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**S. 896**

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Summary: Board of Registration for Foresters

**HISTORY OF LEGISLATIVE ACTIONS**

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12/17/2013 Senate Referred to Committee on **Fish, Game and Forestry**

1/14/2014 Senate Introduced and read first time ([Senate Journal‑page 64](file:///H:\SJ%20Archive\2014\01-14-14.docx))

1/14/2014 Senate Referred to Committee on **Fish, Game and Forestry** ([Senate Journal‑page 64](file:///H:\SJ%20Archive\2014\01-14-14.docx))

**VERSIONS OF THIS BILL**

[12/17/2013](file:///p:\pprever\2013-14\896_20131217.docx)

**A** **BILL**

TO AMEND CHAPTER 27, TITLE 48, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PRACTICE OF FORESTRY IN THIS STATE, SO AS TO CHANGE THE METHOD OF APPOINTMENT FOR MEMBERS OF THE STATE BOARD OF REGISTRATION FOR FORESTERS, TO CHANGE REQUIREMENTS RELATED TO THE RIGHT OF BOARD MEMBERS TO COMPENSATION AND REIMBURSEMENT OF EXPENSES, TO DELETE THE REQUIREMENT FOR A SURETY BOND FOR THE BOARD SECRETARY AND THE SECRETARY’S ENTITLEMENT TO A SALARY, TO CHANGE PROVISIONS RELATING TO THE POWERS, RESPONSIBILITIES, AND OPERATION OF THE BOARD, TO REQUIRE FORESTERS TO BECOME LICENSED IN ADDITION TO BEING REGISTERED, TO PROVIDE FOR CERTAIN LICENSURE REQUIREMENTS, TO ADD REQUIREMENTS RELATING TO THE BOARD’S INVESTIGATION AND REVIEW OF COMPLAINTS, TO DELETE THE REQUIREMENT FOR MAINTENANCE OF A SEPARATE FUND FOR MONIES RECEIVED UNDER THE CHAPTER, TO CHANGE PROVISIONS RELATING TO CRIMINAL AND FINANCIAL PENALTIES FOR CERTAIN MISCONDUCT, BY ADDING LICENSURE PROVISIONS FOR ACTIVE DUTY MILITARY PERSONNEL, BY ADDING REQUIREMENTS RELATING TO CONTINUING EDUCATION, AND FOR OTHER PURPOSES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 27, Title 48 of the 1976 Code, is amended to read:

“CHAPTER 27

Registration of Foresters

Section 48‑27‑10. (1) ‘Registered forester’ ~~shall mean~~ means a person who has registered and is qualified ~~under~~ pursuant to this chapter to engage in professional forestry practices as defined in this section.

(2) ‘Forestry’ or ‘practice of forestry’ ~~shall mean any~~ means a professional service relating to forestry~~, such as~~ including, but not limited to, consultation, investigation, evaluation, planning or responsible supervision of forest management, protection, silviculture, measurements, utilization, economics, education, ~~or~~ and other forestry activities in connection with any public or private lands.

(3) ‘Board’ ~~shall mean~~ means the State Board of Registration for Foresters, provided ~~for by~~ pursuant to this chapter.

(4) ‘License’ means the document issued to a person that grants authorization to practice forestry pursuant to this chapter.

Section 48‑27‑20. (A) A State Board of Registration for Foresters is created whose duty it is to administer the provisions of this chapter.

(B) The board ~~shall consist~~ consists of five licensed registered foresters~~,~~ recommended by the Foresters Council of South Carolina and two nonforester members recommended by the South Carolina Forestry Association, all of whom are appointed by the Governor. The Governor ~~shall~~ also may consider nominations from ~~any~~ other ~~individual, group, or association~~ individuals, groups, and associations.

(C)(1) Terms of board members are for five years or until a qualified successor is appointed. Each member ~~of the board~~ must be commissioned by the Governor and, before beginning ~~his~~ the term of office, shall file with the Secretary of State ~~his~~ a written oath or affirmation for the faithful discharge of ~~his~~ official duty. ~~On the expiration of the term of any member of the board~~, ~~three nominees~~ ~~for each position recommended by the designated group must be submitted to the Governor from which he shall appoint for a term of five years a Board member having the qualifications required by Section 48‑27‑30 to take the place of each member whose term on the board is expiring.~~

(2) When a board member’s term is expiring, the group on whose behalf the member is serving shall submit a nominee to the Governor for approval who meets the qualifications required by Section 48‑27‑30 to fill the vacant seat.

(3) ~~Any~~ If a vacancy ~~occurring~~ occurs for a reason other than the expiration of ~~office~~ a board member’s term, ~~must be filled by the Governor from three nominees recommended by~~ the designated group shall submit a nominee to the Governor for approval who meets the qualifications required by Section 48‑27‑30 to ~~fill~~ serve the remainder of the unexpired term ~~of the member~~. ~~If the Governor fails to make appointment in ninety days after expiration of any term, the Board shall make the necessary appointment. Each member shall hold office until the expiration of the term for which he is appointed and until a successor is duly appointed and qualifies.~~

Section 48‑27‑30. Each member of the board must be a citizen of the United States and a resident of this State. Each licensed registered forester member must have been engaged in the practice of forestry for at least ten years.

Section 48‑27‑40. ~~Every member of the board shall receive a per diem allowance when actually attending to the work of the board or any of its committees and for the time spent in necessary travel and, in addition thereto, shall be reimbursed for all actual traveling, incidental and clerical expenses necessarily incurred in carrying out the provisions of this chapter.~~ Individuals serving on the board pursuant to this chapter may not receive compensation but are entitled to mileage, subsistence, and per diem as allowed by law for members of state boards, commissions, and committees. Mileage, per diem, and subsistence paid and costs and expenses incurred must be paid as an expense of the board in the administration of the provisions of this chapter and must be paid from the fees received by the board pursuant to the provisions of this chapter.

Section 48‑27‑50. The Governor may remove ~~any~~ a member of the board for misconduct, incompetency, or neglect of duty.

Section 48‑27‑60. The board shall hold at least two regular meetings each year and may hold additional special meetings. ~~Special meetings shall be held at such time and place as the bylaws of the board may provide.~~ Notice of all meetings ~~shall~~ must be given ~~in such manner as the bylaws may provide~~ as required by Section 30‑4‑80. ~~The Board shall elect or appoint annually the following officers: A chairman, a vice‑chairman, and a secretary.~~ The board annually shall elect from among its members a chairman, vice chairman, and other officers as the board determines necessary.

Section 48‑27‑70. ~~A secretary to the board shall give a surety bond to the State in such sum as the Director of the Department of Labor, Licensing, and Regulation may determine. The premium on such bond shall be regarded as a proper and necessary expense of the board and shall be paid out of the fund of the Board of Registration for Foresters. The secretary shall receive such salary as the Director of the Department of Labor, Licensing, and Regulation shall determine in addition to the expenses provided for in Section 48‑27‑40.~~RESERVED

Section 48‑27‑80. The board may adopt ~~and amend all bylaws and rules of procedure, not inconsistent with the Constitution and laws of this State, which may be reasonably necessary for the proper performance of its duties and the regulation of the proceedings before it~~ rules governing its proceedings and internal operations and may promulgate regulations and adopt standards as necessary to carry out the provisions of this chapter. In addition to the powers and duties provided in this chapter, the board has those powers and duties set forth in Chapter 1, Title 40.

Section 48‑27‑90. The board shall adopt and have an official seal.

Section 48‑27‑100. In ~~carrying into effect the provisions of this chapter~~ accordance with Section 40‑1‑80(B), the board may, under the hand of its chairman and seal of the board, subpoena witnesses and compel their attendance, take evidence, and ~~may also~~ require the production of books, papers, and documents relevant to the investigation. ~~in a case involving the revocation of a license or practicing or offering to practice without a license under the title of registered forester. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board. Such witnesses officially called by the Board shall receive the same compensation and shall be reimbursed for expenses as is provided for witnesses in the court of common pleas in the county in which this Board may sit.~~ Upon failure of an individual to obey a subpoena or to answer questions propounded by the board, the board may apply to the Administrative Law Court for an order requiring the person to comply.

Section 48‑27‑110. ~~The Board shall keep a record of its proceedings and a register of all applications for registration, which register shall show (a) the name, age, and residence of each applicant, (b) the date of the application, (c) the place of business of such applicant, (d) his educational and other qualifications, (e) whether or not an examination was required, (f) whether the application was rejected, (g) whether a license was granted, (h) the date of the action of the Board and (i) such other information as may be deemed necessary by the Board. The records of the Board shall be prima facie evidence of the proceedings of the Board set forth therein, and a transcript thereof duly certified by the secretary of the Board under seal shall have the same force and effect as if the original were produced. Annually, as of June thirtieth, the Board shall submit to the Governor a report of its transactions of the preceding year.~~ The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspectional, clerical, and secretarial operations and activities of the board in accordance with Section 40‑1‑50.

Section 48‑27‑120. (1) No person shall use in connection with his name or otherwise assume, use or advertise ~~any~~ a title or description tending directly or indirectly to convey the impression that he is a licensed registered forester, without first having been licensed and registered as a registered forester as provided in this chapter.

(2) Except as specifically authorized in this section, no person shall engage in the practice of professional forestry as defined in this chapter or in any manner advertise or hold himself out as engaged in such practice without first being licensed as a registered forester ~~under~~ pursuant to this chapter.

(3) Notwithstanding ~~subsection~~ item (2) ~~of this section~~ or ~~any other~~ another provision of this chapter, nothing ~~herein~~ in this chapter may be construed as preventing or prohibiting ~~any~~ a person from managing or otherwise conducting forestry practices on land owned by him, nor shall anything ~~herein~~ in this chapter prohibit ~~any~~ a regular employee from engaging in professional or other forestry practices on lands owned by the person. Also, notwithstanding ~~subsection~~ item (2) ~~of this section~~ or ~~any other~~ another provision of this chapter, nothing ~~herein~~ in this chapter may be construed as preventing or prohibiting professional employees of public agricultural agencies from rendering forestry information, education, demonstration, and conservation planning in line of duty if the employees do not represent themselves to be licensed registered foresters unless properly licensed ~~or~~ and registered ~~under~~ pursuant to the provisions of this chapter.

(4) It is the purpose of this chapter to protect the public by improving the standards relative to the practice of professional forestry, and the provisions of this chapter apply to foresters employed by the State.

(5) Nothing ~~herein provided shall prohibit any~~ in this chapter prohibits forestry work by unlicensed persons working under the supervision of a licensed registered forester.

Section 48‑27‑130. (A) ~~The following are minimum evidence satisfactory to the board that the applicant is qualified for registration a license as a registered forester~~ The board shall consider an applicant qualified to be licensed as a registered forester pursuant to this chapter who:

(1) ~~graduation~~ graduates from a curriculum in forestry of four years or more in a department, school, or college approved by the board and has a specific record of an additional two years’ or more experience in forestry of a character satisfactory to the board and indicating that the applicant is competent to practice forestry; or

(2) ~~successfully passing a written examination designed to show knowledge and skill approximating that obtained through graduation from an approved four‑year curriculum in forestry and~~ has a specific record of six years or more of practice in forestry of a character satisfactory to the board and indicating that the applicant is competent to practice forestry~~.~~; and

(3) passes the examination for licensure.

(B) The board shall issue licenses only to applicants who meet the requirements of this section. ~~However,~~ No person may register as a forester who has been convicted of a felony or crime involving moral turpitude. However, the applicant may be licensed by the board if:

(1) at least five years have passed since ~~he was convicted, sentenced or released~~ conviction, sentencing, or release from incarceration, whichever is later~~.~~; and

(2) no criminal charges are pending ~~against him~~.

(C) The completion of the junior year of a curriculum in forestry, without graduation, in a school or college approved by the board is equivalent to two years of practice. The completion of the senior year of a curriculum in forestry, without graduation, in a school or college approved by the board is equivalent to three years of practice.

~~(D)~~ ~~Beginning June 1, 1991, applicants shall take the examination for registration.~~

Section 48‑27‑140. Applicants ~~for registration~~ shall ~~make application~~ apply on forms prescribed and furnished by the board. The applications ~~shall~~ must contain statements made under oath showing the applicant’s education and a detailed summary of his technical work and ~~shall~~ must include not ~~less~~ fewer than five references, of whom three or more must be foresters having personal or professional knowledge of his forestry experience. The ~~registration~~ fee for a license as a registered forester must be set by the board by regulation. Should the board deny the issuance of a license to ~~any~~ an applicant, the initial fee deposited must be retained by the board as an application fee.

Section 48‑27‑150. ~~When written examinations are required, they shall be held at such time and place as the Board shall determine. The methods of procedure shall be prescribed by the Board. A candidate failing on examination may apply for re‑examination at the expiration of six months and will be re‑examined without payment of an additional fee. Subsequent examination will be granted upon payment of a fee to be determined by the Board.~~ Examinations are given by the Society of American Foresters at a time and place as determined. The board may approve additional state or national examinations as deemed necessary by a majority vote of the board.

Section 48‑27‑160. The board shall issue a license upon payment of a ~~registration~~ fee as provided for in ~~this chapter~~ regulation to ~~any~~ an applicant who, in the opinion of the board, ~~has satisfactorily met~~ meets all of the requirements of this chapter. A ~~Licenses~~ license shall ~~show~~ provide the full name of the ~~registrant~~ registered forester, ~~shall~~ have a serial number and ~~shall~~ be signed by the chairman ~~and the secretary~~ of the board under seal of the board. The issuance of a license by the board ~~shall be~~ is evidence that the ~~registrant~~ registered forester is entitled to all the rights and privileges of a registered forester while his license remains unrevoked or unexpired. The board has jurisdiction over the action of licensees and former licensees as provided for in Section 40‑1‑115.

Section 48‑27‑170. ~~Registration shall be~~ Licensure is determined upon a basis of individual personal qualifications. No firm, company, partnership, or corporation ~~shall~~ may be licensed.

Section 48‑27‑180. A person licensed to practice forestry by a state or country whose requirements are commensurate with the requirements of this State, upon payment of the fee established pursuant to Section 48‑27‑140, may be registered and licensed to practice forestry in this State, with the renewal privileges set forth in Section 48‑27‑190. The board shall deny licensure to a person convicted of a felony or crime involving moral turpitude. However, the applicant may be licensed by the board if:

(1) at least five years have passed since ~~he was convicted, sentenced, or released~~ conviction, sentencing, or release from incarceration, whichever is later~~.~~; and

(2) no criminal charges are pending against him.

Section 48‑27‑190. Licenses expire on the last day of June following their issuance or renewal and ~~are invalid~~ lapse on that date unless renewed. The ~~secretary of the~~ board shall notify, at ~~his~~ the registrant’s last registered address, every person ~~registered~~ licensed ~~under~~ pursuant to this chapter of the date of the expiration of his license and the amount of the fee required for its biennial renewal ~~for one year~~. The notice must be mailed at least one month in advance of the date of the expiration. The board shall set the ~~annual~~ biennial renewal fee by regulation. Renewal of licenses for the following ~~year~~ renewal period may be effected during June of the year in which the license has been issued or renewed by the payment of the renewal fee. The licenses also may be renewed during the ensuing three months by the payment of an additional fee ~~for each month or portion of it that payment is delayed beyond June~~ promulgated in regulation. ~~The fee must be set by the board by regulation. The board shall make an exception to the renewal provisions for a person who is in the Armed Services of the United States. The board shall develop regulations for continuing education or other assessment of continued competence.~~ After September thirtieth, registrants shall apply for reinstatement as determined by the board in regulation.

Section 48‑27‑191. Licensure provisions for active duty military personnel must be enforced by the board as provided in Chapter 1, Title 40.

Section 48‑27‑192. Continuing education or other assessment of continued competence must be provided by the board in regulation.

Section 48‑27‑195. ~~Any~~ A licensed registered forester shall place, as soon as practically possible, any deposit money or other money received by him in a forestry transaction in a separate trust or escrow account maintained by him in a banking institution authorized to do business in the State, where the funds must be kept until the transaction has been consummated or otherwise terminated, at which time a full accounting must be made by the licensed registered forester. Records ~~relative~~ relevant to the deposit, maintenance, and withdrawal of the funds must be properly maintained and be made available to a representative of the South Carolina State Board of Registration for Foresters upon request.

Section 48‑27‑200. ~~The board may, upon proof that grounds exist that the licensee has committed fraud, deceit, gross negligence, incompetency, or other misconduct in connection with any forestry practice, order the revocation or suspension of a license, publicly or privately reprimand the holder of a license, or take any other action short of revocation or suspension, such as requiring the licensee to undertake additional professional training subject to the direction and supervision of the board. The board may also impose such restraint upon the practice of the licensee as circumstances warrant until the licensee demonstrates to the board adequate professional competence. The board may designate a person to investigate and report to it upon any charges of fraud, deceit, gross negligence, incompetency, or other misconduct in connection with any forestry practice against any registrant as may come to its attention. Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct in connection with any forestry practice against any registrant. The charges must be in writing and must be filed with the secretary of the board. All charges, unless dismissed by the board as unfounded or trivial, must be heard by the board as soon as a thorough investigation may be made and a hearing scheduled. The time and place for the hearing must be fixed by the board, and a copy of the charges, together with a notice of the time and place of the hearing, must be personally served on or mailed to the last known address of the registrant at least thirty days before the date fixed for the hearing. At any hearing the accused registrant may appear personally and by counsel, to cross‑examine witnesses appearing against him, and to produce evidence and witnesses in his own defense. Any registrant whose license has been sanctioned may apply for a review of the proceedings with reference to the sanction of his license before an Administrative Law Judge as provided under Chapter 23 of Title 1. The review must be upon the record made before the board. Petition for review of this act of the board must be served upon the board within thirty days from the date of the service of the order or the decision of the board upon the person. Upon service upon it of a petition for review, the board shall within thirty days certify the record made before it to an Administrative Law Judge as provided under Chapter 23 of Title 1.~~ (A) The board through the Department of Labor, Licensing and Regulation shall investigate initial complaints and alleged violations of this chapter as provided for in this chapter and in Section 40‑1‑80. A person, including the board, may file an initial complaint against a licensee or registrant and the board may require initial complaints to be submitted in writing, specifying the charge and signed by the initial complainant.

(B) Upon receipt, the complaint may be referred to an investigator of the department, who shall investigate the allegations. The results of any investigation must be reported to the board. If it appears that a violation has occurred, the board may approve a formal complaint and may take disciplinary action as authorized by Section 40‑1‑120.

(C) To the extent provided in Section 40‑1‑190, investigations and proceedings conducted pursuant to this chapter are confidential, and all communications are privileged.

(D) All charges, unless dismissed by the board as unfounded or trivial, must be heard by the board as soon as a thorough investigation is made and a hearing scheduled. The time and place for the hearing must be fixed by the board, and a copy of the formal charges, together with a notice of the time and place of the hearing, must be personally served on or mailed to the last known address of the registrant at least thirty days before the date fixed for the hearing. At a hearing, the accused registrant may appear personally and by counsel to cross‑examine witnesses and to produce evidence and witnesses in his own defense.

(E) A registered forester aggrieved by a final action of the board may seek review of the decision to the Administrative Law Court in accordance with Section 40‑1‑160.

(F) In addition to the grounds provided in Section 40‑1‑110, upon proof that grounds exist that the licensed registered forester has committed fraud, deceit, gross negligence, incompetency, or other misconduct in connection with any forestry practice, the board, in addition to the disciplinary action authorized in Section 40‑1‑120, may order the revocation or suspension of a license, publicly or privately reprimand the holder of a license, or take any other action short of revocation or suspension, such as requiring the licensee to undertake additional professional training subject to the direction and supervision of the board. The board also may impose such restraint upon the practice of the licensee as circumstances warrant until the licensee demonstrates to the board adequate professional competence.

(G) Upon a determination by the board that one or more of the grounds for discipline exists, as provided in this chapter and Section 40‑1‑110, the board, in addition to the actions provided for in this chapter and Section 40‑1‑120, may impose a fine of not more than five hundred dollars per offense.

Section 48‑27‑210. A new license to replace ~~any~~ a license revoked, lost, destroyed, or mutilated, may be issued, subject to the rules of the board. ~~A charge of three dollars shall be made for such issuance.~~ A fee for this replacement may be assessed by the board as provided in regulation.

Section 48‑27‑220. A roster, showing the names and places of business of all licensed registered foresters qualified according to the provisions of this chapter, ~~shall~~ may be prepared by ~~the secretary of the~~ board staff as provided in Section 40‑1‑50(C) ~~during the month of July of each year~~. Copies of this roster ~~shall~~ must be ~~mailed~~ provided upon proper request to each registered person ~~so registered, placed on file with the Secretary of State, and furnished to the public on request~~.

Section 48‑27‑230. Plans, maps, specifications, and reports issued by a registrant must be endorsed with ~~his~~ the registrant’s name and license number. It is unlawful for a person to endorse ~~any~~ documents after his license has expired or has been revoked. It also is unlawful for a licensed registered forester to endorse ~~any~~ a plan, specification, estimate, or map unless he has actually prepared the plan, specification, estimate, or map or has been in actual charge of its preparation.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, ~~must~~ may be fined ~~in the discretion of the court~~ or imprisoned not more than two years, or both.

Section 48‑27‑240. ~~The secretary of the board shall receive and account for all moneys derived under the provisions of this chapter and shall pay them to the State Treasurer, who shall keep such moneys in a separate fund to be known as the fund of the State Board of Registration for Foresters. Such fund shall be kept separate and apart from all other moneys in the State Treasury and shall be paid out only by warrants regularly drawn by the chairman and secretary of the Board. All moneys in the fund of the State Board of Registration for Foresters are hereby specifically appropriated for the use of the Board. Under no circumstances shall the total amount of warrants issued by the Comptroller General in payment of the expenses and compensation provided for in this chapter exceed the amount of the examination, registration, and renewal fees collected as provided in this chapter.~~

RESERVED

Section 48‑27‑250. Except as specifically provided in this chapter, a person who knowingly violates ~~the provisions~~ a provision of this chapter or a regulation promulgated pursuant to this chapter is guilty of a misdemeanor and, upon conviction, ~~must~~ may be fined ~~in the discretion of the court~~ or imprisoned not more than three years.

Section 48‑27‑260. (A) As provided for in Section 40‑1‑100, when the board has reason to believe that a person is violating a provision of this chapter or a regulation promulgated pursuant to this chapter, in addition to all other remedies, it may order the person immediately to cease and desist from engaging in the conduct. If a person is practicing forestry without being licensed pursuant to this chapter, is violating a board order or a provision of this chapter or a regulation promulgated pursuant to this chapter, the board also may apply to the Administrative Law Court for a temporary restraining order, in accordance with the rules of the Administrative Law Court.

(B) To enforce this chapter or to restrain a violation of this chapter, the department, on behalf of the board, may petition the Administrative Law Court for an injunction in the name of the State as provided in Section 40‑1‑210. The board, either before or after the institution of criminal proceedings, may institute a civil action in the ~~circuit court~~ Administrative Law Court, in the name of the State, for injunctive relief against a person violating the provisions of this chapter, or the regulations or orders of the board. For each violation, the court may, in its discretion, impose a fine of no more than ten thousand dollars and order restitution to injured persons.”

SECTION 2. This act takes effect upon approval by the Governor.

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