

2  
3 SUBSTITUTE FOR SB316  
4

5  
6  
7  
8 SYNOPSIS: Under existing law, the State Board of  
9 Licensure for Professional Engineers and Land  
10 Surveyors licenses engineers and land surveyors in  
11 the state.

12 This bill would revise definitions.

13 This bill would provide more detail in the  
14 law with regard to violations, penalties, and  
15 disciplinary actions and reorganize sections of the  
16 law.

17 This bill would add two public members to  
18 the board and revise qualifications of certain  
19 members of the board.

20 This bill would revise the level of funds in  
21 the Professional Engineers and Professional Land  
22 Surveyors Fund that triggers a transfer of funds to  
23 the General Fund.

24 This bill would authorize the board to adopt  
25 rules that allow engineers and land surveyors to  
26 solicit certain professional services in accordance  
27 with competitive, qualification-based selection

1 policies and procedures and that prohibit the  
2 procurement of services by competitive bidding.

3 This bill would also provide for further  
4 functions and responsibilities of the board.

5  
6 A BILL  
7 TO BE ENTITLED  
8 AN ACT  
9

10 Relating to the State Board of Licensure for  
11 Professional Engineers and Land Surveyors; to amend Sections  
12 34-11-1 to 34-11-15, inclusive, 34-11-30, 34-11-31, 34-11-32,  
13 34-11-34, 34-11-35, 34-11-35.1, as added by Act 2017-384 of  
14 the 2017 Regular Session, 34-11-36, and 34-11-37; to add  
15 Sections 34-11-9.1, 34-11-11.1, and 34-11-11.2; and to repeal  
16 Section 34-11-16 of the Code of Alabama 1975, relating to  
17 civil penalties against non-licensed persons; to revise  
18 definitions and provisions relating to violations, penalties,  
19 and disciplinary actions and reorganize these provisions; to  
20 add two public members to the board and revise qualifications  
21 of certain members of the board; to revise the level of funds  
22 in the Professional Engineers and Professional Land Surveyors  
23 Fund that triggers a transfer of funds to the General Fund; to  
24 authorize the board to adopt rules that allow engineers and  
25 land surveyors to solicit certain professional services in  
26 accordance with competitive, qualification-based selection  
27 policies and procedures and that prohibit the procurement of

1 services by competitive bidding; and to provide for further  
2 functions and responsibilities of the board.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 34-11-1 to 34-11-9, inclusive,  
5 of the Code of Alabama 1975, are amended to read as follows:

6 "§34-11-1.

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

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

13 "(2) DESIGN COORDINATION. The review and  
14 coordination of technical submissions prepared by persons  
15 other than the principal engineer, including, as appropriate  
16 and without limitations, consulting engineers, architects,  
17 landscape architects, land surveyors, and other professionals  
18 working under the direction of the engineer.

19 "(3) DISCIPLINARY ACTION. Any final written  
20 decision, order, consent agreement, public reprimand, or other  
21 formal action taken against an individual or firm by the board  
22 based upon a violation of this chapter or a board rule.

23 "~~(2)~~ (4) ENGINEER INTERN. A person who has qualified  
24 under subdivision (2) of Section 34-11-4, and who, in  
25 addition, has successfully passed a board approved examination  
26 in the fundamental engineering subjects as provided in Section

1 ~~34-11-6, and who has been certified by the board~~ An individual  
2 who has been certified as an engineer intern by the board.

3 ~~"(3)~~ (5) ENGINEER or PROFESSIONAL ENGINEER. A person  
4 An individual who, by reason of his or her special knowledge  
5 of the mathematical, ~~and~~ physical, and engineering sciences  
6 and the principles and methods of engineering analysis and  
7 design, acquired by engineering education and engineering  
8 experience, is qualified to practice engineering as  
9 hereinafter defined and has been licensed by the board as a  
10 professional engineer. The board may designate a professional  
11 engineer, on the basis of education, experience, and  
12 examination as being licensed in a specific discipline or  
13 branch of engineering signifying the area in which the  
14 engineer has demonstrated competence.

15 "(6) ENGINEERING SURVEY. All survey activities  
16 required to support the sound conception, planning, design,  
17 construction, maintenance and operation of engineered  
18 projects, rights-of-way, and easement acquisitions relative to  
19 the centerline of the project. Engineering surveys may be used  
20 to locate, relocate, establish, reestablish, layout, or  
21 retrace any road, right-of-way, easement, or alignment  
22 relative to the centerline of the project. Additionally,  
23 engineering surveys may be performed to determine areas,  
24 volumes, or physical features of the earth, elevation of all  
25 real property, improvements on the earth, and the  
26 configuration or contour of the surface of the earth or the  
27 position of fixed objects thereon by measuring lines and

1 angles and applying the principles of mathematics. All  
2 engineering surveys shall exclude the surveying of real  
3 property for the establishment of any property line or land  
4 boundaries, setting of corners or monuments, and the dependent  
5 or independent surveys or resurveys of the public land survey  
6 system.

7 "(7) FIRM. Any form of business or entity other than  
8 an individual operating as a sole proprietorship under his or  
9 her own name.

10 "(4) (8) LAND SURVEYOR INTERN. A person who has  
11 qualified under subdivision (4) of Section 34-11-4, has passed  
12 a board approved examination in the fundamental land surveying  
13 subjects, pursuant to this chapter, and An individual who has  
14 been certified by the board as a land surveyor intern by the  
15 board.

16 "(5) (9) LAND SURVEYOR or PROFESSIONAL LAND  
17 SURVEYOR. A person who has been duly licensed as a  
18 professional land surveyor by the board established under this  
19 chapter, and An individual who is a professional specialist in  
20 the technique of measuring land, is educated in the basic  
21 principles of mathematics, the related physical and applied  
22 sciences, and the relevant requirements of law for adequate  
23 evidence and all requisites ~~for~~ to surveying of real property,  
24 and is qualified to practice land surveying, ~~as defined in~~  
25 subdivision (8) and has been licensed as a professional land  
26 surveyor by the board.

1                   "(10) MANAGING AGENT. An individual who is licensed  
2 under this chapter and who has been designated pursuant to  
3 this chapter by the firm.

4                   "(11) PERSON. An individual or firm.

5                   "~~(6)~~ (12) PRACTICE and OFFER TO PRACTICE. Any person  
6 shall be construed to practice or offer to practice  
7 engineering or land surveying, within the meaning and intent  
8 of this chapter, who ~~offers to or does as a profession~~  
9 ~~practice~~ practices any discipline or any branch of engineering  
10 or land surveying; or who by verbal claim, sign,  
11 advertisement, letterhead, card, or in any other way  
12 represents himself or herself to be a professional engineer or  
13 a professional land surveyor, or through the use of some other  
14 title implies that he or she is a professional engineer or a  
15 professional land surveyor or that the person is licensed or  
16 authorized under this chapter; or who represents himself or  
17 herself as able to perform or who does perform any engineering  
18 or land surveying service or work or any other service  
19 designated by the practitioner which is recognized as  
20 engineering or land surveying.

21                   "~~(7)~~ (13) PRACTICE OF ENGINEERING. a. Any  
22 professional service or creative work, the adequate  
23 performance of which requires engineering education, training,  
24 and experience in the application of special knowledge of the  
25 mathematical, physical, and engineering sciences to such  
26 services or creative work ~~as consultation,~~ that includes any  
27 one or more of the following:

1           "1. Consultation, investigation, evaluation,  
2     planning, design and design coordination, or commissioning of  
3     engineering works, products, and systems. ~~; planning~~

4           "2. Planning the use of land, and air, or water.~~;~~  
5     performing

6           "3. Performing engineering surveys and studies.~~;~~ and  
7     the

8           "4. The review of construction or other design  
9     products for the purpose of monitoring compliance with  
10    drawings and specifications. ~~; any of which embraces such~~  
11    services or work,

12           "b. Any service or work described in paragraph a.,  
13    either public or private, that is made in connection with any  
14    utilities, structures, buildings, machines, equipment,  
15    processes, work systems, projects, and communications systems,  
16    transportation systems, industrial or consumer products, or  
17    equipment of a control system;~~communications, computer, or~~  
18    is of a mechanical, electrical, hydraulic, pneumatic,  
19    chemical, environmental, or thermal nature, insofar as they  
20    involve the service or work involves safeguarding life,  
21    health, or property; and including health, life, safety,  
22    welfare, and property. The term includes other professional  
23    services as may be necessary to the planning, progress, and  
24    completion of any engineering services.

25           ~~"Notwithstanding any other provision of this~~  
26    ~~chapter, in qualifying a witness to offer expert testimony on~~  
27    ~~the practice of engineering, the court shall consider as~~

1 ~~evidence of his or her expertise whether the proposed witness~~  
2 ~~holds a valid Alabama license for the practice of engineering.~~  
3 ~~Provided, however, such qualification by the court shall not~~  
4 ~~be withheld from an otherwise qualified witness solely on the~~  
5 ~~basis of the failure of the proposed witness to hold such~~  
6 ~~valid Alabama license.~~

7 ~~a. Design coordination includes the review and~~  
8 ~~coordination of those technical submissions prepared by~~  
9 ~~others, including, as appropriate and without limitations,~~  
10 ~~consulting engineers, architects, landscape architects, land~~  
11 ~~surveyors, and other professionals working under the direction~~  
12 ~~of the engineer.~~

13 ~~"b. Engineering surveys include all survey~~  
14 ~~activities required to support the sound conception, planning,~~  
15 ~~design, construction, maintenance and operation of engineered~~  
16 ~~projects, rights-of-way, and easement acquisitions relative to~~  
17 ~~the centerline of the project. Engineering surveys may be used~~  
18 ~~to locate, relocate, establish, reestablish, layout, or~~  
19 ~~retrace any road, right-of-way, easement, or alignment~~  
20 ~~relative to the centerline of the project. Additionally,~~  
21 ~~engineering surveys may be performed to determine areas,~~  
22 ~~volumes, or physical features of the earth, elevation of all~~  
23 ~~real property, improvements on the earth, and the~~  
24 ~~configuration or contour of the surface of the earth or the~~  
25 ~~position of fixed objects thereon by measuring lines and~~  
26 ~~angles and applying the principles of mathematics. All~~  
27 ~~engineering surveys shall exclude the surveying of real~~

1 ~~property for the establishment of any property line or land~~  
2 ~~boundaries, setting of corners or monuments, and the dependent~~  
3 ~~or independent surveys or resurveys of the public land survey~~  
4 ~~system.~~

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

10 "d. The practice of engineering ~~shall include~~  
11 includes the offering of expert opinion in any legal  
12 proceeding in Alabama regarding work legally required to be  
13 performed under an Alabama engineer's license number or seal,  
14 which opinion may be given by an engineer licensed in any  
15 jurisdiction. In qualifying a witness to offer expert  
16 testimony on the practice of engineering, the court shall  
17 consider as evidence of his or her expertise whether the  
18 proposed witness holds a valid Alabama license for the  
19 practice of engineering; provided, however, the qualification  
20 by the court shall not be withheld from an otherwise qualified  
21 witness solely on the basis of the failure of the proposed  
22 witness to hold a valid Alabama license.

23 "~~(8)~~ (14) PRACTICE OF LAND SURVEYING. a.  
24 Professional services, ~~including, but not limited to,~~ using  
25 such sciences as mathematics and geodesy, and involving the  
26 making of geometric measurements and gathering related

1 information pertaining to the physical or legal features of  
2 the earth, improvements on, above, or below the earth.

3 "b. The term includes consultation, project  
4 coordination, including the coordination of technical  
5 submissions proposed by others, investigation, testimony,  
6 evaluation, planning, mapping, assembling, and interpreting  
7 reliable scientific gathered measurements and information  
8 relative to the location, size, shape, areas, volumes, or  
9 physical features of the earth, improvements on the earth, the  
10 space above the earth, or any part of the earth, and the  
11 utilization and development of these acts and interpretation  
12 into an orderly survey map, plan, report, description, or  
13 project. relating to any one or more of the following:

14 "1. Determining by measurement the configuration or  
15 contour of the earth's surface or the position of fixed  
16 objects thereon by measuring lines and angles and applying the  
17 principles of mathematics or photogrammetry.

18 "2. Determining by performing geodetic surveys the  
19 size and shape of the earth.

20 "3. Making any survey for the division, subdivision,  
21 or consolidation of any tract or tracts of land or for  
22 condominiums.

23 "4. Locating or laying out alignments, positions, or  
24 elevations for the construction of fixed works.

25 "5. Determining, by the use of principles of land  
26 surveying, the position for any survey monument or reference

1 point, or establishing or replacing any such monument or  
2 reference point.

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

8 "c. The term may include the performance of  
9 engineering surveys.

10 ~~"Project coordination shall include the coordination~~  
11 ~~of those technical submissions as prepared by others.~~  
12 ~~Notwithstanding the provisions of this subdivision, the~~  
13 ~~practice of land surveying shall exclude functions unique to~~  
14 ~~engineering as specified by rules of the board. The practice~~  
15 ~~of land surveying shall include, but is not limited to, any~~  
16 ~~one or more of the following:~~

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

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

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

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

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

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

15           ~~"(9) (15) RESPONSIBLE CHARGE. Direct control and~~  
16 ~~personal supervision of engineering work or land surveying~~  
17 ~~work.~~

18           "§34-11-2.

19           "(a) ~~No~~ A person in either public or private  
20 capacity ~~shall~~ may not practice or offer to practice  
21 engineering or land surveying, unless he or she shall first  
22 have submitted evidence that he or she is qualified so to  
23 practice and shall be licensed by the board as hereinafter  
24 provided or unless he or she is specifically exempted from  
25 licensure under this chapter.

26           "(b) Except as otherwise provided in this chapter,  
27 all engineering design of buildings, structures, products,

1 machines, processes, and systems that can affect health, life,  
2 safety, welfare, and property shall be conducted under the  
3 responsible charge of a licensed professional engineer.

4 ~~"(b)~~ (c) In order to safeguard ~~life,~~ health, life,  
5 safety, ~~and property,~~ and to promote the public welfare, and  
6 property, the practice of engineering in this state is a  
7 learned profession to be practiced and regulated as such, and  
8 its practitioners in this state shall be held accountable to  
9 the state and members of the public by high professional  
10 standards in keeping with the ethics and practices of the  
11 other learned professions in this state. It shall be unlawful  
12 for any person to practice or offer to practice professional  
13 engineering in this state, ~~as defined by this chapter,~~ to hold  
14 himself or herself out or refer to himself or herself by any  
15 title or description stating or implying the person is  
16 licensed to engage in the practice of engineering, or to use  
17 in connection with his or her name or otherwise assume, use,  
18 or advertise any title or description including, but not  
19 limited to, the terms engineer, engineers, engineering,  
20 professional engineer, professional engineers, professional  
21 engineering, P.E., or any modification or derivative thereof,  
22 tending to convey the impression that he or she is a  
23 professional engineer unless the person has been duly licensed  
24 or is exempt from licensure under this chapter. A person whose  
25 firm name shall have contained the word "engineer,"  
26 "engineers," or "engineering," or words of like import, for  
27 more than 15 years before September 12, 1966, shall not be

1 prohibited from continuing the use of such word or words in  
2 his or her firm name.

3 ~~"(c)~~ (d) In order to safeguard ~~life,~~ health, life,  
4 safety, ~~and property and to promote the public welfare, and~~  
5 property, the practice of land surveying in this state is a  
6 learned profession to be practiced and regulated as such, and  
7 its practitioners in this state shall be held accountable to  
8 the state and members of the public by high professional  
9 standards in keeping with the ethics and practices of the  
10 other learned professions in this state. It shall be unlawful  
11 for any person to practice or offer to practice professional  
12 land surveying in this state, as defined by this chapter, to  
13 hold himself or herself out or refer to himself or herself by  
14 any title or description stating or implying the person is  
15 licensed to engage in the practice of land surveying, or to  
16 use in connection with his or her name or otherwise assume,  
17 use, or advertise any title or description including, but not  
18 limited to, the terms land surveyor, land surveyors, land  
19 surveying, professional land surveyor, professional land  
20 surveyors, professional land surveying, P.L.S., or any  
21 modification or derivative thereof, tending to convey the  
22 impression that he or she is a professional land surveyor  
23 unless the person has been duly licensed or is exempt from  
24 licensure under this chapter.

25 ~~"(d)~~ (e) As used in this subsection, the term  
26 professional land surveyor shall include the agents, the

1 employees, and any personnel under the supervision of a  
2 professional land surveyor.

3 "(1) A professional land surveyor may go on, over,  
4 and upon the lands of others which is not enclosed by any  
5 device installed to deter entry to or exit from industrial  
6 facilities or plant sites by humans or vehicles, if necessary  
7 to perform surveys for the location of section corners,  
8 quarter corners, property corners, boundary lines,  
9 rights-of-way, and easements, and may carry and utilize  
10 equipment and vehicles. Entry under the right granted in this  
11 subdivision shall not constitute trespass. A professional land  
12 surveyor shall not be liable to arrest or to a civil action  
13 for trespass by reason of this entry.

14 "(2) Nothing in this subsection shall be construed  
15 as giving authority to a professional land surveyor to  
16 destroy, injure, damage, or move anything on the lands of  
17 another without the written permission of the landowner and  
18 nothing in this section shall be construed as removing civil  
19 liability for the damages.

20 "(3) A professional land surveyor shall make  
21 reasonable effort to notify adjoining landowners upon whose  
22 land it is necessary to enter.

23 "(4) No owner or occupant of the land shall be  
24 liable for any injury or damage sustained by any person  
25 entering upon his or her land under this subsection.

1           "(5) Nothing in this subsection shall limit the  
2 rights of condemning authorities under Sections 18-1A-50 to  
3 18-1A-55, inclusive.

4           "§34-11-3.

5           "A roster showing the names and addresses of all  
6 licensed professional engineers, all professional land  
7 surveyors, and all who possess current certifications as  
8 engineer interns or land surveyor interns shall be ~~prepared by~~  
9 ~~the executive director of the board at intervals as~~  
10 ~~established~~ published by the board as provided for by board  
11 rule. ~~Copies of this roster shall be made available to each~~  
12 ~~person licensed or certified, placed on file with the~~  
13 ~~Secretary of State, and may be distributed or sold to the~~  
14 ~~public upon request.~~

15           "§34-11-4.

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

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

23           "a. Graduation and experience plus examination.

24           "1. Graduation in an approved engineering curriculum  
25 plus four years experience. A graduate of an approved  
26 engineering curriculum of four years or more from a school or  
27 college approved by the board who has successfully passed a

1 board approved examination in the fundamental engineering  
2 subjects and ~~who~~ in the principles and practice of engineering  
3 and has a specific record of an additional four years or more  
4 of progressive experience in engineering work of a grade and  
5 character satisfactory to the board shall be ~~admitted to a~~  
6 ~~board approved examination in the principles and practice of~~  
7 ~~engineering. Upon passing this examination, the applicant~~  
8 ~~shall be~~ granted a certificate of licensure to practice  
9 engineering in this state, provided the applicant is otherwise  
10 qualified.

11 "2. Graduation in an unapproved engineering  
12 curriculum plus six years experience. A graduate of an  
13 unapproved engineering curriculum of four years or more who  
14 has successfully passed a board approved examination in the  
15 fundamental engineering subjects and ~~who~~ in the principles and  
16 practice of engineering and has a specific record of an  
17 additional six years or more of progressive experience in  
18 engineering work of a grade and character satisfactory to the  
19 board shall be ~~admitted to a board approved examination in the~~  
20 ~~principles and practice of engineering. Upon passing this~~  
21 ~~examination, the applicant shall be~~ granted a certificate of  
22 licensure to practice engineering in this state, provided the  
23 applicant is otherwise qualified.

24 "b. Comity. The board may, upon application, issue a  
25 certificate of licensure as a professional engineer to any  
26 person who holds a valid professional engineering certificate  
27 issued by any jurisdiction of the United States or of any

1 country; provided, that the education, experience, and  
2 examination qualifications of the applicant are, in the  
3 judgment of the board, of a standard not lower than that  
4 specified in the applicable licensure act in effect in Alabama  
5 at the time such certificate was issued. ~~The board may~~  
6 ~~authorize an applicant to practice engineering on a temporary~~  
7 ~~basis upon issuance of an interim permit which shall remain in~~  
8 ~~effect until the board acts upon the application. The interim~~  
9 ~~permit may be issued upon submission of documentation and a~~  
10 ~~fee which shall be established by the board, not to exceed~~  
11 ~~fifty dollars (\$50).~~

12 "(2) ENGINEER INTERN. The following shall be  
13 considered as minimum evidence satisfactory to the board that  
14 the applicant is qualified for certification as an engineer  
15 intern:

16 "a. Graduation and examination. A graduate of an  
17 approved engineering curriculum of four years or more from a  
18 school or college approved by the board who has successfully  
19 passed a board approved examination in the fundamental  
20 engineering subjects shall be certified as an engineer intern,  
21 if otherwise qualified.

22 "b. Graduation and examination plus experience.  
23 Graduation in an unapproved engineering curriculum plus two  
24 years experience. A graduate of an unapproved engineering  
25 curriculum of four years or more who has successfully passed a  
26 board approved examination in the fundamental engineering  
27 subjects and who has a specific record of two years or more of

1 progressive experience in engineering work of a grade and  
2 character satisfactory to the board shall be certified as an  
3 engineer intern, if otherwise qualified.

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

11 "(3) PROFESSIONAL LAND SURVEYOR. The following shall  
12 be considered as minimum evidence satisfactory to the board  
13 that the applicant is qualified for licensure as a  
14 professional land surveyor.

15 "a. Graduation and experience plus examination.

16 "1. Graduation in an approved land surveying  
17 curriculum plus four years experience. A graduate of an  
18 approved land surveying curriculum of four years or more, or a  
19 graduate of an approved civil engineering curriculum of four  
20 years or more, including a minimum of ~~30~~ 15 semester hours or  
21 ~~45~~ 22.5 quarter hours of land surveying courses from a school  
22 or college approved by the board who has successfully passed a  
23 board approved ~~examination~~ examinations in the ~~fundamental~~  
24 ~~land surveying subjects~~ fundamentals of surveying and in the  
25 principles and practice of surveying and ~~who~~ has a specific  
26 record of ~~an additional~~ four years or more of progressive  
27 combined office and field experience in land surveying work of

1 a grade and character satisfactory to the board shall be  
2 admitted to a board approved examination ~~in the principles and~~  
3 ~~practice of land surveying and a board approved examination on~~  
4 laws, procedures, and practices pertaining to land surveying  
5 in this state. Upon passing ~~these examinations~~ the  
6 examination, the applicant shall be granted a certificate of  
7 licensure to practice land surveying in this state, provided  
8 the applicant is otherwise qualified.

9 "2. Graduation in an approved curriculum related to  
10 surveying plus ~~six years~~ five years' experience. A graduate of  
11 a curriculum related to surveying of four years or more  
12 including a minimum of 15 semester hours or 22.5 quarter hours  
13 of surveying courses from a school or college approved by the  
14 board ~~and~~ who has successfully passed ~~a~~ board approved  
15 ~~examination~~ examinations in the ~~fundamental land surveying~~  
16 ~~subjects~~ fundamentals of surveying and in the principles and  
17 practice of land surveying and ~~who~~ has a specific record of ~~an~~  
18 ~~additional six~~ five years or more of progressive combined  
19 office and field experience in land surveying work of a grade  
20 and character satisfactory to the board shall be admitted to a  
21 board approved examination ~~in the principles and practice of~~  
22 ~~land surveying and a board approved examination of laws,~~  
23 procedures, and practices pertaining to land surveying in this  
24 state. Upon passing ~~these examinations~~ the examination, the  
25 applicant shall be granted a certificate of licensure to  
26 practice land surveying in this state, provided the applicant  
27 is otherwise qualified.

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

18                   "b. Comity. The board, upon application, may grant  
19 to any person who holds a valid professional land surveying  
20 certificate issued by any jurisdiction of the United States or  
21 of any country, admission into a board approved examination of  
22 laws, procedures, and practices pertaining to land surveying  
23 in this state, provided that the education, experience, and  
24 examination qualifications of the applicant are, in the  
25 judgment of the board, of a standard not lower than that  
26 specified in the applicable licensure act in effect in this  
27 state at the time such certificate was issued. Upon passing

1 the examination, the applicant shall be granted a certificate  
2 of licensure to practice land surveying in this state,  
3 provided the applicant is otherwise qualified.

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

8 "a. Graduation plus examination. Graduation in an  
9 approved land surveying curriculum. A graduate of a land  
10 surveying or civil engineering curriculum of four years or  
11 more including a minimum of ~~30~~ 15 semester hours or ~~45~~ 22.5  
12 quarter hours of land surveying courses from a school or  
13 college approved by the board who has successfully passed a  
14 board approved examination in the fundamentals of ~~land~~  
15 surveying shall be certified as a land surveyor intern, if  
16 otherwise qualified.

17 "b. Graduation and examination plus experience.

18 "1. Graduation in an approved curriculum related to  
19 surveying plus ~~two years~~ one year's experience. A graduate of  
20 a curriculum related to surveying of four years or more  
21 including a minimum of 15 semester hours or 22.5 quarter hours  
22 of surveying courses from a school or college approved by the  
23 board who has successfully passed a board approved examination  
24 in the fundamentals of ~~land~~ surveying and ~~who~~ has a specific  
25 record of an additional ~~two years~~ one year or more of combined  
26 office and field experience in land surveying work of a grade

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

3 "2. Graduation in a related science curriculum plus  
4 ~~four years~~ two years' experience. A graduate of a related  
5 science curriculum of four years or more who has successfully  
6 passed a board approved examination in the fundamentals of  
7 ~~land~~ surveying and ~~who~~ has a specific record of an additional  
8 ~~four~~ two years or more of combined office and field experience  
9 in land surveying work of a grade and character satisfactory  
10 to the board shall be certified as a land surveyor intern, if  
11 otherwise qualified.

12 "3. Graduation in an approved associate of science  
13 degree in surveying or engineering plus two years' experience.  
14 A graduate of an approved associate of science degree program  
15 in surveying or engineering including a minimum of 15 semester  
16 hours or 22.5 quarter hours of land surveying courses from a  
17 school or college approved by the board who has successfully  
18 passed a board approved examination in the fundamentals of  
19 surveying and has a specific record of an additional two years  
20 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 "c. Comity. The education, experience, and  
25 examination qualifications of the applicant are, in the  
26 judgment of the board, of a standard not lower than that  
27 specified in the applicable licensure act in effect in Alabama

1 at the time such certificate was issued. The board may accept  
2 fundamentals of land surveying examinations of comparable  
3 character taken and passed in another jurisdiction.

4 "(5) CHARACTER. No person shall be eligible for  
5 licensure as a professional engineer, certification as an  
6 engineer intern, licensure as a professional land surveyor, or  
7 certification as a land surveyor intern who is not of good  
8 character and reputation.

9 "(6) TEACHING CREDITS. In considering the  
10 qualifications of applicants, teaching in an engineering  
11 curriculum approved by the board may be considered as  
12 engineering experience. Teaching land surveying subjects in a  
13 land surveying curriculum approved by the board may be  
14 considered as land surveying experience.

15 "(7) GRADUATE STUDY. In counting years of experience  
16 for professional engineer licensure, the board may give  
17 credit, not in excess of one year, for successful completion  
18 of graduate study leading to a master's degree in engineering.  
19 If a Ph.D. in engineering is completed, a total of two year's  
20 experience may be credited. The two-year credit shall include  
21 one year for the master's degree. If the Ph.D. is obtained  
22 without the master's degree, the credit for experience shall  
23 be two years. In counting years of experience for professional  
24 land surveyor licensure, the board may give credit, not in  
25 excess of one year, for successful completion of graduate  
26 study leading to a master's degree in land surveying. If a  
27 Ph.D. in land surveying is completed, a total of two years'

1 experience may be credited. The credit of two years shall  
2 include one year for the master's degree. If the Ph.D. is  
3 obtained without the master's degree, the credit for  
4 experience shall be two years.

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

10 "(9) RECOGNITION OF PREVIOUSLY TAKEN EXAMINATIONS.  
11 The board may accept fundamentals and principles and practice  
12 examinations of comparable character taken and passed in  
13 another jurisdiction.

14 "§34-11-5.

15 "(a) Applications for licensure as a professional  
16 engineer, professional land surveyor, engineer intern, or land  
17 surveyor intern shall be on forms prescribed and furnished by  
18 the board and shall contain ~~statements made under oath~~ a  
19 declaration made under penalty of perjury. Three or more of  
20 the references contained in an application for licensure as a  
21 professional engineer shall be professional engineers having  
22 personal knowledge of the applicant's engineering experience.  
23 Three or more of the references contained in an application  
24 for professional land surveyor shall be professional land  
25 surveyors having personal knowledge of the land surveying  
26 experience of the applicant. All references ~~and experience~~  
27 ~~verifications~~ furnished shall be considered confidential

1 records of the board. Any individual who was previously  
2 licensed in this state and whose license is eligible for  
3 reinstatement as outlined in ~~subsection (a) of Section 34-11-8~~  
4 this chapter shall comply with the reinstatement procedures  
5 established by the board instead of the submission of a new  
6 application.

7 "(b) The application fee ~~and the licensure fee~~ for  
8 professional engineers or professional land surveyors shall  
9 include the licensure fee, shall be set by the board, ~~and each~~  
10 ~~fee~~ shall not exceed ~~one hundred dollars (\$100)~~ three hundred  
11 dollars (\$300), and shall accompany the application.

12 "~~(1) For professional engineers applying for~~  
13 ~~licensure by way of comity, both the application fee and~~  
14 ~~licensure fee shall accompany the application.~~

15 "~~(2) For professional engineers applying for~~  
16 ~~licensure by way of examination and for professional land~~  
17 ~~surveyors, the application fee shall accompany the~~  
18 ~~application, and the licensure fee shall be due upon approval~~  
19 ~~of licensure. If the applicant fails or refuses to remit the~~  
20 ~~licensure fee within 30 days after being notified of~~  
21 ~~successfully qualifying, the applicant shall forfeit the right~~  
22 ~~to have a certificate so issued. For further consideration,~~  
23 ~~the applicant shall be required to submit a new application~~  
24 ~~and application fee.~~

25 "(c) The application fee, ~~which shall include the~~  
26 ~~certification fee,~~ for engineer interns and land surveyor  
27 interns shall include the certification fee, shall be set by

1 the board, shall not exceed fifty dollars (\$50), and shall  
2 accompany the application.

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

7 ~~"(e) (d)~~ If the board denies certification or  
8 licensure to any applicant, ~~or the certificate of  
9 authorization to any corporation, partnership, or firm,~~ the  
10 fee paid shall be retained as an application fee.

11 "§34-11-6.

12 "(a) Examinations shall be held at such times and  
13 places as the board determines and upon payment of an  
14 examination fee. The board shall determine the acceptable  
15 passing grade on state-specific examinations.

16 "(b) When examinations are required on fundamental  
17 subjects, the applicant shall be permitted to take this part  
18 of the professional examination as specified by rules of the  
19 board. ~~A candidate failing an examination may apply for  
20 reexamination under guidelines established by the board.~~

21 "(c) When examinations are required on applied  
22 subjects, the applicant shall be permitted to take this part  
23 of the professional examination as specified by guidelines  
24 established by the board. The scope of the examination and the  
25 methods of procedure shall be prescribed by the board with  
26 special reference to the applicant's ability to design and  
27 supervise engineering or land surveying works so as to protect

1 ~~the safety of life,~~ health, life, safety, welfare, and  
2 property. Examinations shall be given for the purpose of  
3 determining the qualifications of applicants for licensure  
4 separately in engineering and in land surveying. A candidate  
5 failing an examination may apply for reexamination under  
6 guidelines established by the board.

7           "(d) The board may prepare and require additional  
8 examinations in engineering and land surveying. Specifications  
9 for additional examinations shall be published and be made  
10 available to any individual interested in being licensed as a  
11 professional engineer or professional land surveyor. The fees  
12 for examination, reexamination, and administration of the  
13 examination on the laws, procedures, and practices pertaining  
14 to engineering and land surveying in this state shall be set  
15 by the board.

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

24           "(f) The board shall require a demonstration of  
25 continuing professional education for professional engineers  
26 and professional land surveyors as a condition of renewal or  
27 relicensure. For professional land surveyors, the continuing

1 professional education requirements shall include a minimum of  
2 four professional development credit hours on the Standards  
3 for Practice of Surveying in the State of Alabama every two  
4 years and one professional development credit hour on ethics  
5 every year; provided, however, the total number of  
6 professional development credit hours required of professional  
7 land surveyors by the board shall not increase overall because  
8 of this requirement. A new professional land surveyor shall  
9 complete the Standards for Practice of Surveying in the State  
10 of Alabama credits within two years and complete the ethics  
11 credit within one year of initial licensure. Credit for these  
12 courses shall count toward the succeeding annual or biennial  
13 continuing professional education requirements.

14 "§34-11-7.

15 "(a) The board shall issue a certificate of  
16 licensure ~~upon payment of a licensure fee as provided for in~~  
17 ~~this chapter~~ to any applicant for licensure as a professional  
18 engineer or professional land surveyor who, in the opinion of  
19 the board, has satisfactorily met all the requirements of this  
20 chapter. In the case of a professional engineer, the  
21 certificate shall authorize the practice of engineering and  
22 shall carry the designation "Professional Engineer". In the  
23 case of a professional land surveyor, the certificate shall  
24 authorize the practice of land surveying and shall carry the  
25 designation "Professional Land Surveyor". Certificates of  
26 licensure shall show the name of the licensee, shall have a  
27 license number, and shall be signed by ~~the chair and the~~

1 ~~secretary of the board~~ individuals authorized by the board  
2 under the seal of the board.

3 "(b) The issuance of a certificate of licensure by  
4 the board shall be prima facie evidence that the person named  
5 therein is entitled to all the rights and privileges and is  
6 bound by all responsibilities of a professional engineer, or  
7 of a professional land surveyor ~~unless the certificate is~~  
8 ~~revoked, suspended, surrendered, lapsed, or expired~~ as long as  
9 the certificate of licensure remains active and unrestricted.

10 "(c) ~~Each professional engineer should upon~~  
11 ~~licensure~~ Upon licensure, each licensee shall obtain a seal of  
12 the design authorized by the board, bearing the licensee's  
13 name, licensure number, and the legend, "licensed professional  
14 engineer." or "licensed professional land surveyor," as  
15 applicable. ~~Previously purchased seals bearing the terminology~~  
16 ~~"registered" vs. "licensed" may continue to be used until~~  
17 ~~replacement is required.~~ Engineering drawings, plans,  
18 specifications, plats, and reports, and other documents  
19 considered work product issued by a licensee ~~or by qualified~~  
20 ~~persons under the direction of the licensee and for which the~~  
21 ~~licensee assumes full responsibility shall be certified~~  
22 ~~pursuant to this chapter. It shall be unlawful for anyone to~~  
23 ~~use an expired, suspended, surrendered, lapsed, or revoked~~  
24 ~~certificate or seal or facsimile thereof~~ must be sealed,  
25 signed, and dated in accordance with rules of the board,  
26 thereby certifying that he or she is competent in the subject

1 matter and is responsible for the work product. A digital  
2 signature may be used in lieu of a handwritten signature.

3 ~~"(d) Each professional land surveyor should upon~~  
4 ~~licensure obtain a seal of the design authorized by the board,~~  
5 ~~bearing the licensee's name, licensure number, and the legend,~~  
6 ~~"licensed professional land surveyor." Previously purchased~~  
7 ~~seals bearing the terminology "registered" vs. "licensed" may~~  
8 ~~continue to be used until replacement is required. Land plats,~~  
9 ~~legal descriptions of lands, and land surveying reports issued~~  
10 ~~by a licensee or by qualified persons under the direction of~~  
11 ~~the licensee and for which the licensee assumes full~~  
12 ~~responsibility shall be certified pursuant to this chapter. It~~  
13 ~~shall be unlawful for anyone to use an expired, suspended,~~  
14 ~~surrendered, lapsed, or revoked certificate or seal or~~  
15 ~~facsimile thereof.~~

16 ~~"(e) Whenever the seal is applied, the document must~~  
17 ~~be signed by the licensee thereby certifying that he or she is~~  
18 ~~competent in the subject matter and is responsible for the~~  
19 ~~work product. A digital signature may be used in lieu of a~~  
20 ~~handwritten signature.~~

21 "(d) The board shall issue to any applicant for  
22 certification as an engineer intern or surveyor intern who, in  
23 the opinion of the board, has met the requirements of this  
24 chapter, an enrollment document identifying the individual as  
25 engineer intern or land surveyor intern, as applicable. The  
26 engineer intern or surveyor intern enrollment document does

1 not authorize the holder to practice as a professional  
2 engineer or a professional land surveyor.

3 "§34-11-8.

4 "(a) The board, ~~shall,~~ by rule, shall establish a  
5 procedure for renewing certificates of licensure on an annual  
6 or a biennial basis. It shall be the duty of the ~~executive~~  
7 ~~director of the board~~ to notify every ~~person licensed~~ licensee  
8 under this chapter of the ~~final date of the renewal of his or~~  
9 ~~her license and the amount of~~ expiration of the license and  
10 the fee required for the renewal. ~~The notice shall be mailed~~  
11 ~~to the last address of the licensee recorded by the executive~~  
12 ~~director of the board at least one month in advance of the~~  
13 ~~renewal deadline. Renewal may be accomplished at any time~~  
14 ~~prior to or during the month of December by payment of the~~  
15 ~~required fee.~~ The board shall establish the renewal fee for  
16 each certificate of licensure ~~issued pursuant to this chapter.~~  
17 ~~The amount of the renewal fee which~~ shall not exceed one  
18 ~~hundred fifty dollars (\$150)~~ two hundred dollars (\$200) for  
19 annual renewal or ~~three hundred dollars (\$300)~~ four hundred  
20 dollars (\$400) for biennial renewal. ~~Certificates of licensure~~  
21 ~~for professional engineers and professional land surveyors~~  
22 ~~shall lapse on the last day of the month of December, annually~~  
23 ~~or biennially, unless renewed. The board shall, by rule,~~  
24 ~~establish procedures including requirements, time limits, and~~  
25 ~~the minimum continuing professional competency hours required~~  
26 ~~for reinstating or reactivating a lapsed license. The board~~  
27 ~~shall establish a reinstatement fee which shall be based on~~

1 ~~the period the license was lapsed. A lapsed license, if not~~  
2 ~~reinstated, shall remain in a lapsed classification for a~~  
3 ~~total of four years. Any license which has lapsed for more~~  
4 ~~than four years shall not be eligible for reinstatement or~~  
5 ~~reactivation and is expired.~~

6 ~~"(1) Any individual whose license has lapsed for~~  
7 ~~nonpayment of renewal fees shall continue to be subject to~~  
8 ~~this chapter and board rules governing licenses until the~~  
9 ~~licensure is revoked by action of the board or the license is~~  
10 ~~not eligible for reinstatement under the rules of the board. A~~  
11 ~~licensee who practices or offers to practice in this state~~  
12 ~~with a lapsed, inactive, or retired license shall be subject~~  
13 ~~to disciplinary action by the board.~~

14 ~~"(2) (b) No licensee shall have his or her license~~  
15 ~~renewed unless, in addition to any other requirements of this~~  
16 ~~chapter, the minimum annual or biennial continuing~~  
17 ~~professional competency education requirement is met. It is~~  
18 ~~further provided that the continuing professional competency~~  
19 ~~education program herein required shall not include testing or~~  
20 ~~examination of the licensee in any manner. The board may, by~~  
21 ~~rules, establish exemptions from the continuing professional~~  
22 ~~competency education requirement for retired inactive~~  
23 ~~licensees and others in extenuating circumstances as~~  
24 ~~identified by rule of the board.~~

25 ~~"(b) (c) Enrollment as engineer interns and land~~  
26 ~~surveyor interns shall ~~expire on the last day of the month of~~~~  
27 ~~December following their issuance or renewal. The notification~~

1 to interns shall be processed as prescribed above for  
2 licensees except that the annual renewal fee shall not exceed  
3 ten dollars (\$10). The failure on the part of any intern to  
4 accomplish renewal shall not invalidate his or her status as  
5 an engineer intern or land surveyor intern, but his or her  
6 name shall, after 90 days, be removed from the current mailing  
7 list of the board. The fee to bring an enrollment current  
8 after a renewal expiration shall be twice that established for  
9 annual renewal not expire.

10 "(c) Certificates of authorization issued to  
11 corporations, partnerships, or firms practicing or offering to  
12 practice engineering or land surveying under this chapter  
13 shall lapse on the last day of the month of January following  
14 their issuance or renewal, unless renewed. The amount of the  
15 renewal fee shall be set by the board and shall not exceed two  
16 hundred fifty dollars (\$250). It shall be the duty of the  
17 executive director of the board to notify every corporation,  
18 partnership, or firm holding a certificate of authorization  
19 under this chapter of the final date of renewal of the  
20 certificate and the amount of the fee which shall be required  
21 for its renewal for one year. The notice shall be mailed by  
22 the executive director to the last address recorded for the  
23 corporation, partnership, or firm at least one month in  
24 advance of the renewal deadline. Renewals may be accomplished  
25 at any time prior to or during the month of January by payment  
26 of the required fee. Failure by the corporation, partnership,  
27 or firm to renew its certificate of authorization prior to or

1 ~~during the month of January shall cause the certificate to~~  
2 ~~lapse, and it shall be unlawful for the corporation,~~  
3 ~~partnership, or firm to practice, offer to practice, or hold~~  
4 ~~itself out as qualified to practice engineering or land~~  
5 ~~surveying in Alabama following the lapse of its certificate of~~  
6 ~~authorization. The board shall, by rules, establish procedures~~  
7 ~~and time limits for reactivating a certificate of~~  
8 ~~authorization and the reinstatement fees which shall be based~~  
9 ~~on the period the certification was lapsed. A firm,~~  
10 ~~partnership, or corporation whose certificate of authorization~~  
11 ~~has lapsed for nonpayment of renewal fees shall continue to be~~  
12 ~~subject to this chapter and the rules of the board governing~~  
13 ~~licenses until the certificate of authorization is revoked by~~  
14 ~~action of the board or the certificate of authorization is no~~  
15 ~~longer renewable under the rules of the board. If not~~  
16 ~~reinstated, a lapsed certificate of authorization shall remain~~  
17 ~~in a lapsed classification for a period of two years. Any~~  
18 ~~certificate of authorization which has been lapsed for more~~  
19 ~~than two years shall not be eligible for reinstatement or~~  
20 ~~reactivation and is expired.~~

21 "(d) An individual who allows a license to expire  
22 due to non-renewal, failure to submit the required continuing  
23 education hours, or pay the applicable renewal fees shall be  
24 treated as having an expired license and shall be ineligible  
25 to practice. An expired license may be reinstated, at the  
26 discretion of the board as follows:

1           "(1) The license of a licensee who submits a  
2 reinstatement petition within two years of the expiration date  
3 may be reinstated upon substantiation by the applicant of all  
4 renewal requirements set forth in this chapter and rules of  
5 the board, including completion of all continuing education  
6 credits required to have been completed during the expired  
7 status period, along with a reinstatement fee determined by  
8 the board which shall not exceed five hundred dollars (\$500).

9           "(2) Licensees whose licenses have been in expired  
10 status longer than two years are not eligible for  
11 reinstatement and must file an application for licensure  
12 following the application procedures as set forth in this  
13 chapter.

14           "(3) The board may impose additional reasonable  
15 requirements for reinstatement deemed necessary to protect  
16 health, life, safety, welfare, and property.

17           "(4) The board may consider extenuating  
18 circumstances of petitioners who can demonstrate hardship. The  
19 board reserves the right to waive fees and other renewal or  
20 reinstatement requirements, provided the board does so in a  
21 manner that protects health, life, safety, welfare, and  
22 property.

23           "(e) A licensee in inactive status may return to  
24 active status by notifying the board in advance of this  
25 intention and by meeting all requirements of the board,  
26 including demonstration of continuing professional education  
27 as a condition of reinstatement.

1           "(f) An individual who has been issued a certificate  
2 of licensure as a professional engineer or as a professional  
3 land surveyor and who chooses to relinquish or not to renew a  
4 license may be granted use of the title "Professional  
5 Engineer, Retired" or "Professional Land Surveyor, Retired,"  
6 as applicable, if the individual applies to and is granted  
7 approval by the board.

8           "§34-11-9.

9           ~~"(a) Services offered to the public; certificate of~~  
10 ~~authorization required.~~

11           ~~"(1) ENGINEERING OR LAND SURVEYING SERVICES. The~~  
12 ~~practice of or offer to practice engineering and land~~  
13 ~~surveying as defined in Section 34-11-1 by individual~~  
14 ~~professional engineers or professional land surveyors licensed~~  
15 ~~under this chapter through a corporation, partnership, or firm~~  
16 ~~offering engineering services or land surveying services to~~  
17 ~~the public through individual licensed professional engineers~~  
18 ~~or professional land surveyors, as agents, employees,~~  
19 ~~officers, or partners, is permitted subject to this chapter~~  
20 ~~and one or more of the principal officers of the corporation,~~  
21 ~~firm, or partners of the partnership and all personnel of the~~  
22 ~~corporation, partnership, or firm who act in its behalf as~~  
23 ~~professional engineers or professional land surveyors in this~~  
24 ~~state are licensed as provided by this chapter, or are persons~~  
25 ~~lawfully practicing under Section 34-11-14 and the~~  
26 ~~corporation, partnership, or firm has been issued a~~  
27 ~~certificate of authorization by the board as provided herein.~~

1 ~~All final drawings, specifications, plans, reports, or other~~  
2 ~~engineering or land surveying papers or documents involving~~  
3 ~~the practice of engineering or land surveying as defined in~~  
4 ~~Section 34-11-1 of this chapter which shall have been prepared~~  
5 ~~or approved for the use of such corporation, partnership, or~~  
6 ~~firm or for delivery to any person or for public record within~~  
7 ~~the state shall be dated and bear the signature and seal of~~  
8 ~~the professional engineer or professional land surveyor who~~  
9 ~~prepared or approved them. Nothing in this section should be~~  
10 ~~construed to mean that a certificate of licensure to practice~~  
11 ~~engineering or land surveying shall be held by a corporation,~~  
12 ~~partnership, or firm.~~

13 "(a) (1) A firm that practices or offers to practice  
14 engineering or land surveying is required to obtain a  
15 certificate of authorization from the board in accordance with  
16 rules adopted by the board.

17 ~~"(2) JOINT PRACTICE AUTHORIZED. Nothing in this~~  
18 ~~section prohibits an individual, corporation, or firm, or~~  
19 ~~partnership from joining together to practice, offering to~~  
20 ~~practice, or holding themselves out as qualified to practice~~  
21 ~~engineering or land surveying provided that the individual,~~  
22 ~~corporation, or firm, or partnership meets the requirements of~~  
23 ~~this section. An entity that performs engineering services or~~  
24 ~~land surveying services for itself, or for a parent or~~  
25 ~~subsidiary, is not required to have a certificate of~~  
26 ~~authorization.~~

1           ~~"(3) LIABILITY GENERALLY. No corporation, firm, or~~  
2 ~~partnership shall~~ A firm may not be relieved of responsibility  
3 ~~for the conduct or acts of its agents, employees, officers, or~~  
4 ~~partners by reason of its compliance with this section, nor~~  
5 ~~shall any individual practicing engineering or land surveying~~  
6 ~~as defined in Section 34-11-1 be relieved of responsibility~~  
7 ~~for work performed by reason of employment, association, or~~  
8 ~~relationship with the corporation, partnership, or firm. An~~  
9 individual practicing engineering or land surveying under this  
10 chapter is not relieved of responsibility for engineering or  
11 land surveying services performed by reason of employment or  
12 other relationship with a firm holding a certificate of  
13 authorization.

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

20           ~~"(5) RESIDENT LICENSEE. Every firm, partnership,~~  
21 ~~corporation, or other entity which performs or offers to~~  
22 ~~perform engineering or land surveying services shall have a~~  
23 ~~resident licensed professional engineer or land surveyor in~~  
24 ~~responsible charge of the engineering or land surveying work~~  
25 ~~for each separate office or branch office in which engineering~~  
26 ~~or land surveying services are performed or offered to be~~

1 performed. The board shall issue rules to ensure adequate  
2 engineering supervision and surveying supervision of all work.

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

1 ~~corporation, partnership, or firm within 30 days after the~~  
2 ~~effective date of the change.~~

3 ~~"(7) ISSUANCE OF CERTIFICATE OF AUTHORIZATION;~~  
4 ~~SUSPENSION; REVOCATION. If all the requirements of this~~  
5 ~~section are met, the board shall issue to the corporation,~~  
6 ~~partnership, or firm a certificate of authorization. The board~~  
7 ~~may refuse to issue a certificate, if any facts exist which~~  
8 ~~would entitle the board to suspend or revoke an existing~~  
9 ~~certificate. Any person aggrieved by an adverse determination~~  
10 ~~of the board may appeal to the circuit court in the manner~~  
11 ~~provided in Section 34-11-13.~~

12 ~~"(8) CERTIFICATE REQUIRED OF ORGANIZATION OPERATING~~  
13 ~~UNDER FICTITIOUS NAME.~~

14 "(4) The Secretary of State may not accept  
15 organizational papers nor issue a certificate of  
16 incorporation, organization, licensure, or authorization to  
17 any firm that includes among the objectives for which it is  
18 established or within its name, any of the words "engineer,"  
19 "engineering," "land surveyor," "land surveying," or any  
20 modification or derivation thereof unless the board has issued  
21 for the applicant a certificate of authorization or a letter  
22 indicating the eligibility of the applicant to receive such a  
23 certificate. The firm applying shall supply their certificate  
24 or letter from the board with its application for  
25 incorporation, organization, licensure, or authorization.

26 "(5) The Secretary of State may not authorize any  
27 trade name trademark, or service mark that includes words set

1 forth in subdivision (4), or any modification or derivative  
2 thereof, except licensees and firms holding certificates of  
3 authorization issued under this section.

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

12 "~~(b) (7) 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~~ the  
18 production, manufacture, transportation, distribution, or  
19 communication and ~~will~~ does 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 "(b) A firm shall designate a managing agent and a  
4 resident professional, if offering or performing Alabama  
5 services in multiple offices. The managing agent and the  
6 resident professional may be the same individual.

7 "(c) The following criteria shall apply to the  
8 firm's designation of a managing agent:

9 "(1) A firm shall designate a professional engineer  
10 or a professional land surveyor to be a managing agent for the  
11 firm.

12 "(2) The managing agent is responsible for the  
13 engineering or land surveying work in the state and for  
14 projects within the state offered or provided by the firm.

15 "(3) A licensee may not be designated as a managing  
16 agent for more than one firm unless the firms share a  
17 location.

18 "(4) A licensee who renders occasional, part-time,  
19 or consulting engineering or land surveying services to or for  
20 a firm may not be designated as a managing agent.

21 "(d) The managing agent's responsibilities include  
22 all of the following:

23 "(1) Renewal of the firm's certificate of  
24 authorization and notification to the board of any change in  
25 the managing agent.

1           "(2) Overall administrative supervision of the  
2 firm's licensed and subordinate personnel providing the  
3 engineering or land surveying work in the state.

4           "(3) Ensuring that the policies of the firm are in  
5 accordance with the rules of professional conduct adopted by  
6 the board.

7           "(e) A firm shall designate a resident professional  
8 engineer or a resident professional land surveyor, as  
9 applicable, in each branch office in which engineering or land  
10 surveying services for the state are offered or provided. The  
11 resident professional shall be responsible for overseeing the  
12 daily operations of that branch office. The following criteria  
13 shall apply to the firm's designation of a resident  
14 professional:

15           "(1) A licensee may not be designated as a resident  
16 for more than one firm unless the firms share a location.

17           "(2) A licensee who renders occasional, part-time,  
18 consulting engineering or land surveying services to or for a  
19 firm may not be designated as a resident professional.

20           "(f) (1) A firm desiring a certificate of  
21 authorization must file with the board an application using a  
22 form provided by the board and provide all the information  
23 required by the board. The application form shall be filed  
24 with the board upon renewal or not more than 30 days after any  
25 information contained on the application form is changed or  
26 differs for any reason. If in the judgment of the board the  
27 application meets the requirements of this chapter, the board

1 shall issue a certificate of authorization for the firm to  
2 practice engineering or land surveying.

3 "(2) The application fee for a certificate of  
4 authorization for a firm shall be established by the board and  
5 may not exceed two hundred fifty dollars (\$250) and shall  
6 accompany the application. The fee is non-refundable.

7 "(g) (1) A certificate of authorization expires on  
8 the date designated by the board and is invalid after that  
9 date unless renewed. The board shall notify a firm holding a  
10 certificate of authorization under this chapter of the date of  
11 the expiration of the certificate of authorization and the fee  
12 required for its renewal. The board shall establish the  
13 renewal fee which may not exceed two hundred fifty dollars  
14 (\$250).

15 "(2) A firm that allows a certificate of  
16 authorization to expire due to non-renewal shall be treated as  
17 having an expired certificate and it shall be unlawful for the  
18 firm to practice, offer to practice, or hold itself out as  
19 qualified to practice in this state following the expiration  
20 of its certificate of authorization.

21 "(3) The board, by rule, shall establish procedures,  
22 time limits, and the reinstatement fee which shall not exceed  
23 five hundred dollars (\$500), required for reinstating an  
24 expired certificate of authorization.

25 "(h) A firm whose certificate of authorization has  
26 expired due to nonrenewal but is still eligible for  
27 reinstatement shall continue to be subject to this chapter and

1 the rules of the board until the certificate of authorization  
2 is revoked by action of the board or becomes no longer  
3 eligible for reinstatement."

4 Section 2. Section 34-11-9.1 is added to the Code of  
5 Alabama 1975, to read as follows:

6 §34-11-9.1.

7 A duplicate certificate of licensure, intern  
8 enrollment document, or certificate of authorization may be  
9 issued subject to the rules of the board. A fee established by  
10 rule shall be paid for each issuance.

11 Section 3. Sections 34-11-10 and 34-11-11 of the  
12 Code of Alabama 1975, are amended to read as follows:

13 "§34-11-10.

14 ~~"It shall be unlawful for the state or any of its~~  
15 ~~departments, boards, or agencies or any county, municipality,~~  
16 ~~or political subdivision, or any department, board, or agency~~  
17 ~~of any county, municipality, or political subdivision to~~  
18 ~~engage in the construction of any public work involving the~~  
19 ~~practice of engineering unless the engineering drawings,~~  
20 ~~plans, specifications, and estimates have been prepared by and~~  
21 ~~the construction executed under the direct supervision of a~~  
22 ~~professional engineer~~ A state, county, or local government  
23 agency or authority, or an official or employee thereof, may  
24 not engage in the practice of engineering or land surveying  
25 involving either public or private property without the  
26 project being under the responsible charge of a professional  
27 engineer for engineering projects or a professional land

1 surveyor for land surveying projects as provided for the  
2 practice of the respective professions by this chapter;  
3 provided, that nothing in this chapter shall be held to apply  
4 to any public work wherein the expenditure for the complete  
5 project of which the work is a part does not exceed \$20,000.

6 "§34-11-11.

7 "(a) The board ~~shall have the power to~~ may  
8 reprimand, censure, suspend, revoke, place on probation,  
9 recover costs, or fine any licensee or certified engineer  
10 intern or land surveyor intern or ~~corporation, partnership, or~~  
11 firm holding a certificate of authorization ~~and to suspend, or~~  
12 to refuse to issue, renew, or revoke reinstate the certificate  
13 of any licensee or certified engineer intern or land surveyor  
14 intern or the certificate of authorization of a ~~corporation,~~  
15 ~~partnership, or~~ firm found guilty of any of the following:

16 "(1) The practice of any fraud or deceit in  
17 obtaining or attempting to obtain or renew a certificate of  
18 licensure, intern certification, or certificate of  
19 authorization.

20 "(2) Any gross negligence, incompetency, violation  
21 of the rules of professional conduct prescribed by the board,  
22 ~~or any amendment thereof,~~ or misconduct in the practice of  
23 engineering or land surveying as a professional engineer,  
24 engineer intern, professional land surveyor, or land surveyor  
25 intern.

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

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

6           "~~An offense in another jurisdiction resulting in~~  
7 ~~revocation, suspension, or voluntary surrender, to avoid~~  
8 ~~disciplinary proceedings, of a license or certificate of~~  
9 ~~licensure, including any agreement or stipulation executed by~~  
10 ~~a licensee to avoid formal disciplinary proceedings~~  
11 Voluntarily surrendering a professional engineer's license, a  
12 professional land surveyor's license, an engineer intern's  
13 certification, a land surveyor intern's certification, a  
14 firm's engineering certificate of authorization, or a firm's  
15 land surveying certificate of authorization in order to avoid  
16 disciplinary action by another jurisdiction, foreign country,  
17 or the United States government if at least one of the grounds  
18 for the disciplinary action is the same or substantially  
19 equivalent to those contained in this chapter.

20           "(6) Conviction of or entry of a plea of guilty or  
21 nolo contendere to any crime that is a felony, whether or not  
22 related to the practice of engineering or land surveying; or  
23 conviction of or entry of a plea of guilty or nolo contendere  
24 to any crime, whether a felony, misdemeanor, or otherwise, an  
25 essential element of which is dishonesty or which is directly  
26 related to the practice of engineering or land surveying.

1           "(7) Failure to comply with any provision of this  
2 chapter or board rule.

3           "(8) Failure to respond to a board inquiry within 60  
4 days of receipt of the inquiry.

5           "(9) Knowingly making false statements or signing  
6 false statements, certifications, or affidavits in connection  
7 with the practice of engineering or land surveying.

8           "(10) Aiding or assisting another person in  
9 violating any provision of this chapter or board rule.

10          "(11) Violating any term of any order imposed or  
11 agreed to by the board or using a seal or practicing  
12 engineering or land surveying while the licensee's license or  
13 the firm's certificate of authorization is inactive or  
14 restricted.

15          "(12) Signing, affixing, or permitting the  
16 licensee's seal or signature to be affixed to any  
17 specification, report, drawing, plan, plat, design  
18 information, construction document or calculation, survey, or  
19 revision that has not been prepared by the licensee or under  
20 the licensee's responsible charge.

21          "(13) Engaging in dishonorable, unethical, or  
22 unprofessional conduct of a character likely to deceive,  
23 defraud, or harm the public.

24          "(14) Providing false testimony or information to  
25 the board.

26          "(15) Providing engineering or land surveying  
27 services outside any of the licensee's areas of competence.

1           "(16) Practicing engineering or land surveying in a  
2 branch office not under the day-to-day supervision of a  
3 licensed professional engineer or professional land surveyor,  
4 respectively.

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

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

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

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

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

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

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

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

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

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

3 ~~"(k) (c)~~ The board shall revoke the certificate of  
4 any licensee or certified intern who has been determined to be  
5 one 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 ~~"(l) 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 committee of seven as~~  
22 ~~specified in Section 34-11-30. These ex officio members shall~~  
23 ~~serve on the board only for that hearing for which they were~~  
24 ~~appointed and they may be reappointed for subsequent hearings~~  
25 ~~if necessary.~~

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

1           "(d) Each day of a continued violation shall  
2 constitute a separate offense.

3           "(e) An individual whose license has expired for  
4 nonpayment of renewal fees shall continue to be subject to  
5 this chapter and board rules governing licenses until the  
6 license is revoked by action of the board or the license is  
7 not eligible for reinstatement under the rules of the board. A  
8 licensee who practices or offers to practice in the state with  
9 an expired, inactive, or retired license shall be subject to  
10 disciplinary action by the board. Any firm whose certificate  
11 of authorization has expired for nonpayment of renewal fees  
12 shall continue to be subject to this chapter and board rules  
13 until the certificate of authorization is revoked by action of  
14 the board or the certificate of authorization is not eligible  
15 for reinstatement under the rules of the board. A firm who  
16 practices or offers to practice in the state with an expired  
17 certificate of authorization shall be subject to disciplinary  
18 action by the board."

19           Section 4. Sections 34-11-11.1 and 34-11-11.2 are  
20 added to the Code of Alabama 1975, to read as follows:

21           §34-11-11.1.

22           (a) The board may levy a civil penalty and recover  
23 costs from any individual or firm for any of the following  
24 activities:

25           (1) Engaging in the practice or offering to practice  
26 engineering or land surveying in the state without being  
27 authorized in accordance with the provisions of this chapter.

1                   (2) Using or employing the words "engineer,"  
2 "engineering," "land surveyor," "land surveying," or any  
3 modification or derivative thereof in his or her name or form  
4 of business activity except as authorized in this chapter.

5                   (3) Presenting or attempting to use the certificate  
6 of licensure or seal of a professional engineer or  
7 professional land surveyor or attempting to use an  
8 unauthorized certificate of authorization.

9                   (4) Engaging in any fraud or deceit in obtaining or  
10 attempting to obtain a certificate of licensure, intern  
11 certification, or certificate of authorization.

12                   (5) Impersonating any professional engineer or  
13 professional land surveyor or any firm holding a certificate  
14 of authorization.

15                   (6) Using or attempting to use a revoked or  
16 non-existent certificate of licensure, intern certification,  
17 or certification of authorization or an expired certificate of  
18 licensure or certificate of authorization not eligible for  
19 reinstatement.

20                   (b) Each day of continued violation shall constitute  
21 a separate offense.

22                   (c) In addition to any other sanction provided in  
23 this chapter, the board may levy a civil penalty and recover  
24 costs from any firm where one or more of its managing agents,  
25 officers, directors, owners, or managers have been found in  
26 violation of this chapter or any board rule.

1 (d) A civil penalty assessed under this section may  
2 not exceed five thousand dollars (\$5,000) for each count or  
3 separate offense. The civil penalty is payable to the General  
4 Fund.

5 §34-11-11.2.

6 (a) Any person or entity, including the board or  
7 staff, may file a complaint alleging a violation of this  
8 chapter against any individual licensee, certified intern, or  
9 firm holding a certificate of authorization or against an  
10 unlicensed individual or firm. The complaint shall be in  
11 writing, shall be signed by the complainant, shall state  
12 specifically the facts on which the complaint is based, and  
13 shall be filed with the executive director of the board.

14 (b) The board may designate one or more individuals  
15 to investigate and report to it on any matter related to its  
16 lawful duties and may employ legal counsel as the board may  
17 deem necessary or desirable. An investigation may be made upon  
18 receipt of a complaint. The board may resolve violations by  
19 agreement between the board and the respondent with or without  
20 the filing of formal charges.

21 (c) All complaints shall be reviewed by an  
22 investigative committee designated by the rules of the board.  
23 After review, the investigative committee shall determine or  
24 recommend, as appropriate, if charges are warranted. The  
25 charges shall conform to the Administrative Procedure Act.

26 (d) With the consent of the respondent, the board  
27 may conduct an informal hearing without meeting the

1 requirements of the Administrative Procedure Act at which no  
2 action shall be taken other than a reprimand, public or  
3 private.

4 (e) All charges, unless dismissed as unfounded or  
5 trivial, or unless settled informally, shall be heard by the  
6 board within a reasonable time.

7 (f) The time and place for the hearing shall be  
8 fixed and a copy of the charges, together with a notice of the  
9 time and place of the hearing, shall be personally served on  
10 or mailed to the last known address of the respondent at least  
11 30 days before the date fixed for the hearing. At any hearing  
12 the respondent shall have the right to appear in person or by  
13 counsel or both, to cross-examine witnesses in his or her  
14 defense, and to produce evidence and witnesses in his or her  
15 defense. If the respondent fails or refuses to appear at the  
16 hearing, the board may proceed to hear and determine the  
17 validity of the charges in the respondent's absence.

18 (g) If after the hearing a majority of members of  
19 the board present vote finding the respondent guilty of the  
20 charges, the board shall impose one or more of the  
21 disciplinary penalties set forth in this section or Section  
22 34-11-11. Any fine or penalty imposed may not exceed five  
23 thousand dollars (\$5,000) for each count or separate offense.  
24 The written decision of the board shall be delivered  
25 personally to the respondent or sent by certified mail, return  
26 receipt requested, to the last known address of the  
27 respondent.

1 (h) If disciplinary action from a hearing results in  
2 imposing a fine or civil penalty against a licensee or  
3 certificated firm, the board may not renew the certificate for  
4 the licensee or certificated firm until the fine or penalty is  
5 paid in full. In the event that the fine or civil penalty is  
6 subsequently set aside on judicial review, as provided in the  
7 Alabama Administrative Procedure Act, the respondent shall be  
8 entitled to a prompt refund of the amount of the fine or  
9 penalty, but shall not be entitled to interest.

10 (i) When a member of the board is unable to continue  
11 the hearing either by disqualification or for any other  
12 reason, and the board is unable to reach a quorum, the  
13 Governor shall appoint as many ex officio members as is  
14 necessary to reach a quorum from a list of three persons  
15 submitted for each place by the committee of seven as  
16 specified in Section 34-11-30. These ex officio members shall  
17 serve on the board only for that hearing for which they were  
18 appointed and they may be reappointed for subsequent hearings  
19 if necessary. Ex officio members must meet the same board  
20 member qualifications as outlined in this chapter.

21 (j) The respondent shall be responsible for the cost  
22 of the disciplinary action if found in violation of this  
23 chapter.

24 (k) In determining the fine or civil penalty to be  
25 assessed pursuant to this chapter, the board may consider all  
26 of the following factors:

1           (1) Whether the amount imposed will be a substantial  
2 economic deterrent.

3           (2) The circumstances leading to the violation.

4           (3) The severity of the violation and the risk of  
5 harm to the public.

6           (4) The economic benefits gained by the violator as  
7 a result of non-compliance.

8           (5) Consistency of the fine or civil penalty with  
9 past fines or civil penalties for similar offenses, or  
10 justification for the fine or civil penalty amount.

11           (1) An action may be brought in the Circuit Court of  
12 Montgomery County to require compliance with any order of the  
13 board.

14           (m) When an order for recovery of costs is made and  
15 timely payment is not made as directed in the board's  
16 decision, the board may enforce the order for payment in the  
17 Circuit Court of Montgomery County. This right of enforcement  
18 shall be in addition to any other rights the board may have as  
19 to any person directed to pay costs.

20           (n) In any action for recovery, the board's decision  
21 shall be conclusive proof of the validity of the order of  
22 payment and the terms for payment.

23           Section 5. Sections 34-11-12 to 34-11-15, inclusive,  
24 34-11-30, 34-11-31, 34-11-32, 34-11-34, 34-11-35, 34-11-35.1,  
25 as added by Act 2017-384 of the 2017 Regular Session,  
26 34-11-36, and 34-11-37, Code of Alabama 1975, are amended to  
27 read as follows:

1           "§34-11-12.

2           "The board, for reasons it may deem sufficient, may  
3 reissue a certificate of licensure or intern certification to  
4 any person or certificate of authorization to any ~~corporation,~~  
5 ~~partnership,~~ or firm whose certificate has been revoked,  
6 provided ~~three or more members~~ a majority of the board ~~vote~~  
7 votes 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~~ majority  
16 approval vote of the board concerning reissuance shall be  
17 required. ~~A new certificate to replace any certificate~~  
18 ~~revoked, lost, destroyed, or mutilated or for any other reason~~  
19 ~~may be issued, subject to the rules of the board, and a charge~~  
20 ~~of twenty-five dollars (\$25) shall be made for such issuance.~~

21           "§34-11-13.

22           "~~Any person, corporation, partnership, or firm who~~  
23 ~~shall feel~~ is aggrieved by the denial of a certificate by the  
24 board or by any disciplinary action by the board taken  
25 pursuant to Section 34-11-11 may appeal ~~therefrom~~ within 30  
26 days to the Circuit Court of Montgomery County, ~~Alabama,~~  
27 exclusively, notwithstanding the provisions of the Alabama

1 Administrative Procedure Act; and only after the filing of the  
2 notice of appeal, shall judicial review be as provided for in  
3 the Alabama Administrative Procedure Act.

4 "§34-11-14.

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

7 "(1) The practice of any other legally recognized  
8 profession or trade.

9 "(2) The work of an engineer intern or land surveyor  
10 intern, employee, or a subordinate of any person holding a  
11 certificate of licensure under this chapter, or any employee  
12 of a person practicing lawfully under paragraph b of  
13 subdivision (1) of Section 34-11-4, ~~if the work is done under~~  
14 ~~the responsibility and supervision of a person holding a~~  
15 ~~certificate of licensure under this chapter or a person~~  
16 ~~practicing lawfully under paragraph b of subdivision (1) of~~  
17 ~~Section 34-11-4~~ provided the work does not include final  
18 engineering or land surveying designs or decisions and is done  
19 under the responsible charge of and verified by an individual  
20 holding a certificate of licensure under this chapter.

21 "(3) The practice of officers and employees of the  
22 government of the United States while engaged within this  
23 state in the practice of engineering or land surveying for the  
24 government. This exception does not extend to any engineer or  
25 land surveyor engaged in the practice of professional  
26 engineering or land surveying whose compensation is based in  
27 whole or in part on a fee.

1           "(4) The practice of engineering or land surveying  
2 with respect to transportation or utility facilities by any  
3 transportation company or public utility subject to regulation  
4 by the Alabama Public Service Commission, the Federal Aviation  
5 Administration, the Federal Communications Commission, the  
6 Federal Energy Regulatory Commission, or the Nuclear  
7 Regulatory Commission, including its parents, affiliates, or  
8 subsidiaries; or by the officers and employees of any  
9 transportation company or public utility including its  
10 parents, affiliates, or subsidiaries. This exception shall not  
11 extend to any engineer or land surveyor engaged in the  
12 practice of engineering or land surveying whose compensation  
13 is based in whole or in part on a fee.

14           "(5) The practice of engineering or land surveying  
15 by any person who is employed by the Alabama Department of  
16 Transportation prior to January 1, 1997, in any engineering or  
17 engineering assistant classification series under the State of  
18 Alabama Personnel Board, Merit System.

19           "(6) The mere execution as a contractor of work  
20 designed by a professional engineer or the supervision of the  
21 construction of such work as a foreman or superintendent.

22           "(7) The performance of engineering services which  
23 are purely incidental to the practice of architecture by  
24 registered architects, or their employees, or subordinates  
25 under their responsible supervising control.

26           "(8) The performance of engineering services which  
27 are purely incidental to the practice of geology by registered

1 geologists, their employees, or subordinates under their  
2 responsible charge.

3 "§34-11-15.

4 "(a) Any person who ~~shall practice, offer~~ practices,  
5 offers to practice, or ~~hold~~ holds himself or herself out as  
6 qualified to practice engineering or land surveying in this  
7 state or ~~use~~ uses in connection with his or her name or  
8 otherwise ~~assume, use, or advertise~~ assumes, uses, or  
9 advertises any title or description including, but not limited  
10 to, the term engineer, engineers, engineering, or professional  
11 engineer, professional engineers, or professional engineering,  
12 or land surveyor, land surveyors, land surveying, or  
13 professional land surveyor, professional land surveyors, or  
14 professional land surveying, without being licensed or  
15 exempted in accordance with this chapter, or any person  
16 presenting or attempting to use as his or her own the  
17 certificate of licensure or the seal or facsimile thereof of  
18 another, or permitting his or her own certificate of  
19 licensure, seal or facsimile thereof to be used by another  
20 person, or any person who ~~shall give~~ gives any false or forged  
21 evidence of any kind to the board or to any member thereof in  
22 obtaining, or attempting to obtain a certificate of licensure,  
23 or any person who ~~shall falsely impersonate~~ falsely  
24 impersonates any other licensee of like or different name, or  
25 any person who ~~shall attempt~~ attempts to use an expired,  
26 suspended, surrendered, or revoked certificate of licensure,  
27 ~~or any person who shall violate this chapter,~~ shall be guilty

1 of a Class A misdemeanor, ~~and punished as provided by law~~ Each  
2 day of the violation shall ~~be~~ constitute a separate offense.

3 "(b) Any corporation, partnership, or firm who  
4 violates any part of this chapter shall be guilty of a Class A  
5 misdemeanor and punished as provided by law. Each day of the  
6 violation shall be a separate offense.

7 "(c) It shall be the duty of all duly constituted  
8 officers of law of this state, or any political subdivision  
9 thereof, to enforce this chapter, and to prosecute any  
10 persons, firms, partnerships, or corporations for violating  
11 this chapter. The Attorney General of the state or his or her  
12 assistants shall act as legal advisor to the board and render  
13 legal assistance to the board as may be necessary in carrying  
14 out this chapter. The board has the right to obtain private  
15 legal counsel as the need arises.

16 "Pursuant to the proceedings under this chapter,  
17 the board may issue subpoenas to compel the attendance and  
18 testimony of witnesses and the disclosure of evidence, and may  
19 request the Attorney General to bring an action to enforce a  
20 subpoena.

21 "In addition to or in lieu of the sanctions  
22 provided in this chapter, the board may issue an order to any  
23 individual or firm engaged in any activity, conduct, or  
24 practice constituting a violation of this chapter, directing  
25 the individual or firm to cease and desist from the activity,  
26 conduct, or practice, or the performance of any work then  
27 being done or about to be commenced. The order shall be issued

1 in the name of the State of Alabama under the official seal of  
2 the board. If the individual or firm to whom the board directs  
3 a cease and desist order does not cease or desist the  
4 proscribed activity, conduct, practice, or performance of work  
5 immediately, the board shall cause to issue in any court of  
6 competent jurisdiction and proper venue, a writ of injunction  
7 enjoining the individual or firm from engaging in the  
8 proscribed activity, conduct, practice, or performance of  
9 work. Upon a showing by the board that an individual or firm  
10 has engaged or is engaged in any activity, conduct, practice,  
11 or performance of work prohibited by this chapter, the courts  
12 shall issue a temporary restraining order restraining the  
13 individual or firm from engaging in the unlawful activity,  
14 conduct, practice, or performance of work pending the hearing  
15 on a preliminary injunction, and in due course a permanent  
16 injunction shall issue after the hearing commanding the  
17 cessation of the unlawful activity, conduct, practice, or  
18 performance of work complained of, all without the necessity  
19 of the board having to give bond. A temporary restraining  
20 order preliminary injunction, or permanent injunction issued  
21 pursuant to this chapter shall not be subject to being  
22 released on bond. In the suit for an injunction, the board may  
23 demand of the defendant a civil penalty of up to five thousand  
24 dollars (\$5,000) plus costs and attorney fees for each  
25 offense. A judgment for penalties, attorney fees, and costs  
26 may be rendered in the same judgment in which the injunction

1 is made absolute. The trial of the proceeding by injunction  
2 shall be summary and by the trial judge without jury.

3 "(f) Any person who fails to cease work, after a  
4 hearing and notification from the board, may not apply for a  
5 professional engineer's or professional land surveyor's  
6 license for a period not to exceed one year from the date of  
7 official notification to cease work.

8 "(g) The board may withhold approval for up to six  
9 months, of any application from any person who, prior to the  
10 application, has been found in violation of this chapter.

11 "§34-11-30.

12 "(a) A State Board of Licensure for Professional  
13 Engineers and Land Surveyors is created. It shall be the duty  
14 of the board to administer this chapter. The board shall  
15 consist of five members licensed as professional engineers,  
16 and two members licensed as professional land surveyors, and  
17 two public members. One of the professional land surveyor  
18 members may also be licensed as a professional engineer. All  
19 members shall be appointed by the Governor. The ~~Commencing on~~  
20 July 1, 2014, the five professional engineers shall be  
21 appointed by the Governor from a list of three persons  
22 nominated for each appointment by a professional engineer  
23 nominating committee; and the two professional land surveyors  
24 shall be appointed by the Governor from a list of three  
25 persons nominated for each appointment by the Alabama Society  
26 of Professional Land Surveyors; and, once the board has  
27 adopted rules establishing a public member nominating

1 committee, the two public members shall be appointed from a  
2 list of three persons nominated for each appointment by the  
3 public member nominating committee. Nominations shall be made  
4 to the Governor ~~by the committee or the Alabama Society of~~  
5 ~~Professional Land Surveyors, respectively,~~ as vacancies on the  
6 board occur, whether by the expiration of a term or  
7 otherwise., ~~in a position filled by a professional engineer or~~  
8 ~~land surveyor, respectively.~~ To the extent possible, the  
9 nominating ~~committee~~ committees, the Alabama Society of  
10 Professional Land Surveyors, and the Governor shall select  
11 those persons whose appointments ensure that the membership of  
12 the board is inclusive and reflects the racial, gender,  
13 geographic, urban/rural, and economic diversity of the state.  
14 Each member of the board, before beginning his or her term of  
15 office, shall file with the Secretary of State his or her  
16 written oath or affirmation for the faithful discharge of his  
17 or her duties.

18 " (b) The professional engineer nominating committee  
19 shall consist of one professional engineer appointed or  
20 elected by each of the professional organizations ~~as outlined~~  
21 specified in the rules of the board, and the public member  
22 nominating committee shall consist of one representative  
23 appointed or elected by each of the business development  
24 organizations specified in the rules of the board. Any other  
25 organization in the state having membership qualifications  
26 comparable to those professional organizations outlined in the  
27 rules of the board may petition the board for membership on

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

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

1 terms of no more than two members shall expire in any year. No  
2 member of the board shall serve more than two consecutive full  
3 terms. The completion of the unexpired portion of a full term  
4 shall not constitute a full term for the purposes of this  
5 section. The initial appointment term for one public member  
6 shall be for two years and one term for the other public  
7 member shall be for five years. All subsequent terms for the  
8 public members shall be for five years. Board members serving  
9 on the effective date of the act adding this language shall  
10 serve until the end of the term they are currently serving. At  
11 the conclusion of those terms, the appointment process will be  
12 adjusted to allow for the conversion to staggered terms.

13 "§34-11-31.

14 "(a) Board members shall at all times maintain  
15 eligibility to serve on the board avoiding relationships that  
16 would interfere with the board mission of protecting health,  
17 life, safety, welfare, and property.

18 "(b) Each member of the board shall be a citizen of  
19 the United States and a resident of this state, ~~a~~ for at  
20 least six months.

21 "(c) Each licensed professional engineer or licensed  
22 professional land surveyor ~~who holds~~ shall hold an unexpired  
23 certificate under this chapter, ~~who has been engaged in the~~  
24 and shall have been licensed to practice ~~of~~ engineering or  
25 land surveying, respectively, for at least 12 years, ~~and who~~  
26 has been in responsible charge of important engineering or  
27 land surveying, respectively, work for at least five years.

1           "(d) Each public member of the board shall be a  
2 resident of this state who is at least 40 years of age and is  
3 not, and never was, a professional engineer or professional  
4 land surveyor.

5           "§34-11-32.

6           "Each member of the board shall ~~receive the sum of~~  
7 ~~one hundred dollars (\$100) per diem~~ be entitled to the maximum  
8 allowable per diem set by the board when actually attending to  
9 the work of the board or any of its committees and for the  
10 time spent in necessary travel and shall be reimbursed for  
11 traveling expenses as provided in Article 2 of Chapter 7 of  
12 Title 36, and incidental and clerical expenses necessarily  
13 incurred in carrying out this chapter.

14          "§34-11-34.

15          "The board shall hold at least two regular meetings  
16 each year. The two regular meetings of the board shall be held  
17 in the City of Montgomery, ~~Alabama~~. The legal office of the  
18 board shall be located in the City of Montgomery. Special  
19 meetings shall be held at the time and place as the rules of  
20 the board may provide. Notice of all meetings shall be given  
21 as the rules provide. The board shall elect or appoint  
22 annually from among its members the following officers: A  
23 chair, a vice chair, and a secretary. A quorum of the board  
24 shall consist of a simple majority of the board membership.

25          "§34-11-35.

26          "(a) The board shall have the power to adopt and  
27 amend bylaws, and rules, ~~and regulations,~~ not inconsistent

1 with the constitution and laws of this state, as may be  
2 reasonably necessary for the proper performance of its duties  
3 and the ~~regulations of the proceedings before it~~ regulation of  
4 its procedures, meetings, records, examinations, and conduct.  
5 The board shall have the power to adopt and amend from time to  
6 time rules of professional conduct for professional engineers,  
7 engineer interns, professional land surveyors, land surveyor  
8 interns, and corporations, partnerships, or firms holding  
9 certificates of authorization. The board shall adopt and have  
10 an official seal, which shall be affixed to each certificate  
11 issued.

12 " (b) In carrying into effect its duties in any case  
13 involving the revocation of licensure or any disciplinary  
14 proceeding involving a licensee or the holder of a certificate  
15 of authorization or practicing or offering to practice without  
16 licensure, or false statement in connection with an  
17 application for licensure, the board may, under the hand of  
18 its chair and the seal of the board, subpoena witnesses and  
19 compel their attendance, and may also require the production  
20 of books, papers, documents, and other pertinent data. Any  
21 member of the board may administer oaths or affirmations to  
22 witnesses appearing before the board. If any person refuses to  
23 obey any subpoena issued, or refuses to testify or produce any  
24 books, papers, or documents, the board may present its  
25 petition to the Circuit Court of Montgomery County, ~~Alabama,~~  
26 setting forth the facts, and thereupon the Circuit Court of  
27 Montgomery County shall, in a proper case, issue its subpoena

1 to such person, requiring his or her attendance before the  
2 Circuit Court of Montgomery County and there to testify or to  
3 produce such books, papers, and documents, or data. Any person  
4 failing or refusing to obey the subpoena or order of the  
5 Circuit Court of Montgomery County may be proceeded against in  
6 the same manner as for refusal to obey any other subpoena or  
7 order of the Circuit Court of Montgomery County.

8 "(c) The board is charged with the duty of seeing  
9 that this chapter is enforced. The board shall investigate any  
10 complaint relating to the violation this chapter and, should a  
11 violation be indicated, the board shall proceed as provided  
12 for under ~~Sections 34-11-11, 34-11-15, and 34-11-16~~ this  
13 chapter and rules adopted by the board.

14 "(d) The board, ~~for good cause, may apply for relief~~  
15 ~~by injunction,~~ in its own name, may apply for relief by  
16 injunction in the established manner provided in cases of  
17 civil procedure, without bond, to enforce the provisions of  
18 this chapter or to restrain any person, firm, partnership, or  
19 corporation from the commission of any act which is  
20 prohibited by this chapter. In such proceedings it shall not  
21 be necessary to allege or prove either that an adequate remedy  
22 at law does not exist, or that substantial and irreparable  
23 damage would result, from the continued violation thereof.  
24 Application for the injunction may be made to the Circuit  
25 Court of Montgomery County, ~~Alabama,~~ or the circuit court of  
26 the county in which it is alleged that the violation is about  
27 to occur, at the request of the board. The injunction may not

1 be granted ex parte, and any judgment or decree may be  
2 appealed in the manner prescribed by law to the Supreme Court  
3 of Alabama.

4 "(e) The board retains and may exercise all  
5 administrative and civil rights and remedies commonly  
6 available to agencies in the state. No action or other legal  
7 proceedings for damages shall be instituted against the board,  
8 any board member, or employee of the board for any act done in  
9 good faith and in the intended performance of any power  
10 granted under this chapter or for any neglect or default in  
11 the performance or exercise in good faith of any duty or  
12 power.

13 "(f) In carrying out the duties, functions, and  
14 obligations of this chapter, the board may contract with any  
15 state agency or private vendor as the board considers as  
16 appropriate. The board may also enter contracts to acquire,  
17 own, encumber, issue, replace, deal in, and dispose of real  
18 and personal property.

19 "(g) The board may appoint committees to assist the  
20 board's efforts in carrying out the responsibilities of this  
21 chapter. All individuals appointed by the board to serve on  
22 committees are entitled to reimbursement of expenses as  
23 approved by the board.

24 "(h) The board may adopt rules enabling the  
25 collection of fees in amounts necessary to enable the board to  
26 carry out its function under this chapter, provided the fees  
27 do not exceed the maximum amounts allowed under this chapter.

1           "(i) The board may use electronic transmissions for  
2 all purposes permitted under the Uniform Electronic  
3 Transactions Act.

4           "(j) The Attorney General or his or her assistants  
5 may act as legal adviser to the board and render legal  
6 assistance as may be necessary in carrying out the provisions  
7 of this chapter. The board may employ or retain counsel and  
8 necessary assistance to aid in the enforcement of this  
9 chapter, and the compensation and expenses thereof shall be  
10 paid from the funds of the board.

11           "(k) For purposes of enforcement of all provisions  
12 of this chapter and board rules, including the assessment and  
13 collection of fines, penalties, costs, and attorney fees, the  
14 board shall maintain jurisdiction over individuals,  
15 irrespective of their licensure status relative to acts,  
16 omissions, complaints and investigations that occurred during  
17 the licensure period. Jurisdiction of the board shall extend  
18 to individuals engaging in the unauthorized practice of  
19 engineering or land surveying. It is the intent of this  
20 subsection that licensees cannot divest the board of  
21 jurisdiction by changing or relinquishing licensure status.

22           "(l) The board may conduct an investigation or  
23 inspection of any person or facility at all reasonable hours  
24 for the purpose of determining if any provisions of the laws  
25 governing the practices of engineering and land surveying are  
26 being violated. The board, its officers, staff, and  
27 representatives shall cooperate with all agencies charged with

1 the enforcement of all federal and state laws relating to the  
2 practices of engineering and land surveying.

3 "(m) The board may join such professional  
4 organizations and associations organized exclusively to  
5 promote the improvement of the standards of the practice of  
6 engineering or land surveying for the protection of health,  
7 life, safety, welfare, and property or whose activities assist  
8 and facilitate the work of the board.

9 "(n) Through outreach efforts, the board may  
10 educate, recognize, and promote the mission of the board to  
11 the public, potential applicants, licensees, and other public  
12 agencies.

13 "(o) The board may recognize accomplishments of  
14 those individuals who fall under the jurisdiction of the  
15 board.

16 "§34-11-35.1.

17 "(a) In addition to the powers provided to the board  
18 by Section 34-11-35, the Legislature finds and declares all of  
19 the following:

20 "(1) The power to adopt rules regulating the  
21 practice of engineering and land surveying in the state  
22 includes the power to prohibit unlicensed persons from  
23 practicing engineering or land surveying and the power to  
24 regulate how licensed persons practice.

25 "(2) The primary goal of the provision of  
26 engineering and land surveying in the state is to prioritize

1 ~~public~~ health, life, safety, welfare, and property,~~and~~  
2 ~~welfare.~~

3 "(3) The board is in the best position to determine  
4 the engineering and land surveying practices that prioritize  
5 ~~public~~ health, life, safety, welfare, and property,~~and~~  
6 ~~welfare.~~

7 "(4) Prioritizing ~~public~~ health, life, safety,  
8 welfare, and property,~~and welfare~~ may sometimes be at odds  
9 with the goals of state and federal antitrust laws which  
10 include prioritizing competition and efficiency.

11 "(5) It is the intent of the Legislature, by passage  
12 of this section, to immunize the board and the members of the  
13 board from liability under state and federal antitrust laws  
14 for the adoption of a rule that prioritizes ~~public~~ health,  
15 life, safety, welfare, and property, ~~and welfare,~~ and may be  
16 anti-competitive.

17 "(b) Subject to subsection (c), rules adopted by the  
18 board pursuant to this section or Section 34-11-35, may define  
19 and regulate the practice of engineering and land surveying in  
20 a way that prioritizes ~~public~~ health, life, safety, welfare,  
21 and property, ~~and welfare,~~ even if the rule is  
22 anti-competitive.

23 "(c) A rule adopted pursuant to this section or  
24 Section 34-11-35 may supplement or clarify a statutory  
25 definition, but may not conflict with any statute that defines  
26 the practice of engineering or land surveying.

1           "(d) (1) Except as otherwise provided in subdivision  
2           (2), the board shall adopt rules pursuant to this section that  
3           allow engineers and land surveyors to solicit professional  
4           services in accordance with competitive, qualification-based  
5           selection policies and procedures. The rules shall prohibit  
6           competitive bidding based solely upon price or fee.

7           "(2) The rules adopted under subdivision (1) shall  
8           not apply to a boundary survey on private land where the  
9           survey is not intended for use as a basis for engineering  
10           design at the time of preparation, unless the survey is  
11           prepared in accordance with the standards specified by the  
12           American Land Title Association (ALTA) and the National  
13           Society of Professional Surveyors (NSPS).

14           "~~(d)~~ (e) Nothing in this section shall be construed  
15           to constrict or expand the current rights and privileges of  
16           any individual governed by the State Board of Licensure for  
17           Professional Engineers and Land Surveyors beyond that which  
18           existed before the ruling of the Supreme Court of the United  
19           States in N.C. State Board of Dental Examiners vs. FTC, 135  
20           S.Ct 1101 (2015).

21           "~~(e)~~ (f) Nothing in this section shall be construed  
22           to constrict or expand the current duties or responsibilities  
23           of the members of the State Board of Licensure for  
24           Professional Engineers and Land Surveyors in any context  
25           outside of federal or state antitrust immunity beyond that  
26           which existed before the ruling of the Supreme Court of the

1 United States in N.C. State Board of Dental Examiners vs. FTC,  
2 135 S.Ct 1101 (2015).

3 "§34-11-36.

4 "The executive director of the board shall receive  
5 and account for all money derived under this chapter, ~~and~~  
6 ~~shall pay it monthly to the State Treasurer, who~~ All funds  
7 collected shall be deposited with the State Treasurer. With  
8 the exception of the civil penalties deposited in the General  
9 Fund as provided in Section 34-11-11.1, the State Treasurer  
10 shall keep the money in a separate fund to be known as the  
11 "Professional Engineers and Professional Land Surveyors Fund."  
12 The fund shall be kept separate and apart from all other money  
13 in the Treasury, and shall be paid out only by warrant of the  
14 Comptroller upon the Treasurer, upon itemized vouchers,  
15 approved by the executive director of the board. No funds  
16 shall be withdrawn or expended except as budgeted and allotted  
17 according to Article 4 of Chapter 4 of Title 41. Any funds or  
18 money in the hands of the State Treasurer, known as the  
19 Professional Engineers and Professional Land Surveyors Fund,  
20 at the end of the state fiscal year in excess of that amount  
21 equal to ~~25~~ 33 percent of the budget of the board for the  
22 previous fiscal year shall be transferred into the General  
23 Fund of the state. However, in the event that the board elects  
24 to implement a biennial license, then the above transfer into  
25 the General Fund shall only apply at the end of the  
26 non-license year of the biennial license cycle. The money,  
27 properties, records, and other things of value owned by or

1 allocated to the fund, the board, or the executive director of  
2 the board in his or her capacity as such, serving at the time  
3 of enactment of this chapter, shall become the property of and  
4 be allocated respectively to the fund, the board, or the  
5 executive director of the board under this chapter. The  
6 executive director of the board shall give a surety bond to  
7 the state in a sum as ~~the board may determine~~ may be required  
8 by state law. The premium on the bond shall be regarded as a  
9 proper and necessary expense of the board and shall be paid  
10 out of the fund. The executive director of the board shall  
11 receive a salary as determined by the board, in addition to  
12 compensation and expenses provided for in Section 34-11-32.  
13 The board may employ an executive director and, when  
14 necessary, an assistant executive director and fix their  
15 compensation and duties. The board may employ clerical or  
16 other assistants, subject to the provisions of the Merit  
17 System Act, and may make expenditures from the fund for any  
18 purpose which in the opinion of the board is reasonably  
19 necessary for the proper performance of its duties under this  
20 chapter, including the expenses of the board's delegates to  
21 regional and national meetings of, and membership dues to, a  
22 national examination organization for engineers and land  
23 surveyors selected by the board and any of its subdivisions.  
24 Under no circumstances shall the total amount of warrants  
25 issued by the Comptroller in payment of the expenses and  
26 compensation provided for in this chapter exceed the amount

1 provided therefor by the Legislature in the general  
2 appropriation or other appropriation bills.

3 "§34-11-37.

4 "(a) The board shall keep a record of its  
5 proceedings, ~~and a register of all applications for licensure,~~  
6 ~~which register shall show all of the following:~~

7 ~~"(1) The name, age, and residence of each applicant.~~

8 ~~"(2) The date of the application.~~

9 ~~"(3) The place of business of the applicant.~~

10 ~~"(4) The educational and other qualifications of the~~  
11 ~~applicant.~~

12 ~~"(5) Whether or not an examination was required.~~

13 ~~"(6) Whether the applicant was rejected.~~

14 ~~"(7) Whether a certificate of licensure was granted.~~

15 ~~"(8) The date of the action of the board.~~

16 ~~"(9) Any other information deemed necessary by the~~  
17 ~~board.~~

18 "(b) The board shall ~~also keep on file a written~~  
19 ~~statement under oath from each applicant that he or she will~~  
20 ~~abide by the rules of professional conduct prescribed by the~~  
21 ~~board, which oath shall be a part of his or her application~~  
22 ~~for licensure~~ maintain a record of all applications for  
23 licensure, certification, and certificate authorization.

24 "(c) The records of the board shall be prima facie  
25 evidence of the proceedings of the board set forth ~~therein,~~  
26 and a transcript ~~thereof,~~ duly certified by the executive  
27 director of the board under seal, shall be admissible in as

1 evidence with the same force and effect as if the original  
2 were produced.

3 "(d) Annually, ~~as of September 30,~~ the board shall  
4 submit to the Governor a report of its transactions of the  
5 preceding year and a complete statement of the receipts and  
6 expenditures of the board, attested by affidavits of its chair  
7 and its secretary.

8 "(e) Board records and papers of the following class  
9 are of a confidential nature and are not public records:  
10 Examination material for examinations not yet given; file  
11 records of examination problems and solutions; exam scores;  
12 letters of inquiry and reference concerning applicants;  
13 transcripts of college courses and grades; e-mail addresses;  
14 home addresses; board inquiry forms concerning applicants;  
15 pending and closed complaints and investigative files ~~which~~  
16 ~~shall remain confidential until an actual formal hearing may~~  
17 ~~commence~~ where no formal disciplinary action is taken; and all  
18 other materials of like confidential nature."

19 Section 6. Section 34-11-16, Code of Alabama 1975,  
20 relating to civil penalties against non-licensed persons, is  
21 repealed.

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