WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2004

ENROLLED

House Bill No. 4247
(By Delegates Mahan, R. Thompson, Cann, Kominar, Armstead and Faircloth)

Passed March 13, 2004
In Effect from Passage
AN ACT to amend and reenact §30-13-21 and §30-13-22 of the code of West Virginia, 1931, as amended, all relating to clarifying the board of registration for professional engineers may assess civil penalties.

Be it enacted by the Legislature of West Virginia:

That §30-13-21 and §30-13-22 of the code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 13. ENGINEERS.

§30-13-21. Disciplinary action—Revocation, suspension, refusal to issue, restore or renew, probation, civil penalty, reprimand.

1 (a) The board may suspend or revoke or refuse to issue, restore or renew a certificate of registration of, or place on probation, impose a civil penalty or reprimand any professional engineer who has:
(1) Perpetrated any fraud or deceit in obtaining or attempting to obtain or renew a certificate of registration or certificate of authorization;

(2) Been negligent, incompetent or committed an act of misconduct in the practice of engineering;

(3) Been convicted of or has entered a plea of nolo contendere to any crime under the laws of the United States or any state or territory thereof, which is a felony whether related to practice or not; and conviction of or entry of a plea of nolo contendere to any crime, whether a felony, misdemeanor or otherwise, an essential element of which is dishonesty, or which is directly related to the practice of engineering;

(4) Failed to comply with any of the provisions of this article or any of the rules promulgated under it;

(5) Been disciplined by another state, territory, the District of Columbia, foreign country, the United States government or any other governmental agency, if at least one of the grounds for discipline is the same or substantially equivalent to those grounds for discipline contained in this article;

(6) Failed within thirty days to provide information requested by the board as a result of a formal or informal complaint to the board which would indicate a violation of this article;

(7) Knowingly made false statements or signed false statements, certificates or affidavits to induce payment;

(8) Aided or assisted another person in violating any provision of this article or the rules promulgated;

(9) Violated any terms of probation imposed by the board or using a seal or practicing engineering while the professional
engineer’s license is suspended, revoked, nonrenewed or inactive;

(10) Signed or affixed the professional engineer’s seal or permitted the professional engineer’s seal or signature to be affixed to any specifications, reports, drawings, plans, design information, construction documents or calculations or revisions which have not been prepared or completely checked by the professional engineer or under the professional engineer’s direct supervision or control;

(11) Engaged in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public;

(12) Provided false testimony or information to the board; and

(13) Been habitually intoxicated or addicted to or by the use of drugs or alcohol.

(b) In addition to any other penalty provided in this article, the board may assess civil penalties against any person who violates any provision of this article or any rule promulgated by the board for each offense in an amount determined by the board.

(c) The board shall prepare and shall adopt “rules of professional responsibility for professional engineers”. The board may revise and amend these “rules of professional responsibility for professional engineers” from time to time and shall notify each registrant in writing of any revisions or amendments.

(d) The board may:

(1) Revoke a certificate of authorization;
(2) Suspend a certificate of authorization of any firm for a period of time not exceeding two years where one or more of its officers or directors of the firm have been found guilty of any conduct which would authorize a revocation or suspension of his or her certificate of registration under the provisions of this article;

(3) Place the person or firm on probation for a period of time and make the person or firm subject to conditions as the board may specify;

(4) Assess a civil penalty and related costs for each count or separate offense in an amount set by the board.


(a) Any person may file a complaint with the board that a person or firm subject to the provisions of this article has committed a fraud, been deceitful, been grossly negligent, incompetent, guilty of misconduct or has violated the "rules of professional responsibility for professional engineers".

(b) All complaints, unless dismissed by the board as unfounded, trivial or unless settled informally, shall be heard by the board within six months after the date each complaint was received by the board.

(c) The board shall fix the time and place for hearings on complaints and a copy of all charges, together with a notice of the time and place of hearing on the complaint the person or firm complained against or mailed to the last known address of the person or firm at least thirty days prior to the hearing. At the hearing, the person or firm shall have the right to appear in person or by counsel, or both, to cross-examine witnesses and to produce evidence and witnesses in his, her or its defense. If the accused person or firm fails or refuses to appear, the board
may proceed to hear the complaint and determine the validity of the charges.

(d) If after the hearing a majority of the board votes in favor of sustaining the charges, the board shall reprimand or assess a civil penalty against the person or firm complained against. The board may also suspend, revoke, refuse to issue or refuse to restore or renew an individual’s certificate of registration or a firm’s certificate of authorization. In addition, the board may place a registrant on probation.

(e) Any person or firm aggrieved by any action of the board in assessing a civil penalty, denying, suspending, refusing to issue, refusing to restore or renew or revoking a certificate of registration or a certificate of authorization, may appeal the board’s decision to the circuit court.

(f) Any civil penalty assessed as a result of a hearing shall be paid within fifty days after the decision becomes final.

(g) The board may, upon petition of a person or firm, reissue a certificate of registration or authorization, provided that a majority of the members of the board votes in favor of such issuance.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 5th day of April, 2004.