

# State of South Dakota

NINETY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2016

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## SENATE BILL NO. 41

Introduced by: The Committee on Commerce and Energy at the request of the Board of  
Technical Professions

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the Board of  
2 Technical Professions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-18A-4 be amended to read:

5 36-18A-4. For the purposes of this chapter, the term, practice of land surveying, means the  
6 practice or offering to practice professional services such as consultation, investigation,  
7 testimony evaluation, ~~expert technical testimony~~, land-use studies, planning, mapping,  
8 assembling, interpreting reliable scientific measurements and information relative to the  
9 location, size, shape, or physical features of the earth, improvements on the earth, the space  
10 above the earth, or any part of the earth, and utilization and development of these facts and  
11 interpretation into an orderly survey map, plan, report, description, or project.

12 The practice of land surveying includes any of the following:

13 (1) Locates, relocates, establishes, reestablishes, lays out, or retraces any property line  
14 or boundary of any tract of land or any road, right-of-way, easement, alignment, or  
15 elevation of any of the fixed works embraced within the practice of land surveying;



- 1       (2)    Makes any survey for the subdivision of any tract of land;
- 2       (3)    Determines, by the use of principles of land surveying, the position for any survey
- 3            monument or reference point; or sets, resets, or replaces any such monument or
- 4            reference point;
- 5       (4)    Determines the configuration or contour of the earth's surface or the position of fixed
- 6            objects on the earth's surface by measuring lines and angles and applying the
- 7            principles of mathematics;
- 8       (5)    Geodetic surveying which includes surveying for determination of the size and shape
- 9            of the earth utilizing angular and linear measurements through spatially oriented
- 10           spherical geometry; or
- 11       (6)    Creates, prepares, or modifies electronic or computerized data, including land
- 12            formation systems and geographic information systems, relative to the performance
- 13            of the activities in subdivisions (1) to (5), inclusive, of this section.

14       Section 2. That § 36-18A-5 be amended to read:

15       36-18A-5. For the purposes of this chapter, the term, practice of landscape architecture,

16       means the practice or offering to practice landscape architecture projects, including preparing

17       preliminary studies, providing land-use studies, developing design concepts, ~~giving expert~~

18       ~~technical testimony~~, planning for the relationships of physical improvements and intended uses

19       of the site, establishing form and aesthetic elements, analyzing and providing for life safety

20       requirements, developing those construction details on the site which are exclusive of any

21       building or structure and do not require the seal of an engineer or architect, preparing and

22       coordinating technical submissions, and conducting site observation of landscape architecture

23       projects.

24       Landscape architecture, for the purposes of landscape preservation, development, and

1 enhancement, includes: investigation, selection, and allocation of land and water resources for  
2 appropriate use; feasibility studies; formulation of graphic and written criteria to govern the  
3 planning and design of land construction programs; preparation, review, and analysis of master  
4 plans for land use and development; production of overall site plans, landscape grading and  
5 landscape drainage plans, irrigation plans, planting plans, and construction details;  
6 specifications; cost estimates and reports for land development; collaboration in design of roads,  
7 bridges, and structures with respect to the functional and aesthetic requirements of the areas on  
8 which they are to be placed; negotiation and arrangement for execution of land area projects;  
9 field observation and inspection of land area construction, restoration, and maintenance.

10 Section 3. That § 36-18A-9 be amended to read:

11 36-18A-9. This chapter does not apply to:

- 12 (1) Any person engaged in military engineering while rendering service exclusively for  
13 any of the armed forces of the United States or this state;
- 14 (2) Any person engaged in the practice of ~~professional engineer~~ or engineering,  
15 architecture, landscape architecture, or land surveying in the employ of the United  
16 States government but only while exclusively engaged as a United States government  
17 employee on such government project or projects which lie within federally-owned  
18 land;
- 19 (3) Any person engaged in the practice of ~~professional~~ engineering, architecture,  
20 landscape architecture, or land surveying in the employ of the state and any of its  
21 political subdivisions but only while rendering service exclusively to such employer.  
22 Any building project resulting from the practice of ~~professional~~ engineering,  
23 architecture, landscape architecture, or land surveying under this subdivision is  
24 subject to the size limitation imposed under the exemptions in subdivision (8) of this

- 1 section;
- 2 (4) Any employee who prepares technical submissions or administers construction
- 3 contracts for a person or organization lawfully engaged in the practice of engineering,
- 4 architecture, landscape architecture, or land surveying, if the employee is under the
- 5 direct supervision of a registered professional engineer, architect, landscape architect,
- 6 or land surveyor;
- 7 (5) Any full-time employee of a corporation, partnership, firm, business entity, or public
- 8 utility while exclusively doing work for the corporation, partnership, firm, business
- 9 entity, or public utility, if the work performed is in connection with the property,
- 10 products, and services utilized by the employer and not for any corporation,
- 11 partnership, firm, or business entity practicing or offering to practice architectural,
- 12 engineering, landscape architecture, or land surveying services to the public. The
- 13 provisions of this subdivision do not apply to any building or structure if the primary
- 14 use is occupancy by the public;
- 15 (6) Any person engaged in the preparation of plans and specifications for the erection,
- 16 enlargement, or alteration of any of the following buildings:
- 17 (a) Any dwelling for a single family, and any outbuilding in connection therewith,
- 18 such as a barn or private garage;
- 19 (b) Any two, three, or four family dwelling;
- 20 (c) Any five to sixteen family dwelling, inclusive, located in a governmental
- 21 subdivision of this state which provides a detailed building code review of
- 22 building projects by a building inspection department which is a ~~Class A~~
- 23 ~~member of the International Conference of Building Officials~~ governmental
- 24 member of the International Code Council (ICC) or an ICC certified plans

1           examiner;

2           (d) Any farm or ranch building or accessory thereto except any building regularly  
3           used for public purposes; or

4           (e) Any temporary building or shed used exclusively for construction purposes,  
5           not exceeding two stories in height, and not used for living quarters;

6       (7) Any person who prepares detailed or shop plans required to be furnished by a  
7       contractor to a registered professional engineer or architect, and any construction  
8       superintendent supervising the execution of work designed by an architect or  
9       professional engineer registered in accordance with this chapter;

10      (8) Any person engaged in the preparation of plans and specifications for the new  
11      construction, the enlargement or the alteration of any of the following buildings:

12           (a) Any building occupied as a hospital, hotel, motel, restaurant, library, medical  
13           office, nursing facility, assisted living facility, jail, retirement home, or  
14           mortuary, if the gross square footage of the new construction, the enlargement,  
15           or the alteration is four thousand square feet or less;

16           (b) Any building occupied as an auditorium, church, school, or theater if the gross  
17           square footage of the new construction, the enlargement, or the alteration is  
18           five thousand square feet or less;

19           (c) Any building occupied as a bowling alley, office, shopping center, bank, fire  
20           station, service station, or store if the gross square footage of the new  
21           construction, the enlargement, or the alteration is seven thousand square feet  
22           or less;

23           (d) Any building occupied as an industrial plant or public garage if the gross  
24           square footage of the new construction, the enlargement, or the alteration is

1 eleven thousand square feet or less;

2 (e) Any building occupied as a warehouse if the gross square footage of the new  
3 construction, the enlargement, or the alteration is twenty thousand square feet  
4 or less;

5 (f) Any building with an occupancy other than those listed in subsections (a) to  
6 (e), inclusive, of this subdivision if the gross square footage of the new  
7 construction, the enlargement, or the alteration is four thousand square feet of  
8 less; or

9 (g) Any preengineered or predesigned building, or any preengineered or  
10 predesigned building with a predesigned system, designed for the intended use  
11 of that building, including building structure, electrical, plumbing, and  
12 mechanical systems, if the buildings and systems are supplied directly, or  
13 indirectly, by a company engaged in the business of designing and supply such  
14 buildings and systems and if the company has in its employ one or more  
15 engineers or architects licensed in South Dakota, who prepare all designs for  
16 such buildings and systems.

17 No person exempted may use the title of professional engineer, architect, landscape  
18 architect, or land surveyor, or any other word, words, letters, or signs in connection with the  
19 person's name that may falsely convey the impression that the person is a licensed professional  
20 engineer, architect, landscape architect, or land surveyor.

21 Section 4. That § 36-18A-37 be amended to read:

22 36-18A-37. The license shall be displayed in a conspicuous place in the licensee's principal  
23 office, place of business, or place of employment within the state. A ~~new~~ duplicate license to  
24 replace a lost, destroyed, or mutilated license shall be issued upon payment of a fee established

1 by the board pursuant to chapter 1-26.

2 Section 5. That § 36-18A-46 be amended to read:

3 36-18A-46. No person other than an architect ~~or professional engineer may provide~~  
4 ~~architectural and engineering services which include construction administration services on~~  
5 ~~projects that are not exempt pursuant to §§ 36-18A-2 and 36-18A-3~~ may provide construction  
6 administration services on an architecture portion of a project that is not exempt pursuant to  
7 § 36-18A-2. No person other than a professional engineer may provide construction  
8 administration services on an engineering portion of a project that is not exempt pursuant to  
9 § 36-18A-3. The architect or professional engineer of record, or another designated architect or  
10 professional engineer without conflict of interest, shall provide a written report of observed  
11 deficiencies or variations from the submitted plans and specifications to the building official,  
12 owner, and builder before project completion. The board may promulgate rules pursuant to  
13 chapter 1-26 to establish construction administration services criteria including coordinating and  
14 prime professional criteria for persons licensed by the board.

15 Section 6. That § 36-18A-46.1 be amended to read:

16 36-18A-46.1. ~~If determined by the board that~~ a licensee in responsible charge of the work  
17 is unavailable to complete the work, a successor licensee may take responsible charge by  
18 performing all professional services to include developing a complete design file with work or  
19 design criteria, calculations, code research, and any necessary and appropriate changes to the  
20 work. The nonprofessional services, such as drafting, need not be redone by the successor  
21 licensee but shall clearly and accurately reflect the successor licensee's work. The burden is on  
22 the successor licensee to show compliance. The successor licensee shall sign, date, and seal all  
23 original documents. The successor licensee shall have control of and responsibility for the work  
24 product and the signed and sealed originals of all documents.