

# AN ACT

To amend sections 4733.12 and 4733.16 of the Revised Code to modify professional ownership and management requirements a business entity must satisfy to obtain a certificate of authorization to provide professional engineering or surveying services.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 4733.12 and 4733.16 of the Revised Code be amended to read as follows:

Sec. 4733.12. (A) Applications for registration as a professional engineer or professional surveyor shall be on forms prescribed and furnished by the state board of registration for professional engineers and surveyors, shall contain statements made under oath setting forth the applicant's education, a detailed summary of ~~his~~ the applicant's technical work, and the branch in which ~~he~~ the applicant specializes, and shall contain not less than five references, of whom three or more shall be professional engineers or professional surveyors having personal knowledge of ~~his~~ the applicant's engineering or surveying experience. The application shall be accompanied by an application fee, which shall be established by the board at an amount adequate to cover the costs of processing the application.

The examination fee for professional engineers, which shall accompany the "notice of intention" for each scheduled first stage and second stage examination, shall be established by the board at an amount adequate to cover the expense of procuring, administering, and grading the examination. The registration fee, which shall be paid after the applicant has passed both examinations, shall be established by the board at an amount adequate to cover the expense of issuing a certificate of registration.

The examination fee for professional surveyors, which shall accompany the "notice of intention" for each scheduled first stage and second stage examination, shall be established by the board at an amount adequate to cover the expense of procuring, administering, and grading the examination. The registration fee, which shall be paid after the applicant has passed both examinations, shall be established by the board at an amount adequate to

cover the expense of issuing a certificate of registration.

(B) The board shall establish the fee for a certificate of authorization issued under ~~division (F)~~ of section 4733.16 of the Revised Code in an amount not to exceed fifty dollars and the fee for annual renewal of a certificate of authorization, not to exceed twenty-five dollars. The fee for a duplicate certificate of authorization is five dollars.

Sec. 4733.16. (A) A firm, partnership, association, limited liability company, or corporation may provide professional engineering or professional surveying services in this state as long as the services are provided only through natural persons registered to provide those services in the state, subject to the exemptions in sections 4733.17 and 4733.18 of the Revised Code and subject otherwise to the requirements of this chapter.

(B) No firm, partnership, association, limited liability company, or corporation, except a corporation that was granted a charter prior to August 7, 1943, to engage in providing professional engineering or professional surveying services in this state or that was otherwise lawfully providing engineering services in this state prior to November 15, 1982, shall engage in providing professional engineering or professional surveying services, hold itself out to the public as being engaged in providing professional engineering or professional surveying services, or use a name including one or more of the words "engineer," "engineering," ~~or~~ "surveyor," ~~or~~ "surveying" or any modification or derivation of those words, unless the firm, partnership, association, limited liability company, or corporation obtains a certificate of authorization from the state board of registration for professional engineers and surveyors and files all information required to be filed under this section with the state board of registration for professional engineers and surveyors and otherwise complies with all requirements of this chapter. A nonprofit membership corporation may use a name including one or more of the words "engineer," "engineering," "surveyor," or "surveying" or any modification or derivation of those words without complying with this section.

(C) A corporation may be organized under Chapter 1701. of the Revised Code, a professional association may be organized under Chapter 1785. of the Revised Code, or a limited liability company may be formed under Chapter 1705. of the Revised Code for the purpose of providing professional engineering, professional surveying, architectural, or landscape architectural services or any combination of those services. A corporation organized under Chapter 1701. of the Revised Code for the purpose of providing those services also may be organized for any other purpose in accordance with that chapter.

~~(D) No firm, partnership, association, limited liability company, or corporation shall provide or offer to provide engineering or surveying services in this state unless more than fifty per cent of the partners, members, or shareholders, more than fifty per cent of the directors in the case of a corporation or professional association, and more than fifty per cent of the managers in the case of a limited liability company the management of which is not reserved to its members, are professional engineers, professional surveyors, architects, or landscape architects, or a combination of those professions, who are registered in this state and who own more than fifty per cent of the interests in the firm, partnership, association, limited liability company, or corporation; unless the requirements of this division and of section 1785.02 of the Revised Code are satisfied with respect to any professional association organized under Chapter 1785. of the Revised Code; or unless the requirements of this division and of Chapter 1705. of the Revised Code are satisfied with respect to a limited liability company formed under that chapter.~~

~~(E)~~ Each firm, partnership, association, limited liability company, or corporation through which professional engineering or professional surveying services are offered or provided in this state shall designate one or more partners, managers, members, officers, or directors as being responsible for and in responsible charge of the professional engineering or professional surveying activities and decisions, and those designated persons shall be registered in this state. In the case of a corporation holding a certificate of authorization provided for in division ~~(F)~~(E) of this section, at least one of the persons so designated shall be a director of the corporation. Each firm, partnership, association, limited liability company, or corporation ~~of that type~~ shall annually file with the state board of registration for professional engineers and surveyors ~~the name and address of each partner, manager, officer, director, member, or shareholder, and each firm, partnership, association, limited liability company, or corporation of that type shall annually file with the board~~ the name and address of all owners and all persons designated as being in responsible charge of the professional engineering or professional surveying activities and decisions and any other information the board may require. ~~If there is a change in any such person in the interval between filings, the change shall be filed with the board in the manner and within the time that the board determines.~~

~~(F) No corporation organized under Chapter 1701. of the Revised Code shall engage in providing engineering or surveying services in this state without obtaining a certificate of authorization from the~~

(E) The state board of registration for professional engineers and

~~surveyors. A corporation desiring a certificate of authorization shall file with the board a copy of a certificate of good standing from the secretary of state and a listing on the form that the board directs of the names and addresses of all officers, directors, and shareholders of the corporation, the names and addresses of any individuals providing professional services on behalf of the corporation who are registered to practice professional engineering or professional surveying in this state, and any other information the board requires. If all requirements of this chapter are met, the board may shall issue a certificate of authorization to the each firm, partnership, association, limited liability company, or corporation that satisfies the requirements of this chapter, including providing information that the board may require pursuant to division (D) of this section. No certificate of authorization shall be issued unless persons owning more than fifty per cent of the corporation's shares and more than fifty per cent of the interests in the corporation are professional engineers, professional surveyors, architects, or landscape architects, or a combination of those professions, who are registered in this state. Any corporation that holds a certificate of authorization under this section and that otherwise meets the requirements of this chapter may be organized for any purposes for which corporations may be organized under Chapter 1701. of the Revised Code and shall not be limited to the purposes of providing professional engineering, surveying, architectural, or landscape architectural services or any combination of those services. The board, by rules adopted in accordance with Chapter 119. of the Revised Code, may require any firm, partnership, association, or limited liability company not organized under Chapter 1701. of the Revised Code that provides engineering or surveying services to obtain a certificate of authorization. If the board so requires, no firm, partnership, association, or limited liability company shall engage in providing engineering or surveying services without obtaining the certificate and complying with the rules.~~

~~(G)~~(F) This section does not modify any law applicable to the relationship between a person furnishing a professional service and a person receiving that service, including liability arising out of that service.

~~(H)~~(G) Nothing in this section shall restrict or limit in any manner the authority or duty of the state board of registration for professional engineers and surveyors with respect to natural persons providing professional services or any law or rule pertaining to standards of professional conduct.

~~(H)~~(H) Corporations, partnerships, associations, limited liability companies, or firms organized under the laws of another state or country wishing to provide professional engineering or professional surveying services shall obtain a certificate of authorization and meet the applicable

Sub. S. B. No. 77

5

requirements of this section.

SECTION 2. That existing sections 4733.12 and 4733.16 of the Revised Code are hereby repealed.

SECTION 3. In amending Chapter 4733. of the Revised Code in this act and in all previous acts of the General Assembly from June 2, 1988, through the effective date of this act, it is the intent of the General Assembly to reflect and accept the holding of the Franklin County Court of Common Pleas in *S.E.A., Inc. v. State Board of Registration for Professional Engineers and Surveyors* (Franklin Cty. C.P., June 2, 1988), No. 86CV-05-2754, unreported, that Chapter 4733. of the Revised Code does not apply to the business activities of the firms or their successors as described in that case.

---

*Speaker* \_\_\_\_\_ *of the House of Representatives.*

---

*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

---

*Governor.*

Sub. S. B. No. 77

7

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

---

*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

---

*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_