

1 SB316
2 192664-4
3 By Senator Chambliss
4 RFD: Governmental Affairs
5 First Read: 13-FEB-18

1 SB316

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4 ENROLLED, An Act,

5 Relating to the State Board of Licensure for
6 Professional Engineers and Land Surveyors; to amend Sections
7 34-11-1 to 34-11-15, inclusive, 34-11-30, 34-11-31, 34-11-32,
8 34-11-34, 34-11-35, 34-11-35.1, as added by Act 2017-384 of
9 the 2017 Regular Session, 34-11-36, and 34-11-37; to add
10 Sections 34-11-9.1, 34-11-11.1, and 34-11-11.2; and to repeal
11 Section 34-11-16 of the Code of Alabama 1975, relating to
12 civil penalties against non-licensed persons; to revise
13 definitions and provisions relating to violations, penalties,
14 and disciplinary actions and reorganize these provisions; to
15 add two public members to the board and revise qualifications
16 of certain members of the board; to revise the level of funds
17 in the Professional Engineers and Professional Land Surveyors
18 Fund that triggers a transfer of funds to the General Fund; to
19 authorize the board to adopt rules that allow engineers and
20 land surveyors to solicit certain professional services in
21 accordance with competitive, qualification-based selection
22 policies and procedures and that prohibit the procurement of
23 services by competitive bidding; and to provide for further
24 functions and responsibilities of the board.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 "§34-11-1.

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

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

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

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

20 "~~(2)~~ (4) ENGINEER INTERN. A person who has qualified
21 under subdivision (2) of Section 34-11-4, and who, in
22 addition, has successfully passed a board approved examination
23 in the fundamental engineering subjects as provided in Section
24 34-11-6, and who has been certified by the board An individual
25 who has been certified as an engineer intern by the board.

1 "~~(3)~~ (5) ENGINEER or PROFESSIONAL ENGINEER. A person
2 An individual who, by reason of his or her special knowledge
3 of the mathematical, ~~and~~ physical, and engineering sciences
4 and the principles and methods of engineering analysis and
5 design, acquired by engineering education and engineering
6 experience, is qualified to practice engineering as
7 hereinafter defined and has been licensed by the board as a
8 professional engineer. The board may designate a professional
9 engineer, on the basis of education, experience, and
10 examination as being licensed in a specific discipline or
11 branch of engineering signifying the area in which the
12 engineer has demonstrated competence.

13 "(6) ENGINEERING SURVEY. All survey activities
14 required to support the sound conception, planning, design,
15 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

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 principles
21 of mathematics, the related physical and applied sciences, and
22 the relevant requirements of law for adequate evidence and all
23 requisites for to surveying of real property, and is qualified
24 to practice land surveying, as defined in subdivision (8) and

1 has been licensed as a professional land surveyor by the board.

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

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

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

22 ~~"(7)~~ (13) PRACTICE OF ENGINEERING. a. Any
23 professional service or creative work, the adequate
24 performance of which requires engineering education, training,
25 and experience in the application of special knowledge of the

1 mathematical, physical, and engineering sciences to such
2 services or creative work ~~as consultation,~~ that includes any
3 one or more of the following:

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

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

9 "3. Performing engineering surveys and studies.~~;~~ ~~and~~
10 ~~the~~

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

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

1 services as may be necessary to the planning, progress, and
2 completion of any engineering services.

3 ~~"Notwithstanding any other provision of this~~
4 ~~chapter, in qualifying a witness to offer expert testimony on~~
5 ~~the practice of engineering, the court shall consider as~~
6 ~~evidence of his or her expertise whether the proposed witness~~
7 ~~holds a valid Alabama license for the practice of engineering.~~
8 ~~Provided, however, such qualification by the court shall not~~
9 ~~be withheld from an otherwise qualified witness solely on the~~
10 ~~basis of the failure of the proposed witness to hold such~~
11 ~~valid Alabama license.~~

12 a. ~~Design coordination includes the review and~~
13 ~~coordination of those technical submissions prepared by~~
14 ~~others, including, as appropriate and without limitations,~~
15 ~~consulting engineers, architects, landscape architects, land~~
16 ~~surveyors, and other professionals working under the direction~~
17 ~~of the engineer.~~

18 "b. ~~Engineering surveys include all survey~~
19 ~~activities required to support the sound conception, planning,~~
20 ~~design, construction, maintenance and operation of engineered~~
21 ~~projects, rights-of-way, and easement acquisitions relative to~~
22 ~~the centerline of the project. Engineering surveys may be used~~
23 ~~to locate, relocate, establish, reestablish, layout, or~~
24 ~~retrace any road, right-of-way, easement, or alignment~~
25 ~~relative to the centerline of the project. Additionally,~~

1 ~~engineering surveys may be performed to determine areas,~~
2 ~~volumes, or physical features of the earth, elevation of all~~
3 ~~real property, improvements on the earth, and the~~
4 ~~configuration or contour of the surface of the earth or the~~
5 ~~position of fixed objects thereon by measuring lines and~~
6 ~~angles and applying the principles of mathematics. All~~
7 ~~engineering surveys shall exclude the surveying of real~~
8 ~~property for the establishment of any property line or land~~
9 ~~boundaries, setting of corners or monuments, and the dependent~~
10 ~~or independent surveys or resurveys of the public land survey~~
11 ~~system.~~

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

17 "d. The practice of engineering ~~shall include~~
18 includes the offering of expert opinion in any legal
19 proceeding in Alabama regarding work legally required to be
20 performed under an Alabama engineer's license number or seal,
21 which opinion may be given by an engineer licensed in any
22 jurisdiction. Notwithstanding any other provision of this
23 chapter, in qualifying a witness to offer expert testimony on
24 the practice of engineering, the court shall consider as
25 evidence of his or her expertise whether the proposed witness

1 holds a valid Alabama license for the practice of engineering;
2 provided, however, the qualification by the court shall not be
3 withheld from an otherwise qualified witness solely on the
4 basis of the failure of the proposed witness to hold a valid
5 Alabama license or license from another jurisdiction.

6 ~~"(8)~~ (14) PRACTICE OF LAND SURVEYING. a.

7 Professional services, including, but not limited to, using
8 such sciences as mathematics and geodesy, and involving the
9 making of geometric measurements and gathering related
10 information pertaining to the physical or legal features of
11 the earth, the space on, above, or below the earth, and
12 providing, utilizing, or developing the same land survey
13 products such as graphics, data, maps, plans, reports,
14 descriptions, or projects, improvements on, above, or below
15 the earth.

16 "b. The term includes consultation, project
17 coordination, including the coordination of technical
18 submissions proposed by others, investigation, testimony,
19 evaluation, planning, mapping, assembling, and interpreting
20 reliable scientific gathered measurements and information
21 relative to the location, size, shape, areas, volumes, or
22 physical features of the earth, improvements on the earth, the
23 space above the earth, or any part of the earth, and the
24 utilization and development of these acts and interpretation

1 ~~into an orderly survey map, plan, report, description, or~~
2 ~~project.~~ relating to any one or more of the following:

3 "1. Determining by measurement the configuration or
4 contour of the earth's surface or the position of fixed
5 objects thereon by measuring lines and angles and applying the
6 principles of mathematics or photogrammetry.

7 "2. Determining by performing geodetic surveys the
8 size and shape of the earth or the position of any point on
9 the earth.

10 "3. Locating, relocating, establishing,
11 reestablishing, or retracing property lines or boundaries of
12 any tract of land, road, right of way, alignment or easement
13 or elevation of all real property whether or not fixed works
14 are sited or proposed to be sited on the property.

15 "4. Making any survey for the division, subdivision,
16 or consolidation of any tract or tracts of land or for
17 condominiums.

18 "5. Locating or laying out alignments, positions, or
19 elevations for the construction of fixed works.

20 "6. Determining, by the use of principles of land
21 surveying, the position for any survey monument or reference
22 point, or establishing or replacing any such monument or
23 reference point.

24 "7. Geodetic surveying which includes surveying for
25 determination of the size and shape of the earth both

1 horizontally and vertically and the precise positioning of
2 points on the earth utilizing angular and linear measurements
3 through spatially oriented spherical geometry.

4 "8. Creating, preparing or modifying electronic or
5 computerized or other data, including land information systems
6 and geographic land information systems relative to the
7 performance of the activities described above.

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~~

14 "d. The term does not include functions unique to
15 engineering as specified by rules of the board, geographic
16 information systems professionals holding certification from
17 the GIS Certification Institute, or remote sensing
18 professionals holding certifications from the American Society
19 of Photogrammetry and Remote Sensing or other nationally
20 recognized accreditation group as determined by the board. The
21 ~~practice of land surveying shall include, but is not limited~~
22 ~~to, any one or more of the following:~~

23 ~~"a. Locates, relocates, establishes, reestablishes,~~
24 ~~lays out, or retraces any property line or boundary of any~~
25 ~~tract of land or any road, right-of-way, easement, alignment,~~

1 ~~or elevation of all real property whether or not fixed works~~
2 ~~are sited or proposed to be sited on the property.~~

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

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

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

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

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

23 ~~"e. Nothing herein shall in any way prohibit~~
24 ~~mapping, plotting, or locating, or other similar use of GPS,~~
25 ~~GIS, or other similar data by those not licensed to practice~~

1 land surveying, provided the work is not used in the
2 conveyance of property.

3 ~~"(9)~~ (15) RESPONSIBLE CHARGE. Direct control and
4 personal supervision of engineering work or land surveying
5 work.

6 "§34-11-2.

7 "(a) ~~No~~ A person in either public or private
8 capacity ~~shall~~ may not practice or offer to practice
9 engineering or land surveying, unless he or she shall first
10 have submitted evidence that he or she is qualified so to
11 practice and shall be licensed by the board as hereinafter
12 provided or unless he or she is specifically exempted from
13 licensure under this chapter.

14 "(b) Except as otherwise provided in this chapter,
15 all engineering design of buildings, structures, products,
16 machines, processes, and systems that can affect health, life,
17 safety, welfare, and property shall be conducted under the
18 responsible charge of a licensed professional engineer.

19 ~~"(b)~~ (c) In order to safeguard ~~life,~~ health, life,
20 safety, ~~and property,~~ and to promote the public welfare, and
21 property, the practice of engineering in this state is a
22 learned profession to be practiced and regulated as such, and
23 its practitioners in this state shall be held accountable to
24 the state and members of the public by high professional
25 standards in keeping with the ethics and practices of the

1 other learned professions in this state. It shall be unlawful
2 for any person to practice or offer to practice professional
3 engineering in this state, as defined by this chapter, to hold
4 himself or herself out or refer to himself or herself by any
5 title or description stating or implying the person is
6 licensed to engage in the practice of engineering, or to use
7 in connection with his or her name or otherwise assume, use,
8 or advertise any title or description including, but not
9 limited to, the terms engineer, engineers, engineering,
10 professional engineer, professional engineers, professional
11 engineering, P.E., or any modification or derivative thereof,
12 tending to convey the impression that he or she is a
13 professional engineer unless the person has been duly licensed
14 or is exempt from licensure under this chapter. A person whose
15 firm name shall have contained the word "engineer,"
16 "engineers," or "engineering," or words of like import, for
17 more than 15 years before September 12, 1966, shall not be
18 prohibited from continuing the use of such word or words in
19 his or her firm name.

20 ~~"(c)~~ (d) In order to safeguard ~~life,~~ health, life,
21 safety, ~~and property and to promote the public welfare, and~~
22 property, the practice of land surveying in this state is a
23 learned profession to be practiced and regulated as such, and
24 its practitioners in this state shall be held accountable to
25 the state and members of the public by high professional

1 standards in keeping with the ethics and practices of the
2 other learned professions in this state. It shall be unlawful
3 for any person to practice or offer to practice professional
4 land surveying in this state, as defined by this chapter, to
5 hold himself or herself out or refer to himself or herself by
6 any title or description stating or implying the person is
7 licensed to engage in the practice of land surveying, or to
8 use in connection with his or her name or otherwise assume,
9 use, or advertise any title or description including, but not
10 limited to, the terms land surveyor, land surveyors, land
11 surveying, professional land surveyor, professional land
12 surveyors, professional land surveying, P.L.S., or any
13 modification or derivative thereof, tending to convey the
14 impression that he or she is a professional land surveyor
15 unless the person has been duly licensed or is exempt from
16 licensure under this chapter.

17 "~~(d)~~ (e) As used in this subsection, the term
18 professional land surveyor shall include the agents, the
19 employees, and any personnel under the supervision of a
20 professional land surveyor.

21 "(1) A professional land surveyor may go on, over,
22 and upon the lands of others which is not enclosed by any
23 device installed to deter entry to or exit from industrial
24 facilities or plant sites by humans or vehicles, if necessary
25 to perform surveys for the location of section corners,

1 quarter corners, property corners, boundary lines,
2 rights-of-way, and easements, and may carry and utilize
3 equipment and vehicles. Entry under the right granted in this
4 subdivision shall not constitute trespass. A professional land
5 surveyor shall not be liable to arrest or to a civil action
6 for trespass by reason of this entry.

7 "(2) Nothing in this subsection shall be construed
8 as giving authority to a professional land surveyor to
9 destroy, injure, damage, or move anything on the lands of
10 another without the written permission of the landowner and
11 nothing in this section shall be construed as removing civil
12 liability for the damages.

13 "(3) A professional land surveyor shall make
14 reasonable effort to notify adjoining landowners upon whose
15 land it is necessary to enter.

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

19 "(5) Nothing in this subsection shall limit the
20 rights of condemning authorities under Sections 18-1A-50 to
21 18-1A-55, inclusive.

22 "§34-11-3.

23 "A roster showing the names and addresses of all
24 licensed professional engineers, all professional land
25 surveyors, and all who possess current certifications as

1 engineer interns or land surveyor interns shall be ~~prepared by~~
2 ~~the executive director of the board at intervals as~~
3 ~~established~~ published by the board as provided for by board
4 rule. ~~Copies of this roster shall be made available to each~~
5 ~~person licensed or certified, placed on file with the~~
6 ~~Secretary of State, and may be distributed or sold to the~~
7 ~~public upon request.~~

8 "§34-11-4.

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

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

16 "a. Graduation and experience plus examination.

17 "1. Graduation in an approved engineering curriculum
18 plus four years experience. A graduate of an approved
19 engineering curriculum of four years or more from a school or
20 college approved by the board who has successfully passed a
21 board approved examination in the fundamental engineering
22 subjects and ~~who~~ in the principles and practice of engineering
23 and has a specific record of an additional four years or more
24 of progressive experience in engineering work of a grade and
25 character satisfactory to the board shall be ~~admitted to a~~

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

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

19 "b. Comity. The board may, upon application, issue a
20 certificate of licensure as a professional engineer to any
21 person who holds a valid professional engineering certificate
22 issued by any jurisdiction of the United States or of any
23 country; 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

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

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

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

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

1 character satisfactory to the board shall be certified as an
2 engineer intern, if otherwise qualified.

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

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

14 "a. Graduation and experience plus examination.

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

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

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

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

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

21 "b. Comity. The board, upon application, may grant
22 to any person who holds a valid professional land surveying
23 certificate issued by any jurisdiction of the United States or
24 of any country, admission into a board approved examination of
25 laws, procedures, and practices pertaining to land surveying

1 in this state, 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 this
5 state at the time such certificate was issued. Upon passing
6 the examination, the applicant shall be granted a certificate
7 of licensure to practice land surveying in this state,
8 provided the applicant is otherwise qualified.

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

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

22 "b. Graduation and examination plus experience.

23 "1. Graduation in an approved curriculum related to
24 surveying plus ~~two years~~ one year's experience. A graduate of
25 a curriculum related to surveying of four years or more

1 including a minimum of 15 semester hours or 22.5 quarter hours
2 of surveying courses from a school or college approved by the
3 board who has successfully passed a board approved examination
4 in the fundamentals of ~~land~~ surveying and ~~who~~ has a specific
5 record of an additional ~~two years~~ one year or more of combined
6 office and field experience in land surveying work of a grade
7 and character satisfactory to the board shall be certified as
8 a land surveyor intern, if otherwise qualified.

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

18 "3. Graduation in an approved associate of science
19 degree in surveying or engineering plus two years' experience.
20 A graduate of an approved associate of science degree program
21 in surveying or engineering including a minimum of 15 semester
22 hours or 22.5 quarter hours of land surveying courses from a
23 school or college approved by the board who has successfully
24 passed a board approved examination in the fundamentals of
25 surveying and has a specific record of an additional two years

1 or more of combined office and field experience in land
2 surveying work of a grade and character satisfactory to the
3 board shall be certified as a land surveyor intern, if
4 otherwise qualified.

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

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

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

23 "(7) GRADUATE STUDY. In counting years of experience
24 for professional engineer licensure, the board may give
25 credit, not in excess of one year, for successful completion

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

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

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

24 "§34-11-5.

1 "(a) Applications for licensure as a professional
2 engineer, professional land surveyor, engineer intern, or land
3 surveyor intern shall be on forms prescribed and furnished by
4 the board and shall contain ~~statements made under oath~~ a
5 declaration made under penalty of perjury. Three or more of
6 the references contained in an application for licensure as a
7 professional engineer shall be professional engineers having
8 personal knowledge of the applicant's engineering experience.
9 Three or more of the references contained in an application
10 for professional land surveyor shall be professional land
11 surveyors having personal knowledge of the land surveying
12 experience of the applicant. All references ~~and experience~~
13 ~~verifications~~ furnished shall be considered confidential
14 records of the board. Any individual who was previously
15 licensed in this state and whose license is eligible for
16 reinstatement as outlined in ~~subsection (a) of Section 34-11-8~~
17 this chapter shall comply with the reinstatement procedures
18 established by the board instead of the submission of a new
19 application.

20 "(b) The application fee ~~and the licensure fee~~ for
21 professional engineers or professional land surveyors shall
22 include the licensure fee, shall be set by the board, ~~and each~~
23 ~~fee~~ shall not exceed ~~one hundred dollars (\$100)~~ three hundred
24 dollars (\$300), and shall accompany the application.

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

4 ~~"(2) For professional engineers applying for~~
5 ~~licensure by way of examination and for professional land~~
6 ~~surveyors, the application fee shall accompany the~~
7 ~~application, and the licensure fee shall be due upon approval~~
8 ~~of licensure. If the applicant fails or refuses to remit the~~
9 ~~licensure fee within 30 days after being notified of~~
10 ~~successfully qualifying, the applicant shall forfeit the right~~
11 ~~to have a certificate so issued. For further consideration,~~
12 ~~the applicant shall be required to submit a new application~~
13 ~~and application fee.~~

14 ~~"(c) The application fee, which shall include the~~
15 ~~certification fee, for engineer interns and land surveyor~~
16 ~~interns shall include the certification fee, shall be set by~~
17 ~~the board, shall not exceed fifty dollars (\$50), and shall~~
18 ~~accompany the application.~~

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

23 ~~"(e) (d) If the board denies certification or~~
24 ~~licensure to any applicant, or the certificate of~~

1 ~~authorization to any corporation, partnership, or firm,~~ the
2 fee paid shall be retained as an application fee.

3 "§34-11-6.

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

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

13 "(c) When examinations are required on applied
14 subjects, the applicant shall be permitted to take this part
15 of the professional examination as specified by guidelines
16 established by the board. The scope of the examination and the
17 methods of procedure shall be prescribed by the board with
18 special reference to the applicant's ability to design and
19 supervise engineering or land surveying works so as to protect
20 ~~the safety of life,~~ health, life, safety, welfare, and
21 property. Examinations shall be given for the purpose of
22 determining the qualifications of applicants for licensure
23 separately in engineering and in land surveying. A candidate
24 failing an examination may apply for reexamination under
25 guidelines established by the board.

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

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

18 "(f) The board shall require a demonstration of
19 continuing professional education for professional engineers
20 and professional land surveyors as a condition of renewal or
21 relicensure. For professional land surveyors, the continuing
22 professional education requirements shall include a minimum of
23 four professional development credit hours on the Standards
24 for Practice of Surveying in the State of Alabama every two
25 years and one professional development credit hour on ethics

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

10 "§34-11-7.

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

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

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

1 engineer intern or surveyor intern enrollment document does
2 not authorize the holder to practice as a professional
3 engineer or a professional land surveyor.

4 "§34-11-8.

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

1 ~~the minimum continuing professional competency hours required~~
2 ~~for reinstating or reactivating a lapsed license. The board~~
3 ~~shall establish a reinstatement fee which shall be based on~~
4 ~~the period the license was lapsed. A lapsed license, if not~~
5 ~~reinstated, shall remain in a lapsed classification for a~~
6 ~~total of four years. Any license which has lapsed for more~~
7 ~~than four years shall not be eligible for reinstatement or~~
8 ~~reactivation and is expired.~~

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

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

1 licensees and others in extenuating circumstances as
2 identified by rule of the board.

3 ~~"(b)(c) Enrollment as engineer interns and land
4 surveyor interns shall expire on the last day of the month of
5 December following their issuance or renewal. The notification
6 to interns shall be processed as prescribed above for
7 licensees except that the annual renewal fee shall not exceed
8 ten dollars (\$10). The failure on the part of any intern to
9 accomplish renewal shall not invalidate his or her status as
10 an engineer intern or land surveyor intern, but his or her
11 name shall, after 90 days, be removed from the current mailing
12 list of the board. The fee to bring an enrollment current
13 after a renewal expiration shall be twice that established for
14 annual renewal not expire.~~

15 ~~"(c) Certificates of authorization issued to
16 corporations, partnerships, or firms practicing or offering to
17 practice engineering or land surveying under this chapter
18 shall lapse on the last day of the month of January following
19 their issuance or renewal, unless renewed. The amount of the
20 renewal fee shall be set by the board and shall not exceed two
21 hundred fifty dollars (\$250). It shall be the duty of the
22 executive director of the board to notify every corporation,
23 partnership, or firm holding a certificate of authorization
24 under this chapter of the final date of renewal of the
25 certificate and the amount of the fee which shall be required~~

1 ~~for its renewal for one year. The notice shall be mailed by~~
2 ~~the executive director to the last address recorded for the~~
3 ~~corporation, partnership, or firm at least one month in~~
4 ~~advance of the renewal deadline. Renewals may be accomplished~~
5 ~~at any time prior to or during the month of January by payment~~
6 ~~of the required fee. Failure by the corporation, partnership,~~
7 ~~or firm to renew its certificate of authorization prior to or~~
8 ~~during the month of January shall cause the certificate to~~
9 ~~lapse, and it shall be unlawful for the corporation,~~
10 ~~partnership, or firm to practice, offer to practice, or hold~~
11 ~~itself out as qualified to practice engineering or land~~
12 ~~surveying in Alabama following the lapse of its certificate of~~
13 ~~authorization. The board shall, by rules, establish procedures~~
14 ~~and time limits for reactivating a certificate of~~
15 ~~authorization and the reinstatement fees which shall be based~~
16 ~~on the period the certification was lapsed. A firm,~~
17 ~~partnership, or corporation whose certificate of authorization~~
18 ~~has lapsed for nonpayment of renewal fees shall continue to be~~
19 ~~subject to this chapter and the rules of the board governing~~
20 ~~licenses until the certificate of authorization is revoked by~~
21 ~~action of the board or the certificate of authorization is no~~
22 ~~longer renewable under the rules of the board. If not~~
23 ~~reinstated, a lapsed certificate of authorization shall remain~~
24 ~~in a lapsed classification for a period of two years. Any~~
25 ~~certificate of authorization which has been lapsed for more~~

1 ~~than two years shall not be eligible for reinstatement or~~
2 ~~reactivation and is expired.~~

3 "(d) An individual who allows a license to expire
4 due to non-renewal, failure to submit the required continuing
5 education hours, or pay the applicable renewal fees shall be
6 treated as having an expired license and shall be ineligible
7 to practice. An expired license may be reinstated, at the
8 discretion of the board as follows:

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

17 "(2) Licensees whose licenses have been in expired
18 status longer than two years are not eligible for
19 reinstatement and must file an application for licensure
20 following the application procedures as set forth in this
21 chapter.

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

1 "(4) The board may consider extenuating
2 circumstances of petitioners who can demonstrate hardship. The
3 board reserves the right to waive fees and other renewal or
4 reinstatement requirements, provided the board does so in a
5 manner that protects health, life, safety, welfare, and
6 property.

7 "(e) A licensee in inactive status may return to
8 active status by notifying the board in advance of this
9 intention and by meeting all requirements of the board,
10 including demonstration of continuing professional education
11 as a condition of reinstatement.

12 "(f) An individual who has been issued a certificate
13 of licensure as a professional engineer or as a professional
14 land surveyor and who chooses to relinquish or not to renew a
15 license may be granted use of the title "Professional
16 Engineer, Retired" or "Professional Land Surveyor, Retired,"
17 as applicable, if the individual applies to and is granted
18 approval by the board.

19 "§34-11-9.

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

22 ~~"(1) ENGINEERING OR LAND SURVEYING SERVICES. The~~
23 ~~practice of or offer to practice engineering and land~~
24 ~~surveying as defined in Section 34-11-1 by individual~~
25 ~~professional engineers or professional land surveyors licensed~~

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

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

5 "~~(2) JOINT PRACTICE AUTHORIZED. Nothing in this~~
6 ~~section prohibits an individual, corporation, or firm, or~~
7 ~~partnership from joining together to practice, offering to~~
8 ~~practice, or holding themselves out as qualified to practice~~
9 ~~engineering or land surveying provided that the individual,~~
10 ~~corporation, or firm, or partnership meets the requirements of~~
11 ~~this section. An entity that performs engineering services or~~
12 ~~land surveying services for itself, or for a parent or~~
13 ~~subsidiary, is not required to have a certificate of~~
14 ~~authorization.~~

15 "~~(3) LIABILITY GENERALLY. No corporation, firm, or~~
16 ~~partnership shall A firm may not be relieved of responsibility~~
17 ~~for the conduct or acts of its agents, employees, officers, or~~
18 ~~partners by reason of its compliance with this section, nor~~
19 ~~shall any individual practicing engineering or land surveying~~
20 ~~as defined in Section 34-11-1 be relieved of responsibility~~
21 ~~for work performed by reason of employment, association, or~~
22 ~~relationship with the corporation, partnership, or firm. An~~
23 ~~individual practicing engineering or land surveying under this~~
24 ~~chapter is not relieved of responsibility for engineering or~~
25 ~~land surveying services performed by reason of employment or~~

1 other relationship with a firm holding a certificate of
2 authorization.

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

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

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

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

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

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

3 ~~"(8) CERTIFICATE REQUIRED OF ORGANIZATION OPERATING~~
4 ~~UNDER FICTITIOUS NAME.~~

5 "(4) The Secretary of State may not accept
6 organizational papers nor issue a certificate of
7 incorporation, organization, licensure, or authorization to
8 any firm that includes among the objectives for which it is
9 established or within its name, any of the words "engineer,"
10 "engineering," "land surveyor," "land surveying," or any
11 modification or derivation thereof unless the board has issued
12 for the applicant a certificate of authorization or a letter
13 indicating the eligibility of the applicant to receive such a
14 certificate. The firm applying shall supply their certificate
15 or letter from the board with its application for
16 incorporation, organization, licensure, or authorization.

17 "(5) The Secretary of State may not authorize any
18 trade name trademark, or service mark that includes words set
19 forth in subdivision (4), or any modification or derivative
20 thereof, except licensees and firms holding certificates of
21 authorization issued under this section.

22 "(6) For the purposes of this section, a certificate
23 of authorization shall be required by a ~~corporation,~~
24 ~~partnership, firm, association, or person~~ practicing under a
25 fictitious name, offering engineering or land surveying

1 services to the public. Where a licensee is practicing
2 engineering or land surveying in his or her own given name,
3 the licensee shall not be required to qualify under this
4 section.

5 ~~"(b) (7) Incidental engineering or land surveying~~
6 ~~services; certificate of authorization not required.~~ The
7 practice of engineering or land surveying incidental to or in
8 connection with production, manufacture, transportation,
9 distribution, or communication may be carried on by any
10 ~~person, partnership, firm, or corporation~~ engaged in ~~such~~ the
11 production, manufacture, transportation, distribution, or
12 communication and ~~will~~ does not require a certificate of
13 authorization. The engineering and land surveying services
14 shall be performed by or under the direction of a professional
15 engineer or professional land surveyor licensed in conformity
16 with this chapter. All drawings, plans, specifications, plats,
17 and reports involving the practice of engineering or land
18 surveying shall when issued be dated and bear the seal or
19 facsimile of the seal, signature, and licensure number of the
20 professional engineer or land surveyor in responsible charge
21 thereof.

22 "(b) A firm shall designate a managing agent and a
23 resident professional, if offering or performing Alabama
24 services in multiple offices. The managing agent and the
25 resident professional may be the same individual.

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

3 "(1) A firm shall designate a professional engineer
4 or a professional land surveyor to be a managing agent for the
5 firm.

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

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

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

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

17 "(1) Renewal of the firm's certificate of
18 authorization and notification to the board of any change in
19 the managing agent.

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

23 "(3) Ensuring that the policies of the firm are in
24 accordance with the rules of professional conduct adopted by
25 the board.

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

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

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

14 "(f) (1) A firm desiring a certificate of
15 authorization must file with the board an application using a
16 form provided by the board and provide all the information
17 required by the board. The application form shall be filed
18 with the board upon renewal or not more than 30 days after any
19 information contained on the application form is changed or
20 differs for any reason. If in the judgment of the board the
21 application meets the requirements of this chapter, the board
22 shall issue a certificate of authorization for the firm to
23 practice engineering or land surveying.

24 "(2) The application fee for a certificate of
25 authorization for a firm shall be established by the board and

1 may not exceed two hundred fifty dollars (\$250) and shall
2 accompany the application. The fee is non-refundable.

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

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

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

21 "(h) A firm whose certificate of authorization has
22 expired due to nonrenewal but is still eligible for
23 reinstatement shall continue to be subject to this chapter and
24 the rules of the board until the certificate of authorization

1 is revoked by action of the board or becomes no longer
2 eligible for reinstatement."

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

5 §34-11-9.1.

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

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

12 "§34-11-10.

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

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

7 "§34-11-11.

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

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

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

1 engineer intern, professional land surveyor, or land surveyor
2 intern.

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

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

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

22 "(6) Conviction of or entry of a plea of guilty or
23 nolo contendere to any crime that is a felony, whether or not
24 related to the practice of engineering or land surveying; or
25 conviction of or entry of a plea of guilty or nolo contendere

1 to any crime, whether a felony, misdemeanor, or otherwise, an
2 essential element of which is dishonesty or which is directly
3 related to the practice of engineering or land surveying.

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

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

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

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

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

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

1 "(13) Engaging in dishonorable, unethical, or
2 unprofessional conduct of a character likely to deceive,
3 defraud, or harm the public.

4 "(14) Providing false testimony or information to
5 the board.

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

8 "(16) Practicing engineering or land surveying in a
9 branch office not under the day-to-day supervision of a
10 licensed professional engineer or professional land surveyor,
11 respectively.

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

1 authorization, ratification, or approval of an officer,
2 director, principal, partner, or owner of the corporation,
3 partnership, or firm.

4 ~~"(c) Any person may file a complaint alleging a~~
5 ~~violation of this section against any individual licensee,~~
6 ~~certified intern, or corporation, partnership, or firm holding~~
7 ~~a certificate of authorization. The complaints shall be in~~
8 ~~writing and shall be filed with the executive director of the~~
9 ~~board.~~

10 ~~"(d) The board may designate a person or persons to~~
11 ~~investigate and report to it on any matter related to its~~
12 ~~lawful duties and may employ legal counsel as the board may~~
13 ~~deem necessary or desirable. An investigation may be made upon~~
14 ~~receipt of a complaint or may be initiated by the board. The~~
15 ~~board may resolve violations by agreement between the board~~
16 ~~and the licensee with or without the filing of formal charges.~~

17 ~~"(e) Following an investigation, charges may be~~
18 ~~filed against any individual licensee, certificated intern, or~~
19 ~~corporation, partnership, or firm holding a certificate of~~
20 ~~authorization. The charges shall conform to the Administrative~~
21 ~~Procedure Act.~~

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

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

4 ~~"(h) The time and place for the hearing shall be~~
5 ~~fixed by the board, and a copy of the charges, together with a~~
6 ~~notice of the time and place of the hearing, shall be~~
7 ~~personally served on or mailed to the last known address of~~
8 ~~the individual licensee, certified intern, or corporation,~~
9 ~~partnership, or firm holding a certificate of authorization,~~
10 ~~at least 30 days before the date fixed for the hearing. At any~~
11 ~~hearing the accused individual licensee, certified intern, or~~
12 ~~corporation, partnership, or firm holding a certificate of~~
13 ~~authorization shall have the right to appear personally and by~~
14 ~~counsel, to cross-examine witnesses appearing against him,~~
15 ~~her, or them, and to produce evidence and witnesses in his or~~
16 ~~her or their own defense. If the accused fails or refuses to~~
17 ~~appear, the board may proceed to hear and determine the~~
18 ~~validity of the charges.~~

19 ~~"(i) If after the hearing three or more members of~~
20 ~~the board vote in favor of finding the accused guilty, the~~
21 ~~board shall impose one or more of the disciplinary penalties~~
22 ~~set forth in this section. Any fine imposed may not exceed two~~
23 ~~thousand five hundred dollars (\$2,500) for each count or~~
24 ~~separate offense. The written decision of the board shall be~~
25 ~~delivered personally to the accused or sent by certified mail,~~

1 ~~return receipt requested, to the last known address of the~~
2 ~~accused.~~

3 ~~"(j) If disciplinary action from a hearing results~~
4 ~~in imposing a fine against a licensee, certified intern, or~~
5 ~~certificated corporation, partnership, or firm, the board~~
6 ~~shall not renew the annual certificate for this licensee,~~
7 ~~certified intern, or certificated corporation, partnership, or~~
8 ~~firm until the fine is paid in full. In the event that the~~
9 ~~fine is subsequently set aside on judicial review, as provided~~
10 ~~in the Alabama Administrative Procedure Act, the licensee,~~
11 ~~certified intern, or corporation, partnership, or firm holding~~
12 ~~a certificate of authorization shall be entitled to a prompt~~
13 ~~refund of the amount of the fine, but shall not be entitled to~~
14 ~~interest thereon.~~

15 ~~"(k) (c)~~ The board shall revoke the certificate of
16 any licensee or certified intern who has been determined to be
17 one of the following:

18 "(1) Declared non compos mentis by a court of
19 competent jurisdiction.

20 "(2) Convicted of or entered a plea of guilty or
21 nolo contendere to any crime under the laws of the United
22 States or any state or territory thereof, which is a felony,
23 whether related to practice or not and convicted of or entered
24 a plea of guilty or nolo contendere to any crime, whether a
25 felony, misdemeanor, or otherwise, an essential element of

1 which is dishonesty or which is directly related to the
2 practice of engineering or land surveying.

3 ~~"(l) When a member of the board is unable to
4 continue the hearing either by disqualification or for any
5 other reason, and the board is unable to reach a quorum, the
6 Governor shall appoint as many ex officio members as is
7 necessary to reach a quorum from a list of three persons
8 submitted for each place by the committee of seven as
9 specified in Section 34-11-30. These ex officio members shall
10 serve on the board only for that hearing for which they were
11 appointed and they may be reappointed for subsequent hearings
12 if necessary.~~

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

15 "(d) Each day of a continued violation shall
16 constitute a separate offense.

17 "(e) An individual whose license has expired for
18 nonpayment of renewal fees shall continue to be subject to
19 this chapter and board rules governing licenses until the
20 license is revoked by action of the board or the license is
21 not eligible for reinstatement under the rules of the board. A
22 licensee who practices or offers to practice in the state with
23 an expired, inactive, or retired license shall be subject to
24 disciplinary action by the board. Any firm whose certificate
25 of authorization has expired for nonpayment of renewal fees

1 shall continue to be subject to this chapter and board rules
2 until the certificate of authorization is revoked by action of
3 the board or the certificate of authorization is not eligible
4 for reinstatement under the rules of the board. A firm who
5 practices or offers to practice in the state with an expired
6 certificate of authorization shall be subject to disciplinary
7 action by the board."

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

10 §34-11-11.1.

11 (a) The board may levy a civil penalty and recover
12 costs from any individual or firm for any of the following
13 activities:

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

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

21 (3) Presenting or attempting to use the certificate
22 of licensure or seal of a professional engineer or
23 professional land surveyor or attempting to use an
24 unauthorized certificate of authorization.

1 (4) Engaging in any fraud or deceit in obtaining or
2 attempting to obtain a certificate of licensure, intern
3 certification, or certificate of authorization.

4 (5) Impersonating any professional engineer or
5 professional land surveyor or any firm holding a certificate
6 of authorization.

7 (6) Using or attempting to use a revoked or
8 non-existent certificate of licensure, intern certification,
9 or certification of authorization or an expired certificate of
10 licensure or certificate of authorization not eligible for
11 reinstatement.

12 (b) Each day of continued violation shall constitute
13 a separate offense.

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

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

23 §34-11-11.2.

24 (a) Any person or entity, including the board or
25 staff, may file a complaint alleging a violation of this

1 chapter against any individual licensee, certified intern, or
2 firm holding a certificate of authorization or against an
3 unlicensed individual or firm. The complaint shall be in
4 writing, shall be signed by the complainant, shall state
5 specifically the facts on which the complaint is based, and
6 shall be filed with the executive director of the board.

7 (b) The board may designate one or more individuals
8 to investigate and report to it on any matter related to its
9 lawful duties and may employ legal counsel as the board may
10 deem necessary or desirable. An investigation may be made upon
11 receipt of a complaint. The board may resolve violations by
12 agreement between the board and the respondent with or without
13 the filing of formal charges.

14 (c) All complaints shall be reviewed by an
15 investigative committee designated by the rules of the board.
16 After review, the investigative committee shall determine or
17 recommend, as appropriate, if charges are warranted. The
18 charges shall conform to the Administrative Procedure Act.

19 (d) With the consent of the respondent, the board
20 may conduct an informal hearing without meeting the
21 requirements of the Administrative Procedure Act at which no
22 action shall be taken other than a reprimand, public or
23 private.

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

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

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

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

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

6 (2) The circumstances leading to the violation.

7 (3) The severity of the violation and the risk of
8 harm to the public.

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

11 (5) Consistency of the fine or civil penalty with
12 past fines or civil penalties for similar offenses, or
13 justification for the fine or civil penalty amount.

14 (1) An action may be brought in the Circuit Court of
15 Montgomery County to require compliance with any order of the
16 board.

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

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

1 Section 5. Sections 34-11-12 to 34-11-15, inclusive,
2 34-11-30, 34-11-31, 34-11-32, 34-11-34, 34-11-35, 34-11-35.1,
3 as added by Act 2017-384 of the 2017 Regular Session,
4 34-11-36, and 34-11-37, Code of Alabama 1975, are amended to
5 read as follows:

6 "§34-11-12.

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

1 "§34-11-13.

2 ~~"Any person, corporation, partnership, or firm who~~
3 ~~shall feel~~ is aggrieved by the denial of a certificate by the
4 board or by any disciplinary action by the board taken
5 pursuant to Section 34-11-11 may appeal ~~therefrom~~ within 30
6 days to the Circuit Court of Montgomery County, ~~Alabama,~~
7 exclusively, notwithstanding the provisions of the Alabama
8 Administrative Procedure Act; and only after the filing of the
9 notice of appeal, shall judicial review be as provided for in
10 the Alabama Administrative Procedure Act.

11 "§34-11-14.

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

14 "(1) The practice of any other legally recognized
15 profession or trade.

16 "(2) The work of an engineer intern or land surveyor
17 intern, employee, or a subordinate of any person holding a
18 certificate of licensure under this chapter, or any employee
19 of a person practicing lawfully under paragraph b of
20 subdivision (1) of Section 34-11-4, ~~if the work is done under~~
21 ~~the responsibility and supervision of a person holding a~~
22 ~~certificate of licensure under this chapter or a person~~
23 ~~practicing lawfully under paragraph b of subdivision (1) of~~
24 ~~Section 34-11-4~~ provided the work does not include final
25 engineering or land surveying designs or decisions and is done

1 under the responsible charge of and verified by an individual
2 holding a certificate of licensure under this chapter.

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

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

23 "(5) The practice of engineering or land surveying
24 by any person who is employed by the Alabama Department of
25 Transportation prior to January 1, 1997, in any engineering or

1 engineering assistant classification series under the State of
2 Alabama Personnel Board, Merit System.

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

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

10 "(8) The performance of engineering services which
11 are purely incidental to the practice of geology by registered
12 geologists, their employees, or subordinates under their
13 responsible charge.

14 "§34-11-15.

15 "(a) Any person who ~~shall practice, offer~~ practices,
16 offers to practice, or ~~hold~~ holds himself or herself out as
17 qualified to practice engineering or land surveying in this
18 state or ~~use~~ uses in connection with his or her name or
19 otherwise ~~assume, use, or advertise~~ assumes, uses, or
20 advertises any title or description including, but not limited
21 to, the term engineer, engineers, engineering, or professional
22 engineer, professional engineers, or professional engineering,
23 or land surveyor, land surveyors, land surveying, or
24 professional land surveyor, professional land surveyors, or
25 professional land surveying, without being licensed or

1 exempted in accordance with this chapter, or any person
2 presenting or attempting to use as his or her own the
3 certificate of licensure or the seal or facsimile thereof of
4 another, or permitting his or her own certificate of
5 licensure, seal or facsimile thereof to be used by another
6 person, or any person who ~~shall give~~ gives any false or forged
7 evidence of any kind to the board or to any member thereof in
8 obtaining, or attempting to obtain a certificate of licensure,
9 or any person who ~~shall falsely impersonate~~ falsely
10 impersonates any other licensee of like or different name, or
11 any person who ~~shall attempt~~ attempts to use an expired,
12 suspended, surrendered, or revoked certificate of licensure,
13 ~~or any person who shall violate this chapter,~~ shall be guilty
14 of a Class A misdemeanor. ~~and punished as provided by law~~ Each
15 day of the violation shall ~~be~~ constitute a separate offense.

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

20 "(c) It shall be the duty of all duly constituted
21 officers of law of this state, or any political subdivision
22 thereof, to enforce this chapter, and to prosecute any
23 persons, firms, partnerships, or corporations for violating
24 this chapter. The Attorney General of the state or his or her
25 assistants shall act as legal advisor to the board and render

1 legal assistance to the board as may be necessary in carrying
2 out this chapter. The board has the right to obtain private
3 legal counsel as the need arises.

4 "(d) Pursuant to the proceedings under this chapter,
5 the board may issue subpoenas to compel the attendance and
6 testimony of witnesses and the disclosure of evidence, and may
7 request the Attorney General to bring an action to enforce a
8 subpoena.

9 "(e) In addition to or in lieu of the sanctions
10 provided in this chapter, the board may issue an order to any
11 individual or firm engaged in any activity, conduct, or
12 practice constituting a violation of this chapter, directing
13 the individual or firm to cease and desist from the activity,
14 conduct, or practice, or the performance of any work then
15 being done or about to be commenced. The order shall be issued
16 in the name of the State of Alabama under the official seal of
17 the board. If the individual or firm to whom the board directs
18 a cease and desist order does not cease or desist the
19 proscribed activity, conduct, practice, or performance of work
20 immediately, the board shall cause to issue in any court of
21 competent jurisdiction and proper venue, a writ of injunction
22 enjoining the individual or firm from engaging in the
23 proscribed activity, conduct, practice, or performance of
24 work. Upon a showing by the board that an individual or firm
25 has engaged or is engaged in any activity, conduct, practice,

1 or performance of work prohibited by this chapter, the courts
2 shall issue a temporary restraining order restraining the
3 individual or firm from engaging in the unlawful activity,
4 conduct, practice, or performance of work pending the hearing
5 on a preliminary injunction, and in due course a permanent
6 injunction shall issue after the hearing commanding the
7 cessation of the unlawful activity, conduct, practice, or
8 performance of work complained of, all without the necessity
9 of the board having to give bond. A temporary restraining
10 order preliminary injunction, or permanent injunction issued
11 pursuant to this chapter shall not be subject to being
12 released on bond. In the suit for an injunction, the board may
13 demand of the defendant a civil penalty of up to five thousand
14 dollars (\$5,000) plus costs and attorney fees for each
15 offense. A judgment for penalties, attorney fees, and costs
16 may be rendered in the same judgment in which the injunction
17 is made absolute. The trial of the proceeding by injunction
18 shall be summary and by the trial judge without jury.

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

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

4 "§34-11-30.

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

1 board occur, whether by the expiration of a term or
2 otherwise, ~~in a position filled by a professional engineer or~~
3 ~~land surveyor, respectively.~~ To the extent possible, the
4 nominating ~~committee~~ committees, the Alabama Society of
5 Professional Land Surveyors, and the Governor shall select
6 those persons whose appointments ensure that the membership of
7 the board is inclusive and reflects the racial, gender,
8 geographic, urban/rural, and economic diversity of the state.
9 Each member of the board, before beginning his or her term of
10 office, shall file with the Secretary of State his or her
11 written oath or affirmation for the faithful discharge of his
12 or her duties.

13 " (b) The professional engineer nominating committee
14 shall consist of one professional engineer appointed or
15 elected by each of the professional organizations ~~as outlined~~
16 specified in the rules of the board, and the public member
17 nominating committee shall consist of one representative
18 appointed or elected by each of the business development
19 organizations specified in the rules of the board. Any other
20 organization in the state having membership qualifications
21 comparable to those professional organizations outlined in the
22 rules of the board may petition the board for membership on
23 ~~the~~ a nominating committee. The board, by rule, may establish
24 nominating committee operating guidelines and, by rule, may
25 establish procedures for the removal of nonparticipating

1 members of ~~the~~ a nominating committee. ~~Nominees shall have the~~
2 ~~qualifications required by Section 34-11-31. Nominations shall~~
3 ~~be made by a majority vote of the committee present at the~~
4 ~~same time at a meeting called by the executive director of the~~
5 ~~board, who shall advise the above named societies of the~~
6 ~~meeting at least 30 days before the meeting is held.~~

7 "~~(c) Each member of the board, before beginning his~~
8 ~~or her term of office, shall file with the Secretary of State~~
9 ~~his or her written oath or affirmation for the faithful~~
10 ~~discharge of his or her official duties. Members of the board~~
11 ~~shall serve five-year terms.~~ The members of the board shall
12 continue to serve under this chapter until their respective
13 terms expire. On the expiration of the term of each member,
14 the Governor shall in the manner provided in this section
15 ~~appoint for a term of five years a professional engineer or~~
16 ~~professional land surveyor having the qualifications required~~
17 ~~by Section 34-11-31 an individual to take the place of the~~
18 ~~member whose term on the board is about to expire. Vacancies~~
19 ~~occurring during a term shall be filled by appointment by the~~
20 ~~Governor, in the manner provided in this section, for the~~
21 ~~unexpired term. Each member shall hold office until the~~
22 ~~expiration of the term for which the member is appointed or~~
23 ~~until a successor is duly appointed and qualified. The terms~~
24 ~~of the members of the board shall be staggered, so that the~~
25 ~~terms of no more than two members shall expire in any year. No~~

1 member of the board shall serve more than two consecutive full
2 terms. The completion of the unexpired portion of a full term
3 shall not constitute a full term for the purposes of this
4 section. The initial appointment term for one public member
5 shall be for two years and one term for the other public
6 member shall be for five years. All subsequent terms for the
7 public members shall be for five years. Board members serving
8 on the effective date of the act adding this language shall
9 serve until the end of the term they are currently serving. At
10 the conclusion of those terms, the appointment process will be
11 adjusted to allow for the conversion to staggered terms.

12 "§34-11-31.

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

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

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

1 ~~has been in responsible charge of important engineering or~~
2 ~~land surveying, respectively, work for at least five years.~~

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

7 "§34-11-32.

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

16 "§34-11-34.

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

1 chair, a vice chair, and a secretary. A quorum of the board
2 shall consist of a simple majority of the board membership.

3 "§34-11-35.

4 "(a) The board shall have the power to adopt and
5 amend bylaws, and rules, ~~and regulations,~~ not inconsistent
6 with the constitution and laws of this state, as may be
7 reasonably necessary for the proper performance of its duties
8 and the ~~regulations of the proceedings before it~~ regulation of
9 its procedures, meetings, records, examinations, and conduct.

10 The board shall have the power to adopt and amend from time to
11 time rules of professional conduct for professional engineers,
12 engineer interns, professional land surveyors, land surveyor
13 interns, and corporations, partnerships, or firms holding
14 certificates of authorization. The board shall adopt and have
15 an official seal, which shall be affixed to each certificate
16 issued.

17 "(b) In carrying into effect its duties in any case
18 involving the revocation of licensure or any disciplinary
19 proceeding involving a licensee or the holder of a certificate
20 of authorization or practicing or offering to practice without
21 licensure, or false statement in connection with an
22 application for licensure, the board may, under the hand of
23 its chair and the seal of the board, subpoena witnesses and
24 compel their attendance, and may also require the production
25 of books, papers, documents, and other pertinent data. Any

1 member of the board may administer oaths or affirmations to
2 witnesses appearing before the board. If any person refuses to
3 obey any subpoena issued, or refuses to testify or produce any
4 books, papers, or documents, the board may present its
5 petition to the Circuit Court of Montgomery County, ~~Alabama,~~
6 setting forth the facts, and thereupon the Circuit Court of
7 Montgomery County shall, in a proper case, issue its subpoena
8 to such person, requiring his or her attendance before the
9 Circuit Court of Montgomery County and there to testify or to
10 produce such books, papers, and documents, or data. Any person
11 failing or refusing to obey the subpoena or order of the
12 Circuit Court of Montgomery County may be proceeded against in
13 the same manner as for refusal to obey any other subpoena or
14 order of the Circuit Court of Montgomery County.

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

21 "(d) The board, ~~for good cause, may apply for relief~~
22 ~~by injunction,~~ in its own name, may apply for relief by
23 injunction in the established manner provided in cases of
24 civil procedure, without bond, to enforce the provisions of
25 this chapter or to restrain any person, firm, partnership, or

1 corporation from the commission of any act which is
2 prohibited by this chapter. In such proceedings it shall not
3 be necessary to allege or prove either that an adequate remedy
4 at law does not exist, or that substantial and irreparable
5 damage would result, from the continued violation thereof.
6 Application for the injunction may be made to the Circuit
7 Court of Montgomery County, ~~Alabama~~, or the circuit court of
8 the county in which it is alleged that the violation is about
9 to occur, at the request of the board. The injunction may not
10 be granted ex parte, and any judgment or decree may be
11 appealed in the manner prescribed by law to the Supreme Court
12 of Alabama.

13 "(e) The board retains and may exercise all
14 administrative and civil rights and remedies commonly
15 available to agencies in the state. No action or other legal
16 proceedings for damages shall be instituted against the board,
17 any board member, or employee of the board for any act done in
18 good faith and in the intended performance of any power
19 granted under this chapter or for any neglect or default in
20 the performance or exercise in good faith of any duty or
21 power.

22 "(f) In carrying out the duties, functions, and
23 obligations of this chapter, the board may contract with any
24 state agency or private vendor as the board considers as
25 appropriate. The board may also enter contracts to acquire,

1 own, encumber, issue, replace, deal in, and dispose of real
2 and personal property.

3 "(g) The board may appoint committees to assist the
4 board's efforts in carrying out the responsibilities of this
5 chapter. All individuals appointed by the board to serve on
6 committees are entitled to reimbursement of expenses as
7 approved by the board.

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

12 "(i) The board may use electronic transmissions for
13 all purposes permitted under the Uniform Electronic
14 Transactions Act.

15 "(j) The Attorney General or his or her assistants
16 may act as legal adviser to the board and render legal
17 assistance as may be necessary in carrying out the provisions
18 of this chapter. The board may employ or retain counsel and
19 necessary assistance to aid in the enforcement of this
20 chapter, and the compensation and expenses thereof shall be
21 paid from the funds of the board.

22 "(k) For purposes of enforcement of all provisions
23 of this chapter and board rules, including the assessment and
24 collection of fines, penalties, costs, and attorney fees, the
25 board shall maintain jurisdiction over individuals,

1 irrespective of their licensure status relative to acts,
2 omissions, complaints and investigations that occurred during
3 the licensure period. Jurisdiction of the board shall extend
4 to individuals engaging in the unauthorized practice of
5 engineering or land surveying. It is the intent of this
6 subsection that licensees cannot divest the board of
7 jurisdiction by changing or relinquishing licensure status.

8 "(l) The board may conduct an investigation or
9 inspection of any person or facility at all reasonable hours
10 for the purpose of determining if any provisions of the laws
11 governing the practices of engineering and land surveying are
12 being violated. The board, its officers, staff, and
13 representatives shall cooperate with all agencies charged with
14 the enforcement of all federal and state laws relating to the
15 practices of engineering and land surveying.

16 "(m) The board may join such professional
17 organizations and associations organized exclusively to
18 promote the improvement of the standards of the practice of
19 engineering or land surveying for the protection of health,
20 life, safety, welfare, and property or whose activities assist
21 and facilitate the work of the board.

22 "(n) Through outreach efforts, the board may
23 educate, recognize, and promote the mission of the board to
24 the public, potential applicants, licensees, and other public
25 agencies.

1 "(o) The board may recognize accomplishments of
2 those individuals who fall under the jurisdiction of the
3 board.

4 "§34-11-35.1.

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

8 "(1) The power to adopt rules regulating the
9 practice of engineering and land surveying in the state
10 includes the power to prohibit unlicensed persons from
11 practicing engineering or land surveying and the power to
12 regulate how licensed persons practice.

13 "(2) The primary goal of the provision of
14 engineering and land surveying in the state is to prioritize
15 public health, life, safety, welfare, and property, and
16 ~~welfare.~~

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

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

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

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

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

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

23 "(2) The rules adopted under subdivision (1) shall
24 not apply to a boundary survey on private land where the
25 survey is not intended for use as a basis for engineering

1 design at the time of preparation, unless the survey is
2 prepared in accordance with the standards specified by the
3 American Land Title Association (ALTA) and the National
4 Society of Professional Surveyors (NSPS).

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

12 "~~(e)~~ (f) Nothing in this section shall be construed
13 to constrict or expand the current duties or responsibilities
14 of the members of the State Board of Licensure for
15 Professional Engineers and Land Surveyors in any context
16 outside of federal or state antitrust immunity beyond that
17 which existed before the ruling of the Supreme Court of the
18 United States in N.C. State Board of Dental Examiners vs. FTC,
19 135 S.Ct 1101 (2015).

20 "§34-11-36.

21 "The executive director of the board shall receive
22 and account for all money derived under this chapter. ~~and~~
23 ~~shall pay it monthly to the State Treasurer, who~~ All funds
24 collected shall be deposited with the State Treasurer. With
25 the exception of the civil penalties deposited in the General

1 Fund as provided in Section 34-11-11.1, the State Treasurer
2 shall keep the money in a separate fund to be known as the
3 "Professional Engineers and Professional Land Surveyors Fund."
4 The fund shall be kept separate and apart from all other money
5 in the Treasury, and shall be paid out only by warrant of the
6 Comptroller upon the Treasurer, upon itemized vouchers,
7 approved by the executive director of the board. No funds
8 shall be withdrawn or expended except as budgeted and allotted
9 according to Article 4 of Chapter 4 of Title 41. Any funds or
10 money in the hands of the State Treasurer, known as the
11 Professional Engineers and Professional Land Surveyors Fund,
12 at the end of the state fiscal year in excess of that amount
13 equal to ~~25~~ 33 percent of the budget of the board for the
14 previous fiscal year shall be transferred into the General
15 Fund of the state. However, in the event that the board elects
16 to implement a biennial license, then the above transfer into
17 the General Fund shall only apply at the end of the
18 non-license year of the biennial license cycle. The money,
19 properties, records, and other things of value owned by or
20 allocated to the fund, the board, or the executive director of
21 the board in his or her capacity as such, serving at the time
22 of enactment of this chapter, shall become the property of and
23 be allocated respectively to the fund, the board, or the
24 executive director of the board under this chapter. The
25 executive director of the board shall give a surety bond to

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

23 "§34-11-37.

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

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

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

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

7 "~~(4) The educational and other qualifications of the~~
8 ~~applicant.~~

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

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

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

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

13 "~~(9) Any other information deemed necessary by the~~
14 ~~board.~~

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

21 "(c) The records of the board shall be prima facie
22 evidence of the proceedings of the board set forth ~~therein,~~
23 and a transcript ~~thereof,~~ duly certified by the executive
24 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.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB316

Senate 13-MAR-18

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed 22-MAR-18

Senate concurred in House amendment 27-MAR-18

By: Senator Chambliss