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State of Louisiana
DEPARTMENT OF JUSTICE
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Opinion 13-0111

Ms. Donna D. Sentell
Executive Director
Louisiana Professional Engineering
and Land Surveying Board
9643 Brookline Avenue, Suite 121
Baton Rouge, LA 70809-1433

45 ENGINEERING

La.Rev.Stat. 37:701

Pursuant to La.Rev.Stat. 37:701(C), a person who is an employee of a firm engaged in industrial operations and is performing services within the state of Louisiana in the course and scope of the business of said firm is exempt from the licensing requirements of Chapter 8 of Title 37 of the Louisiana Revised Statutes, subject to being under the responsible charge of a professional engineer as provided by La.Rev.Stat. 37:682.

Dear Ms. Sentell:

Your request for an Attorney General's Opinion has been assigned to me for research and reply. On behalf of the Louisiana Professional Engineering and Land Surveying Board ("Board"), you have asked for our office's opinion on a matter related to La.Rev.Stat. 37:701(C). Specifically, your opinion request presents three (3) different scenarios and asks for our office's opinion as to how La.Rev.Stat. 37:701(C) applies to those scenarios. In essence, you ask for our opinion as to whether the Board has jurisdiction or authority over the individual described in each of the three (3) scenarios. The three (3) scenarios are as follows:

(1) An employee of a firm engaged in industrial operations (an "Industrial Firm") provides engineering services (other than civil engineering) only to the Industrial Firm and only on the premises of the Industrial Firm.

(2) An employee of an Industrial Firm provides engineering services (other than civil engineering) only on the premises of the Industrial Firm, but either (a) engineering services are provided to customers of the Industrial Firm or to other persons or (b) the product of engineering services is sent off the premises of the Industrial Firm.

(3) An individual not employed by an Industrial Firm provides engineering services to one or more Industrial Firms.

La.Rev.Stat. 37:701(C) provides the following:

§ 701. Public and private work; application of provisions

> C. This Chapter shall not apply to, affect, interfere with, or in any way regulate employees of firms engaged in industrial operations, including but not limited to producing, processing, manufacturing, transmitting, distributing, or transporting, when performing services within the state of Louisiana in the course and scope of the business of said firms or affiliates thereof. In the event any of the activities set forth in this Subsection shall fall within the definition of practice of engineering as defined in R.S. 37:682, such activities shall be under the responsible charge of a professional engineer. However, this Subsection shall not apply to persons practicing civil engineering or land surveying, who must at all times comply with the provisions of this Chapter.

The Chapter referenced by La.Rev.Stat. 37:701(C) is Chapter 8 of Title 37 of the Louisiana Revised Statutes. Chapter 8 is entitled "Professional Engineering and Professional Surveying" and generally provides for the licensure and regulation of professional engineers and land surveyors in the State of Louisiana. Our reading of La.Rev.Stat. 37:701(C) reveals that for certain employees of firms engaged in industrial operations, those employees are exempt from the licensure and regulatory provisions of Chapter 8.

As such, with respect to the first scenario wherein an employee of an Industrial Firm provides engineering services (other than civil engineering) only to the Industrial Firm and only on the premises of the Industrial Firm, it is the opinion of this office that such an employee would not be subject to the licensure and regulatory provisions of Chapter 8, provided such an employee would be under the responsible charge of a professional engineer.[1] In our view, such a person would be considered an employee of a firm "engaged in industrial operations....performing services within the state of Louisiana in the course and scope of the business of said firms or affiliates thereof." Accordingly, pursuant to the plain language of La.Rev.Stat. 37:701(C), such an employee would not be required to obtain a license, nor would their actions be subject to the authority or jurisdiction of the Board.

With respect to the second scenario, wherein an Industrial Firm employee provides engineering services (other than civil engineering) only on the premises of the Industrial Firm, but either the engineering services are provided to customers of the Industrial Firm or to other persons, or the product of engineering services is sent off the premises of the Industrial Firm, it is also the opinion of this office that such an employee would not

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[1] LAC Title 46:LXI§105(A) provides that the phrase "under the responsible charge of a professional engineer" is defined as (a) the work performed by a professional engineer, duly licensed under the provisions of the Chapter; or (b) the work reviewed and approved by a professional engineer, duly licensed under the provisions of the Chapter, who is authorized to direct changes to the engineering work, or (c) the work performed in accordance with a system of engineering practices approved by a professional engineer, duly licensed under the provisions of this Chapter.

be subject to the licensure and regulatory provisions of Chapter 8, provided such an employee would be under the responsible charge of a professional engineer. As before, in our view, such a person would be considered an employee of a firm "engaged in industrial operations....performing services within the state of Louisiana in the course and scope of the business of said firms or affiliates thereof." Accordingly, pursuant to the plain language of La.Rev.Stat. 37:701(C), such an employee would not be required to obtain a license, nor would their actions be subject to the authority or jurisdiction of the Board.

With respect to the third scenario, wherein an individual not employed by an Industrial Firm provides engineering services to one or more Industrial Firms, it is the opinion of this office that such a person would be subject to the licensure and regulatory provisions of Chapter 8 and would be required to obtain a license. In our view, such a person would not be able to take advantage of the exemption provided by La.Rev.Stat. 37:701(C).

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

BY: _____
MICHAEL J. VALLAN
Assistant Attorney General

JDC/MJV/chb