

1 HB189
2 126447-3
3 By Representative Wren
4 RFD: Boards, Agencies and Commissions
5 First Read: 08-MAR-11

1 "§34-11-1.

2 "For the purposes of this chapter, the following
3 words and phrases shall have the respective meanings ascribed
4 by this section:

5 "(1) BOARD. The State Board of Licensure for
6 Professional Engineers and Land Surveyors, provided for by
7 Section 34-11-30.

8 "(2) ENGINEER INTERN. A person who has qualified
9 under subdivision (2) of Section 34-11-4, and who, in
10 addition, has successfully passed ~~an eight-hour written~~ a
11 board-approved examination in the fundamental engineering
12 subjects as provided in Section 34-11-6, and who has been
13 certified by the board as an engineer intern.

14 "(3) ENGINEER or PROFESSIONAL ENGINEER. A person
15 who, by reason of his or her special knowledge of the
16 mathematical and physical sciences and the principles and
17 methods of engineering analysis and design, acquired by
18 engineering education and engineering experience, is qualified
19 to practice engineering as hereinafter defined and has been
20 licensed by the board as a professional engineer.

21 "(4) LAND SURVEYOR INTERN. A person who has
22 qualified under subdivision (4) of Section 34-11-4, has passed
23 ~~an~~ a board-approved examination in the fundamental land
24 surveyor intern subjects, pursuant to this chapter, and who
25 has been certified by the board as a land surveyor intern.

26 "(5) LAND SURVEYOR or PROFESSIONAL LAND SURVEYOR. A
27 person who has been duly licensed as a professional land

1 surveyor by the board established under this chapter, and who
2 is a professional specialist in the technique of measuring
3 land, is educated in the principles of mathematics, the
4 related physical and applied sciences, the relevant
5 requirements of law for adequate evidence and all requisites
6 for surveying of real property, and is qualified to practice
7 land surveying as defined in subdivision (8).

8 "(6) PRACTICE and OFFER TO PRACTICE. Any person
9 shall be construed to practice or offer to practice
10 engineering or land surveying, within the meaning and intent
11 of this chapter, who offers to or does as a profession
12 practice any branch of engineering or land surveying; or who
13 by verbal claim, sign, advertisement, letterhead, card, or in
14 any other way represents himself or herself to be a
15 professional engineer or a professional land surveyor, or
16 through the use of some other title implies that he or she is
17 a professional engineer or a professional land surveyor; or
18 who represents himself or herself as able to perform or who
19 does perform any engineering or land surveying service or work
20 or any other service designated by the practitioner which is
21 recognized as engineering or land surveying.

22 "(7) PRACTICE OF ENGINEERING. Any professional
23 service or creative work, the adequate performance of which
24 requires engineering education, training, and experience in
25 the application of special knowledge of the mathematical,
26 physical, and engineering sciences to such services or
27 creative work as consultation, investigation, evaluation,

1 planning, design and design coordination of engineering works
2 and systems, planning the use of land and water, performing
3 engineering surveys and studies, and the review of
4 construction or other design products for the purpose of
5 monitoring compliance with drawings and specifications; any of
6 which embraces such services or work, either public or
7 private, in connection with any utilities, structures,
8 buildings, machines, equipment, processes, work systems,
9 projects, and industrial or consumer products; equipment of a
10 control, communications, computer, mechanical, electrical,
11 hydraulic, pneumatic, or thermal nature, insofar as they
12 involve safeguarding life, health, or property; and including
13 other professional services necessary to the planning,
14 progress, and completion of any engineering services.

15 "Notwithstanding any other provision of this
16 chapter, in qualifying a witness to offer expert testimony on
17 the practice of engineering, the court shall consider as
18 evidence of his or her expertise whether the proposed witness
19 holds a valid Alabama license for the practice of engineering.
20 Provided, however, such qualification by the court shall not
21 be withheld from an otherwise qualified witness solely on the
22 basis of the failure of the proposed witness to hold ~~such a~~ a
23 valid Alabama license.

24 "a. Design coordination includes the review and
25 coordination of those technical submissions prepared by
26 others, including, as appropriate and without limitations,
27 consulting engineers, architects, landscape architects, land

1 surveyors, and other professionals working under the direction
2 of the engineer.

3 "b. Engineering surveys include all survey
4 activities required to support the sound conception, planning,
5 design, construction, maintenance and operation of engineered
6 projects, rights-of-way, and easement acquisitions relative to
7 the centerline of the project. Engineering surveys may be used
8 to locate, relocate, establish, reestablish, layout, or
9 retrace any road, right-of-way, easement, or alignment
10 relative to the centerline of the project. Additionally,
11 engineering surveys may be performed to determine areas,
12 volumes, or physical features of the earth, elevation of all
13 real property, improvements on the earth, and the
14 configuration or contour of the surface of the earth or the
15 position of fixed objects thereon by measuring lines and
16 angles and applying the principles of mathematics. All
17 engineering surveys shall exclude the surveying of real
18 property for the establishment of any property line or land
19 boundaries, setting of corners or monuments, and the dependent
20 or independent surveys or resurveys of the public land survey
21 system.

22 "c. The term shall not include the practice of
23 architecture except such architectural work as is incidental
24 to the practice of professional engineering; nor shall the
25 term include work ordinarily performed by persons who operate
26 or maintain machinery or equipment.

1 "d. The practice of engineering shall include the
2 offering of expert opinion in any legal proceeding in ~~Alabama~~
3 this state regarding work legally required to be performed
4 under an Alabama engineer's license number or seal, which
5 opinion may be given by an engineer licensed in any
6 jurisdiction.

7 "(8) PRACTICE OF LAND SURVEYING. Professional
8 services, including, but not limited to, consultation, project
9 coordination, investigation, testimony, evaluation, planning,
10 mapping, assembling, and interpreting reliable scientific
11 measurements and information relative to the location, size,
12 shape, areas, volumes, or physical features of the earth,
13 improvements on the earth, the space above the earth, or any
14 part of the earth, and the utilization and development of
15 these acts and interpretation into an orderly survey map,
16 plan, report, description, or project. Project coordination
17 shall include the coordination of those technical submissions
18 as prepared by others. Notwithstanding the provisions of this
19 subdivision, the practice of land surveying shall exclude
20 functions unique to engineering as specified by rules of the
21 board. The practice of land surveying shall include, but is
22 not limited to, any one or more of the following:

23 "a. Locates, relocates, establishes, reestablishes,
24 lays out, or retraces any property line or boundary of any
25 tract of land or any road, right-of-way, easement, alignment,
26 or elevation of all real property whether or not fixed works
27 are sited or proposed to be sited on the property.

1 "b. Makes any survey for the subdivision of any
2 tract of land or for condominiums.

3 "c. Determines, by the use of the principles of land
4 surveying, the position for any survey, monument, or reference
5 point; or sets, resets, or replaces any such monument or
6 reference point.

7 "d. Determines the configuration or contour of the
8 surface of the earth or the position of fixed objects thereon
9 by measuring lines and angles and applying the principles of
10 mathematics or photogrammetry.

11 "e. Geodetic surveying which includes surveying for
12 determination of the size and shape of the earth both
13 horizontally and vertically and the precise positioning of
14 points on the earth utilizing angular and linear measurements
15 through spatially oriented spherical geometry.

16 "f. Creates, prepares, or modifies electronic or
17 computerized data, including land information systems and
18 geographic land information systems, relative to the
19 performance of the activities in paragraphs a. to e.,
20 inclusive.

21 "(9) RESPONSIBLE CHARGE. Direct control and personal
22 supervision of engineering work or land surveying work.

23 "§34-11-4.

24 "The board may approve engineering, land surveying,
25 and related science programs which shall be accepted under the
26 following criteria:

1 "(1) PROFESSIONAL ENGINEER. The following shall be
2 considered as minimum evidence satisfactory to the board that
3 the applicant is qualified for licensure as a professional
4 engineer:

5 "a. Graduation and experience plus examination.

6 "1. Graduation in an approved engineering curriculum
7 plus four years experience. A graduate of an approved
8 engineering curriculum of four years or more from a school or
9 college approved by the board who has successfully passed ~~the~~
10 ~~eight-hour written~~ a board-approved examination in the
11 fundamental engineering subjects and who has a specific record
12 of an additional four years or more of progressive experience
13 in engineering work of a grade and character satisfactory to
14 the board shall be admitted to ~~an eight-hour written a~~
15 board-approved examination in the principles and practice of
16 engineering. Upon passing this examination, the applicant
17 shall be granted a certificate of licensure to practice
18 engineering in this state, provided the applicant is otherwise
19 qualified.

20 "2. Graduation in an unapproved engineering
21 curriculum plus six years experience. A graduate of an
22 unapproved engineering curriculum of four years or more who
23 has successfully passed ~~the eight-hour written a~~
24 board-approved examination in the fundamental engineering
25 subjects and who has a specific record of an additional six
26 years or more of progressive experience in engineering work of
27 a grade and character satisfactory to the board shall be

1 admitted to ~~an eight-hour written~~ a board-approved examination
2 in the principles and practice of engineering. Upon passing
3 this examination, the applicant shall be granted a certificate
4 of licensure to practice engineering in this state, provided
5 the applicant is otherwise qualified.

6 "b. Comity. The board may, upon application, issue a
7 certificate of licensure as a professional engineer to any
8 person who holds a valid professional engineering certificate
9 issued by any jurisdiction of the United States ~~or of any~~
10 ~~country~~; provided, that the education, experience, and
11 examination qualifications of the applicant are, in the
12 judgment of the board, of a standard not lower than that
13 specified in the applicable licensure act in effect in ~~Alabama~~
14 this state at the time such certificate was issued. The board
15 may authorize an applicant to practice engineering on a
16 temporary basis upon issuance of an interim permit which shall
17 remain in effect until the board acts upon the application.
18 The interim permit may be issued upon submission of
19 documentation and a fee which shall be established by the
20 board, not to exceed fifty dollars (\$50).

21 "(2) ENGINEER INTERN. The following shall be
22 considered as minimum evidence satisfactory to the board that
23 the applicant is qualified for certification as an engineer
24 intern:

25 "a. Graduation and examination. A graduate of an
26 approved engineering curriculum of four years or more from a
27 school or college approved by the board who has successfully

1 passed ~~an eight-hour written~~ a board-approved examination in
2 the fundamental engineering subjects shall be certified as an
3 engineer intern, if otherwise qualified.

4 "b. Graduation and examination plus experience.
5 Graduation in an unapproved engineering curriculum plus two
6 years experience. A graduate of an unapproved engineering
7 curriculum of four years or more who has successfully passed
8 ~~an eight-hour written~~ a board-approved examination in the
9 fundamental engineering subjects and who has a specific record
10 of two years or more of progressive experience in engineering
11 work of a grade and character satisfactory to the board shall
12 be certified as an engineer intern, if otherwise qualified.

13 "c. Comity. The education, experience, and
14 examination qualifications of the applicant are, in the
15 judgment of the board, of a standard not lower than that
16 specified in the applicable licensure act in effect in ~~Alabama~~
17 this state at the time such certificate was issued.
18 Fundamentals of engineering examinations of comparable
19 character taken and passed in another jurisdiction may be
20 accepted by the board.

21 "(3) PROFESSIONAL LAND SURVEYOR. The following shall
22 be considered as minimum evidence satisfactory to the board
23 that the applicant is qualified for licensure as a
24 professional land surveyor.

25 "a. Graduation and experience plus examination.

26 "1. Graduation in an approved land surveying
27 curriculum plus four years experience. A graduate of an

1 approved land surveying curriculum of four years or more
2 including a minimum of 30 semester hours or 45 quarter hours
3 of surveying courses from a school or college approved by the
4 board who has successfully passed ~~an eight-hour written~~ a
5 board-approved examination in the fundamental land surveying
6 subjects and who has a specific record of an additional four
7 years or more of combined office and field experience in land
8 surveying work of a grade and character satisfactory to the
9 board shall be admitted to a ~~six-hour written~~ board-approved
10 examination in the principles and practice of land surveying
11 and a ~~two-hour written~~ board-approved examination on laws,
12 procedures, and practices pertaining to land surveying in
13 ~~Alabama~~ this state. Upon passing these examinations, the
14 applicant shall be granted a certificate of licensure to
15 practice land surveying, provided the applicant is otherwise
16 qualified.

17 "2. Graduation in an approved curriculum related to
18 surveying plus six years experience. A graduate of a
19 curriculum related to surveying of four years or more
20 including a minimum of 15 semester hours or 22.5 quarter hours
21 of surveying courses from a school or college approved by the
22 board and who has successfully passed ~~the eight-hour written~~ a
23 board-approved examination in the fundamental land surveying
24 subjects and who has a specific record of an additional six
25 years or more of progressive office and field experience in
26 land surveying work of a grade and character satisfactory to
27 the board shall be admitted to a ~~six-hour~~ board-approved

1 examination in the principles and practice of land surveying
2 and a ~~two-hour written~~ board-approved examination of laws,
3 procedures, and practices pertaining to land surveying in
4 ~~Alabama~~ this state. Upon passing these examinations, the
5 applicant shall be granted a certificate of licensure to
6 practice land surveying in this state, provided the applicant
7 is otherwise qualified.

8 "3. Graduation in a related science curriculum plus
9 eight years experience. A graduate of a related science
10 curriculum of four years or more from a school or college
11 approved by the board who has successfully passed ~~the~~
12 ~~eight-hour written~~ a board-approved examination in the
13 fundamental land surveying subjects and who has a specific
14 record of an additional eight years or more of progressive
15 combined office and field experience in land surveying work of
16 a grade and character satisfactory to the board shall be
17 admitted to a ~~six-hour~~ board-approved examination in the
18 principles and practice of land surveying and a ~~two-hour~~
19 ~~written~~ board-approved examination of laws, procedures, and
20 practices pertaining to land surveying in ~~Alabama~~ this state.
21 Upon passing these examinations, the applicant shall be
22 granted a certificate of licensure to practice land surveying
23 in this state, provided the applicant is otherwise qualified.

24 ~~b. Experience plus examination. Before December 31,~~
25 ~~2007, an applicant who has a specific record of eight years or~~
26 ~~more of combined office and field experience in land surveying~~
27 ~~work of a grade and character satisfactory to the board shall~~

1 ~~be admitted to an eight-hour written examination in the~~
2 ~~fundamentals of land surveying, and after passing the~~
3 ~~fundamentals examination shall be admitted to a six-hour~~
4 ~~written examination in the principles and practice of land~~
5 ~~surveying and a two-hour written examination on laws,~~
6 ~~procedures, and practices pertaining to land surveying in~~
7 ~~Alabama. Upon passing these examinations, the applicant shall~~
8 ~~be granted a certificate of licensure to practice land~~
9 ~~surveying in this state, provided the applicant is otherwise~~
10 ~~qualified.~~

11 c b. Comity. The board may, upon application, grant
12 to any person who holds a valid professional land surveying
13 certificate issued by any jurisdiction of the United States ~~or~~
14 ~~of any country~~, admission into a ~~two-hour written~~
15 board-approved examination of laws, procedures, and practices
16 pertaining to land surveying in ~~Alabama~~ this state, provided
17 that the education, experience, and examination qualifications
18 of the applicant are, in the judgment of the board, of a
19 standard not lower than that specified in the applicable
20 licensure act in effect in ~~Alabama~~ this state at the time such
21 certificate was issued. Upon passing the examination, the
22 applicant shall be granted a certificate of licensure to
23 practice land surveying in this state, provided the applicant
24 is otherwise qualified.

25 "(4) LAND SURVEYOR INTERN. The following shall be
26 considered as minimum evidence satisfactory to the board that

1 the applicant is qualified for certification as a land
2 surveyor intern:

3 "a. Graduation plus examination. Graduation in an
4 approved land surveying curriculum. A graduate of a land
5 surveying curriculum of four years or more including a minimum
6 of 30 semester hours or 45 quarter hours of surveying courses
7 from a school or college approved by the board who has
8 successfully passed ~~an eight-hour written~~ a board-approved
9 examination in the fundamentals of land surveying shall be
10 certified as a land surveyor intern, if otherwise qualified.

11 "b. Graduation and examination plus experience.

12 "1. Graduation in an approved curriculum related to
13 surveying plus two years experience. A graduate of a
14 curriculum related to surveying of four years or more
15 including a minimum of 15 semester hours or 22.5 quarter hours
16 of surveying courses from a school or college approved by the
17 board who has successfully passed ~~an eight-hour written~~ a
18 board-approved examination in the fundamentals of land
19 surveying and who has a specific record of an additional two
20 years or more of combined office and field experience in land
21 surveying work of a grade and character satisfactory to the
22 board shall be certified as a land surveyor intern, if
23 otherwise qualified.

24 "2. Graduation in a related science curriculum plus
25 four years experience. A graduate of a related science
26 curriculum of four years or more who has successfully passed
27 ~~an eight-hour written~~ a board-approved examination in the

1 fundamentals of land surveying and who has a specific record
2 of an additional four years or more of combined office and
3 field experience in land surveying work of a grade and
4 character satisfactory to the board shall be certified as a
5 land surveyor intern, if otherwise qualified.

6 "c. Comity. The education, experience, and
7 examination qualifications of the applicant are, in the
8 judgment of the board, of a standard not lower than that
9 specified in the applicable licensure act in effect in ~~Alabama~~
10 this state at the time such certificate was issued. The board
11 may accept fundamentals of land surveying examinations of
12 comparable character taken and passed in another jurisdiction.

13 "(5) CHARACTER. No person shall be eligible for
14 licensure as a professional engineer, certification as an
15 engineer intern, licensure as a professional land surveyor, or
16 certification as a land surveyor intern who is not of good
17 character and reputation.

18 "(6) TEACHING CREDITS. In considering the
19 qualifications of applicants, teaching in an engineering
20 curriculum approved by the board may be considered as
21 engineering experience. Teaching land surveying subjects in a
22 land surveying curriculum approved by the board may be
23 considered as land surveying experience.

24 "(7) GRADUATE STUDY. In counting years of experience
25 for professional engineer licensure, the board may give
26 credit, not in excess of one year, for successful completion
27 of graduate study leading to a master's degree in engineering.

1 If a Ph.D. in engineering is completed, a total of two year's
2 experience may be credited. The two-year credit shall include
3 one year for the master's degree. If the Ph.D. is obtained
4 without the master's degree, the credit for experience shall
5 be two years. In counting years of experience for professional
6 land surveyor licensure, the board may give credit, not in
7 excess of one year, for successful completion of graduate
8 study leading to a master's degree in land surveying. If a
9 Ph.D. in land surveying is completed, a total of two years'
10 experience may be credited. The credit of two years shall
11 include one year for the master's degree. If the Ph.D. is
12 obtained without the master's degree, the credit for
13 experience shall be two years.

14 "(8) NONPRACTICING APPLICANTS. Any person having the
15 necessary qualifications prescribed in this chapter to entitle
16 the applicant to licensure shall be eligible for licensure
17 although the applicant may not be practicing engineering or
18 land surveying at the time of making application.

19 "(9) RECOGNITION OF PREVIOUSLY TAKEN EXAMINATIONS.
20 The board may accept fundamentals and principles and practice
21 examinations of comparable character taken and passed in
22 another jurisdiction.

23 "§34-11-5.

24 "(a) Applications for licensure as a professional
25 engineer, professional land surveyor, engineer intern, or land
26 surveyor intern shall be on forms prescribed and furnished by
27 the board and shall contain statements made under oath. Three

1 or more of the references contained in an application for
2 licensure as a professional engineer shall be professional
3 engineers having personal knowledge of the applicant's
4 engineering experience. Three or more of the references
5 contained in an application for professional land surveyor
6 shall be professional land surveyors having personal knowledge
7 of the land surveying experience of the applicant. All
8 references ~~and experience verifications~~ furnished shall be
9 considered confidential records of the board. Any individual
10 who was previously licensed in this state and whose license is
11 eligible for reinstatement as outlined in subsection (a) of
12 Section 34-11-8 shall comply with the reinstatement procedures
13 established by the board instead of the submission of a new
14 application.

15 "(b) The application fee and the licensure fee for
16 professional engineers or professional land surveyors shall be
17 set by the board and each fee shall not exceed one hundred
18 dollars (\$100), and both shall accompany the application.

19 ~~(1) For professional engineers applying for~~
20 ~~licensure by way of comity, both the application fee and~~
21 ~~licensure fee shall accompany the application.~~

22 ~~(2) For professional engineers applying for~~
23 ~~licensure by way of examination and for professional land~~
24 ~~surveyors, the application fee shall accompany the~~
25 ~~application, and the licensure fee shall be due upon approval~~
26 ~~of licensure. If the applicant fails or refuses to remit the~~
27 ~~licensure fee within 30 days after being notified of~~

1 ~~successfully qualifying, the applicant shall forfeit the right~~
2 ~~to have a certificate so issued. For further consideration,~~
3 ~~the applicant shall be required to submit a new application~~
4 ~~and application fee.~~

5 "(c) The application fee, which shall include the
6 certification fee, for engineer interns and land surveyor
7 interns shall be set by the board, shall not exceed fifty
8 dollars (\$50), and shall accompany the application.

9 "(d) The fee for a certificate of authorization for
10 a corporation, partnership, or firm shall be set by the board
11 and shall not exceed two hundred fifty dollars (\$250), and
12 must accompany the application.

13 "(e) If the board denies certification or licensure
14 to any applicant, or the certificate of authorization to any
15 corporation, partnership, or firm, the fee paid shall be
16 retained as an application fee.

17 "§34-11-6.

18 "(a) Examinations shall be held at such times and
19 places as the board determines and upon payment of an
20 examination fee.

21 "(b) When examinations are required on fundamental
22 subjects, the applicant shall be permitted to take this part
23 of the professional examination as specified by rules of the
24 board. A candidate failing an examination may apply for
25 reexamination under guidelines established by the board.

26 "(c) When examinations are required on applied
27 subjects, the applicant shall be permitted to take this part

1 of the professional examination as specified by guidelines
2 established by the board. The scope of the examination and the
3 methods of procedure shall be prescribed by the board with
4 special reference to the applicant's ability to design and
5 supervise engineering or land surveying works so as to protect
6 the safety of life, health, and property. Examinations shall
7 be given for the purpose of determining the qualifications of
8 applicants for licensure separately in engineering and in land
9 surveying. A candidate failing an examination may apply for
10 reexamination under guidelines established by the board.

11 "(d) The fees for examination and reexamination
12 shall be set by the board ~~and shall not exceed three hundred~~
13 ~~dollars (\$300).~~

14 "§34-11-9.

15 "(a) Services offered to the public; certificate of
16 authorization required.

17 "(1) ENGINEERING OR LAND SURVEYING SERVICES. The
18 practice of or offer to practice engineering and land
19 surveying as defined in Section 34-11-1 by individual
20 professional engineers or professional land surveyors licensed
21 under this chapter through a corporation, partnership, or firm
22 offering engineering services or land surveying services to
23 the public through individual licensed professional engineers
24 or professional land surveyors, as agents, employees,
25 officers, or partners, is permitted subject to this chapter
26 and one or more of the principal officers of the corporation,
27 firm, or partners of the partnership and all personnel of the

1 corporation, partnership, or firm who act in its behalf as
2 professional engineers or professional land surveyors in this
3 state are licensed as provided by this chapter, or are persons
4 lawfully practicing under Section 34-11-14 and the
5 corporation, partnership, or firm has been issued a
6 certificate of authorization by the board as provided herein.
7 All final drawings, specifications, plans, reports, or other
8 engineering or land surveying papers or documents involving
9 the practice of engineering or land surveying as defined in
10 Section 34-11-1 of this chapter which shall have been prepared
11 or approved for the use of such corporation, partnership, or
12 firm or for delivery to any person or for public record within
13 the state shall be dated and bear the signature and seal of
14 the professional engineer or professional land surveyor who
15 prepared or approved them. Nothing in this section should be
16 construed to mean that a certificate of licensure to practice
17 engineering or land surveying shall be held by a corporation,
18 partnership, or firm.

19 "(2) JOINT PRACTICE AUTHORIZED. Nothing in this
20 section prohibits an individual, corporation, firm, or
21 partnership from joining together to practice, offering to
22 practice, or holding themselves out as qualified to practice
23 engineering or land surveying provided that the individual,
24 corporation, firm, or partnership meets the requirements of
25 this section.

26 "(3) LIABILITY GENERALLY. No corporation, firm, or
27 partnership shall be relieved of responsibility for the

1 conduct or acts of its agents, employees, officers, or
2 partners by reason of its compliance with this section, nor
3 shall any individual practicing engineering or land surveying
4 as defined in Section 34-11-1 be relieved of responsibility
5 for work performed by reason of employment, association, or
6 relationship with the corporation, partnership, or firm.

7 "(4) APPLICATION FOR CERTIFICATE OF AUTHORIZATION. A
8 corporation, partnership, or firm desiring a certificate of
9 authorization shall file with the board an application upon a
10 form to be prescribed by the board and the designation
11 required by subdivision (5), accompanied by the licensure fee
12 prescribed by subsection (d) of Section 34-11-5.

13 "(5) RESIDENT LICENSEE. Every firm, partnership,
14 corporation, or other entity which performs or offers to
15 perform engineering or land surveying services shall have a
16 resident licensed professional engineer or land surveyor in
17 responsible charge of the engineering or land surveying work
18 for each separate office or branch office in which engineering
19 or land surveying services are performed or offered to be
20 performed. The board shall issue rules to ensure adequate
21 engineering supervision and surveying supervision of all work.

22 "(6) FILING NAMES AND ADDRESSES OF OFFICERS, ETC.,
23 REQUIRED. A corporation or firm shall file with the board,
24 using a form provided by the board, the names and addresses of
25 ~~all officers and board members of the corporation or firm~~
26 ~~including~~ the principal officer or officers duly licensed to
27 practice engineering or land surveying in this state, who

1 shall be in responsible charge of the practice or offering to
2 practice of engineering or land surveying in this state by the
3 corporation or firm and of the individual or individuals
4 designated as the responsible engineer or land surveyor of
5 each branch office offering or performing ~~Alabama~~ engineering
6 or land surveying in this state. A partnership shall file with
7 the board using a form provided by the board, the names and
8 addresses of all partners, ~~including the partner or partners~~
9 duly licensed to practice engineering or land surveying in
10 this state, and also of an individual or individuals duly
11 licensed to practice engineering or land surveying in this
12 state who shall be in responsible charge of the practice of
13 engineering or land surveying in this state at the branch
14 offices of the partnership. The same form, giving the same
15 information, shall accompany the annual renewal fee prescribed
16 in subsection (c) of Section 34-11-8. In the event there is a
17 change in the firm name or in any of the partners or principal
18 officers during the year, the changes shall be filed with the
19 board by the corporation, partnership, or firm within 30 days
20 after the effective date of the change.

21 "(7) ISSUANCE OF CERTIFICATE OF AUTHORIZATION;
22 SUSPENSION; REVOCATION. If all the requirements of this
23 section are met, the board shall issue to the corporation,
24 partnership, or firm a certificate of authorization. The board
25 may refuse to issue a certificate, if any facts exist which
26 would entitle the board to suspend or revoke an existing
27 certificate. Any person aggrieved by an adverse determination

1 of the board may appeal to the circuit court in the manner
2 provided in Section 34-11-13.

3 "(8) CERTIFICATE REQUIRED OF ORGANIZATION OPERATING
4 UNDER FICTITIOUS NAME. For the purposes of this section, a
5 certificate of authorization shall be required by a
6 corporation, partnership, firm, association, or person
7 practicing under a fictitious name, offering engineering or
8 land surveying services to the public. Where a licensee is
9 practicing engineering or land surveying in his or her own
10 given name, the licensee shall not be required to qualify
11 under this section.

12 "(b) Incidental engineering or land surveying
13 services; certificate of authorization not required. The
14 practice of engineering or land surveying incidental to or in
15 connection with production, manufacture, transportation,
16 distribution, or communication may be carried on by any
17 person, partnership, firm, or corporation engaged in such
18 production, manufacture, transportation, distribution, or
19 communication and will not require a certificate of
20 authorization. The engineering and land surveying services
21 shall be performed by or under the direction of a professional
22 engineer or professional land surveyor licensed in conformity
23 with this chapter. All drawings, plans, specifications, plats,
24 and reports involving the practice of engineering or land
25 surveying shall when issued be dated and bear the seal or
26 facsimile of the seal, signature, and licensure number of the

1 professional engineer or land surveyor in responsible charge
2 thereof.

3 "§34-11-11.

4 "(a) The board shall have the power to reprimand,
5 censure, place on probation, or fine any licensee or certified
6 engineer intern or land surveyor intern or corporation,
7 partnership, or firm holding a certificate of authorization
8 and to suspend, refuse to renew, or revoke the certificate of
9 any licensee or certified engineer intern or land surveyor
10 intern or the certificate of authorization of a corporation,
11 partnership, or firm found guilty of any of the following:

12 "(1) The practice of any fraud or deceit in
13 obtaining or attempting to obtain or renew a certificate of
14 licensure or certificate of authorization.

15 "(2) Any gross negligence, incompetency, violation
16 of the rules of professional conduct prescribed by the board,
17 or any amendment thereof, or misconduct in the practice of
18 engineering or land surveying as a professional engineer,
19 engineer intern, professional land surveyor, or land surveyor
20 intern.

21 "(3) Falsely representing himself or herself as
22 being in responsible charge of engineering work or land
23 surveying.

24 "(4) Permitting his or her seal, or facsimile
25 thereof, to be used by another.

26 "(5) An offense in another jurisdiction resulting in
27 revocation, suspension, or voluntary surrender, to avoid

1 disciplinary proceedings, of a license or certificate of
2 licensure, including any agreement or stipulation executed by
3 a licensee to avoid formal disciplinary proceedings.

4 "(b) The board shall have the power to impose any or
5 all of the disciplinary penalties set forth in this section
6 against a corporation, partnership, or firm holding a
7 certificate of authorization, when any one or more of the
8 agents, employees, officers, partners, or owners of the
9 corporation, partnership, or firm, licensed or nonlicensed,
10 have committed any act, or have been guilty of any conduct,
11 which could authorize the imposition of any of the
12 disciplinary penalties set forth in this section. The acts or
13 conduct by the persons must have been related to the practice
14 of or offer to practice of engineering or land surveying by
15 the corporation, partnership, or firm and that the acts or
16 conduct must have been performed or occurred within the scope
17 of the employment of any such person and with the
18 authorization, ratification, or approval of an officer,
19 director, principal, partner, or owner of the corporation,
20 partnership, or firm.

21 "(c) Any person may file a complaint alleging a
22 violation of this section against any individual licensee,
23 certified intern, or corporation, partnership, or firm holding
24 a certificate of authorization. The complaints shall be in
25 writing and shall be filed with the executive director of the
26 board.

1 "(d) The board may designate a person or persons to
2 investigate and report to it on any matter related to its
3 lawful duties and may employ legal counsel as the board may
4 deem necessary or desirable. An investigation may be made upon
5 receipt of a complaint or may be initiated by the board. The
6 board may resolve violations by agreement between the board
7 and the licensee with or without the filing of formal
8 charges.

9 "(e) Following an investigation, charges may be
10 filed against any individual licensee, certificated intern, or
11 corporation, partnership, or firm holding a certificate of
12 authorization. The charges shall conform to the Administrative
13 Procedure Act.

14 "(f) With the consent of the licensee, the board may
15 conduct an informal hearing without meeting the requirements
16 of the Administrative Procedure Act at which no action shall
17 be taken other than a reprimand, public or private.

18 "(g) All charges, unless dismissed by the board as
19 unfounded or trivial, shall be heard by the board within a
20 reasonable time.

21 "(h) The time and place for the hearing shall be
22 fixed by the board, and a copy of the charges, together with
23 a notice of the time and place of the hearing, shall be
24 personally served on or mailed to the last known address of
25 the individual licensee, certified intern, or corporation,
26 partnership, or firm holding a certificate of authorization,
27 at least 30 days before the date fixed for the hearing. At any

1 hearing the accused individual licensee, certified intern, or
2 corporation, partnership, or firm holding a certificate of
3 authorization shall have the right to appear personally and by
4 counsel, to cross-examine witnesses appearing against him,
5 her, or them, and to produce evidence and witnesses in his or
6 her or their own defense. If the accused fails or refuses to
7 appear, the board may proceed to hear and determine the
8 validity of the charges.

9 "(i) If after the hearing ~~three or more~~ a majority
10 of the deliberating members of the board vote in favor of
11 finding the accused guilty, the board shall impose one or more
12 of the disciplinary penalties set forth in this section. Any
13 fine imposed may not exceed two thousand five hundred dollars
14 (\$2,500) for each count or separate offense. The written
15 decision of the board shall be delivered personally to the
16 accused or sent by certified mail, return receipt requested,
17 to the last known address of the accused.

18 "(j) If disciplinary action from a hearing results
19 in imposing a fine against a licensee, certified intern, or
20 certificated corporation, partnership, or firm, the board
21 shall not renew the annual certificate for this licensee,
22 certified intern, or certificated corporation, partnership, or
23 firm until the fine is paid in full. In the event that the
24 fine is subsequently set aside on judicial review, as provided
25 in the Alabama Administrative Procedure Act, the licensee,
26 certified intern, or corporation, partnership, or firm holding
27 a certificate of authorization shall be entitled to a prompt

1 refund of the amount of the fine, but shall not be entitled
2 to interest thereon.

3 "(k) The board shall revoke the certificate of any
4 licensee or certified intern who has been determined to be one
5 of the following:

6 "(1) Declared non compos mentis by a court of
7 competent jurisdiction.

8 "(2) Convicted of or entered a plea of guilty or
9 nolo contendere to any crime under the laws of the United
10 States or any state or territory thereof, which is a felony,
11 whether related to practice or not and convicted of or entered
12 a plea of guilty or nolo contendere to any crime, whether a
13 felony, misdemeanor, or otherwise, an essential element of
14 which is dishonesty or which is directly related to the
15 practice of engineering or land surveying.

16 "(1) When a member of the board is unable to
17 continue the hearing either by disqualification or for any
18 other reason, and the board is unable to reach a quorum, the
19 Governor shall appoint as many ex officio members as is
20 necessary to reach a quorum from a list of three persons
21 submitted for each place by the nominating committee ~~of seven~~
22 as specified in Section 34-11-30. These ex officio members
23 shall serve on the board only for that hearing for which they
24 were appointed and they may be reappointed for subsequent
25 hearings if necessary.

26 "(m) The licensee shall be responsible for the cost
27 of the disciplinary action if found guilty.

1 "§34-11-12.

2 "The board, for reasons it may deem sufficient, may
3 reissue a certificate of licensure to any person or
4 certificate of authorization to any corporation, partnership,
5 or firm whose certificate has been revoked, provided ~~three or~~
6 more a majority of the deliberating members of the board vote
7 in favor of reissuance. The board shall not consider
8 reissuance of a certificate to any person whose certificate
9 has been revoked because of non compos mentis until after the
10 person has been declared to have fully regained his or her
11 competency by a court of competent jurisdiction. The board
12 shall not consider the reissuance of a certificate to a person
13 who was convicted of a felony or entered a plea of guilty or
14 nolo contendere to a felony until the civil rights of the
15 person have been restored, and then a unanimous approval vote
16 of the board concerning reissuance shall be required. A new
17 certificate to replace any certificate revoked, lost,
18 destroyed, or mutilated or for any other reason may be issued,
19 subject to the rules of the board, and a charge of twenty-five
20 dollars (\$25) shall be made for such issuance.

21 "§34-11-14.

22 "This chapter shall not be construed to prevent or
23 to affect any of the following:

24 (1) The practice of any other legally recognized
25 profession or trade.

26 (2) The work of an engineer intern or land surveyor
27 intern, employee, or a subordinate of any person holding a

1 certificate of licensure under this chapter, or any employee
2 of a person practicing lawfully under paragraph b of
3 subdivision (1) of Section 34-11-4, if the work is done under
4 the responsibility and supervision of a person holding a
5 certificate of licensure under this chapter or a person
6 practicing lawfully under paragraph b of subdivision (1) of
7 Section 34-11-4.

8 (3) The practice of officers and employees of the
9 government of the United States while engaged within this
10 state in the practice of engineering or land surveying for the
11 government. This exception does not extend to any engineer or
12 land surveyor engaged in the practice of professional
13 engineering or land surveying whose compensation is based in
14 whole or in part on a fee.

15 (4) The practice of engineering or land surveying
16 with respect to transportation or utility facilities by any
17 transportation company or public utility subject to regulation
18 by the Alabama Public Service Commission, the Federal Aviation
19 Administration, the Federal Communications Commission, the
20 Federal Energy Regulatory Commission, or the Nuclear
21 Regulatory Commission, including its parents, affiliates, or
22 subsidiaries; or by the officers and employees of any
23 transportation company or public utility including its
24 parents, affiliates, or subsidiaries. This exception shall not
25 extend to any engineer or land surveyor engaged in the
26 practice of engineering or land surveying whose compensation
27 is based in whole or in part on a fee. No private, public or

1 governmental entity may require that engineering work
2 (including without limitation final drawings, plans,
3 specifications or other engineering drawings) that otherwise
4 qualify for the exemption in this subparagraph (4) be prepared
5 or approved by a professional engineer, regardless of the
6 location at which the engineering work is performed or where
7 the utility facilities are to be constructed or installed.

8 (5) The practice of engineering or land surveying by
9 any person who is employed by the Alabama Department of
10 Transportation prior to January 1, 1997, in any engineering or
11 engineering assistant classification series under the State of
12 Alabama Personnel Board, Merit System.

13 (6) The mere execution as a contractor of work
14 designed by a professional engineer or the supervision of the
15 construction of such work as a foreman or superintendent.

16 (7) The performance of engineering services which
17 are purely incidental to the practice of architecture by
18 registered architects, or their employees, or subordinates
19 under their responsible supervising control.

20 (8) The performance of engineering services which
21 are purely incidental to the practice of geology by registered
22 geologists, their employees, or subordinates under their
23 responsible charge.

24 "§34-11-30.

25 "A State Board of Licensure for Professional
26 Engineers and Land Surveyors is created. It shall be the duty
27 of the board to administer this chapter. The board shall

1 consist of five professional engineers and two professional
2 land surveyors, each of whom shall be appointed by the
3 Governor from a list of three persons nominated by a
4 committee. To the extent possible, the nominating committee
5 and the Governor shall select those persons whose appointments
6 ensure that the membership of the board is inclusive and
7 reflects the racial, gender, geographic, urban/rural, and
8 economic diversity of the state. The nominating committee
9 shall consist of one professional engineer or professional
10 land surveyor, respectively, appointed or elected by each of
11 the professional organizations as outlined in the rules of the
12 board. Any other organization in the state having membership
13 qualifications comparable to those professional organizations
14 outlined in the rules of the board may petition the board for
15 membership on the committee. The board, by rule, may establish
16 nominating committee operating guidelines and, by rule, may
17 establish procedures for the removal of nonparticipating
18 members of the nominating committee. Nominees shall have the
19 qualifications required by Section 34-11-31. Nominations shall
20 be made by a majority vote of the committee present at the
21 same time at a meeting called by the executive director of the
22 board, who shall advise the ~~above named societies~~ members of
23 the nominating committee of the meeting at least 30 days
24 before the meeting is held. Each member of the board, before
25 beginning his or her term of office, shall file with the
26 Secretary of State his or her written oath or affirmation for
27 the faithful discharge of his or her official duties. The

1 members of the board shall continue to serve under this
2 chapter until their respective terms expire. On the expiration
3 of the term of each member, the Governor shall in the manner
4 provided in this section appoint for a term of five years a
5 professional engineer or professional land surveyor having the
6 qualifications required by Section 34-11-31 to take the place
7 of the member whose term on the board is about to expire.
8 Vacancies occurring during a term shall be filled by
9 appointment by the Governor, in the manner provided in this
10 section, for the unexpired term. Each member shall hold office
11 until the expiration of the term for which the member is
12 appointed or until a successor is duly appointed and
13 qualified.

14 "§34-11-31.

15 "Each member of the board shall be a citizen of the
16 United States and a resident of this state, ~~and~~ and a licensed
17 professional engineer or licensed professional land surveyor
18 who holds an unexpired certificate under this chapter, ~~and~~ and who
19 has been ~~engaged in the~~ licensed to practice of engineering or
20 land surveying, respectively, for at least 12 years, ~~and who~~
21 ~~has been in responsible charge of important engineering or~~
22 ~~land surveying, respectively, work for at least five years.~~

23 "§34-11-34.

24 "The board shall hold at least two regular meetings
25 each year. The two regular meetings of the board shall be held
26 in the City of Montgomery, Alabama. The legal office of the
27 board shall be located in the City of Montgomery. Special

1 meetings shall be held at the time and place as the rules of
2 the board may provide. Notice of all meetings shall be given
3 as the rules provide. The board shall elect or appoint
4 annually the following officers: A chair, a vice chair, and a
5 secretary. A quorum of the board shall consist of ~~not less~~
6 ~~than three members~~ a simple majority of the board members."

7 Section 2. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Boards, Agencies
and Commissions..... 08-MAR-11

Read for the second time and placed
on the calendar..... 31-MAR-11

Read for the third time and passed
as amended..... 05-MAY-11

Yeas 94, Nays 0, Abstains 0

Greg Pappas
Clerk