

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 932
Committee Substitute Favorable 5/9/89
Committee Substitute #2 Favorable 6/5/89
State Government Senate Committee Substitute Adopted 6/21/89

Short Title: Penalty Up/Engineering Violations.

(Public)

Sponsors:

Referred to:

March 27, 1989

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PENALTY FOR ENGINEERS AND LAND SURVEYORS FOUND GUILTY OF CERTAIN MISCONDUCT IN PROFESSIONAL PRACTICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 89C-21 reads as rewritten:

"§ 89C-21. Disciplinary action – Reexamination, revocation, suspension, reprimand, or ~~fine~~ civil penalty.

(a) The Board may suspend, refuse to renew, or revoke the certificate of registration, or, as appropriate, require reexamination, ~~or levy a fine not in excess of five hundred dollars (\$500.00)~~ for any engineer or land surveyor, who is found:

- (1) Guilty of the practice of any fraud or deceit in obtaining a certificate of registration or certificate of authorization.
- (2) Guilty of any gross ~~negligence, incompetence, or misconduct,~~ negligence or misconduct in the practice of his profession. ~~In the event the Board finds that a certificate holder is incompetent the Board may, in its discretion, require oral or written examinations, or other indication of the certificate holder's fitness to practice his profession and to suspend his license during any such period.~~
- (3) Guilty of any felony or any crime involving moral turpitude.

1 (4) Guilty of violation of the Rules of Professional Conduct, as adopted
2 by the Board.

3 (5) To have been declared insane or incompetent by a court of competent
4 jurisdiction and has not thereafter been lawfully declared sane or
5 competent.

6 (6) Guilty of professional incompetence. In the event the Board finds that
7 a certificate holder is incompetent the Board may, in its discretion,
8 require oral or written examinations, or other indication of the
9 certificate holder's fitness to practice his profession and suspend his
10 license during any such period.

11 (b) The Board shall have the power to (i) revoke a certificate of authorization, or
12 (ii) to suspend a certificate of authorization for a period of time not exceeding two
13 years, of any corporation where one or more of its officers or directors have committed
14 any act or have been guilty of any conduct which would authorize a revocation or
15 suspension of their certificates of registration under the provision of this section.

16 (c) The Board may levy a civil penalty not in excess of two thousand dollars (\$2,000)
17 for any engineer or land surveyor who violates any of the provisions of subdivisions (1)
18 through (4) of subsection (a) of this section. All civil penalties collected by the Board
19 shall be deposited in the General Fund of North Carolina.

20 (d) Before imposing and assessing a civil penalty and fixing the amount thereof,
21 the Board shall, as a part of its deliberation, take into consideration the following
22 factors:

23 (1) The nature, gravity, and persistence of the particular violations;

24 (2) The appropriateness of the imposition of a civil penalty when
25 considered alone or in combination with other punishment;

26 (3) Whether the violation(s) were done wilfully and maliciously; and

27 (4) Any other factors which would tend to either mitigate or aggravate the
28 violation(s) found to exist."

29 Sec. 2. G.S. 89C-22 reads as rewritten:

30 **"§ 89C-22. Disciplinary action – Charges; procedure.**

31 (a) Any person may prefer charges of fraud, deceit, gross negligence,
32 incompetence, misconduct, or violation of the rules of professional conduct, against any
33 individual registrant or against any corporation holding a certificate of authorization.
34 Such charges shall be in writing and shall be sworn to by the person or persons making
35 them and shall be filed with the secretary of the Board.

36 (b) All charges, unless dismissed by the Board as unfounded or trivial, shall be
37 heard by the Board or hearing officer as provided under the requirements of Chapter
38 ~~150A-150B~~ of the General Statutes.

39 (c) If, after such hearing, a majority of the ~~entire~~—Board votes in favor of
40 sustaining the charges, the Board shall reprimand, levy a civil penalty, suspend, refuse
41 to renew, or revoke the individual's certificate of registration, or a corporation's
42 certificate of ~~authorization~~—authorization pursuant to G.S. 89C-21.

1 (d) An individual registrant having a certificate of registration, or corporation
2 holding a certificate of authorization, aggrieved by a final decision of the Board, may
3 appeal for judicial review as provided by Article 4 of Chapter ~~150A-150B~~.

4 (e) The Board may, upon petition of an individual or corporation, whose
5 certificate has been revoked, for reasons it may deem sufficient, reissue a certificate of
6 registration or authorization, provided that a majority of the members of the Board vote
7 in favor of such issuance."

8 Sec. 3. This act shall become effective October 1, 1989, and shall apply to
9 violations occurring on or after that date.