

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/CS/CS/SB 616

INTRODUCER: Rules Committee; Community Affairs Committee; Innovation, Industry, and Technology Committee; and Senators Perry and Hutson

SUBJECT: Engineering

DATE: April 23, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer/Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
2.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	<u>Kraemer/Oxamendi</u>	<u>Phelps</u>	<u>RC</u>	<u>Fav/CS</u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/CS/SB 616 authorizes the Florida Board of Professional Engineers (board) to establish minimum standards of practice for the profession of engineering and to establish responsibility rules for the profession of engineering. The bill revises the licensure requirements for professional engineers by permitting a license applicant to complete the required years of work experience after sitting for the license examination. Currently, an applicant must satisfy the experience work requirement before sitting for the examination. The bill increases the required experience for a person who graduated with a four-year degree from an engineering technology program, from four years to six years of work experience.

The bill repeals the right of an applicant who does not have the required education, to qualify to sit for the license examination if the person was engaged in 10 years or more of active engineering work experience on July 1, 1981. The bill also:

- Requires an engineering license applicant to be at least 18 years of age;
- Tolls the 90-day period within which the board must grant or deny an application when an applicant is required to make a personal appearance before the board;
- Specifies the stages of construction during which a special inspector must perform structural inspections on a threshold building, which is a building greater than three stories or 50 feet in height, or which has an assembly occupancy classification that exceeds 5,000 square feet in area and an occupancy of greater than 500 persons;

- Provides for shortened deadlines and time frames for notices to, and actions by, local building officials when a private provider performs plans review and inspections;
- Provides for shortened time frames for local building officials to issue building permits and notices of plan deficiencies; and
- Authorizes a successor engineer to independently re-create and seal documents that were previously created and sealed by the original engineer, and delineates the obligations of the successor and original engineer.

The bill has no fiscal impact on state government.

The bill provides an effective date of October 1, 2019.

## II. Present Situation:

### Florida Board of Professional Engineers

The practice of engineering is regulated by the board. Unlike most Department of Business and Professional Regulation (DBPR) professions, the administrative, investigative, and prosecutorial services for the board are not provided by DBPR. The DBPR contracts with the Florida Engineers Management Corporation (FEMC), a non-profit corporation, to provide such services.<sup>1</sup> The FEMC is a public-private nonprofit association that has contracted with the DBPR to handle administrative, investigative, and prosecutorial services for the Board of Professional Engineers.<sup>2</sup>

Section 471.008, F.S., authorizes the board to adopt rules to implement the provisions of ch. 471, F.S., and ch. 455, F.S., which provides the general licensing procedures for professional licensing by the DBPR and its professional licensing boards.

The board has adopted responsibility rules for the profession of engineering.<sup>3</sup> The responsibility rules address a variety of issues, including minimum requirements for engineering documents,<sup>4</sup> and requirements for the retention of engineering documents.<sup>5</sup>

There were 64,219 licensed professional engineers in Fiscal Year 2017-2018.<sup>6</sup> The FEMC processed 310 complaints regarding engineering practice during that period. Only 261 complaints were found to be legally sufficient to proceed, and the FEMC filed 112

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<sup>1</sup> Section 471.038(3), F.S.

<sup>2</sup> See the Annual Report of the FEMC for FY 2017-2018 at <https://fbpe.org/wp-content/uploads/2018/09/2017-2018-FEMC-Annual-Report.pdf> (last visited Apr. 4, 2019), and the contract between DBPR and FEMC for the period between July 1, 2017 and June 30, 2021 at <https://fbpe.org/wp-content/uploads/2018/07/FEMC-DBPR-Contract-2017.pdf> (last visited Apr. 4, 2019).

<sup>3</sup> The responsibility rules are in Fla. Admin. Code Chapters 61G15-30, 61G15-31, 61G15-32, and 61G15-33 (2019).

<sup>4</sup> Fla. Admin. Code R. 61G15-30.003 (2019).

<sup>5</sup> Fla. Admin. Code R. 61G15-30.009 (2019).

<sup>6</sup> There were 526 inactive professional licenses in that fiscal year. See *Annual Report, Division of Professions, Division of Certified Public Accounting, Division of Real Estate, and Division of Regulation, Fiscal Year 2017-2018*, at p. 19, at <http://www.myfloridalicense.com/DBPR/os/documents/ProfessionsAnnualReport2017-2018.pdf> (last visited Apr. 4, 2019).

administrative complaints in cases where probable cause was found relating to a violation of the practice act.<sup>7</sup>

### **Professional Engineer License Qualifications**

Section 471.013, F.S., provides the license qualifications for a professional engineer. In order to be licensed as a professional engineer, a person must successfully pass two examinations: the fundamentals examination and the principles and practices examination. Prior to being permitted to sit for the fundamentals examination, an applicant must have:

- Graduated from an approved engineering curriculum of four years or more in a board-approved school, college, or university; and
  - Have a record of four years of active engineering experience of a character indicating competence to be in responsible charge of engineering;<sup>8</sup> or
- Graduated from an approved engineering technology curriculum of four years or more in an board-approved school, college, or university within the State University System, having been enrolled or graduated before July 1, 1979; and
  - Have a record of four years of active engineering experience of a character indicating competence to be in responsible charge of engineering.<sup>9</sup>

Alternatively, if an applicant does not have the required education, the applicant may qualify for an engineer license with work experience consisting of 10 years or more of active engineering work of a character indicating the applicant is competent to be placed in responsible charge of engineering. To qualify for licensure based solely on satisfying the experience requirement, the applicant must have notified the DBPR before July 1, 1984, that she or he was engaged in such work on July 1, 1981.

### **Licensing Procedure – Appearing Before the Board**

Section 471.015(2), F.S., requires the board to certify for licensure any applicant who satisfies the requirements of s. 471.013, F.S.

The board may require personal appearance by any applicant for licensure. The board must give the applicant adequate notice of the time and place of the appearance and provide the applicant a statement of the purpose of and reasons requiring the appearance.<sup>10</sup>

### **Certificates of Authorization**

Section 471.005, F.S., defines “certificate of authorization” as a license to practice engineering issued by the FEMC to a corporation or partnership. Section 471.023, F.S., requires business

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<sup>7</sup> See the Annual Report of the FEMC for FY 2017-2018 at <https://fbpe.org/wp-content/uploads/2018/09/2017-2018-FEMC-Annual-Report.pdf>, at pages 4-5 (last visited Mar. 27, 2019), which indicates the FEMC also filed 30 Final Orders with DBPR; entered 15 Settlement Stipulations; dismissed four cases after re-consideration; issued nine reprimands, five suspensions, five probations, five project reviews, and one license restriction; and imposed \$36,768.50 in administrative costs and \$38,400.00 in fines; The board also issued 30 final orders against licensees.

<sup>8</sup> Section 471.013, F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Section 471.015(6), F.S.

organizations that offer engineering services in Florida to obtain a certificate of authorization. The certification is issued by the FEMC pursuant to qualification by the board. The law requires at least one principal officer or partner, and all personnel who act on its behalf as engineers, of the business to be licensed professional engineers. The certification must be renewed every two years, and each certified business organization is required to notify the board within one month after changing information contained in the application.

Section 471.011, F.S., authorizes the board by rule to establish fees to be paid for applications, examination, reexamination, licensing and renewal, inactive status applications and reactivation of inactive licenses, and recordmaking and recordkeeping. It also provides that the fee for a certificate of authorization shall not exceed \$125.

### **Special Inspectors of Threshold Buildings**

Section 471.015(7), F.S., authorizes the board to establish by rule the qualifications for certification of licensees as inspectors of threshold buildings. A “threshold building” is “any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification as defined in the Florida Building Code which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.”<sup>11</sup>

The board is also authorized to establish minimum qualifications for the qualified representative of the special inspector who is authorized to perform inspections of threshold buildings on behalf of the special inspector. Current law does not authorize the board to establish minimum training or education requirements for maintaining a certification or qualification as a special inspector.

The agency charged with enforcing the building code (enforcing agency)<sup>12</sup> must require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record.<sup>13</sup>

### **Use of Engineer Seals**

Section 471.025(1), F.S., authorizes the board to prescribe, by rule, one or more forms of seal to be used by licensed engineers. Each licensee must obtain at least one seal. All final drawings, specifications, plans, reports, or documents prepared or issued by the licensee and filed for public record and all final documents provided to the owner or the owner’s representative must be signed by the licensee, dated, and sealed with the seal. The signature, date, and seal are evidence of the authenticity of the document to which they are affixed.

A licensee may not affix or permit to be affixed his or her seal, name, or digital signature to any plan, specification, drawing, final bid document, or other document that depicts work which he or she is not licensed to perform or which is beyond his or her profession or specialty.<sup>14</sup>

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<sup>11</sup> See s. 553.71(12), F.S.

<sup>12</sup> See s. 553.71(5), F.S., defining the term “local enforcement agency.”

<sup>13</sup> Section 553.79(5)(a), F.S.

<sup>14</sup> Section 471.025(3), F.S.

Current law does not authorize a successor engineer to independently re-create and seal documents that were previously created and sealed by the original engineer, or delineate the obligations of the successor or original engineer in regards to prior work and documents assumed by the successor engineer.

### **III. Effect of Proposed Changes:**

#### **Reinstatement of Void Licenses**

**Sections 1 and 5** of the bill amend s.455.271, F.S., and s. 471.019, F.S., respectively, to eliminate a requirement that a delinquent licensee must apply for licensure when a professional or occupational license expires. Current law providing such expired licenses are void, without any further action by the applicable board or the DBPR, is retained. Rulemaking authority is granted to the applicable board or the DBPR to adopt rules for license reinstatement, including continuing education requirements for professional engineers not to exceed the continuing education required to renew a license, as set forth in s. 471.017, F.S.

#### **Rulemaking Authority**

**Section 2** of the bill amends s. 471.008, F.S., to authorize the board to establish minimum standards of practice for the profession of engineering and to establish responsibility rules for the profession of engineering.

#### **License Qualifications (Age, Examination Eligibility, and Required Experience)**

**Section 3** of the bill amends s. 471.013(1)(a), F.S., to delete the requirement that an engineering license applicant have four or more years of active engineering experience before the applicant may sit for the fundamentals examination. The educational requirement for taking the fundamentals examination is amended to allow, in addition to a four-year degree in engineering, a four-year engineering technology degree if the approved curriculum at a program has been approved by the board.

The bill repeals the provision in s. 471.013(1)(a)3., F.S., which permits an applicant who does not have the required education, to qualify to sit for the fundamentals examination if the person was engaged in 10 years or more of active engineering work experience on July 1, 1981, and notified the DBPR before July 1, 1984, that she or he was engaged in such work.

**Section 4** of the bill amends s. 471.015(2)(a), F.S., to require license applicants to provide proof to the board that he or she is at least 18 years of age. Current law does not provide a minimum age requirement.

The bill also revises licensure requirements by permitting a license applicant to complete the required experience after sitting for the license examination. Currently, an applicant must satisfy the experience requirement before sitting for the examination. Under the bill, a graduate from an approved four-year engineering curriculum must have a record of four years of active engineering experience of a character indicating competence to be in responsible charge of engineering before the person may qualify for a license. This is the same experience currently required to sit for the license examination.

However, the bill increases the required experience for a person who graduated with a four-year degree in engineering technology from four years to six years of work experience.

### **Licensing Procedure – Appearing Before the Board**

**Section 4** of the bill also amends s. 471.015(6), F.S., to provide that the period within which an application must be granted or denied is tolled until such time as the applicant appears when required to make a personal appearance before the board. The bill provides the board may deny a license if the applicant fails to appear before the board at either of the next two regularly scheduled board meetings.<sup>15</sup>

### **Use of Engineer Seals**

**Section 6** of the bill amends s. 471.025(4), F.S., to require a successor engineer seeking to reuse documents previously sealed by another engineer to independently re-create all of the work done previously.

A successor engineer assumes full professional and legal responsibility by signing and affixing his or her seal to the assumed documents, which must be treated as though they were the successor engineer's original product. The original engineer is released from any professional responsibility or civil liability for prior work assumed by the successor engineer.

### **Special Inspections of Threshold Buildings**

**Section 7** of the bill amends s. 553.79, F.S., relating to building construction permits, to provide that the authority of an enforcement agency to require a special inspector to perform structural inspections on the threshold building applies during new construction or during repair or restoration projects in which the structural system or structural loading of a building is being modified.

### **Alternative Plans Review and Inspection Notices to Local Building Officials**

**Section 8** of the bill provides for shortened deadlines for various notices required by s. 553.791(4) and (5), F.S., to be provided to a local building official when a private provider is retained to perform construction inspection services on a project. Notices that a private provider will perform required inspections must be provided to the local building official either:

- At the time of application; or
- No later than 2 p.m. local time, 2 business days before the first scheduled inspection (previously not less than seven days before).

Once construction begins, if the local building official is unable to provide inspection services in a timely manner, a notice that the owner has elected to retain a private provider to provide inspection services must be provided to the local building official no later than 2 p.m. local time, 2 business days before the next scheduled inspection (previously no less than seven days before).

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<sup>15</sup> Section 120.60(1), F.S.

The bill also amends s. 553.791(9), F.S., to provide that a local building official may not prohibit a private provider from performing inspections outside of normal operating hours, on weekends, or on holidays.

#### **Time Frames for Issuance of Building Permits for Private Providers**

**Section 8** of the bill also amends s. 553.791(7), F.S., to shorten time frames to 20 days from 30 days, for local building officials to issue building permits and notices of construction plan deficiencies.

#### **Other Revisions**

The bill includes technical drafting changes, conforming changes, and elimination of obsolete language.

#### **Effective Date**

The bill provides an effective date of October 1, 2019.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 455.271, 471.008, 471.013, 471.015, 471.019, 471.025, 553.79, and 553.791.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS/CS by Rules on April 23, 2019:**

The committee substitute:

- Eliminates a reduction in the years of experience and length of licensure in other jurisdictions for applicants to qualify for licensure by endorsement without passing license examinations;
- Deletes a change in the designation of the Department of State as a temporary licensee's agent for service of process as a requirement for licensure, retaining current law that such a designation occurs upon filing an application for temporary licensure;
- Revises shortened deadlines and time frames for notices to, and actions by, local building officials when a private provider performs plans review and inspections by one day (to 2 pm two days before inspections); and
- Expands shortened time frames for local building officials to issue building permits and notices of plan deficiencies, by five additional days (from 15 days, to 20 days).

**CS/CS by Community Affairs on April 9, 2019:**

- Restores a previously deleted requirement for engineering firms to obtain and pay for certifications of authorization as well as the fee amount for such certifications;
- Removes provisions for registration of engineering firms; and
- Removes requirements for qualifying agents and engineering firms, when the agent is no longer affiliated with the engineering firm, to allow work to continue temporarily.

**CS by Innovation, Industry, and Technology on March 26, 2019:**



The committee substitute:

- Revises the licensure requirements for professional engineers by permitting a license applicant to complete the required years of work experience after sitting for the license examination;
- Repeals right of an applicant who does not have the required education, to qualify to sit for the license examination if the person was engaged in 10 years or more of active engineering work experience on July 1, 1981;
- Reduces requirements for experience and length of licensure in other jurisdictions for applicants to qualify for licensure by endorsement without passing license examinations;
- Eliminates a requirement for engineering firms to obtain and pay for certifications of authorization;
- Provides for registration of engineering firms;
- Requires an engineering license applicant to be at least 18 years of age;
- Tolls the 90-day period within which the board must grant or deny an application when an applicant is required to make a personal appearance before the board;
- Specifies the stages of construction during which a special inspector must perform structural inspections on a threshold building, which is a building greater than three stories or 50 feet in height, or which has an assembly occupancy classification that exceeds 5,000 square feet in area and an occupancy of greater than 500 persons;
- Provides for shortened deadlines and time frames for notices to, and actions by, local building officials when a private provider performs plans review and inspections;
- Provides for shortened time frames for local building officials to issue building permits and notices of plan deficiencies;
- Adds requirements for qualifying agents and engineering firms, when the agent is no longer affiliated with the engineering firm, to allow work to continue temporarily; and
- Authorizes a successor engineer to independently re-create and seal documents that were previously created and sealed by the original engineer, and delineates the obligations of the successor and original engineer.

B. Amendments:

None.