

## 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 KRS 322.220 provides for an individual whose license has been revoked to petition the board for reissue.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has been in retired status, inactive status, or expired for more than one (1) year, or a person whose license has been revoked or surrendered in association with a disciplinary investigation or proceeding~~proceeding~~ shall apply for reinstatement with~~to~~ the board ~~for reinstatement~~ 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 ~~[A listing of the specific 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~~[its determination of]~~ 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~~7.

(6) A Professional Engineer applicant shall meet the continuing professional development requirements of 201 KAR 18:196, Section ~~6~~7.

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

(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~~[to a lawful demand for information from 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~~~~[that]~~ 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~~[revocation]~~ or surrendered~~[surrender of license]~~; 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 ~~every~~ 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](mailto:kyle.elliott@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Kyle L. Elliott**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation establishes the requirements for reinstatement of a professional engineer and professional land surveyor license.

**(b) The necessity of this administrative regulation:**

This administrative regulation is necessary to inform professional engineers and professional land surveyors whose licenses have been retired, made inactive, revoked, or surrendered in association with a disciplinary proceeding of the requirements for the reinstatement of his/her license.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:**

This administrative regulation, authorized by KRS 322.160(3)(a), KRS 322.220, and KRS 322.290(4), establishes the requirements for the reinstatement of a professional engineer and professional land surveyor license.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**

This administrative regulation ensures those seeking to reinstate his/her professional engineer or professional land surveyor license are informed of the requirements that must be met in order to secure the reinstatement of the license.

**(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:**

**(a) How the amendment will change this existing administrative regulation:**

This amendment to an existing administrative regulation clarifies that the individual applying for reinstatement of his/her professional engineer or professional land surveyor license must provide sufficient evidence that is within his/her knowledge, possession, custody, or control to the board that he/she is qualified for the reinstatement of his/her professional engineer or professional land surveyor license. This amendment clarifies the day requirement for requesting reconsideration of the denial of an application for reinstatement and the requirement that the individual applying for reinstatement set forth the reasons upon which he/she believes his/her license should be reinstated. The amendment also makes minor grammatical corrections to enhance clarity of the regulation. The amendment further makes corrections to regulation citations to conform with the recent amendments to 201 KAR 18:192 and 201 KAR 18:196.

**(b) The necessity of the amendment to this administrative regulation:**

The amendment to this already existing administrative regulation is necessary to provide clarity on the steps that must be taken when requesting the reconsideration of a denial of an application for reinstatement. This amendment is also necessary to provide clarity as it makes minor changes in wording to enhance clarity of the regulation, and to correct statute citations in this administrative regulation. The amendment further makes corrections to regulation citations to conform with the recent amendments to 201 KAR 18:192 and 201 KAR 18:196.

**(c) How the amendment conforms to the content of the authorizing statutes:**

This amendment to an existing administrative regulation, authorized by authorized by KRS 322.160(3)(a), KRS 322.220, and KRS 322.290(4), establishes the requirements for the reinstatement of a professional engineer and professional land surveyor license. This amendment to an existing administrative regulation conforms to the authorizing statutes because the authorizing statutes give the board authority to promulgate administrative regulations reasonably necessary for the performance of its duties.

**(d) How the amendment will assist in the effective administration of the statutes:**

This amendment to an existing administrative regulation will clarify the requirements for license reinstatement, and the steps that must be taken to secure reconsideration of a denial of an application for reinstatement.

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:**

Applicants for the reinstatement of a professional engineer or professional land surveyor license will be impacted by this regulation.

**(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:**

**(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:**

The board will help educate identified entities of this amendment to an existing administrative regulation.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):**

There are no expected costs for those identified in question (3).

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):**

A successful applicant for reinstatement will have the benefit of practicing engineering or land surveying in the Commonwealth of Kentucky.

**(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**

**(a) Initially:**

None.

**(b) On a continuing basis:**

None.

**(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:**

Restricted agency funds from pre-existing fees provide the funding to enforce the regulation. The Board receives no general or federal funds.

**(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:**

No increase in fees or funding will be required because of this regulation.

**(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:**

This administrative regulation does not establish fees or directly or indirectly increase any fees.

**(9) TIERING: Is tiering applied?**

Tiering is not applied because the regulation is applicable to all professional engineers and professional land surveyors seeking to have their license reinstated.

## FISCAL IMPACT STATEMENT

**(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.**

KRS 322.160(3)(a); KRS 322.220; KRS 322.290(4)

**(2) Identify the promulgating agency and any other affected state units, parts, or divisions:**

The Kentucky State Board of Licensure for Professional Engineers and Land Surveyors.

**(a) Estimate the following for the first year:**

**Expenditures:**None.

**Revenues:**None.

**Cost Savings:**None.

**(b) How will expenditures, revenues, or cost savings differ in subsequent years?**

There will be no expenditures or cost savings.

**(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):**

None, only the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors is impacted.

**(a) Estimate the following for the first year:**

**Expenditures:**None.

**Revenues:**None.

**Cost Savings:**None.

**(b) How will expenditures, revenues, or cost savings differ in subsequent years?**

This regulation does not create an expenditures, revenues, or cost savings.

**(4) Identify additional regulated entities not listed in questions (2) or (3):**

None.

**(a) Estimate the following for the first year:**

**Expenditures:**None.

**Revenues:**None.

**Cost Savings:**None.

**(b) How will expenditures, revenues, or cost savings differ in subsequent years?**

This regulation does not create an expenditures, revenues, or cost savings.

**(5) Provide a narrative to explain the:**

**(a) Fiscal impact of this administrative regulation:**

There is no fiscal impact from this regulation.

**(b) Methodology and resources used to determine the fiscal impact:**

There are no fees or costs associated with this regulation.

**(6) Explain:**

**(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4).**

**(\$500,000 or more, in aggregate)**

This administrative regulation will not have an overall negative or adverse major economic impact to the entities identified.

**(b) The methodology and resources used to reach this conclusion:**

There are no costs, expenditures, or revenues from this regulation.