2-2263, 54.1-400, 54.1-401, 54.1-402.2, 54.1-403, 54.1-404.2, 54.1-405, 54.1-409, 54.1-410, 54.1-411, 54.1-700, 54.1-2201, and 62.1-44.15:51, as it is currently effective and as it may 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 percent 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, land surveyors, *certified* 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, land surveyors, ~~or landscape architects~~, or individuals legally authorized to use the title of *certified landscape architects* or 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 interests in such plan, and that the total of the shares (i) held by individuals who are employees but not duly licensed to render such services or legally authorized to use a title and (ii) held by the trustees of such employee stock ownership plan for the benefit of individuals who are

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59 employees but not duly licensed to render such services or legally authorized to use a title, shall not
60 exceed one-third of the shares of the corporation; and

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

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

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

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

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

119 2. Practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.)
120 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 school that is an "institution" as that term is defined in § 23.1-1100.

§ 13.1-549. Qualifications of shareholders; special provisions for corporations rendering services of architects, professional engineers and land surveyors, and using the title of certified landscape architects or certified interior designers.

A. A corporation rendering the services of architects, professional engineers, *or* land surveyors, ~~or landscape architects~~, or using the title of *certified landscape architect* or 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 landscape architect* or 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 landscape architect* or 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, 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 shall be the same fees as provided for in Chapter 4 (§ 54.1-400 et seq.) of Title 54.1.

§ 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, land surveyors, *certified* landscape architects, or certified interior designers, or any combination thereof, such supervision and direction may be

182 provided by individuals who are employees of the corporation and are not duly licensed to render such
183 professional services so long as at least two-thirds of the individuals providing such supervision and
184 direction are employees of the corporation and duly licensed to render such professional services.

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

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

200 **§ 13.1-1102. Definitions.**

201 A. As used in this chapter:

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

210 "Professional limited liability company" means a limited liability company whose articles of
211 organization set forth a sole and specific purpose permitted by this chapter and that is either (i)
212 organized under this chapter for the sole and specific purpose of rendering professional service other
213 than that of architects, professional engineers, ~~or~~ land surveyors, ~~or landscape architects~~, or using a title
214 other than that of *certified landscape architects* or certified interior designers and, except as expressly
215 otherwise permitted by this chapter, that has as its members only individuals or professional business
216 entities that are duly licensed or otherwise legally authorized to render the same professional service as
217 the professional limited liability company or (ii) organized under this chapter for the sole and specific
218 purpose of rendering professional service of architects, professional engineers, ~~or~~ land surveyors, ~~or~~
219 ~~landscape architects~~ or using the title of *certified landscape architects* or certified interior designers, or
220 any combination thereof, and at least two-thirds of whose membership interests are held by persons duly
221 licensed within the Commonwealth to perform the services of an architect, professional engineer, ~~or~~ land
222 surveyor, ~~or landscape architect~~, or by persons legally authorized within the Commonwealth to use the
223 title of *certified landscape architect* or certified interior designer; or (iii) organized under this chapter for
224 the sole and specific purpose of rendering the professional services of one or more practitioners of the
225 healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or
226 more nurse practitioners, licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more
227 optometrists licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, or one or
228 more physical therapists and physical therapist assistants licensed under the provisions of Chapter 34.1
229 (§ 54.1-3473 et seq.) of Title 54.1, or one or more practitioners of the behavioral science professions,
230 licensed under the provisions of Chapter 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.) or 37
231 (§ 54.1-3700 et seq.) of Title 54.1, or one or more practitioners of audiology or speech pathology,
232 licensed under the provisions of Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1, or one or more clinical
233 nurse specialists who render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of
234 Title 54.1 and registered with the Board of Nursing, or any combination of practitioners of the healing
235 arts, of optometry, physical therapy, the behavioral science professions, and audiology or speech
236 pathology and all of whose members are individuals or professional business entities duly licensed or
237 otherwise legally authorized to perform the services of a practitioner of the healing arts, nurse
238 practitioners, optometry, physical therapy, the behavioral science professions, audiology or speech
239 pathology or of a clinical nurse specialist who renders mental health services; however, nothing herein
240 shall be construed so as to allow any member of the healing arts, optometry, physical therapy, the
241 behavioral science professions, audiology or speech pathology or a nurse practitioner or clinical nurse
242 specialist to conduct that person's practice in a manner contrary to the standards of ethics of that
243 person's branch of the healing arts, optometry, physical therapy, the behavioral science professions, or

audiology or speech pathology, or nursing as the case may be.

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

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 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, 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 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.

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 school that is an "institution" as that term is defined in § 23.1-1100.

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

§ 13.1-1111. Qualifications of members and managers; special provisions for limited liability companies rendering service of architects, professional engineers and land surveyors, and using the title of certified landscape architects or certified interior designers.

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 landscape architects* or 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, land surveyors, ~~or landscape architects~~, or by individuals or professional business entities legally authorized to use the title of *certified landscape architects* or 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, land surveying, ~~or landscape architecture~~, or using the title of *certified landscape architect* or 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, 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.

§ 15.2-851. Expedited land development review procedure.

A. A county may establish, by ordinance, a separate processing procedure for the review of preliminary and final subdivision and site plans and other development plans certified by licensed professional engineers, architects, *certified* landscape architects and land surveyors who are also licensed

pursuant to § 54.1-408 and recommended for submission by persons who have received special training in such county's land development ordinances and regulations. The purpose of such separate review procedure is to provide a procedure to expedite the county's review of certain qualified land development plans. If a separate procedure is established, the county 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, architect, *certified* landscape architect or land surveyor 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 land surveyor certified pursuant to § 54.1-408.
2. Successful completion of an educational program specified by the county.
3. A minimum of two years of land development engineering design experience acceptable to the county.
4. Attendance at continuing educational courses specified by the county.
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 pursuant to this section, the board of supervisors shall establish an advisory plans examiner board which shall make recommendations to the board of supervisors 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 such a program. In addition, the plans examiner board shall submit recommendations to the board of supervisors as to those persons who meet the established qualifications for participation in the program and 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 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 land surveyors certified pursuant to § 54.1-408, at least one of whom shall be a certified land surveyor; one person employed by the county government; one person employed by the Virginia Department of Transportation who shall serve as a nonvoting advisory member; and one citizen member. All plans examiner board members who serve as licensed engineers or as certified surveyors must maintain their professional license or certification as a condition of holding office, and all such persons shall have at least two years of experience in land development procedures of the county. The citizen member shall meet the qualifications provided in § 54.1-107. However, such member, notwithstanding the proscription of provision (i) of § 54.1-107, shall have training as an engineer or surveyor and may be currently licensed, certified or practicing his profession.

D. The expedited land development program shall include an educational program conducted under the auspices of a public 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 county 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 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 which they would otherwise have with regard to the preparation of plans, nor shall it relieve the county of its obligation to review other plans in the time periods and manner prescribed by law.

§ 15.2-2263. Expedited land development review procedure.

A. The Counties of Hanover, Loudoun, Montgomery, Prince William, and Roanoke, and the Town of Leesburg, may establish, by ordinance, a separate processing procedure for the review of preliminary and final subdivision and site plans and other development plans certified by licensed professional engineers, licensed architects, licensed land surveyors, and *certified* 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, licensed land surveyor, or *certified* 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 public 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.

§ 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, Land Surveyors, Certified Interior

428 Designers and Landscape Architects.

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

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

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

443 "Land surveyor" means a person who, by reason of his knowledge of the several sciences and of the
444 principles of land surveying, and of the planning and design of land developments acquired by practical
445 experience and formal education, is qualified to engage in the practice of land surveying, and whose
446 competence has been attested by the Board through licensure as a land surveyor.

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

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

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

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

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

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

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

479 **§ 54.1-401. Exemptions.**

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

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

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

485 3. Practice as a professional engineer, ~~or architect or landscape architect~~ in ~~this the~~ Commonwealth
486 by any person not a resident of and having no established place of business in ~~this the~~ Commonwealth,
487 or by any person resident in ~~this the~~ Commonwealth whose arrival is recent, provided that such person
488 is otherwise qualified for such professional service in another state or country and qualifies in Virginia
489 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 landscape architect* or 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, Land Surveyors, Certified Interior Designers and Landscape Architects shall be composed of ~~thirteen~~ 13 members as follows: three architects, three professional engineers, three land surveyors, two *certified* 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 Board members, consisting of two engineers, two architects, two land surveyors, one *certified* 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, ~~or 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 and certificates.

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 *certificate to practice as a certified* 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.

§ 54.1-409. Practice of landscape architecture; certification.

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 *certified* landscape architect, shall be accepted for review by local and state authorities, in connection with both public and private projects. However, no *certified* 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 "*certified* landscape architect" in § 54.1-400 shall be construed to restrict or otherwise affect the right of any *uncertified landscape architect*, 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 rendering any of the services that constitute the practice of landscape architecture; however, no person shall hold himself out as, or use the title of, "*certified landscape architect*" unless he has been certified pursuant to the provisions of this chapter.

C. Any person, partnership, corporation, or other entity that is not licensed *certified* to practice landscape architecture in accordance with the provisions of this chapter and that advertises or promotes through the use of the words "*certified* 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 *is certified* 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 "*certified* 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 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 of the services that constitute the practice of landscape architecture.

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, land surveyor or *certified* landscape architect licensed, *certified* 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, land surveyor or *certified* landscape architect licensed or *certified* 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 landscape architect* or certified interior designer by any corporation, partnership, sole proprietorship, limited liability company, or other entity, provided that such practice or certification is rendered through its officers, principals or employees who are correspondingly licensed or certified. No individual practicing architecture, engineering, 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 landscape architect* or certified interior designer shall register with the Board. As a condition of registration, the entity shall name at least one licensed architect, professional engineer, 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.

§ 54.1-700. Definitions.

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

"Barber" means any person who shaves, shapes or trims the beard; cuts, singes, shampoos or dyes the hair or applies lotions thereto; applies, treats or massages the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays or other preparations in connection with shaving, cutting or trimming the hair or beard, and practices barbering for compensation and when such services are not performed for the treatment of disease.

"Barbering" means any one or any combination of the following acts, when done on the human body for compensation and not for the treatment of disease, shaving, shaping and trimming the beard; cutting, singeing, shampooing or dyeing the hair or applying lotions thereto; applications, treatment or massages of the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays, or other preparations in connection with shaving, cutting or trimming the hair or a beard. The term "barbering" shall not apply to the acts described hereinabove when performed by any person in his home if such service is not offered to the public.

"Barber instructor" means any person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of barbering.

"Barbershop" means any establishment or place of business within which the practice of barbering is engaged in or carried on by one or more barbers.

"Board" means the Board for Barbers and Cosmetology.

"Body-piercer" means any person who for remuneration penetrates the skin of a person to make a

674 hole, mark, or scar, generally permanent in nature.

675 "Body-piercing" means the act of penetrating the skin of a person to make a hole, mark, or scar,
676 generally permanent in nature.

677 "Body-piercing salon" means any place in which a fee is charged for the act of penetrating the skin
678 of a person to make a hole, mark, or scar, generally permanent in nature.

679 "Body-piercing school" means a place or establishment licensed by the Board to accept and train
680 students in body-piercing.

681 "Cosmetologist" means any person who administers cosmetic treatments; manicures or pedicures the
682 nails of any person; arranges, dresses, curls, waves, cleanses, cuts, shapes, singes, waxes, tweezes,
683 shaves, bleaches, colors, relaxes, straightens, or performs similar work, upon human hair, or a wig or
684 hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances unless such
685 acts as adjusting, combing, or brushing prestyled wigs or hairpieces do not alter the prestyled nature of
686 the wig or hairpiece, and practices cosmetology for compensation. *The term "cosmetologist" shall not*
687 *include hair braiding upon human hair, or a wig or hairpiece.*

688 "Cosmetology" includes, but is not limited to, the following practices: administering cosmetic
689 treatments; manicuring or pedicuring the nails of any person; arranging, dressing, curling, waving,
690 cleansing, cutting, shaping, singeing, waxing, tweezing, shaving, bleaching, coloring, relaxing,
691 straightening, or similar work, upon human hair, or a wig or hairpiece, by any means, including hands
692 or mechanical or electrical apparatus or appliances, but shall not include hair braiding *upon human hair,*
693 *or a wig or hairpiece,* or such acts as adjusting, combing, or brushing prestyled wigs or hairpieces when
694 such acts do not alter the prestyled nature of the wig or hairpiece.

695 "Cosmetology instructor" means a person who has been certified by the Board as having completed
696 an approved curriculum and who meets the competency standards of the Board as an instructor of
697 cosmetology.

698 "Cosmetology salon" means any commercial establishment, residence, vehicle or other establishment,
699 place or event wherein cosmetology is offered or practiced on a regular basis for compensation and may
700 include the training of apprentices under regulations of the Board.

701 "Esthetician" means a person who engages in the practice of esthetics for compensation.

702 "Esthetics" includes, but is not limited to, the following practices of administering cosmetic
703 treatments to enhance or improve the appearance of the skin: cleansing, toning, performing effleurage or
704 other related movements, stimulating, exfoliating, or performing any other similar procedure on the skin
705 of the human body or scalp by means of cosmetic preparations, treatments, or any nonlaser device,
706 whether by electrical, mechanical, or manual means, for care of the skin; applying make-up or eyelashes
707 to any person, tinting or perming eyelashes and eyebrows, and lightening hair on the body except the
708 scalp; and removing unwanted hair from the body of any person by the use of any nonlaser device, by
709 tweezing, or by use of chemical or mechanical means. However, "esthetics" is not a healing art and shall
710 not include any practice, activity, or treatment that constitutes the practice of medicine, osteopathic
711 medicine, or chiropractic. The terms "healing arts," "practice of medicine," "practice of osteopathic
712 medicine," and "practice of chiropractic" shall mean the same as those terms are defined in § 54.1-2900.

713 "Esthetics instructor" means a licensed esthetician who has been certified by the Board as having
714 completed an approved curriculum and who meets the competency standards of the Board as an
715 instructor of esthetics.

716 "Esthetics spa" means any commercial establishment, residence, vehicle, or other establishment,
717 place, or event wherein esthetics is offered or practiced on a regular basis for compensation under
718 regulations of the Board.

719 "Master esthetician" means a licensed esthetician who, in addition to the practice of esthetics, offers
720 to the public for compensation, without the use of laser technology, lymphatic drainage, chemical
721 exfoliation, or microdermabrasion, and who has met such additional requirements as determined by the
722 Board to practice lymphatic drainage, chemical exfoliation with products other than Schedules II through
723 VI controlled substances as defined in the Drug Control Act (§ 54.1-3400 et seq.), and
724 microdermabrasion of the epidermis.

725 "Nail care" means manicuring or pedicuring natural nails or performing artificial nail services.

726 "Nail salon" means any commercial establishment, residence, vehicle or other establishment, place or
727 event wherein nail care is offered or practiced on a regular basis for compensation and may include the
728 training of apprentices under regulations of the Board.

729 "Nail school" means a place or establishment licensed by the board to accept and train students in
730 nail care.

731 "Nail technician" means any person who for compensation manicures or pedicures natural nails, or
732 who performs artificial nail services for compensation, or any combination thereof.

733 "Nail technician instructor" means a licensed nail technician who has been certified by the Board as
734 having completed an approved curriculum and who meets the competency standards of the Board as an
735 instructor of nail care.

"Physical (wax) depilatory" means the wax depilatory product or substance used to remove superfluous hair.

"School of cosmetology" means a place or establishment licensed by the Board to accept and train students and which offers a cosmetology curriculum approved by the Board.

"School of esthetics" means a place or establishment licensed by the Board to accept and train students and which offers an esthetics curriculum approved by the Board.

"Tattoo parlor" means any place in which tattooing is offered or practiced.

"Tattoo school" means a place or establishment licensed by the Board to accept and train students in tattooing.

"Tattooer" means any person who for remuneration practices tattooing.

"Tattooing" means the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin, including permanent make-up or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.

"Wax technician" means any person licensed by the Board who removes hair from the hair follicle using a physical (wax) depilatory or by tweezing.

"Wax technician instructor" means a licensed wax technician who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of waxing.

"Waxing" means the temporary removal of superfluous hair from the hair follicle on any area of the human body through the use of a physical (wax) depilatory or by tweezing.

"Waxing salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein waxing is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

"Waxing school" means a place or establishment licensed by the Board to accept and train students in waxing.

§ 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, *certified* 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, *certified* 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 *to use the title the practice of certified landscape architecture architect*, 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, as amended by Acts 2017, c. 345) 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

797 training program for plan review and successfully completes such program within one year after
798 enrollment, or (iii) is licensed as a professional engineer, architect, *certified* landscape architect, land
799 surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1, or professional soil
800 scientist as defined in § 54.1-2200.

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

805 "Department" means the Department of Environmental Quality.

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

807 "District" or "soil and water conservation district" means a political subdivision of the
808 Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter
809 5 of Title 10.1.

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

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

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

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

827 2. Individual service connections;

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

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

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

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

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

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

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

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

856 11. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are
857 within the regulatory authority of and approved by local wetlands boards, the Marine Resources
858 Commission, or the United States Army Corps of Engineers; however, any associated land that is

disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and

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

"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 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.

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

"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.

"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, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement where authorized in this article, and evaluation consistent with the requirements of this article and its associated regulations.

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

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

§ 62.1-44.15:51. (For effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Definitions.

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

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

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

"Certified inspector" means an employee or agent of a VESCP authority who (i) holds a certification 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 certification 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, *certified* landscape architect, 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 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

920 after enrollment.

921 "Department" means the Department of Environmental Quality.

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

923 "District" or "soil and water conservation district" means a political subdivision of the
924 Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter
925 5 of Title 10.1.

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

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

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

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

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

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

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

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

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

958 "Town" means an incorporated town.

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

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

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

975 **2. That this act shall not be construed to affect existing appointments to the Board for Architects,**
976 **Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects for**
977 **the terms that have not expired. However, any new appointments shall be made in accordance**
978 **with this act.**