

STATE OF ALABAMA

CHAPTER 11
ENGINEERS AND LAND SURVEYORS

BOARD OF REGISTRATION FOR
PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

Article 1
General Provisions.

ALABAMA LAW REGULATING PRACTICE
OF ENGINEERING AND LAND SURVEYING



CODE OF ALABAMA 1975

TITLE 34
CHAPTER 11

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ARTICLE 1.
GENERAL PROVISIONS.

Section 34-11-1. Definitions.

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

- (1) BOARD. The state board of registration for profes-

sional engineers and land surveyors, provided for by section 34-11-30.

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

(3) **ENGINEER-IN-TRAINING.** A candidate for registration as a professional engineer who is:

a. A graduate in an approved engineering curriculum of four academic years or more from a school or college approved by the board as of satisfactory standing; and who, in addition, has successfully passed an eight-hour written examination in the fundamental engineering subjects as provided in section 34-11-6, and who shall have received from the board a certificate stating that he has successfully passed this portion of the professional examination, as prescribed under the provisions of this chapter; or

b. A person who has had four years or more of experience in engineering work of a character satisfactory to the board; and who, in addition, has successfully passed an eight-hour written examination in the fundamental engineering subjects as provided in section 34-11-6, and who shall have received from the board a certificate stating that he has successfully passed this portion of the professional examination, as prescribed under the provisions of this chapter.

(4) **PRACTICE OF ENGINEERING.** Any professional service or creative work requiring engineering education, training and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning the use of lands and waters, planning, design and supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works or projects wherein the public welfare or safeguarding of life, health or property is involved. The term shall not, however, include the practice of architecture except such architectural work as is incidental to the practice of professional engineering; nor shall the term include work ordinarily performed by persons who operate or maintain machinery or equipment.

(5) **LAND SURVEYOR.** A person who engages in the practice of land surveying as hereinafter defined and who has

been registered by the board as a land surveyor.

(6) **LAND SURVEYING.** The practice of land surveying as used in this chapter includes surveying of lines, areas, volumes, and underground mine workings for their correct determination and description and for conveyancing, or for the establishment or reestablishment of land boundaries and the plotting of lands and subdivisions thereof.

(7) **PRACTICE AND OFFER TO PRACTICE.** A person shall be construed to practice or offer to practice engineering or land surveying, within the meaning and intent of this chapter, who offers to or does as a profession practice any branch of engineering or land surveying; or who by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself to be a professional engineer, or through the use of some other title implies that he is a professional engineer; or who represents himself as able to perform or who does perform any engineering service.

(8) **RESPONSIBLE CHARGE.** The direction of the design, evaluation, investigation, alteration, construction or maintenance of projects requiring initiative, professional skill, technical knowledge and independent judgment, or teaching experience with the rank equivalent to assistant professor or higher in an approved engineering curriculum.

Section 34-11-2. Practice of engineering and land surveying regulated.

(a) No person in either public or private capacity shall practice or offer to practice engineering or land surveying, unless he shall first have submitted evidence that he is qualified so to practice and shall be registered by the board as hereinafter provided or unless he is specifically exempted from registration under the provisions of this chapter.

(b) In order to safeguard life, health and property, and to promote the public welfare, the practice of engineering in this state is hereby declared a learned profession to be practiced and regulated as such, and its practitioners in this state shall be held accountable to the state and members of the public by high professional standards in keeping with the ethics and practices of the other learned professions in this state. It shall be unlawful for any person to practice or offer to practice in this state engineering, as defined by this chapter, or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a professional engineer unless such person has been duly registered or is exempt from registration under the provisions of this chapter; provided, that any person whose firm name shall have contained the word "engineer," "engineers" or "engineering,"

or words of like import, for more than 15 years before September 12, 1966, shall not be prohibited from continuing the use of such word or words in his firm name.

(c) In order to safeguard life, health and property and to promote the public welfare, the practice of land surveying in this state is hereby declared to be a profession subject to regulation in the public interest. It shall be unlawful for any person to practice or offer to practice in this state land surveying, as defined by this chapter, or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a professional land surveyor unless such person has been duly registered or is exempt from registration under the provisions of this chapter.

Section 34-11-3. Roster of registrants.

A roster showing the names and addresses of all registered professional engineers, all who possess current certifications as engineers-in-training and all registered land surveyors shall be prepared by the secretary of the board during the month of March of each even-numbered year (biennially). Copies of this roster shall be mailed to each person so registered or certified, placed on file with the secretary of state, and may be distributed or sold to the public upon request.

Section 34-11-4. General requirements for registration or certification.

The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer, certification as an engineer-in-training or registration as a professional land surveyor, respectively:

(1) PROFESSIONAL ENGINEER.

a. Graduation and experience plus examination.

1. Graduation in an approved engineering curriculum plus four years experience. - A graduate of an approved engineering curriculum of four years or more from a school or college approved by the board as of satisfactory standing, and with a specific record of an additional four years or more of experience in engineering work of a grade and character satisfactory to the board, and indicating that the applicant may be competent to practice engineering shall be admitted to an eight-hour written examination in the fundamental engineering subjects and, after passing the examination in the fundamental engineering subjects, shall be admitted to an eight-hour written examination in the principles and practice of engineering. Upon passing the examinations, the applicant shall be granted a certificate of registration to practice engineering in this state,

provided he or she is otherwise qualified. In counting years of experience, the board at its discretion may give credit, not in excess of one year, for satisfactory graduate study in engineering.

2. Graduation in an unapproved engineering curriculum plus six years experience. - A graduate of an unapproved engineering curriculum of four years or more and with a specific record of six years or more of progressive experience in engineering work of a grade and character satisfactory to the board and indicating that the applicant may be competent to practice engineering shall be admitted to an eight-hour written examination in the fundamental engineering subjects, and after passing the examination in the fundamental engineering subjects shall be admitted to an eight-hour written examination in the principles and practice of engineering. Upon passing the examinations, the applicant shall be granted a certificate of registration to practice engineering in this state, provided he or she is otherwise qualified.

3. Graduation in an approved engineering technology or related science curriculum plus eight years experience. - A graduate of an approved engineering technology curriculum of four years or more from a school or college approved by the board or a graduate of a related science curriculum of four years or more and with a specific record of eight years or more of progressive experience in engineering work of a grade and character satisfactory to the board and indicating that the applicant may be competent to practice engineering shall be admitted to an eight-hour written examination in the fundamental engineering subjects, and after passing the examination in the fundamental engineering subjects shall be admitted to an eight-hour written examination in the principles and practice of engineering. Upon passing the examinations, the applicant shall be granted a certificate of registration to practice engineering in this state, provided he or she is otherwise qualified.

b. Experience plus examination. - Prior to December 31, 1992, an applicant having a specific record of twelve years or more of progressive experience in engineering work of a character and grade satisfactory to the board and indicating that the applicant may be competent to practice engineering shall be admitted to an eight-hour written examination in the fundamental engineering subjects, and after passing the examination in the fundamental engineering subjects shall be admitted to an eight hour written examination in the principles and practice of engineering. Upon passing the examinations, the applicant shall be granted a certificate of registration to practice engineering in this state, provided he or she is otherwise qualified.

c. Reciprocity. - The board may, upon application, issue a certificate of registration as a professional engineer to any

person who holds a valid certificate issued by a national examination organization for engineers and land surveyors as selected by the board, or of any state or territory or possession of the United States, the District of Columbia, or of any country; provided, that the qualifications of the applicant meet the requirements of this chapter and the rules established by the board. Such an applicant may, at the discretion of the board, be authorized to practice engineering on a temporary basis upon issuance of an interim permit which shall remain in effect until the board acts upon the application. The interim permit may be issued upon submission of documentation and a fee which shall be established by regulation of the board, not to exceed fifty dollars (\$50).

(2) ENGINEER-IN-TRAINING.

a. Graduation plus examination. Graduation plus training for Engineer-in-Training includes any of the following combinations:

1. Graduation in an approved engineering curriculum - A graduate of an approved engineering curriculum of four years or more from a school or college approved by the board as of satisfactory standing and successfully passing an eight-hour written examination in the fundamental engineering subjects.

2. Graduation in an unapproved engineering curriculum plus two years experience - A graduate of an unapproved engineering curriculum of four years or more and with a specific record of two years or more of progressive experience in engineering work of a grade and character satisfactory to the board and successfully passing an eight-hour written examination in the fundamental engineering subjects.

3. Graduation in an approved engineering technology or related science curriculum plus four years experience - A graduate of an engineering technology curriculum or of a related science curriculum of four years or more and with a specific record of four years or more of experience in engineering work of a grade and character satisfactory to the board and successfully passing an eight hour written examination in the fundamental engineering subjects.

b. Experience plus examination. - Prior to December 31, 1988, an applicant having a specific record of six years or more of experience in engineering work of a grade and character satisfactory to the board and successfully passing an eight-hour written examination in the fundamental engineering subjects.

c. Reciprocity. - Engineer-in-Training examinations of comparable character taken and passed in other states may be accepted by the board.

d. Engineer-in-Training Certification. - The certification of an engineer-in-training shall be valid for a period of 10 years except that applicants qualifying under paragraph b of subdivision (2) of this section, may not be qualified for registration as a professional engineer after December 31, 1992.

(3) PROFESSIONAL LAND SURVEYOR.

a. Graduation and experience plus examination

1. Graduation in an approved curriculum plus two years experience - A graduate of a school or college approved by the board as of satisfactory standing, including the completion of an approved course in surveying, with an additional two years or more of experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying, shall be admitted to an eight-hour written examination in the fundamentals of land surveying, and after passing the fundamentals shall be admitted to a four-hour written examination in the principles and practice of land surveying and a four-hour written examination on laws, procedures and practices pertaining to land surveying in this state. Upon passing the examinations, the applicant shall be granted a certificate of registration to practice land surveying in this state, provided he or she is otherwise qualified.

2. Graduation in an unapproved engineering curriculum plus four years experience - A graduate of an unapproved engineering curriculum of four years or more or a graduate of an approved land surveying technology curriculum and with a specific record of four years or more of progressive experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying shall be admitted to an eight-hour written examination in the fundamentals of land surveying, and after passing the fundamentals shall be admitted to a four-hour written examination in the principles and practice of land surveying and a four hour written examination on laws, procedures and practices pertaining to land surveying in this state. Upon passing the examinations, the applicant shall be granted a certificate of registration to practice land surveying in this state, provided he or she is otherwise qualified.

b. Experience plus examination. - An applicant having a specific record of eight years or more of experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying shall be admitted to an eight-hour written examination in the fundamentals of land surveying, and after passing the fundamentals shall be admitted to a four-hour written examination in the principles and practice of land surveying and a four-hour written examination on laws, procedures and practices pertaining to land surveying in this state. Upon passing the

examinations, the applicant shall be granted a certificate of registration to practice land surveying in this state, provided he or she is otherwise qualified.

(4) **CHARACTER.** - No person shall be eligible for registration as a professional engineer, certification as an engineer-in-training or registration as a professional land surveyor who is not of good character and reputation.

(5) **TEACHING CREDITS.** - In considering the qualifications of applicants, engineering teaching with the rank equivalent to assistant professor or higher in an engineering curriculum approved by the board may be construed as equivalent to engineering experience.

(6) **NONPRACTICING APPLICANTS.** - Any person having the necessary qualifications prescribed in this chapter to entitle him or her to registration shall be eligible for registration although not practicing his or her profession at the time of making application.

34-11-5. Applications; registration fees.

(a) Applications for registration as a professional engineer or professional land surveyor shall be on forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and detailed summary of his technical work, and shall contain not less than five references. Three or more of the references contained in an application for registration as a professional engineer shall be professional engineers having personal knowledge of the applicant's engineering experience. Three or more of the references contained in an application for professional land surveyor shall be professional engineers also registered as professional land surveyors or professional land surveyors having personal knowledge of the applicant's land surveying experience. The forms shall contain the rules of professional conduct (code of ethics) prescribed by the board for the classification under this chapter.

(b) The registration fee for professional engineers or professional land surveyors shall be \$50.00, \$25.00 of which shall accompany the application, the remaining \$25.00 shall be paid when registration is granted. Should the applicant fail or refuse to remit the said remaining \$25.00 within 30 days after being notified, in the usual manner, that the applicant has successfully qualified, the applicant shall forfeit the right to have a certificate so issued and said applicant may be required again to submit an original application and pay an original fee therefor. The registration of persons qualifying for a combined certificate as "professional engineer and professional land surveyor" shall conform to the requirements set forth both for "professional engineer" and for "professional land surveyor."

(c) Application for certification as engineer-in-training shall be on a form prescribed by the board, and shall contain statements made under oath, showing the applicant's education; and the form shall contain the rules of professional conduct (code of ethics) prescribed by the board for the classification under this chapter.

(d) The fee for engineer-in-training shall be set by the board and shall not exceed \$50.00. This fee shall accompany the application and shall include the cost of the next scheduled fundamentals of engineering examination. Any applicant who fails to appear for the examination or fails to pass the examination must file a new application and pay the prescribed fee in order to be admitted to another examination.

(e) The fee for a certificate of authorization for a corporation, partnership or firm shall be set by the board and shall not exceed \$100.00, and shall accompany the application.

(f) Should the board deny the issuance of a certificate of registration to any applicant, or the certificate of authorization to any corporation, partnership or firm, the initial fee deposited shall be retained as an application fee.

Section 34-11-6. Examinations.

(a) When oral or written examinations are required, they shall be held at such time and place as the board shall determine and upon payment of an examination fee. When examinations are required on fundamental engineering subjects, such as are ordinarily given in college curricula, the applicant shall be permitted to take this part of the professional examination prior to his completion of the requisite years of experience in engineering work, and satisfactory passage of this portion of the professional examination by the applicant shall constitute a credit toward registration as a professional engineer.

(b) The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise engineering works so as to insure the safety of life, health and property. Examinations shall be given for the purpose of determining the qualifications of applicants for registration separately in engineering and in land surveying. A candidate failing one examination may apply for reexamination. Reexamination will be granted upon payment of a fee to be determined by the board.

(c) The fees for examination, reexamination and regrading of an examination shall be set by the board and shall not exceed \$100.00.

Section 34-11-7. Issuance of certificate; seal.

(a) The board shall issue a certificate of registration upon payment of registration fee as provided for in this chapter to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter. In the case of a professional engineer, the certificate shall authorize the practice of engineering. In the case of an engineer-in-training, the certification shall state that the applicant has successfully passed the examination in fundamental engineering subjects required by the board, and that the applicant has been enrolled as an engineer-in-training. In the case of a professional land surveyor, the certificate shall authorize the practice of land surveying. In the case of a professional engineer and professional land surveyor, the certificate shall authorize the practice of engineering and land surveying. Certificates of registration shall show the full name of the registrant, shall have a serial number and shall be signed by the chairman and the secretary of the board under the seal of the board.

(b) The issuance of a certificate of registration by this board shall be prima facie evidence that the person named therein is entitled to all the rights and privileges of a professional engineer, or of a professional land surveyor while the said certificate remains unrevoked or unexpired.

(c) Each professional engineer may upon registration obtain a seal of the design authorized by the board, bearing the registrant's name, registration number, and the legend, "registered professional engineer." Engineering drawings, plans, specifications, plats and reports issued by a registrant or by qualified persons under his direction and for which he assumes full responsibility shall be certified in accordance with this chapter during the life of the registrant's certificate, but it shall be unlawful for anyone to stamp or seal any documents with said seal, signature or facsimile after the certificate of the registrant named thereon has expired or has been revoked, unless said certificate shall have been renewed or reissued.

(d) Each professional land surveyor may upon registration obtain a seal of the design authorized by the board, bearing the registrant's name, registration number, and the legend, "registered professional land surveyor." Land plats, legal descriptions of lands and land surveying reports issued by a registrant or by qualified persons under his direction and for which he assumes full responsibility shall be certified in accordance with this chapter during the life of the registrant's certificate, but it shall be unlawful for anyone to stamp or seal any documents with said seal, signature or facsimile after the certificate of the registrant named thereon has expired or has been revoked, unless said certificate shall have been reissued.

Section 34-11-8. Expiration and renewal of certificates.

(a)(1) Certificates of registration for professional engineers and professional land surveyors shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed. The amount of the renewal fee shall be set by the board and shall not exceed \$50.00. It shall be the duty of the secretary of the board to notify every person registered under this chapter of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one year; such notice shall be mailed to the registrant's last address recorded by the secretary of the board and shall be mailed at least one month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of December by payment of a fee. The failure on the part of any registrant to renew his certificate annually in the month of December as required above shall not deprive such person of the right of renewal, but the fee to be paid shall be increased 10 percent for each month or a fraction of a month that payment of renewal is delayed; provided, however, that the maximum time for renewal shall not exceed six months. The board, in its discretion, may make an exception to the foregoing renewal provisions in the case of a person who is in the armed service of the United States.

(2) The board shall adopt a program of continuing education for its individual licensees, pursuant to this subsection (a), not later than October 1, 1993, and after said date no individual licensee shall have his license renewed unless, in addition to any other requirements of this chapter, the minimum continuing annual education requirements are met. It is further provided that the continuing education program herein required shall not include testing or examination of the licensees in any manner.

(b) Certificates of enrollment for engineers-in-training shall expire on the last day of the month of December following their issuance or renewal. The notification to holders of certificates of enrollment shall be processed as prescribed above for registrants except that the annual renewal fee shall not be less than \$2.00 nor more than \$5.00. The failure on the part of any holder of a certificate of enrollment to effect renewal shall not invalidate his status as an engineer-in-training, but his name shall, after 90 days, be removed from the Board's current mailing list. The fee to bring an enrollment current after a renewal expiration shall be twice that established for annual renewal.

(c) Certificates of authorization issued to corporations, partnerships or firms practicing or offering to practice engineering or land surveying under the provisions of this chapter shall expire on the last day of the month of December following their

issuance or renewal and shall become invalid on that date unless renewed. The amount of the renewal fee shall be set by the board and shall not exceed \$100.00. It shall be the duty of the secretary of the board to notify every corporation, partnership or firm holding a certificate of authorization under this chapter of the date of expiration of such certificate and the amount of the fee which shall be required for its renewal for one year; such notice shall be mailed to the last address recorded by the secretary for the corporation, partnership or firm. Such notice shall be mailed by the secretary at least one month in advance of the date of expiration of said certificate. Renewals may be effected at any time during the month of December by payment of the required fee. If renewal is not effected during the month of December a late renewal penalty of \$50.00 shall be paid upon renewal, which shall be payable in addition to any applicable renewal fee. Failure by the corporation, partnership or firm to renew its certificate of authorization during the month of December shall cause said certificate to expire, and it shall be unlawful for said corporation, partnership or firm to practice, offer to practice or hold itself out as qualified to practice engineering or land surveying in Alabama following the expiration of said certificate of authorization. A certificate of authorization not renewed within two years after it has expired shall become null and void. The Board may, for good reason shown, reissue a certificate of authorization to any corporation, partnership or firm whose certificate has become null and void. A fee to be set by the board and not to exceed \$100.00 shall be charged the corporation, partnership or firm for such reissue.

Section 34-11-9. Corporate and partnership practice.

(a) *Engineering incidental to production, manufacture, transportation, public utilities or affiliates thereof.* - The practice of engineering or land surveying incidental to or in connection with production, manufacture, transportation, distribution or communication may be carried on by any person, partnership, firm or corporation engaged in such production, manufacture, transportation, distribution or communication if such engineering services are performed by or under the direction of a professional engineer or engineers registered in conformity with this chapter. All drawings, plans, specifications, plats and reports involving the practice of engineering shall when issued be dated and bear the seal or facsimile of such seal or signature and registration number of the professional engineer in responsible charge thereof.

(b) *Engineering Services offered to the public; certificate of authorization required.* - The practice of or offer to practice engineering and land surveying as defined in section 34-11-1 by individual professional engineers or professional land surveyors registered under this chapter through a corporation, partnership or firm offering engineering services or land

surveying services to the public through individual registered professional engineers or professional land surveyors, as agents, employees, officers or partners, is permitted subject to the provisions of this chapter; provided, that one or more of the principal officers of such corporation or firm or partners of such partnership and all personnel of such corporation, partnership or firm who act in its behalf as professional engineers or professional land surveyors in this state are registered as provided by this chapter, or are persons lawfully practicing under section 34-11-14, and further provided, that said corporation, partnership or firm has been issued a certificate of authorization by the board as provided herein. All final drawings, specifications, plans, reports, or other engineering papers or documents involving the practice of engineering or land surveying as defined in section 34-11-1 of this chapter which shall have been prepared or approved for the use of such corporation, partnership or firm or for delivery to any person or for public record within the state shall be dated and bear the signature and seal of the professional engineer or professional land surveyor who prepared or approved them. Nothing in this section should be construed to mean that a certificate of registration to practice engineering or land surveying shall be held by a corporation, partnership or firm.

(c) *Joint practice authorized.* - Nothing in this section prohibits an individual, corporation, firm or partnership from joining together to practice, offering to practice or holding themselves out as qualified to practice engineering or land surveying provided that such individual, corporation, firm or partnership meets all other provisions of this section.

(d) *Liability generally.* - No such corporation, firm or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, officers or partners by reason of its compliance with the provisions of this section, nor shall any individual practicing engineering or land surveying as defined in section 34-11-1 be relieved of responsibility for such work performed by reason of employment, association or relationship with such corporation, partnership or firm.

(e) *Application for certificate of authorization.* - A corporation, partnership or firm desiring a certificate of authorization shall file with the Board an application upon such a form to be prescribed by the board and the designation required by the following subsection, accompanied by the registration fee prescribed by section 34-11-5(e) of this chapter.

(f) *Filing names and addresses of officers, etc., required.* - A corporation or firm shall file with the board, using a form provided by the Board, the names and addresses of all officers and board members of the corporation or firm including the principal officer or officers duly registered to practice

engineering or land surveying in this state, who shall be in responsible charge of the practice or offering to practice of engineering or land surveying in this state by said corporation or firm and also of the individual or individuals duly registered to practice or offer to practice engineering or land surveying in this state who shall also be in responsible charge of practicing or offering to practice engineering or land surveying in this state by said corporation or firm. A partnership shall file with the board using a form provided by the board, the names and addresses of all partners, including the partner or partners duly registered to practice engineering or land surveying in this state, and also of an individual or individuals duly registered to practice engineering or land surveying in this state who shall be in responsible charge of the practice of engineering or land surveying in this state by said partnership. This same form, giving the same information, must accompany the annual renewal fee prescribed in section 34-11-8(c). In the event there shall be a change in any of these persons during the year such changes shall be designated on the same form and filed with the board by the corporation, partnership or firm within thirty days after the effective date of such change.

(g) *Issuance of certificate of authorization; suspension; revocation.* - If all the requirements of this section are met, and after the requirements of subsection (i) hereof have been met, the board shall issue to such corporation, partnership or firm a certificate of authorization; provided, however, the board may refuse to issue a certificate, if any facts exist which would entitle the board to suspend or revoke an existing certificate, or if the board, after giving the persons involved a full and fair hearing as authorized in section 34-11-35 shall determine that any of the officers or directors of said corporation or partners of said partnership are not persons of good character. Any person aggrieved by an adverse determination of the board may appeal to the circuit court in the manner provided in section 34-11-13 of this chapter.

(h) *Certificate required of organization operating under fictitious name.* - For the purposes of this section, a certificate of authorization shall be required by a corporation, partnership, firm, association or person practicing under a fictitious name, offering engineering or surveying services to the public; except, however, where an individual is practicing engineering or surveying in his own given name, he shall not be required to register under this section.

(i) *Incorporation or registration contingent upon approval of board.* - Persons or firms seeking to do business in this state under the provisions of this section shall first obtain the official written notification of the approval by the secretary of state of their articles of incorporation or revisions thereto. Such persons or firms shall then present a copy of such written approval of the

secretary of state to the board as a prerequisite to the issuance of a certificate pursuant to subsection (g) hereof.

Section 34-11-10. Public Work.

It shall be unlawful for the state or any of its departments, boards or agencies or any county, municipality or political subdivision or any department, board or agency of any county, municipality or political subdivision to engage in the construction of any public work involving the practice of engineering unless the engineering drawings, plans, specifications and estimates have been prepared by and the construction executed under the direct supervision of a professional engineer; provided, that nothing in this chapter shall be held to apply to any public work wherein the expenditures for the complete project of which the work is a part does not exceed \$20,000.00.

Section 34-11-11. Disciplinary action.

(a) The board shall have the power to censure, place on probation and/or fine any registrant or certificated engineer-in-training or corporation, partnership or firm holding a certificate of authorization and to suspend, refuse to renew and/or revoke the certificate of any registrant or certificated engineer-in-training or the certificate of authorization of a corporation, partnership or firm found guilty of:

(1) The practice of any fraud or deceit in obtaining a certificate;

(2) Any gross negligence, incompetency, violation of the rules of professional conduct (code of ethics) prescribed by the board or any amendment thereof or misconduct in the practice of engineering or land surveying as a professional engineer, engineer-in-training or professional land surveyor;

(3) Falsely representing himself as being in responsible charge of engineering work or land surveying; or

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

(b) Furthermore, the board shall have the power to impose any or all of the disciplinary penalties set forth in this section against a corporation, partnership or firm holding a certificate of authorization, when any one or more of the agents, employees, officers, partners, or owners of said corporation, partnership or firm, registered or nonregistered, have committed any act, or have been guilty of any conduct, which could authorize the imposition of any of the disciplinary penalties set forth in this section. Provided, however, that such acts or conduct by such persons must have been related to the practice

of or offer to practice of engineering or land surveying by said corporation, partnership or firm and that such acts or conduct must have been performed or occurred within the scope of the employment of any such person and with the authorization, ratification, or approval of an officer, director, principal, partner or owner of such corporation, partnership or firm.

(c) Any person may prefer charges of violation of this section against any individual registrant, certificated engineer-in-training or corporation, partnership or firm holding a certificate of authorization. Such charges shall be in writing and shall be sworn to by the person making them, either upon actual knowledge or upon information and belief, and shall be filed with the secretary of the board.

(d) The board is empowered to designate a person or persons to investigate and report to it on any matter related to its lawful duties and may employ such legal counsel as the board may deem necessary or desirable.

(e) All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within a reasonable time, but not more than six months after the date on which such charges were preferred.

(f) The time and place for said hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of such individual registrant, certificated engineer-in-training or corporation, partnership or firm holding a certificate of authorization, at least 30 days before the date fixed for the hearing. At any hearing the accused individual registrant, certificated engineer-in-training or corporation, partnership or firm holding a certificate of authorization shall have the right to appear personally and by counsel, to cross examine witnesses appearing against him or it, and to produce evidence and witnesses in his or its own defense. If the accused fails or refuses to appear, the board may proceed to hear and determine the validity of the charges.

(g) If after such hearing three or more members of the board vote in favor of finding the accused guilty, the board shall impose one or more of the disciplinary penalties set forth in this section. Provided, however, that any fine imposed may not exceed two thousand dollars (\$2,000) for each count or separate offense. The written decision of the board shall be delivered personally to the accused or sent by certified mail, return receipt requested, to the last known address of the accused.

(h) If disciplinary action from such a hearing results in imposing a fine against a registrant, certificated engineer-in-training, or certificated corporation, partnership or firm, the

board shall not renew the annual certificate for this registrant, certificated engineer-in-training or certificated corporation, partnership or firm until such fine is paid in full. In the event that the fine is subsequently set aside on judicial review, as provided in the Alabama Administrative Procedure Act, the registrant, certificated engineer-in-training or corporation, partnership or firm holding a certificate of authorization shall be entitled to a prompt refund of the amount of the fine, but shall not be entitled to interest thereon.

(i) The board shall revoke the certificate of any registrant or certificated engineer-in-training who has been:

(1) Declared non compos mentis by a court of competent jurisdiction; or

(2) Convicted of a crime involving moral turpitude.

Section 34-11-12. Reissuance of revoked certificates; duplicate certificates.

The board, for reasons it may deem sufficient, may reissue a certificate of registration to any person or certificate of authorization to any corporation, partnership or firm whose certificate has been revoked, provided three or more members of the board vote in favor of such reissuance. The board shall not consider reissuance of a certificate to any person whose certificate has been revoked because of non compos mentis until after said person shall have been declared to have fully regained his competency by a court of competent jurisdiction. The board shall not consider the reissuance of a certificate to a person convicted of a crime of moral turpitude until the person's civil rights have been restored and at least five years shall have elapsed since said conviction, and then a unanimous approval vote of the board concerning said reissuance shall be required. A new certificate to replace any certificate revoked, lost, destroyed or mutilated, may be issued, subject to the rules of the board, and a charge of \$10.00 shall be made for such issuance.

Section 34-11-13. Appeals

Any person, corporation, partnership or firm who shall feel aggrieved by the denial of a certificate by the board or by any disciplinary action by the board taken pursuant to section 34-11-11 may appeal therefrom within 30 days to the circuit court of Montgomery county, Alabama, exclusively, notwithstanding the provisions of the Alabama Administrative Procedure Act; and only after the filing of the notice of appeal, shall judicial review be as provided for in the Alabama Administrative Procedure Act.

Section 34-11-14. Persons and acts exempt from chapter.

This chapter shall not be construed to prevent or to affect:

(1) The practice of any other legally recognized profession or trade;

(2) The work of an engineer-in-training, employee or a subordinate of any person holding a certificate of registration under this chapter, or any employee of a person practicing lawfully under paragraph c of subdivision (1) of section 34-11-4; provided, that such work is done under the responsibility and supervision of a person holding a certificate of registration under this chapter or a person practicing lawfully under paragraph c of subdivision (1) of section 34-11-4;

(3) The practice of officers and employees of the government of the United States while engaged within this state in the practice of engineering or land surveying for said government; provided, that this exception does not extend to any engineer or land surveyor engaged in the practice of professional engineering or land surveying whose compensation is based in whole or in part on a fee;

(4) The practice of professional engineering and land surveying with respect to transportation or utility facilities by any transportation company or public utility subject to regulation by the Alabama public service commission, the federal communications commission, the federal power commission or like regulatory agency, including its parents, affiliates or subsidiaries; or by the officers and employees of any such transportation company or public utility including its parents, affiliates or subsidiaries; provided, that this exception does not extend to any engineer or land surveyor engaged in the practice of professional engineering or land surveying whose compensation is based in whole or in part on a fee;

(5) The practice of any person who is employed by the Alabama state highway department in the classified service under the state of Alabama personnel board (merit system);

(6) The mere execution as a contractor of work designed by a professional engineer; or the supervision of the construction of such work as a foreman or superintendent shall not be deemed to be the practice of engineering; or

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

Section 34-11-15. Violations; penalties.

(a) Any person who shall practice, offer to practice, or hold himself out as qualified to practice engineering or land surveying in this state without being registered or exempted in accordance with the provisions of this chapter, or any person presenting or attempting to use as his own the certificate of registration or the seal or facsimile thereof of another, or permitting his own certificate of registration, seal or facsimile thereof to be used by another person, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining, or attempting to obtain a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired, suspended, or revoked certificate of registration, or any person who shall violate any of the provisions of this chapter, shall be guilty of a misdemeanor, and shall, upon conviction, be fined not less than \$100.00, nor more than \$500.00, or be imprisoned for a period not exceeding three months, or both for each and every offense.

(b) Any corporation, partnership or firm who violates any part of this chapter shall be guilty of a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not less than \$500.00, nor more than \$1,000.00. Each day of the violation shall be a separate offense.

(c) It shall be the duty of all duly constituted officers of law of this state, or any political subdivision thereof, to enforce the provisions of this chapter, and to prosecute any persons, firms, partnerships or corporations violating same. The attorney general of the state or his assistants shall act as legal advisor to the board and render such legal assistance to the board as may be necessary in carrying out the provisions of this chapter. The board will, however, have the right to obtain private legal counsel as the need arises.

**ARTICLE 2.
BOARD OF REGISTRATION.**

Section 34-11-30. Creation; composition; appointment; oath of office; terms of office.

A State Board of Registration for Professional Engineers and Land Surveyors is hereby created. It shall be the duty of the board to administer this chapter. The Board shall consist of four professional engineers and one professional land surveyor, each of whom shall be appointed by the Governor from a list of three persons nominated by a committee. This committee shall consist of one professional engineer or professional land surveyor, respectively, appointed or elected by an active Alabama

chapter of each of the following societies: American Society of Civil Engineers; American Institute of Mining, Metallurgical and Petroleum Engineers; American Institute of Chemical Engineers; Institute of Electrical and Electronics Engineers; American Society of Mechanical Engineers; Alabama Society of Professional Engineers; and Alabama Society of Professional Land Surveyors. Any other society with active chapters in the state having membership qualifications comparable to those of the above societies may petition the board for membership on the committee, and the board at its own discretion may grant the membership. Nominees shall have the qualifications required by Section 34-11-31. The foregoing nominations shall be made by a majority vote of the committee present at the same time at a meeting called by the secretary of the board, who shall advise the above named societies of the meeting at least 30 days before it is held. Each member of the board shall receive a certificate of appointment from the Governor and before beginning his or her term of office shall file with the Secretary of State his or her written oath or affirmation for the faithful discharge of his or her official duty. The members of the board serving on September 15, 1961, shall continue to serve under this chapter until their respective terms expire. On the expiration of the term of each member, the Governor shall in the manner heretofore provided appoint for a term of five years a professional engineer or professional land surveyor having the qualifications required by Section 34-11-31 to take the place of the member whose term on the board is about to expire. Each member so appointed shall hold office until the expiration of the term for which the member is appointed or until a successor shall have been duly appointed and qualified.

Section 34-11-31. Qualifications of members.

Each member of the board shall be a citizen of the United States and a resident of this state, a registered professional engineer or registered professional land surveyor, as the case may be, who holds an unexpired certificate under this chapter, who has been engaged in the practice of engineering or land surveying, respectively, for at least 12 years and who has been in responsible charge of important engineering or land surveying, respectively, work for at least five years.

Section 34-11-32. Compensation and expenses.

Each member of the board shall receive the sum of \$50.00 per diem when actually attending to the work of the board or any of its committees and for the time spent in necessary travel and, in addition thereto, shall be reimbursed for traveling expenses as provided in article 2 of chapter 7 of Title 36, and incidental and clerical expenses necessarily incurred in carrying out the provisions of this chapter.

Section 34-11-33. Removal of members; vacancies.

The governor may remove any member of the board for misconduct, incompetency, neglect of duty or for any other sufficient cause. Vacancies in the membership of the board by death, resignation or for any reason shall be filled for the unexpired term by appointment by the governor as provided in section 34-11-30.

Section 34-11-34. Meetings; Legal office; officers; quorum.

The board shall hold at least two regular meetings each year. The two regular meetings of the board shall be held in the city of Montgomery, Alabama. The legal office of the board shall be located in the city of Montgomery. Special meetings shall be held at such time and place as the bylaws of the board may provide. Notice of all meetings shall be given in such manner as the bylaws provide. The board shall elect or appoint annually the following officers: a chairman, a vice-chairman, and a secretary. A quorum of the board shall consist of not less than three members.

Section 34-11-35. Powers generally.

(a) The board shall have the power to adopt and amend such by-laws, rules and regulations, not inconsistent with the constitution and laws of this state, as may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall have the power to adopt and amend from time to time rules of professional conduct for professional engineers, engineers-in-training, professional land surveyors, and corporations, partnerships or firms holding certificates of authorization. The board shall adopt and have an official seal.

(b) In carrying into effect its duties in any case involving the revocation of registration or practicing or offering to practice without registration, or false statement in connection with an application for registration, the board may, under the hand of its chairman and the seal of the board, subpoena witnesses and compel their attendance and may also require the production of books, papers, documents and other pertinent data. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued, or shall refuse to testify or produce any books, papers or documents, the board may present its petition to the circuit court of Montgomery county, Alabama, setting forth the facts, and thereupon such circuit court of Montgomery county shall, in a proper case, issue its subpoena to such person, requiring his attendance before such circuit court of Montgomery county and there to testify or to produce such books, papers and documents, or data. Any person failing or

refusing to obey the subpoena or order of the circuit court of Montgomery county may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the circuit court of Montgomery county.

(c) The board is charged with the duty of seeing that the provisions of this chapter are enforced. The board shall investigate any complaint relating to the violation of any provisions of this chapter and, should a violation be indicated, the board shall present the facts of their findings to the district attorney of the county where the violation complained of occurred and shall aid in the prosecution of the violator.

(d) The board, for good cause, is authorized to apply for relief by injunction, without bond, to restrain any person, firm, partnership or corporation from the commission of any act which is prohibited by this chapter. In such proceedings it shall not be necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial and irreparable damage would result, from the continued violation thereof. Application for said injunction may be made to the circuit court of Montgomery county, Alabama or the circuit court of the county in which it is alleged that the violation is about to occur, at the request of the board. Said injunction may not be granted ex parte, and any judgment or decree may be appealed in the manner prescribed by law to the supreme court of Alabama.

(e) No action or other legal proceedings for damages shall be instituted against the board or against any board member or employee of the board for any act done in good faith and in the intended performance of any power granted under this chapter or for any neglect or default in the performance or exercise in good faith of any such duty or power.

Section 34-11-36. Receipts and disbursements.

The executive director of the board shall receive and account for all money derived under this chapter, and shall pay it monthly to the State Treasurer, who shall keep the money in a separate fund to be known as the "Professional Engineers Fund." The fund shall be kept separate and apart from all other money in the treasury, and shall be paid out only by warrant of the Comptroller upon the Treasurer, upon itemized vouchers, approved by the executive director of the board. No funds shall be withdrawn or expended except as budgeted and allotted according to Article 4 of Chapter 4 of Title 41; and provided, further, that any funds or money in the hands of the State Treasurer, known as the professional engineers fund, at the end of the state fiscal year in excess of that amount equal to twenty-five percent of the budget of the board for the previous fiscal year shall be transferred into the general fund of the state. The money, properties, records, and other things of value owned by or

allocated to the fund, the board, or the executive director of the board in his or her capacity as such, serving at the time of enactment of this chapter, shall become the property of and be allocated respectively to the fund, the board, or the executive director of the board under this chapter. The executive director of the board shall give a surety bond to the state in a sum as the board may determine. The premium on the bond shall be regarded as a proper and necessary expense of the board and shall be paid out of the fund. The executive director of the board shall receive such salary as the board shall determine, in addition to compensation and expenses provided for in Section 34-11-32. The board may employ an executive director and, when necessary, an assistant executive director and fix their compensation and duties. The board may employ such clerical or other assistants, subject to the provisions of the Merit System Act, and may make expenditures from the fund for any purpose which in the opinion of the board is reasonably necessary for the proper performance of its duties under this chapter, including the expenses of the board's delegates to regional and national meetings of, and membership dues to, the National Council of Engineering Examiners and any of its subdivisions. Under no circumstances shall the total amount of warrants issued by the Comptroller in payment of the expenses and compensations provided for in this chapter exceed the amount provided therefor by the Legislature in the general appropriation or other appropriation bills.

Section 34-11-37. Records and reports.

(a) The board shall keep a record of its proceedings and a register of all applications for registration, which register shall show:

- (1) The name, age and residence of each applicant;
- (2) The date of the application;
- (3) The place of business of such applicant;
- (4) His educational and other qualifications;
- (5) Whether or not an examination was required;
- (6) Whether the applicant was rejected;
- (7) Whether a certificate of registration was granted;
- (8) The date of the action of the board; and
- (9) Such other information as may be deemed necessary by the board.

(b) The board shall also keep on file a written statement under oath from each applicant that he will abide by the code of ethics prescribed by the board, which oath shall be a part of his application for registration.

(c) The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary of the board under the seal, shall be admissible in evidence with the same force and effect as if the original were produced.

(d) Annually, as of September 30, the board shall submit to the governor a report of its transactions of the preceding year and shall also transmit to him a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.