

1 SB40
2 155480-2
3 By Senator Allen
4 RFD: Governmental Affairs
5 First Read: 14-JAN-14
6 PFD: 11/15/2013

1 SB40

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4 ENGROSSED

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7 A BILL

8 TO BE ENTITLED

9 AN ACT

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11 To amend Sections 34-11-1, 34-11-4, 34-11-6,
12 34-11-30, and 34-11-34, Code of Alabama 1975, relating to the
13 practice of engineering and land surveying; to require that
14 certain applicants for licensure pass a board approved
15 examination in lieu of an eight-hour written examination; to
16 authorize the board to contract with an independent testing
17 agency; to provide that two members of the board be nominated
18 by the Alabama Society of Professional Land Surveyors for
19 appointment by the Governor; and to provide that a simple
20 majority of board members is a quorum.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 34-11-1, 34-11-4, 34-11-6,
23 34-11-30, and 34-11-34 of the Code of Alabama 1975, are
24 amended to read as follows:

25 "§34-11-1.

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

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

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

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

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

"(5) LAND SURVEYOR or PROFESSIONAL LAND SURVEYOR. A 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
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

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

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

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

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

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

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

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

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

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

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

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

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

"§34-11-4.

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

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

"a. Graduation and experience plus examination.

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

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

1 an eight-hour written a board approved examination in the
2 principles and practice of engineering. Upon passing this
3 examination, the applicant shall be granted a certificate of
4 licensure to practice engineering in this state, provided the
5 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 at the time such certificate was issued. The board may
15 authorize an applicant to practice engineering on a temporary
16 basis upon issuance of an interim permit which shall remain in
17 effect until the board acts upon the application. The interim
18 permit may be issued upon submission of documentation and a
19 fee which shall be established by the board, not to exceed
20 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 at the time such certificate was issued. Fundamentals of
18 engineering examinations of comparable character taken and
19 passed in another jurisdiction may be accepted by the board.

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

24 "a. Graduation and experience plus examination.
25 "1. Graduation in an approved land surveying
26 curriculum plus four years experience. A graduate of an
27 approved land surveying curriculum of four years or more

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

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

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

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

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

fundamentals of land surveying, and after passing the fundamentals examination shall be admitted to a six-hour written examination in the principles and practice of land surveying and a two-hour written examination on laws, procedures, and practices pertaining to land surveying in Alabama. Upon passing these examinations, the applicant shall be granted a certificate of licensure to practice land surveying in this state, provided the applicant is otherwise qualified.

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

"(4) LAND SURVEYOR INTERN. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for certification as a land surveyor intern:

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

"b. Graduation and examination plus experience.

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

"2. Graduation in a related science curriculum plus four years experience. A graduate of a related science curriculum of four years or more who has successfully passed ~~an eight-hour written~~ a board approved examination in the fundamentals of land surveying and who has a specific record of an additional four years or more of combined office and field experience in land surveying work of a grade and

1 character satisfactory to the board shall be certified as a
2 land surveyor intern, if otherwise qualified.

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

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

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

21 "(7) GRADUATE STUDY. In counting years of experience
22 for professional engineer licensure, the board may give
23 credit, not in excess of one year, for successful completion
24 of graduate study leading to a master's degree in engineering.
25 If a Ph.D. in engineering is completed, a total of two year's
26 experience may be credited. The two-year credit shall include
27 one year for the master's degree. If the Ph.D. is obtained

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

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

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

20 "§34-11-6.

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

24 "(b) When examinations are required on fundamental
25 subjects, the applicant shall be permitted to take this part
26 of the professional examination as specified by rules of the

1 board. A candidate failing an examination may apply for
2 reexamination under guidelines established by the board.

3 "(c) When examinations are required on applied
4 subjects, the applicant shall be permitted to take this part
5 of the professional examination as specified by guidelines
6 established by the board. The scope of the examination and the
7 methods of procedure shall be prescribed by the board with
8 special reference to the applicant's ability to design and
9 supervise engineering or land surveying works so as to protect
10 the safety of life, health, and property. Examinations shall
11 be given for the purpose of determining the qualifications of
12 applicants for licensure separately in engineering and in land
13 surveying. A candidate failing an examination may apply for
14 reexamination under guidelines established by the board.

15 "(d) The fees for examination, and reexamination,
16 and administration of the examination on the laws, procedures,
17 and practices pertaining to land surveying in this state shall
18 be set by the board ~~and shall not exceed three hundred dollars~~
19 ~~(\$300)~~.

20 "(e) The board may contract with an independent
21 testing agency to prepare, grade, or conduct the required
22 examinations. For those examinations so designated by the
23 board, the applicant shall pay the examination fees directly
24 to the board authorized testing agency. The examination fee
25 for the examination on Alabama land surveying laws,
26 procedures, and practices shall be paid directly to the board.

27 "§34-11-30.

1 "(a) A State Board of Licensure for Professional
2 Engineers and Land Surveyors is created. It shall be the duty
3 of the board to administer this chapter. The board shall
4 consist of five professional engineers and two professional
5 land surveyors, ~~each of whom~~. Commencing on the effective date
6 of the act amending this section, the five professional
7 engineers shall be appointed by the Governor from a list of
8 three persons nominated for each appointment by a committee
9 and the two land surveyors shall be appointed by the Governor
10 from a list of three persons nominated for each appointment by
11 the Alabama Society of Professional Land Surveyors.
12 Nominations shall be made to the Governor by the committee or
13 the Alabama Society of Professional Land Surveyors,
14 respectively, as vacancies on the board occur, whether by the
15 expiration of a term or otherwise, in a position filled by a
16 professional engineer or land surveyor, respectively. To the
17 extent possible, the nominating committee, the Alabama Society
18 of Professional Land Surveyors, and the Governor shall select
19 those persons whose appointments ensure that the membership of
20 the board is inclusive and reflects the racial, gender,
21 geographic, urban/rural, and economic diversity of the state.

22 "(b) the nominating committee shall consist of one
23 professional engineer ~~or professional land surveyor,~~
24 ~~respectively,~~ appointed or elected by each of the professional
25 organizations as outlined in the rules of the board. Any other
26 organization in the state having membership qualifications
27 comparable to those professional organizations outlined in the

1 rules of the board may petition the board for membership on
2 the committee. The board, by rule, may establish nominating
3 committee operating guidelines and, by rule, may establish
4 procedures for the removal of nonparticipating members of the
5 nominating committee. Nominees shall have the qualifications
6 required by Section 34-11-31. Nominations shall be made by a
7 majority vote of the committee present at the same time at a
8 meeting called by the executive director of the board, who
9 shall advise the above named societies of the meeting at least
10 30 days before the meeting is held.

11 "(c) Each member of the board, before beginning his
12 or her term of office, shall file with the Secretary of State
13 his or her written oath or affirmation for the faithful
14 discharge of his or her official duties. The members of the
15 board shall continue to serve under this chapter until their
16 respective terms expire. On the expiration of the term of each
17 member, the Governor shall in the manner provided in this
18 section appoint for a term of five years a professional
19 engineer or professional land surveyor having the
20 qualifications required by Section 34-11-31 to take the place
21 of the member whose term on the board is about to expire.
22 Vacancies occurring during a term shall be filled by
23 appointment by the Governor, in the manner provided in this
24 section, for the unexpired term. Each member shall hold office
25 until the expiration of the term for which the member is
26 appointed or until a successor is duly appointed and
27 qualified.

1 "§34-11-34.

2 "The board shall hold at least two regular meetings
3 each year. The two regular meetings of the board shall be held
4 in the City of Montgomery, Alabama. The legal office of the
5 board shall be located in the City of Montgomery. Special
6 meetings shall be held at the time and place as the rules of
7 the board may provide. Notice of all meetings shall be given
8 as the rules provide. The board shall elect or appoint
9 annually the following officers: A chair, a vice chair, and a
10 secretary. A quorum of the board shall consist of ~~not less~~
11 ~~than three members~~ a simple majority of the board membership."

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

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2

3 Senate

4 Read for the first time and referred to the Senate
5 committee on Governmental Affairs.....

14-JAN-14

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7 Read for the second time and placed on the calen-
8 dar 1 amendment.....

21-JAN-14

9

10 Read for the third time and passed as amended 06-FEB-14

11 Yeas 26
12 Nays 1

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Patrick Harris
Secretary