WEST VIRGINIA CODE CHAPTER 30 ARTICLE 19

WV Legislature

§30-19-1. Use of descriptive title restricted.

(a) No person may use in connection with his or her name or otherwise assume, use or advertise any title or description tending to convey the impression that he or she is a registered forester or registered forestry technician unless he or she is certified in accordance with this article.

(b) Nothing contained in this article shall be construed as preventing any person, firm, partnership or corporation from practicing forestry, managing woodlands or forests, removing any products or planting trees on any land, in any manner desired.

WV Legislature

§30-19-2. Applicable law.

The practice of forestry and the state Board of Registration of Foresters are subject to article one of this chapter, this article, and any rules promulgated hereunder.

WV Legislature

§30-19-3. Definitions.

As used in this article, the following words and terms have the following meanings:

(a) "Board" means the state Board of Registration of Foresters.

(b) "Certificate" means a certificate issued to practice as a registered forester or registered forestry technician.

(c) "Certification" means a certificate issued under the provisions of this article.

(d) "Certified" means a person holding a certification issued under the provisions of this article.

(e) "Forester" means a person who has acquired specialized forestry training by reason of his or her knowledge of the natural sciences, mathematics, silviculture, forest protection, forest management, forest economics and forest utilization, acquired by professional forestry education and practical experience.

(f) "Forester-in-training" or "Forestry technician-in- training" means a person who possesses the necessary educational qualifications as prescribed in this article for certification, but who has not completed the experience requirements in the field of forestry as required for certification.

(g) "Forestry" means the professional practice embracing the science, business, and the art of creating, conserving and managing forests and forestlands for the sustained use and enjoyment of their resources, material or other forest produce.

(h) "Practice of forestry" means professional forestry services, including the consultation, investigation, evaluation, planning or responsible supervision of any forestry activities when such professional service requires the application of forestry principles and techniques.

(i) "Permit" means a document issued as evidence of qualification to practice as a forester-in-training or forestry technician-in-training under this article.

(j) "Permitee" means a person holding a permit issued under the provisions of this article.

(k) "Registered Forester" means a forester certified under this article.

(l) "Registered Forestry Technician" means a forestry technician certified under this article.

WV Legislature

§30-19-4. State Board of Registration of Foresters.

(a) The State Board of Registration of Foresters is continued. The members of the board in office on July 1, 2009, shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified.

(b) To be effective on July 1, 2009, the Governor shall appoint, by and with the advise and consent of the Senate, a registered forestry technician to replace the board member whose term ends on June 30, 2009.

(c) Commencing July 1, 2009, the board shall consist of the following five members:

(1) Four registered foresters; and

(2) One registered forestry technician.

(d) Each member shall be appointed by the Governor, by and with the consent of the Senate, from five nominees recommended by the West Virginia Division of the Society of American Foresters. The term is for five years.

(e) A member may not serve more than two consecutive full terms. A member having served two consecutive full terms may not be appointed for one year after completion of his or her second full term. A member may continue to serve until a successor has been appointed and qualified.

(f) Each member of the board shall be a resident of West Virginia during the appointment term.

(g) Each member must have been certified in this state for a period of not less than three years prior to his or her appointment and must have engaged in the practice of forestry for at least ten years.

(h) Each member shall maintain an active certification with the board.

(i) The Governor may remove any member from the board for neglect of duty, incompetency or official misconduct.

(j) A member of the board immediately and automatically forfeits membership to the board if his or her certification has been suspended or revoked, is convicted of a felony under the laws of any jurisdiction, or becomes a nonresident of this state.

(k) The board shall elect annually one of its members as chairperson and one member as secretary who shall serve at the will and pleasure of the board.

(l) Each member of the board is entitled to compensation and expense reimbursement in accordance with article one of this chapter.

WV Legislature

(m) A majority of the members serving on the board constitutes a quorum.

(n) The board shall hold at least two meetings annually. Other meetings shall be held at the call of the chairperson or upon the written request of two members, at such time and place as designated in the call or request.

(o) Prior to commencing his or her duties as a member of the board, each member shall take and subscribe to the oath required by section five, article four of the Constitution of this state.

WV Legislature

§30-19-5. Powers and duties of the board.

(a) The board has all the powers and duties set forth in this article, by rule, in article one of this chapter and elsewhere in law.

(b) The board shall:

(1) Hold meetings, conduct hearings and administer examinations;

(2) Establish requirements for a certification or permit;

(3) Establish procedures for submitting, approving and rejecting applications for a certification or permit;

(4) Determine the qualifications of any applicant for a certification or permit;

(5) Prepare, conduct, administer and grade written, oral or written and oral examinations for a certificate;

(6) Determine the passing grade for the examinations;

(7) Maintain records of the examinations the board or a third party administers, including the number of persons taking the examination and the pass and fail rate;

(8) Maintain an office, and hire, discharge, establish the job requirements and fix the compensation of employees and contracted employees necessary to enforce this article;

(9) Investigate alleged violations of this article, legislative rules, orders and final decisions of the board;

(10) Conduct disciplinary hearings of persons regulated by the board;

(11) Determine disciplinary action and issue orders;

(12) Institute appropriate legal action for the enforcement of this article;

(13) Maintain an accurate registry of names and addresses of all persons regulated by the board;

(14) Keep accurate and complete records of its proceedings, and certify the same as may be necessary and appropriate;

(15) Establish, by legislative rule, the continuing education requirements for certificate holders and permittees; and

(16) Propose rules in accordance with article three, chapter twenty-nine-a of this code to implement this article.

WV Legislature

(c) The board may:

(1) Contract with third parties to administer the examinations required under this article;

(2) Define, by legislative rule, the fees charged under this article;

(3) Issue, renew, deny, suspend, revoke or reinstate a certification or permit;

(4) Sue and be sued in its official name as an agency of this state;

(5) Confer with the Attorney General or his or her assistant in connection with legal matters and questions; and

(6) Take all other actions proper to effectuate the purposes of this article.

WV Legislature

§30-19-6. Rulemaking.

(a) The board shall propose rules for legislative approval, in accordance with article three, chapter twenty-nine-a of this code, to implement this article, including:

(1) Standards and requirements for a certification and permit;

(2) Procedures for examinations and reexaminations;

(3) Requirements for third parties to prepare and/or administer examinations and reexaminations;

(4) Educational and experience requirements, and the passing grade on the examination;

(5) Standards for ethical conduct;

(6) Procedures for the issuance and renewal of a certification and permit;

(7) A fee schedule;

(8) Continuing education requirements for a certificate holder and permittee;

(9) Procedures for denying, suspending, revoking, reinstating or limiting the practice of a certificate holder or permittee;

(10) Requirements for inactive or revoked certificate and permit; and

(11) Any other rules necessary to effectuate the provisions of this article.

(b) All of the board's rules in effect on the effective date of this article shall remain in effect until amended or repealed, and references to former enactments of this act are interpreted to mean this article.

WV Legislature

§30-19-7. Fees; special revenue account; administrative fines.

(a) All fees and other moneys, except administrative fines, received by the board shall be deposited in a separate special revenue fund in the state Treasury designated the "Board of Foresters Fund", which fund is continued. The fund shall be used by the board for the administration of this article. Except as provided in article one of this chapter, the board shall retain the amounts in the special revenue account from year to year. No compensation or expense incurred under this article is a charge against the General Revenue Fund.

(b) Any amounts received as administrative fines imposed pursuant to this article shall be deposited into the General Revenue Fund of the state Treasury.

WV Legislature

§30-19-8. General requirements to be certified as a registered forester.

(a) To be eligible to be certified as a registered forester, the applicant must:

(1) Be of good moral character;

(2) Have a high school diploma or its equivalent;

(3) Have obtained either:

(A) Completion of a four-year degree program or masters degree program in forest management, accredited by the Society of American Foresters, or other accrediting body as determined by the board, and have two years related experience in the field of forestry; or

(B) Completion of a two-year technical forestry program in a program accredited or recognized by the Society of American Foresters, completion of a bachelor's degree in a field used in the practice of forestry as approved by the board and four years related experience in the field of forestry;

(4) Successfully pass an examination approved by the board.

(b) Those persons licensed by the board as a forester as of the effective date of this section are not required to take the examination.

WV Legislature

§30-19-9. General requirements to be registered forestry technician.

To be eligible to be certified as a registered forestry technician, the applicant must:

(1) Be of good moral character;

(2) Have a high school diploma or its equivalent;

(3) Graduate from a two-year technical forestry program accredited or recognized by the Society of American Foresters;

(4) Complete four years of related experience in the field of forestry.

WV Legislature

§30-19-10. Qualifications for permit as a forester-in-training or a forestry technician-in-training.

(a) The board may issue a permit to practice as a forester-in-training or a forestry technician-in-training to an applicant who meets all the requirements for certification, except the experience requirements of paragraph (A) or (B), subdivision three, subsection (a), section eight or subdivision four, section nine.

(b) A permit to practice as a forester-in-training or forestry technician-in-training may be renewed annually for a period not to exceed five years. The board may extend the five year limitation if the board finds the applicant experienced an undue hardship which prevented the attainment of the required experience.

WV Legislature

§30-19-11. License from another state.

The board may issue a certification to a person as a registered forester in this state, without requiring an examination, to an applicant from another jurisdiction who:

(1) Is not a resident of this state;

(2) Is of good moral character;

(3) Holds a valid forestry license or other authorization to practice forestry in another jurisdiction which meets requirements that are substantially equivalent to the certification requirements set forth in this article;

(4) Is not currently being investigated by a disciplinary authority of this state or another jurisdiction, does not have charges pending against his or her authorization, and has never had his or her authorization revoked;

(5) Has not previously failed an examination for certification in this state;

(6) Has paid all the applicable fees; and

(7) Has completed such other action as required by the board.

WV Legislature

§30-19-12. Renewal requirements.

(a) All persons regulated under the provisions of this article shall annually before January 1, renew his or her certification or permit by completing a form prescribed by the board and submit any other information required by the board.

(b) At least thirty days prior to July 1 of each year, the board shall mail to every person regulated under the provisions of this article an application for renewal.

(c) The board shall charge a fee for each renewal of a certification or permit and may charge a late fee for any renewal not paid in a timely manner.

(d) The board shall require as a condition for the renewal of a certification or permit that each person regulated under the provisions of this article complete continuing education.

(e) The board may deny an application for renewal for any reason which would justify the denial of an original application for a certification or permit.

WV Legislature

§30-19-13. Complaints; investigations; due process procedure; grounds for disciplinary action.

(a) The board may upon its own motion based on credible information, and shall upon the written complaint of any person, cause an investigation to be made to determine whether grounds exist for disciplinary action under this article or the legislative rules of the board.

(b) Upon initiation or receipt of the complaint, the board shall provide a copy of the complaint to the certificate holder or permittee.

(c) After reviewing any information obtained through an investigation, the board shall determine if probable cause exists that the certificate holder or permittee has violated subsection (g) of this section or rules promulgated pursuant to this article.

(d) Upon a finding that probable cause exists that the certificate holder or permittee has violated subsection (g) of this section or rules promulgated pursuant to this article, the board may enter into a consent decree or hold a hearing for the suspension or revocation of the certification or permit or the imposition of sanctions against the certificate holder or permittee. Any hearing shall be held in accordance with the provisions of this article.

(e) Any member of the board or the executive director of the board may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person regulated by the article.

(f) Any member of the board or its executive director may sign a consent decree or other legal document on behalf of the board.

(g) The board may, after notice and opportunity for hearing, deny or refuse to renew, suspend or revoke the certification or permit of, impose probationary conditions upon or take disciplinary action against, any certificate holder or permittee for any of the following reasons once a violation has been proven by a preponderance of the evidence:

(1) Obtaining a certification or permit by fraud, misrepresentation or concealment of material facts;

(2) Being convicted of a felony or other crime involving moral turpitude;

(3) Being guilty of unprofessional conduct as defined by legislative rule of the board;

(4) Violating this article or lawful order or rule of the board;

(5) Having had a certificate or permit revoked or suspended, other disciplinary action taken, or an application for certification or permit or other authorization refused, revoked or suspended by the proper authorities of another jurisdiction; or

(6) Engaging in any act which has endangered or is likely to endanger the health, welfare or

WVLegislature

safety of the public.

(h) For the purposes of subsection (g) of this section, disciplinary action may include:

(1) Reprimand;

(2) Probation;

(3) Administrative fine, not to exceed $1,000 per day per violation;

(4) Mandatory attendance at continuing education seminars or other training;

(5) Practicing under supervision or other restriction;

(6) Requiring the certificate holder or permitee to report to the board for periodic interviews for a specified period of time; or

(7) Other corrective action considered by the board to be necessary to protect the public, including advising other parties whose legitimate interests may be at risk.

WV Legislature

§30-19-14. Procedures for hearing; right of appeal.

(a) Hearings shall be governed by section eight, article one of this chapter.

(b) The board may conduct the hearing or elect to have an administrative law judge conduct the hearing.

(c) If the hearing is conducted by an administrative law judge, at the conclusion of a hearing he or she shall prepare a proposed written order containing findings of fact and conclusions of law. The proposed order may contain proposed disciplinary actions if the board so directs. The board may accept, reject or modify the decision of the administrative law judge.

(d) Any member or the executive director of the board has the authority to administer oaths, examine any person under oath and issue subpoenas and subpoenas duces tecum.

(e) If, after a hearing, the board determines the certificate holder or permittee has violated this article or the board's rules, a formal written decision shall be prepared which contains findings of fact, conclusions of law and a specific description of the disciplinary actions imposed.

WV Legislature

§30-19-15. Judicial review; appeal to Supreme Court of Appeals.

Any certificate holder or permittee adversely affected by a decision of the board entered after a hearing may obtain judicial review of the decision in accordance with section four, article five, chapter twenty-nine-a of this code, and may appeal any ruling resulting from judicial review in accordance with article six, chapter twenty-nine-a of this code.

WV Legislature

§30-19-16. Criminal proceedings; penalties.

(a) When, as a result of an investigation under this article or otherwise, the board has reason to believe that a certificate holder or permitee has committed a criminal offense under this article, the board may bring the information to the attention of an appropriate law-enforcement official.

(b) Effective July 15, 2009, a person violating a provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 nor more than $1,000 or confined in jail not more than six months, or both fined and confined.

WV Legislature

§30-19-17. Single act evidence of practice.

In any action brought or in any proceeding initiated under this article, evidence of the commission of a single act prohibited by this article is sufficient to justify a penalty, injunction, restraining order or conviction without evidence of a general course of conduct.

WV Legislature