

1 HB488
2 181871-1
3 By Representative Wood
4 RFD: Boards, Agencies and Commissions
5 First Read: 11-APR-17

SYNOPSIS: Under existing law, the State Board of Licensure for Professional Engineers and Land Surveyors licenses engineers and land surveyors in the state.

This bill would provide legislative intent with regard to the board and the practice of engineering and land surveying.

This bill would revise definitions.

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

This bill would add two public members to the board and provide for their qualifications.

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

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

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT

5
6 Relating to the State Board of Licensure for
7 Professional Engineers and Land Surveyors; to amend Sections
8 34-11-1 to 34-11-15, inclusive, 34-11-30, 34-11-31, 34-11-32,
9 and 34-11-34 to 34-11-37, inclusive, of the Code of Alabama
10 1975; to add Sections 34-11-1.1, 34-11-9.1, 34-11-11.1, and
11 34-11-11.2 to the Code of Alabama 1975; to repeal Section
12 34-11-16 of the Code of Alabama 1975; to provide legislative
13 intent with regard to the board and the practice of
14 engineering and land surveying; to revise definition and
15 provisions relating to violations, penalties, and disciplinary
16 actions and reorganize these provisions; to add two public
17 members to the board and provide for their qualifications; to
18 revise the level of funds in the Professional Engineers and
19 Professional Land Surveyors Fund that triggers a transfer of
20 funds to the General Fund; and to provide for further
21 functions and responsibilities of the board.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Sections 34-11-1 to 34-11-15, inclusive,
24 34-11-30, 34-11-31, 34-11-32, and 34-11-34 to 34-11-37,
25 inclusive, Code of Alabama 1975, are amended to read as
26 follows:

27 "§34-11-1.

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

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

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

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

17 "~~(2)~~ (4) ENGINEER INTERN. A person who has qualified
18 under subdivision (2) of Section 34-11-4, and who, in
19 addition, has successfully passed a board approved examination
20 in the fundamental engineering subjects as provided in Section
21 34-11-6, and who has been certified by the board An individual
22 who has been certified as an engineer intern by the board.

23 "~~(3)~~ (5) ENGINEER or PROFESSIONAL ENGINEER. A person
24 An individual who, by reason of his or her special knowledge
25 of the mathematical, and physical, and engineering sciences
26 and the principles and methods of engineering analysis and
27 design, acquired by engineering education and engineering

1 experience, is qualified to practice engineering as
2 hereinafter defined and has been licensed by the board as a
3 professional engineer. The board may designate a professional
4 engineer, on the basis of education, experience, and
5 examination as being licensed in a specific discipline or
6 branch of engineering signifying the area in which the
7 engineer has demonstrated competence.

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

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

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

10 ~~"(5)~~ (9) LAND SURVEYOR or PROFESSIONAL LAND
11 SURVEYOR. ~~A person who has been duly licensed as a~~
12 ~~professional land surveyor by the board established under this~~
13 ~~chapter, and~~ An individual who is a professional specialist in
14 the technique of measuring land, ~~is~~ educated in the basic
15 principles of mathematics, the related physical and applied
16 sciences, and the relevant requirements of law for adequate
17 evidence and all requisites ~~for~~ to surveying of real property,
18 ~~and is qualified to practice land surveying, as defined in~~
19 ~~subdivision (8)~~ and has been licensed as a professional land
20 surveyor by the board.

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

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

25 ~~"(6)~~ (12) PRACTICE and OFFER TO PRACTICE. Any person
26 shall be construed to practice or offer to practice
27 engineering or land surveying, within the meaning and intent

1 of this chapter, who ~~offers to or does as a profession~~
2 ~~practice~~ practices any discipline or any branch of engineering
3 or land surveying; or who by verbal claim, sign,
4 advertisement, letterhead, card, or in any other way
5 represents himself or herself to be a professional engineer or
6 a professional land surveyor, or through the use of some other
7 title implies that he or she is a professional engineer or a
8 professional land surveyor or that the person is licensed or
9 authorized under this chapter; or who represents himself or
10 herself as able to perform or who does perform any engineering
11 or land surveying service or work or any other service
12 designated by the practitioner which is recognized as
13 engineering or land surveying.

14 "~~(7)~~ (13) PRACTICE OF ENGINEERING. a. Any
15 professional service or creative work, the adequate
16 performance of which requires engineering education, training,
17 and experience in the application of special knowledge of the
18 mathematical, physical, and engineering sciences to such
19 services or creative work ~~as consultation,~~ that includes any
20 one or more of the following:

21 "1. Consultation, investigation, evaluation,
22 planning, design and design coordination, or commissioning of
23 engineering works, products, and systems. ~~, planning~~

24 "2. Planning the use of land, and air, or water. ~~,~~
25 performing

26 "3. Performing engineering surveys and studies. ~~, and~~
27 the

1 "4. The review or management of construction or
2 ~~other design products~~ for the purpose of monitoring or
3 ensuring compliance with drawings and specifications. ~~or any~~
4 ~~of which embraces such services or work,~~

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

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

1 a. ~~Design coordination includes the review and~~
2 ~~coordination of those technical submissions prepared by~~
3 ~~others, including, as appropriate and without limitations,~~
4 ~~consulting engineers, architects, landscape architects, land~~
5 ~~surveyors, and other professionals working under the direction~~
6 ~~of the engineer.~~

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

26 **"c.** The term ~~shall~~ does not include the practice of
27 architecture except such architectural work as is incidental

1 to the practice of professional engineering; nor shall the
2 term include work ordinarily performed by persons who operate
3 or maintain machinery or equipment.

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

17 "~~(8)~~ (14) PRACTICE OF LAND SURVEYING. a.
18 Professional services, ~~including, but not limited to,~~ using
19 such sciences as mathematics and geodesy, and involving the
20 making of geometric measurements and gathering related
21 information pertaining to the physical or legal features of
22 the earth, improvements on the earth, the space above, on or
23 below the earth, and providing, utilizing, or developing the
24 same land survey products such as graphics, data, maps, plans,
25 reports, descriptions, or projects.

26 "The term includes consultation, project
27 coordination, including the coordination of technical

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

10 "1. Determining by measurement the configuration or
11 contour of the earth's surface or the position of fixed
12 objects thereon by measuring lines and angles and applying the
13 principles of mathematics or photogrammetry.

14 "2. Determining by performing geodetic surveys the
15 size and shape of the earth or the position of any point on
16 the earth.

17 "3. Locating, relocating, establishing,
18 reestablishing, or retracing property lines or boundaries of
19 any tract of land, road, right of way, alignment or easement
20 or elevation of all real property whether or not fixed works
21 are sited or proposed to be sited on the property.

22 "4. Making any survey for the division, subdivision,
23 or consolidation of any tract or tracts of land or for
24 condominiums.

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

1 "6. Determining, by the use of principles of land
2 surveying, the position for any survey monument or reference
3 point, or establishing or replacing any such monument or
4 reference point.

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

10 "8. Creating, preparing or modifying electronic or
11 computerized or other data, including land information systems
12 and geographic land information systems relative to the
13 performance of the activities described above.

14 ~~"Project coordination shall include the coordination~~
15 ~~of those technical submissions as prepared by others.~~
16 ~~Notwithstanding the provisions of this subdivision, the~~
17 ~~practice of land surveying shall exclude~~

18 "b. The term does not include functions unique to
19 engineering as specified by rules of the board, geographic
20 information systems professionals holding certification from
21 the GIS Certification Institute, or remote sensing
22 professionals holding certifications from the American Society
23 of Photogrammetry and Remote Sensing. The practice of land
24 surveying shall include, but is not limited to, any one or
25 more of the following:

26 ~~"a. Locates, relocates, establishes, reestablishes,~~
27 ~~lays out, or retraces any property line or boundary of any~~

1 ~~tract of land or any road, right of way, easement, alignment,~~
2 ~~or elevation of all real property whether or not fixed works~~
3 ~~are sited or proposed to be sited on the property.~~

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

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

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

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

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

24 ~~"(9) (15) RESPONSIBLE CHARGE. Direct control and~~
25 ~~personal supervision of engineering work or land surveying~~
26 ~~work.~~

27 ~~"§34-11-2.~~

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

8 "(b) Except as otherwise provided in this chapter,
9 all engineering design of buildings, structures, products,
10 machines, processes, and systems that can affect public
11 health, safety, and welfare shall be conducted under the
12 responsible charge of a licensed professional engineer.

13 "~~(b)~~ (c) In order to safeguard ~~life,~~ public health,
14 safety and ~~property,~~ and to promote the public welfare, the
15 practice of engineering in this state is a learned profession
16 to be practiced and regulated as such, and its practitioners
17 in this state shall be held accountable to the state and
18 members of the public by high professional standards in
19 keeping with the ethics and practices of the other learned
20 professions in this state. It shall be unlawful for any person
21 to practice or offer to practice professional engineering in
22 this state, ~~as defined by this chapter,~~ to hold himself or
23 herself out or refer to himself or herself by any title or
24 description stating or implying the person is licensed to
25 engage in the practice of engineering, or to use in connection
26 with his or her name or otherwise assume, use, or advertise
27 any title or description including, but not limited to, the

1 terms engineer, engineers, engineering, professional engineer,
2 professional engineers, professional engineering, P.E., or any
3 modification or derivative thereof, tending to convey the
4 impression that he or she is a professional engineer unless
5 the person has been duly licensed or is exempt from licensure
6 under this chapter. A person whose firm name shall have
7 contained the word "engineer," "engineers," or "engineering,"
8 or words of like import, for more than 15 years before
9 September 12, 1966, shall not be prohibited from continuing
10 the use of such word or words in his or her firm name.

11 ~~"(c) (d)~~ In order to safeguard ~~life,~~ public health,
12 safety, and ~~property and to promote the public~~ welfare, the
13 practice of land surveying in this state is a learned
14 profession to be practiced and regulated as such, and its
15 practitioners in this state shall be held accountable to the
16 state and members of the public by high professional standards
17 in keeping with the ethics and practices of the other learned
18 professions in this state. It shall be unlawful for any person
19 to practice or offer to practice professional land surveying
20 in this state, ~~as defined by this chapter,~~ to hold himself or
21 herself out or refer to himself or herself by any title or
22 description stating or implying the person is licensed to
23 engage in the practice of land surveying, or to use in
24 connection with his or her name or otherwise assume, use, or
25 advertise any title or description including, but not limited
26 to, the terms land surveyor, land surveyors, land surveying,
27 professional land surveyor, professional land surveyors,

1 professional land surveying, P.L.S., or any modification or
2 derivative thereof, tending to convey the impression that he
3 or she is a professional land surveyor unless the person has
4 been duly licensed or is exempt from licensure under this
5 chapter.

6 "~~(d)~~ (e) As used in this subsection, the term
7 professional land surveyor shall include the agents, the
8 employees, and any personnel under the supervision of a
9 professional land surveyor.

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

21 "(2) Nothing in this subsection shall be construed
22 as giving authority to a professional land surveyor to
23 destroy, injure, damage, or move anything on the lands of
24 another without the written permission of the landowner and
25 nothing in this section shall be construed as removing civil
26 liability for the damages.

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

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

7 "(5) Nothing in this subsection shall limit the
8 rights of condemning authorities under Sections 18-1A-50 to
9 18-1A-55, inclusive.

10 "§34-11-3.

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

21 "§34-11-4.

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

25 "(1) PROFESSIONAL ENGINEER. The following shall be
26 considered as minimum evidence satisfactory to the board that

1 the applicant is qualified for licensure as a professional
2 engineer:

3 "a. Graduation and experience plus examination.

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

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

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

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

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

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

1 engineering subjects shall be certified as an engineer intern,
2 if otherwise qualified.

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

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

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

23 "a. Graduation and experience plus examination.

24 "1. Graduation in an approved land surveying
25 curriculum plus four years experience. A graduate of an
26 approved land surveying curriculum of four years or more
27 ~~including a minimum of 30 semester hours or 45 quarter hours~~

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

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

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

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

24 "b. Comity. The board, upon application, may grant
25 to any person who holds a valid professional land surveying
26 certificate issued by any jurisdiction of the United States or
27 of any country, admission into a board approved examination of

1 laws, procedures, and practices pertaining to land surveying
2 in this state, provided that the education, experience, and
3 examination qualifications of the applicant are, in the
4 judgment of the board, of a standard not lower than that
5 specified in the applicable licensure act in effect in this
6 state at the time such certificate was issued. Upon passing
7 the examination, the applicant shall be granted a certificate
8 of licensure to practice land surveying in this state,
9 provided the applicant is otherwise qualified.

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

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

22 "b. Graduation and examination plus experience.

23 "1. Graduation in an approved curriculum related to
24 surveying plus two years experience. A graduate of a
25 curriculum related to surveying of four years or more
26 including a minimum of 15 semester hours or 22.5 quarter hours
27 of surveying courses from a school or college approved by the

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

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

16 "c. Comity. The education, experience, and
17 examination qualifications of the applicant are, in the
18 judgment of the board, of a standard not lower than that
19 specified in the applicable licensure act in effect in Alabama
20 at the time such certificate was issued. The board may accept
21 fundamentals of land surveying examinations of comparable
22 character taken and passed in another jurisdiction.

23 "(5) CHARACTER. No person shall be eligible for
24 licensure as a professional engineer, certification as an
25 engineer intern, licensure as a professional land surveyor, or
26 certification as a land surveyor intern who is not of good
27 character and reputation.

1 "(6) TEACHING CREDITS. In considering the
2 qualifications of applicants, teaching in an engineering
3 curriculum approved by the board may be considered as
4 engineering experience. Teaching land surveying subjects in a
5 land surveying curriculum approved by the board may be
6 considered as land surveying experience.

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

24 "(8) NONPRACTICING APPLICANTS. Any person having the
25 necessary qualifications prescribed in this chapter to entitle
26 the applicant to licensure shall be eligible for licensure

1 although the applicant may not be practicing engineering or
2 land surveying at the time of making application.

3 "(9) RECOGNITION OF PREVIOUSLY TAKEN EXAMINATIONS.

4 The board may accept fundamentals and principles and practice
5 examinations of comparable character taken and passed in
6 another jurisdiction.

7 "§34-11-5.

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

1 "(b) The application fee, ~~and~~ which shall include
2 the licensure fee, ~~for professional engineers or professional~~
3 land surveyors shall be set by the board, ~~and each fee shall~~
4 not exceed ~~one hundred dollars (\$100)~~ three hundred dollars
5 (\$300), and shall accompany the application.

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

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

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

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

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

5 "§34-11-6.

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

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

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

22 "§34-11-7.

23 "(a) The board shall issue a certificate of
24 licensure ~~upon payment of a licensure fee as provided for in~~
25 ~~this chapter~~ to any applicant for licensure as a professional
26 engineer or professional land surveyor who, in the opinion of
27 the board, has satisfactorily met all the requirements of this

1 chapter. In the case of a professional engineer, the
2 certificate shall authorize the practice of engineering and
3 shall carry the designation "Professional Engineer". In the
4 case of a professional land surveyor, the certificate shall
5 authorize the practice of land surveying and shall carry the
6 designation "Professional Land Surveyor". Certificates of
7 licensure shall show the name of the licensee, shall have a
8 license number, and shall be signed by ~~the chair and the~~
9 ~~secretary of the board~~ individuals authorized by the board
10 under the seal of the board.

11 "(b) The issuance of a certificate of licensure by
12 the board shall be prima facie evidence that the person named
13 therein is entitled to all the rights and privileges and is
14 bound by all responsibilities of a professional engineer, or
15 of a professional land surveyor ~~unless the certificate is~~
16 ~~revoked, suspended, surrendered, lapsed, or expired~~ as long as
17 the certificate of licensure remains active and unrestricted.

18 "(c) ~~Each professional engineer should upon~~
19 ~~licensure~~ Upon licensure, each licensee shall obtain a seal of
20 the design authorized by the board, bearing the licensee's
21 name, licensure number, and the legend, "licensed professional
22 engineer." or "licensed professional land surveyor," as
23 applicable. ~~Previously purchased seals bearing the terminology~~
24 ~~"registered" vs. "licensed" may continue to be used until~~
25 ~~replacement is required.~~ Engineering drawings Drawings, plans,
26 specifications, plats, ~~and reports,~~ and other documents
27 considered work product issued by a licensee ~~or by qualified~~

1 ~~persons under the direction of the licensee and for which the~~
2 ~~licensee assumes full responsibility shall be certified~~
3 ~~pursuant to this chapter. It shall be unlawful for anyone to~~
4 ~~use an expired, suspended, surrendered, lapsed, or revoked~~
5 ~~certificate or seal or facsimile thereof~~ must be sealed,
6 signed, and dated in accordance with rules of the board,
7 thereby certifying that he or she is competent in the subject
8 matter and is responsible for the work product. A digital
9 signature may be used in lieu of a handwritten signature.

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

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

1 "(d) The board shall issue to any applicant for
2 certification as an engineer intern or surveyor intern who, in
3 the opinion of the board, has met the requirements of this
4 chapter, an enrollment document identifying the individual as
5 engineer intern or land surveyor intern, as applicable. The
6 engineer intern or surveyor intern enrollment document does
7 not authorize the holder to practice as a professional
8 engineer or a professional land surveyor.

9 "\$34-11-8.

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

1 shall lapse on the last day of the month of December, annually
2 or biennially, unless renewed. The board shall, by rule,
3 establish procedures including requirements, time limits, and
4 the minimum continuing professional competency hours required
5 for reinstating or reactivating a lapsed license. The board
6 shall establish a reinstatement fee which shall be based on
7 the period the license was lapsed. A lapsed license, if not
8 reinstated, shall remain in a lapsed classification for a
9 total of four years. Any license which has lapsed for more
10 than four years shall not be eligible for reinstatement or
11 reactivation and is expired.

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

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

1 ~~competency~~ education requirement for ~~retired~~ inactive
2 licensees and others in extenuating circumstances as
3 identified by rule of the board.

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

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

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

25 "(4) The board may consider extenuating
26 circumstances of petitioners who can demonstrate hardship. The
27 board reserves the right to waive fees and other renewal or

1 reinstatement requirements, provided the board does so in a
2 manner that protects public health, safety, and welfare.

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

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

15 "§34-11-9.

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

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

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

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

24 ~~"(2) JOINT PRACTICE AUTHORIZED. Nothing in this~~
25 ~~section prohibits an individual, corporation, or firm, or~~
26 ~~partnership from joining together to practice, offering to~~
27 ~~practice, or holding themselves out as qualified to practice~~

1 ~~engineering or land surveying provided that the individual,~~
2 ~~corporation, or firm, or partnership meets the requirements of~~
3 ~~this section. An entity that performs engineering services or~~
4 ~~land surveying services for itself, or for a parent or~~
5 ~~subsidiary, is not required to have a certificate of~~
6 ~~authorization.~~

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

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

26 "~~(5) RESIDENT LICENSEE. Every firm, partnership,~~
27 ~~corporation, or other entity which performs or offers to~~

1 ~~perform engineering or land surveying services shall have a~~
2 ~~resident licensed professional engineer or land surveyor in~~
3 ~~responsible charge of the engineering or land surveying work~~
4 ~~for each separate office or branch office in which engineering~~
5 ~~or land surveying services are performed or offered to be~~
6 ~~performed. The board shall issue rules to ensure adequate~~
7 ~~engineering supervision and surveying supervision of all work.~~

8 ~~"(6) FILING NAMES AND ADDRESSES OF OFFICERS, ETC.,~~
9 ~~REQUIRED. A corporation or firm shall file with the board,~~
10 ~~using a form provided by the board, the names and addresses of~~
11 ~~all officers and board members of the corporation or firm~~
12 ~~including the principal officer or officers duly licensed to~~
13 ~~practice engineering or land surveying in this state, who~~
14 ~~shall be in responsible charge of the practice or offering to~~
15 ~~practice of engineering or land surveying in this state by the~~
16 ~~corporation or firm and of the individual or individuals~~
17 ~~designated as the responsible engineer or land surveyor of~~
18 ~~each branch office offering or performing Alabama engineering~~
19 ~~or land surveying. A partnership shall file with the board~~
20 ~~using a form provided by the board, the names and addresses of~~
21 ~~all partners, including the partner or partners duly licensed~~
22 ~~to practice engineering or land surveying in this state, and~~
23 ~~also of an individual or individuals duly licensed to practice~~
24 ~~engineering or land surveying in this state who shall be in~~
25 ~~responsible charge of the practice of engineering or land~~
26 ~~surveying in this state at the branch offices of the~~
27 ~~partnership. The same form, giving the same information, shall~~

1 ~~accompany the annual renewal fee prescribed in subsection (c)~~
2 ~~of Section 34-11-8. In the event there is a change in the firm~~
3 ~~name or in any of the partners or principal officers during~~
4 ~~the year, the changes shall be filed with the board by the~~
5 ~~corporation, partnership, or firm within 30 days after the~~
6 ~~effective date of the change.~~

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

16 ~~"(8) CERTIFICATE REQUIRED OF ORGANIZATION OPERATING~~
17 ~~UNDER FICTITIOUS NAME.~~

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

1 or letter from the board with its application for
2 incorporation, organization, licensure, or authorization.

3 "(5) The Secretary of State shall decline to
4 authorize any trade name trademark, or service mark that
5 includes such words as set forth in subdivision (4), or any
6 modifications or derivatives thereof, except licensees and
7 those firms holding certificates of authorization issued under
8 the provisions of this section

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

17 ~~"(b) (7) Incidental engineering or land surveying~~
18 ~~services; certificate of authorization not required.~~ The
19 practice of engineering or land surveying incidental to or in
20 connection with production, manufacture, transportation,
21 distribution, or communication may be carried on by any
22 ~~person, partnership, firm, or corporation~~ engaged in ~~such~~ the
23 production, manufacture, transportation, distribution, or
24 communication and ~~will~~ does not require a certificate of
25 authorization. The engineering and land surveying services
26 shall be performed by or under the direction of a professional
27 engineer or professional land surveyor licensed in conformity

1 with this chapter. All drawings, plans, specifications, plats,
2 and reports involving the practice of engineering or land
3 surveying shall when issued be dated and bear the seal or
4 facsimile of the seal, signature, and licensure number of the
5 professional engineer or land surveyor in responsible charge
6 thereof.

7 "(b) A firm shall designate a managing agent and a
8 resident professional, if offering or performing Alabama
9 services in multiple offices. The managing agent and the
10 resident professional may or may not be the same individual.

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

13 "(1) A firm shall designate a professional engineer
14 or a professional land surveyor to be a managing agent for the
15 firm.

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

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

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

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

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

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

7 "(3) Ensuring that the policies of the firm are in
8 accordance with the rules of professional conduct adopted by
9 the board.

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

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

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

23 "(f) (1) A firm desiring a certificate of
24 authorization must file with the board an application using a
25 form provided by the board and provide all the information
26 required by the board. The application form shall be filed
27 with the board upon renewal or not more than 30 days after any

1 information contained on the application form is changed or
2 differs for any reason. If in the judgment of the board the
3 application meets the requirements of this chapter, the board
4 shall issue a certificate of authorization for the firm to
5 practice engineering or land surveying.

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

10 "(g) (1) A certificate of authorization shall expire
11 on the date designated by the board and shall become invalid
12 after that date unless renewed. It shall be the duty of the
13 board to notify every firm holding a certificate of
14 authorization under this chapter of the date of the expiration
15 of the certificate of authorization and the fee required for
16 its renewal. The board shall establish the renewal fee which
17 shall not exceed two hundred fifty dollars (\$250).

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

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

1 "(h) A firm whose certificate of authorization has
2 expired due to nonrenewal but is still eligible for
3 reinstatement shall continue to be subject to this chapter and
4 the rules of the board until the certificate of authorization
5 is revoked by action of the board or becomes no longer
6 eligible for reinstatement.

7 "\$34-11-10.

8 ~~"It shall be unlawful for the state or any of its~~
9 ~~departments, boards, or agencies or any county, municipality,~~
10 ~~or political subdivision, or any department, board, or agency~~
11 ~~of any county, municipality, or political subdivision to~~
12 ~~engage in the construction of any public work involving the~~
13 ~~practice of engineering unless the engineering drawings,~~
14 ~~plans, specifications, and estimates have been prepared by and~~
15 ~~the construction executed under the direct supervision of a~~
16 ~~professional engineer~~ A state, county, or local government
17 agency or authority, or an official or employee thereof, may
18 not engage in the practice of engineering or land surveying
19 involving either public or private property without the
20 project being under the responsible charge of a professional
21 engineer for engineering projects or a professional land
22 surveyor for land surveying projects as provided for the
23 practice of the respective professions by this chapter;
24 provided, that nothing in this chapter shall be held to apply
25 to any public work wherein the expenditure for the complete
26 project of which the work is a part does not exceed \$20,000.

27 "\$34-11-11.

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

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

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

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

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

25 "~~(5) An offense in another jurisdiction resulting in~~
26 ~~revocation, suspension, or voluntary surrender, to avoid~~
27 ~~disciplinary proceedings, of a license or certificate of~~

1 ~~licensure, including any agreement or stipulation executed by~~
2 ~~a licensee to avoid formal disciplinary proceedings~~
3 Voluntarily surrendering a professional engineer's license, a
4 professional land surveyor's license, an engineer intern's
5 certification, a land surveyor intern's certification, a
6 firm's engineering certificate of authorization, or a firm's
7 land surveying certificate of authorization in order to avoid
8 disciplinary action by another jurisdiction, foreign country,
9 or the United States government if at least one of the grounds
10 for the disciplinary action is the same or substantially
11 equivalent to those contained in this chapter.

12 "(6) Conviction of or entry of a plea of guilty or
13 nolo contendere to any crime that is a felony, whether or not
14 related to the practice of engineering or land surveying; or
15 conviction of or entry of a plea of guilty or nolo contendere
16 to any crime, whether a felony, misdemeanor, or otherwise, an
17 essential element of which is dishonesty or which is directly
18 related to the practice of engineering or land surveying.

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

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

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

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

1 "(11) Violating any term of any order imposed or
2 agreed to by the board or using a seal or practicing
3 engineering or land surveying while the licensee's license or
4 the firm's certificate of authorization is inactive or
5 restricted.

6 "(12) Signing, affixing, or permitting the
7 licensee's seal or signature to be affixed to any
8 specification, report, drawing, plan, plat, design
9 information, construction document or calculation, survey, or
10 revision that has not been prepared by the licensee or under
11 the licensee's responsible charge.

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

15 "(14) Providing false testimony or information to
16 the board.

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

19 "(16) Practicing engineering or land surveying in a
20 branch office not under the day-to-day supervision of a
21 licensed professional engineer or professional land surveyor,
22 respectively.

23 "(b) The board shall have the power to impose any or
24 all of the disciplinary penalties set forth in this section
25 against a ~~corporation, partnership, or~~ firm holding a
26 certificate of authorization, when any one or more of the
27 agents, employees, officers, partners, or owners of the

1 ~~corporation, partnership, or firm, licensed or nonlicensed,~~
2 have committed any act, or have been guilty of any conduct,
3 which could authorize the imposition of any of the
4 disciplinary penalties set forth in this section. The acts or
5 conduct by the persons must have been related to the practice
6 of or offer to practice of engineering or land surveying by
7 the ~~corporation, partnership, or firm~~ and that the acts or
8 conduct must have been performed or occurred within the scope
9 of the employment of any such person and with the
10 authorization, ratification, or approval of an officer,
11 director, principal, partner, or owner of the ~~corporation,~~
12 ~~partnership, or firm.~~

13 ~~"(c) Any person may file a complaint alleging a~~
14 ~~violation of this section against any individual licensee,~~
15 ~~certified intern, or corporation, partnership, or firm holding~~
16 ~~a certificate of authorization. The complaints shall be in~~
17 ~~writing and shall be filed with the executive director of the~~
18 ~~board.~~

19 ~~"(d) The board may designate a person or persons to~~
20 ~~investigate and report to it on any matter related to its~~
21 ~~lawful duties and may employ legal counsel as the board may~~
22 ~~deem necessary or desirable. An investigation may be made upon~~
23 ~~receipt of a complaint or may be initiated by the board. The~~
24 ~~board may resolve violations by agreement between the board~~
25 ~~and the licensee with or without the filing of formal charges.~~

26 ~~"(e) Following an investigation, charges may be~~
27 ~~filed against any individual licensee, certificated intern, or~~

1 ~~corporation, partnership, or firm holding a certificate of~~
2 ~~authorization. The charges shall conform to the Administrative~~
3 ~~Procedure Act.~~

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

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

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

26 ~~"(i) If after the hearing three or more members of~~
27 ~~the board vote in favor of finding the accused guilty, the~~

1 ~~board shall impose one or more of the disciplinary penalties~~
2 ~~set forth in this section. Any fine imposed may not exceed two~~
3 ~~thousand five hundred dollars (\$2,500) for each count or~~
4 ~~separate offense. The written decision of the board shall be~~
5 ~~delivered personally to the accused or sent by certified mail,~~
6 ~~return receipt requested, to the last known address of the~~
7 ~~accused.~~

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

20 ~~"(k) The board shall revoke the certificate of any~~
21 ~~licensee or certified intern who has been determined to be one~~
22 ~~of the following:~~

23 ~~"(1) Declared non compos mentis by a court of~~
24 ~~competent jurisdiction.~~

25 ~~"(2) Convicted of or entered a plea of guilty or~~
26 ~~nolo contendere to any crime under the laws of the United~~
27 ~~States or any state or territory thereof, which is a felony,~~

1 ~~whether related to practice or not and convicted of or entered~~
2 ~~a plea of guilty or nolo contendere to any crime, whether a~~
3 ~~felony, misdemeanor, or otherwise, an essential element of~~
4 ~~which is dishonesty or which is directly related to the~~
5 ~~practice of engineering or land surveying.~~

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

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

18 "(c) Each day of a continued violation may
19 constitute a separate offense.

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

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

9 "(e) In addition to or in lieu of any other sanction
10 provided in this section, any licensee, intern, or
11 certificated firm that violates a provision of this chapter or
12 any board rule may be assessed a fine in an amount determined
13 by the board of not more than five thousand dollars (\$5,000)
14 for each count or separate offense.

15 "§34-11-12.

16 The board, for reasons it may deem sufficient, may
17 reissue a certificate of licensure or intern certification to
18 any person or certificate of authorization to any ~~corporation,~~
19 ~~partnership, or~~ firm whose certificate has been revoked,
20 provided ~~three or more members~~ a majority of the board vote in
21 favor of reissuance. The board shall not consider reissuance
22 of a certificate to any person whose certificate has been
23 revoked because of non compos mentis until after the person
24 has been declared to have fully regained his or her competency
25 by a court of competent jurisdiction. The board shall not
26 consider the reissuance of a certificate to a person who was
27 convicted of a felony or entered a plea of guilty or nolo

1 contendere to a felony until the civil rights of the person
2 have been restored, and then a ~~unanimous~~ majority approval
3 vote of the board concerning reissuance shall be required. ~~A~~
4 ~~new certificate to replace any certificate revoked, lost,~~
5 ~~destroyed, or mutilated or for any other reason may be issued,~~
6 ~~subject to the rules of the board, and a charge of twenty-five~~
7 ~~dollars (\$25) shall be made for such issuance.~~

8 "§34-11-13.

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

18 "§34-11-14.

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

21 "(1) The practice of any other legally recognized
22 profession or trade.

23 "(2) The work of an engineer intern or land surveyor
24 intern, employee, or a subordinate of any person holding a
25 certificate of licensure under this chapter, or any employee
26 of a person practicing lawfully under paragraph b of
27 subdivision (1) of Section 34-11-4, ~~if the work is done under~~

1 ~~the responsibility and supervision of a person holding a~~
2 ~~certificate of licensure under this chapter or a person~~
3 ~~practicing lawfully under paragraph b of subdivision (1) of~~
4 ~~Section 34-11-4~~ provided the work does not include final
5 engineering or land surveying designs or decisions and is done
6 under the responsible charge of and verified by an individual
7 holding a certificate of licensure under this chapter.

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

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

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

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

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

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

17 "§34-11-15.

18 ~~"(a) Any person who shall practice, offer to~~
19 ~~practice, or hold himself or herself out as qualified to~~
20 ~~practice engineering or land surveying in this state or use in~~
21 ~~connection with his or her name or otherwise assume, use, or~~
22 ~~advertise any title or description including, but not limited~~
23 ~~to, the term engineer, engineers, engineering, or professional~~
24 ~~engineer, professional engineers, or professional engineering,~~
25 ~~or land surveyor, land surveyors, land surveying, or~~
26 ~~professional land surveyor, professional land surveyors, or~~
27 ~~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 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 any other licensee~~
10 ~~of like or different name, or any person who shall attempt to~~
11 ~~use an expired, suspended, surrendered, or revoked certificate~~
12 ~~of licensure, or any person who shall violate this chapter,~~
13 shall be guilty of a Class A misdemeanor and punished as
14 provided by law. Each day of the violation shall be a separate
15 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) (b)~~ It shall be the duty of all duly
21 constituted officers of law of this state, or any political
22 subdivision thereof, to enforce this chapter, and to prosecute
23 any persons, firms, partnerships, or corporations for
24 violating this chapter. The Attorney General of the state or
25 his or her assistants shall act as legal advisor to the board
26 and render legal assistance to the board as may be necessary

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

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

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

1 engaging in such unlawful activity, conduct, practice, or
2 performance of work pending the hearing on a preliminary
3 injunction and in due course a permanent injunction shall
4 issue after the hearing commanding the cessation of the
5 unlawful activity, conduct, practice, or performance of work
6 complained of, all without the necessity of the board having
7 to give bond. A temporary restraining order preliminary
8 injunction, or permanent injunction issued pursuant to this
9 chapter shall not be subject to being released on bond. In the
10 suit for an injunction, the board may demand of the defendant
11 a fine of up to five thousand dollars (\$5,000) plus costs and
12 attorney fees for each offense. A judgment for penalties,
13 attorney fees, and costs may be rendered in the same judgment
14 in which the injunction is made absolute. The trial of the
15 proceeding by injunction shall be summary and by the trial
16 judge without jury. Anyone violating this chapter who fails to
17 cease work, after a hearing and notification from the board,
18 shall not be eligible to apply for a professional engineer's
19 or professional land surveyor's license for a period not to
20 exceed one year from the date of official notification to
21 cease work. It shall be within the power of the board to
22 withhold approval for up to six months, of any application
23 from anyone who prior to the application has been found in
24 violation of this chapter.

25 "§34-11-30.

26 "(a) A State Board of Licensure for Professional
27 Engineers and Land Surveyors is created. It shall be the duty

1 of the board to administer this chapter. The board shall
2 consist of five professional engineers, ~~and two professional~~
3 ~~land surveyors, and two public members.~~ All members shall be
4 appointed by the Governor. ~~The Commencing on July 1, 2014, the~~
5 five professional engineers shall be appointed ~~by the Governor~~
6 from a list of three persons nominated for each appointment by
7 a committee and the two land surveyors shall be appointed ~~by~~
8 ~~the Governor~~ from a list of three persons nominated for each
9 appointment by the Alabama Society of Professional Land
10 Surveyors. Nominations for the licensed positions shall be
11 made to the Governor by the committee or the Alabama Society
12 of Professional Land Surveyors, respectively, as vacancies on
13 the board occur, whether by the expiration of a term or
14 otherwise, in a position filled by a professional engineer or
15 land surveyor, respectively. To the extent possible, the
16 nominating committee, the Alabama Society of Professional Land
17 Surveyors, and the Governor shall select those persons whose
18 appointments ensure that the membership of the board is
19 inclusive and reflects the racial, gender, geographic,
20 urban/rural, and economic diversity of the state. Each member
21 of the board, before beginning his or her term of office,
22 shall file with the Secretary of State his or her written oath
23 or affirmation for the faithful discharge of his or her
24 duties.

25 " (b) The nominating committee shall consist of one
26 professional engineer appointed or elected by each of the
27 professional organizations as outlined in the rules of the

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

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

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

17 "§34-11-31.

18 "(a) Board members shall at all times maintain
19 eligibility to serve on the board avoiding relationships that
20 would interfere with the board mission of protecting public
21 health, safety, and welfare. Board members must be especially
22 cognizant of issues of conflict of interest, including, but
23 not limited to, participation in the state or national
24 professional associations.

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

1 "(c) Each licensed professional engineer or licensed
2 professional land surveyor ~~who holds~~ shall hold an unexpired
3 certificate under this chapter, ~~who has been engaged in the~~
4 and shall have been licensed to practice ~~of~~ engineering or
5 land surveying, respectively, for at least 12 years, ~~and who~~
6 ~~has been in responsible charge of important engineering or~~
7 ~~land surveying, respectively, work for at least five years.~~

8 "(d) Each public member of the board shall be a
9 resident of this state who is at least 40 years of age and is
10 not, and never was, a professional engineer or professional
11 land surveyor, a spouse, child, parent, or sibling of a
12 professional engineer or professional land surveyor, an
13 individual who has ever had any material financial interest in
14 the profession of engineering or land surveying services, or
15 who has engaged in any activity directly related to the
16 practice of engineering or land surveying.

17 "§34-11-32.

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

26 "§34-11-34.

1 "The board shall hold at least two regular meetings
2 each year. The two regular meetings of the board shall be held
3 in the City of Montgomery, ~~Alabama~~. The legal office of the
4 board shall be located in the City of Montgomery. Special
5 meetings shall be held at the time and place as the rules of
6 the board may provide. Notice of all meetings shall be given
7 as the rules provide. The board shall elect or appoint
8 annually from among its members the following officers: A
9 chair, a vice chair, and a secretary. A quorum of the board
10 shall consist of a simple majority of the board membership.

11 "§34-11-35.

12 "(a) The board shall have the power to adopt and
13 amend bylaws, and rules, ~~and regulations~~, not inconsistent
14 with the constitution and laws of this state, as may be
15 reasonably necessary for the proper performance of its duties
16 and the ~~regulations of the proceedings before it~~ regulation of
17 its procedures, meetings, records, examinations, and conduct.
18 The board shall have the power to adopt and amend from time to
19 time rules of professional conduct for professional engineers,
20 engineer interns, professional land surveyors, land surveyor
21 interns, and corporations, partnerships, or firms holding
22 certificates of authorization. Members of the board shall not
23 be personally liable for its actions to carry out its duties
24 under this chapter. The board shall adopt and have an official
25 seal, which shall be affixed to each certificate issued.

26 "(b) In carrying into effect its duties in any case
27 involving the revocation of licensure or any disciplinary

1 proceeding involving a licensee or the holder of a certificate
2 of authorization or practicing or offering to practice without
3 licensure, or false statement in connection with an
4 application for licensure, the board may, under the hand of
5 its chair and the seal of the board, subpoena witnesses and
6 compel their attendance, and may also require the production
7 of books, papers, documents, and other pertinent data. Any
8 member of the board may administer oaths or affirmations to
9 witnesses appearing before the board. If any person refuses to
10 obey any subpoena issued, or refuses to testify or produce any
11 books, papers, or documents, the board may present its
12 petition to the Circuit Court of Montgomery County, ~~Alabama,~~
13 setting forth the facts, and thereupon the Circuit Court of
14 Montgomery County shall, in a proper case, issue its subpoena
15 to such person, requiring his or her attendance before the
16 Circuit Court of Montgomery County and there to testify or to
17 produce such books, papers, and documents, or data. Any person
18 failing or refusing to obey the subpoena or order of the
19 Circuit Court of Montgomery County may be proceeded against in
20 the same manner as for refusal to obey any other subpoena or
21 order of the Circuit Court of Montgomery County.

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

1 "(d) The board, ~~for good cause, may apply for relief~~
2 ~~by injunction,~~ in its own name, may apply for relief by
3 injunction in the established manner provided in cases of
4 civil procedure, without bond, to enforce the provisions of
5 this chapter or to restrain any person, firm, partnership, or
6 corporation from the commission of any act which is
7 prohibited by this chapter. In such proceedings it shall not
8 be necessary to allege or prove either that an adequate remedy
9 at law does not exist, or that substantial and irreparable
10 damage would result, from the continued violation thereof.
11 Application for the injunction may be made to the Circuit
12 Court of Montgomery County, ~~Alabama,~~ or the circuit court of
13 the county in which it is alleged that the violation is about
14 to occur, at the request of the board. The injunction may not
15 be granted ex parte, and any judgment or decree may be
16 appealed in the manner prescribed by law to the Supreme Court
17 of Alabama.

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

1 "(f) In carrying out the duties, functions, and
2 obligations of this chapter, the board may contract with any
3 state agency or private vendor as the board considers as
4 appropriate. The board may also enter contracts to acquire,
5 own, encumber, issue, replace, deal in, and dispose of real
6 and personal property.

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

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

16 "(i) The board may use electronic transmissions for
17 all purposes permitted under the Uniform Electronic
18 Transactions Act.

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

26 "(k) For purposes of enforcement of all provisions
27 of this chapter and board rules, including the assessment and

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

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

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

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

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

4 "\$34-11-36.

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

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

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

3 "§34-11-37.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 Section 2. Sections 34-11-1.1, 34-11-9.1,
23 34-11-11.1, and 34-11-11.2 are added to the Code of Alabama
24 1975, to read as follows:

25 §34-11-1.1.

26 The practices of engineering and land surveying in
27 the State of Alabama are declared professional practices

1 affecting public health, safety, and welfare and are subject
2 to regulation and control in the public interest. It is
3 further declared to be a matter of public interest and concern
4 that the practices of engineering and land surveying, as
5 defined in the chapter, merit and receive the confidence of
6 the public and that only qualified persons be permitted to
7 engage in the practices of engineering and land surveying in
8 Alabama. This chapter shall be liberally construed to carry
9 out these objectives and purposes.

10 §34-11-9.1.

11 A duplicate certificate of licensure, intern
12 enrollment document, or certificate of authorization may be
13 issued subject to the rules of the board. A fee established
14 by rules shall be paid for each issuance.

15 §34-11-11.1.

16 (a) In addition to any other provisions of law, the
17 board shall have the power to levy a civil penalty and recover
18 costs from any individual or firm who is found guilty of any
19 of the following:

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

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

1 (3) Presenting or attempting to use the certificate
2 of licensure or seal of a professional engineer or
3 professional land surveyor or attempting to use an
4 unauthorized certificate of authorization.

5 (4) Engaging in any fraud or deceit in obtaining or
6 attempting to obtain a certificate of licensure, intern
7 certification, or certificate of authorization.

8 (5) Impersonating any professional engineer or
9 professional land surveyor or any firm holding a certificate
10 of authorization.

11 (6) Using or attempting to use a revoked or
12 non-existent certificate of licensure, intern certification,
13 or certification of authorization or an expired certificate of
14 licensure or certificate of authorization not eligible for
15 reinstatement.

16 (b) Each day of continued violation may constitute a
17 separate offense.

18 (c) In addition to any other sanction provided in
19 this chapter, the board shall have the power to levy a civil
20 penalty and recover costs from any firm where one or more of
21 its managing agents, officers, directors, owners, or managers
22 have been found guilty of any conduct that would constitute a
23 violation under the provisions of this chapter or any board
24 rule.

25 (d) A civil penalty assessed under this section may
26 not exceed five thousand dollars (\$5,000) for each count or

1 separate offense. The civil penalty is payable to the General
2 Fund.

3 §34-11-11.2.

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

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

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

24 (d) With the consent of the respondent, the board
25 may conduct an informal hearing without meeting the
26 requirements of the Administrative Procedure Act at which no

1 action shall be taken other than a reprimand, public or
2 private.

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

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

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

13 (1) Declared non compos mentis by a court of
14 competent jurisdiction.

15 (2) Convicted of or entered a plea of guilty or nolo
16 contendere to any crime under the laws of the United States or
17 any state or territory, which is a felony, whether related to
18 practice or not or convicted of or entered a plea of guilty or
19 nolo contendere to any crime, whether a felony, misdemeanor,
20 or otherwise, an essential element of which is dishonesty or
21 which is directly related to the practice of engineering or
22 land surveying.

23 (j) When a member of the board is unable to continue
24 the hearing either by disqualification or for any other
25 reason, and the board is unable to reach a quorum. These ex
26 officio members shall serve on the board only for that hearing
27 for which they were appointed and they may be reappointed for

1 subsequent hearings if necessary. Ex officio members must meet
2 the same board member qualifications as outlined in this
3 chapter.

4 (k) The respondent shall be responsible for the cost
5 of the disciplinary action if found guilty.

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

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

11 (2) The circumstances leading to the violation.

12 (3) The severity of the violation and the risk of
13 harm to the public.

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

16 (5) Consistency of the fine or civil penalty with
17 past fines or civil penalties for similar offenses, or
18 justification for the fine or civil penalty amount.

19 (m) An action may be brought in the Circuit Court of
20 Montgomery County to require compliance with any order of the
21 board.

22 (n) When an order for recovery of costs is made and
23 timely payment is not made as directed in the board's
24 decision, the board may enforce the order for payment in the
25 Circuit Court of Montgomery County. This right of enforcement
26 shall be in addition to any other rights the board may have as
27 to any person directed to pay costs.

1 (o) In any action for recovery, the board's decision
2 shall be conclusive proof of the validity of the order of
3 payment and the terms for payment.

4 Section 3. Section 34-11-16, Code of Alabama 1975,
5 is repealed.

6 Section 4. This act shall become effective on the
7 first day of the third month following its passage and
8 approval by the Governor, or its otherwise becoming law.