

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 669
HOUSE BILL 932

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.
- (4) Guilty of violation of the Rules of Professional Conduct, as adopted by the Board.
- (5) To have been declared insane or incompetent by a court of competent jurisdiction and has not thereafter been lawfully declared sane or competent.
- (6) Guilty of professional incompetence. 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 suspend his license during any such period.

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

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

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

- (1) The nature, gravity, and persistence of the particular violations;
- (2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment;
- (3) Whether the violation(s) were done wilfully and maliciously; and
- (4) Any other factors which would tend to either mitigate or aggravate the violation(s) found to exist."

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

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

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

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

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

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

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

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

In the General Assembly read three times and ratified this the 24th day of July, 1989.