



Kentucky - Statutes, Regulations, and Ethics for Professional Engineers

Course# KY101

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Note: Changes since last renewal cycle are noted with the following

Updated: Underlined and **Highlighted**

Deletions: ~~Strike-throughs~~

Course Description

The Kentucky Statutes, Regulations and Ethics course presents all current regulations Kentucky licensed professional engineers shall follow and also presents the canons of ethics all professional engineers shall adhere to.

This course satisfies three (3) hours of continuing education.

The course is designed as a distance learning interactive course that enables the practicing professional engineer to keep up to date on the legal aspects that govern the practice of engineering in the state of Kentucky as well as revisit the emphasis that the holder of a professional license has a direct and vital impact on the safety, health, and welfare of the public.

Objectives

The primary objective of this course is to familiarize the student with current laws and rules regulating the practice of engineering in the state of Kentucky and to familiarize the student with the standards of professional behavior for adherence to the highest ethical conduct.

Upon successful completion of the course, the student will be well versed in the applicable laws and rules and be well versed to exhibit the highest standards of honesty and integrity deemed paramount to this profession.

Grading

Students must achieve a minimum score of 70% on the online quiz to pass this course.

The quiz may be taken as many times as required until the student successfully passes.

KENTUCKY STATUTES: TITLE XXVI - OCCUPATIONS AND PROFESSIONS, CHAPTER 322. PROFESSIONAL ENGINEERS AND SURVEYORS

322.010 Definitions for chapter. As used in this chapter, unless the context requires otherwise:

(1) "Board" means the State Board of Licensure for Professional Engineers and Land Surveyors;

(2) "Engineer" means a person who is qualified to engage in the practice of professional engineering by reason of special knowledge and use of:

(a) The mathematical, physical, and engineering sciences; and

(b) The principles and methods of engineering analysis and design, acquired by engineering education and practical engineering experience;

(3) "Professional engineer" means a person who is licensed as a professional engineer by the board;

(4) "Engineering" means any professional service or creative work, the adequate performance of which requires engineering education, training, and experience as an engineer.

(a) "Engineering" shall include:

1. Consultation, investigation, evaluation, planning, certification, and design of engineering works and systems;

a. Engineering design and engineering work associated with design/build projects;

b. Engineering works and systems which involve earth materials, water or other liquids, and gases;

c. Planning the use of land, air, and waters; and

d. Performing engineering surveys and studies;

2. The review of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces this service or

work, either public or private, in connection with any utilities, structures, certain buildings, building systems, machines, equipment, processes,

work systems, or projects with which the public welfare or the safeguarding of life, health, or property is concerned, when that

professional service or work requires the application of engineering principles and data;

3. The teaching of engineering design courses in any program accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology or any engineering program deemed equivalent by the board;

4. The negotiation or solicitation of engineering services on any project in this state, regardless of whether the persons engaged in the practice of engineering:

a. Are residents of this state;

b. Have their principal place of business in this state; or

c. Are in responsible charge of the engineering services performed; and

5. The services of a professional engineer who engages in the practice of land surveying incident to the practice of engineering that does not relate to the location or determination of land boundaries.

(b) "Engineering" shall not include the professional services performed by persons who:

1. Develop or administer construction project safety programs, construction safety compliance, construction safety rules or regulations, or related administrative regulations; or

2. Only operate or maintain machinery or equipment;

(5) "Practice of engineering" means the performance of any professional service included in subsection (4)(a) of this section;

(6) "Engineer in training" means a person who has passed the Fundamentals of Engineering Examination and is otherwise qualified to earn experience toward licensure as a professional engineer;

(7) "Responsible charge of engineering" means direct control and personal supervision of engineering, or teaching experience with the rank equivalent to assistant professor or higher in a board-approved engineering program;

(8) "Land surveyor" means a person who is qualified to engage in the practice of land surveying by reason of special knowledge and use of mathematics, the physical and applied sciences, and the principles and methods of land surveying, acquired by education and practical experience in land surveying;

(9) "Professional land surveyor" means a person who is licensed as a professional land surveyor by the board;

(10) "Land surveying" means any professional service or work, the adequate performance of which requires the education, training, and experience as a land surveyor.

(a) "Land surveying" shall include but not be limited to the following:

1. Measuring and locating, establishing, or reestablishing lines, angles, elevations, natural and man-made features in the air, on the surface and immediate subsurface of the earth, within underground workings, and on the beds or surfaces of bodies of water involving the:
 - a. Determination or establishment of the facts of size, shape, topography, and acreage;
 - b. Establishment of photogrammetric and geodetic control that is published and used for the determination, monumentation, or description of property boundaries;
 - c. Subdivision, division, and consolidation of lands;
 - d. Measurement of existing improvements, including condominiums, after construction and the preparation of plans depicting existing improvements, if the improvements are shown in relation to property boundaries;
 - e. Layout of proposed improvements, if those improvements are to be referenced to property boundaries;
 - f. Preparation of subdivision record plats;
 - g. Determination of existing grades and elevations of roads and land;
 - h. Creation and perpetuation of alignments related to maps, record plats, field note records, reports, property descriptions, and plans and drawings that represent them; and
 - i. Certification of documents;
2. The negotiation or solicitation of land surveying services on any project in this state, regardless of whether the persons engaged in the practice of land surveying:
 - a. Are residents of this state;
 - b. Have their principal office or place of business in this state; or
 - c. Are in responsible charge of the land surveying services or work performed; and
3. The preparation of survey descriptions for use in legal instruments affecting real property or property rights. "Land surveying" does not include the preparation of a physical description that identifies and describes the tract, parcel, or lot by reference to the tract, parcel, lot, block, or unit number of any subdivision, or other summary identifier appearing on a properly recorded plat of record, or by reference to a deed of record.

(b) "Land surveying" shall not include:

1. The measurement of crops or agricultural land area under any agricultural program sponsored by an agency of the federal government or the state of Kentucky;

2. The services of a professional engineer who engages in the practice of land surveying incident to the practice of engineering, if the land surveying work does not relate to the location or determination of land boundaries; or
3. The design of grades and elevations of roads and land;

(11) "Practice of land surveying" means the performance of any professional service included in subsection (10)(a) of this section;

(12) "Land surveyor in training" means a person who has passed the Fundamentals of Land Surveying Examination and is otherwise qualified to earn experience toward licensure as a professional land surveyor;

(13) "Responsible charge of land surveying" means direct control and personal supervision of land surveying, or teaching experience with the rank equivalent to assistant professor or higher in a board-approved land surveying program;

(14) "Business entity" means a corporation, partnership, limited liability company, limited partnership, or firm;

(15) "Offer to practice" means:

- (a) A promise or commitment to engage in any act directly related to engineering or land surveying;
- (b) Undertaking to engage in the practice of engineering or land surveying; or
- (c) Any claim, express or implied, by any person representing himself or herself to be a professional engineer or professional land surveyor;

(16) "Certification" means affixing a seal or stamp, signature, and date by a professional engineer or professional land surveyor to represent that the services or work addressed therein was performed by that professional engineer or professional land surveyor according to his or her knowledge, information, and belief, and that it was completed in accordance with applicable standards of practice. "Certification" shall not mean a guaranty or warranty, either express or implied;

(17) The "Fundamentals of Engineering Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying;

(18) The "Fundamentals of Land Surveying Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying;

(19) The "Principles and Practice of Engineering Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying; and

(20) The "Principles and Practice of Land Surveying Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying.

Effective: July 15, 2010

History: Repealed and reenacted 2010 Ky. Acts ch. 51, sec. 140, effective July 15, 2010. -- Amended 2008 Ky. Acts ch. 149, sec. 1, effective July 15, 2008. -- Amended 2007 Ky. Acts ch. 137, sec. 140, effective June 26, 2007. -- Amended 1998 Ky. Acts ch. 214, sec. 1, effective January 1, 1999. -- Amended 1992 Ky. Acts ch. 96, sec. 1, effective July 14, 1992. -- Amended 1986 Ky. Acts ch. 291, sec. 1, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 273, sec. 1, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 332, sec. 1, effective July 15, 1980. -- Amended 1974 Ky. Acts ch. 308, sec. 55; and ch. 350, sec. 1. -- Amended 1972 Ky. Acts ch. 148, sec. 1. -- Amended 1966 Ky. Acts ch. 68, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-2.

Legislative Research Commission Note (7/15/2010). 2010 Ky. Acts ch. 51, sec. 183, provides, "The specific textual provisions of Sections 1 to 178 of this Act which reflect amendments made to those sections by 2007 Ky. Acts ch. 137 shall be deemed effective as of June 26, 2007, and those provisions are hereby made expressly retroactive to that date, with the remainder of the text of those sections being unaffected by the provisions of this section."

322.020 Practice of engineering or land surveying without license prohibited.

(1) Unless licensed as a professional engineer, no person shall:

- (a) Engage in the practice of engineering;
- (b) Offer to practice engineering; or
- (c) Use, assume, or advertise in any way any title or description tending to convey the impression that he or she is a professional engineer.

(2) Unless licensed as a professional land surveyor, no person shall:

- (a) Engage in the practice of land surveying;
- (b) Offer to practice land surveying; or
- (c) Use, assume, or advertise in any way any title or description tending to convey the impression that he or she is a professional land surveyor.

Effective: January 1, 1999

History: Amended 1998 Ky. Acts ch. 214, sec. 3, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 2, effective July 15, 1986. -- Amended 1972 Ky. Acts ch. 148, sec. 2. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 1599e-1, 1599e-12, 1599e-21.

322.030 Exceptions to KRS 322.020. KRS 322.020 shall not apply to:

(1) The work of an employee or subordinate of:

- (a) A professional engineer if the work is done under the direct supervision of and verified by the professional engineer; or
- (b) A professional land surveyor if the work is done under the direct supervision of and verified by the professional land surveyor;

(2) The practice of engineering or land surveying by officers and employees of the United States government while engaged in engineering or land surveying for the government;

(3) The practice of engineering or land surveying by a person on property he or she leases or owns unless:

(a) The practice involves the public safety, health, or welfare; or

(b) The land surveying relates to the location or determination of any existing or proposed land boundaries;

(4) An engineer or land surveyor engaged solely as an officer or employee of a privately owned public utility or of a business entity engaged in interstate commerce as defined in the Interstate Commerce Act (24 Stat. 379) as amended;

(5) A licensed architect who engages in the practice of engineering incident to the practice of architecture; or

(6) The practice of engineering related solely to the design or fabrication of manufactured products. This exemption does not extend to site-specific engineering work for Kentucky locations.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 163, sec. 4, effective July 15, 2010. -- Amended 1998 Ky. Acts ch. 214, sec. 4, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 3, effective July 15, 1986. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 1599e-18, 1599e-22.

322.040 Requirements for licensure as a professional engineer -- Education, experience.

(1) A person shall qualify for licensure as a professional engineer by meeting the requirements set forth in paragraph (a) or (b) of this subsection.

(a) A person shall qualify if he or she has:

1. Graduated from an engineering program of four (4) years or more accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology or any engineering program deemed equivalent by the board;

2. Four (4) or more additional years of progressive experience in engineering or teaching of a grade and character which indicates to the board that the applicant is competent to practice engineering; and

3. A passing score on:

a. The Principles and Practice of Engineering Examination; and

b. The Fundamentals of Engineering Examination. The board may allow students enrolled in the final year of an undergraduate engineering program to take this examination. Upon passing the examination, the applicant shall be designated an engineer in training.

(b) If an instructor in an engineering program accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology or an engineering program deemed equivalent by the board is not eligible for the exemption under subsection (2) of this section, the instructor shall have four (4) years from the date of hire to qualify for licensure by showing that he or she has:

1. Graduated from an engineering program of four (4) years or more accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology, or an engineering program deemed equivalent by the board;
2. Four (4) or more additional years of progressive experience in engineering or teaching of a grade and character which indicates to the board that the applicant is competent to practice engineering;
3. Passed the Principles and Practice of Engineering Examination; and
4. Either passed the Fundamentals of Engineering Examination or graduated from a board-approved doctoral engineering degree program.

(2) For the purpose of teaching engineering design courses only, an instructor who, on January 1, 1999, holds a tenured or tenure-track position in an engineering program defined in KRS 322.010(4)(a)3. shall be exempt from the licensure requirements of KRS 322.020 for the period that instructor is continuously employed by the institution offering that program. However, an instructor may apply and shall qualify for licensure as a professional engineer during this exempt period if he or she:

(a) Has graduated from an engineering program of four (4) years or more accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology or an engineering program deemed equivalent by the board;

(b) Has graduated from a board-approved doctoral engineering degree program, with an additional three (3) years or more of progressive experience in engineering or teaching of a grade and character which indicate to the board that the applicant is competent to practice engineering; and

(c) Has passed the Principles and Practice of Engineering Examination.

(3) Any person having the necessary qualifications prescribed in subsection (1) or (2) of this section shall be eligible to apply for licensure, even if the applicant is not practicing the profession at the time of application.

(4) The board shall promulgate administrative regulations to establish requirements for consideration of experience gained prior to graduation from an engineering program as described in subsection (1)(a)1. of this section.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 20, sec. 1, effective June 20, 2005. – Amended 1998 Ky. Acts ch. 214, sec. 5, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 4, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 273, sec. 2, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 275, sec. 2, effective June 17, 1978. -- Amended 1972 Ky. Acts ch. 148, sec. 3. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-12.

322.045 Requirements for licensure as a professional land surveyor -- Education, experience.

(1) A person shall qualify for licensure as a professional land surveyor if he or she has:

(a) Passed the Fundamentals of Land Surveying Examination and is thereby designated a land surveyor in training according to the conditions set forth in either paragraph (c) of this subsection or KRS 322.047(1)(a);

(b) Passed the Principles and Practice of Land Surveying Examination; and

(c) Met one (1) of the following requirements set out in this paragraph:

1. Graduation from a board-approved program of four (4) years or more in land surveying from a college or university and not less than three (3) years of progressive experience in land surveying under the direct supervision of a practicing professional land surveyor. The experience shall be of a grade and character to indicate to the board that the applicant is competent to practice land surveying. Applicants shall be eligible to take the Fundamentals of Land Surveying Examination during the final year of the program;

2. Graduation from a program of four (4) years or more in other than land surveying from a college or university of recognized standing, completion of a twenty-four (24) semester credit hour core curriculum in land surveying, and not less than four (4) years of progressive experience in land surveying under the direct supervision of a practicing professional land surveyor. The experience shall be of a grade and character to indicate to the board that the applicant is competent to practice land surveying;

a. The core curriculum in land surveying may be completed as part of the four (4) year program or may be taken in addition to that program; and

b. Applicants shall be eligible to take the Fundamentals of Land Surveying Examination upon completion of the core curriculum in land surveying or during the final year in the program if twelve (12) hours or more of the core curriculum in land surveying have been completed; or

3. Graduation from a civil, mining, or agricultural engineering program of four (4) years or more accredited by the Engineering Accreditation Commission of the Accreditation Board for

Engineering and Technology or any engineering program deemed equivalent by the board, completion of twelve (12) semester credit hours of the core curriculum in land surveying referenced in subparagraph 2. of this paragraph, and not less than four (4) years of progressive experience in land surveying under the direct supervision of a practicing professional land surveyor. The experience shall be of a grade and character to indicate to the board that the applicant is competent to practice land surveying;

- a. The twelve (12) hours of the core curriculum in land surveying may be completed as part of the engineering program or may be taken in addition to that program; and
- b. Applicants shall be eligible to take the Fundamentals of Land Surveying Examination upon graduation from the engineering program or during the final year in the program if twelve (12) hours of the core curriculum in land surveying have been completed.

(2) Any person having the necessary qualifications prescribed in subsection (1) of this section or any applicable qualifications prescribed in KRS 322.047(1)(a) shall be eligible to apply for licensure, even if the applicant is not practicing the profession at the time of application.

(3) The board shall promulgate administrative regulations to establish requirements for consideration of experience gained prior to graduation from programs as described in subsection (1)(c)1., 2., and 3. of this section, and for the surveying core curriculum described in subsection (1)(c)2. and 3. of this section.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 20, sec. 2, effective June 20, 2005.

322.047 Alternate requirements for licensure as a professional land surveyor until June 30, 2011 -- Education, experience.

(1) Until June 30, 2011, the following shall apply to licensure as a professional land surveyor:

(a) In addition to the requirements listed in KRS 322.045(1)(c), a person may qualify for licensure as a professional land surveyor by meeting one of the following alternate requirements:

1. Graduation from a program of four (4) years or more in an area other than land surveying accredited by one of the Commissions of the Accreditation Board for Engineering and Technology and not less than six (6) years of progressive experience in land surveying under the direct supervision of a practicing professional land surveyor. The experience shall be of a grade and character to indicate to the board that the applicant is competent to practice land surveying. Applicants shall be eligible to take the Fundamentals of Land Surveying Examination upon completion of two (2) years of progressive experience in land surveying. Applicants possessing education credentials of this subparagraph may pursue licensure under KRS 322.045(1)(c)2., providing the core curriculum in land surveying requirement is satisfied;

2. Graduation from a two (2) year board-approved program in land surveying and not less than six (6) years of progressive experience in land surveying under the direct supervision of a practicing professional land surveyor. The experience shall be of a grade and character to indicate to the board that the applicant is competent to practice land surveying. Applicants shall be eligible to take the Fundamentals of Land Surveying Examination upon completion of two (2) years of progressive experience in land surveying; or

3. Graduation from high school, or the equivalent, and not less than ten (10) years of progressive experience in land surveying under the direct supervision of a practicing professional land surveyor. The experience shall be of a grade and character to indicate to the board that the applicant is competent to practice land surveying. Applicants shall be eligible to take the Fundamentals of Land Surveying Examination upon completion of four (4) years of progressive experience in land surveying.

(b) As it may apply to the experience qualifications for land surveyors:

1. The satisfactory completion of each year as a full-time student of a board-approved program in civil engineering or land surveying without graduation may be considered as equivalent to one (1) year of experience required by subsection (1)(a)2. and 3. of this section;

2. Graduation from a program other than as provided in KRS 322.045(1)(c) or subsection (1)(a)1. and 2. of this section from a college or university of recognized standing may be considered as equivalent to two (2) years of experience required by subsection (1)(a)2. and 3. of this section;

3. No applicant shall receive credit for more than four (4) years of experience based on undergraduate educational qualifications.

(2) The board shall promulgate administrative regulations to establish requirements for consideration of experience gained prior to graduation from programs as described in subsection (1)(a)1. and 2. of this section.

(3) The board may promulgate administrative regulations to provide an exemption to the licensure requirements contained in subsection (1)(a) of this section based on a finding of hardship or medical necessity.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 20, sec. 3, effective June 20, 2005.

322.050 Requirements for applicants.

(1) To be eligible for licensure, an applicant shall be:

(a) Of good character and reputation; and

(b) Able to competently communicate in the English language.

- (2) An applicant shall not be eligible for licensure if he or she:
- (a) Has been convicted of any felony within the past ten (10) years involving violence, sexual misconduct, fraud, or deceit;
 - (b) Engages in conduct likely to deceive or defraud the public; or
 - (c) Is adjudged mentally disabled by a court of competent jurisdiction.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 163, sec. 5, effective July 15, 2010. -- Amended 1998 Ky. Acts ch. 214, sec. 6, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 5, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 111, sec. 140, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 141, sec. 87, effective July 1, 1982. -- Amended 1972 Ky. Acts ch. 148, sec. 4. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-12. **Note:** 1980 Ky. Acts ch. 396, sec. 93 would have amended this section effective July 1, 1982. However, 1980 Ky. Acts ch. 396 was repealed by 1982 Ky. Acts ch. 141, sec. 146, also effective July 1, 1982.

322.060 Prerequisites for practice of engineering by a business entity -- Permit -- Responsibility for conduct -- Disciplinary action -- Requirement of board certificate or letter for incorporation or for registration as a foreign corporation.

- (1) (a) A business entity shall not engage in the practice of engineering in this state unless:
- 1. At least one (1) of its principals or officers, or a designated employee, is a professional engineer who is in responsible charge of the engineering work;
 - 2. The professional engineer in responsible charge is located at the Kentucky office, if one is maintained; and
 - 3. The board has issued a permit to the business entity.
- (b) To apply for a permit, a business entity offering engineering services in this state shall file with the board, on a form prescribed by the board:
- 1. The names and addresses of all principals and officers;
 - 2. The license number of principals, officers, and employees who are professional engineers in responsible charge of the business entity's practice of engineering in this state; and
 - 3. A list of locations of all offices in this state at which the business entity offers professional engineering services.
- (c) If more than one (1) place of business is maintained in this state, a professional engineer shall be in responsible charge of the engineering work for each office.

(d) A professional engineer who renders occasional, part-time, or consulting engineering services to or for a business entity required to hold a permit from the board under this section shall not be designated as the person in responsible charge of the engineering work unless the professional engineer is an officer or owner of the business entity.

(e) A business entity holding a permit shall advise the board in writing within thirty (30) days of any change of status in those items listed in paragraph (b) of this subsection.

(f) An individual professional engineer providing engineering services as a sole proprietor in the name listed on his or her individual license, or architectural firms offering engineering services incident to their practice, shall be excluded from the provisions of this subsection.

(2) (a) A business entity shall not engage in the practice of land surveying in this state unless:

1. At least one (1) of its principals or officers, or a designated employee, is a professional land surveyor in direct responsible charge of the land surveying work;
2. The professional land surveyor in responsible charge is located at the Kentucky office, if one is maintained; and
3. The board has issued a permit to the business entity.

(b) To apply for a permit, a business entity offering land surveying services in this state shall file with the board, on a form prescribed by the board:

1. The names and addresses of all principals and officers;
2. The license numbers of the principals, officers, and employees who are professional land surveyors in responsible charge of the practice of land surveying in this state; and
3. A list of locations of all offices in this state at which the business entity offers professional land surveying services.

(c) If more than one (1) place of business is maintained in this state, a professional land surveyor shall be in responsible charge of the land surveying work for each office.

(d) A professional land surveyor who renders occasional, part-time, or consulting services to or for a business entity required to hold a permit from the board under this section shall not be designated as the person in responsible charge of the land surveying work unless the professional land surveyor is an officer or owner of the business entity.

(e) A business entity holding a permit shall advise the board in writing within thirty (30) days of any change of status.

- (f) An individual professional land surveyor providing land surveying services as a sole proprietor in the name listed on his or her individual license shall be excluded from the provisions of this subsection.
- (3) (a) After a business entity applies for a professional engineering or professional land surveying permit and pays the proper fees, the board shall review the application and, upon approval, shall issue a permit.
- (b) The board may suspend, revoke, or refuse to issue a permit for violation of the code of professional practice and conduct.
- (c) The expiration date and renewal period for each permit and renewal procedures shall be established by administrative regulations promulgated by the board.
- (4) (a) No business entity shall be relieved of responsibility for the conduct or acts of its agent, employees, or officers by reason of its compliance with this section.
- (b) No individual practicing professional engineering or professional land surveying shall be relieved of the responsibility for professional services performed by reason of the individual's employment or relationship with a business entity holding a permit under this section.
- (5) Disciplinary action against a business entity holding a permit under this section shall be administered in the same manner and on the same grounds as disciplinary action against an individual professional engineer or professional land surveyor.
- (6) The Secretary of State shall not accept articles of incorporation, articles of organization, statement of qualification or certificate of limited partnership or an application for a certificate of authority to transact business as a foreign corporation, limited liability company or limited partnership or a statement of foreign qualification from a business entity which includes in its name or, among objects for which it is established, any of the words, "engineer," "engineering," "surveyor," "surveying," "land surveying," or any modification or derivation thereof, unless the filing with the Secretary of State includes a certificate or letter from the board.

Effective: July 15, 2010

History: Repealed and reenacted 2010 Ky. Acts ch. 51, sec. 141, effective July 15, 2010; and amended 2010 Ky. Acts ch. 163, sec. 6, effective July 15, 2010. -- Amended 2007 Ky. Acts ch. 137, sec. 141, effective June 26, 2007. -- Amended 1998 Ky. Acts ch. 214, sec. 7, effective January 1, 1999. -- Amended 1992 Ky. Acts ch. 96, sec. 2, effective July 14, 1992. -- Amended 1986 Ky. Acts ch. 291, sec. 6, effective July 15, 1986. --Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-12.

Legislative Research Commission Note (7/15/2010). This section was amended by 2010 Ky. Acts ch. 163, and repealed and reenacted by 2010 Ky Acts ch. 51. Pursuant to Section 184 of Acts ch. 51, it was the intent of the General Assembly that the repeal and reenactment not serve to void the amendment, and these Acts do not appear to be in conflict; therefore, they have been codified together.

322.070 Application for licenses.

Applications for professional engineer or professional land surveyor licenses shall be on forms prescribed and furnished by the board and shall contain:

- (1) Statements made under oath, showing the applicant's education and a detailed summary of the applicant's technical experience;
- (2) Not less than five (5) references, of which at least three (3) shall be from professional engineers or professional land surveyors, as may be appropriate, having personal knowledge of the applicant's engineering or land surveying experience; and
- (3) Any other information as the board may require by administrative regulation. References and employment verifications submitted under this section shall remain confidential records of the board.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 163, sec. 7, effective July 15, 2010. -- Amended 1998 Ky. Acts ch. 214, sec. 8, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 7, effective July 15, 1986. --Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-13.

322.080 Time, place, scope of examination.

- (1) Examinations shall be held at times and places determined by the board by promulgation of administrative regulations.
- (2) The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise engineering or land surveying works so as to insure the safety of life, health, and property.

Effective: January 1, 1999

History: Amended 1998 Ky. Acts ch. 214, sec. 9, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 8, effective July 15, 1986. -- Amended 1972 Ky. Acts ch. 148, sec. 5. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-14.

322.090 Reexamination.

- (1) An applicant failing an examination up to two (2) times may apply for reexamination.
- (2) After July 12, 2006, an applicant failing an examination three (3) or more times, regardless of the jurisdiction where each examination is administered, may be approved for reexamination upon submitting a new application. The new application shall include evidence that the applicant has acquired additional knowledge. The board shall promulgate administrative regulations specifying the type and extent of additional knowledge and qualifications required to apply for reexamination under this subsection.

(3) Reexaminations under this section shall be granted upon payment of a fee to be determined by administrative regulations promulgated by the board.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 67, sec. 1, effective July 12, 2006. -- Amended 1998 Ky. Acts ch. 214, sec. 10, effective January 1, 1999. -- Amended 1982 Ky. Acts ch. 273, sec. 3, effective July 15, 1982. -- Amended 1972 Ky. Acts ch. 148, sec. 6. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-14.

322.100 License fees.

The license fees for professional engineers and professional land surveyors shall be established by administrative regulation promulgated by the board. If the board refuses to issue a license to any applicant, the initial fee deposited shall be retained as an application fee.

Effective: January 1, 1999

History: Amended 1998 Ky. Acts ch. 214, sec. 11, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 9, effective July 15, 1986. -- Amended 1978 Ky. Acts ch. 313, sec. 8, effective June 17, 1978. -- Amended 1972 Ky. Acts ch. 148, sec. 7. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-13.

322.110 Licensure -- Designations -- Rights associated with license.

(1) The board shall issue a license authorizing the practice of engineering or land surveying to any applicant who has met the respective requirements set forth in this chapter.

(2) All licenses issued under this subsection shall be signed by the chairman and the secretary of the board, under the seal of the board. Each license shall bear the full name of the licensee, the license number, and one (1) of the following designations:

- (a) "Professional Engineer";
- (b) "Professional Land Surveyor";
- (c) "Professional Engineer, Inactive";
- (d) "Professional Engineer, Retired";
- (e) "Professional Land Surveyor, Inactive"; or
- (f) "Professional Land Surveyor, Retired."

(3) The designations in paragraphs (c), (d), (e), and (f) of subsection (2) of this section shall be defined in administrative regulations promulgated by the board.

(4) (a) A valid professional engineer or professional land surveyor license shall be prima facie evidence that the licensee is entitled to all rights, privileges, and responsibilities of a professional engineer or a professional land surveyor.

(b) A valid license bearing the designation "inactive" or "retired" shall be prima facie evidence that the licensee is entitled to all rights, privileges, and responsibilities of a professional engineer or professional land surveyor, except the right to practice.

Effective: January 1, 1999

History: Amended 1998 Ky. Acts ch. 214, sec. 12, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 10, effective July 15, 1986. -- Amended 1972 Ky. Acts ch. 148, sec. 8. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-15.

322.120 Licensure by endorsement.

The board may, by promulgation of administrative regulations, establish requirements and fees for licensure by endorsement for those applicants who:

(1) Hold a current license or certificate of registration to engage in the practice of engineering or land surveying issued by any state, territory, or possession of the United States, the District of Columbia, or any foreign country; and

(2) Submit proof that the requirements and qualifications supporting that license or certificate:

(a) Are not in conflict with the provisions of this chapter; and

(b) Equal or exceed this state's requirements in effect on the date of issuance. However, the land surveyor applicant may be required to take examinations, as the board deems necessary, to determine the competency to engage in the practice of land surveying in this state. The examination shall include questions on laws, procedures, and practices pertaining to land surveying in this state.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 163, sec. 8, effective July 15, 2010. -- Amended 1998 Ky. Acts ch. 214, sec. 13, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 11, effective July 15, 1986. -- Amended 1978 Ky. Acts ch. 313, sec. 9, effective June 17, 1978. -- Amended 1972 Ky. Acts ch. 148, sec. 9. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-19

322.160 Renewal of license or permit -- Duty of executive director -- No renewal fee for years spent in Armed Forces.

(1) Licenses for individuals and permits for business entities shall be valid for not more than two (2) years from the date of issuance, unless renewed.

(2) The executive director shall notify every licensee and permit holder at least one (1) month in advance of the pending expiration date.

- (a) All license renewals shall be completed on or before June 30 of the year of expiration.
 - (b) All permit renewals shall be completed on or before December 31 of the year of expiration.
 - (c) Each licensee or permit holder is responsible for notifying the board of any address change.
 - (d) The responsibility for the timely renewal of a license or permit rests with the licensee or permit holder.
- (3) The failure to renew shall not deprive a licensee or permit holder of the right of renewal, but the fee to be paid for the renewal shall be increased ten percent (10%) for each month or fraction of a month that payment of renewal is delayed. Any licensee or permit holder who fails to renew within one (1) year after expiration shall furnish the board with:
- (a) Satisfactory evidence of qualification of continued practice. However, the board may require reexamination; and
 - (b) Evidence of completion of continuing education hours as required by KRS 322.290.
- (4) No licensee shall be required to pay renewal fees to the board during the time the licensee is on active duty in the Armed Forces of the United States.
- (a) Any licensee who has previously paid any renewal fee covering a period of time spent on active duty shall, upon filing with the board a copy of his or her discharge, be granted a license renewal without the payment of any fee.
 - (b) The free renewal shall be for as many license years as the licensee was on active duty and which were covered in whole or in part by the previous payment of a renewal fee.
 - (c) The continuing education requirement under KRS 322.290 shall be waived for those years the licensee was on active duty.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 163, sec. 9, effective July 15, 2010. – Amended 2007 Ky. Acts ch. 16, sec. 1, effective June 26, 2007. -- Amended 2004 Ky. Acts ch. 134, sec. 1, effective July 13, 2004. -- Amended 1998 Ky. Acts ch. 214, sec. 14, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 15, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 273, sec. 4, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 313, sec. 10, effective June 17, 1978. -- Amended 1946 Ky. Acts ch. 65, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-16.

322.170 Replacement and reissuance of certain licenses and permits.

- (1) A new license or permit may be issued to replace any license or permit that was lost, destroyed, or mutilated, subject to the administrative regulations promulgated by the board.

(2) A license or permit may be reissued to replace any license or permit that was previously revoked, subject to KRS 322.220.

Effective: January 1, 1999

History: Amended 1998 Ky. Acts ch. 214, sec. 15, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 16, effective July 15, 1986. -- Amended 1972 Ky. Acts ch. 148, sec. 12. --Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-20.

322.180 Grounds for denial of licensure and for disciplinary action.

The board may refuse to issue, refuse to renew, suspend, or revoke a license, may reprimand, place on probation, or admonish a licensee, may impose a fine on a licensee not to exceed one thousand dollars (\$1,000), or may impose any combination of these penalties when it finds that an applicant or licensee:

- (1) Engaged in any practice of fraud or deceit in obtaining a license;
- (2) Engaged in gross negligence, incompetence, or misconduct in the practice of engineering or land surveying;
- (3) Violated any provision of this chapter, the administrative regulations promulgated by the board, or the code of professional practice and conduct adopted by the board and incorporated in administrative regulations;
- (4) Employed, procured, or induced a person not licensed to practice engineering or land surveying in this state;
- (5) Aided or abetted a person not licensed to practice engineering or land surveying in this state;
- (6) Been granted a license upon a mistake of material fact;
- (7) Been convicted by a court of law of a felony, if in accordance with KRS Chapter 335B;
- (8) Become a chronic or persistent alcoholic or has become drug-addicted so that continued practice is dangerous to clients or to the public safety;
- (9) Developed a physical or mental disability or other condition so that continued practice is dangerous to clients or to the public safety;
- (10) Violated any order of suspension or the terms or conditions of any order of probation issued by the board;
- (11) Had a license or registration certificate to practice as an engineer or land surveyor denied, limited, suspended, probated, or revoked in another jurisdiction on grounds sufficient to cause licensure to be denied, limited, suspended, probated, or revoked in this state;
- (12) Engaged in conduct likely to deceive or defraud the public;
- (13) Presented or attempted to use as his or her own the license, seal, or stamp of another;
- (14) Falsely impersonated any other licensee;

(15) Attempted to use an expired, suspended, or revoked license;

(16) Provided certification for any plan, specification, plat, report, or physical description not prepared by him or her or under his or her direct supervision; or

(17) Applied the seal, stamp, signature, or title block of another professional engineer or professional land surveyor to a plan, specification, plat, report, or physical description that was not prepared by the other professional engineer or land surveyor.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 158, sec. 70, effective June 29, 2017. -- Amended 2010 Ky. Acts ch. 163, sec. 10, effective July 15, 2010. -- Amended 1998 Ky. Acts ch. 214, sec. 16, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 17, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 273, sec. 5, effective July 15, 1982. -- Amended 1972 Ky. Acts ch. 148, sec. 13. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-20.

322.190 Investigation and resolution of complaints -- Appeals.

Any person or organization, including the board upon its own volition, may file with the executive director of the board a written complaint alleging violation of any provision of this chapter. The executive director shall cause the complaint to be investigated.

(1) If the investigation reveals that the alleged violation did occur but was not of a serious nature, the board may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have the response placed in the permanent licensure file. The licensee may alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing in accordance with the provisions of KRS Chapter 13B.

(2) If the investigation reveals evidence supporting the complaint, the executive director shall set the matter for hearing in accordance with the provisions of KRS Chapter 13B before refusing to renew, suspending, revoking, reprimanding, imposing probation or an administrative fine, or any combination of actions regarding any license under the provisions of this chapter.

(a) At any time during the investigation or hearing process, the board may accept a written assurance of voluntary compliance from the licensee which effectively deals with the complaint.

(b) When the board issues a written reprimand to the licensee, a copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to submit a response within thirty (30) days of its receipt and to have that response filed in the permanent file.

(3) After denying an application under the provisions of this chapter, the board may grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.

(4) The board may reconsider, modify, or reverse its decision on any disciplinary action.

(5) Any party aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

Effective: January 1, 1999

History: Amended 1998 Ky. Acts ch. 214, sec. 17, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 18, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 273, sec. 6, effective July 15, 1982. -- Amended 1972 Ky. Acts ch. 148, sec. 14. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-20.

322.220 Petition for reissuance of license after revocation.

A person whose license has been revoked may petition the board to reissue. The board shall investigate the petition and may reissue the license upon a finding that the person has complied with any terms prescribed by the board and is again able to competently practice.

Effective: January 1, 1999

History: Amended 1998 Ky. Acts ch. 214, sec. 19, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 21, effective July 15, 1986. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-20.

322.230 State Board of Licensure for Professional Engineers and Land Surveyors -- Membership -- Terms -- Oath.

(1) The State Board of Licensure for Professional Engineers and Land Surveyors shall consist of nine (9) members appointed by the Governor and two (2) ex officio members each with full voting rights. The ex officio members shall be the dean of the College of Engineering of the University of Kentucky and the dean of the J.B. Speed School of Engineering of the University of Louisville.

(2) The term of each member of the board shall be four (4) years. Each member shall hold office until the expiration of the term or until a successor has been appointed and has qualified.

(3) Before beginning a term of office, every member shall file with the Secretary of State a written oath for the faithful discharge of official duties.

(4) No member of the board shall serve as an employee of the board.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 173, sec. 1, effective July 15, 2008. -- Amended 1998 Ky. Acts ch. 214, sec. 20, effective January 1, 1999. -- Amended 1976 Ky. Acts ch. 206, sec. 16. -- Amended 1972 Ky. Acts ch. 148, sec. 16. -- Amended 1966 Ky. Acts ch. 68, sec. 3 -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-3.

Legislative Research Commission Note (7/15/2010). 2010 Ky. Acts ch. 163, sec. 17, provides: "One professional land surveyor who is appointed under KRS 322.230 to fill a position on the State Board of Licensure for Professional Engineers and Land surveyors after the previous term for that position has expired on December 31,

2010, shall serve a term of three years, after which appointments to this board position shall be for a term of four years."

322.240 Qualifications of board members.

(1) Each appointed member of the board shall:

- (a) Be a citizen of the United States;
- (b) Have been a resident of this state for at least five (5) years; and
- (c) Be a resident of this state at the time of appointment and for the term of the appointment.

(2) One (1) member of the board shall be a citizen at large who is not associated with or financially interested in the practice of engineering or land surveying.

(3) Eight (8) members of the board shall be a professional engineer or a professional land surveyor engaged in the respective practice for at least twelve (12) years and shall have been in responsible charge of important engineering or land surveying work for at least five (5) years.

- (a) At least five (5) members of the board shall be professional engineers licensed in Kentucky for at least four (4) years prior to the date of their appointment;
- (b) At least three (3) members of the board shall be professional land surveyors licensed in Kentucky for at least four (4) years prior to the date of their appointment; and
- (c) The eight (8) members shall remain professional engineers or professional land surveyors licensed in Kentucky during the term of their appointments. If a member's license is surrendered, suspended, revoked, or placed in inactive or retired status, that member shall automatically be removed from the board and the vacancy filled under KRS 322.250(5).

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 173, sec. 2, effective July 15, 2008. -- Amended 1998 Ky. Acts ch. 214, sec. 21, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 22, effective July 15, 1986. -- Amended 1976 Ky. Acts ch. 206, sec. 17. -- Amended 1972 Ky. Acts ch. 148, sec. 17. -- Amended 1966 Ky. Acts ch. 68, sec. 4. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 1599e-3, 1599e-4.

322.250 Appointment of board members -- Vacancies.

(1) Except as provided for in subsection (5) of this section, each land surveyor appointment to the board shall be made from a list of not less than three (3) nominees to be submitted to the Governor jointly by the Kentucky Society of Professional Engineers and the Kentucky Association of Professional Surveyors, with input from other professional societies. All other appointments to the board shall be made from a list of not less than three (3) nominees to be submitted to the Governor by the Kentucky Society of Professional Engineers with input from other professional societies.

(2) The nominations shall be submitted to the Governor at least sixty (60) days prior to the appointment date.

- (3) The term of office for all full-term appointments shall begin January 1.
- (4) Board members shall be allowed to succeed themselves but shall be limited to not more than two (2) consecutive terms. A former member may be reappointed to the board if the member has not served in the preceding four (4) years.
- (5) If a vacancy on the board occurs for any reason resulting in an unexpired term, if not filled within three (3) months by official action of the Governor, the board may appoint a provisional member to serve in the interim until the Governor acts.
- (6) Every unexpired term shall be filled only for the remainder of that term.

Effective: January 1, 1999

History: Amended 1998 Ky. Acts ch. 214, sec. 22, effective January 1, 1999. -- Amended 1972 Ky. Acts ch. 148, sec. 18. -- Amended 1966 Ky. Acts ch. 68, sec. 5. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-3, 1599e-6.

322.260 Officers of board.

Every year the board shall elect a chair, a vice chair, and a secretary-treasurer.

322.270 Compensation of board members.

Each member shall receive compensation as promulgated by administrative regulation of the board and approved by the appropriate legislative body. Official duties include meetings of committees of the board and time spent in necessary travel. Further, members shall be reimbursed for costs for all actual and necessary expenses incurred in carrying out their official duties as board members.

322.280 Meetings of board.

- (1) The board shall hold at least four (4) regular meetings each year. Special meetings shall be held if the bylaws provide. Notice of all meetings shall be given in the manner provided by the bylaws.
- (2) Six (6) members shall constitute a quorum.

322.290 Functions of board.

The board shall:

- (1) Administer this chapter;
- (2) Adopt an official seal;
- (3) Provide suitable office quarters at its own expense;
- (4) Adopt and amend all bylaws and rules of procedure, and promulgate administrative regulations, consistent with the Constitution and laws of the state and reasonably necessary for

the proper performance of its duties and the regulation and fair conduct of the proceedings before it;

(5) Appoint an executive director and assistant executive directors and fix their compensation;

(6) Employ any clerk or other assistants necessary for the proper performance of its work;

(7) Appoint a general counsel and any assistant general counsel as it deems necessary and fix their compensation;

(8) Appoint investigatory personnel, as it deems necessary, and fix their compensation;

(9) Appoint committees of licensees, as it deems necessary, to review issues before the board and make recommendations to the board;

(10) Make expenditures, as it deems necessary, for any purpose that it considers reasonably necessary for the proper performance of its duties, including paying the expenses of the board's delegates to national conventions of and membership dues to the National Council of Examiners for Engineering and Surveying or other affiliated national boards or societies;

(11) Adopt and promulgate by administrative regulation a code of professional practice and conduct, which shall be based upon generally recognized principles of professional ethical conduct and binding upon persons licensed under this chapter. A code of professional practice and conduct shall be made known to all licensees and applicants and shall include but not be limited to the following objectives:

(a) The protection of the public health, safety, and welfare;

(b) The maintenance of standards of objectivity, truthfulness, and reliability in public statements;

(c) The avoidance of conflicts of interest;

(d) The prohibition of solicitation or acceptance of engineering or land surveying work on any basis other than qualifications for the work offered;

(e) The prohibition of association with any person engaging in illegal or dishonest activities; and

(f) The limitation of professional service to the area of competence of the licensee;

(12) Adopt appropriate standards of practice;

(13) Promulgate administrative regulations in accordance with KRS Chapter 13A to establish rules for the use of stamps, seals, and signatures in electronic transactions;

(14) Bring, in its name, injunctive proceedings in the Franklin Circuit Court to enjoin any person, business entity, or combination thereof in violation of KRS 322.020 or KRS 322.060;

(15) Adopt a program for continuing education for its individual land surveyor licensees. No individual land surveyor licensee shall be permitted to renew his or her license unless the

minimum annual continuing education requirements are met, in addition to any other requirement for renewal. The program for continuing education shall not exceed a total of eight (8) credit clock hours per year and shall not include testing or examination of the licensee in any manner; and (16) Adopt a program for continuing education for its individual engineer licensees.

(a) The program for continuing education shall not exceed a total of fifteen (15) credit clock hours per year and shall not include testing or examination of the licensee in any manner.

(b) No individual engineer licensee shall be permitted to renew his or her license unless the minimum annual continuing education requirements are met, except as provided in paragraph (c) of this subsection, in addition to any other requirement for renewal.

(c) Any person licensed under this chapter as a professional engineer prior to January 1, 1972, who has maintained his or her license in good standing since becoming licensed shall not be subject to any continuing education requirements.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 16, sec. 2, effective June 26, 2007. -- Amended 2000 Ky. Acts ch. 238, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 214, sec. 26, effective January 1, 1999. -- Amended 1992 Ky. Acts ch. 82, sec. 1, effective July 14, 1992. -- Amended 1986 Ky. Acts ch. 291, sec. 25, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 273, sec. 8, effective July 15, 1982. -- Amended 1972 Ky. Acts ch. 148, sec. 22. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 1599e-3, 1599e-8, 1599e-9, 1599e-21, 1599e-23.

Legislative Research Commission Note (6/26/2007). Under the authority of KRS 7.136(1), the Reviser of Statutes has changed the internal numbering system and rearranged some text of subsection (16) of this statute. No words were changed in the process.

322.300 Board to keep record of proceedings and register of applications.

The board shall keep a record of its proceedings and a register of all applications for licensure. The register shall state the following:

- (1) Name, age, and residence of each applicant;
- (2) Date of the application;
- (3) Place of business of the applicant;
- (4) Education and other qualifications of the applicant;
- (5) Whether an examination was required;
- (6) Whether the applicant was rejected;
- (7) Whether a license was granted;
- (8) Date of the action of the board; and
- (9) Any other information that the board considers necessary.

Effective: January 1, 1999

History: Amended 1998 Ky. Acts ch. 214, sec. 27, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 26, effective July 15, 1986. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-10.

322.320 Board may require attendance of witnesses, production of documents.

(1) In carrying this chapter into effect, the board, under the hand of its chairman or executive director and under its seal, may, during the investigation or an administrative hearing procedure, in cases involving the revocation of a license or practicing or offering to practice without a license, subpoena witnesses and compel their attendance and require the production of books, papers, and documents. Any member may administer oaths to witnesses appearing before the board.

(2) If any person refuses to obey any subpoena so issued or refuses to testify or produce any books, papers, or documents, the board may present its petition to any authority having jurisdiction, setting forth the facts. That authority shall, in a proper case, issue its subpoena to the person, requiring him to attend and testify or produce books, papers and documents considered necessary and pertinent by the board.

(3) Board members and agents and staff of the board shall be held free of any personal liability as a result of board actions.

322.330 Duties of secretary-treasurer.

The secretary-treasurer, or any other officer or designee properly authorized by the board, shall:

(1) Receive and account for all money collected under this chapter and pay it into the State Treasury; and

(2) Provide in an electronic format on the board's Web site a roster showing the names and addresses of all professional engineers, professional land surveyors, and business entities holding permits to practice engineering or land surveying in this state.

322.340 Licensee to obtain seal or stamp -- Use of seal or stamp.

(1) Each professional engineer or professional land surveyor shall, upon licensure, obtain a seal or stamp of the design authorized by the board, bearing his or her name, license number, and the words "Licensed Professional Engineer" or "Licensed Professional Land Surveyor."

(2) Use of the stamp, seal, or signature in an electronic transaction shall be conducted in accordance with administrative regulations promulgated by the board under KRS 322.290(13).

(3) The seal or stamp, signature, and the date shall be used to provide certification for all reports, specifications, drawings, and plans, if presented to a client or any public or governmental agency. Reproduction of original signatures shall be adequate to meet the requirements of this subsection.

(4) The seal or stamp and signature shall be used by licensees only if the work being stamped was under the licensee's complete direction and control.

(5) Every survey plat and physical description prepared by a professional land surveyor and submitted to a client or any public or governmental agency shall display the certification by the professional land surveyor under whose supervision the plat or description was prepared.

(6) It shall be unlawful for a licensee to affix, or permit to be affixed, his or her seal, stamp, or signature to any document described in subsection (3) or (5) of this section:

(a) After the expiration of a license; or

(b) For the purpose of aiding or abetting any other person to evade or attempt to evade any provisions of this chapter.

(7) A professional engineer shall check and have complete dominion and control of the design and engineering work of any engineer not licensed to practice in this state. Complete dominion and control shall include possession of the sealed and signed reproducible construction documents with all supporting design calculations, indicating all changes in the design.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 238, sec. 2, effective July 14, 2000. – Amended 1998 Ky. Acts ch. 214, sec. 30, effective January 1, 1999. -- Amended 1986 Ky. Acts ch. 291, sec. 29, effective July 15, 1986. -- Amended 1972 Ky. Acts ch. 148, sec. 25. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599e-15.

322.360 Public work required to be done under professional engineer or licensed architect.

(1) Neither the state nor any of its political subdivisions shall engage in the construction of any public work involving engineering, unless the plans, specifications, and estimates have been prepared and the construction executed under the direct supervision of a professional engineer or a licensed architect.

(2) Subsection (1) of this section shall not apply to any public work, including a highway or capital project under KRS 56.491, that involves only maintenance or repair of the facility. Maintenance or repair shall not include any work which alters, modifies, or changes the original characteristics of the design.

322.370 Incidental architectural practice permitted.

This chapter shall not prevent a professional engineer from carrying on any architectural practice incident to the practice of engineering.

322.380 Seeking business through another to avoid chapter prohibited.

(1) No person without a license under this chapter shall avoid or attempt to avoid this chapter by having a representative or employee seek engineering or land surveying work in his or her behalf.

(2) No person shall act as a representative or employee in the type of activity prohibited by subsection (1) of this section.

Land Surveyors

322.400 Plats or surveys not to be recorded unless certified by a professional land surveyor.

No county clerk of any county, or any other public authority, shall accept for filing, file, or record any map, plat, survey, or other document related to the practice of land surveying, unless it evidences certification by a professional land surveyor by whom, or under whose personal supervision and direction, the map, plat, survey, or other document was prepared.

322.420 Disposition of fees paid to the board.

All fees paid to and collected by the board under this chapter shall be deposited in a depository designated by the board and disbursed only at the direction of the board.

322.450 Persons exempt from law.

The provisions of this chapter relating to the necessity of licensure to engage in the practice of land surveying shall not apply to any employee or employees of the Kentucky Transportation Cabinet, or any other subdivision of the government of the Commonwealth of Kentucky, working under the direct supervision and control of a professional engineer or professional land surveyor.

322.460 Officers to enforce law -- Employment of attorneys.

The Attorney General of Kentucky or his or her designee shall act as legal adviser to the board and render legal assistance as the board may from time to time require. In addition, the Attorney General of Kentucky, all Commonwealth's attorneys, and the county attorney of each county shall, upon request of the board, and without additional compensation, lend their assistance to the enforcement of the provisions of this chapter and the prosecution of any violations thereof. The board shall employ additional counsel as necessary to effectively enforce the provisions of this chapter, the cost of which shall be paid exclusively from funds of the board.

322.470 Right of entry on land of others by land surveyor -- Notification of landowner -- Liability of landowner.

As used in this section, "professional land surveyor" shall include the agents, the employees, and any personnel under the supervision of a professional land surveyor.

(1) A professional land surveyor may go on, over, and upon the lands of others if necessary to perform surveys for the location of property corners, boundary lines, rights-of-way, and easements, and may carry with them their customary equipment and vehicles.

(a) Entry under the right hereby granted shall not constitute trespass; and

(b) A professional land surveyor shall not be liable to arrest or a civil action by reason of this entry.

(2) Nothing in this section shall be construed as giving authority to a professional land surveyor to destroy, injure, damage, or move anything on the lands of another without the written permission of the landowner; and nothing in this section shall be construed as removing civil liability for these damages.

(3) A professional land surveyor shall make reasonable effort to notify adjoining landowners upon whose land it is necessary to enter.

(4) No owner or occupant of the land shall be liable for any injury or damage sustained by any person entering upon his or her land under the provisions of this section.

Services of Engineer or Architect

322.550 Buildings or additions to existing buildings requiring services of an architect or of either a professional engineer or an architect.

(1) Except as otherwise provided in this section, the following buildings, or additions to existing buildings, classified by use group shall require the services of an architect licensed in the Commonwealth of Kentucky:

(a) Assembly use group having a capacity of one hundred (100) persons or more, except church buildings having a capacity of four hundred (400) persons or less or six thousand (6,000) square feet or less;

(b) Business use group having a capacity of one hundred (100) persons or more;

(c) Institutional use group, regardless of capacity;

(d) Mercantile use group having a capacity of one hundred (100) persons or more;

- (e) Residential use group of more than twelve (12) dwelling units or having a capacity of fifty (50) persons or more;
 - (f) Educational use groups, regardless of capacity; and
 - (g) Mixed use group containing one (1) or more of the use group classifications and capacities listed under paragraphs (a) to (f) of this subsection.
- (2) Alterations or new construction requiring compliance with the Kentucky Building Code for any building containing one (1) or more of the use group classifications and capacities listed under subsection (1) of this section shall require the services of an architect licensed in the Commonwealth of Kentucky, but if alterations or new construction predominately involve primarily structural components or mechanical or electrical systems, then services may be performed by one (1) or more licensed professional engineers.
- (3) Buildings or additions to existing buildings, which contain one (1) or more of the use group classifications and capacities listed under subsection (1) of this section, shall require, in addition to the services of an architect, the services of one (1) or more licensed engineers.
- (4) The following buildings and additions to existing buildings, classified by use group, shall require the services of either a professional engineer or architect licensed in the Commonwealth of Kentucky:
- (a) Factory and industrial use group having a capacity of one hundred (100) persons or more;
 - (b) High hazard use group, regardless of capacity;
 - (c) Storage use group having a capacity of one hundred (100) persons or more; and
 - (d) Utility and miscellaneous use groups having a capacity of one hundred (100) persons or more.
- (5) The services required in subsections (1) to (4) of this section shall include the administration of construction contracts.

322.990 Penalties.

Any person who violates any provision of this chapter shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or be imprisoned not more than three (3) months, or both.

KENTUCKY ADMINISTRATIVE REGULATIONS: TITLE 201 GENERAL GOVERNMENT CABINET, CH. 18 BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

201 KAR 18:010. Classes of applicants.

RELATES TO: KRS 322.040, 322.120

STATUTORY AUTHORITY: KRS 322.040, 322.120, 322.290(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.040 establishes the criteria for credentialing persons under the jurisdiction of the board. KRS 322.120 establishes the requirements for licensure by reciprocity. This administrative regulation establishes classes of applicants for professional engineers and land surveyors for convenience in discussing and processing applications for licenses, certification and examination.

Section 1. Classes of Applicants. (1) For convenience in discussing and processing applications for licenses, certification and examinations, there are hereby established the following four (4) classes of applicants.

(2) Professional engineer. This class includes those applying for engineering licenses pursuant to KRS 322.040(1), (2) and (4) or 322.120.

(3) Engineer-in-training. This class includes those applying for certification as engineers-in-training pursuant to 201 KAR 18:030.

(4) Professional land surveyor. This class includes those applying for a land surveying license pursuant to KRS 322.040(3) and (4) or 322.120.

(5) Land surveyor-in-training. This class includes those applying for certification as land surveyors-in-training pursuant to 201 KAR 18:030. (PE & LS-I-1; 1 Ky.R. 1018; eff. 6-11-75; Am. 2 Ky.R. 192; eff. 12-10-75; Am. 28 Ky.R. 670; 1112; eff. 11-9-2001.)

201 KAR 18:020. Application forms.

RELATES TO: KRS 322.040, 322.045, 322.050, 322.070, 322.080, 322.090, 322.120, 322.300

STATUTORY AUTHORITY: KRS 322.070, 322.090, 322.290

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.070 authorizes the board to require the use of forms in the application process and for the applicant to furnish proof of meeting educational requirements. KRS 322.090 requires an applicant who has failed the examination three (3) or more times to furnish proof of further study. KRS 322.290(4) authorizes the board to promulgate administrative regulations for the proper performance of its duties. This administrative regulation establishes requirements for forms, transcripts, and additional study.

Section 1. Application Forms. (1)(a)1. An application by any of the four (4) classes of applicants, including a professional engineer, a professional land surveyor, an engineer-in-training, or a land surveyor-in-training, shall be made on the following forms issued by the board:

a. Combined Application to take the Principles & Practice of Engineering Examination And For Licensure as a Professional Engineer;

b. Application for Licensure to Practice Professional Land Surveying;

c. Application For Licensure as a Professional Engineer (PE) or Land Surveyor (PLS) By Endorsement;

d. Application for Business Entity Permit – PE or LS;

e. Application For Land Surveyor-In-Training (LSIT) Certification;[or]

f. Application For Engineer-In-Training (EIT) Certification; or

g. Application for Initial Licensure as a Professional Engineer (PE) or Land Surveyor (PLS).

2. Upon the applicant's completion of an application required by subparagraph 1. of this paragraph, the following forms shall be submitted if applicable:

a. Request for Confidential Information – PE;

b. Personal Reference – PE;

c. Report of Professional Experience – PLS;

d. Personal Reference – PLS;

e. Personal Reference – LSIT;

f. Professional Reference for Reinstatement – PE Applicant;

g. Professional Reference for Reinstatement – PLS Applicant;

- h. Engineering Affidavit;
- i. Surveying Affidavit; or
- j. Employment Verification – PE Reinstatement.

(b) An applicant may attach additional sheets to the form if necessary for other evidence, but any attached sheets shall conform to the same size as the printed forms listed under this subsection and shall be securely attached.

(c) The board may require clarification or expansion of any of the information on the application required under this subsection in order to evaluate fully an applicant's qualifications.

(2) If the board requires a transcript in order to evaluate the qualifying education for licensure or certification, the applicant shall cause the required transcript to be sent directly from the educational institution to the board.

(3) If an applicant fails the same examination three (3) or more times, the applicant shall submit a new application required under subsection (1)(a)1. of this section and shall include evidence satisfactory to the board that the applicant has completed additional coursework. The requirement for this additional coursework shall be satisfied by completion of any of the following:

- (a) Examination review courses;
- (b) College courses; or
- (c) Continuing education courses.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Combined Application to take the Principles & Practice of Engineering Examination And For Licensure as a Professional Engineer", ed. 11/2013;
- (b) "Request for Confidential Information - PE", ed. 10/03;
- (c) "Personal Reference - PE", ed. 1/07;
- (d) "Application for Licensure to Practice Professional Land Surveying", ed. 7/1/05;
- (e) "Report of Professional Experience - PLS", ed. 8/1/02;
- (f) "Personal Reference - PLS", ed. 1/04;
- (g) "Personal Reference - LSIT", ed. 1/04;
- (h) "Professional Reference for Reinstatement - PE Applicant", ed. 1/07;

- (i) "Professional Reference for Reinstatement - PLS Applicant", ed. 1/07;
- (j) "Engineering Affidavit", ed. 1/07;
- (k) "Surveying Affidavit", ed. 1/07;
- (l) "Employment Verification - PE Reinstatement", ed. 1/07;
- (m) "Application For Licensure as a Professional Engineer (PE) or Land Surveyor (PLS) By Endorsement", ed. 11/2013;
- (n) "Application for Business Entity Permit - PE or LS", ed. 1/07;
- (o) "Application For Land Surveyor-In-Training (LSIT) Certification", ed. 11/2013;[and]
- (p) "Application For Engineer-In-Training (EIT) Certification", ed. 11/2013; and
- (q) "Application for Initial Licensure as a Professional Engineer (PE) or Land Surveyor (PLS)", ed. 6/2016.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

201 KAR 18:030. In-training certificates.

RELATES TO: KRS 322.010, 322.040, 322.045, 322.047, 322.120

STATUTORY AUTHORITY: KRS 322.010, 322.040, 322.045, 322.047, 322.120, 322.290(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.010 defines engineer in training and land surveyor in training. KRS 322.290(4) provides the board with the authority to promulgate administrative regulations necessary to perform its duties. This administrative regulation outlines the requirements under the certification program for in-training engineers and land surveyors under which the board has provided for early testing of basic sciences and fundamentals of engineering and land surveying.

Section 1. Examinations are offered in the fundamentals of engineering (FE) and fundamentals of land surveying (FLS) provided by the National Council of Examiners for Engineers and Land Surveyors.

Section 2. Pursuant to KRS 322.040 and 322.045, the final year shall begin upon completion of at least 105 semester credit hours in the program.

Section 3. A qualified applicant who passes the examination shall be issued a certificate of recognition as engineer-in-training or land surveyor-in-training. The certificate shall be valid indefinitely with no renewal fees.

Section 4. The executive director is authorized to approve applications for the FE and FLS examinations. (PE&LS-III-1; 1 Ky.R. 1019; eff. 6-11-75; Am. 28 Ky.R. 671; 1112; eff. 11-9-2001; 31 Ky.R. 1882; 32 Ky.R. 52; eff. 8-5-05.)

201 KAR 18:040. Fees.

RELATES TO: KRS 322.060, 322.090, 322.100, 322.110, 322.120, 322.160, 322.170

STATUTORY AUTHORITY: KRS 322.090, 322.100, 322.110, 322.120, 322.290(4), 322.290(10)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.100 requires the board to establish fees for licensure. This administrative regulation establishes fees for examination, licensure, reinstatement, reissuance, and renewal.

Section 1. Examination Fees. The fees for taking the Principles and Practice of Engineering Examination, the Principles and Practice of Land Surveying Examination, the Fundamentals of Engineering Examination, and the Fundamentals of Land Surveying Examination shall be the actual amounts charged by the National Council of Examiners for Engineering and Surveying.

Section 2. Endorsement, Renewal, Reinstatement, and Reissuance. (1) Renewal of an individual license shall be \$150 or shall be twenty (20) dollars for retired or inactive status.

(a) Each licensee whose surname begins with the letters A through K shall renew in odd-numbered years.

(b) Each licensee whose surname begins with the letters L through Z shall renew in even-numbered years.

(2) (a) The fee for reinstatement of an expired license or business entity permit that has been expired for less than one (1) year shall be calculated as provided by KRS 322.160(3).

(b) If the license or business entity permit has been expired for more than one (1) year, the former licensee or business entity shall file an application for reinstatement and pay a fee of \$500.

(3) Reissuance of a license after loss or destruction shall be twenty-five (25) dollars.

(4) The fee for licensure by endorsement as a professional engineer or professional land surveyor shall be \$300. The fee shall accompany the application for licensure, which is incorporated by reference in 201 KAR 18:020.

(5) An applicant who fails the two (2) hour state specific examination on the first attempt shall be charged fifty (50) dollars for each subsequent attempt.

Section 3. Fees for Examination in Additional Disciplines. (1) After initial licensure, a licensee may apply for examination in one (1) or more disciplines of engineering for which examinations are available.

(2) For each additional examination an applicant shall submit an:

(a) Updated application, which is incorporated by reference in 201 KAR 18:020; and

(b) Examination fee as established in this administrative regulation.

Section 4. Business Entities. (1) The fee for a permit to practice engineering or land surveying in this state shall be \$100 for either permit.

(2) A business entity that applies for a dual permit shall submit \$150.

(3) These fees shall accompany the application.

(4) The annual renewal fee for an individual permit shall be \$100.

(5) The annual renewal fee for a dual permit shall be \$150.

Section 5. Payment of Fees. (1) (a) Fees payable pursuant to Sections 2 and 4 of this administrative regulation shall be paid by check or money order made payable to "Kentucky Board of Licensure" or by major credit card.

(b) Fees payable pursuant to Section 1 of this administrative regulation shall be paid directly to the examination service.

(2) All fees shall be nonrefundable. (PE&LS-IV-1; 1 Ky.R. 1019; eff. 6-11-1975; Am. 3 Ky.R. 584; eff. 2-2-1977; 4 Ky.R. 567; eff. 8-2-1978; 8 Ky.R. 194; 343; eff. 11-5-1981; 10 Ky.R. 902; eff. 2-1-1984; 13 Ky.R. 1091; eff. 1-13-1987; 16 Ky.R. 1960; eff. 5-13-1990; 18 Ky.R. 3210; 19 Ky.R. 1069; eff. 10-30-92; 26 Ky.R. 1587; 1798; eff. 4-12-2000; 28 Ky.R. 672; 1113; eff. 11-9-2001; 30 Ky.R. 690; 1204; eff. 12-5-2003; 33 Ky.R. 4203; eff. 8-31-2007; 34 Ky.R. 1097; 1704; eff. 2-1-2008; TAm eff. 4-4-2011; 38 Ky.R. 1636; 1840; eff. 6-1-2012; 39 Ky.R. 528; 948; eff. 12-7-2012; 39 Ky.R. 2380; eff. 9-6-2013.)

201 KAR 18:050. Disciplines of professional engineering for testing.

RELATES TO: KRS 322.020, 322.040(1)(a)3a, 322.080(2)

STATUTORY AUTHORITY: KRS 322.080(2), 322.290(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.040(1)(a)3a requires a passing score on the Principles and Practice of Engineering Examination (PPEE). KRS 322.080(2) requires the board to prescribe the scope of the examination. Because the PPEE is administered by discipline, it is necessary for the board to establish the disciplines recognized in Kentucky for the examination. This administrative regulation establishes the examination required for all disciplines.

Section 1. Disciplines of Professional Engineering. The examination required by KRS 322.040(1)(a)3a shall be administered in Kentucky for all disciplines for which an examination is available from the National Council of Examiners for Engineers and Surveyors. (PE&LS-V-1; 1 Ky.R. 1019; eff. 6-11-75; Am. 5 Ky.R. 243; eff. 11-1-78; 13 Ky.R. 1091; eff. 1-13-87; 14 Ky.R. 571; eff. 11-6-87; 25 Ky.R. 2929; 26 Ky.R. 718; eff. 10-15-99; 28 Ky.R. 673; 1113; eff. 11-9-2001.)

201 KAR 18:060. Rejections.

RELATES TO: KRS 322.050, 322.120, 322.210, 322.300

STATUTORY AUTHORITY: KRS 322.290

NECESSITY, FUNCTION, AND CONFORMITY: Relates to refusal of registration requests and applicants' right to reconsideration.

Section 1. Rejections. A person whose application has been rejected shall be fully informed as to the reason for the rejection of his application, and he will be given every reasonable opportunity to secure reconsideration of his application. (PE&LS-VI-1; 1 Ky.R. 1019; eff. 6-11-75.)

201 KAR 18:072. Experience.

RELATES TO: KRS 322.040, 322.045, 322.047

STATUTORY AUTHORITY: KRS 322.010, 322.040, 322.045(3), 322.047(2), 322.290(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.040(4), 322.045(3), and 322.047(2) provides that the board shall promulgate administrative regulations to establish requirements for experience as required by KRS 322.040(1)(a)2. This administrative regulation establishes these requirements.

Section 1. Evaluation of experience in engineering required under KRS 322.040 shall consider the following:

- (1) Experience shall reflect increasing complexity of the engineering tasks and the progressive responsibility of the applicant.
- (2) The applicant shall demonstrate knowledge of engineering mathematics, physical and applied sciences, properties of materials, the fundamental principles of engineering design and the application of engineering principles in the solution of engineering problems.
- (3) One (1) year of credit may be approved for completion of a master's degree in engineering in an EAC/ABET-accredited program, or one deemed equivalent by the board.
- (4) Experience that violates KRS Chapter 322 shall not be approved.
- (5) Engineering experience gained in the military services may be approved.
- (6) Sales experience may be approved if engineering principles were required and used in that experience.
- (7) Experience gained in teaching advanced-level engineering-related courses in a four (4) year EAC/ABET-accredited program, or one (1) deemed equivalent by the board, may be approved.
- (8) Experience gained in engineering research and design projects by faculty in an EAC/ABET-accredited program, or one deemed equivalent by the board, may be approved.
- (9) Experience may be approved for execution or supervision of construction projects designed by a professional engineer.
- (10) The applicant shall demonstrate why experience not gained under the supervision of a professional engineer is eligible for credit.
- (11) Qualifying experience shall be complete at the time of application for licensure.

(12) Qualifying experience required by KRS 322.040(1)(a)2 shall be gained following graduation from the engineering program required by the provisions of KRS 322.040(1)(a)1 except that up to three (3) months of experience may be granted for qualifying experience earned while on active duty in the armed forces prior to graduating from the engineering program required by the provisions of KRS 322.040(1)(a)1.

Section 2. Evaluation of experience in land surveying required under KRS 322.045 and 322.047 shall consider the following:

(1) Land surveying experience shall reflect increasing complexity of the land surveying tasks and the progressive responsibility of the applicant.

(2) Experience shall include projects in which the applicant, while under the direct supervision of a practicing professional land surveyor, implemented work involving property conveyance and property boundary determination. The applicant shall also demonstrate experience in the fieldwork aspects of property boundary determination.

(3) One (1) year of experience may be approved for completion of a master's degree in land surveying from a board-approved program in land surveying from a college or university.

(4) A maximum of two (2) years of experience shall be approved for land surveying work prior to graduation under KRS 322.045(1)(c)1, 2, 3, and 322.047(1)(a)1 and 2.

(5) Experience that violates KRS Chapter 322 shall not be approved.

(6) Land surveying experience gained in the military services may be approved.

(7) A maximum of two (2) years of experience may be approved for teaching land surveying courses at the postsecondary level.

(8) Qualifying experience shall be complete at the time of application.

(9) Notwithstanding subsections (3), (4), and (7), in no case shall an applicant's experience gained after graduation be less than two (2) years. (31 Ky.R. 1920; Am. 32 Ky.R. 52; eff. 8-5-2005; 34 Ky.R. 1099; 1705; eff. 2-1-2008; 35 Ky.R. 988; 1436; eff. 1-5-2009; 39 Ky.R. 2382; eff. 9-6-2013.)

201 KAR 18:080. Display of licenses.

RELATES TO: KRS 322.110, 322.120, 322.160, 322.170, 322.220

STATUTORY AUTHORITY: KRS 322.290(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.290(4) authorizes the board to promulgate administrative regulations necessary for the proper performance of its duties. KRS 322.110(1) requires the board to issue a license authorizing the practice of engineering or land surveying to an applicant who meets the requirements of KRS Chapter 322. This administrative regulation establishes requirements relating to the display of licenses issued by the board.

Section 1. a professional engineer or land surveyor licensed pursuant to KRS 322.110 shall conspicuously display his license issued by the board in his place of business if the professional engineer or land surveyor:

(1) Does business with the public;

(a) Individually; or

(b) As a chief executive or consultant; or

(2) Teaches a design course in an engineering or land surveying program accredited by the Accreditation Board for Engineering and Technology. (PE&LS-VIII-1; 1 Ky.R. 1020; eff. 6-11-75; Am. 25 Ky.R. 2930; 26 Ky.R. 719; eff. 10-15-99.)

201 KAR 18:092. Surveying Core Curriculum.

RELATES TO: KRS 322.010, 322.045, 322.120, 322.290(4)

STATUTORY AUTHORITY: KRS 322.045, 322.290(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.045(3) provides that the board shall promulgate administrative regulations to establish requirements for the surveying core curriculum as described in KRS 322.045(1)(c)2. This administrative regulation establishes these requirements.

Section 1. The core curriculum in land surveying and related areas referred to in KRS 322.045(1)(c)2 shall consist of twenty-four (24) semester credit hours from a board-approved college or university as follows:

(1) A minimum of twelve (12) semester credit hours in at least three (3) of the following subject areas:

(a) Principles of Surveying;

(b) Professional Ethics and Conduct;

(c) Computer Graphics related to land surveying;

(d) Geographic Information Systems;

(e) Route Surveying;

(f) Land Boundary Location; or

(g) Boundary Law.

(2) The remainder of the twenty-four (24) semester credit hours shall come from the following subject areas:

(a) Automated Surveying and Mapping;

(b) Geodetic Surveying;

(c) Hydrographic Surveying;

- (d) Photogrammetry;
- (e) Subdivision and Land Use Planning;
- (f) Advanced Surveying Measurement;
- (g) Construction Surveying;
- (h) Public Land Systems;
- (i) Remote Sensing Applications; or
- (j) Mine Surveying.

Section 2. The twelve (12) semester credit hours of the core curriculum in land surveying referred to in KRS 322.045(1)(c)3 shall consist of the twelve (12) hours described in subsection (1) above. (31 Ky.R. 1921; Am. 32 Ky.R. 53; eff. 8-5-05.)

201 KAR 18:104. Seals and signatures.

RELATES TO: KRS 322.290(13), 322.340

STATUTORY AUTHORITY: KRS 322.290(4), (13), 322.340

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.340 and 322.290(13) require the board to promulgate administrative regulations regulating the design of seals and the use of seals and signatures in electronic transactions. This administrative regulation establishes the requirements for the use of seals and signatures in electronic transactions.

Section 1. Definitions. (1) "Digital signature" means a signature generated electronically:

(a) With an authentication process attached to or logically associated with an electronic document; and

(b) That carries the same weight, authority, and effect as an original signature.

(2) "Document" means a report, specification, drawing, plan, or plat in physical form pertaining to engineering or land surveying that requires certification by application of a seal or stamp, a signature, and a date.

(3) "Electronic document" means an electronic data file capable of being viewed by use of a computer and video monitor or converted into a document by use of a computer and printer or plotter.

(4) "Electronic transmission" means the transmission of electronic data files from one (1) computer to another, and includes the manual delivery of electronic data storage media from one (1) person or entity to another.

(5) "Licensee" means a person licensed as a professional engineer or professional land surveyor pursuant to KRS Chapter 322.

(6) "Original seal or stamp" means a rubber stamp or embossing seal meeting the design requirements established in Section 5 of this administrative regulation.

(7) "Original signature" means the handwritten name of a person applied to a document that identifies the person, serves as a means of authentication of the contents of the document, provides responsibility for the creation of the document and provides for accountability for the contents of the documents.

(8) "Signature" means either original signature or digital signature.

Section 2. (1) If a document will be presented to a client or to a public or governmental entity, at least one (1) copy shall bear the licensee's original seal or stamp, original signature, and date.

(2) Any other copy of the document may contain a facsimile of the licensee's stamp, signature, and date applied manually by the use of stamps or by the use of a computer and printer or plotter.

Section 3. A digital signature shall be permitted in place of an original seal, signature, and date if:

(1) The digital signature is a unique identification of the licensee;

(2) The digital signature is verifiable;

(3) The digital signature is under the licensee's direct and exclusive control;

(4) The digital signature is linked to the electronic document in a manner that causes changes to be easily determined and visually displayed if any data in the electronic document file is changed subsequent to the digital signature having been affixed to the electronic document;

(5) An attempt to change the electronic document after the digital signature is affixed shall cause the digital signature to be removed or altered significantly enough to invalidate the digital signature; and

(6) In the case of an electronic document to be electronically transmitted, the electronic document is converted to a read-only format.

Section 4. (1) A licensee may electronically transmit an electronic document without affixing a digital signature if there is inserted the following language in lieu of an image of a seal or stamp, signature, and date: "This shall not be considered a certified document."

(2) This language shall not be required for a document electronically transmitted to a commercial printer or blueprint service for the purpose of reproducing documents or to the licensee's employer or employees.

Section 5. Approved Stamps and Seals. The stamps and seals used by a licensee shall be similar in design and conform to the size restrictions established in Approved Stamps and Seals, 1999.

Section 6. Incorporation by Reference. (1) "Approved Stamps and Seals", 1999, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (29 Ky.R. 2999; Am. 30 Ky.R. 277; eff. 8-13-2003; 42 Ky.R. 831; 1478; eff. 12-4-2015.)

201 KAR 18:115. License reinstatement.

RELATES TO: KRS 322.040-322.050, 322.160, 322.180, 322.220

STATUTORY AUTHORITY: KRS 322.160(3)(a), 322.220, 322.290(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.290(4) authorizes the board to promulgate administrative regulations necessary for the proper performance of its duties. KRS 322.160(3)(a) requires a licensee or permit holder who fails to renew within one (1) year after expiration to furnish the board with satisfactory evidence of qualification of continued practice. KRS 322.220 provides for an individual whose license has been revoked to petition the board for reissue. KRS 322.180 sets out grounds for denial of licensure. This administrative regulation establishes the requirements for license reinstatement.

Section 1. General Requirements. (1) A person whose license has been in retired status, inactive status, or expired for more than one (1) year, or a person whose license has been revoked or surrendered in association with a disciplinary proceeding shall apply to the board for reinstatement by submitting evidence of successful completion of one (1) or more of the following:

- (a) Retaking and passing the licensure examination;
- (b) College courses related to engineering or surveying;
- (c) Continuing education courses related to engineering or surveying;
- (d) Work experience under another licensee; or
- (e) Licensed practice in another jurisdiction.

(2) The application shall be on the appropriate application form incorporated by reference in 201 KAR 18:020, Section 2, and shall include:

- (a) An affidavit indicating whether or not the applicant has practiced engineering or surveying in the Commonwealth of Kentucky since the expiration of the applicant's license; and
- (b) A listing of the specific evidence that the applicant is qualified to continue to practice pursuant to subsection (1) of this section.

(3) The applicant shall meet the requirements of KRS 322.050.

- (4) In its determination of the applicant's fitness for reinstatement, the board may consider the number of times the applicant has allowed his or her license to expire, as well as the length of time in the aggregate that the applicant has been unlicensed following the applicant's initial licensure.
- (5) A Professional Land Surveyor applicant shall meet the continuing professional development requirements of 201 KAR 18:192, Section 7.
- (6) A Professional Engineer applicant shall meet the continuing professional development requirements of 201 KAR 18:196, Section 7.
- (7) An applicant for reinstatement shall cooperate fully with any legal request for relevant information or documentation by the board.
- (8) In an application for reinstatement, including any appearance before the board, and in any statement made to the board or to any representative of the board, an applicant shall not:
- (a) Knowingly make a false statement of material fact;
 - (b) Fail to disclose a fact necessary to correct a misapprehension known by the applicant to have arisen in the matter; or
 - (c) Knowingly fail to respond to a lawful demand for information from the board.

Section 2. Expiration of License. (1) If the applicant's license has been expired for three (3) years or less, or if the applicant has a valid license in another jurisdiction, the executive director may approve or reject that application.

(2) If the applicant's license has been expired for more than three (3) years and the applicant does not possess a valid license in another jurisdiction, the application shall be considered by the board.

Section 3. Revocation of License. (1) Pursuant to KRS 322.220, a person whose license has been revoked may petition the board for reinstatement of that license.

(2) An applicant whose surrender of license was associated with a disciplinary investigation shall be considered under this section.

(3) The applicant shall comply with the requirements of Section 1 of this administrative regulation. In addition, the applicant shall provide evidence that the applicant:

- (a) Has complied with any terms prescribed by the board; and
- (b) Is no longer a risk to the public health, safety, and welfare. (4) An applicant for reinstatement under this section shall:
 - (a) Be held to a substantially more rigorous standard than a first time applicant for initial licensure as a professional engineer or land surveyor; and

(b) Have the burden of proving by a preponderance of evidence that the applicant possesses the professional and ethical qualifications, and good character and reputation, as required by KRS 322.040 through 322.050 and 201 KAR 18:142, for reinstatement of a license to practice engineering or land surveying, as appropriate.

(5) To evaluate an applicant's petition for reinstatement, the board shall consider the following:

(a) The applicant's compliance with all previous terms of any consent decrees, or with any previous orders of suspension or revocation;

(b) The applicant's conduct while under a prior suspension, or while unlicensed, that shows that the applicant is worthy of the trust and confidence of the public;

(c) The sufficiency of the applicant's present professional capabilities to serve the public as a licensed engineer or land surveyor, considering:

1. The length of time elapsed since the applicant's revocation or surrender of license; and
2. The type, duration, and extent of educational courses and employment that the applicant has undertaken during the period the applicant was unlicensed;

(d) The understanding and appreciation by the applicant of the wrongfulness of any prior misconduct;

(e) The nature and degree, as well as the success of, any efforts made by the applicant to rehabilitate himself or herself from past professional or ethical failings;

(f) The applicant's previous and present conduct and attitude toward compliance with the requirements of the regulatory scheme governing the practice of engineering or land surveying, as appropriate;

(g) The applicant's candor in dealing with the board;

(h) Any act or omission by the applicant occurring while unlicensed, that would have violated any part of the statutes or regulations governing the profession of engineering or land surveying, as appropriate, if it had occurred while the applicant was licensed; and

(i) Any other information relevant to determining whether the applicant has satisfied the requirements of KRS 322.220.

(6) Failure to meet any of the criteria to be considered in the evaluation of applicant's petition may constitute a sufficient basis for denial of an applicant's petition.

Section 4. Reconsideration. (1) If an application for reinstatement is not approved, the applicant shall be given every reasonable opportunity to secure reconsideration.

(2) If an application is not approved by the executive director, the applicant may request reconsideration by the board.

(3) If an application is not approved by the board, the applicant may request a hearing in accordance with the provisions of KRS Chapter 13B. (33 Ky.R. 1748; 2272; eff. 3-9-2007; 35 Ky.R. 2335; 2765; eff. 7-31-2009; TAm eff. 4-4-2011.)

201 KAR 18:120. Reissuance of license.

RELATES TO: KRS 322.170

STATUTORY AUTHORITY: KRS 322.290(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.170 authorizes the board to reissue licenses and permits. This administrative regulation establishes the procedure for reissuance of licenses and permits.

Section 1. Reissuance of License. The fee charged for the reissuance of a license or permit shall be as set out in 201 KAR 18:040. A replacement license or permit shall:

(1) Bear the signatures of the current chairman; an\

(2) Secretary-treasurer of the board and shall be identified as a replacement certificate. (PE&LS-XII; 1 Ky.R. 1020; eff. 6-11-75; Am. 25 Ky.R. 2932; Am. 26 Ky.R. 720; 10-15-99; 28 Ky.R. 674; eff. 11-9-2001.)

201 KAR 18:142. Code of professional practice and conduct.

RELATES TO: KRS 322.060, 322.180(3), 322.290(11)

STATUTORY AUTHORITY: KRS 322.290(11)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.290(11) requires the board to promulgate a code of professional practice and conduct, which shall be binding upon persons licensed under KRS Chapter 322. This administrative regulation establishes a code of professional practice and conduct.

Section 1. Definitions. (1) "Conflict of interest" means any circumstance in which a licensee has a private or personal interest sufficient to appear to influence or possibly influence the objective exercise of the licensee's professional duty to the public, his or her employer, or current client. The private or personal interests of the licensee include the personal or business interests of the members of the licensee's family, his or her close relatives, or business associates.

(2) "Direct supervisory control" in the practice of engineering means that an engineer licensee directly supervises and takes responsibility for consultation, investigation, evaluation, planning, design, and certification of an engineering project and includes only that work performed by an employee as defined in subsection (4) of this section.

(3) "Direct supervisory control" in the practice of land surveying means that a surveyor licensee who certifies a work product directly supervises and takes responsibility for the survey and includes only that work performed by an employee as defined in subsection (4) of this section.

(4) "Employee":

(a) Means a person who works for a licensee or his or her employer for wages or a salary and includes professional and technical support personnel contracted on a temporary or occasional basis, if the compensation is paid directly by the licensee or his or her employer; and

(b) Does not mean a person who provides services to the licensee as an outside consultant or specialist.

(5) "Licensee" means any natural person licensed by the board to practice professional engineering or professional land surveying, or any business entity permitted under KRS 322.060.

(6) "Work product" means any engineering or land surveying plan, plat, document, or other deliverable requiring certification that is intended to represent activities conducted in the practice of engineering or land surveying.

Section 2. The engineer or land surveyor shall conduct his or her practice in order to protect the public health, safety, and welfare. If a licensee's judgment is overruled and a licensee has reason to believe the public health, safety, or welfare may be endangered, the licensee shall inform his or her employer or client of the possible consequences and, if not resolved, notify appropriate authorities.

Section 3. A licensee shall issue all professional communications and work products in an objective and truthful manner. (1) A licensee shall be objective and truthful in all professional reports, statements, or testimony and shall include all material facts.

(2)(a) If serving as an expert or technical witness before any tribunal, a licensee shall:

1. Express an opinion only if it is founded on adequate knowledge of the facts in issue, on the basis of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of that testimony; and

2. Act with objectivity and impartiality.

(b) A licensee shall not ignore or suppress a material fact.

(3) A licensee shall not issue a statement or opinion on professional matters connected with public policy unless the licensee has:

(a) Identified himself or herself;

(b) Disclosed the identity of the party on whose behalf the licensee is speaking; and

(c) Disclosed any pecuniary interest the licensee may have in the matter.

(4) A licensee shall not maliciously injure the professional reputation, prospect, practice, or employment of another licensee.

(5) A licensee shall not accept a contingency fee for serving as an expert witness before any tribunal.

(6) A licensee shall maintain for a period of not less than five (5) years, calculations and documents necessary to support work products.

(7) A professional land surveyor shall maintain records for boundary surveys under 201 KAR 18:150, Section 10(2) and (3).

(8) The requirements of subsections (6) and (7) of this section shall be satisfied for the individual licensee employed by a business entity permitted by the board in conformance with KRS 322.060 by that permitted entity's compliance with subsections (6) and (7) of this section.

(9) A licensee shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, deceptive, or unfair statement regarding the cost, quality, or extent of services to be performed.

(10) A licensee shall not misrepresent his or her professional qualifications or experience, or those of the licensee's associates.

Section 4. A licensee shall avoid conflicts of interest. A professional engineer or land surveyor shall act objectively and independently. (1) If a situation occurs in which a reasonable person would think that a licensee's professional judgment is likely to be compromised, a licensee shall promptly disclose the possibility of the conflict of interest to his or her employer, or client, and shall, if reasonably possible, withdraw from participation in the situation that gave rise to the conflict of interest.

(2) A licensee shall not accept a valuable consideration from more than one (1) party for services pertaining to the same project, unless the circumstances are fully disclosed to all other principal parties directly involved in the project.

(3) A licensee shall not solicit or accept a valuable consideration from any vendor, contractor, or client, or their agents for acceptance, rejection, approval, or disapproval of any work performed by others, or for specifying materials or equipment in connection with work for which the licensee is responsible.

(4) A licensee serving as a member, advisor, or employee of a governmental body shall not, while utilizing either his or her status as a licensed professional engineer or land surveyor, or his or her skill, experience, or knowledge as a licensed professional engineer or land surveyor, participate in decisions in which he or she has a private or personal interest, and shall not review or approve work that was performed by the licensee, or by others, on behalf of a business entity in which the licensee has any control, or private or personal interest.

Section 5. A licensee shall solicit or accept engineering or land surveying work only on the basis of his or her, or the licensee's firm's or associates' qualifications for the work offered. (1) A licensee shall not offer or accept any valuable consideration in order to secure specific work, exclusive of commissions paid by individual licensees for securing salaried positions through employment agencies. A licensee may participate in design-build projects.

(2) A licensee may advertise professional services if the advertising is not false or misleading.

Section 6. A licensee shall not knowingly associate with any person engaging in fraudulent, illegal, or dishonest activities. (1) A licensee shall not permit the use of his or her, or the licensee's business entity's name by any person or business entity that he or she knows or has reason to believe is engaging in fraudulent, dishonest, or illegal activities.

(2) A licensee shall not aid or abet the illegal practice of engineering or land surveying.

Section 7. A licensee shall perform his or her services only in the areas of his or her competence. (1) A licensee shall undertake to perform professional assignments only if qualified by education or experience in the specific technical field involved.

(2) A licensee may accept an assignment requiring education or experience outside his or her own field of competence, but only to the extent that his or her services are restricted to those parts of the project in which the licensee is competent. All other parts of the project shall be certified by licensed associates, consultants, or employees.

(3) If a question of the competence of a licensee to perform a professional assignment in a specific technical field is an issue and cannot be otherwise resolved, the board, upon a majority vote or upon request by the licensee, may require the licensee to satisfactorily complete a relevant examination.

Section 8. Except as provided by this section, a licensee shall not certify any work product dealing with subject matter in which he or she lacks competence by virtue of education or experience, or any work product not prepared by him or her under his or her direct supervisory control. (1) A professional engineer may review and certify the work product of another professional engineer if:

(a) The review and certification are made at the request of the other professional engineer;

(b) He or she does not remove or obliterate the identity of the other professional engineer;

(c) He or she performs and retains in his or her possession for not less than five (5) years all calculations and documents necessary to perform an adequate review; and

(d) He or she confirms that the other professional engineer was licensed when the work was created.

(2) If a professional engineer undertakes to review only a portion of the work product of another professional engineer, his or her certification shall clearly identify the portion reviewed.

(3) A professional engineer may modify the work product of another professional engineer, whether or not the project has been built, if he or she retains in his or her possession for not less than five (5) years a record of his or her modifications.

(4) If a professional engineer modifies the work product of another professional engineer, his or her certification shall clearly identify, by words or graphics, that portion that was modified.

(5) A professional engineer may incorporate in his or her work product the designs of manufactured or standard components developed by manufacturers, suppliers or professional or technical societies, and associations.

(6) If, in the professional land surveyor's reasonable judgment, his or her personal participation is not required in performing a particular aspect of a project, he or she may delegate those tasks to an employee, if all work is actually reviewed by the licensee.

(7) The need for a professional land surveyor to make a site visit shall be dictated by the nature, size and complexity of a project. The failure to make a site visit in a substantial percentage of surveys shall be construed as a failure to exercise direct supervisory control.

(8) While an employee may investigate the circumstances of a potential project, only a licensee may establish the scope of work to be performed.

Section 9. The professional engineer or professional land surveyor shall avoid conduct likely to discredit or reflect unfavorably upon the dignity or honor of his or her profession.

Section 10.(1) If a licensee has knowledge or reason to believe that any person or other licensee is in violation of KRS Chapter 322 or 201 KAR Chapter 18, the licensee shall submit to the board in writing the relevant information within his or her knowledge.

(2) A licensee, upon request by the board, shall cooperate with the board in an investigation, by providing any relevant information within his or her knowledge.

Section 11. (1) A licensee shall not, directly or indirectly, contact a board member concerning any ongoing disciplinary action, or any existing investigation being conducted by the board staff.

(2) Any communication by a licensee concerning an ongoing disciplinary action or an existing investigation shall be directed to a board staff member.

Section 12. A licensee who is in doubt about the ethical propriety of any professional act or omission contemplated by that licensee may request an informal opinion from the executive director of the board. (1) The request shall be in writing or by email with the subject line of

"Request for Advisory Opinion Pursuant to 201 KAR 18:142." The request shall include the name and address of the licensee making the request, a phone number and email address at which the licensee can be contacted, and all relevant information.

(2) Based on the information provided in the request, the executive director shall respond in writing as to the ethical propriety of the act or course of conduct in question.

(3) A licensee shall not be disciplined for any professional act performed by that licensee in compliance with the written advisory opinion furnished by the executive director pursuant to the licensee's written request, if the licensee's written request clearly, fairly, accurately, and completely states the licensee's contemplated professional act and all relevant information. (27 Ky.R. 2603; Am. 3122; 3239; eff. 6-8-2001; 35 Ky.R. 2337; 2768; 36 Ky.R. 25; eff. 7-31-2009; TAm eff. 4-4-2011; 39 Ky.R. 2383; 40 Ky.R. 278; eff. 9-6-2013; 42 Ky.R. 831; 1478; eff. 12-4-2015.)

201 KAR 18:150. Standards of practice.

RELATES TO: KRS 322.290(1)(a), (2)(f)

STATUTORY AUTHORITY: KRS 322.290(2)(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.290(1)(a) authorizes the board to administer KRS Chapter 322. KRS 322.290(2)(f) requires the board to establish standards of practice. This administrative regulation establishes standards of practice for professional land surveyors in Kentucky.

Section 1. Definitions. (1) "Boundary" means the perimeter of a parcel or tract of land.

(2) "Boundary survey" means a survey to:

(a) Determine either the entire perimeter of a parcel or tract of land, or a portion of the perimeter of a parcel or tract of land;

(b) Establish or reestablish a parcel or tract of land's corner or monument; or

(c) Divide or consolidate the parcels or tracts of land surveyed.

(3) "Completion Date of Survey" means the last date when all the monuments were either found or set for the plat of survey area.

(4) "Corner" means a point that designates a change in the direction of the boundary.

(5) "Field work" means that work performed by a land surveyor on the ground in connection with the parcel or tract being surveyed.

(6) "GIS" means Geographic Information System and is any system that captures, stores, analyzes, manages, and presents data that are linked to a land location and is the merging of cartography and database technology.

(7) "GNSS" means Global Navigation Satellite Systems. The standard generic term for satellite navigation systems that provide autonomous geo-spatial positioning with global coverage.

(8) "GPS" means the United States NAVSTAR Global Positioning System, a space-based global navigation satellite system that when used in conjunction with suitable GPS receivers and processing software, provides reliable location information to the level of precision specified in this administrative regulation, in all weather and at all times and anywhere on the earth where there is an unobstructed line of sight to four (4) or more GPS satellites.

(9) "Meander point" means a survey point or station marking a change in direction along a linear feature such as a watercourse, ridge, road, or cliff.

(10) "Monument" means an artificial, manmade or natural object that is used as, or presumed to occupy, any of the following locations:

- (a) A property corner;
- (b) A point on the boundary; or
- (c) A reference point.

(11) "Plat" means any representational drawing created by a land surveyor reflecting work falling within the definition of land surveying.

(12) "Plat of survey" means a finished drawing of a completed survey of a parcel or tract of land, used to depict the final results of a boundary survey, drawn on a dimensionally stable media suitable for reproduction of copies.

(13) "Point on Line" means a point on a boundary line other than a corner.

(14) "Reference monument" means a monument:

- (a) That does not occupy the same defined position as a property corner; and
- (b) Whose relationship to the corner of the property is established by bearing and distance to the actual corner.

(15) "Relative Positional Accuracy" means the value expressed in feet that represents the uncertainty due to random errors in measurements in the location of any point on a survey relative to any other point on the same survey at the 95 percent confidence level.

(16) "Retracement survey" means a boundary survey of an existing parcel or tract of land.

Section 2. Application. (1) Boundary surveys. The standards of practice established in Sections 1 through 12 of this administrative regulation:

(a) Shall apply to the work product related to:

1. Boundary surveys used for the purpose of creating, depicting, or locating interests in land;
2. Partial surveys;
3. Boundary surveys of leases; and
4. Deed descriptions written by professional surveyors;

(b) Shall be the minimum standards of practice for a professional land surveyor; and

(c) Shall not limit the establishment of more stringent standards of practice for a professional land surveyor by:

1. An agency;
2. An owner;
3. A contract; or
4. The professional land surveyor.

(d) Shall not apply to surveys to determine or define political areas including historical, school, fire, voting, utility or magisterial districts, municipal or county limits, or governmental permit limits.

(2) Land surveying work other than boundary surveys. The standards of practice established in Sections 1, 2, 3, and 13 of this administrative regulation:

(a) Shall apply to the work of the professional land surveyor falling within the definition of land surveying, but not falling within the definition of a boundary survey;

(b) Shall be the minimum standards of practice for a professional land surveyor for that work; and

(c) Shall not limit the establishment of more stringent standards of practice for a professional land surveyor by:

1. An agency;
2. An owner;
3. A contract; or
4. The professional land surveyor.

Section 3. Compliance. (1) Failure to comply with this administrative regulation shall constitute misconduct, gross negligence, incompetence, or a combination of these violations in the practice of professional land surveying.

(2) A professional land surveyor shall not represent that:

(a) A boundary survey determines land ownership; or

(b) A boundary survey provides more than evidence of rights in land; or

(c) Land ownership can be established by any survey.

Section 4. Actual Boundary Survey. (1) The marks and monuments on the ground as found and verified, or as set by a professional land surveyor shall constitute the actual boundary survey.

(2) Any plat of survey shall accurately represent the actual boundary survey.

(3) Record research and field work required by the provisions of this administrative regulation:

(a) Shall be used by a professional land surveyor to determine the location of the boundary of the property to be surveyed; and

(b) Shall not be used by a professional land surveyor to determine title.

Section 5. Record Research. In performing a boundary survey, a professional land surveyor shall conduct research to obtain and evaluate the following:

(1) The present and relevant historical record descriptions of:

(a) Each parcel to be surveyed; and

(b) Each adjoining parcel;

(2) The description of the physical monument that represents each property corner;

(3) All other relevant documents of record including deeds and prior plats and surveys;

(4) All other relevant public agency records including tax maps, GIS maps, and topographic maps; and

(5) Any other available data or documents pertinent to the boundary survey.

Section 6. Field Work. A professional land surveyor shall thoroughly:

(1) Search for the physical monuments that represent each boundary corner;

(2) Search for other physical monuments set out in the description of the parcel or tract of land being surveyed;

(3) Gather, analyze, and document evidence of occupation and physical evidence;

(4) Gather, analyze, and document relevant parol evidence; and

(5) Compare evidence discovered by field work, with that discovered by record research, to determine or reestablish the boundary of the tract or parcel of land being surveyed.

Section 7. Measurement Specifications. (1) Every measurement made as a part of a boundary survey shall comply with the following:

(a) The standards for accuracy and precision established by the provisions of this section; or

(b) Standards for accuracy and precision that exceed the standards established by the provisions of this section but are:

1. Requested by the client;

2. Required by contract;

3. Required by the agency or entity to which the plat of survey is to be presented; or

4. Deemed desirable or necessary by the land surveyor.

(2) A professional land surveyor shall conduct measurements with instruments and equipment that are properly:

(a) Adjusted;

(b) Maintained; and

(c) Calibrated to meet the appropriate tolerance required for the classification of survey as specified in subsection (5) of this section.

(3) A boundary survey shall be conducted utilizing a method of measurement that achieves the appropriate minimum tolerance specified in subsection (5) of this section.

(4) A boundary survey for platting or describing a parcel or tract of land shall be classified as "Urban" or "Rural".

(a) An Urban survey shall:

1. Consist of urban or suburban land; and

2. Include a parcel or tract of land lying within, or adjacent to:

- a. A city or town limit;
- b. A commercial business area;
- c. An industrial area; or
- d. A residential area that is outside a city or town limit and contains subdivided lots smaller than five (5.0) acres.

(b) A Rural survey shall apply to all land not classified as "Urban".

(5) Table of Specifications by Class: Classification of Surveys.

	Urban	Rural	Remarks
Unadjusted Closure (minimum)	1:10,000	1:5,000	Loop of Between Control Monuments
Angular Closure (Maximum)	15" N	30" N	N= Number of Angles in Traverse
Accuracy of Distances	+/- 0.05'+100 PPM	+/-0.10'+200 PPM	100 PPM = 1:1:10,000
Relative Positional Accuracy	+/-0.05' + 100 PPM	+/-0.10' + 200 PPM	

Section 8. Global Positioning Systems. (1) It shall be acceptable practice to incorporate the use of survey grade GPS equipment into any boundary survey. The accuracy and precision of all measurements made with that equipment shall, at a minimum, meet all other accuracy and precision standards required otherwise by law or rules under Section 7(5) of this administrative regulation. If using GPS equipment in the course of a boundary survey, the professional land surveyor shall state on the face of the plat of survey, the following:

- (a) A note stating what portion (or all) of the boundary survey was performed using GPS equipment;
- (b) The type of GPS equipment used, including manufacturer and model number, and whether single or dual frequency receivers were used;
- (c) The type of GPS survey that was performed, including static, real time kinematic ("RTK"), network adjusted real time kinematic, etc.;
- (d) A note that discloses the precision of the GPS work done, either in relative positional accuracy, or vector closure.

(e) A statement identifying the horizontal datum, the vertical datum, and the Geoid model used; and

(2) The professional land surveyor shall at a minimum retain adequate documentation, in either paper or electronic format, of raw field data, adjustment calculations and closure, or relative positional accuracy calculations or computations necessary to support the accuracy and precision of the work product.

Section 9. Monumentation. (1) Monumentation standards established in this section shall apply to all boundary surveys:

(2) Unless an adequate monument already exists at each boundary corner, a professional land surveyor shall set a monument or a reference monument at each corner of the boundary as provided in this section.

(3) A monument or reference monument set by a professional land surveyor shall conform to the following categories and shall meet the following criteria:

(a) "Typical and Preferred" an iron rod, iron pipe, or iron pin that is:

1. Not less than one-half (1/2) inch in diameter and eighteen (18) inches in length;
2. Equivalent to, or greater than, schedule-forty (40) weight if pipe is utilized; and
3. Identified with a cap bearing the license number of the professional land surveyor under whose direct supervision the survey was performed, and which cap does not display any other license number.

(b) "Non-typical" to be used only when it is not practical to set the monuments described in subsection (a) of this subsection, and that:

1. Preferably contains a ferrous material or is otherwise capable of being located with a magnetic locator, and may include P. K. or mag nails at least one 1 1/2 and one-half inches in length; and
2. Is identified with the license number of the professional land surveyor under whose direct supervision the survey was performed, and does not display any other license number.

(c) "Alternate" to be used only when it is not practical to set the monuments described in subsections (a) and (b) of this subsection and may include railroad spikes, mine spikes, cross-cuts, chisel cuts, drill holes and curb notches, and shall be referenced to a durable, physical feature.

(4) A boundary corner shall be identified by a reference monument if it is impractical to set a monument at the corner for either of the following reasons:

(a) The corner is likely to be disturbed; or

(b) The corner is inaccessible.

(5) A reference monument shall be set on the boundary line, if practicable, to perpetuate the location of each corner.

(6) A professional land surveyor shall set each monument in a manner to avoid or minimize the likelihood of its destruction.

(7) A professional land surveyor may use a tree as a monument under the following conditions:

(a) A tree may be established as a corner monument only on a Rural boundary survey. Each tree utilized as a monument shall be marked in a conspicuous manner that is both physical and permanent and will not otherwise be harmful to the tree.

(b) A tree that a professional land surveyor establishes as a corner monument shall meet the following criteria:

1. Be at least ten (10) inches in diameter at breast height;
2. Be in sound condition;
3. Be marked in a conspicuous manner that is both physical and permanent; and
4. Be clearly described by size, species, and method of marking, on the plat and in the written description.

(c) Trees shall not constitute more than fifty (50) percent of the established monuments for a rural boundary survey.

(d) For an urban retracement survey in which a tree is found to be the monument of record, the tree shall be reference-monumented.

(8) A corner monument that a professional land surveyor has determined is not of sound condition, fails to meet the standards established in this administrative regulation, or is inadequate under the definition of monument within this administrative regulation, shall be reference-monumented to perpetuate the corner location. All existing record monuments discovered during the performance of the survey shall be preserved and shall not be altered or destroyed.

(9)(a) Linear monuments may consist of a watercourse, ridge, road, or cliff, and:

(b)1. The point at which a boundary line intersects a linear monument shall be monumented or reference monumented; and

2. A physical feature that represents a linear monument shall be monumented or reference monumented at a minimum of every 1,000 feet, and those monuments shall be set in intra-visible pairs not to exceed 1,000 feet in spacing between pairs.

(10) All monumentation shall be set prior to the time the plat of survey, or record plat is issued by the surveyor. The signing and sealing of a survey plat is certification by the professional land surveyor that all corners shown on the plat are set on the ground.

Section 10. Documentation of Boundary Surveys. (1) A plat of survey shall be required to be given to the client when the professional land surveyor does any of the following:

(a) Surveys a new boundary line;

(b) Retraces the boundary lines of a previously established boundary; or

(c) Determines that the current physical description or plat does not accurately depict the actual conditions found during the course of performing the survey.

(2) A professional land surveyor shall retain as permanent records the original plat of survey prepared by the land surveyor, or a copy thereof, and a copy of any new physical description that was prepared from the survey.

(3) A professional land surveyor shall retain as permanent records the following items used to perform a boundary survey:

(a) Research documents including notations stating the source of each;

(b) Field and office notes;

(c) Electronic and magnetically stored field data;

(d) Documents of calculation stating the:

1. Relative positional accuracy or closure as required by Section 7 of this administrative regulation;

2. Adjustment method;

3. Bearing reference datum; and

4. Determination of corners;

(e) Plat of survey and written description, if any, of the surveyed parcel or tract of land;

(f) All other pertinent information necessary to reproduce the boundary survey; and

(g) All other pertinent information supporting the location of the boundary lines and corners of the boundary survey.

(4) Written description. A written description prepared by a professional land surveyor shall be complete, shall accurately describe the actual boundary survey and, contain the following information:

(a) The general location of the land that was surveyed;

(b) The specific location of the land in reference to a major physical feature or recognized control network;

(c) The reference of at least one (1) boundary corner to a corner of the parent tract;

(d) The direction and length of each line, as follows:

1. Each bearing represented in degrees, minutes and seconds with each distance represented to the hundredths of a foot;

2. Any geometrically-curved line identified with a beginning point, terminus point, and sufficient curve data to define the curve; and

3. A description of each prominent terrain feature, if any, that the boundary follows;

(e) A notation as to whether each monument was found or set;

(f) The identification of each tree utilized as a new corner monument, including breast height diameter, species of tree, method of marking, and a notation whether the tree is a record monument or a newly established monument;

(g) A complete description of each "set" monument, to include, if appropriate, the monument's length, diameter, type of material and the identifying cap or other identifier that was used;

(h) A complete description of each "found" monument that complies with the following:

1. It is sufficiently accurate and adequate for subsequent identification by another professional land surveyor; and

2. To the extent possible, the description shall include the monument's dimensions, type of material and the identification cap or other identifier that was used;

(i) A description of the location of any cemetery or grave site that is observable or evident during the performance of the field work, or discovered from the required research;

(j) The record source of the land surveyed and the names and record sources of all adjoining property owners;

(k) The calculated area of the land surveyed stated to the nearest hundredth of an acre;

(l) Name, certification date of the written description, license number and seal of the professional land surveyor under whose direct supervision the survey was performed, and name of the land surveying firm, if any; and

(m) Completion date of the boundary survey.

(5) Plat of survey. A plat of survey shall be drawn to scale on durable, dimensionally-stable media, and clearly contain the following information:

(a) Direction and length of each line as follows:

1. Each bearing represented in degrees, minutes, and seconds with each distance represented to the hundredths of a foot;

2. Any geometrically-curved line identified with a beginning point, terminus point, and sufficient curve data to define the curve; and

3. A depiction of each prominent terrain feature, if any, that the boundary follows:

(b) The calculated area of the land surveyed, stated to the nearest hundredths of an acre;

(c) A notation as to whether each monument was found or set;

(d) A complete description of each set monument that marks or references a boundary corner to include, if appropriate, the monument's length, diameter, type of material and the identifying cap or identifier that was used;

(e) A complete description of each found monument that complies with the following:

1. It is sufficiently accurate and adequate for subsequent identification by another professional land surveyor; and

2. To the extent possible, the description shall include the monument's dimensions, type of material and the identifying cap or identifier, or lack thereof;

(f) Reference of at least one (1) corner to at least one (1) of the following:

1. A corner of the parent tract;

2. A durable and recognizable physical object; or

3. A properly identified primary control network;

- (g) The name of each road, along with any record source thereof;
- (h) The name and record sources of each adjoiner;
- (i) The name and record sources of each adjoining subdivision;
- (j) Any apparent encroachment discovered in the course of the survey;
- (k) The reference meridian and whether its basis is:
 - 1. True;
 - 2. Grid;
 - 3. Record, including the source of the record meridian;
 - 4. State plane; or
 - 5. Magnetic, including the date and location of the observation;
- (l) A vicinity map of sufficient detail to locate the parcel or tract of land being surveyed, unless the location of the parcel or tract of land is clearly shown by the plat itself;
- (m) A statement, as appropriate, of:
 - 1. The unadjusted error of closure for the traverse; and
 - 2. The relative positional accuracy for a GPS based survey;
- (n) A statement identifying the classification of the survey as rural or urban;
- (o) A statement as to whether the directions and distances shown on the plat are based on an adjusted traverse;
- (p) The location of a cemetery or grave site that is observable or evident during the performance of the field work or discovered from the required research;
- (q) A dated signature and the seal of the professional land surveyor under whose direct supervision the boundary survey was performed;
- (r) A written and graphic scale; and
- (s) A title block containing the following:
 - 1. Name and address of the client;
 - 2. Name and address of the property owner of record;
 - 3. Title of the survey;

4. Statement that the plat of survey represents a boundary survey and complies with 201 KAR 18:150; and

5. Name and business address of the professional land surveyor who performed the survey and, if applicable, the name and address of the surveying firm; and

(t) The following information shall be placed conspicuously on the face of the plat of survey:

1. The record source of the tract or parcel of land surveyed; and
2. The location or address of each tract or parcel of land surveyed.

Section 11. Identification of Drawings and Plats. (1) A plat of survey shall be signed, sealed, and dated by the professional land surveyor under whose direct supervision the survey was performed.

(2) Working drawings or unfinished plats of not yet completed boundary surveys shall be prominently marked or stamped in at least sixteen (16) point type or its equivalent, as follows: Preliminary - Not For Recording or Land Transfer.

Section 12. Partial Boundary Surveys. (1) In performing a boundary survey, a professional land surveyor shall not be required to survey the parent tract in its entirety in order to create a smaller tract for conveyance if the following conditions are met:

- (a) Adequate evidence exists that conforms to the deeds of record;
- (b) Sufficient monumentation exists that is verifiable to establish the lines common to the boundary of the parent tract; and
- (c) There is sufficient evidence and monumentation to establish the lines common to the adjoining tracts without adversely affecting the property interests of any adjoining owners.

(2) In performing a boundary survey, a professional land surveyor is not required to survey the entire boundary of a tract of land in order to mark a boundary line or replace a boundary corner when the following conditions are met:

- (a) Sufficient evidence is found and verified to establish the record location of that portion of the boundary being surveyed; and
- (b) The marked boundary line or reestablished boundary corner does not adversely affect the property interests of any adjoining owners.

(3) A plat of survey for that part of the boundary surveyed pursuant to this section of this administrative regulation, shall be required to comply with this administrative regulation for the part of the boundary that was surveyed, and shall graphically delineate and designate that portion of the boundary covered by the survey.

Section 13. Plats, Drawings, and Graphic Representations of Non-Boundary Survey Work Mandatory Disclosures. (1) Plats, drawings, and graphic representations created by a professional land surveyor, not representing either a plat of survey, or a preliminary plat, drawing, or graphic representation of a boundary survey, shall meet the following criteria:

(a) Be clearly marked as to their intended use; and

(b) State affirmatively in a title block in at least twelve (12) point type or its equivalent, that the work does not represent a boundary survey and is not intended for land transfer; and

(c) May be signed and sealed by the professional land surveyor under whose direct supervision the work represented by the plat, drawing, or graphic representation was performed or the document was prepared.

(2) A professional land surveyor shall state in a note or notes, on the face of any plat, drawing or graphical representation of any work product falling within the definition of land surveying but not constituting either a plat of survey, or a preliminary plat, drawing or graphic representation of a boundary survey, the following mandatory informational disclosures for the work product:

(a) For whom and by whom the work product was created;

(b) The purpose of the work product;

(c) The method employed to create the work product and its underlying values and specifications;

(d) The location of the parcel or tract of land with which the work product is concerned;

(e) The date or dates that the work was performed;

(f) The date of any certification of the work product by the licensee;

(g) The mathematical scale employed in any graphic representation of the work performed; and

(h) The degree of accuracy or level of quality of the work product expressed in terms of mathematical precision. (12 Ky.R. 291; eff. 9-10-85; Am. 16 Ky.R. 592; 1157; eff. 12-6-89; 24 Ky.R. 1540; 1866; 2062; eff. 3-12-98; 37 Ky.R. Am. 768; Am. 1178; eff. 12-3-2010.)

201 KAR 18:170. Compensation of board members.

RELATES TO: KRS 322.270

STATUTORY AUTHORITY: KRS 322.270

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.270 states that "when attending to the work of the board, each member shall receive compensation as established by regulation of the board and approved by the appropriate legislative body."

Section 1. Each member of the board shall receive \$200 per day when actually attending to the work of the board or any of its committees. (14 Ky.R. 1170; eff. 1-4-88; 33 Ky.R. 854; eff. 12-1-2006.)

201 KAR 18:180. Business entity permits.

RELATES TO: KRS 322.060, 322.160,

STATUTORY AUTHORITY: KRS 322.060, 322.160, 322.290

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.060 requires the registration of engineering and land surveying business entities doing business in Kentucky. This administrative regulation establishes the requirements for a business entity permit.

Section 1. (1) An application for a business entity permit to practice engineering or land surveying shall be made on an "Application for Business Entity Permit."

(2) An application for a permit that is not made on the application form shall not be accepted.

(3) An applicant may attach additional sheets to the application form if:

- (a) They are necessary to provide required information;
- (b) Are the same size as the application form; and
- (c) Are securely attached to the application form.

Section 2. Permits shall be serially numbered for each profession in the order in which they are approved.

Section 3. (1) A permit shall be renewed annually.

(2) Each one (1) year renewal period shall:

- (a) Begin January 1; and
- (b) End the following December 31.

Section 4. Incorporation by Reference. (1) "Application for Business Entity Permit (2004)" is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, Kentucky Engineering Center, 160 Democrat Drive, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., EST, Monday through Friday, or by downloading from the board's web page at

<http://kyboels.ky.gov>. (19 Ky.R. 1697; Am. 20 Ky.R. 56; eff. 7-9-93; 28 Ky.R. 675; eff. 11-9-2001; 30 Ky.R. 2543; 31 Ky.R. 337; eff. 8-26-04.)

201 KAR 18:192. Continuing professional development for professional land surveyors.

RELATES TO: KRS 322.180(3), 322.190, 322.270, 322.290(15)

STATUTORY AUTHORITY: KRS 322.290(4), (15)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.290(15) requires the board to adopt a program of continuing education for professional land surveyors. This administrative regulation implements the continuing professional development program mandated by KRS 322.290(15) for professional land surveyors.

Section 1. Definitions. (1) "Completion" means the professional land surveyor has satisfactorily met specific requirements of an offering by taking and passing a university course or attending a seminar.

(2) "Continuing professional development" or "CPD" means participation in activities, beyond the basic educational requirements, that:

(a) Provide specific content planned and evaluated to improve the land surveyor's professional competence;

(b) Encourage acquisition of new skills and knowledge required to maintain competence;

(c) Strengthen the professional land surveyor's critical inquiry and balanced judgment;

(d) Raise the ethical standards within the professional community; and

(e) Meet the requirements established by this administrative regulation.

(3) "CPDC" means the Continuing Professional Development Committee.

(4) "Professional development hour" means not less than fifty (50) minutes of instruction or presentation that meets the requirements of this administrative regulation.

(5) "Provider" means a person, school, association, company, corporation, or group who has developed a CPD activity and participates directly in the presentation.

(6) "Sponsor" means a group, organization, or professional society, offering activities by providers.

Section 2. Continuing Professional Development Committee. (1) The chair of the State Board of Licensure for Professional Engineers and Land Surveyors shall appoint a Continuing Professional Development Committee and name its chair.

(2) The CPDC shall consist of five (5) board of licensure members of which at least three (3) are professional land surveyors.

(3) Work of the CPDC shall be considered work of the board, and compensation shall be given as provided by KRS 322.270.

(4) The CPDC shall hold regular meetings, and a record of its action shall be maintained.

(5) The CPDC may rule on all matters concerning continuing professional development for professional land surveyors.

(a) In order to be binding, a decision of the CPDC shall be ratified by the board.

(b) A licensee who disagrees with a decision of the CPDC may direct his or her concerns to the board for consideration at a subsequent meeting of the board.

Section 3. Program Structure. (1) Except as provided by Section 6(1) and (2) of this administrative regulation and subsection (3) of this section, a professional land surveyor shall complete and report to the board a minimum of eight (8) professional development hours for each calendar year, for a total of a minimum of sixteen (16) professional development hours for each reporting period.

(2) The requirement for professional development hours shall include a four (4) hour course, pre-approved by the CPDC, in standards of practice for professional land surveyors, professional ethics, and the code of professional practice and conduct, taken once every four (4) years. In the year that this course is taken, it shall count as four (4) of the required eight (8) hours.

(3) A maximum of four (4) hours in excess of the sixteen (16) professional development hours required to be earned in a reporting period may be carried forward to the next reporting period.

(4) Failure to earn the sixteen (16) professional development hours per reporting period shall make the licensee ineligible for licensure renewal.

Section 4. Criteria for Professional Development. (1) Professional development hours may be earned by successful completion of:

(a) College or university courses;

(b) Seminars;

(c) Tutorials;

(d) In-house programs sponsored by corporations or other organizations;

(e) Correspondence courses;

- (f) Televised or videotaped courses;
- (g) Distance learning courses;
- (h) Teaching or instructing courses, programs, or items specified in paragraphs (a) through (g) of this subsection.

1. This credit may be claimed at twice the number of hours permitted participants.

2. The credit shall not be claimed more than once for teaching or instructing the same or substantially similar course, program, or item;

(i) Making or attending approved presentations at technical or professional meetings; or

(j) Publication of papers, articles, or books related to the practice of land surveying.

(2) Activities described in subsection (1) of this section shall:

(a) Be relevant to the practice of land surveying;

(b) Contain technical, ethical, or managerial subjects;

(c) Be an organized program of learning;

(d) Be conducted by individuals with education, training, or expertise;

(e) Be offered for the number of professional development hours recommended by the program author, subject to review and acceptance or adjustment by the CPDC; and

(f) Not include:

1. In-service training;

2. Orientation to specific institutional policies and practices; or

3. Time used to sell or advertise a product.

(3) CPD activities shall earn credit only if substantially different from a course for which credit was claimed or granted in the current calendar year or previous two (2) calendar years.

(4) Professional development hours shall be converted as established in paragraphs (a) through (c) of this subsection.

(a) One (1) university semester hour shall equal fifteen (15) professional development hours.

(b) One (1) university quarter hour shall equal ten (10) professional development hours.

(c) One (1) continuing education unit shall equal ten (10) professional development hours.

Section 5. Approval of a Continuing Professional Development Activity. Activity approvals may be granted for sponsors, providers, or individual professional land surveyors.

(1) Approval of activities shall be valid for a specified approval period or until alteration of the activity is approved by the CPDC.

(2) Failure to notify the CPDC of a change in an activity, including a change in the instructor, may render approval of the activity null and void.

(3) Prior to approval, an activity shall not be advertised as approved for Kentucky professional land surveyors but may be advertised that the activity has been "submitted for consideration."

(4) If prior or post approval is desired, a written request for approval of the activity shall be submitted to and received by the CPDC on the Continuing Professional Development Course Approval Form at least forty-five (45) days prior to the meeting date of the CPDC at which the request will be considered.

(5) All requests for approval of an activity shall be accompanied by:

(a) A detailed outline and objectives;

(b) A time outline including registration, introductions, welcomes, breaks, and meals;

(c) Handouts or reference materials needed to evaluate the activity; and

(d) A resume for each instructor or speaker in the activity.

(6) The CPDC or board may send a representative to monitor an activity.

(a) The provider or sponsor shall waive all fees for the CPDC or board representative.

(b) Approval for the activity may be withdrawn for subsequent iterations of the activity, if significant variation is observed from the approved activity.

(7) An evaluation form shall be made available for participants at each presentation.

(8) An individual under disciplinary action from the board or a business entity with a principal who is under disciplinary action from the board shall not present a CPD activity for credit without prior, written approval from the board.

(9) If a provider fails to obtain prior approval, a professional land surveyor may request credit for an activity by making a written request for post approval to the CPDC and including in that request, the items listed in subsection (5) of this section.

(10) Upon approval, an activity shall receive a CPD number, which shall be used to identify the activity.

(11) If an activity is not approved by the CPDC, the requestor shall be sent notice of nonapproval within two (2) weeks of its decision. This decision shall be presented to the board at its next meeting for consideration of ratification.

Section 6. Exemptions and Extensions. A professional land surveyor may be exempted from the requirements of this administrative regulation by submitting a written request to the CPDC with supporting documentation for the exemption if a requirement established in this section is met.

(1) A professional land surveyor shall be exempted for the reporting period containing the calendar year in which he or she is initially licensed by the board.

(2) A professional land surveyor who cannot satisfy the CPD requirement because of physical disability, illness, or other extenuating circumstance may be exempted for the calendar year in which the disability, illness, or extenuating circumstance occurs. The CPDC may grant an extension of time to fulfill the yearly CPD requirement for an extenuating circumstance.

(3) An exemption or extension request shall be made in writing for each calendar year, and the exemption or extension shall only be valid for that calendar year.

Section 7. Reinstatement. Before a license is reinstated by the board under 201 KAR 18:115, a former professional land surveyor shall earn the continuing professional development hours required for each year the license was revoked, suspended, or expired, up to a maximum of thirty-two (32) professional development hours.

Section 8. Reporting. (1) A professional land surveyor shall certify whether or not he or she has complied with the requirements of this administrative regulation on the Electronic License Renewal Application, available at www.kyboels.ky.gov.

(2) Biennial renewal forms received after September 1 shall be subject to the audit process in Section 9 of this administrative regulation.

Section 9. Audits. (1) Compliance with the annual CPD requirements shall be determined through an audit process.

(2) Professional land surveyors shall be audited through a random selection process or as the result of information provided to the board.

(3) Individuals selected for audit shall within thirty (30) days of the board's request, provide the board with documentation of the CPD activities claimed for the renewal period. Appropriate documentation shall include:

(a) Verification records in the form of transcripts, completion certificates, or other documents supporting evidence of participation; or

(b) Information regarding seminar or course content, instructors, and sponsoring organizations.

(4) Individual licensees shall maintain verification records and documentation for audit purposes for the current reporting period and at least the two (2) previous reporting periods.

(5) If continuing professional development credit is disallowed, a professional land surveyor shall have 180 calendar days after notification to substantiate the original claim or earn other credit to meet the requirement.

(6) Failure to comply with the CPD requirements shall be considered a violation of KRS 322.180(3) subjecting the professional land surveyor to disciplinary action.

(7) An audit resulting in a determination of noncompliance shall subject the professional land surveyor to an automatic audit the next reporting period and each subsequent reporting period until an audit results in a determination of compliance.

(8) A professional land surveyor who is under investigation pursuant to KRS 322.190 shall be subject to the audit requirements of this section.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Continuing Professional Development Course Approval Form", November 1999, State Board of Licensure for Professional Engineers and Land Surveyors; and

(b) "Electronic License Renewal Application", 2012.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (26 Ky.R. 1460; Am. 1678; eff. 2-24-2000; 33 Ky.R. 856; 1284; eff. 12-1-06; 38 Ky.R. 654; 894; eff. 12-2-11; 39 Ky.R. 530; 948; eff. 12-7-2012; 40 Ky.R. 2593; 41 Ky.R. 15; eff. 8-1-2014.)

201 KAR 18:196. Continuing professional development for engineers.

RELATES TO: KRS 322.180(3), 322.190, 322.290(16)

STATUTORY AUTHORITY: KRS 322.290(16)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.290(16) requires the board to adopt a program of continuing education for professional engineers. This administrative regulation establishes requirements for the continuing professional development program mandated by KRS 322.290(16) for professional engineers.

Section 1. Definitions. (1) "Continuing professional development" or "CPD" means participation in activities beyond the basic educational requirements that:

- (a) Provide specific content to improve the professional engineer's competence;
- (b) Encourage acquisition of new skills and knowledge required to maintain competence;
- (c) Strengthen the professional engineer's critical inquiry and balanced judgment;
- (d) Raise the ethical standards within the professional community; and
- (e) Meet the requirements established by the provisions of this administrative regulation.

(2) "Dual licensee" means a person licensed as both a professional engineer and a professional land surveyor.

(3) "Licensee" means a person licensed as a professional engineer.

(4) "Professional development hour" or "PDH" means not less than fifty (50) minutes of instruction or presentation that meets the requirements of this administrative regulation.

(5) "Reporting period" means the two (2) calendar years preceding the June 30 deadline for renewal of license.

Section 2. Program Structure. (1) Except as provided in Section 6 of this administrative regulation, a licensee shall complete a minimum of thirty (30) PDH units each reporting period.

(2) If a licensee exceeds the requirement, a maximum of fifteen (15) PDH units may be carried forward to the next reporting period.

(3) PDH units earned by a dual licensee under this administrative regulation may also be used to meet the land surveyor requirements under 201 KAR 18:192 if the PDH units meet the requirements of that administrative regulation.

(4) Failure to earn the required PDH units shall constitute unprofessional conduct.

Section 3. Criteria for Professional Development. (1) Continuing education hours applicable to the renewal of the license shall be directly related to the professional growth and development of the professional engineer.

(2) PDH units may be earned by successful completion of the following activities:

- (a) College courses;
- (b) Continuing education courses;

(c) Correspondence, televised, videotaped, distance learning, and other short course or tutorials;

(d) Presenting or attending seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions, or conferences;

(e) Teaching or instructing in paragraphs (a) through (d) of this subsection;

(f) Authoring published papers, articles, books, or accepted licensing examination items; and

(g) Active participation in professional or technical societies as authorized in Section 4(6).

(3) In order to qualify for credit, activities described in subsections (1) and (2) of this section shall:

(a) Be relevant to the practice of engineering;

(b) Contain technical, ethical, or managerial subjects;

(c) Be an organized program of learning;

(d) Be conducted by individuals with education, training, or expertise; and

(e) Not include in-service training, orientation to specific institutional policies and practices, or time used to sell or advertise a product.

(4) CPD activities shall earn credit only if substantially different from a course for which credit was granted in the previous two (2) calendar years.

(5) PDH units shall be converted as follows:

(a) One (1) university semester hour shall equal forty-five (45) PDH units.

(b) One (1) university quarter hour shall equal thirty (30) PDH units.

(c) For teaching an activity established in Section 3(2), multiply the number of PDH units earned by participants for that activity by two (2).

(d) Each published paper, article, or book shall equal ten (10) PDH units.

(e) Active participation in professional or technical society shall equal two (2) PDH units for each organization.

Section 4. Determination of Credit. (1) Credit for college or university courses shall be based upon course credit established by the college or university.

(2) Credit for qualifying seminars and workshops shall be based upon one (1) PDH for each fifty (50) minutes of instruction or presentation.

(3) Attendance at qualifying programs presented at professional or technical society meetings shall earn PDH units for the actual time of each program.

(4) Credit for correspondence, televised, videotaped, distance learning, and other short courses or tutorials shall be the equivalent PDH units recommended by the program author subject to board review.

(5) Teaching credit shall be valid for teaching a course or seminar for the first time only.

(6)(a) Credit for active participation in professional or technical societies shall require that the licensee serve as an officer or committee chair of the organization.

(b) PDH units shall not be earned until the end of each year of service is completed.

Section 5. Recordkeeping. (1) The licensee shall be responsible for maintaining records used to support PDH units claimed.

(2) Records required include:

(a) A log showing the date of the activity, sponsoring organization, location, activity title, description, presenter's name, and PDH units earned; and

(b) Attendance certification records in the form of completion certificates or other documents supporting evidence of attendance.

Section 6. Exemptions and Extensions. (1) A licensee shall be exempted from continuing professional development requirements for the calendar year in which initially licensed by the board.

(2) An individual who has selected inactive or retired status shall be exempt from the requirements of this administrative regulation.

(3) A licensee who is unable to satisfy the CPD requirement because of physical disability, illness, or other extenuating circumstance shall be exempted for the reporting period in which the disability, illness, or extenuating circumstance occurs.

(4) The board shall grant an extension of time to fulfill the CPD requirement for an extenuating circumstance.

(5) An exemption or extension request shall be made in writing with supporting documentation.

Section 7. Reinstatement. Before a license shall be reinstated by the board, a former licensee shall earn the PDH units required for each reporting period the license was revoked, suspended, or expired, up to a maximum of sixty (60) PDH units.

Section 8. Reporting. (1) On the biennial renewal form, a licensee shall certify whether or not the licensee has met the requirements of this administrative regulation.

(2) Biennial renewal forms received after September 1 shall be subject to the audit process established in Section 9 of this administrative regulation.

Section 9. Audits. (1) Compliance with the CPD requirements shall be determined through a random selection process in which a computer program shall select five (5) percent of the licensees filing biennial renewal forms on or before September 1 of that year.

(2) A licensee who is the subject of an investigation pursuant to KRS 322.190 shall be subjected to the audit requirements of this section.

(3) A licensee selected for audit shall provide the board with documentation as described in Section 5 of this administrative regulation within thirty (30) days of the board's request.

(4) If the board disallows credit due to the activity not meeting the requirements of Section 3(2) of this administrative regulation, or if the PDH units reported are less than thirty (30), the licensee shall have 180 calendar days after notification to substantiate the original claim or earn other PDH units to meet the requirement.

(5) Failure to comply with the CPD requirements shall be considered a violation of KRS 322.180(3) subjecting the licensee to disciplinary action.

(6) An audit resulting in a determination of noncompliance shall subject the licensee to an automatic audit the next reporting period and each subsequent reporting period until an audit results in a determination of compliance. (34 Ky.R. 1299; 1705; eff. 2-1-2008, 2206; 2390; eff. 6-6-2008; TAm eff. 4-4-2011.)

201 KAR 18:200. Minimum standards of practice for mortgage inspections in Kentucky.

RELATES TO: KRS Chapter 322

STATUTORY AUTHORITY: KRS 322.290(2)(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.290 requires the Board of Licensure for Professional Engineers and Land Surveyors to adopt appropriate standards of practice. This proposed administrative regulation will establish minimum standards of practice for mortgage inspections in Kentucky.

Section 1. (1) A professional land surveyor shall meet the minimum standards established in this administrative regulation.

(2) He shall demonstrate a thorough knowledge of the property that is the subject of a mortgage inspection by:

(a) Conducting adequate research which at a minimum would be to obtain the subject deed and the adjoining deeds; and

(b) Obtaining and retaining sufficient recorded documentation.

Section 2. Work Order Required. (1) Prior to conducting a mortgage inspection, a professional land surveyor shall obtain a work order:

(a) Stating that the borrower or purchaser has been advised of the:

1. Types of services available; and
2. Scope of each type of service; and

(b) That has been signed by the borrower or purchaser.

(2) If the work order requires a flood plain certification, statements regarding the flood plain shall contain the source or basis of the statements by reference to:

(a) Flood plain maps, by map identification number and date; and

(b) Any levels run by the surveyor to verify the elevation of the property.

(3) A work order shall include the following, the:

- (a) Name of the borrower;
- (b) Date the work was ordered;
- (c) Name of the person ordering the work;
- (d) Address or location of the parcel;
- (e) Record source of the parcel;
- (f) Anticipated closing date;
- (g) Required delivery date; and
- (h) Statements in subsection (4) of this section.

(4) The work order shall include the following statements:

(a) Mortgage inspection. The sole purpose of this inspection is to obtain mortgage title insurance. This is the minimum service that your lender requires for closing your loan. It is a

location of improvements and cursory check for violations or encroachments onto or from the subject property based on existing but not confirmed evidence. This does not constitute a boundary survey and is subject to any inaccuracies that a subsequent boundary survey may disclose; no property corners will be set; and, it should not be used or relied upon for the establishment of any fence, structure or other improvement. Flood plain certification is restricted to a review of the Flood Insurance Rate Maps (FIRM) (latest revision), and shall not be construed as a confirmation or denial of flooding potential.

(b) Boundary survey and improvement location. A boundary survey of the subject property will be made and the property corners will be located and verified or reset. The improvements on the property will be located and a check for violations or encroachments onto or from the subject property will be made. This survey may be used by the property owner for the construction of a fence or other improvement. Flood plain certification is restricted to a review of the Flood Insurance Rate Maps (FIRM) (latest revision), and shall not be construed as a confirmation or denial of flooding potential.

(c) ALTA/ACSM land title survey. This is the most comprehensive type of survey and improvement location. It covers all the aspects of the boundary survey and improvement location and identification for any additional evidence of possession or use which could be adverse to the interest of the purchaser. This survey may include definitive statements regarding the flooding potential in addition to a review of Flood Insurance Rate Maps (FIRM).

(5)(a) A board "work order" sample form may be used.

(b) "Work Order (8-93)" is incorporated by reference.

(c) It may be inspected, copied, or obtained at Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday.

Section 3. Recorded Documentation and Boundary Evidence. (1) A professional land surveyor shall obtain recorded documentation pertaining to the property boundary that is sufficient to demonstrate general knowledge of the given area which at a minimum would be to obtain the subject deed and the adjoining deeds.

(2) Field crews shall be provided with current information necessary to determine property dimensions in the field.

(3) Field crews shall conduct a diligent search for existing boundary evidence.

(4) The highest available order of monumentation shall be used.

(5) The boundary monumentation, or evidence used shall be shown on the drawing.

(6) Conflicting boundary information shall be:

- (a) Clearly shown on the drawing; and
- (b) Reported to the client and the buyer in writing.

Section 4. Field Procedures. (1) A field crew shall be provided with current information necessary to determine the property dimensions in the field.

- (2) A diligent search for existing boundary evidence shall be made by a field crew.
- (3) The highest order of monumentation and boundary evidence shall be used.
- (4) Detailed notes shall be:
 - (a) Taken on all mortgage inspections; and
 - (b) Kept as part of the professional land surveyor's permanent record.

(5) If the field survey methods selected by the surveyor do not produce a level of certainty sufficient to determine whether encroachments exist, the surveyor shall recommend a boundary survey to the borrower or purchaser.

Section 5. Drafting of the Parcel. (1) A drawing of a parcel that is inspected shall be used in support of the certificate of mortgage inspection.

- (2) The following items shall be identified on a drawing of a parcel that is inspected:
 - (a) Property lines shall be shown by:
 1. Boundary dimensions and bearings from the deed; or
 2. Boundary dimensions and bearings from a record plat; or
 3. By actual field measurement.
 - (b) The method of determination or basis of property lines shall be clearly shown.
 - (c) Major improvement locations shall be shown:
 1. With dimensions to the nearest property lines;
 2. With a minimum of three (3) dimensions; and
 3. In a manner sufficient to locate the major improvement.
 - (d) Location dimensions shall be shown:
 1. By offsets perpendicular to straight property lines; or
 2. By offsets radial to curved property lines.

(e) Major improvements shall include:

1. Residences;
2. Garages;
3. Outbuildings;
4. Barns;
5. Driveways;
6. Pools;
7. Porches; and
8. Patios.

(f) Apparent encroachments shall be:

1. Noted and described; and
2. Clearly shown.

(g) Means of access shall:

1. Be shown clearly and graphically; and
2. Include shared access and shared driveways.

(h) Platted and apparent easements shall be clearly identified.

(i) The source of record information for platted and apparent easements shall be identified by:

1. Deed book and page of recording; or
2. Title company commitment, including the name of title company and commitment number; and
3. For apparent easements for items such as power lines, the name of the easement holder.

(j) Platted setback lines shall be shown graphically.

(k) Adjacent owner and record source shall be noted on the drawing.

1. Lot numbers may be used for adjacent properties located in recorded subdivisions.
2. Conflicting boundary information shall be:

- a. Clearly shown on the drawing; and
- b. Reported to the client and the buyer in writing.
- (l) If the address of the inspected parcel is:
 - 1. Posted, it shall be shown; or
 - 2. Not posted, a statement to that effect shall be included.
- (m) A north arrow with the basis for the meridian shall be shown on the drawing.
- (n) A graphic scale shall be shown on the drawing.
- (o) All apparent encroachments shall be:
 - 1. Noted and described on the drawing; and
 - 2. Clearly shown on the drawing.
- (p) A flood plain certification required by the work order shall reference:
 - 1. Flood plain maps by map identification number and date; and
 - 2. Levels run by the surveyor to verify the elevation of the inspected property.
- (q) The following caption shall appear prominently on the sketch:

MORTGAGE INSPECTION

This does not constitute a boundary survey
and is not a recordable document.

(r) If the certification and the drawing are on separate pieces of paper, this shall be stated in the report as: (Example: page 1 of 2, page 2 of 2).

(s) The sign and seal of the surveyor and the date of the mortgage inspection.

Section 6. Certification. (1) A mortgage inspection shall not contain the word "survey" in any part of the certification.

(2) The mortgage inspection certification shall contain:

(a) The name, address and telephone number of the professional land surveyor responsible for the mortgage inspection;

(b) The name of the party who ordered the work;

(c) A statement that the mortgage inspection was conducted either by the professional land surveyor or under the surveyor's direct supervision;

(d) The date the inspection was made;

(e) The record source of the property;

(f) A statement that:

1. The accompanying sketch or drawing is a true representation of the conditions found at the time of the inspection;

2. The mortgage inspection is prepared for mortgage title insurance purposes only;

3. The document does not constitute a boundary survey;

4. The mortgage inspection is subject to any inaccuracies that a subsequent boundary survey may disclose;

5. No property corners were set;

6. The information shown on the sketch should not be used to establish any fence, structure or other improvement;

7. The linear or angular values shown on the drawing are based on record information, and have not been verified unless so noted.

(3) A mortgage inspection by a professional land surveyor shall:

(a) Be signed by the surveyor;

(b) Bear his seal; and

(c) Note the date of the mortgage inspection. (20 Ky.R. 871; Am. 1579; eff. 12-6-93.)

201 KAR 18:210. Retired and inactive status.

RELATES TO: KRS 322.100, 322.160(1), 322.290(15), (16)

STATUTORY AUTHORITY: KRS 322.100, 322.110(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.100 requires the board to establish license fees for engineers and land surveyors by administrative regulation. KRS 322.110(3) requires the board to promulgate administrative regulations for inactive or retired status engineers and land surveyors. This administrative regulation establishes the registration and renewal fee and professional development requirements for retired or inactive engineers and land surveyors.

Section 1. (1) A professional engineer may be registered as a "professional engineer, retired" or "professional engineer, inactive", and a professional land surveyor may be registered as a "professional land surveyor, retired" or "professional land surveyor, inactive".

(2) The applicant shall:

- (a) Pay a biennial fee of twenty (20) dollars;
- (b) Renew the registration in accordance with KRS 322.160; and
- (c) Not practice the profession.

(3) In order to again practice the profession, the applicant shall apply for license reinstatement in accordance with 201 KAR 18:115.

Section 2. Professional Development Program. (1) Except as required by subsections (2) and (3) of this section, an inactive or retired registrant shall not be required to complete professional development hours.

(2) An inactive or retired professional land surveyor shall, prior to reinstatement, complete eight (8) professional development hours for each calendar year of inactive or retired status, up to a maximum of thirty-two (32) professional development hours.

(3) An inactive or retired professional engineer shall, prior to reinstatement, complete fifteen (15) professional development hours for each calendar year of inactive or retired status, up to a maximum of sixty (60) professional development hours. (23 Ky.R. 3647; Am. 4110; eff. 6-13-97; 34 Ky.R. 2558; 35 Ky.R. 257; eff. 9-5-08.)

201 KAR 18:220. Administrative hearings.

RELATES TO: KRS 13B, 322.290(4)

STATUTORY AUTHORITY: KRS 13B.170(1), 322.290(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.290(4) requires the board to promulgate administrative regulations to carry out the conduct of proceedings before it. KRS 13B.170(1) authorizes the board to promulgate administrative regulations necessary to carry out the provisions of that chapter. This administrative regulation establishes procedural guidelines for administrative hearings as authorized by KRS 322.290(4) and 13B.170(1).

Section 1. Definitions. (1) "Action" means a charge brought pursuant to this administrative regulation and KRS Chapter 13B.

(2) "Administrative complaint" means a written accusation filed by the board's general counsel with the board and with the Office of the Attorney General, Administrative Hearings Division alleging a violation by a licensee of KRS Chapter 322 or a provision of 201 KAR Chapter 18.

(3) "Administrative hearing" or "hearing" is defined by KRS 13B.010(2).

(4) "Board" means the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors.

(5) "Charge" means a written accusation of a violation of a provision of KRS Chapter 322 or of 201 KAR Chapter 18, contained in an administrative complaint.

(6) "Consent decree" means an order entered by the board with the agreement of a respondent.

(7) "Default" means a failure of a respondent to file an answer to an administrative complaint, to attend or participate in a prehearing conference, hearing, or other stage of the administrative hearing process, or to comply with the orders of a hearing officer.

(8) "Division" is defined by KRS 13B.010(8).

(9) "Final order" is defined by KRS 13B.010(6).

(10) "Hearing officer" is defined by KRS 13B.010(7).

(11) "Investigation review advisor" means a present or former member of the board, selected by the board chairman in consultation with the executive director, to independently review an investigation and provide the executive director with his or her opinion as to the propriety of filing an administrative complaint against the subject of the investigation, and to make suggestions regarding the nature of the charges, the appropriate penalty, and terms for settlement.

(12) "Letter of complaint" means a factual statement made in writing, by a person or organization, to the board, alleging a possible violation of a provision of KRS Chapter 322 or 201 KAR Chapter 18.

(13) "Licensee" means an individual or business entity licensed to practice engineering or land surveying in this Commonwealth pursuant to KRS Chapter 322.

(14) "Notice" means a notice of administrative hearing satisfying the requirements of KRS 13B.050(3).

(15) "Party" is defined by KRS 13B.010(3).

(16) "Respondent" means a licensee who is the subject of an investigation by the board for a violation of KRS Chapter 322 or 201 KAR Chapter 18.

(17) "Settlement conference" means a conference between board staff and a respondent and his or her attorney, if any, to attempt to resolve matters raised in an administrative complaint or charge.

(18) "Violation" means an act or failure to act that is in conflict with a provision of KRS Chapter 322 or 201 KAR Chapter 18.

Section 2. Letter of Complaint, and Investigation. (1) A letter of complaint shall be in writing, be signed by the individual making the allegations, and shall allege facts showing why that individual believes that a violation has occurred.

(2) An investigation shall be made of every complaint.

(3) An investigation may also be made without the receipt of a letter of complaint if information within the knowledge of the board or board staff indicates that a violation may have been committed.

Section 3. Disposition Following Investigation. (1) Following the completion of the investigation, if it appears to the executive director that no violation has occurred, or that the matter does not warrant further action, the executive director shall terminate any further proceedings and the matter shall be closed.

(2) If, following the completion of the investigation, it appears to the executive director that the respondent may have committed one (1) or more violations sufficient to warrant a charge or charges against that licensee, then to resolve the matter, the executive director shall:

(a) Issue a letter of admonishment to the respondent;

(b) Negotiate a proposed consent decree with the respondent, which shall, after execution by the respondent, be presented to the board for approval or rejection; or

(c) Cause an administrative complaint to be filed.

(3) If a proposed consent decree is rejected by the board, the executive director shall either try to resolve the matter with another proposed consent decree, or shall proceed with an administrative complaint;

(4) The board may enter into a settlement conference following the completion of the investigation.

(5) Prior to causing an administrative complaint to be filed, the executive director may request that the board chairman designate one (1) or two (2) investigative review advisors who shall independently review the investigation, and shall submit to the executive director, their independent opinions as to the propriety of filing an administrative complaint against the subject of the investigation, and suggestions regarding the nature of the charges, the appropriate penalty, and terms for settlement.

(6) A former board member who serves as an investigative review advisor shall be compensated at the same rate as provided for a board member who so serves.

(7) A board member who serves as an investigative review advisor for a specific disciplinary action, shall not thereafter participate in the determination of a final order in that same action, except that he or she may participate in the consideration of a proposed consent decree.

(8) An individual who has filed a letter of complaint shall be notified of the disposition of the subject matter upon its resolution.

Section 4. Administrative Complaints. An administrative complaint shall be in plain language in the pleading form used in the circuit courts of this Commonwealth and shall be signed by the board's general counsel.

Section 5. Actions. (1) An action shall be commenced by sending notice and a copy of the administrative complaint to the licensee at the address for the licensee on file with the board, with a copy to the Office of the Attorney General, Hearing Officer Division consistent with the provision of KRS Chapter 13B.

(2) The board shall file proof of notice with the hearing officer.

(3) Within twenty (20) days of notice, a respondent shall file an answer with the board and with the hearing officer.

(4) The hearing shall be conducted according to the provisions of KRS Chapter 13B.

Section 6. Default. A default shall be deemed a confession of all material allegations contained in the administrative complaint.

Section 7. Amended Pleadings. (1) A party, as a matter of right, may amend a pleading.

(a) A pleading shall not be amended later than thirty (30) days before a scheduled hearing.

(b) A party seeking to amend a pleading within a period less than thirty (30) days before a scheduled hearing shall amend a pleading only by consent of the adverse party or by leave of the hearing officer, and leave shall be freely given if justice so requires.

(2) If an amended pleading introduces new legal or factual issues that cannot reasonably be met by the opposing party prior to the scheduled hearing, the hearing officer shall continue the hearing.

Section 8. Final Order and Consent Decree. (1) If an administrative complaint has been filed, and the matter resolved by means of a consent decree, the consent decree entered by the board is a final order as established by KRS Chapter 13B.

(2) A consent decree shall not be binding on the parties until approved by the board.

(3) If a final order or consent decree provides that the executive director shall suspend or revoke a license for failure of the licensee to comply with the terms of the final order or consent

decree, the executive director shall suspend or revoke the license for failure to comply according to the terms of the final order or consent decree.

(4) If a final order or consent decree does not include a provision for suspension or revocation of a license for the licensee's failure to comply with the terms of the final order or consent decree, and the executive director has probable cause to believe that a respondent has violated the terms of a final order or consent decree, the executive director shall cause a show cause order, over the signature of the board's general counsel, to be issued to the respondent, with a copy to the Office of the Attorney General, Hearing Officer Division.

(5) The show cause order shall meet the requirements of a notice and shall be treated as an administrative complaint for procedural purposes.

Section 9. Publication. At least annually, a summary of all final orders and consent decrees shall be published. (30 Ky.R. 1705; Am. 1925; eff. 2-16-2004; 38 Ky.R. 1991; eff. 8-31-2012.)

CODE OF ETHICS

Preamble

Engineering is an important and learned profession. As members of this profession, engineers are expected to exhibit the highest standards of honesty and integrity. Engineering has a direct and vital impact on the quality of life for all people. Accordingly, the services provided by engineers require honesty, impartiality, fairness, and equity, and must be dedicated to the protection of the public health, safety, and welfare. Engineers must perform under a standard of professional behavior that requires adherence to the highest principles of ethical conduct.

I. Fundamental Canons

Engineers, in the fulfillment of their professional duties, shall:

- 1) Hold paramount the safety, health, and welfare of the public.
- 2) Perform services only in areas of their competence.
- 3) Issue public statements only in an objective and truthful manner.
- 4) Act for each employer or client as faithful agents or trustees.
- 5) Avoid deceptive acts.
- 6) Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

II. Rules of Practice

1. Engineers shall hold paramount the safety, health, and welfare of the public.
 - 1) If engineers' judgment is overruled under circumstances that endanger life or property, they shall notify their employer or client and such other authority as may be appropriate.
 - 2) Engineers shall approve only those engineering documents that are in conformity with applicable standards.

- 3) Engineers shall not reveal facts, data, or information without the prior consent of the client or employer except as authorized or required by law or this Code.
 - 4) Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.
 - 5) Engineers shall not aid or abet the unlawful practice of engineering by a person or firm.
 - 6) Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.
2. Engineers shall perform services only in the areas of their competence.
- 1) Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.
 - 2) Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their direction and control.
 - 3) Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.
3. Engineers shall issue public statements only in an objective and truthful manner.
- 1) Engineers shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony, which should bear the date indicating when it was current.
 - 2) Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.
 - 3) Engineers shall issue no statements, criticisms, or arguments on technical matters that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested parties on whose

behalf they are speaking, and by revealing the existence of any interest the engineers may have in the matters.

4. Engineers shall act for each employer or client as faithful agents or trustees.
 - 1) Engineers shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.
 - 2) Engineers shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.
 - 3) Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.
 - 4) Engineers in public service as members, advisors, or employees of a governmental or quasi-governmental body or department shall not participate in decisions with respect to services solicited or provided by them or their organizations in private or public engineering practice.
 - 5) Engineers shall not solicit or accept a contract from a governmental body on which a principal or officer of their organization serves as a member.
5. Engineers shall avoid deceptive acts.
 - 1) Engineers shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers, or past accomplishments.
 - 2) Engineers shall not offer, give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by public authority, or which may be reasonably construed by the public as having the effect or intent of influencing the awarding of a contract. They shall not offer any gift or other valuable consideration in order to secure work. They shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a bona fide employee or bona fide established commercial or marketing agencies retained by them.

III. Professional Obligations

1. Engineers shall be guided in all their relations by the highest standards of honesty and integrity.
 - 1) Engineers shall acknowledge their errors and shall not distort or alter the facts.
 - 2) Engineers shall advise their clients or employers when they believe a project will not be successful.
 - 3) Engineers shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering employment, they will notify their employers.
 - 4) Engineers shall not attempt to attract an engineer from another employer by false or misleading pretenses.
 - 5) Engineers shall not promote their own interest at the expense of the dignity and integrity of the profession.
2. Engineers shall at all times strive to serve the public interest.
 - 1) Engineers are encouraged to participate in civic affairs; career guidance for youths; and work for the advancement of the safety, health, and well-being of their community.
 - 2) Engineers shall not complete, sign, or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.
 - 3) Engineers are encouraged to extend public knowledge and appreciation of engineering and its achievements.
 - 4) Engineers are encouraged to adhere to the principles of sustainable development, in order to protect the environment for future generations.
3. Engineers shall avoid all conduct or practice that deceives the public.
 - 1) Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.
 - 2) Consistent with the foregoing, engineers may advertise for recruitment of personnel.

- 3) Consistent with the foregoing, engineers may prepare articles for the lay or technical press, but such articles shall not imply credit to the author for work performed by others.
4. Engineers shall not disclose, without consent, confidential information concerning the business affairs or technical processes of any present or former client or employer, or public body on which they serve.
 - 1) Engineers shall not, without the consent of all interested parties, promote or arrange for new employment or practice in connection with a specific project for which the engineer has gained particular and specialized knowledge.
 - 2) Engineers shall not, without the consent of all interested parties, participate in or represent an adversary interest in connection with a specific project or proceeding in which the engineer has gained particular specialized knowledge on behalf of a former client or employer.
5. Engineers shall not be influenced in their professional duties by conflicting interests.
 - 1) Engineers shall not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product.
 - 2) Engineers shall not accept commissions or allowances, directly or indirectly, from contractors or other parties dealing with clients or employers of the engineer in connection with work for which the engineer is responsible.
6. Engineers shall not attempt to obtain employment or advancement or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods.
 - 1) Engineers shall not request, propose, or accept a commission on a contingent basis under circumstances in which their judgment may be compromised.
 - 2) Engineers in salaried positions shall accept part-time engineering work only to the extent consistent with policies of the employer and in accordance with ethical considerations.
 - 3) Engineers shall not, without consent, use equipment, supplies, laboratory, or office facilities of an employer to carry on outside private practice.
7. Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. Engineers

who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.

1) Engineers in private practice shall not review the work of another engineer for the same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated.

2) Engineers in governmental, industrial, or educational employ are entitled to review and evaluate the work of other engineers when so required by their employment duties.

3) Engineers in sales or industrial employ are entitled to make engineering comparisons of represented products with products of other suppliers.

8. Engineers shall accept personal responsibility for their professional activities, provided, however, that engineers may seek indemnification for services arising out of their practice for other than gross negligence, where the engineer's interests cannot otherwise be protected.

1) Engineers shall conform with state registration laws in the practice of engineering.

2) Engineers shall not use association with a nonengineer, a corporation, or partnership as a "cloak" for unethical acts.

9. Engineers shall give credit for engineering work to those to whom credit is due, and will recognize the proprietary interests of others.

1) Engineers shall, whenever possible, name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.

2) Engineers using designs supplied by a client recognize that the designs remain the property of the client and may not be duplicated by the engineer for others without express permission.

3) Engineers, before undertaking work for others in connection with which the engineer may make improvements, plans, designs, inventions, or other records that may justify copyrights or patents, should enter into a positive agreement regarding ownership.

4) Engineers' designs, data, records, and notes referring exclusively to an employer's work are the employer's property. The employer should indemnify the

engineer for use of the information for any purpose other than the original purpose.

5) Engineers shall continue their professional development throughout their careers and should keep current in their specialty fields by engaging in professional practice, participating in continuing education courses, reading in the technical literature, and attending professional meetings and seminars.

REFERENCES

Kentucky Board of Engineers and Land Surveyors: Laws/Regulations

<http://kyboels.ky.gov/About-Us/Pages/default.aspx>

Kentucky Statutes: Title Xxvi - Occupations and Professions, Chapter 322. Professional Engineers And Surveyors, (322.010 to 322.990)

<http://www.lrc.ky.gov/statutes/chapter.aspx?id=38843>

Kentucky Administrative Regulations: Title 201 General Government Cabinet, Ch. 18 Board of Licensure for Professional Engineers and Land Surveyors, (201 KAR 18:010 to 201 KAR 18:220)

<http://www.lrc.ky.gov/kar/TITLE201.HTM#chp018>

National Society of Professional Engineers, Code of Ethics

<http://www.nspe.org/resources/ethics/code-ethics>