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**SENATE BILL 5125**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senator Conway; by request of Department of Licensing

AN ACT Relating to providing consistency and efficiency in the regulation of auctioneers and auction companies, engineering and land surveying, real estate, funeral directors, and cosmetology; and amending RCW 18.11.085, 18.11.095, 18.43.130, 18.85.171, 18.43.050, 18.39.070, and 18.16.030.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 18.11.085 and 2002 c 86 s 206 are each amended to read as follows:

Every individual, before acting as an auctioneer, shall obtain an auctioneer certificate of registration. To be licensed as an auctioneer, an individual shall meet all of the following requirements:

(1) Be at least eighteen years of age or sponsored by a licensed auctioneer.

(2) File with the department a completed application on a form prescribed by the director.

(3) ((~~Show that the proper tax registration certificate required by~~)) Be registered with the department of revenue pursuant to RCW 82.32.030 ((~~has been obtained from the department of revenue~~)).

(4) Pay the auctioneer registration fee required under the agency rules adopted pursuant to this chapter.

(5) Except as otherwise provided under RCW 18.11.121, file with the department an auctioneer surety bond in the amount and form required by RCW 18.11.121 and the agency rules adopted pursuant to this chapter.

(6) Have no disqualifications under RCW 18.11.160 or 18.235.130.

**Sec.**  RCW 18.11.095 and 2002 c 86 s 207 are each amended to read as follows:

Every person, before operating an auction company as defined in RCW 18.11.050, shall obtain an auction company certificate of registration.

(1) Except as provided in subsection (2) of this section, to be licensed as an auction company, a person shall meet all of the following requirements:

(a) File with the department a completed application on a form prescribed by the director.

(b) Sign a notarized statement included on the application form that all auctioneers hired by the auction company to do business in the state shall be properly registered under this chapter.

(c) ((~~Show that the proper tax registration certificate required by~~)) Be registered with the department of revenue pursuant to RCW 82.32.030 ((~~has been obtained from the department of revenue~~)) and, if an ownership entity other than sole proprietor or general partnership, be registered with the secretary of state.

(d) Pay the auction company registration fee required under the agency rules adopted pursuant to this chapter.

(e) File with the department an auction company surety bond in the amount and form required by RCW 18.11.121 and the agency rules adopted pursuant to this chapter.

(f) Have no disqualifications under RCW 18.11.160 or 18.235.130.

(2) An auction company shall not be charged a license fee if it is a sole proprietorship or a partnership owned by an auctioneer or auctioneers, each of whom is licensed under this chapter, and if it has in effect a surety bond or bonds or other security approved by the director in the amount that would otherwise be required for an auction company to be granted or to retain a license under RCW 18.11.121.

**Sec.**  RCW 18.43.130 and 2002 c 86 s 227 are each amended to read as follows:

This chapter shall not be construed to prevent or affect:

(1) The practice of any other legally recognized profession or trade; or

(2) The practice of a person not a resident and having no established place of business in this state, practicing or offering to practice herein the profession of engineering or land surveying, when such practice does not exceed in the aggregate more than thirty days in any calendar year: PROVIDED, Such person has been determined by the board to be legally qualified by registration to practice the said profession in his or her own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter. The person shall request such a determination by completing an application prescribed by the board and accompanied by a fee determined by the director. Upon approval of the application, the board shall issue a permit authorizing temporary practice; or

(3) The practice of a person not a resident and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice herein for more than thirty days in any calendar year the profession of engineering or land surveying, if he or she shall have filed with the board an application for a certificate of registration and shall have paid the fee required by this chapter: PROVIDED, That such person is legally qualified by registration to practice engineering or land surveying in his or her own state or country in which the requirements and qualifications of obtaining a certificate of registration are not lower than those specified in this chapter. Such practice shall continue only for such time as the board requires for the consideration of the application for registration; or

(4) The work of an employee or a subordinate of a person holding a certificate of registration under this chapter, or an employee of a person practicing lawfully under provisions of this section: PROVIDED, That such work does not include final design or decisions and is done under the direct responsibility, checking, and supervision of a person holding a certificate of registration under this chapter or a person practicing lawfully under the provisions of this section; or

(5) The work of a person rendering engineering or land surveying services to a corporation, as an employee of such corporation, when such services are rendered in carrying on the general business of the corporation and such general business does not consist, either wholly or in part, of the rendering of engineering services to the general public: PROVIDED, That such corporation employs at least one person holding a certificate of registration under this chapter or practicing lawfully under the provisions of this chapter; or

(6) The practice of officers or employees of the government of the United States while engaged within the state in the practice of the profession of engineering or land surveying for the government of the United States; or

(7) Nonresident engineers employed for the purpose of making engineering examinations; or

(8) The practice of engineering or land surveying, or both, in this state by a corporation or joint stock association: PROVIDED, That

(a) The corporation has filed with the board an application for certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether such corporation is qualified in accordance with this chapter to practice engineering or land surveying, or both, in this state;

(b) For engineering, the corporation has filed with the board a certified copy of a resolution of the board of directors of the corporation that shall designate a person holding a certificate of registration under this chapter as responsible for the practice of engineering by the corporation in this state and shall provide that full authority to make all final engineering decisions on behalf of the corporation with respect to work performed by the corporation in this state shall be granted and delegated by the board of directors to the person so designated in the resolution. For land surveying, the corporation has filed with the board a certified copy of a resolution of the board of directors of the corporation which shall designate a person holding a certificate of registration under this chapter as responsible for the practice of land surveying by the corporation in this state and shall provide full authority to make all final land surveying decisions on behalf of the corporation with respect to work performed by the corporation in this state be granted and delegated by the board of directors to the person so designated in the resolution. If a corporation offers both engineering and land surveying services, the board of directors shall designate both a licensed engineer and a licensed land surveyor. If a person is licensed in both engineering and land surveying, the person may be designated for both professions. The resolution shall further state that the bylaws of the corporation shall be amended to include the following provision: "The designated engineer or land surveyor, respectively, named in the resolution as being in responsible charge, or an engineer or land surveyor under the designated engineer or land surveyor's direct supervision, shall make all engineering or land surveying decisions pertaining to engineering or land surveying activities in the state of Washington." However, the filing of the resolution shall not relieve the corporation of any responsibility or liability imposed upon it by law or by contract;

(c) If there is a change in the designated engineer or designated land surveyor, the corporation shall notify the board in writing within thirty days after the effective date of the change. If the corporation changes its name, the corporation shall submit a copy of its amended certificate of authority or amended certificate of incorporation as filed with the secretary of state within thirty days of the filing;

(d) Upon the filing with the board the application for certificate for authorization, certified copy of resolution and an affidavit, and the designation of a designated engineer or designated land surveyor, or both, specified in (b) of this subsection, ((~~a certificate of incorporation or certificate of authorization as filed with the secretary of state, and a copy of the corporation's current Washington business license,~~)) the board shall issue to the corporation a certificate of authorization to practice engineering or land surveying, or both, in this state upon a determination by the board that:

(i) The designated engineer or designated land surveyor, or both, hold a certificate of registration in this state in accordance with this chapter and the certificate is in force;

(ii) The designated engineer or designated land surveyor, or both, are not designated in responsible charge for another corporation or a limited liability company; ((~~and~~))

(iii) The corporation is licensed with the secretary of state and holds a current unified business identification number and the board determines, based on evaluating the findings and information in this section, that the applicant corporation possesses the ability and competence to furnish engineering or land surveying services, or both, in the public interest; and

(iv) The corporation is registered with the department of revenue pursuant to RCW 82.32.030.

The board may exercise its discretion to take any of the actions under RCW 18.235.110 with respect to a certificate of authorization issued to a corporation if the board finds that any of the officers, directors, incorporators, or the stockholders holding a majority of stock of such corporation has engaged in unprofessional conduct as defined in RCW 18.43.105 or 18.235.130 or has been found personally responsible for unprofessional conduct under (f) and (g) of this subsection.

(e) Engineers or land surveyors organized as a professional service corporation under chapter 18.100 RCW are exempt from applying for a certificate of authorization under this chapter.

(f) Any corporation authorized to practice engineering under this chapter, together with its directors and officers for their own individual acts, are responsible to the same degree as an individual registered engineer, and must conduct its business without unprofessional conduct in the practice of engineering as defined in this chapter and RCW 18.235.130.

(g) Any corporation that is certified under this chapter is subject to the authority of the board as provided in RCW 18.43.035, 18.43.105, 18.43.110, 18.43.120, and chapter 18.235 RCW.

(h) All plans, specifications, designs, and reports when issued in connection with work performed by a corporation under its certificate of authorization shall be prepared by or under the direct supervision of and shall be signed by and shall be stamped with the official seal of a person holding a certificate of registration under this chapter.

(i) For each certificate of authorization issued under this subsection (8) there shall be paid an initial fee determined by the director as provided in RCW 43.24.086 and an annual renewal fee determined by the director as provided in RCW 43.24.086.

(9) The practice of engineering and/or land surveying in this state by a partnership if the partnership employs at least one person holding a valid certificate of registration under this chapter to practice engineering or land surveying, or both. The board shall not issue certificates of authorization to partnerships after July 1, 1998. Partnerships currently registered with the board are not required to pay an annual renewal fee after July 1, 1998.

(10) The practice of engineering or land surveying, or both, in this state by limited liability companies: Provided, That

(a) The limited liability company has filed with the board an application for certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether the limited liability company is qualified under this chapter to practice either or both engineering or land surveying in this state.

(b) The limited liability company has filed with the board a certified copy of a resolution by the company manager or managers that shall designate a person holding a certificate of registration under this chapter as being responsible for the practice of engineering or land surveying, or both, by the limited liability company in this state and that the designated person has full authority to make all final engineering or land surveying decisions on behalf of the limited liability company with respect to work performed by the limited liability company in this state. The resolution shall further state that the limited liability company agreement shall be amended to include the following provision: "The designated engineer or land surveyor, respectively, named in the resolution as being in responsible charge, or an engineer or land surveyor under the designated engineer or land surveyor's direct supervision, shall make all engineering or land surveying decisions pertaining to engineering or land surveying activities in the state of Washington." However, the filing of the resolution shall not relieve the limited liability company of responsibility or liability imposed upon it by law or by contract.

(c) The designated engineer for the limited liability company must hold a current professional engineer license issued by this state.

The designated land surveyor for the limited liability company must hold a current professional land surveyor license issued by this state.

If a person is licensed as both a professional engineer and as a professional land surveyor in this state, then the limited liability company may designate the person as being in responsible charge for both professions.

If there is a change in the designated engineer or designated land surveyor, the limited liability company shall notify the board in writing within thirty days after the effective date of the change. If the limited liability company changes its name, the company shall submit to the board a copy of the certificate of amendment filed with the secretary of state's office.

(d) Upon the filing with the board the application for certificate of authorization, a certified copy of the resolution, and an affidavit from the designated engineer or the designated land surveyor, or both, specified in (b) and (c) of this subsection, ((~~a copy of the certificate of formation as filed with the secretary of state, and a copy of the company's current business license,~~)) the board shall issue to the limited liability company a certificate of authorization to practice engineering or land surveying, or both, in this state upon determination by the board that:

(i) The designated engineer or designated land surveyor, or both, hold a certificate of registration in this state under this chapter and the certificate is in force;

(ii) The designated engineer or designated land surveyor, or both, are not designated in responsible charge for another limited liability company or a corporation;

(iii) The limited liability company is licensed with the secretary of state and has a current unified business identification number and that the board determines, based on evaluating the findings and information under this subsection, that the applicant limited liability company possesses the ability and competence to furnish either or both engineering or land surveying services in the public interest; and

(iv) The limited liability company is registered with the department of revenue pursuant to RCW 82.32.030.

The board may exercise its discretion to take any of the actions under RCW 18.235.110 with respect to a certificate of authorization issued to a limited liability company if the board finds that any of the managers or members holding a majority interest in the limited liability company has engaged in unprofessional conduct as defined in RCW 18.43.105 or 18.235.130 or has been found personally responsible for unprofessional conduct under the provisions of (f) and (g) of this subsection.

(e) Engineers or land surveyors organized as a professional limited liability company are exempt from applying for a certificate of authorization under this chapter.

(f) Any limited liability company authorized to practice engineering or land surveying, or both, under this chapter, together with its manager or managers and members for their own individual acts, are responsible to the same degree as an individual registered engineer or registered land surveyor, and must conduct their business without unprofessional conduct in the practice of engineering or land surveying, or both.

(g) A limited liability company that is certified under this chapter is subject to the authority of the board as provided in RCW 18.43.035, 18.43.105, 18.43.110, 18.43.120, and chapter 18.235 RCW.

(h) All plans, specifications, designs, and reports when issued in connection with work performed by a limited liability company under its certificate of authorization shall be prepared by or under the direct supervision of and shall be signed by and shall be stamped with the official seal of a person holding a certificate of registration under this chapter.

(i) For each certificate of authorization issued under this subsection (10) there shall be paid an initial fee determined by the director as provided in RCW 43.24.086 and an annual renewal fee determined by the director as provided in RCW 43.24.086.

**Sec.**  RCW 18.85.171 and 2008 c 23 s 17 are each amended to read as follows:

(1) A person desiring a license as a real estate firm shall apply on a form prescribed by the director. A person desiring a license as a real estate broker or managing broker must pay an examination fee and pass an examination. The person shall apply for an examination and for a license on a form prescribed by the director. Concurrently, the applicant shall meet the following requirements:

(a) Furnish other proof as the director may require concerning the honesty, truthfulness, and good reputation, as well as the identity, which may include fingerprints and criminal background checks, of any applicants for a license, or of the officers of a corporation, limited liability company, other legally recognized business entity, or the partners of a limited liability partnership or partnership, making the application;

(b) ((~~If the applicant is a corporation, furnish a certified copy of its articles of incorporation, and a list of its officers and directors and their addresses. If the applicant is a foreign corporation, the applicant shall furnish a certified copy of certificate of authority to conduct business in the state of Washington, a list of its officers and directors and their addresses, and evidence of current registration with the secretary of state. If the applicant is a limited liability company or other legally recognized business entity, the applicant shall furnish a list of the members and managers of the company and their addresses.~~)) If the applicant is a legally recognized business entity, except a general partnership, it must be registered with the secretary of state and must furnish a list of governors that includes:

(i) For corporations, a list of officers and directors and their addresses;

(ii) For limited liability companies, a list of members and managers and their addresses;

(iii) For limited liability partnerships, a list of the partners and their addresses; or

(iv) For other legal business entities, a list of the governors and their addresses.

(c) If the applicant is a ((~~limited liability partnership or~~)) general partnership, the applicant shall furnish a copy of the signed partnership agreement and a list of the partners thereof and their addresses;

((~~(c)~~)) (d) Unless the applicant is a corporation or limited liability company, complete a fingerprint-based background check through the Washington state patrol criminal identification system and through the federal bureau of investigation. The applicant must submit the fingerprints and required fee for the background check to the director for submission to the Washington state patrol. The director may consider the recent issuance of a license that required a fingerprint-based national criminal information background check, or recent employment in a position that required a fingerprint‑based national criminal information background check, in addition to fingerprints to accelerate the licensing and endorsement process. The director may adopt rules to establish a procedure to allow a person covered by this section to have the person's background rechecked under this subsection upon application for a renewal license.

(2) The director must develop by rule a procedure and schedule to ensure all applicants for licensure have a fingerprint and background check done on a regular basis.

**Sec.**  RCW 18.43.050 and 1995 c 356 s 3 are each amended to read as follows:

Application for registration shall be on forms prescribed by the board and furnished by the director, shall contain statements made under oath, showing the applicant's education and detail summary of his or her technical work and shall contain ((~~not less than five references, of whom three or more shall be~~)) verification of the technical work from professional engineers ((~~having~~)) that supervised the applicant's technical work and have personal knowledge of the applicant's engineering experience.

The registration fee for professional engineers shall be determined by the director as provided in RCW 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate. The fee for engineer-in-training shall be determined by the director as provided in RCW 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate.

The registration fee for professional land surveyors shall be determined by the director as provided in RCW 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate. The fee for land-surveyor-in-training shall be determined by the director as provided in RCW 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate.

Should the board find an applicant ineligible for registration, the registration fee shall be retained as an application fee.

**Sec.**  RCW 18.39.070 and 2005 c 365 s 5 are each amended to read as follows:

(1) License examinations shall be held by the director at least once each year at a time and place to be designated by the director. Application to take an examination shall be filed with the director at least fifteen days prior to the examination date. The department shall give each applicant written notice of the time and place of the next examination. The applicant shall be deemed to have passed an examination if the applicant attains a grade of not less than seventy-five percent in each examination. ((~~Any applicant who fails an examination shall be entitled, at no additional fee, to one retake of that examination.~~))

(2) An applicant for a license may take his or her written examination after completing the educational requirements and before completing the course of training required under RCW 18.39.035.

**Sec.**  RCW 18.16.030 and 2015 c 62 s 2 are each amended to read as follows:

In addition to any other duties imposed by law, including RCW 18.235.030 and 18.235.040, the director shall have the following powers and duties:

(1) To set all license, examination, and renewal fees in accordance with RCW 43.24.086;

(2) To adopt rules necessary to implement this chapter;

(3) To prepare and administer or approve the preparation and administration of licensing examinations;

(4) To establish minimum safety and sanitation standards for schools, instructors, cosmetologists, barbers, hair designers, manicurists, estheticians, master estheticians, salons/shops, personal services, and mobile units;

(5) To establish curricula for the training of students and apprentices under this chapter;

(6) To maintain the official department record of applicants and licensees;

(7) To establish by rule the procedures for an appeal of an examination failure;

(8) To set license expiration dates and renewal periods for all licenses consistent with this chapter; and

(9) ((~~To ensure that all informational notices produced and mailed by the department regarding statutory and regulatory changes affecting any particular class of licensees are mailed to each licensee in good standing or on inactive status in the affected class whose mailing address on record with the department has not resulted in mail being returned as undeliverable for any reason; and~~

~~(10)~~)) To make information available to the department of revenue to assist in collecting taxes from persons required to be licensed under this chapter.

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