

## AN ACT

1 Amending the act of May 23, 1945 (P.L.913, No.367), entitled, as  
2 amended, "An act relating to and regulating the practice of  
3 the profession of engineering, including civil engineering,  
4 mechanical engineering, electrical engineering, mining  
5 engineering and chemical engineering, the profession of land  
6 surveying and the profession of geology and constituent parts  
7 and combinations thereof as herein defined; providing for the  
8 licensing and registration of persons practicing said  
9 profession, and the certification of engineers-in-training  
10 and surveyors-in-training, and the suspension and revocation  
11 of said licenses, registrations and certifications for  
12 violation of this act; prescribing the powers and duties of  
13 the State Registration Board for Professional Engineers, Land  
14 Surveyors and Geologists, the Department of State and the  
15 courts; prescribing penalties; and repealing existing laws,"  
16 further providing for definitions; and providing for peer  
17 review and for lessons learned process.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 Section 1. Section 2 of the act of May 23, 1945 (P.L.913,  
21 No.367), known as the Engineer, Land Surveyor and Geologist  
22 Registration Law, is amended by adding subsections to read:

23 Section 2. Definitions.--As used in this act--

24 \* \* \*

25 (u) "Lessons Learned Process" shall include an internal

1 meeting, class, publication in any medium, presentation, lecture  
2 or other means of teaching and communicating, which is conducted  
3 solely and exclusively by and with the employes, partners and  
4 coworkers of a professional engineer, professional land surveyor  
5 or professional geologist whose work is being evaluated, for the  
6 purpose of learning best practices and reducing errors and  
7 omissions in design documents and procedures. The term does not  
8 include a presentation, lecture, teaching or communication made  
9 to or by third parties who are not employes, partners or  
10 coworkers of the licensee whose work is being evaluated and  
11 discussed.

12 (v) "Peer Review" means a study, appraisal or review to  
13 evaluate, maintain or monitor the quality and utilization of  
14 engineering, land surveying or geological services, conducted by  
15 a professional engineer, professional land surveyor or  
16 professional geologist licensed under the laws of this  
17 Commonwealth or another state who is not an employe, partner or  
18 coworker of the licensee whose work is being reviewed.

19 Section 2. The act is amended by adding sections to read:

20 Section 11.3. Peer Review.--(a) A peer review may only be  
21 performed by one or more professional engineers, professional  
22 land surveyors or professional geologists holding a current  
23 license in any jurisdiction in the United States in the same  
24 profession as would be required under this act to provide the  
25 services being reviewed and who is appointed by a firm or  
26 corporation under section 6 or by a licensee whose work is being  
27 evaluated.

28 (b) An individual who conducts a peer review shall be immune  
29 from civil liability arising from the peer review if the  
30 individual acts in good faith and without malice and the

1 individual's action is reasonably related to the scope of  
2 inquiry of the peer review. Immunity shall only apply to an  
3 individual who:

4 (1) is not an employe, partner or coworker of the licensee  
5 whose work is being evaluated; and

6 (2) has no other role in the services being reviewed apart  
7 from performing the peer review.

8 (c) All documents related to the peer review, including  
9 interviews, memoranda, proceedings, findings, deliberations,  
10 reports and minutes, or the existence of the same, are subject  
11 to discovery, subpoena or other means of legal compulsion for  
12 their release to any person or entity and shall be admissible  
13 into evidence in any judicial or administrative action.

14 Section 11.4. Lessons Learned Process.-- (a) Except as  
15 otherwise provided in this section, no individual who was in  
16 attendance at or participated in any lessons learned process  
17 shall be permitted or required to disclose any information  
18 acquired in connection with or in the course of the process, or  
19 to disclose any opinion, recommendation or evaluation made as  
20 part of the process. Information otherwise discoverable or  
21 admissible from an original source is not immune from discovery  
22 or use in any proceeding merely because it was presented during  
23 a lessons learned process, nor is an employe, partner or  
24 coworker involved in a lessons learned process to be prevented  
25 from testifying as to matters within such witness's personal  
26 knowledge, but such witness may not be questioned about a  
27 lessons learned process or about opinions formed as a result of  
28 the process.

29 (b) The disclosure of any memorandum, proceeding, report or  
30 minutes of a lessons learned process to any person or entity,

1 including a governmental agency, professional accrediting agency  
2 or other licensee, whether proper or improper, shall not waive  
3 or have any effect upon the confidentiality, nondiscoverability  
4 or nonadmissibility of the information disclosed.

5 (c) Nothing in this section shall limit the authority of the  
6 board to obtain, by subpoena or other authorized process,  
7 information that is acquired by an individual in connection with  
8 or in the course of a lessons learned process if the information  
9 relates to matters and investigations within the board's  
10 jurisdiction.

11 Section 3. This act shall take effect in 60 days.