

BOARDS AND COMMISSIONS

Board of Licensure for Professional Engineers and Land Surveyors (Amendment)

201 KAR 18:115. License reinstatement.

RELATES TO: KRS 322.040-322.050, 322.160, 322.180, 322.220

STATUTORY AUTHORITY: KRS 322.160(3)(a), 322.220, 322.290(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.290(4) authorizes the board to promulgate administrative regulations necessary for the proper performance of its duties. KRS 322.160(3)(a) requires a licensee or permit holder who fails to renew within one (1) year after expiration to furnish the board with satisfactory evidence of qualification of continued practice. KRS 322.220 provides for an individual whose license has been revoked to petition the board for reissue. KRS 322.180 sets out grounds for denial of licensure. This administrative regulation establishes the requirements for license reinstatement.

Section 1. General Requirements.

(1) A person whose license has been in retired status, inactive status, or expired for more than one (1) year, or a person whose license has been revoked or surrendered in association with a disciplinary investigation or proceeding shall apply for reinstatement with the board by submitting evidence of successful completion of one (1) or more of the following:

- (a) Retaking and passing the licensure examination;
- (b) College courses related to engineering or surveying;
- (c) Continuing education courses related to engineering or surveying;
- (d) Work experience under another licensee; or
- (e) Licensed practice in another jurisdiction.

(2) The application for reinstatement shall be on the appropriate application form incorporated by reference in 201 KAR 18:020, Section 2, and shall include:

- (a) An affidavit indicating whether or not the applicant has practiced engineering or land surveying in the Commonwealth of Kentucky since the expiration, inactivation, retirement, revocation, or surrender of the applicant's license; and
- (b) Evidence that the applicant is qualified to continue to practice pursuant to subsection (1) of this section.

(3) The applicant shall meet the requirements of KRS 322.050.

(4) In determining the applicant's fitness for reinstatement, the board may consider the number of times the applicant has allowed his or her license to expire, as well as the length of time in the aggregate that the applicant has been unlicensed following the applicant's initial licensure.

(5) A Professional Land Surveyor applicant shall meet the continuing professional development requirements of 201 KAR 18:192, Section 6.

(6) A Professional Engineer applicant shall meet the continuing professional development requirements of 201 KAR 18:196, Section 6.

(7) An applicant for reinstatement shall fully cooperate with the board by providing any relevant information or documentation within his or her knowledge, possession, custody, or control.

(8) In an application for reinstatement, including any appearance before the board, and in any statement made to the board or to any representative of the board, an applicant shall not:

- (a) Knowingly make a false statement of material fact;
- (b) Fail to disclose a fact necessary to correct a misapprehension known by the applicant to have arisen in the matter; or

(c) Knowingly fail to respond or produce relevant information or documentation requested by the board.

Section 2. Expiration of License.

(1) If the applicant's license has been in retired status, inactive status, or expired for three (3) years or less, or if the applicant has a valid license in another jurisdiction, the executive director may approve or reject the application.

(2) If the applicant's license has been in retired status, inactive status, or expired for more than three (3) years and the applicant does not possess a valid license in another jurisdiction, the application for reinstatement shall be considered by the board.

Section 3. Revocation of License.

(1) Pursuant to KRS 322.220, a person whose license has been revoked may petition the board for reinstatement of that license.

(2) An applicant whose surrender of license was associated with a disciplinary investigation or proceeding shall be considered under this section.

(3) The applicant shall comply with the requirements of Section 1 of this administrative regulation. In addition, the applicant shall provide evidence that the applicant:

- (a) Has complied with any terms prescribed by the board; and
- (b) Is no longer a risk to the public health, safety, and welfare.

(4) An applicant for reinstatement under this section shall:

- (a) Be held to a substantially more rigorous standard than a first time applicant for initial licensure as a professional engineer or land surveyor; and
- (b) Have the burden of proving by a preponderance of evidence that the applicant possesses the professional and ethical qualifications, and good character and reputation, as required by KRS 322.040 through 322.050 and 201 KAR 18:142, for reinstatement of a license to practice engineering or land surveying, as appropriate.

(5) To evaluate an applicant's petition for reinstatement, the board shall consider the following:

- (a) The applicant's compliance with all previous terms of any consent decrees, or with any previous orders of suspension or revocation;
- (b) The applicant's conduct while under a prior suspension, or while unlicensed, that shows that the applicant is worthy of the trust and confidence of the public;
- (c) The sufficiency of the applicant's present professional capabilities to serve the public as a licensed engineer or land surveyor, considering:

- 1. The length of time elapsed since the applicant's license was revoked or surrendered; and
- 2. The type, duration, and extent of educational courses and employment that the applicant has undertaken during the period the applicant was unlicensed;

(d) The understanding and appreciation by the applicant of the wrongfulness of any prior misconduct;

(e) The nature and degree, as well as the success of, any efforts made by the applicant to rehabilitate himself or herself from past professional or ethical failings;

(f) The applicant's previous and present conduct and attitude toward compliance with the requirements of the regulatory scheme governing the practice of engineering or land surveying, as appropriate;

(g) The applicant's candor in dealing with the board;

(h) Any act or omission by the applicant occurring while unlicensed, that would have violated any part of the statutes or regulations governing the profession of engineering or land surveying, as appropriate, if it had occurred while the applicant was licensed; and

(i) Any other information relevant to determining whether the applicant has satisfied the requirements of KRS 322.220.

(6) Failure to meet any of the criteria to be considered in the evaluation of applicant's petition may constitute a sufficient basis for denial of an applicant's petition.

Section 4. Reconsideration.

(1) If an application for reinstatement is not approved, the applicant shall be given reasonable opportunity to secure reconsideration.

(2) If an application for reinstatement is not approved by the executive director pursuant to paragraph (1) of Section 2 of this administrative regulation, the applicant may request reconsideration by the board by filing a written request for reconsideration with the board within thirty (30) calendar days after the date upon which the applicant is sent notice that the application for reinstatement was not approved by the board's executive director.

(3) If an application is not approved by the board, the applicant may request a hearing in accordance with the provisions of KRS Chapter 13B by filing a written request for an administrative hearing with the board within thirty (30) calendar days after the date upon which the application for reinstatement was denied. The request shall identify the specific issues in dispute and the legal basis on which the board's decision on each issue is believed to be erroneous.

KYLE L. ELLIOTT, Executive Director

APPROVED BY AGENCY: July 19, 2024

FILED WITH LRC: July 22, 2024 at 1:15 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2024, at 2:00 p.m., Eastern Standard Time, at the Kentucky Engineering Center, 160 Democrat Drive Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kyle L. Elliott, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive Frankfort, Kentucky 40601, phone (502) 573-2680, fax (502) 573-6687, email kyle.elliott@ky.gov.