

STATE OF ALABAMA

BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

ALABAMA LAW REGULATING PRACTICE
OF ENGINEERING AND LAND SURVEYING

CODE OF ALABAMA 1975

TITLE 34

CHAPTER 11

as amended July 21, 1987, July 3, 1991,
June 29, 1995, August 1, 1997, April 27, 1999
and July 1, 2002

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Board of Licensure
for
Professional Engineers and
Land Surveyors

Alabama Law Regulating Practice
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CHAPTER 11
ENGINEERS AND LAND SURVEYORS

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Note:

This law specifies the general provisions governing the practices of engineers and of land surveyors. In addition, it creates the Board of Licensure for Professional Engineers and Land Surveyors. The board is empowered by the law to establish rules and regulations that cover specific requirements and procedures necessary for proper administration of the Alabama Law. These rules and regulations are specified in Administrative Code, Chapter 330-X.

ARTICLE 1.
GENERAL PROVISIONS.

Section 34-11-1. Definitions.

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

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

(2) **ENGINEER INTERN.** A person who has qualified under subdivision 2 of Section 34-11-4, and who, in addition, has successfully passed an eight-hour written

examination in the fundamental engineering subjects as provided in Section 34-11-6, and who has been certified by the board as an engineer intern.

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

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

(5) **LAND SURVEYOR or PROFESSIONAL LAND SURVEYOR.** A person who has been duly licensed as a professional land surveyor by the board established under this chapter, and who is a professional specialist in the technique of measuring land, is educated in the principles of mathematics, the related physical and applied sciences, the relevant requirements of law for adequate evidence and all requisites for surveying of real property, and is qualified to practice land surveying as defined in subdivision (8).

(6) **PRACTICE and OFFER TO PRACTICE.** Any 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 or herself to be a professional engineer or a professional land surveyor, or through the use of some other title implies that he or she is a professional engineer or a professional land surveyor; or who represents himself or herself as able to perform or who does perform any engineering or land surveying service or work or any other service designated by the practitioner which is recognized as engineering or land surveying.

(7) **PRACTICE OF ENGINEERING.** Any profes-

sional service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, testimony, investigation, evaluation, planning, design and design coordination of engineering works and systems, planning the use of land and water, performing engineering surveys and studies, and the review of construction or other design products for the purpose of monitoring compliance with drawings and specifications; any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products; equipment of a control, communications, computer, mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and including other professional services necessary to the planning, progress, and completion of any engineering services.

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

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

monuments, and the dependent or independent surveys or resurveys of the public land survey system.

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

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

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

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

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

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

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

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

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

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 or she shall first have submitted evidence that he or she is qualified so to practice and shall be licensed by the board as hereinafter provided or unless he or she is specifically exempted from licensure under 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 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 engineering in this state, as defined by this chapter, or to use in connection with his or her name or otherwise assume, use, or advertise any title or description including, but not limited to, the terms engineer, engineers, engineering, professional engineer, professional engineers, professional engineering, or any modification or derivative thereof, tending to convey the impression that he or she is a professional engineer unless the person has been duly licensed or is exempt from licensure under this chapter. A 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 or her 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 a profession subject to regulation in the public interest. It shall be unlawful for any person to practice or offer to practice land surveying in this state, as defined by this chapter, or to use in connection with his or her name or otherwise assume, use, or advertise any title or description including, but not limited to, the terms land surveyor, land surveyors, land surveying, professional land surveyor, professional land surveyors, professional land surveying, or any modification or derivative thereof, tending to convey the impression that he or she is a professional land surveyor unless the person has been duly licensed or is exempt from licensure under this chapter.

Section 34-11-3. Roster of registrants.

A roster showing the names and addresses of all licensed professional engineers, all professional land surveyors, and all who possess current certifications as engineer interns or land surveyor interns shall be prepared by the executive director of the board at intervals as established by the board. Copies of this roster shall be made available to each person licensed 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 licensure or certification.

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

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

a. *Graduation and experience plus examination.*

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

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

3. Graduation in an approved engineering technology or related science curriculum plus eight years experience. -- Before December 31, 2005, and not thereafter, 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 who has successfully passed the eight-hour written examination in the fundamental engineering subjects and who has a specific record of an additional eight years or more of progressive experience in engineering work of a grade and character satisfactory to the board shall be admitted to an eight-hour written examination in the principles and practice of engineering. Upon passing this examination, the applicant shall be granted a certificate of licensure to practice engineering in this state, provided the

applicant is otherwise qualified.

b. *Comity.* -- The board may, upon application, issue a certificate of licensure as a professional engineer to any person who holds a valid professional engineering certificate issued by any jurisdiction of the United States or of any country; provided, that the education, experience, and examination qualifications of the applicant meet the requirements of this chapter and the rules established by the board. The board may authorize an applicant 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 the board, not to exceed fifty dollars (\$50).

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

a. *Graduation and examination.* -- A graduate of an approved engineering curriculum of four years or more from a school or college approved by the board who has successfully passed an eight-hour written examination in the fundamental engineering subjects shall be certified as an engineer intern, if otherwise qualified.

b. *Graduation and examination plus experience.*

1. Graduation in an unapproved engineering curriculum plus two years experience. -- A graduate of an unapproved engineering curriculum of four years or more who has successfully passed an eight-hour written examination in the fundamental engineering subjects and who has a specific record of two years or more of progressive experience in engineering work of a grade and character satisfactory to the board shall be certified as an engineer intern, if otherwise qualified.

2. Graduation in an approved engineering technology or related science curriculum plus four years experience. - - Before December 31, 2001, a graduate of an engineering technology curriculum or of a related science curriculum of

four years or more who has successfully passed an eight-hour written examination in the fundamental engineering subjects and who has a specific record of four years or more of progressive experience in engineering work of a grade and character satisfactory to the board shall be certified as an engineer intern, if otherwise qualified.

c. *Comity.* -- The education, experience and examination qualifications of the applicant shall meet the requirements of this section and the rules established by the board. Fundamentals of engineering examinations of comparable character taken and passed in another jurisdiction may be accepted by the board.

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

a. *Graduation and experience plus examination.*

1. Graduation in an approved land surveying curriculum plus four years experience. -- A graduate of an approved land surveying curriculum of four years or more including a minimum of 30 semester hours or 45 quarter hours of surveying courses from a school or college approved by the board who has successfully passed an eight-hour written examination in the fundamental land surveying subjects and who has a specific record of an additional four years or more of combined office and field experience in land surveying work of a grade and character satisfactory to the board shall be admitted to a six-hour written examination in the principles and practice of land surveying and a two-hour written examination on laws, procedures, and practices pertaining to land surveying in Alabama. Upon passing these examinations, the applicant shall be granted a certificate of licensure to practice land surveying, provided the applicant is otherwise qualified.

2. Graduation in an approved curriculum related to surveying plus six years experience. -- A graduate of a curriculum related to surveying of four years or more including a minimum of 15 semester hours or 22.5 quarter hours of surveying courses from a school or college ap-

proved by the board and who has a specific record of two or more years of combined office and field experience in land surveying work of a grade and character satisfactory to the board shall be admitted to an eight-hour written examination in the fundamental land surveying subjects. Upon passing this examination and completing a total of six years or more of combined office and field experience in land surveying work of a grade and character satisfactory to the board, the applicant shall be admitted to a six-hour examination in the principles and practice of land surveying and a two-hour written examination of laws, procedures, and practices pertaining to land surveying in Alabama. Upon passing these examinations, the applicant shall be granted a certificate of licensure to practice land surveying in this state, provided the applicant is otherwise qualified.

3. Graduation in a related science curriculum plus eight years experience. -- A graduate of a related science curriculum of four years or more who has a specific record of four or more years of combined office and field experience in land surveying work of a grade and character satisfactory to the board shall be admitted to an eight-hour written examination in the fundamental land surveying subjects. Upon passing this examination and upon completing a total of eight years or more of combined office and field experience in land surveying work of a grade and character satisfactory to the board, the applicant shall be admitted to a six-hour examination in the principles and practice of land surveying and a two-hour written examination of laws, procedures, and practices pertaining to land surveying in Alabama. Upon passing these examinations, the applicant shall be granted a certificate of licensure to practice land surveying in this state, provided the applicant is otherwise qualified.

4. Graduation in an approved engineering curriculum plus two years experience. -- Before December 31, 2000, an engineering graduate of a school or college approved by the board, including the completion of an approved course in surveying and with a specific record of an additional two years or more of combined office and field experience in land surveying work of a grade and character satisfactory to the board, shall be admitted to an eight-hour written examination in the fundamentals of land surveying, and after

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

5. Graduation in an unapproved engineering curriculum plus four years experience. -- Before December 31, 2002, a graduate of an unapproved engineering curriculum of four years or more and with a specific record of four years or more of combined office and field experience in land surveying work of a grade and character satisfactory to the board shall be admitted to an eight-hour written examination in the fundamentals of land surveying, and after passing the fundamentals examination shall be admitted to a six-hour written examination in the principles and practice of land surveying and a two-hour written examination on laws, procedures, and practices pertaining to land surveying in Alabama. Upon passing these examinations, the applicant shall be granted a certificate of licensure to practice land surveying in this state, provided the applicant is otherwise qualified.

b. *Experience plus examination.* -- Before December 31, 2007, an applicant who has a specific record of eight years or more of combined office and field experience in land surveying work of a grade and character satisfactory to the board shall be admitted to an eight-hour examination in the fundamentals of land surveying, and after passing the fundamentals examination shall be admitted to a six-hour written examination in the principles and practice of land surveying and a two-hour written examination on laws, procedures, and practices pertaining to land surveying in Alabama. Upon passing these examinations, the applicant shall be granted a certificate of licensure to practice land surveying in this state, provided the applicant is otherwise qualified.

c. *Comity.* -- The board may, upon application, grant to any person who holds a valid professional land surveying certificate issued by any jurisdiction of the United States or

of any country, admission into a two-hour written examination of laws, procedures, and practices pertaining to land surveying in Alabama, provided that the education, experience, and examination qualifications of the applicant meet the requirements of this chapter and rules established by the board. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice land surveying in this state, provided the applicant is otherwise qualified.

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

a. *Graduation plus examination.* Graduation in an approved land surveying curriculum. -- A graduate of a land surveying curriculum of four years or more including a minimum of 30 semester hours or 45 quarter hours of surveying courses from a school or college approved by the board shall be admitted to an eight-hour written examination in the fundamentals of land surveying. Upon passing the examination, the applicant shall be certified as a land surveyor intern, if otherwise qualified.

b. *Graduation and examination plus experience.*

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

2. Graduation in a related science curriculum plus four years experience. -- A graduate of a related science curriculum of four years or more who has a specific record of an additional four years or more of combined office and field experience in land surveying work of a grade and

character satisfactory to the board shall be admitted to an eight-hour written examination in the fundamentals of land surveying. Upon passing the examination, the applicant shall be certified as a land surveyor intern, if otherwise qualified.

c. *Comity*. -- The education, experience, and examination qualifications of the applicant shall meet the requirements of this section and the rules established by the board. The board may accept fundamentals of land surveying examinations of comparable character taken and passed in another jurisdiction.

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

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

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

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

Section 34-11-5. Applications; fees.

(a) Applications for licensure as a professional engineer, professional land surveyor, engineer intern, or land surveyor intern shall be on forms prescribed and furnished by the board and shall contain statements made under oath. Three or more of the references contained in an application for licensure 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 land surveyors having personal knowledge of the land surveying experience of the applicant. All references and experience verifications furnished shall be confidential records of the board. Any individual who was previously licensed in this state and whose license is eligible for reinstatement as outlined in subsection (a) of Section 34-11-8 shall comply with the reinstatement procedures established by the board instead of the submission of a new application.

(b) The application fee and the licensure fee for professional engineers or professional land surveyors shall be set by the board and each fee shall not exceed one hundred dollars (\$100).

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

(2) For professional engineers applying for licensure by way of examination and for professional land surveyors, the application fee shall accompany the application, and the licensure fee shall be due upon approval of licensure. If the applicant fails or refuses to remit the licensure fee within 30 days after being notified of successfully qualifying, the applicant shall forfeit the right to have a certificate so issued.

For further consideration, the applicant shall be required to submit a new application and application fee.

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

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

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

Section 34-11-6. Examinations.

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

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

(c) When examinations are required on applied subjects, the applicant shall be permitted to take this part of the professional examination as specified by guidelines established by the board. 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 or land surveying works so as to protect the safety of life, health, and property. Examinations shall be given for the purpose of determining the qualifications of applicants for licensure separately in engineering and in land surveying. A candidate failing an examination may apply for reexamination under guidelines established by the board.

(d) The fees for examination, reexamination, and regrading of an examination shall be set by the board and shall not exceed three hundred dollars (\$300).

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

(a) The board shall issue a certificate of licensure upon payment of a licensure 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 a professional land surveyor, the certificate shall authorize the practice of land surveying. Certificates of licensure shall show the name of the licensee, shall have a license number, and shall be signed by the chair and the secretary of the board under the seal of the board.

(b) The issuance of a certificate of licensure by the 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 unless the certificate is revoked, suspended, surrendered, or expired.

(c) Each professional engineer should upon licensure obtain a seal of the design authorized by the board, bearing the licensee's name, licensure number, and the legend, "licensed professional engineer." Previously purchased seals bearing the terminology "registered" vs. "licensed" may continue to be used until replacement is required. Engineering drawings, plans, specifications, plats, and reports issued by a licensee or by qualified persons under the direction of the licensee and for which the licensee assumes full responsibility shall be certified pursuant to this chapter. It shall be unlawful for anyone to use an expired, suspended, surrendered, or revoked certificate or seal or facsimile thereof.

(d) Each professional land surveyor should upon licensure obtain a seal of the design authorized by the board, bearing the licensee's name, licensure number, and the legend, "licensed professional land surveyor." Previously purchased seals bearing the terminology "registered" vs.

"licensed" may continue to be used until replacement is required. Land plats, legal descriptions of lands, and land surveying reports issued by a licensee or by qualified persons under the direction of the licensee and for which the licensee assumes full responsibility shall be certified pursuant to this chapter. It shall be unlawful for anyone to use an expired, suspended, surrendered, or revoked certificate or seal or facsimile thereof.

Section 34-11-8. Renewal of certificates; lapsed licenses.

(a) The board shall, by rule, establish a procedure for renewing certificates of licensure on an annual or a biennial basis. It shall be the duty of the executive director of the board to notify every person licensed under this chapter of the final date of the renewal of his or her license and the amount of the fee required for the renewal. The notice shall be mailed to the last address of the licensee recorded by the executive director of the board at least one month in advance of the renewal deadline. Renewal may be accomplished at any time prior to or during the month of December by payment of the required fee. The board shall establish the renewal fee for each certificate of licensure issued pursuant to this chapter. The amount of the renewal fee shall not exceed one hundred fifty dollars (\$150) for annual renewal or three hundred dollars (\$300) for biennial renewal. Certificates of licensure for professional engineers and professional land surveyors shall lapse on the last day of the month of December, annually or biennially, unless renewed. The board shall, by rule, establish procedures including requirements, time limits, and the minimum continuing professional competency hours required for reinstating or reactivating a lapsed license. The board shall establish a reinstatement fee which shall be based on the period the license was lapsed. A lapsed license, if not reinstated, shall remain in a lapsed classification for a total of four years. Any license which has lapsed for more than four years shall not be eligible for reinstatement or reactivation and is expired. A licensee failing to renew subsequent to December 31, 1993, is subject to this chapter.

(1) Any individual whose license has lapsed for non-payment of renewal fees shall continue to be subject to this

chapter and board rules governing licenses until the licensure is revoked by action of the board or the license is not eligible for reinstatement under the rules of the board. A licensee who practices or offers to practice in this state with a lapsed, inactive, or retired license shall be subject to disciplinary action by the board.

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

(b) Enrollment as engineer interns and land surveyor interns shall expire on the last day of the month of December following their issuance or renewal. The notification to interns shall be processed as prescribed above for licensees except that the annual renewal fee shall not exceed ten dollars (\$10). The failure on the part of any intern to accomplish renewal shall not invalidate his or her status as an engineer intern or land surveyor intern, but his or her name shall, after 90 days, be removed from the current mailing list of the board. 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 this chapter shall lapse on the last day of the month of January following their issuance or renewal, unless renewed. The amount of the renewal fee shall be set by the board and shall not exceed two hundred fifty dollars (\$250). It shall be the duty of the executive director of the board to notify every corporation, partnership, or firm holding a certificate of authorization under this chapter of the final date of renewal of the certificate and the amount of the fee which shall be required for its renewal for one year. The notice shall be mailed by the executive director to the last address recorded for the

corporation, partnership, or firm at least one month in advance of the renewal deadline. Renewals may be accomplished at any time prior to or during the month of January by payment of the required fee. Failure by the corporation, partnership, or firm to renew its certificate of authorization prior to or during the month of January shall cause the certificate to lapse, and it shall be unlawful for the 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 lapse of its certificate of authorization. The board shall, by rules, establish procedures and time limits for reactivating a certificate of authorization and the reinstatement fees which shall be based on the period the certification was lapsed. A firm, partnership, or corporation whose certificate of authorization has lapsed for nonpayment of renewal fees shall continue to be subject to this chapter and the rules of the board governing licenses until the certificate of authorization is revoked by action of the board or the certificate of authorization is no longer renewable under the rules of the board. If not reinstated, a lapsed certificate of authorization shall remain in a lapsed classification for a period of two years. Any certificate of authorization which has been lapsed for more than two years shall not be eligible for reinstatement or reactivation and is expired. Any holder of a certificate of authorization failing to renew subsequent to December 31, 1995, shall be subject to this chapter.

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

(a) Services offered to the public; certificate of authorization required.

(1) **ENGINEERING OR LAND SURVEYING SERVICES.** -- 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 licensed under this chapter through a corporation, partnership, or firm offering engineering services or land surveying services to the public through individual licensed professional engineers or professional land surveyors, as agents, employees, officers, or partners, is permitted subject to this chapter and one or more of the principal officers of the corporation, firm, or partners of the partnership and all

personnel of the corporation, partnership, or firm who act in its behalf as professional engineers or professional land surveyors in this state are licensed as provided by this chapter, or are persons lawfully practicing under Section 34-11-14 and the 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 or land surveying 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 licensure to practice engineering or land surveying shall be held by a corporation, partnership or firm.

(2) **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 the individual, corporation, firm, or partnership meets the requirements of this section.

(3) **LIABILITY GENERALLY.** -- No 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 this section, nor shall any individual practicing engineering or land surveying as defined in Section 34-11-1 be relieved of responsibility for work performed by reason of employment, association, or relationship with the corporation, partnership, or firm.

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

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

(6) 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 licensed 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 the corporation or firm and of the individual or individuals duly licensed 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 the 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 licensed to practice engineering or land surveying in this state, and also of an individual or individuals duly licensed 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 the partnership. The same form, giving the same information, shall accompany the annual renewal fee prescribed in subsection (c) of Section 34-11-8. In the event there is a change in the firm name or in any of the partners or principal officers during the year, the changes shall be designated on the same form and filed with the board by the corporation, partnership, or firm within 30 days after the effective date of the change.

(7) ISSUANCE OF CERTIFICATE OF AUTHORIZATION; SUSPENSION; REVOCATION. -- If all the requirements of this section are met, and after the requirements of subdivision (9) have been met, the board shall issue

to the corporation, partnership, or firm a certificate of authorization. The board may refuse to issue a certificate, if any facts exist which would entitle the board to suspend or revoke an existing certificate. 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.

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

(9) INCORPORATION OR LICENSURE CONTINGENT UPON APPROVAL OF BOARD. -- Persons or firms seeking to do business in this state under 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. The persons or firms shall then present a copy of the written approval of the Secretary of State to the board as a prerequisite to the issuance of a certificate pursuant to subdivision (7).

(b) *Incidental engineering or land surveying services; certificate of authorization not required.* -- 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 and will not require a certificate of authorization. The engineering and land surveying services shall be performed by or under the direction of a professional engineer or professional land surveyor licensed in conformity with this chapter. All drawings, plans, specifications, plats, and reports involving the practice of engineering or land surveying shall when issued be dated and bear the seal or facsimile of the seal, signature, and licensure number of the professional engineer or land surveyor in responsible charge thereof.

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 reprimand, censure, place on probation, or fine any licensee or certified engineer intern or land surveyor intern or corporation, partnership, or firm holding a certificate of authorization and to suspend, refuse to renew, or revoke the certificate of any licensee or certified engineer intern or land surveyor intern or the certificate of authorization of a corporation, partnership, or firm found guilty of any of the following:

(1) The practice of any fraud or deceit in obtaining or attempting to obtain or renew a certificate of licensure or certificate of authorization.

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

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

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

(5) An offense in another jurisdiction resulting in revocation, suspension, or voluntary surrender, to avoid disciplinary proceedings, of a license or certificate of licensure, including any agreement or stipulation executed by a licensee to avoid formal disciplinary proceedings.

(b) 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 the corporation, partnership, or firm, licensed or nonlicensed, 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. The acts or conduct by the persons must have been related to the practice of or offer to practice of engineering or land surveying by the corporation, partnership, or firm and that the 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 the corporation, partnership or firm.

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

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

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

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

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

(h) The time and place for the hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of the hearing, shall be personally served on or mailed to the last known address of the individual licensee, certified intern, 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 licensee, certified intern, 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, her, or them, and to produce evidence and witnesses in his or her or their own defense. If the accused fails or refuses to appear, the board may proceed to hear and determine the validity of the charges.

(i) If after the 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. Any fine imposed may not exceed two thousand five hundred dollars (\$2,500) 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.

(j) If disciplinary action from the a hearing results in imposing a fine against a licensee, certified intern, or certificated corporation, partnership, or firm, the board shall not renew the annual certificate for this licensee, certified intern, or certificated corporation, partnership, or firm until the 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 licensee, cer-

tified intern, 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.

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

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

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

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

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

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

The board, for reasons it may deem sufficient, may reissue a certificate of licensure 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 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 the person has been declared to have fully regained his or her competency by a court of competent jurisdiction. The board shall not consider the reissuance of a certificate to a person who was convicted of a felony or entered a plea of guilty or nolo contendere to a felony until the civil rights of the person have been restored, and then a unanimous approval vote of the board concerning the reissuance shall be required. A new certificate to replace any certificate revoked, lost, destroyed, or mutilated or for any other reason may be issued, subject to the rules of the board, and a charge of twenty-five dollars (\$25) 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 any of the following:

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

(2) The work of an engineer intern or land surveyor intern, employee, or a subordinate of any person holding a certificate of licensure under this chapter, or any employee of a person practicing lawfully under paragraph b of subdivision (1) of Section 34-11-4, if the work is done under the responsibility and supervision of a person holding a certificate of licensure under this chapter or a person practicing lawfully under paragraph b 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 the government. 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 engineering or 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 Energy Regulatory Commission, or the Nuclear Regulatory Commission, including its parents, affiliates, or subsidiaries; or by the officers and employees of any transportation company or public utility including its parents, affiliates, or subsidiaries. This exception shall not extend to any engineer or land surveyor engaged in the practice of engineering or land surveying whose compensation is based in whole or in part on a fee.

(5) The practice of engineering or land surveying by any person who is employed by the Alabama Department of Transportation prior to January 1, 1997, in any engineering or engineering assistant classification series 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.

(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 or herself out as qualified to practice engineering or land surveying in this state or use in connection with his or her name or otherwise assume, use, or advertise any

title or description including, but not limited to, the term engineer, engineers, engineering, or professional engineer, professional engineers, or professional engineering, or land surveyor, land surveyors, land surveying, or professional land surveyor, professional land surveyors, or professional land surveying, without being licensed or exempted in accordance with this chapter, or any person presenting or attempting to use as his or her own the certificate of licensure or the seal or facsimile thereof of another, or permitting his or her own certificate of licensure, 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 licensure, or any person who shall falsely impersonate any other licensee of like or different name, or any person who shall attempt to use an expired, suspended, surrendered, or revoked certificate of licensure, or any person who shall violate this chapter, shall be guilty of a Class A misdemeanor and punished as provided by law. Each day of the violation shall be a separate offense.

(b) Any corporation, partnership, or firm who violates any part of this chapter shall be guilty of a Class A misdemeanor and punished as provided by law. 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 this chapter, and to prosecute any persons, firms, partnerships, or corporations for violating this chapter. The Attorney General of the state or his or her assistants shall act as legal advisor to the board and render legal assistance to the board as may be necessary in carrying out this chapter. The board has the right to obtain private legal counsel as the need arises.

Section 34-11-16. Violations; civil penalties; notice and hearing; subpoena power; appeal.

(a) In addition to any other provisions of law, the board may enter an order assessing a civil penalty against any non-licensed person, corporation, or other entity found guilty by the board of, but not limited to, the following violations of

this chapter.

(1) Engaging in the practice or offer to practice of engineering or land surveying in this jurisdiction without being licensed in accordance with this chapter.

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

(3) Presenting or attempting to use the certificate of licensure or the seal of another licensed engineer or licensed land surveyor.

(4) Giving false or forged evidence of any kind to the board or a member of the board in obtaining or attempting to obtain a certificate of licensure.

(5) Falsely impersonating another licensed engineer or licensed land surveyor of like or different name.

(6) Using or attempting to use a revoked or non-existent certificate of licensure.

(b) The board shall determine the amount of the civil penalty which shall be paid to the State General Fund. The amount shall not exceed two thousand five hundred dollars (\$2,500) for each and every separate offense.

(c) Before issuing an order under this section, the board shall provide the person written notice and the opportunity to request, within 30 days of notice by the board, a hearing on the record.

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

(e) A person aggrieved by the levy of a civil penalty under this section may file an appeal to the Circuit Court of Montgomery County exclusively for judicial review of the penalty within 60 days notwithstanding the Administrative

Procedure Act. Unless an appeal is taken, or the penalty paid, the order of the board imposing the civil penalty shall become a judgment.

(f) If a person fails to pay a civil penalty within 30 days after entry of an order pursuant to subsection (a) or if the order is stayed pending an appeal, within 10 days after the court enters a final judgment in favor of the board of an order appealed pursuant to subsection (e), the board shall notify the Attorney General. The Attorney General may commence a civil action to recover the amount of the penalty, plus attorney's fees and costs.

(g) The cost to the board of the action shall be paid by the respondent if found in violation.

ARTICLE 2. BOARD OF REGISTRATION.

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

A State Board of Licensure for Professional Engineers and Land Surveyors is 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; Society for Mining, Metallurgy and Exploration, Inc; American Institute of Chemical Engineers; Institute of Electrical and Electronics Engineers, Inc; American Society of Mechanical Engineers, International; 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-named societies may petition the board for membership on the committee, and the board 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 executive director 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 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 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 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 licensed professional engineer or licensed professional land surveyor 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 one hundred dollars (\$100) 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 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 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 the time and place as the rules of the board may provide. Notice of all meetings shall be given as the rules provide. The board shall elect or appoint annually the following officers: a chair, a vice chair, 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 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, engineer interns, professional land surveyors, land surveyor interns, 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 licensure or any disciplinary proceeding involving a licensee or the holder of a certificate of authorization or practicing or offering to practice without licensure, or false statement in connection with an application for licensure, the board may, under the hand of its chair 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 refuses to obey any subpoena issued, or refuses 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 the Circuit Court of Montgomery County shall, in a proper case, issue its subpoena to such person, requiring his or her attendance before the 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 this chapter is enforced. The board shall investigate any complaint relating to the violation of this chapter and, should a violation be indicated, the board shall proceed as provided for under Sections 34-11-11, 34-11-15, and 34-11-16.

(d) The board, for good cause, may 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 the 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. The 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, 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 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 and Professional Land Surveyors 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. Any funds or money in the hands of the State Treasurer, known as the Professional Engineers and Land Surveyors Fund, at the end of the state fiscal year in excess of that amount equal to 25 percent of the budget of the board for the previous fiscal year shall be transferred into the General Fund of the state. However, in the event that the Board elects to implement a biennial license, then the above transfer into the General Fund shall only apply at the end of the non-license year of the biennial license cycle. 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 a salary as determined by the board, 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 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, a national examination organization for engineers and land surveyors

selected by the board and any of its subdivisions. Under no circumstances shall the total amount of warrants issued by the Comptroller in payment of the expenses and compensation 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; confidentiality.

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

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

(b) The board shall also keep on file a written statement under oath from that each applicant that he or she will abide by the rules of professional conduct prescribed by the board, which oath shall be a part of his or her application for licensure.

(c) The records of the board shall be evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the executive director of the board under 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 a complete statement of the receipts and expenditures of the board, attested by affidavits of its chair and its secretary.

(e) Board records and papers of the following class are of a confidential nature and are not public records: examination material for examinations not yet given; file records of examination problems and solutions; exam scores; letters of inquiry and reference concerning applicants; transcripts of college courses and grades; board inquiry forms concerning applicants; pending and closed complaints and investigative files which shall remain confidential until an actual formal hearing may commence; and all other materials of like confidential nature.