

HOUSE BILL 347

C2

3lr0083

By: **Chair, Economic Matters Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: January 25, 2013

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Professional Engineers – Firm Permits**

3 FOR the purpose of requiring a corporation, partnership, or limited liability company
4 on or after a certain date to hold a permit issued by the State Board for
5 Professional Engineers before operating a business through which engineering
6 is practiced, with a certain exception; establishing certain qualifications,
7 application requirements, and fees for the firm permit to practice engineering;
8 establishing the scope of the engineering firm permit; providing for the renewal
9 and reinstatement of the engineering firm permit; requiring permit holders to
10 provide certain notification of certain changes or occurrences within a certain
11 period of time; authorizing the State Board for Professional Engineers to deny a
12 firm permit to an applicant, reprimand a permit holder, suspend or revoke a
13 permit, or impose a certain penalty under certain circumstances and subject to
14 certain hearing provisions; establishing certain prohibited acts; adding certain
15 definitions; making stylistic and conforming changes; and generally relating to
16 firm permits issued by the State Board for Professional Engineers.

17 BY renumbering

18 Article – Business Occupations and Professions
19 Section 14–402 and 14–403, respectively
20 to be Section 14–4A–01 and 14–4A–02, respectively, to be under the new
21 subtitle “Subtitle 4A. Miscellaneous Provisions”
22 Annotated Code of Maryland
23 (2010 Replacement Volume and 2012 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article – Business Occupations and Professions
26 Section 14–101; and 14–401 to be under the amended subtitle “Subtitle 4.
27 Permits”
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2010 Replacement Volume and 2012 Supplement)

2 BY adding to

3 Article – Business Occupations and Professions

4 Section 14–402 through 14–415, 14–501.1, and 14–502.1

5 Annotated Code of Maryland

6 (2010 Replacement Volume and 2012 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That Section(s) 14–402 and 14–403, respectively, of Article – Business
9 Occupations and Professions of the Annotated Code of Maryland be renumbered to be
10 Section(s) 14–4A–01 and 14–4A–02, respectively, to be under the new subtitle
11 “Subtitle 4A. Miscellaneous Provisions”.

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
13 read as follows:

14 **Article – Business Occupations and Professions**

15 14–101.

16 (a) In this title the following words have the meanings indicated.

17 **(B) “AFFILIATE” MEANS A PERSON THAT DIRECTLY, OR INDIRECTLY**
18 **THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, OR IS CONTROLLED BY,**
19 **A PERMIT HOLDER.**

20 **[(b)] (C)** “Board” means the State Board for Professional Engineers.

21 **[(c)] (D)** “Design coordination” means the review and coordination of
22 services provided by individuals licensed or certified under Titles 3, 8, 9, 14, and 15 of
23 this article.

24 **[(d)] (E)** “License” means, unless the context requires otherwise, a license
25 issued by the Board to practice engineering.

26 **[(e)] (F)** “License fee” means, as applicable, the fee paid in connection with
27 the issuance and renewal of a license and the issuance of a reciprocal license.

28 **(G) “MANAGING AGENT” MEANS A PROFESSIONAL ENGINEER**
29 **DESIGNATED AS THE MANAGING AGENT BY A PERMIT HOLDER UNDER § 14–403**
30 **OF THIS TITLE.**

31 **(H) “PERMIT” MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A**
32 **PERMIT ISSUED BY THE BOARD TO ALLOW A CORPORATION, PARTNERSHIP, OR**

1 **LIMITED LIABILITY COMPANY TO OPERATE A BUSINESS THROUGH WHICH A**
2 **PROFESSIONAL ENGINEER MAY PRACTICE ENGINEERING.**

3 **[(f)] (I)** (1) “Practice engineering” means to provide any service or
4 creative work the performance of which requires education, training, and experience in
5 the application of:

6 (i) special knowledge of the mathematical, physical, and
7 engineering sciences; and

8 (ii) the principles and methods of engineering analysis and
9 design.

10 (2) In regard to a building or other structure, machine, equipment,
11 process, works, system, project, or public or private utility, “practice engineering”
12 includes:

13 (i) consultation;

14 (ii) design;

15 (iii) evaluation;

16 (iv) inspection of construction to ensure compliance with
17 specifications and drawings;

18 (v) investigation;

19 (vi) planning; and

20 (vii) design coordination.

21 (3) “Practice engineering” does not include the exclusive and sole
22 performance of nontechnical management activities.

23 **[(g)] (J)** “Professional engineer” means, unless the context requires
24 otherwise, an engineer who is licensed by the Board to practice engineering.

25 **[(h)] (K)** (1) “Responsible charge” means direct control and personal
26 supervision of engineering that requires initiative, professional skill, and independent
27 judgment.

28 (2) “Responsible charge” includes responsible engineering teaching.

29 Subtitle 4. **[Miscellaneous Provisions] PERMITS.**

1 14-401.

2 (a) (1) Subject to the provisions of this [section] **SUBTITLE**, a professional
3 engineer may practice engineering for others through:

4 (i) a corporation as an officer, employee, or agent of the
5 corporation;

6 (ii) a limited liability company as a member, employee, or agent
7 of the limited liability company; or

8 (iii) a partnership as a partner, employee, or agent of the
9 partnership.

10 (2) Subject to the provisions of this [section] **SUBTITLE**, a corporation,
11 limited liability company, or partnership may provide engineering services through a
12 professional engineer.

13 (b) A professional engineer who practices engineering through a corporation,
14 limited liability company, or partnership under this [section] **SUBTITLE** shall be
15 subject to all of the provisions of this title that relate to practicing engineering.

16 (c) (1) A corporation, limited liability company, or partnership that
17 provides engineering services under this [section] **SUBTITLE** is not, by its compliance
18 with this [section] **SUBTITLE**, relieved of any responsibility that the corporation,
19 limited liability company, or partnership may have for an act or omission of its officer,
20 member, partner, employee, or agent.

21 (2) An individual who practices engineering through a corporation,
22 limited liability company, or partnership is not, by reason of the individual's
23 employment or other relationship with the corporation, limited liability company, or
24 partnership, relieved of any individual responsibility that the individual may have
25 regarding that practice.

26 **14-402.**

27 **(A) BEGINNING ON OCTOBER 1, 2015, EXCEPT AS PROVIDED IN**
28 **SUBSECTION (B) OF THIS SECTION, A CORPORATION, PARTNERSHIP, OR LIMITED**
29 **LIABILITY COMPANY SHALL HOLD A PERMIT ISSUED BY THE BOARD BEFORE**
30 **THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY MAY**
31 **OPERATE A BUSINESS THROUGH WHICH ENGINEERING IS PRACTICED.**

32 **(B) A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY**
33 **MAY PROVIDE ENGINEERING SERVICES FOR ITSELF OR ITS AFFILIATE WITHOUT**
34 **A PERMIT ISSUED BY THE BOARD.**

1 14-403.

2 (A) TO QUALIFY FOR A PERMIT, A CORPORATION, PARTNERSHIP, OR
3 LIMITED LIABILITY COMPANY SHALL MEET THE REQUIREMENTS OF THIS
4 SECTION.

5 (B) (1) A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY
6 COMPANY SHALL DESIGNATE A MARYLAND PROFESSIONAL ENGINEER IN GOOD
7 STANDING TO BE THE MANAGING AGENT FOR THE ENTITY.

8 (2) THE MANAGING AGENT SHALL BE:

9 (I) IN A POSITION TO ACT ON BEHALF OF, AND
10 RESPONSIBLE FOR, THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY
11 COMPANY IN MATTERS RELATED TO THE PRACTICE OF OR THE OFFERING OF
12 THE PRACTICE OF ENGINEERING; AND

13 (II) AN EMPLOYEE, AN OWNER, A DIRECTOR, AN OFFICER, A
14 MEMBER, OR A PARTNER, AS APPLICABLE, OF THE ENTITY SEEKING A PERMIT.

15 (C) A LICENSEE MAY NOT BE DESIGNATED AS A MANAGING AGENT FOR
16 MORE THAN ONE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY
17 COMPANY THAT PROVIDES OR OFFERS TO PROVIDE ENGINEERING SERVICES,
18 EXCEPT IF THE OTHER ENTITY IS AN AFFILIATE OF A PERMIT HOLDER.

19 14-404.

20 (A) AN APPLICANT FOR A PERMIT SHALL:

21 (1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT
22 THE BOARD PROVIDES; AND

23 (2) PAY TO THE BOARD A NONREFUNDABLE APPLICATION FEE
24 SET BY THE BOARD.

25 (B) IN ADDITION TO ANY OTHER INFORMATION REQUIRED ON AN
26 APPLICATION FORM, THE FORM SHALL REQUIRE:

27 (1) THE NAME AND ADDRESS OF THE MANAGING AGENT; AND

28 (2) A NOTARIZED STATEMENT THAT THE MANAGING AGENT IS AN
29 EMPLOYEE, AN OWNER, A DIRECTOR, AN OFFICER, A MEMBER, OR A PARTNER,
30 AS APPLICABLE, OF THE ENTITY SEEKING A PERMIT.

1 14-405.

2 THE BOARD SHALL ISSUE A PERMIT TO EACH APPLICANT THAT MEETS
3 THE REQUIREMENTS OF THIS SUBTITLE AND PAYS TO THE BOARD A PERMIT FEE
4 SET BY THE BOARD.

5 14-406.

6 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION AND WHILE A
7 PERMIT IS IN EFFECT, THE PERMIT AUTHORIZES THE HOLDER TO:

8 (1) OPERATE A BUSINESS THROUGH WHICH A PROFESSIONAL
9 ENGINEER OR AN INDIVIDUAL AUTHORIZED TO PRACTICE ENGINEERING UNDER
10 § 14-303 OF THIS TITLE PRACTICES OR OFFERS TO PRACTICE ENGINEERING;
11 AND

12 (2) REPRESENT TO THE PUBLIC THAT THE BUSINESS PROVIDES
13 OR OFFERS TO PROVIDE THE SERVICES OF A PROFESSIONAL ENGINEER.

14 (B) A PERMIT AUTHORIZES THE HOLDER TO PROVIDE A SERVICE THAT
15 CONSTITUTES THE PRACTICE OF ENGINEERING ONLY IF THE SERVICE IS
16 PERFORMED BY AN INDIVIDUAL WHO IS LICENSED OR OTHERWISE AUTHORIZED
17 TO PRACTICE ENGINEERING UNDER THIS TITLE.

18 14-407.

19 (A) UNLESS A PERMIT IS RENEWED FOR A 2-YEAR TERM AS PROVIDED
20 IN THIS SECTION, THE PERMIT EXPIRES ON THE FIRST JUNE 30 THAT COMES:

21 (1) AFTER THE EFFECTIVE DATE OF THE PERMIT; AND

22 (2) IN AN EVEN-NUMBERED YEAR.

23 (B) AT LEAST 1 MONTH BEFORE A PERMIT EXPIRES, THE BOARD SHALL
24 MAIL TO THE PERMIT HOLDER, AT THE LAST KNOWN ADDRESS OF THE HOLDER:

25 (1) A RENEWAL APPLICATION FORM; AND

26 (2) A NOTICE THAT STATES:

27 (I) THE DATE ON WHICH THE CURRENT PERMIT EXPIRES;

1 **(II) THE DATE BY WHICH THE BOARD MUST RECEIVE THE**
2 **RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE**
3 **THE PERMIT EXPIRES; AND**

4 **(III) THE AMOUNT OF THE PERMIT FEE.**

5 **(C) BEFORE A PERMIT EXPIRES, THE PERMIT HOLDER MAY RENEW THE**
6 **PERMIT PERIODICALLY FOR AN ADDITIONAL 2-YEAR TERM IF THE HOLDER:**

7 **(1) OTHERWISE IS ENTITLED TO A PERMIT;**

8 **(2) PAYS TO THE BOARD A PERMIT FEE SET BY THE BOARD; AND**

9 **(3) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE**
10 **FORM THAT THE BOARD PROVIDES.**

11 **(D) THE RENEWAL APPLICATION FORM SHALL REQUIRE THE SAME**
12 **INFORMATION REQUIRED ON THE ORIGINAL APPLICATION FORM UNDER §**
13 **14-404(B) OF THIS SUBTITLE.**

14 **(E) THE BOARD SHALL RENEW THE PERMIT OF EACH PERMIT HOLDER**
15 **THAT MEETS THE REQUIREMENTS OF THIS SECTION.**

16 **14-408.**

17 **WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THE CHANGE OR**
18 **OCCURRENCE, A PERMIT HOLDER SHALL NOTIFY THE BOARD IN WRITING IF**
19 **THERE HAS BEEN A CHANGE IN:**

20 **(1) THE IDENTITY OF THE MANAGING AGENT; OR**

21 **(2) THE NAME OF THE CORPORATION, PARTNERSHIP, OR LIMITED**
22 **LIABILITY COMPANY.**

23 **14-409.**

24 **(A) SUBJECT TO THE HEARING PROVISIONS OF § 14-410 OF THIS**
25 **SUBTITLE, THE BOARD, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS**
26 **MEMBERS THEN SERVING, MAY DENY A PERMIT TO ANY APPLICANT, REPRIMAND**
27 **A PERMIT HOLDER, OR SUSPEND OR REVOKE A PERMIT IF:**

28 **(1) THE APPLICANT OR PERMIT HOLDER FRAUDULENTLY OR**
29 **DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A PERMIT;**

1 **(2) THE PERMIT HOLDER FRAUDULENTLY OR DECEPTIVELY USES**
2 **A PERMIT; OR**

3 **(3) THE APPLICANT OR PERMIT HOLDER FAILS TO MEET OR**
4 **CONTINUE TO MEET THE QUALIFICATIONS OR REQUIREMENTS SET FORTH IN**
5 **THIS SUBTITLE.**

6 **(B) (1) INSTEAD OF OR IN ADDITION TO REPRIMANDING THE PERMIT**
7 **HOLDER OR SUSPENDING OR REVOKING A PERMIT UNDER SUBSECTION (A) OF**
8 **THIS SECTION, THE BOARD MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000**
9 **FOR EACH VIOLATION.**

10 **(2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED**
11 **UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:**

12 **(I) THE SERIOUSNESS OF THE VIOLATION;**

13 **(II) THE HARM CAUSED BY THE VIOLATION;**

14 **(III) THE GOOD FAITH OF THE PERMIT HOLDER; AND**

15 **(IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE PERMIT**
16 **HOLDER.**

17 **(C) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER**
18 **SUBSECTION (B) OF THIS SECTION INTO THE GENERAL FUND OF THE STATE.**

19 **14-410.**

20 **(A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE**
21 **GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER**
22 **§ 14-409 OF THIS SUBTITLE, IT SHALL GIVE THE PERSON AGAINST WHOM THE**
23 **ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE**
24 **BOARD.**

25 **(B) THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN**
26 **ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT**
27 **ARTICLE.**

28 **(C) AT LEAST 30 DAYS BEFORE THE HEARING, THE HEARING NOTICE**
29 **AND A COPY OF THE COMPLAINT SHALL BE:**

1 **(1) SERVED PERSONALLY ON THE APPLICANT OR ON THE**
2 **MANAGING AGENT OF THE ENTITY HOLDING THE PERMIT; OR**

3 **(2) MAILED TO THE LAST KNOWN BUSINESS ADDRESS OF THE**
4 **APPLICANT OR THE ENTITY HOLDING THE PERMIT.**

5 **(D) IF, AFTER DUE NOTICE, THE PERSON AGAINST WHOM THE ACTION IS**
6 **CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE BOARD MAY HEAR AND**
7 **DETERMINE THE MATTER.**

8 **14-411.**

9 **(A) (1) FOR THE LIMITED PURPOSE SET FORTH IN PARAGRAPH (2) OF**
10 **THIS SUBSECTION, A PERMIT SHALL REMAIN IN EFFECT AND DOES NOT EXPIRE**
11 **BY OPERATION OF LAW WHILE THE PERMIT HOLDER IS UNDER INVESTIGATION**
12 **BY THE BOARD OR AWAITING A HEARING OR DISPOSITION ON CHARGES**
13 **SUBJECT TO DISCIPLINARY ACTION UNDER THIS SUBTITLE.**

14 **(2) AN EXTENSION OF A PERMIT TERM UNDER THIS SUBSECTION**
15 **IS EFFECTIVE ONLY FOR THE PURPOSE OF RETAINING THE JURISDICTION OF**
16 **THE BOARD OVER THE PERMIT HOLDER DURING THE COURSE OF DISCIPLINARY**
17 **PROCEEDINGS AND DOES NOT PREVENT THE PERMIT FROM EXPIRING FOR ANY**
18 **OTHER PURPOSE.**

19 **(B) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER, A**
20 **PERMIT HOLDER MAY NOT SURRENDER A PERMIT WHILE THE HOLDER IS UNDER**
21 **INVESTIGATION OR AWAITING A HEARING OR DISPOSITION ON CHARGES**
22 **SUBJECT TO DISCIPLINARY ACTION UNDER THIS SUBTITLE.**

23 **14-412.**

24 **A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY WHOSE**
25 **PERMIT HAS BEEN SUSPENDED OR REVOKED UNDER § 14-409 OF THIS**
26 **SUBTITLE MAY NOT OFFER OR PROVIDE ENGINEERING SERVICES UNTIL THE**
27 **SUSPENSION IS LIFTED OR THE PERMIT IS REINSTATED.**

28 **14-413.**

29 **(A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE BOARD MAY**
30 **REINSTATE:**

31 **(1) A PERMIT THAT HAS BEEN REVOKED; OR**

1 **(2) BEFORE FULFILLMENT OF THE CONDITIONS OF THE**
2 **SUSPENSION, A PERMIT THAT HAS BEEN SUSPENDED.**

3 **(B) A PERMIT MAY BE REINSTATED UNDER THIS SECTION ONLY IF:**

4 **(1) THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY**
5 **COMPANY WHOSE PERMIT HAS BEEN REVOKED OR SUSPENDED SUBMITS A**
6 **WRITTEN REQUEST TO THE BOARD; AND**

7 **(2) THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY**
8 **COMPANY PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE BOARD.**

9 **(C) THE BOARD, BY AN AFFIRMATIVE VOTE OF A MAJORITY OF ITS**
10 **MEMBERS THEN SERVING, SHALL VOTE ON THE REQUEST FOR REINSTATEMENT**
11 **OR LIFTING OF THE SUSPENSION WITHIN 60 DAYS AFTER RECEIPT OF THE**
12 **REQUEST.**

13 **14-414.**

14 **THE BOARD MAY REINSTATE THE PERMIT OF A CORPORATION,**
15 **PARTNERSHIP, OR LIMITED LIABILITY COMPANY THAT HAS FAILED TO RENEW**
16 **THE PERMIT FOR ANY REASON IF THE CORPORATION, PARTNERSHIP, OR**
17 **LIMITED LIABILITY COMPANY:**

18 **(1) OTHERWISE IS ENTITLED TO A PERMIT; AND**

19 **(2) PAYS TO THE BOARD A REINSTATEMENT FEE SET BY THE**
20 **BOARD.**

21 **14-415.**

22 **AFTER THE BOARD REINSTATES A PERMIT, THE PERMIT HOLDER SHALL**
23 **CONTINUE TO COMPLY WITH ALL APPLICABLE REQUIREMENTS SET FORTH IN**
24 **THIS SUBTITLE.**

25 **14-501.1.**

26 **EXCEPT FOR A PROFESSIONAL ENGINEER WHO OPERATES A BUSINESS AS**
27 **A SOLE PRACTITIONER, A PERSON MAY NOT OPERATE A BUSINESS THROUGH**
28 **WHICH ENGINEERING SERVICES ARE PERFORMED OR OFFERED TO BE**
29 **PERFORMED UNLESS:**

1 **(1) THE BUSINESS IS A CORPORATION, PARTNERSHIP, OR**
2 **LIMITED LIABILITY COMPANY; AND**

3 **(2) THE CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY**
4 **COMPANY HOLDS A PERMIT ISSUED BY THE BOARD.**

5 **14-502.1.**

6 **(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION AND UNLESS A**
7 **PERSON HOLDS A PERMIT ISSUED BY THE BOARD, THE PERSON MAY NOT**
8 **REPRESENT TO THE PUBLIC, BY THE USE OF A TITLE, INCLUDING “LICENSED**
9 **PROFESSIONAL ENGINEERS”, “PROFESSIONAL ENGINEERS”, OR “REGISTERED**
10 **ENGINEERS”, BY THE USE OF THE TERM “PROFESSIONAL ENGINEERING” OR**
11 **“ENGINEERING”, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES,**
12 **OR OTHERWISE, THAT THE PERSON HOLDS A PERMIT OR OTHERWISE IS**
13 **AUTHORIZED TO OPERATE A BUSINESS THROUGH WHICH ENGINEERING IS**
14 **PRACTICED IN THE STATE.**

15 **(B) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO A**
16 **PROFESSIONAL ENGINEER WHO OPERATES THE BUSINESS AS A SOLE**
17 **PRACTITIONER.**

18 **SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect**
19 **October 1, 2013.**