



Alabama– Laws, Rules, and Ethics for Professional Engineers

Three (3) Continuing Education Hours
Course #AL101

Approved Continuing Education for Licensed Professional Engineers

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Course Description:

The Alabama Laws, Rules and Ethics course presents all current regulations Alabama licensed professional engineers shall follow and also presents the canons of ethics all professional engineers shall adhere to.

This course satisfies three (3) hours of continuing education.

The course is designed as a distance learning interactive course that enables the practicing professional engineer to keep up to date on the legal aspects that govern the practice of engineering in the state of Alabama as well as revisit the emphasis that the holder of a professional license has a direct and vital impact on the safety, health, and welfare of the public.

Objectives:

The primary objective of this course is to familiarize the student with current laws and rules regulating the practice of engineering in the state of Alabama and to familiarize the student with the standards of professional behavior for adherence to the highest ethical conduct.

Upon successful completion of the course, the student will be well versed in the applicable laws and rules and be well versed to exhibit the highest standards of honesty and integrity deemed paramount to this profession

Grading:

Students must achieve a minimum score of 70% on the online quiz to pass this course.

The quiz may be taken as many times as necessary to successful pass and complete the course.

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Code of Alabama

TITLE 34. PROFESSIONS AND BUSINESSES, CH. 11 ENGINEERS AND LAND SURVEYORS

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) DESIGN COORDINATION. The review and coordination of technical submissions prepared by persons other than the principal engineer, including, as appropriate and without limitations, consulting engineers, architects, landscape architects, land surveyors, and other professionals working under the direction of the engineer.
- (3) DISCIPLINARY ACTION. Any final written decision, order, consent agreement, public reprimand, or other formal action taken against an individual or firm by the board based upon a violation of this chapter or a board rule.
- (4) ENGINEER INTERN. An individual who has been certified as an engineer intern by the board.

(5) ENGINEER or PROFESSIONAL ENGINEER. An individual who, by reason of his or her special knowledge of the mathematical, physical, and engineering 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. The board may designate a professional engineer, on the basis of education, experience, and examination as being licensed in a specific discipline or branch of engineering signifying the area in which the engineer has demonstrated competence.

(6) ENGINEERING SURVEY. 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.

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

(8) LAND SURVEYOR INTERN. An individual who has been certified as a land surveyor intern by the board.

(9) LAND SURVEYOR or PROFESSIONAL LAND SURVEYOR. An individual who is a professional specialist in the technique of measuring land, is educated in the principles of mathematics, the related physical and applied sciences, and the relevant requirements of law for adequate evidence and all requisites to surveying of real property, is qualified to practice land surveying, and has been licensed as a professional land surveyor by the board.

(10) MANAGING AGENT. An individual who is licensed under this chapter and who has been designated pursuant to this chapter by the firm. (11) PERSON. An individual or firm.

(11) PERSON. An individual or firm.

(12) 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 practices any discipline or 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 that the person is licensed or authorized under this chapter; 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.

(13) PRACTICE OF ENGINEERING.

a. Any professional 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 that includes any one or more of the following:

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

"2. Planning the use of land, air, or water.

"3. Performing engineering surveys and studies.

"4. The review of construction for the purpose of monitoring compliance with drawings and specifications. "

b. Any service or work described in paragraph a., either public or private, that is made in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and communications systems, transportation systems, industrial or consumer products, or equipment of a control system; or is of a mechanical, electrical, hydraulic, pneumatic, chemical, environmental, or thermal nature, insofar as the service or work involves safeguarding health, life, safety, welfare, and property. The term includes other professional services as may be necessary to the planning, progress, and completion of any engineering services.

"c. The term does 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.

"d. The practice of engineering includes the offering of expert opinion in any legal proceeding in Alabama regarding work legally required to be performed under an Alabama engineer's license number or seal, which opinion may be given by an engineer licensed in any jurisdiction. Notwithstanding any other provision of this chapter in qualifying a witness to offer expert testimony on the practice of engineering, the court shall consider as evidence of his or her expertise whether the proposed witness holds a valid Alabama license for the practice of engineering; provided, however, the qualification by the court shall not be withheld from an otherwise qualified witness solely on the basis of the failure of the proposed witness to hold a valid Alabama license or license from another jurisdiction.

(14) PRACTICE OF LAND SURVEYING.

a. Professional services using such sciences as mathematics and geodesy, and involving the making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth, the space on, above, or below the earth, and providing, utilizing, or developing the same land survey products such as graphics, data, maps, plans, reports, descriptions, or projects.

b. The term includes consultation, project coordination, including the coordination of technical submissions proposed by others, investigation, testimony, evaluation, planning, mapping, assembling, and interpreting gathered measurements and information relating to any one or more of the following:

1. Determining by measurement the configuration or contour of the earth's surface or the position of fixed objects thereon by measuring lines and angles and applying the principles of mathematics or photogrammetry.
2. Determining by performing geodetic surveys the size and shape of the earth or the position of any point on the earth.
3. Locating, relocating, establishing, reestablishing, or retracing property lines or boundaries of any tract of land, road, right of way, alignment or easement or elevation of all real property whether or not fixed works are sited or proposed to be sited on the property.
4. Making any survey for the division, subdivision, or consolidation of any tract or tracts of land or for condominiums.
5. Locating or laying out alignments, positions, or elevations for the construction of fixed works.

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

7. 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.

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

c. The term may include the performance of engineering surveys.

d. the term does not include functions unique to engineering as specified by rules of the board, geographic information systems professionals holding certification from the GIS Certification Institute, or remote sensing professionals holding certifications from the American Society of Photogrammetry and Remote Sensing or other nationally recognized accreditation group as determined by the board. e. Nothing herein shall in any way prohibit mapping, plotting, or locating, or other similar use of GPS, GIS, or other similar data by those not licensed to practice land surveying, provided the work is not used in the conveyance of property.

(15) 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) A person in either public or private capacity may not 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) Except as otherwise provided in this chapter, all engineering design of buildings, structures, products, machines, processes, and systems that can affect health, life, safety, welfare, and property shall be conducted under the responsible charge of a licensed professional engineer.

(c) In order to safeguard health, life, safety, welfare, and property, 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 professional engineering in this state, to hold himself or herself out or refer to himself or herself by any title or description stating or implying the person is licensed to engage in the practice of engineering, 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, P.E., 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.

(d) In order to safeguard, health, life, safety, welfare, and property, the practice of land surveying 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 professional land surveying in this state, to hold himself or herself out or refer to himself or herself by any title or description stating or implying the person is licensed to engage in the practice of land surveying, 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, P.L.S., 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.

(e) As used in this subsection, the term professional land surveyor shall include the agents, the employees, and any personnel under the supervision of a professional land surveyor.

(1) A professional land surveyor may go on, over, and upon the lands of others which is not enclosed by any device installed to deter entry to or exit from industrial facilities or plant sites by humans or vehicles, if necessary to perform surveys for the location of section corners, quarter corners, property corners, boundary lines, rights-of-way, and easements, and may carry and utilize equipment and vehicles. Entry

under the right granted in this subdivision shall not constitute trespass. A professional land surveyor shall not be liable to arrest or to a civil action for trespass by reason of this entry.

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

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

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

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

“(6) In addition to all other work authorized under this chapter, a professional land surveyor may perform engineering surveys.

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 published by the board as provided for by board rule.

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

The board may approve engineering, 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 a board approved 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 a board approved 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 a board approved 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 a board approved 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 are, in the judgment of the board, of a standard not lower than that specified in the applicable licensure act in effect in Alabama at the time such certificate was issued. 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 a board approved examination in the fundamental engineering subjects shall be certified as an engineer intern, if otherwise qualified.

b. Graduation and examination plus experience. -- 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 a board

approved 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.

c. Comity. -- The education, experience and examination qualifications of the applicant are, in the judgment of the board, of a standard not lower than that specified in the applicable licensure act in effect in Alabama at the time such certificate was issued. 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 , or a graduate of an approved civil engineering curriculum of four years or more, including a minimum of 15 semester hours or 22.5 quarter hours of land surveying courses from a school or college approved by the board who has successfully passed board approved examinations in the fundamentals of surveying and in the principles and practice of surveying and has a specific record of four years or more of progressive combined office and field experience in land surveying work of a grade and character satisfactory to the board shall be admitted to a board approved examination on laws, procedures, and practices pertaining to land surveying in this state. 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.

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 approved by the board and who has successfully passed a board approved examination in the fundamental land surveying subjects and who has a specific record of an additional six years or more of progressive office and field experience in land surveying work of a grade and character satisfactory to the board shall be admitted to a board approved examination in the principles and practice of land surveying and a board approved examination of laws, procedures, and practices pertaining to land surveying in this

state. 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 from a school or college approved by the board who has successfully passed a board approved examination in the fundamental land surveying subjects and who has a specific record of an additional eight years or more of progressive combined office and field experience in land surveying work of a grade and character satisfactory to the board shall be admitted to a board approved examination in the principles and practice of land surveying and a board approved examination of laws, procedures, and practices pertaining to land surveying in in this state. 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. Comity. -- The board, upon application, may 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 board approved examination of laws, procedures, and practices pertaining to land surveying in this state, provided that the education, experience, and examination qualifications of the applicant are, in the judgment of the board, of a standard not lower than that specified in the applicable licensure act in effect in this state at the time such certificate was issued. 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 or civil engineering 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 a board approved examination in the fundamentals of land surveying 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 one year 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 who has successfully passed a board approved examination in the fundamentals of land surveying 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 certified as a land surveyor intern, if otherwise qualified.

2. Graduation in a related science curriculum plus two years experience. -- A graduate of a related science curriculum of four years or more who has successfully passed a board approved examination in the fundamentals of land surveying 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 certified as a land surveyor intern, if otherwise qualified.

3. Graduation in an approved associate of science degree in surveying or engineering plus two years' experience. A graduate of an approved associate of science degree program in surveying or engineering including a minimum of 15 semester hours or 22.5 quarter hours of land surveying courses from a school or college approved by the board who has successfully passed a board approved examination in the fundamentals of surveying and 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 certified as a land surveyor intern, if otherwise qualified.

c. Comity. -- The education, experience, and examination qualifications of the applicant are, in the judgment of the board, of a standard not lower than that specified in the applicable licensure act in effect in Alabama at the time such certificate was issued. 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.

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

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 a declaration made under penalty of perjury. 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 furnished shall be considered confidential records of the board. Any individual who was previously licensed in this state and whose license is eligible for reinstatement as outlined in this chapter shall comply with the reinstatement procedures established by the board instead of the submission of a new application.

(b) The application fee for professional engineers or professional land surveyors shall include the licensure fee, shall be set by the board, shall not exceed three hundred dollars (\$300), and shall accompany the application.

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

(d) If the board denies certification or licensure to any applicant, 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 administration of the examination on the laws, procedures, and practices pertaining to land surveying in this state shall be set by the board.

(e) The board may contract with an independent testing agency to prepare, grade or conduct the required examinations. For those examinations so designated by the board, the applicant shall pay the examination fees directly to the board authorized testing agency. The examination fee for the examination on Alabama land surveying laws, procedures and practices shall be paid directly to the board.

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

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

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, lapsed, 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, lapsed, 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, lapsed, or revoked certificate or seal or facsimile thereof.

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

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

(a) The board, by rule, shall establish a procedure for renewing certificates of licensure on an annual or a biennial basis. It shall be the duty of the board to notify every licensee under this chapter of the expiration of the license and the fee required for the renewal. The board shall establish the renewal fee for each certificate of licensure which shall not exceed two hundred dollars (\$200) for annual renewal or four hundred dollars (\$400) for biennial renewal.

(b) 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 education requirement is met. It is further provided that the continuing professional education 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 education requirement for inactive licensees and others in extenuating circumstances as identified by rule of the board.

(c) Enrollment as engineer interns and land surveyor interns shall not expire.

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

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

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

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

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

(e) A licensee in inactive status may return to active status by notifying the board in advance of this intention and by meeting all requirements of the board, including demonstration of continuing professional education as a condition of reinstatement. "(f) An individual who has been issued a certificate of licensure as a professional engineer or as a professional land surveyor and who chooses to relinquish or not to renew a license may be granted use of the title "Professional Engineer, Retired" or "Professional Land Surveyor, Retired," as applicable, if the individual applies to and is granted approval by the board.

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

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

(2) JOINT PRACTICE AUTHORIZED. – An entity that performs engineering services or land surveying services for itself, or for a parent or subsidiary, is not required to have a certificate of authorization.

(3) LIABILITY GENERALLY. – A firm may not be relieved of responsibility for the conduct or acts of its agents, employees, officers, or partners by reason of its compliance with this section. An individual practicing engineering or land surveying under this chapter is not relieved of responsibility for engineering or land surveying services performed by reason of employment or other relationship with a firm holding a certificate of authorization.

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

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

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

(6) For the purposes of this section, a certificate of authorization shall be required by a firm 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.

(7) 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 firm engaged in the production, manufacture, transportation, distribution, or communication and does 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) A firm that allows a certificate of authorization to expire due to non-renewal shall be treated as having an expired certificate and it shall be unlawful for the firm to

practice, offer to practice, or hold itself out as qualified to practice in this state following the expiration of its certificate of authorization.

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

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

Section 34-11-9.1

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

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 may reprimand, censure, suspend, revoke, place on probation, recover costs, or fine any licensee or certified engineer intern or land surveyor intern or firm holding a certificate of authorization or to refuse to issue, renew, or reinstate the certificate of any licensee or certified engineer intern or land surveyor intern or the certificate of authorization of a 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, intern certification, or certificate of authorization.

(2) Any gross negligence, incompetency, violation of the rules of professional conduct prescribed by the board, 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) Voluntarily surrendering a professional engineer's license, a professional land surveyor's license, an engineer intern's certification, a land surveyor intern's certification, a firm's engineering certificate of authorization, or a firm's land surveying certificate of authorization in order to avoid disciplinary action by another jurisdiction, foreign country, or the United States government if at least one of the grounds for the disciplinary action is the same or substantially equivalent to those contained in this chapter.
- (6) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony, whether or not related to the practice of engineering or land surveying; or conviction of or entry of 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.
- (7) Failure to comply with any provision of this chapter or board rule.
- (8) Failure to respond to a board inquiry within 60 days of receipt of the inquiry.
- (9) Knowingly making false statements or signing false statements, certifications, or affidavits in connection with the practice of engineering or land surveying.
- (10) Aiding or assisting another person in violating any provision of this chapter or board rule
- (11) Violating any term of any order imposed or agreed to by the board or using a seal or practicing engineering or land surveying while the licensee's license or the firm's certificate of authorization is inactive or restricted.
- (12) Signing, affixing, or permitting the licensee's seal or signature to be affixed to any specification, report, drawing, plan, plat, design information, construction document or calculation, survey, or revision that has not been prepared by the licensee or under the licensee's responsible charge.**
- (13) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.
- (14) Providing false testimony or information to the board.

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

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

(b) The board may impose any disciplinary penalty set forth in this section against a firm holding a certificate of authorization, when any one or more of the agents, employees, officers, partners, or owners of the 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 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 firm.

(c) 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.

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

(e) An individual whose license has expired for nonpayment of renewal fees shall continue to be subject to this chapter and board rules governing licenses until the license 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 the state with an expired, inactive, or retired license shall be subject to disciplinary action by the board. Any firm whose certificate of authorization has expired for nonpayment of renewal fees shall continue to be subject to this chapter and board rules until the certificate of authorization is revoked by action of the board or the certificate of authorization is not eligible for reinstatement under the rules of the board. A firm who

practices or offers to practice in the state with an expired certificate of authorization shall be subject to disciplinary action by the board.

§34-11-11.1.

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

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

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

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

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

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

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

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

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

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

§34-11-11.2.

(a) Any person or entity, including the board or staff, may file a complaint alleging a violation of this chapter against any individual licensee, certified intern, or firm holding a certificate of authorization or against an unlicensed individual or firm. The complaint

shall be in writing, shall be signed by the complainant, shall state specifically the facts on which the complaint is based, and shall be filed with the executive director of the board.

(b) The board may designate one or more individuals 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. The board may resolve violations by agreement between the board and the respondent with or without the filing of formal charges. All complaints shall be reviewed by an investigative committee designated by the rules of the board. After review, the investigative committee shall determine or recommend, as appropriate, if charges are warranted. The charges shall conform to the Administrative Procedure Act.

(d) With the consent of the respondent, 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.

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

(f) The time and place for the hearing shall be fixed 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 respondent at least 30 days before the date fixed for the hearing. At any hearing the respondent shall have the right to appear in person or by counsel or both, to cross-examine witnesses in his or her defense, and to produce evidence and witnesses in his or her defense. If the respondent fails or refuses to appear at the hearing, the board may proceed to hear and determine the validity of the charges in the respondent's absence.

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

(h) If disciplinary action from a hearing results in imposing a fine or civil penalty against a licensee or certificated firm, the board may not renew the certificate for the licensee or certificated firm until the fine or penalty is paid in full. In the event that the fine or civil penalty is subsequently set aside on judicial review, as provided in the Alabama

Administrative Procedure Act, the respondent shall be entitled to a prompt refund of the amount of the fine or penalty, but shall not be entitled to interest.

(i) When a member of the board is unable to continue the hearing either by disqualification or for 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. Ex officio members must meet the same board member qualifications as outlined in this chapter.

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

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

- (1) Whether the amount imposed will be a substantial economic deterrent.
- (2) The circumstances leading to the violation.
- (3) The severity of the violation and the risk of harm to the public.
- (4) The economic benefits gained by the violator as a result of non-compliance.
- (5) Consistency of the fine or civil penalty with past fines or civil penalties for similar offenses, or justification for the fine or civil penalty amount.

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

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

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

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

The board, for reasons it may deem sufficient, may reissue a certificate of licensure or intern certification to any person or certificate of authorization to any firm whose certificate has been revoked, provided a majority of the board votes 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 majority approval vote of the board concerning reissuance shall be required.

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 Aviation Administration, 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.

(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.

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

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.

(d) Pursuant to the proceedings under this chapter, 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) In addition to or in lieu of the sanctions provided in this chapter, the board may issue an order to any individual or firm engaged in any activity, conduct, or practice constituting a violation of this chapter, directing the individual or firm to cease and desist from the activity, conduct, or practice, or the performance of any work then being done or about to be commenced. The order shall be issued in the name of the State of Alabama under the official seal of the board. If the individual or firm to whom the board directs a cease and desist order does not cease or desist the proscribed activity, conduct, practice, or performance of work immediately, the board shall cause to issue in any court of competent jurisdiction and proper venue, a writ of injunction enjoining the individual or firm from engaging in the proscribed activity, conduct, practice, or performance of work. Upon a showing by the board that an individual or firm has engaged or is engaged in any activity, conduct, practice, or performance of work prohibited by this chapter, the courts shall issue a temporary restraining order restraining the individual or firm from engaging in the unlawful activity, conduct, practice, or performance of work pending the hearing on a preliminary injunction, and in due course a permanent injunction shall issue after the hearing commanding the cessation of the unlawful activity, conduct, practice, or performance of work complained of, all without the necessity of the board having to give bond. A temporary restraining order preliminary injunction, or permanent injunction issued pursuant to this chapter shall not be subject to being released on bond. In the suit for an injunction, the board

may demand of the defendant a civil penalty of up to five thousand dollars (\$5,000) plus costs and attorney fees for each offense. A judgment for penalties, attorney fees, and costs may be rendered in the same judgment in which the injunction is made absolute. The trial of the proceeding by injunction shall be summary and by the trial judge without jury.

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

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

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 30 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) 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 five members licensed as professional engineers, two members licensed as professional land surveyors, and two public members. One of the professional land surveyor members may also be licensed as a professional engineer. All members shall be appointed by the Governor. The five professional engineers shall be appointed from a list of three persons nominated for each appointment by a professional engineer nominating committee; and the two professional land surveyors shall be appointed from a list of three persons nominated for each appointment by the Alabama Society of Professional Land Surveyors; and, once the board has adopted rules establishing a public member nominating committee, the two public members shall be appointed from

a list of three persons nominated for each appointment by the public member nominating committee. Nominations shall be made to the Governor as vacancies on the board occur, whether by the expiration of a term or otherwise. To the extent possible, the nominating committees, the Alabama Society of Professional Land Surveyors, and the Governor shall select those persons whose appointments ensure that the membership of the board is inclusive and reflects the racial, gender, geographic, urban/rural, and economic diversity of the state. 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 duties.

(b) The nominating committee shall consist of one professional engineer appointed or elected by each of the professional organizations as outlined in the rules of the board. Any other organization in the state having membership qualifications comparable to those professional organizations outlined in the rules of the board may petition the board for membership on the committee. The board, by rule, may establish nominating committee operating guidelines and, by rule, may establish procedures for the removal of nonparticipating members of the nominating committee. Nominees shall have the qualifications required by Section 34-11-31. 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 the meeting is held.

(c) Members of the board shall serve five-year terms. 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 provided in this section appoint an individual to take the place of the member whose term on the board is about to expire. Vacancies occurring during a term shall be filled by appointment by the Governor, in the manner provided in this section, for the unexpired term. Each member shall hold office until the expiration of the term for which the member is appointed or until a successor is duly appointed and qualified. The terms of the members of the board shall be staggered, so that the terms of no more than two members shall expire in any year. No member of the board shall serve more than two consecutive full terms. The completion of the unexpired portion of a full term shall not constitute a full term for the purposes of this section. The initial appointment term for one public member shall be for two years and one term for the other public member shall be for five years. All subsequent terms for the public members shall be for five years. Board members serving on the effective date of the act adding this language shall serve until the end of the term they are currently serving. At the conclusion of

those terms, the appointment process will be adjusted to allow for the conversion to staggered terms.

Section 34-11-31. Qualifications of members.

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

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

(c) Each licensed professional engineer or licensed professional land surveyor who holds shall hold an unexpired certificate under this chapter and shall have been licensed to practice engineering or land surveying, respectively, for at least 12 years.

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

Section 34-11-32. Compensation and expenses.

Each member of the board shall be entitled to the maximum allowable per diem set by the board 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 a simple majority of the board membership.

Section 34-11-35. Powers generally.

(a) The board shall have the power to adopt and amend by-laws and rules not inconsistent with the constitution and laws of this state, as may be reasonably necessary for the proper performance of its duties and the regulation of its procedures, meetings, records, examinations, and conduct. 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 which shall be affixed to each certificate issued.

(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.

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

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

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

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

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

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

(l) The board may conduct an investigation or inspection of any person or facility at all reasonable hours for the purpose of determining if any provisions of the laws governing

the practices of engineering and land surveying are being violated. The board, its officers, staff, and representatives shall cooperate with all agencies charged with the enforcement of all federal and state laws relating to the practices of engineering and land surveying.

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

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

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

§34-11-35.1

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

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

(2) The primary goal of the provision of engineering and land surveying in the state is to prioritize health, life, safety, welfare, and property.

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

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

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

(b) Subject to subsection

(c), rules adopted by the board pursuant to this section or Section 34-11-35, may define and regulate the practice of engineering and land surveying in a way that prioritizes public health, life, safety, welfare, and property, even if the rule is anticompetitive. (c) A rule adopted pursuant to this section or Section 34-11-35 may supplement or clarify a statutory definition, but may not conflict with any statute that defines the practice of engineering or land surveying.

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

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

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

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

Section 34-11-36. Receipts and disbursements.

The executive director of the board shall receive and account for all money derived under this chapter.

All funds collected shall be deposited with the State Treasurer. With the exception of the civil penalties deposited in the General Fund as provided in Section 34-11-11.1, the State Treasurer 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 33 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 may be required by state law. 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 therefore 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.
- (b) The board shall maintain a record of all applicants for licensure, certification, and certificate authorization.
- (c) The records of the board shall be prima facie evidence of the proceedings of the board set forth, and a transcript certified by the executive director of the board under

seal, shall be admissible as evidence with the same force and effect as if the original were produced. 30

(d) Annually, 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; e-mail addresses; home addresses; board inquiry forms concerning applicants; pending and closed complaints and investigative files where no formal disciplinary action is taken; and all other materials of like confidential nature.

Alabama Administrative Code

CH. 330 ALABAMA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Note: These rules and regulations are issued under the authority of Section 35(a) in Article 2 of Chapter 11 of Title 34 of the Code of Alabama 1975. They cover specific requirements and procedures necessary for proper administration of the Alabama Law regulating the practice of engineering and land surveying. They supersede all previous administrative rules and regulations.

CHAPTER 330-X-1 ORGANIZATION, ADMINISTRATION AND PROCEDURE

330-X-1-.01 Purpose.

The Alabama Board of Licensure for Professional Engineers and Land Surveyors was created to protect the public by helping to safeguard life, health and property, and to promote the public welfare by providing for the licensing of persons and regulation of the practices of engineering and land surveying. This purpose is achieved through the establishment of minimum qualifications for entry into the professions of engineering and land surveying, through the adoption of rules defining and delineating unlawful or unethical conduct, and through swift and effective discipline for those individuals or entities who violate the applicable laws or rules promulgated thereunder.

330-X-1-.02 General Description of Organization and Operation.

The Board is an independent agency of the State of Alabama. All costs of operating the Board, including administrative, secretarial, clerical, legal, and investigative are paid **from legislative appropriation of monies collected by the Board. The Attorney General's Office provides for legal services to the Board.**

330-X-1-.03 Officers/Board Members.

(1) Election. The Board shall elect annually the following officers: Chair, Vice-Chair, and Secretary.

(2) Compensation and Expenses. Board Members shall be compensated on a per diem basis for days actually spent in performance of their duties and, additionally, members of the Board shall be reimbursed for all expenses incurred in performance of their duties as provided by Code of Ala. 1975. Sections 34-11-32 and Section 36-7-20.

330-X-1-.04 Employment of Personnel.

The Board may employ investigators, attorneys, agents, employees, and assistants, as may be necessary, to bring about and maintain the administration and enforcement of the Alabama Law regulating the practice of engineering and land surveying and these rules.

330-X-1-.05 Executive Director.

The Board shall employ an Executive Director who shall be responsible for the administration of Board policy. The Board may also employ an Assistant Executive Director. The Executive Director is designated as agent for the Board for services including any legal process on behalf of the Board.

330-X-1-.06 Rules of Order.

All proceedings of the Board shall be governed by Robert's Rules of Order, latest revised edition, except during disciplinary hearings and except where otherwise provided in these rules.

330-X-1-.07 Meetings.

(1) Meetings may be called by the Chair or by a quorum of the Board.

(2) Each member of the Board shall be given at least seven days' notice for any regular meeting, at least 24 hours' notice for a special meeting, and at least 4 hours for an emergency meeting. The notice will include the time, place and purpose of the meeting.

(3) The Executive Director will ensure that the meeting notices comply with Alabama's Open Meeting Act, Section 36-25A, Code of Ala. 1975.

330-X-1-.08 Questions of Procedure and Evidence.

Except as otherwise provided in these rules, the Chair of the Board shall rule upon all questions of procedure and, in the event that evidence is taken, upon the admissibility of that evidence. The decision of the Chair shall be final.

330-X-1-.09 Voting.

All members of the Board, including the Chair, are entitled to vote and to make or second motions. A majority of those members of the Board present and voting on any matter shall decide that matter before the Board, except on procedural and evidentiary

matters which are provided for in Rule 330-X-1-.08. The Chair shall vote as a member of the Board.

330-X-1-.10 Use of Forms.

All applications and requests for which the Board has prescribed a form must be made on the prescribed form or in the format provided by the Board. Copies of forms in use and instructions for their completion are available from the Executive Director.

330-X-1-.11 Records.

(1) Public record, for the purpose of these rules, means all Board records which are reasonably necessary to record the business and activities required to be done or carried on by the Board so that the status and condition of such business and activities will be available to the public. The results of disciplinary hearings are considered public records. Records which do not constitute public records include, but are not limited to, those received by a public officer in confidence, sensitive personnel records, material for examinations not yet given, file records of examination problem solutions, application references, complaints against licensees and non-licensees, investigative files where investigation is pending, and records the disclosure of which would be detrimental to the best interests of the public.

(2) Public records are available for inspection at the Board office during regular business hours.

(3) Any person wishing to obtain copies of public records may request such copies from the Executive Director, and will be supplied copies upon payment of the cost of copying, handling and postage, which costs will be estimated and set by resolution by the Board.

330-X-1-.12 Declaratory Rulings.

(1) The Board may issue declaratory rulings to any person substantially affected by a rule with respect to the validity of the rule, or with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by the Board, or with respect to the meaning and scope of any order of the Board. Such rulings shall be issued provided:

- (a) The petitioner shows that he or she is substantially affected by the rule in question,
- (b) Sufficient facts are supplied in the request to permit the Board to make a valid determination, and
- (c) The request arises from an actual question or controversy.

(2) A petition for a declaratory ruling shall be submitted on a form provided by the Board.

(3) Such rulings will be made in accordance with the Alabama Administrative Procedure Act, Code of Ala. 1975, Section 41-22-11.

330-X-1-.13 Appointment of Board Members/Nominating Guidelines

(1) Appointment of Board Members.

(a) The professional engineering members of the Board shall be appointed by the Governor from a list of three persons nominated by a committee as provided in Section 34-11-30, Code of Ala. 1975.

(b) The professional land surveying members of the Board shall be appointed by the Governor from a list of three persons nominated by the Alabama Society of Professional Land Surveyors as provided in Section 34-11-30, Code of Ala. 1975.

(2) Qualification of Board Members.

(a) Each professional engineering member of the Board shall be a citizen of the United States, a resident of Alabama, and must hold an unexpired certificate of professional engineer licensure in Alabama that is in active status. The member must have a record of the lawful practice of engineering as a licensed professional engineer for at least 12 years.

(b) Each professional land surveying member of the Board shall be a citizen of the United States, a resident of Alabama, and must hold an unexpired certificate of professional land surveyor licensure in Alabama that is in active status. The member must have a record of the lawful practice of land surveying as a licensed professional land surveyor for at least 12 years.

(3) Nominating Committee Composition. A Nominating Committee shall be composed of one professional engineer from each professional engineering organization in Alabama. The members of the nominating committee must be residents of Alabama and must hold a current Alabama professional engineer license.

(a) Members of the Nominating Committee are:

1. Alabama Society of Professional Engineers
2. American Council of Engineering Companies of Alabama
3. American Institute of Chemical Engineers
4. American Society of Civil Engineers, Alabama Section

5. American Society of Mechanical Engineers
6. Institute of Electrical and Electronics Engineers
7. Society of Mining Engineers
8. Structural Engineers Association of Alabama

(b) Any active professional engineering organization in the state having membership requirements comparable to those of the above-named organizations may petition the board for membership on the committee, and the board may grant the membership.

(c) Any professional organization with a representative on the nominating committee, who fails to attend two consecutive committee meetings, shall be placed on probation. Notification will be sent to the non-participating professional organization by the Executive Director of the board. If the professional organization fails to provide a voting representative at a third consecutive committee meeting, the professional organization's membership on the committee shall automatically be revoked. The professional organization and the Board shall receive written notification from the Executive Director of the board and shall not be considered for readmission to the committee for a minimum of three (3) years. A revoked organization may petition the board for membership on the committee using the procedures as outlined in the above section.

(4) Nominating Committee Responsibilities and Meeting Procedures

(a) The Nominating Committee is a special committee as established by Section 34-11-30, Code of Ala. 1975. The Nominating Committee is a separate entity and is not to be considered as a sub-committee of the Board and does not have to meet the requirements of the Open Meetings Act.

(b) The Executive Director of the board shall give the Nominating Committee at least **30 days' notice of the date and place for a meeting. When possible, the Executive Director** will provide an initial notification of the meeting at least 90 days prior to the anticipated date of the meeting.

(c) The meeting will be open to the public and shall proceed according to Robert's Rules of Order. The committee may go into Executive Session when discussing the good name and character of the nominees. All motions and ballots will be done in an open meeting.

(d) The Chair of the Nominating Committee shall be elected by the Committee on the day of the meeting from one of the committee members whose society is not submitting nominations for consideration. If all attending committee members are

submitting nominations the Chair will be elected from all attending committee members.

(5) Nominating Process for Professional Land Surveyor Members

(a) The Executive Director of the board shall give the Alabama Society of Professional Land Surveyors (ASPLS) at least 90 days' notice of an anticipated professional land surveyor vacancy on the Board. In the event there is an unanticipated vacancy, the Executive Director of the board shall give ASPLS as much as notice as possible.

(b) ASPLS is a separate entity and is not to be considered as a sub-committee of the Board and does not have to meet the requirements of the Open Meetings Act.

(c) It will be the responsibility of the Executive Director of the board to verify that the three persons nominated by the Alabama Society of Professional Land Surveyors as provided in Section 34-11-30, Code of Ala. 1975 meet the requirements as identified in Paragraph 330-X-1.13(2)b of the Administrative Code prior to the names being transmitted to the Governor.

330-X-1-.14 Authority of Rules.

(1) Rules of procedure adopted by the Board shall be binding upon persons certified and/or licensed under Title 34, Chapter 11 Code of Ala. 1975 and shall be applicable to corporations holding a certificate of authorization.

(2) Rules of procedure adopted by the Board shall be binding upon applicants seeking certification and/or licensure under Title 34, Chapter 11 Code of Ala. 1975 and shall be applicable to corporations applying for a certificate of authorization.

(3) Rules of procedure adopted by the Board shall be binding upon non-licensed individuals and corporations who are deemed to be offering and/or performing services as outlined in Title 34, Chapter 11 Code of Ala. 1975.

CHAPTER 330-X-2 DEFINITIONS

330-X-2-.01 Definitions of Terms.

(1) Section 34-11-1, Code of Ala. 1975, provides for definitions of the following terms: Board, engineer or professional engineer, engineer intern, practice of engineering, land surveyor or professional land surveyor, land surveyor intern, practice of land surveying, practice and offer to practice, and responsible charge.

(2) The terms "consultation," "investigation," "evaluation," and "planning" as used in the definition of the practice of engineering set forth in Section 34-11-1(7), Code of Ala. 1975, shall include, but are not limited to, services provided by testing laboratories involving the selection of proper tests to be performed (consultation and planning) when done for the purpose of developing design criteria or for the purpose of determining cause of failures (investigation) and analyses to provide recommendations for the foundation and materials to be used in the design or judgment which relate to the acceptability of structural or foundation construction (evaluation).

Testing and inspection do not constitute the practice of engineering (1) when they are performed in accordance with previously written standards or specifications or satisfy the standards setting forth the methods and techniques to be followed by the testing agency and no judgment is required other than a comparison of the materials in place with the previously specified standards or (2) when testing or inspection data are collected in conformance with a specific standard. Any attempt to determine the structural integrity or capacity of a building, or any sub-system thereof, other than **detection of problems by visual inspection or normal operation of the user's controls,** constitutes the practice of engineering.

(3) The term "gross negligence" as used in Section 34-11-11(a)(2), Code of Ala. 1975, shall mean the practice of engineering or land surveying by a licensee characterized by the reckless disregard for the rights, safety, or welfare of others, which could result in injury or loss of life or damage to property or financial loss.

(4) The term "incompetency" as used in Section 34-11-11(a)(2), Code of Ala. 1975, shall mean the practice of engineering or land surveying by a licensee who is either incapable of exercising ordinary care and diligence, or who lacks the ability and skill necessary to properly perform the duties he or she undertakes, or who is not qualified by experience and/or education to perform adequately and competently.

(5) The term "misconduct" as used in Section 34-11-11(a)(2), Code of Ala. 1975, shall mean the practice of engineering or land surveying by a licensee who performs any acts, causes omissions or makes any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever discredits or tends to discredit the profession of engineering or land surveying.

(6) The term "principal officer" of the firm as used in Section 34-11-9, Code of Ala. 1975, and Section 330-X-15.01 of the Administrative Code shall also be construed to mean "principal engineer" or "principal land surveyor" which is defined as the designated person who is a licensed professional engineer or licensed professional land surveyor and who makes significant technical and/or contractual judgments on behalf of the firm which would affect the firm's professional reputation and liability. The

principal's responsibilities include overall supervision of the firm's licensed and subordinate personnel providing engineering or surveying work in Alabama and the institution and adherence of policies of the firm.

(7) The term "Certification" when used in conjunction with the sealing of documents shall mean a statement signed, sealed, and dated by a licensed professional engineer or licensed professional land surveyor representing that the engineering or land surveying services addressed therein, as defined in Section 34-11-1, Code of Ala. 1975, have been performed by the licensed professional engineer or licensed professional land surveyor based on knowledge and information in accordance with commonly accepted procedures consistent with acceptable standards of practice, and is not a guaranty or warranty, either expressed or implied.

(8) The acronym NCEES as used in Chapter 330-X means the National Council of Examiners for Engineering and Surveying.

(9) The term "jurisdiction" shall mean any state, district, or territory of the United States.

(10) The term "Signature" shall mean handwritten or digital as follows:

(a) A handwritten message identification containing the name of the person who applied it; or

(b) A digital signature that is an electronic authentication process attached to or logically associated with an electronic document. The digital signature must be:

1. Unique to the person using it,
2. Capable of verification,
3. Under the sole control of the person using it, and
4. Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.
5. A digital signature that uses a process approved by the board will be presumed to meet the criteria set forth in subsections (b)1. through (b)4. above.

(11) The term "Inactive Licensee" shall mean a licensee who is not engaged in the engineering or land surveying practice which requires licensure in Alabama. No licensee granted inactive status may practice or offer to practice engineering or surveying in Alabama as defined in Section 34-11-1(6), Code of Ala. 1975.

(12) The term "Retired Licensee" shall mean a person who is retired from the profession of engineering or land surveying in Alabama.

(13) The term "Lapsed License" shall mean a license that has not been renewed as of the deadline for renewing. A license not renewed will remain in a lapsed status for a maximum of four years.

(14) The term "Expired License" shall mean a license that has been lapsed for more than four years.

(15) The term "Responsible Charge" shall mean direct control, personal supervision of, and legal responsibility for the engineering work or land surveying work performed. This responsible charge shall be of such a nature that the client may reasonably presume that the licensed engineer or land surveyor which he has employed is the provider of the professional services. The licensed professional engineer or licensed professional land surveyor providing such control and supervision shall have made decisions on technical matters of policy and design and shall have exercised his or her professional judgment in all engineering or land surveying matters that are embodied in the design and the plans, specifications, land surveys, or other documents involved in the work. By applying his or her seal, and/or signature, and date to the final documents, the licensee signifies compliance with the requirements of these definitions and the Rules of Professional Conduct (Code of Ethics) and accepts responsibility therefore.

(16) The term "surrender" shall mean the voluntary relinquishment of a license or certificate and shall have the same force and effect as a revocation.

(17) The term "testimony" as used in Sections 34-11-1(7) and 34-11-1(8), Code of Ala. 1975, shall mean a declaration made by a witness under oath or affirmation related to engineering and surveying activities in the State of Alabama.

(18) The term "supervision of construction" as it relates to an engineer shall mean the general oversight of an engineering project as it relates to the implementation of a design during construction.

CHAPTER 330-X-3 APPLICATIONS FOR CERTIFICATION AND LICENSURE

330-X-3-.01 Form of Application for Certification and Licensure.

(1) All applications for licensure shall be made on a printed form or in the format provided by the Board and no applications made otherwise will be accepted. Applications must be clearly typewritten or computer printed and all questions must be accurately and thoroughly answered. An application not properly completed, containing all of the information required, or accompanied by the required fee will be returned with

a statement of the reason for return. As per Section 34-11-5(e), Code of Ala. 1975, application fees will not be refunded.

(2) Applications for licensure as a professional engineer or as a professional land surveyor or for certification as an engineer intern or a land surveyor intern shall be subscribed and sworn to before a Notary Public or other persons qualified to administer oaths.

(3) The signature of the applicant on the application form certifies that all information on the application is true and correct; and the subscription to and the conformance with this Administrative Code of the Board including the Rules of Professional Conduct. Applicants found in violation of the Law, Administrative Code or Rules of Professional Conduct will be subject to disciplinary action.

(4) All applications, application fees, and supporting documents must be received by the below listed deadlines. Applications and any information pertaining to the application received after the deadline will be deferred for review for the next regularly scheduled Board meeting. It is the responsibility of the applicant to assure that all submissions are on file in the Board office prior to the deadlines that follow:

(a) Engineer intern - Board meeting agenda deadline – application, application fee, educational transcripts, and experience verification forms (if necessary).

(b) Land surveyor intern - Board meeting agenda deadline – application, application fee, educational transcripts, and experience verification forms (if necessary).

(c) Professional engineer by examination and professional land surveyor by examination – January 15 or July 1 - application, application fee, reference forms, experience verification forms, educational transcripts and verifications of examinations in other jurisdictions.

(d) Professional engineer by comity – Board meeting agenda deadline - application, reference forms, experience verification forms, educational transcripts, verifications of examinations in other jurisdictions, application fee, and licensure fee.

(e) Professional land surveyor licensed in another jurisdiction - Board meeting agenda deadline - application, reference forms, experience verification forms, educational transcripts, verifications of examinations in other jurisdictions, and application fee.

(5) Withholding information, providing statements which are untrue or misrepresenting the facts may be cause for denial of an application or revocation of license. If the infraction is identified after the board has approved the applicant for examination, the

board may temporarily suspend its previous approval and examination scores will not be released until such time as a hearing can be conducted.

(6) Licensure as a professional engineer or professional land surveyor by comity is **granted provided the applicant's qualifications meet the requirements of Chapter 11**, Title 34, Code of Ala. 1975, as amended, effective at the time of initial licensure and the applicant is currently licensed as a professional engineer or professional land surveyor, respectively, and in good standing within another jurisdiction.

(7) If a current, complete, properly executed NCEES Record is provided the professional engineer or professional land surveyor applicant will be required to complete only the sections of the Alabama application form dealing with general information, licensure in other jurisdictions, and the affidavit.

(8) For all applicants other than those holding an NCEES Record, when there is a degree required, the Board requires an official transcript to be sent directly from each school where the applicant received an engineering, engineering technology, land surveying, land surveying technology or related science degree. The transcript(s) must show degree(s) issued and date of issuance. It is the responsibility of the applicant to see that the transcript is sent directly from the institution to the Board office, and no action will be taken by the Board until such information is received. In the event it is impossible to have a transcript sent directly from the institution to the Board, the Board reserves the authority to evaluate and accept a transcript received from a different source.

(9) If an applicant for examination or comity has been convicted of a felony and has had his or her civil rights revoked, the application cannot be approved for the professional examination, licensure, or certification until the civil rights of the person have been restored and then a unanimous approval of the board shall be required.

(10) A graduate of a foreign institution will be required to have his or her transcript evaluated by an agency specified by the Board and shall be done at the expense of the applicant.

(11) A graduate of a related science degree will be required to have his or her transcript evaluated by an agency specified by the Board and shall be done at the expense of the applicant.

330-X-3-.02 Reconsideration of Denied Applications.

(1) A denied application may be reconsidered by the Board, if written notice of appeal is received by the Executive Director within thirty days after the applicant has been notified of the ruling of the Board.

- (2) A hearing shall be held within a reasonable time after receipt of the notice of appeal, or at such time agreed upon by stipulation between the applicant and the Executive Director.
- (3) At least a quorum of the Board must be present to hold a hearing.
- (4) Evidence, including oral testimony, shall be freely admitted. The applicant shall be allowed to have counsel present if desired.
- (5) The Board shall issue a final decision within thirty days of the date of the hearing, which shall include findings of fact and official action taken. The applicant shall be delivered a copy of the decision by first class mail.
- (6) The decision of the Board may be appealed to the Circuit Court of Montgomery County, as provided in Code of Ala. 1975, Section 34-11-13, within thirty days of the decision of the Board.
- (7) The record on appeal shall be certified by the Executive Director of the Board, and shall include the entire record including a transcript of the hearing, if a transcript is made.

330-X-3-.03 Disposal of Applications.

- (1) Approved Applications - When the Board, after due consideration of an application and of information pertaining thereto, is satisfied that the applicant is eligible for certification as an engineer intern or land surveyor intern, or licensure as a professional engineer or professional land surveyor, under any section of the law, the applicant will be granted a certification or license, and the applicant will be notified by the Executive Director. The application and all pertinent information will be made a portion of the **individual's** permanent file kept by the board office in accordance with its retention of records procedures.
- (2) Deferred Applications - When the Board, after due consideration of an application and of information pertaining thereto finds that the applicant is not eligible for certification or licensure, but the Board believes the minimum legal requirements may be met within one year, the application may be deferred by the Board. The applicant will be notified of the action of the Board by the Executive Director, and for further consideration the applicant may submit the required information, without fee, provided the resubmittal is within two years. The application will be considered closed two years **from the date of the Board's consideration and the applicant must submit a new application.**
- (3) Denied Applications - When the Board, after due consideration of an application and of information pertaining thereto finds that the applicant is not eligible for certification

or licensure under any section of the Law and the Board believes the minimum legal requirements cannot be met within one year, the applicant will be denied certification or licensure. The applicant will be notified of the action of the Board by the Executive Director, and for further consideration the applicant may submit a new application, without fee, after securing the necessary eligibility, provided the resubmittal is within five years. An applicant, who is denied licensure or denied the opportunity to take an examination, has the opportunity to meet **with the Board and/or to appeal the Board's** decision as provided by Sections 34-11-13 and 41-22-12 through 41-22-21, Code of Ala. 1975.

(4) Inactive Applications - If all necessary information required for Board review is not received within six months after the application has been filed, the application will be placed in the inactive file and the applicant will be notified. The application will be considered closed two years from the date of being placed in the inactive file and the applicant must submit a new application.

(5) Deferred, denied, and inactive applications will be maintained on file in the Board office in accordance with the Records and Retention Schedule prepared by the Department of Archives and History.

CHAPTER 330-X-4 FEES

330-X-4-.01 Method of Payment.

(1) **Fees that are paid to the Board shall be made payable to the "Professional Engineers and Land Surveyors Fund". Payment of fees paid directly to the Board office** should be made by checks (personal, company or cashier's) or money orders. No cash or money transfers will be accepted as payment of fees. Applications not accompanied by the proper fee will be returned to the applicant.

(2) Examination fees that are payable to NCEES will be the responsibility of the examinee and will be done in accordance with NCEES procedures.

330-X-4-.02 Application, Certification and Licensure Fees.

(1) The application, licensure, reinstatement, and renewal fees for professional engineers, professional land surveyors, engineer interns, and land surveyor interns shall be set by the Board, as provided by Section 34-11-5, Code of Ala. 1975.

(2) The application, reinstatement, and renewal fees for certificates of authorization for a corporation, partnership, or firm shall be set by the Board, as provided by Section 34-11-5, Code of Ala. 1975.

(3) The fees that are set by the board are contained in Appendix A to Chapter 4.

330-X-4-.03 Examination Fees.

The examination fee for state specific examinations will be set by the Board and are contained in Appendix A to Chapter 4. Examination fees for examinations provided by NCEES are set by NCEES and will be paid directly to NCEES by the examinee.

330-X-4-.04 Fees Not Refundable.

No fee, or part of any fee, paid to this board by any applicant for application, examination or licensure will be returned to the applicant, in the event of withdrawal of the application, denial of the application, or failure to take or pass the examination.

330-X-4-.05 Renewal Fee.

The renewal and reinstatement fees shall be set by the Board. Renewal will be annually or biennially as established by the policies of the Board.

330-X-4-.06 Roster.

The fee for a copy of the roster shall be set by the Board. Persons licensed or certified by the Board, governmental agencies, libraries, or professional societies will be provided a copy upon request without charge.

330-X-4.07 Bad Checks.

If a check or negotiable instrument is dishonored, the writer of the check or instrument will be required to tender payment of the full amount of such check or instrument plus a service charge as established by the Code of Ala. 1975, amended, Section 8-8-15.

(1) If the dishonored check or instrument was tendered for the purposes of sitting for an examination, payment of the full amount of such check or instrument plus a service charge must be paid in full prior to the individual being allowed to take the said examination. If the individual has already taken the examination prior to the board **office receiving notification of the dishonored instrument, the individual's** results will be held until such time as payment is made in full including the service charge.

(2) If the dishonored check or instrument was tendered for the purposes of renewing an individual license/certification or a corporate certification of authorization, the license or certification is invalidated and will not be considered in good standing, unless the issue is resolved within 30 days.

(3) If the dishonored check or instrument was tendered for the purposes of applying for licensure or certification, the application will not be processed until such time as payment is made in full including the service charge.

CHAPTER 330-X-5 CURRICULA APPROVED BY THE BOARD

330-X-5-.01 Curricula Approved by the Board.

The following educational requirements are specified in accordance with the Licensure Law which provides that the Board may approve schools, colleges, or universities in determining educational qualifications.

(1) When considering applicants who are graduates of programs from a school, college, or university located within the United States and its jurisdictions the following will apply:

(a) The term “a graduate of an approved engineering curriculum” shall mean a graduate of a baccalaureate engineering program accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET) at the time of graduation or within a two year period of graduation. This term shall also mean a graduate of a master or doctoral degree program offered by a school or college of engineering offering at least one EAC/ABET baccalaureate engineering program provided the school or college of engineering has petitioned the Board for approval for this degree and the Board has granted this approval. This term shall also mean a graduate of an EAC/ABET accredited master’s degree.

(b) The term “graduate of an unapproved engineering curriculum” shall mean a graduate of a baccalaureate engineering program which has not been accredited by EAC/ABET but has been accredited by a regionally accredited commission and is approved by the Board. This term shall also mean a graduate of a master or doctoral degree program offered by a school or college of engineering offering an EAC/ABET baccalaureate engineering program in the same discipline, provided the graduate has an approved four-year related science degree or an approved engineering technology degree. The term shall also mean a graduate of a baccalaureate engineering program not EAC/ABET accredited offered by a foreign school but approved by the Board. See Rule 330-X-5.01(2).

(c) The term “graduate of an approved engineering technology curriculum” shall mean a graduate of a baccalaureate engineering technology program accredited by the Engineering Technology Accreditation Commission (ETAC) of the Accreditation Board for Engineering and Technology (ABET) at the time of graduation or within a two year period of graduation.

(d) In considering professional engineer applicants under Section 34-11-4(1)a3 and engineer intern applicants under Section 34-11-4-(2)b2 of the Licensure Law, the

term “graduate of a related science curriculum” shall mean a graduate of a four year physics, mathematics, or other program which the Board may determine is related to engineering from a school or college which has been accredited by a regionally accredited commission.

(e) The term “graduate of an approved land surveying curriculum” shall mean a graduate of a baccalaureate surveying/geomatics program accredited by EAC/ABET, ETAC/ABET, or Applied Science Accreditation Commission of the Accreditation Board for Engineering and Technology (ASAC/ABET) at the time of graduation or within a two year period of graduation. This term shall also mean a graduate of a EAC/ABET, ETAC/ABET, or ASAC/ABET accredited surveying/geomatics **master’s degree** program. This term shall also mean a surveying/geomatics baccalaureate program where the school or college has petitioned the Board for approval for this degree and the Board has granted this approval.

(f) The term “graduate of an approved curriculum related to surveying” shall mean a graduate of a baccalaureate curriculum related to surveying a minimum of 15 semester hours or 22.5 quarter hours of surveying courses from a school or college which has been accredited by a regionally accredited commission and is approved by the Board.

(g) In considering professional land surveyor applicants under Section 34-11-4(3)a3 and land surveyor intern applicants under Section 34-11-4-(4)b2 of the Licensure **Law, the term “graduate of a related science curriculum” shall mean a graduate of a** baccalaureate mathematics or other program which the Board may determine is related to land surveying from a school or college which has been accredited by a regionally accredited commission.

(2) When considering engineering applicants who are graduates of engineering programs from a school, college or university outside of the United States and its jurisdictions, the Board will evaluate and approve the degrees on an individual basis. The Board may require an independent evaluation of the engineering education of an applicant who was educated outside of the United States and its jurisdictions. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant.

(3) When considering surveying applicants who are graduates of programs from a school, college or university outside of the United States and its jurisdictions, the Board will evaluate and approve the degrees on an individual basis. The Board may require an independent evaluation of the education of an applicant who was educated outside of the United States and its jurisdictions. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant.

(4) When considering applicants from related science programs, whether an engineering or land surveying applicant, the Board may require an independent evaluation of the education of an applicant. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant.

CHAPTER 330-X-6 EXPERIENCE

330-X-6-.01 Qualifying Experience.

In evaluating experience offered as qualifying experience under Section 34-11-4 (1), (2) and (3), Code of Ala. 1975, the Board will take into consideration the following:

(a) Experience must be progressive and of an increasing standard of quality and responsibility and usually follows graduation.

(b) Professional land surveyor applicants will usually gain experience by working under the supervision of a licensed professional land surveyor. Verification of experience usually will be by the licensed professional land surveyor supervisor or a licensed professional land surveyor associate. It is the responsibility of the applicant to have the verification forms provided in the application package completed and returned directly to the Board by the applicant. See Rule 330-X-3-.01(4).

(c) Professional Engineer applicants will usually gain experience by working under the supervision of a licensed professional engineer. Experience may also be gained by **working with a licensed professional engineer who closely observed the applicant's work** as an associate within the same company and the same location. Verification of experience must be by the licensed professional engineer supervisor, the licensed professional engineer associate, or in some other relationship that assures the Board that the experience received is substantially equivalent to supervision under a licensed professional engineer. It is the responsibility of the applicant to have the verification forms provided in the application package completed and returned directly to the Board by the applicant. See Rule 330-X-3-.01(4).

(d) Concurrent time, that is time spent in engineering or land surveying work, while attending school, can only be credited as education experience or work experience but not as both.

(e) Experience credited on the engineer intern or professional engineer application as engineering experience cannot be claimed as land surveying experience on the land surveyor intern or professional land surveyor application. Experience credited on the land surveyor intern or professional land surveyor application as land surveying

experience cannot be claimed as engineering experience on the engineer intern or professional engineer application.

(f) Military experience, to be creditable, must have been spent in engineering work or land surveying work and be of a character equivalent to that required in the civilian sector in like work. Normally, it would be expected that the applicant while in the armed services, served in an engineering, engineering-related, or surveying group.

(g) For sales experience to be creditable, it must be demonstrated conclusively that engineering principles and engineering knowledge were actually employed. The mere selection of data or equipment from a company catalog or a similar publication will not be considered engineering experience.

(h) Successful completion of graduate study in an engineering curriculum leading to a **master's degree in engineering in a program whose undergraduate or graduate degree** is accredited by EAC/ABET may be credited as one year of engineering experience. **Successful completion of a Ph.D. in engineering after completion of a master's degree** may be credited for an additional year of experience. Successful completion of graduate **study in a land surveying curriculum leading to a master's degree in land surveying in a program whose undergraduate or graduate degree is accredited by ABET** may be credited as one year of surveying experience. Successful completion of a Ph.D. in **land surveying after completion of a master's degree may be credited for an additional year** of experience. If the Ph.D. in engineering or land surveying is obtained without the **master's degree, the credit for experience will be two years. If the awarding of the master's or higher degree has been used to change the category of curricula for which** the applicant is accepted as identified in Section 330-X-5.01, it cannot be used for experience credit.

(i) For teaching experience to be creditable the engineer applicant must have taught engineering or engineering-related courses at an advanced level in a four year engineering or engineering technology curriculum accredited by ABET and must have been under the supervision of a licensed professional engineer. For teaching experience to be creditable as land surveying experience the land surveyor applicant must have taught surveying or surveying-related courses at an advanced level in a land surveying or land surveying technology curriculum accredited by ABET and must have been under the supervision of a licensed professional land surveyor.

(j) Engineering experience leading to licensure as a licensed professional engineer should be directed toward the identification and solution of practical problems in the **applicant's area of engineering specialization. This experience should include** engineering analysis of existing systems or structures or the design of new systems or structures and be under the supervision of a licensed professional engineer.

(k) Experience in construction supervision in order to be qualifying must include use of engineering skills in assuring compliance with specifications and design.

(l) Experience must not be anticipated. The experience must have been gained before the time the application is submitted.

(m) Land surveying experience must be progressive and must include experience in property conveyance/boundary line determination, field work, office work, and legal/courthouse research. A substantial portion of the experience must be spent in charge of work related to property conveyance and/or boundary line determination.

(n) Experience prior to graduation is evaluated by the Board on a case by case basis. In order for co-op experience to be considered, it must be listed on the college transcript and must be verified using the procedures as outlined in Rule 330-X-6.01(b) and (c). For every two months of accepted co-op experience one 1 month experience will be granted up to a maximum of six months. Any experience prior to graduation other than co-op is limited to a 2 year maximum.

(o) Experience gained in engineering research and design projects by members of an engineering faculty where the program is approved by the board is creditable.

(p) Part time experience is evaluated by the Board on a case by case basis. In considering part time experience, the months of experience granted by the Board will generally be based on no more than a ratio of part time vs. full time and must meet the requirements of Rule 330-X-6.01(a)

(q) When considering experience at no time will the Board grant experience in excess of a 1:1 calendar ratio.

(r) The Board may deem professional experience acquired by applicants outside the United States to be equivalent to the minimum board requirements established in Sections (a) through (q) above.

330-X-6-.02 Nonqualifying experience.

(1) Experience must not have been obtained in violation of the Licensure Law.

(2) The Board will not accept the mere execution as a contractor of work designed by a licensed professional engineer, or the supervision of the construction of such work as a foreman or superintendent as qualifying engineering experience.

CHAPTER 330-X-7 REFERENCES

330-X-7-.01 Statement of Policy.

References are those individuals who should have personal knowledge of an applicant **and who are able to issue judgments concerning an applicant's experience, ability, character, and reputation.**

- (1) The applicant should give serious attention to the selection of references.
- (2) The licensed professional engineers or licensed professional land surveyors under whose direct control and personal supervision the applicant has worked should normally be named as references.
- (3) Any Board Member may request a Board Member, a staff employee or others to make an independent inquiry or investigation of the applicant's qualifications and report the findings.
- (4) Additional references may be required by the Board.

330-X-7-.02 References.

- (1) The applicant shall furnish on the application for licensure five reference names, their addresses and if licensed, the jurisdictions in which they are licensed.
- (2) If applying for engineer licensure, a minimum of three of the five references must be currently licensed **professional engineers qualified to evaluate the applicant's** engineering training and experience.
- (3) If applying for land surveyor licensure, a minimum of three of the five references must be currently licensed professional land surveyors qualified to evaluate the **applicant's land surveying training and experience.**
- (4) All references should know the applicant personally and should be able to issue **judgments concerning the applicant's experience, ability, character and reputation.**
- (5) Accurate statements of fact **from responsible references covering the applicant's** experience are necessary.
- (6) A current member of the Board cannot serve as a reference for an applicant.
- (7) The Board may find it necessary to correspond directly with a reference to seek **clarification or amplification of the reference's responses on the form submitted. If the** reference fails or declines to furnish the necessary information within a reasonable time, all information submitted by that reference may be disregarded in consideration of the application involved.

(8) It is the responsibility of the applicant to have the reference forms completed by references. See Rule 330-X-3-.01(4).

330-X-7-.03 Confidentiality of Reference Replies.

Replies received from references regarding the qualifications of an applicant shall be included as records which do not constitute public records as provided for in Rule 330-X-1-.11, and such replies will be held confidential. The source and character of this information shall remain confidential unless disclosure is required by law.

CHAPTER 330-X-8 EXAMINATIONS

330-X-8-.01 Classifications of Examinations. Examinations as required by the Alabama Law will be classified as follows:

- (a) Examination in the Fundamentals of Engineering Subjects - FE Exam - Exam I, National Council of Examiners for Engineering and Surveying (NCEES) Exam
- (b) Examination in the Principles and Practice of Engineering - PE Exam - Exam II, NCEES Exam and/or NCEES Structural Engineering Exam
- (c) Examination in the Fundamentals of Surveying- FS Exam - Exam I, NCEES Exam
- (d) Examination in the Principles and Practice of Surveying - PS Exam - Exam II, NCEES Exam
- (e) Alabama Land Surveying Standards, History, and Law - ALSS - Exam III, Alabama Exam

330-X-8-.02 Eligibility for Examination.

- (1) Engineer applicants will not be scheduled to take Exam II (PE) until Exam I (FE) has been passed. Land Surveyor applicants will not be scheduled to take Exam II (PS) and Exam III (ALSS) until Exam I (FS) has been passed.
- (2) No candidate may take the PE Examination, the PS Examination nor the ALSS Examination until the Board has established his or her eligibility for examination.
- (3) Candidates for the FE Examination and the FS Examination may sit for the next scheduled examination without Board action provided the proper application has been filed with NCEES.
- (4) A new PE, PS, or ALSS examination candidate, if approved to take the examination, is approved for unlimited examination attempts within a four-year period.

330-X-8-.03 Examination Dates and Locations.

(1) Examinations for the FE, PE, FS, and PS are offered on dates set by NCEES. The examination for the ALSS is offered on dates set by the Board.

(2) PE and PS Examinations. Locations at which the examinations are given are designated by NCEES and this information will be available at least two weeks before the examinations. The seating capacity in certain exam locations is limited. If an exam location capacity is reached, NCEES may reassign the applicant to another exam location.

(3) ALSS Examinations

(a) Locations at which the examination is given are designated by the Board and this information will be available at least two weeks before the examination.

(b) The seating capacity in certain exam locations is limited. If an exam location capacity is reached, the applicant may be reassigned to another exam location.

(c) The Board reserves the right to schedule examinees to another location if there are insufficient applicants or other problems for an exam location.

330-X-8-.04 Examinations in the English Language.

All examinations will be in the English language.

330-X-8-.05 Study Information.

Questions used on prior examinations will not be distributed by the Board. Order forms are available, upon request, for ordering typical questions from NCEES. Information on the history of land surveying in Alabama and Alabama Law applicable to land surveying is available as specified by the Executive Director of the Board.

330-X-8-.06 Instructions for Examination.

Instructions provided prior to each examination will furnish information regarding whether the examination is open, closed, or limited reference book. On an open book examination, textbooks and bound classroom manuals are permitted. On a limited reference examination, the only reference material allowed will be furnished. More specific instructions will be provided prior to the examination or at the examination site.

330-X-8-.07 Examination Offerings For The PE, PS, and ALSS Examinations.

(1) An applicant successfully qualifying for an examination will be notified in advance of the examination for which the exam fee has been paid.

(a) Should the applicant fail to take the PE or PS examination offered or fail to pass the PE or PS examination and plans to retake the examination, the applicant will apply directly to NCEES and pay the examination fee as set by NCEES to NCEES. Should the applicant fail to take the examination or fail to pass the examination applied for, the fee paid is not refundable.

(b) Should the applicant fail to take the ALSS examination offered or fail to pass the examination and plans to retake the examination, the applicant must file a request for reexamination to the Board and pay the examination fee as set by the Board. Should the applicant fail to take the examination or fail to pass the examination applied for, the fee paid is not refundable.

(c) In the event an applicant fails to pass the examination after four years, the applicant will be notified that the application has been closed.

(d) If an application is closed, in order to be considered for further examinations, an applicant must file a new application, listing experience gained since the previously filed application, and pay the application fee as required by Law. No transcripts, additional references or verifications will be required. The applicant must meet the eligibility requirements of the current Law and Administrative Code.

(e) In the event the requalified applicant again fails to pass the examination after four (4) years, the application will be closed and the procedure as outlined in (d) above would then be repeated before further consideration would be afforded the applicant.

(f) An application will be considered valid and retained on file for a period of four years. After four years, an application will be closed and the applicant will be required to follow the procedure outlined in (d) above for reapplication.

330-X-8-.07.01 Examination Offerings For The FE and FS Examinations

(1) An individual wishing to take the FE or FS examination will register with NCEES.

(2) An individual failing the FE or FS examination may be allowed to retake the examination in accordance with NCEES policy.

330-X-8-.08 Examination Results.

Examination results will be approved by the Board. The passing score on each NCEES **examination will be determined by the Board, based on NCEES's recommendation.**

330-X-8-.09 Failed Examination.

(1) There will be no review of failed exams.

(2) If an applicant does not attend an examination for which he or she has been scheduled, it does not count as a failure of the examination.

330-X-8-.10 Examination for Record Purposes.

(1) Any engineer licensed by this Board may take for record purposes the Fundamentals of Engineering Examination and the Principles and Practice of Engineering Examination prepared by NCEES upon payment of the fees to NCEES.

(2) Any land surveyor licensed by this Board may take for record purposes the Fundamentals of Surveying and the Principles and Practice of Surveying Examination prepared by NCEES upon payment of the fees to NCEES.

(3) Failure to pass either or both parts of the examination will in no way affect current licensure.

330-X-8-.11 Examination of Candidates with Disabilities.

Accommodations made for disabled persons shall comply with applicable federal and state laws and regulations. Application procedures will be as specified by NCEES.

330-X-8-.12 Materials Permitted in Examination Room.

(1) Devices or materials that might compromise the security of the examination or examination process are not permitted.

(2) Only models of calculators as specified by NCEES are permitted in the examination room.

(3) Devices having a QWERTY keypad arrangement similar to as typewriter or keyboard are not permitted. Devices not permitted include but are not limited to palmtop, laptop, handheld, and desktop computers, calculators, databanks, data collectors, and organizers.

(4) Communication devices such as pagers and cellular phones are not permitted.

(5) Each candidate will be required to sign a statement that he or she will neither copy nor divulge any examination problem or solution and that any violation thereof will be sufficient grounds for invalidating the candidate's examination.

CHAPTER 330-X-9 CLASSIFICATIONS OF LICENSURE

330-X-9-.01 Classification of Licensure.

(1) Applicants shall be licensed under one or more of the following titles:

- (a) Professional Engineer
- (b) Professional Land Surveyor.

(2) Applicants shall be certified under one or more of the following titles:

- (a) Engineer Intern
- (b) Land Surveyor Intern.

(3) Chapter 11, Title 34, Code of Ala. 1975 makes no specific designations as to the discipline of engineering or land surveying practice for which a license as Professional Engineer or Professional Land Surveyor shall be issued; however, the Rules of Professional Conduct, Rule 330-X-14-.03, provides that a professional engineer or professional land surveyor shall practice only in technical fields in which he or she is qualified by education or experience. Discipline of examinations taken by a licensee is considered a public record.

330-X-9-.02 Branches of Engineering and Land Surveying.Repealed: July 27, 2012

330-X-9-.03 Functions Common to both Engineering Surveying and Land Surveying.Repealed: December 5, 2006.

CHAPTER 330-X-10 LICENSURE AND CERTIFICATION

330-X-10-.01 License Number.

At the time an applicant is granted licensure by the Board, the applicant will be assigned a license number.

330-X-10-.02 Certificates of Licensure.

(1) After the Board has received payment of the licensure fee from an approved applicant, a certificate of licensure with the license number will be issued.

(2) A professional engineer or professional land surveyor examination applicant who fails to complete his or her licensure as provided for hereinabove within a period of thirty days after notice is mailed to him or her by the Board that he or she has been granted licensure shall be denied licensure. This deadline may be waived due to extenuating circumstances.

330-X-10-.03 Reissuance of Certificates.

A licensee requesting a new certificate of licensure under the provisions of Section 34-11-12, Code of Ala. 1975 shall file a notarized request form setting out the reasons for the request. Upon receipt of the request form accompanied by the required fee, a duplicate certificate will be issued.

CHAPTER 330-X-11 SEALS

330-X-11-.01 Seal of the Board.

The seal of the Board shall be circular in form and shall be imprinted on all certificates issued by the Board.

330-X-11-.02 Seal of the Licensee.

(1) Upon approval of licensure by the Board, licensees will be advised that they should secure an official seal which shall be applied to all drawings, specifications, reports, and other engineering or land surveying documents prepared by or under the direct control and personal supervision of the licensees.

(2) The seals to be used by the licensees are to be circular in form and not less than 1 5/8 to 2 inches in diameter with copy of the design to be furnished each new licensee.

(3) Seals obtained prior to the adoption of this rule and which are in conformance with prior Board rules are acceptable.

(4) Rubber stamps and computer generated seals identical in size, design, and content with the approved seals may be used by the licensee.

(5) Drawings, reports, or documents that are signed using a digital signature, as defined in 330-X-.02(10), shall contain authentication procedures.

330-X-11-.03 Seal on Documents.

(1) The seal, signature, and date of signature on a document signify that the document was prepared by the licensee or under his or her responsible charge, or that the licensee has reviewed the document in sufficient depth to fully coordinate and assume responsibility for documents prepared by another licensed professional engineer or licensed professional land surveyor.

(2) Two or more licensees may affix their signatures and seals on the same sheet provided it is designated by a note under the seal the specific subject matter for which each is responsible. In addition, each drawing shall be sealed and signed by the licensee or licensees responsible for each sheet.

(3) The seal and signature shall be placed on work only when it was under the **licensee's responsible charge. The licensee shall only sign and seal work within their** area of competence.

(a) Each design sheet for engineering practice and each map, plat or chart sheets for land surveying practice, shall be signed, sealed, and dated by the licensee who prepared the documents or under whose responsible charge the documents were prepared.

(b) For reports and specifications when more than one sheet is bound together in one volume, the licensee who prepared the volume, or under whose responsible charge the volume was prepared, may sign, seal, and date only the title or index sheet, provided that this sheet clearly identifies all of the other sheets comprising the bound volume, and provided that any of the other sheets which were prepared by, or under the responsible charge of, another licensee, be signed, sealed, and dated by the other licensee.

(c) Letters containing engineering or surveying recommendations should be signed and sealed on the signature page, whether those documents are transmitted via hard copy or electronic means.

(4) Plans, plats, specifications, drawings, reports, or other documents will be deemed to have been prepared under the responsible charge of a licensee only when all of the following conditions have been met and documented:

(a) The client requesting preparation of such plans, plats, specifications, drawings, reports, or other documents makes the request directly to the licensee, or a member or employee of the licensee's firm;

(b) The licensee supervises the preparation of the plans, plats, specifications, drawings, reports, or other documents and has input into their preparation prior to their completion;

(c) The licensee reviews the final plans, plats, specifications, drawings, reports, or other documents; and

(d) The licensee has the authority to, and does, make any necessary and appropriate changes to the final plans, plats, specifications, drawings, reports, or other documents.

(5) Any revision to a document containing the seal and signature of a licensee shall be described and dated. If the revisions are not done by the original licensee, the revisions must also be signed and sealed by the licensee in responsible charge of those revisions. The original seal and signature shall not be removed.

(6) The seal, signature, and date of signing shall be placed on all final specifications, land surveys, reports, plats, drawings, plans, design information, and calculations whenever presented to a client or any public or governmental agency to certify that the work was done by the licensee or under the responsible charge of the licensee. All work products presented which are not final shall be so identified. Working drawings or preliminary documents are not required to have a seal and signature if the working drawing or preliminary document contains a statement in large bold letters to the effect **"PRELIMINARY, NOT FOR CONSTRUCTION, RECORDING PURPOSES OR IMPLEMENTATION."**

(7) Working drawings consisting of sketches, reports, or otherwise a work product which is in whole or part intended to communicate work to be performed or for use in specific proposals and/or becomes a part of defining the scope of a contract for work, must be sealed, signed, and dated by the licensee who prepared these documents or under whose direct control and personal supervision they were prepared.

(8) A computer generated seal or facsimile is acceptable only when the signature of the professional engineer or professional land surveyor and the date the document was signed are on or adjacent to the computer generated or facsimile seal. Any variation from this procedure must be submitted to and approved by the Board. Drawings, specifications, plans, reports, or documents which do not require certification may be transmitted electronically but shall have the generated seal, if any, removed before transmitting and shall have the following inserted in lieu of the signature and date: "This document originally issued and sealed by (name of licensee), P.E. # ____/P.L.S. # ____ on (date of sealing). This document should not be considered a certified document."

(9) In circumstances where a licensee in responsible charge of the work is unavailable to complete the work, or the work is a site adaptation of a standard design plan, or the work is a design plan signed and sealed by an out-of-jurisdiction licensee, a successor licensee may take responsible charge by performing all professional services to include developing a complete design file with work or design criteria, calculations, code research, and any necessary and appropriate changes to the work. The non-professional services, such as drafting, need not be redone by the successor licensee but must clearly and accurately reflect the successor licensee's work. The burden is on the successor licensee to show such compliance. The successor licensee shall have control of and responsibility for the work product and the signed and sealed originals of all documents.

(10) The seal and signature shall be placed on all original copy, tracings, or other reproducible documents so that the seal and signature will be reproduced when copies are made.

330-X-11-.04 Seal, Signature, and Date on Certifications.

(1) The term "Certification" as used herein shall be as set forth in Rule 330-X-2-.01(8).

(2) When an engineer or a land surveyor is presented with a Certification to be signed, sealed, and dated, he or she should carefully evaluate that Certification to determine if any of the circumstances set forth in subsection (3) below would apply.

(3) Engineers or land surveyors who sign, seal, and date Certifications which: (a) relate **to matters which are beyond the engineer's or land surveyor's technical competence, or (b) involve matters which are beyond the engineer's or land surveyor's scope of** services actually provided, or (c) relate to matters which were not prepared under the **engineer's or land surveyor's responsible supervision, direction, or control** are subject to discipline pursuant to Rules 330-X-14-.05(h) and 330-X-16.

(4) If any of these circumstances set forth in subsection (3) above would apply, that engineer or land surveyor shall either: (a) modify such Certification to limit its scope to those matters which the engineer or land surveyor can properly sign, seal, and date, or (b) decline to sign, seal, and date such Certification.

CHAPTER 330-X-12 INTERIM PERMITS Chapter repealed: September 3, 2014.

CHAPTER 330-X-13 EXPIRATIONS, LAPSES, RENEWALS, AND CONTINUING PROFESSIONAL COMPETENCY

330-X-13-.01 Renewals.

(1) All licenses lapse on December 31 of a specified year. Each licensee will be mailed a renewal notification no later than two months prior to the date the license lapses. Renewal may be accomplished online or by submission of a paper renewal form. The renewal must be signed and returned to the Board office with the renewal fee. The **licensee's signature on the renewal form reaffirms agreement to abide by the** Rules of Professional Conduct (Code of Ethics), Rule 330-X-14.

(2) All intern certifications become delinquent on December 31. Each active intern will be mailed a renewal notification no later than two months prior to the date the

certification becomes delinquent. Renewal may be accomplished online or by submission of a paper renewal form.

(3) The renewal fees are set each year by the Board. No renewal fees will be accepted prior to the mailing of the renewal notifications.

(4) Reinstatement fees for lapsed licenses and certifications are set each year by the Board.

(5) The responsibility for the timely renewal rests solely with the individual. Failure to receive notice of renewal does not relieve you of your duty to renew on time.

330-X-13-.02 Continuing Professional Competency

(1) Purpose - In order to help safeguard life, health, and property, and to promote the public welfare, the practices of professional engineering and land surveying in Alabama require continuing professional competency in accordance with Code of Ala. 1975, Section 34-11-8 (a)(2) and this Rule.

(2) Scope - Each in-state and out-of-state licensee shall be required to meet the continuing professional competency requirements of these regulations for professional development as a condition for licensure renewal. Continuing professional competency obtained by a licensee should maintain, improve, or expand skills and knowledge obtained prior to initial licensure or develop new and relevant skills and knowledge. Regular duties are not considered qualified activities.

(3) Definitions - Terms used in this section are defined as follows:

(a) Professional Development Hour (PDH) - A contact (clock) hour consisting of not less than 50 minutes of instruction or presentation and which further meets the requirements of these rules. The minimum acceptable fraction of a PDH will be .5 which is equivalent to 30 minutes of instruction time.

(b) Sponsor - An individual, organization, association, institution, or other entity which provides an educational activity for the purpose of fulfilling the continuing professional competency requirements of this rule.

(4) Requirements - To demonstrate that a licensed professional engineer or professional land surveyor maintains an acceptable level of competency, a licensee must obtain the number of Professional Development Hours (PDH) per renewal period as shown below. The requirement must be satisfied during the current renewal period. Professional development hours must not be anticipated and cannot be used for more than one renewal period. PDH credits may include:

(a) The carryover permitted,

(b) PDH earned during the previous renewal period after the date of submitting the previous renewal to the Board office,

(c) PDH earned during current renewal period, and

(d) PDH earned in the following renewal period if renewing after renewal deadline.

1. A licensed professional engineer or licensed professional land surveyor must earn a minimum of fifteen PDH per annual renewal period or thirty if biennial renewal period except for the carryover permitted. The number of professional development hours which may be carried forward into the next renewal period shall not exceed fifteen whether on an annual or biennial period.

2. A licensee who has both a professional engineer's license and a professional land surveyor's license can cross claim PDH's when course material is applicable to both licenses.

(5) Activities — Continuing professional competency activities which satisfy the professional development requirement shall include, but not be limited to:

(a) Successfully completing or auditing college or university sponsored courses,

(b) Successfully completing courses which are awarded continuing educational units (CEU),

(c) Successfully completing tutorials, short courses, correspondence courses, televised courses, internet courses, or videotaped courses,

(d) Attending seminars, in-house programs, workshops, or professional or technical presentations made at meetings, conventions, or conferences,

(e) Teaching, presenting, or instructing as described in (a) through (d) above,

(f) Authoring published papers, articles, books, or accepted licensing examination items, and

(g) Receiving a United States patent.

(h) Actively participating in professional or technical societies as defined in 330-X-13.02(8)(f).

(i) Serving the Board as a volunteer Technical Advisor as defined in 330-X-13.02(8)(g).

(j) Active participation in educational outreach activities pertaining to professional licensure or the surveying/engineering professions that involve K-12 or higher education students.

All activities as described in (a) through (j) above must be relevant to the practice of engineering or land surveying and may include technical, ethical, or managerial content. The Board does not preapprove or endorse any CPC activities. It is the responsibility of each licensee to assure that all PDH credits claimed meet the requirements as specified in 330-X-13.02.

(6) Criteria - Continuing professional competency activities must meet the following criteria:

- (a) There is a clear purpose and objective for each activity which will maintain, improve, or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge.
- (b) The content of each presentation is well organized and presented in a sequential manner.
- (c) There is evidence of preplanning which should include the opportunity for input by the target group to be served.
- (d) The presentation will be made by persons who are well qualified by education or experience.
- (e) There is a provision for individual participant registration which will include information required for record keeping and reporting.

(7) Units - The conversion to PDH units from other units is as follows:

- | | |
|---|--------|
| 1 University semester hour of credit... | 45 PDH |
| 1 University quarter hour of credit... | 30 PDH |
| 1 Continuing Educational Unit (CEU). | 10 PDH |
| 1 Hour of acceptable professional development education ... | 1 PDH |

Active participation in professional and technical society (each organization maximum 2 PDH per organization not to exceed 6 PDH total) 1 hour of outreach activities (not to exceed 3 PDH's) ... 1 PDH

(8) Credits – The Board has final authority with respect to approval of courses, credit, PDH value for courses, and other methods of earning credit. Credit for qualifying courses successfully completed which offer PDHs based on semester hours, quarter hours, or CEUs is as specified above. All other activities permit the earning of one PDH credit for each contact hour with the following exceptions:

- (a) Successful auditing of university or college courses permits PDH credit of 1/3 that shown in (7) above.

(b) Teaching or instructing qualifying courses or seminars or making presentations at technical meetings can earn PDH credit at twice that of participants. For non faculty - Teaching credit is valid only for the first offering of the course/presentation. Full-time faculty may not claim teaching credit associated with their regular duties.

(c) Authorship of papers, articles, or books cannot be claimed until actually published. Receipt of a US patent cannot be claimed until the patent is actually awarded. Credit earned will equal preparation time spent not to exceed 10 PDH per publication or patent.

(d) For meeting the continuing professional competency requirements through correspondence, video, audio, or on-line courses, the course must require the participant to show evidence of completion.

(e) The Board will not accept self study, regular employment including repetitive teaching of the same course without updating course material, service club meetings, equipment demonstrations, membership on Boards or Committees, enrollment without attending the course, conversational language courses for personal use, and other activities not relevant to engineering or land surveying and not educational in nature.

(f) Credit for active participation in professional and technical societies (limited to 2 PDH per organization, but a maximum of 6 PDH total), requires that a licensee serve as an officer and/or actively participate in a committee of the organization.

(g) Credit for service to the Board as a volunteer Technical Advisor may be earned on an hourly basis not to exceed 10 PDH per year.

(9) Exemptions — A licensee may be exempt from the professional development educational requirements for one of the following reasons:

(a) A military licensee serving on active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) days in a renewal period shall be exempt from obtaining the professional development hours required during that period.

(b) A licensee employed as a professional engineer or professional land surveyor and assigned to duty outside the United States for a period of time exceeding one hundred twenty (120) consecutive days in a renewal period shall be exempt from obtaining the professional development hours required during that period.

(c) A licensee who has experienced during the past year a serious illness or injury of a nature and duration which has prohibited completing continuing professional competency requirements this past renewal period may be exempted in order to give

the licensee sufficient time to recuperate and begin to earn the necessary professional development hours for the next renewal period. Supporting documentation such as a letter from a physician must be furnished to the Board.

(d) Licensees who list their occupation as Retired or Inactive on the Board approved renewal form and who certify that they are not currently practicing engineering or land surveying shall be exempt from the professional development hours required.

(10) Reinstating Lapsed, Inactive and Retired Licenses. In the event a licensee elects to return to active practice of professional engineering or professional land surveying, thirty professional development hours must be earned. The hours required for reinstatement are to bring the license to active status. When the reinstated license renewal is due, the licensee will also be required to obtain the professional development hours for the renewal period.

(11) Forms - All renewal applications will require the listing of the PDH credit claimed unless the licensee is exempt from the continuing education requirement. The licensee must certify and sign the renewal application.

(12) Records - The responsibility of maintaining records which can be used to support credits claimed is the responsibility of the licensee. Records required are (1) a log showing the type of activity claimed, sponsoring organization, location, duration, **instructor's or speaker's name, and PDH credits earned; and (2) attendance verification** records in the form of completion certificates showing PDH credits earned. These records must be maintained for a period of four years and copies must be furnished, if requested, to the Board for audit verification purposes. These records should not be furnished with the renewal application.

(13) Disallowance - If the Board disallows claimed PDH credit after the renewal has been processed, the licensee shall have 180 days after notification to substantiate the original claim or to earn other credit to meet the minimum requirement.

(14) Audit - The Board will conduct a random audit of renewals submitted for compliance with the continuing education requirements.

(a) Those licensees selected for audit will be notified and will be required to provide the documents as outlined in subsection (12) above.

(b) Failure to respond within 60 days of audit notification will result in a temporary suspension of the license and the license will remain suspended until such time as the audit requirements are met.

(c) Falsification of documentation is grounds for disciplinary action.

330-X-13-.03 Expirations and Lapses.

(1) The right to practice as a licensed professional engineer or licensed professional land surveyor lapses December 31 of the specified year unless renewed. To be reinstated, a licensee who does not renew before December 31 and has a lapsed license for a period not to exceed four years, will be required to file a reinstatement form, show evidence of completion of the continuing professional competency requirement, and pay the reinstatement fee as determined by the Board. Any license which has been lapsed for more than four years is not eligible for reinstatement and is considered expired and the individual will be required to file a new application and meet the statutory requirements in existence at time of relicensing.

(2) An engineer intern or land surveyor intern who does not renew his or her certification within the period provided by law will not invalidate his or her status as an engineer intern or land surveyor intern, but his or her name shall, after ninety days, be **removed from the Board's current mailing list and omitted from the Roster. The fee to bring an enrollment current after a renewal expiration shall be twice the fee established for the renewal period.**

CHAPTER 330-X-14 PROFESSIONAL CONDUCT

330-X-14-.01 Preamble.

(1) In order to meet the intent of the Code of Ala. 1975, Title 34, Chapter 11, to safeguard the life, health, property, and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the professions of engineering and land surveying, the following Rules of Professional Conduct (Code of Ethics) are promulgated in accordance with Section 34-11-35, Code of Ala. 1975 and shall be binding upon (a) every person holding a license as a professional engineer or professional land surveyor, (b) every certified engineer intern and land surveyor intern and (c) holders of certificates of authorization.

(2) All persons licensed or certified under the provisions of Chapter 11, Title 34, Code of Ala. 1975 and prior Code, are charged with having knowledge of the existence of the Rules of Professional Conduct (Code of Ethics), Rules 330-X-14-.02 through 330-X-14-.07, and shall be deemed to be familiar with their several provisions and to understand them. Such knowledge shall encompass the understanding that the practice of engineering or land surveying is a privilege, as opposed to a right, and the licensee or intern shall be forthright and candid in his or her statements or written response to the Board or its representatives on matters pertaining to professional conduct.

(3) Where applicable, the singular use of the words “engineer or land surveyor” used in the five Rules of Professional Conduct (Canons) shall also include holders of certificates of authorization.

(4) Licensees, in the performance of their services for clients, employers, and customers, shall be cognizant that their first and foremost responsibility is to the public health, safety and welfare.

330-X-14-.02 Conflict of Interest. (Canon I)

The engineer or land surveyor shall exercise independent judgments, decisions and practices on behalf of clients and employers as follows:

(a) The engineer or land surveyor shall attempt to avoid all conflicts of interest with his or her client or employer, but when a conflict of interest is unavoidable, the engineer or land surveyor shall immediately inform his or her employer or client of any business **association, interest, or circumstances which might tend to influence the licensee’s** professional judgments, decisions or practices or the quality of services.

(b) The engineer or land surveyor shall not solicit or accept any gratuity, material favor or benefits of any substantial nature from any party, agent, servant or employee dealing with his or her client or employer in connection with any project on which he or she is performing or has contracted to perform engineering or land surveying services. This solicitation or acceptance includes, but is not limited to any act, article, money or other material possessions which is of such value proportion that its acceptance creates a clandestine obligation on the part of the receiver or otherwise compromises his or her ability to exercise his or her own independent judgment.

(c) The engineer or land surveyor shall not solicit or accept, directly or indirectly, any engineering or land surveying contract, selection, or employment from a governmental **body in which a principal or officer of the licensee’s organization serves as a member or** employee.

(d) When in public service as a member or employee of a governmental body, the engineer or land surveyor shall not participate, directly or indirectly, in considerations or actions with respect to retaining services offered or provided by the licensee, his or her associates or his or her organization to such governmental body.

330-X-14-.03 Qualified by Education and/or Experience. (Canon II)

The engineer or land surveyor shall act competently and use proper care in performing engineering or land surveying services for clients or employers and shall act only in fields in which qualified by education or experience as follows:

(a) The engineer or land surveyor shall not accept any engineering or land surveying employment, or undertake any engineering or land surveying assignment, for which he or she is not qualified by education or experience to perform or to carry out adequately and competently; providing and excepting, however, that an engineer or land surveyor may accept an assignment requiring education and experience outside his or her field of competence only to the extent that personal engineering or land surveying services are restricted solely to those phases of the service or project in which he or she is qualified and competent, and that all other phases of such service or project shall be performed by qualified consultants, associates or employees.

(b) The engineer or land surveyor shall not affix his or her signature or seal to any engineering or land surveying plan or document dealing with subject matter on which he or she is not qualified by education or experience to form a dependable judgment.

(c) The engineer or land surveyor, when serving as an expert or technical witness before any court, commission or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his or her testimony.

(d) The engineer, land surveyor, engineer intern, or land surveyor intern shall not engage in any other professional matter for which a specific license is required without first being licensed in that profession.

330-X-14-.04 Confidences of Clients and Employers. (Canon III)

The engineer or land surveyor shall safeguard and preserve the confidences and private information of clients and employers as follows:

(a) Except as permitted by Rule 330-X-14-.04(b), the engineer or land surveyor shall not knowingly:

1. Reveal a confidence or private information regarding or in the possession of the **licensee's client or employer, current or former;**
2. Use a confidence or private information regarding or in the possession of the client or employer, current or former, to the disadvantage of the client or employer;
3. Use a confidence or private information regarding or in the possession of the client or employer for the advantage of a third person, unless the client or employer, current or former, consents after full disclosure except (b) below.

(b) The engineer or land surveyor may reveal confidences or private information under the following circumstances:

1. When he or she has obtained the consent of the client or clients, employer or employers, current or former, affected, but only after full disclosure to them;
2. When required by law or court order;
3. When necessary to establish legal proof of his or her relationship with a client or employer, current or former, in a court action to recover salaries, fees or other compensation due him or her as a result of his or her employment or association with the client or employer, current or former;
4. When necessary to defend himself or herself or his or her employees or associates in a legal action alleging wrongful conduct;

5. When there is potential danger to the public's safety and well being.

(c) The engineer or land surveyor shall exercise reasonable care to prevent unauthorized disclosure or use by his or her employees and associates of private information or confidences regarding or in the possession of a client or employer, current or former.

(d) Nothing in this rule shall relieve an engineer or land surveyor from complying with Rule 330-X-14.05(j).

(e) Licensees shall not accept compensation, financial or otherwise, from more than one party for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.

330-X-14-.05 Practice. (Canon IV.)

The engineer or land surveyor shall endeavor to build a practice and professional reputation on the merit of his or her services as follows:

(a) The engineer or land surveyor shall not offer, or promise to pay or deliver, directly or indirectly, any commission, political contribution, gift, favor, gratuity, benefit or reward as an inducement to secure any specific professional engineering or professional land surveying work or assignment; providing and excepting, however, that an engineer or land surveyor may pay a duly licensed employment agency its fee or commission for securing engineering or land surveying employment in a salaried position.

(b) The engineer or land surveyor shall not solicit professional employment by self-laudatory advertising, or in any manner contrary to high professional standards.

(c) Licensees shall not falsify or permit misrepresentation of their, or their associates, academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in prior assignments nor the complexity of said assignments. Presentations incident to the solicitation of employment or business shall not

misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments.

(d) The engineer or land surveyor shall not supplant, nor attempt to supplant, directly or indirectly, another engineer or land surveyor in an ongoing engineering or land surveying project, after contracts have been awarded to such other engineer or land surveyor.

(e) The engineer or land surveyor shall not attempt to compete with another engineer or land surveyor for employment by reducing his or her usual charges or by the use of unethical practices.

(f) The engineer or land surveyor shall not participate in or implement procurement practices (bid submittals) which do not first determine the qualifications of the engineer or land surveyor prior to entering into fee negotiations for services being sought. An engineer or land surveyor having submitted a statement of qualification and performance data, and having first been judged as the qualified individual or firm to provide the services required for the proposed project, may proceed to negotiate a contract with a client and establish compensation or fees for the required services.

Should the engineer or land surveyor be unable to negotiate a satisfactory contract with the client for any reason, the engineer or land surveyor shall withdraw from further consideration for the engineering or land surveying services. Another engineer or land surveyor may then be selected for negotiations of a contract for the services on the stated project.

Examples include but are not limited to, simultaneous negotiations or solicitation of fee proposals by the client from two or more engineers or land surveyors constitutes **“bidding” and participation by a licensee is prohibited.**

(g) The engineer or land surveyor shall perform his or her work in accordance with approved standards of practice and care and shall endeavor to adhere to all laws in effect in the jurisdiction in which he or she is practicing.

(h) Should the engineer or land surveyor be presented with a Certification to be signed, sealed, and dated as summarized in Rule 330-X-11-.04 and defined in Rule 330-X-2-.01(7), he or she should carefully evaluate that Certification to determine if any of the circumstances set forth below would apply. The engineer or land surveyor who signs, seals, and dates Certifications which: (a) relate to matters which are beyond the engineer's or land surveyor's technical competence, or (b) involve matters which are beyond the engineer's or land surveyor's scope of services actually provided, or (c) relate to matters which were not prepared under the engineer's or land surveyor's responsible supervision, direction or control are subject to disciplinary action pursuant

to Rule 330-X-16. If any of these circumstances would apply, the engineer or land surveyor shall either: (a) modify the Certification to limit its scope to those matters which the engineer or land surveyor can properly sign, seal, and date, or (b) decline to sign the Certification.

(i) The engineer or land surveyor shall be completely objective, truthful, and shall include all relevant and pertinent information in all professional reports, statements or testimony.

(j) The engineer or land surveyor shall issue no statements, or criticisms or arguments on matters connected with public policy which are inspired or paid for by an interested party, or parties, unless he or she has prefaced his or her comments by explicitly identifying himself or herself, by disclosing the identities of the party, or parties, on whose behalf he or she is speaking, and by revealing the existence of any pecuniary interest he or she may have in the instant matter.

(k) Licensees shall notify their employer or client and such other authority as may be appropriate when their professional judgment or covenants of this Code of Ethics are overruled under circumstances where life, health, property, or welfare of the public is endangered.

330-X-14-.06 Ethics. (Canon V).

The engineer or land surveyor shall contribute to the maintenance, integrity, independence and competency of the engineering or land surveying profession as follows:

(a) The engineer or land surveyor shall not:

1. Violate any provision of the Alabama Law regulating the practice of engineering and land surveying or of the Administrative Code of the Board of Licensure for Professional Engineers and Land Surveyors;
2. Participate, directly or indirectly, in any plan, scheme or arrangement attempting or having as its purpose the evasion of any provision of the Alabama Law regulating the practice of engineering and land surveying;
3. Fail to exercise reasonable care or diligence to prevent his or her partners, associates, and employees from engaging in conduct which if done by him or her, would violate any provision of the Alabama Law regulating the practice of engineering and land surveying;
4. Engage in any illegal conduct, whether a felony or misdemeanor, the essential element of which is dishonesty;

5. Engage in any conduct that discredits or tends to discredit the profession of engineering or land surveying;
6. Permit or allow his or her professional identification, seal, firm, or business name, or his or her services to be used or made use of, directly or indirectly, or in any manner whatsoever, so as to make possible or create the opportunity for the unauthorized practice of engineering or land surveying by any person, firm, or corporation in this State;
7. Perform any acts, allow omissions or make any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever tend to create a misleading impression;
8. Knowingly associate with or permit or allow the use of his or her name, firm name, or professional identification or seal in any business venture, project or enterprise which he or she knows or has reason to believe is engaged in professional practices which violate any provision of the Alabama Law regulating the practice of engineering and land surveying;
9. Knowingly associate with or permit the use of his or her name, professional identification, seal, firm, or business name in connection with any venture or enterprise which he or she knows, or has reason to believe, is engaging in trade, business or professional practice of a fraudulent, deceitful or dishonest nature;
10. Injure or attempt to injure or damage the professional reputation of another by any means whatsoever; provided and except, however, that this shall not relieve an engineer or land surveyor of the obligation to expose unethical or illegal conduct to the proper authorities or preclude a frank, but private, appraisal of engineers or land surveyors or other persons or firms considered for employment;
11. Aid or abet, directly or indirectly, any unlicensed person in connection with the unauthorized practice of engineering or land surveying; or any firm or corporation in the practice of engineering or land surveying unless carried on in accordance with the provisions of Chapter 11, Title 34 of the Alabama Law regulating the practice of engineering and land surveying;
12. Place his or her seal, signature, date, and license number on a document constituting a certification that the document was prepared by the licensee unless the document was prepared by the licensee or under his or her direct control and personal supervision or unless the licensee has reviewed the document in sufficient depth to fully coordinate and assume responsibility for plans prepared by another licensed professional engineer or licensed professional land surveyor.

13. Review the work of another engineer or land surveyor for the same employer, except with the knowledge or consent of the engineer or land surveyor, unless the connection of the engineer or land surveyor with the work has been terminated.

14. Participate in procurement procedures for engineering or land surveying services either by providing the bids or in requesting bids from other professional engineers or land surveyors where bidding is the primary consideration.

15. Fail to respond to the Board on Board inquiries within 60 days of receipt of Board inquiries.

(b) The engineer or land surveyor shall be personally and professionally responsible and accountable **for the care, custody, control, and use of his or her engineer's or land surveyor's seal, professional signature, and identification.** The engineer or land surveyor whose seal has been lost, misplaced, or stolen shall, upon discovery of its loss, report the loss immediately to the Board, which may invalidate the license number of the seal, if it deems this necessary, and issue another license number to the engineer or land surveyor.

(c) When in public service as a member or employee of any governmental body, agency, or department, the engineer or land surveyor shall not participate, directly or indirectly, use or make use of any property, facility or service of such governmental body, agency or department for the benefit of any private business or activity in which such engineer or land surveyor also may be engaged, unless prior, proper authority is obtained in writing.

(d) The engineer or land surveyor shall not, directly or indirectly, use or make use of any property, facility, or service of his or her client or employer for the benefit of the engineer or land surveyor, unless prior, proper authority is obtained in writing.

(e) The engineer or land surveyor shall not practice or offer to practice engineering or land surveying in any governmental jurisdiction in which to do so would be in violation of the laws regulating the practice of professional engineering or professional land surveying in that jurisdiction.

(f) Licensees having knowledge of possible/probable violations of any of these Rules of Professional Conduct shall provide the Board with the information and cooperate as necessary to make the final determination of such violation.

(g) It shall be the duty and sole responsibility of each licensee and intern to provide written notification to the Board of any changes to their mailing address and business affiliation within 30 days after the change.

330-X-14-.07 Responsibility for Conduct.

A corporation, partnership, or firm shall be held responsible for the conduct or acts of its agents, employees, officers, partners, or owners, licensed or non-licensed.

330-X-14-.08 Convictions.

The revocation, suspension, or denial of a license to practice engineering or land surveying in another jurisdiction, for reasons or causes which the Board finds would constitute a violation of the Alabama Law regulating the practice of engineering and land surveying or any rule, regulation, or code promulgated by the Board, shall be sufficient cause for the denial, suspension, or revocation of a license to practice engineering or land surveying in the State of Alabama.

SEVERABILITY

If any of the above provisions of the Rules of Professional Conduct (Code of Ethics) or any part thereof, or any sentence, paragraph, clause, phrase or word thereof is construed by the courts to be invalid for any reason, it is the intention of the Board that the remainder shall continue in full force and effect; that is, it is the intention of the Board that each of the above provisions and/or any portions thereof, are severable.

CHAPTER 330-X-15 CERTIFICATES OF AUTHORIZATION

330-X-15-.01 Requirements.

(1) Section 34-11-9, Code of Ala. 1975 provides that a firm, company, partnership, or corporation may engage or offer to engage in the practice of professional engineering or professional land surveying; provided, one or more of the principal officers of the corporation or 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 Title 34, Chapter 11 of the Code of Ala. 1975, and further provided, that the corporation, partnership, or firm has been issued a certificate of authorization by the Board.

(2) In order to be considered eligible for a certificate of authorization (CA), every firm, partnership, or corporation or other entity which performs engineering or land surveying services in the State of Alabama, shall have a resident licensed professional engineer or licensed professional land surveyor as the case may be, who exercises direct control and personal supervision 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 resident engineer or land surveyor shall

be an employee of the firm, corporation, partnership, or association or other entity, engaged in the practice of engineering or land surveying, designated in the CA for the branch office. The designated PE or PLS in residence shall only be for one place of business during the same time.

(3) An engineer or land surveyor who renders occasional or part-time engineering or surveying services to or for a firm may not be designated as being the principal of the professional activities of the firm or as being the engineer or land surveyor designated in the CA for the branch office.

(4) The principal engineer or surveyor is responsible for notifying the Board within 30 days of any change in the firm name, in any of the partners or principal officers, or change of address during the year.

(5) In the event of a change in the principal engineer or land surveyor, the firm cannot perform engineering or land surveying services until such time as a new principal is identified to the Board.

(6) Failure by the firm or principal to provide notification within 30 days may result in a temporary suspension of the certificate and the certificate will remain suspended until such time as the requirements are met.

330-X-15-.02 Application Procedures.

(1) All applications for certificates of authorization shall be made on a printed form or in the format provided by the Board and no applications made otherwise will be accepted. An application not properly completed, containing all of the information required, or accompanied by the required fee will be returned with a statement of the reason for return. As per Section 34-11-5(e), Code of Ala. 1975, application fees will not be refunded.

(a) Applications will include all branch offices located in the state and all branch offices located out-of-state where engineering or land surveying services for Alabama projects is offered or performed.

(b) A separate certificate of authorization is required for engineering and land surveying.

(c) In the event the mailing address submitted is a post office box, there must also be a street address identified for each office from which engineering and land surveying services are provided.

(d) There is no requirement for a physical location in the state.

(2) Upon an individual obtaining a certificate of licensure and the individual is offering engineering or land surveying services through a firm who does not have a certificate of

authorization, a certificate of authorization application must be submitted within 30 days of the notification that licensure has been granted.

(3) Withholding information, providing statements which are untrue or misrepresenting the facts may be cause for denial of an application or revocation of the certificate.

(4) When the Board, after due consideration of an application and of information pertaining thereto finds the firm is not eligible for a certificate of authorization, the firm will be denied. The Executive Director will notify the firm of the action of the Board, and for further consideration the firm may submit a new application, without fee, after securing the necessary eligibility, provided the resubmittal is within five years. A firm, who is denied a certificate of authorization has the opportunity to meet with the Board and/or appeal the Board's decision as provided by Section 34-11-13 and Sections 41-22-12 through 41-22-21, Code of Ala. 1975.

330-X-15-.03 Reconsideration of Denied Applications.

(1) A denied application may be reconsidered by the Board if written notice of appeal is received by the Executive Director within thirty days after the applicant has been notified of the ruling of the Board.

(2) A hearing shall be held within a reasonable time after receipt of the notice of appeal, or at such time agreed upon by stipulation between the applicant and the Executive Director.

(3) At least a quorum of the Board must be present to hold a hearing.

(4) Evidence, including oral testimony, shall be freely admitted. The applicant shall be allowed to have counsel present if desired.

(5) The Board shall issue a final decision within thirty days of the date of the hearing, which shall include finds of fact and official action taken. The applicant shall be delivered a copy of the decision by first class mail.

(6) The decision of the Board may be appealed to the circuit court of Montgomery County, as provided in Code of Ala. 1975, Section 34-11-13, within thirty days of the decision of the Board.

(7) The record on appeal shall be certified by the Executive Director of the board, and shall include the entire record including a transcript of the hearing, if a transcript is made.

330-X-15-.04 Renewal Procedures.

(1) A certificate of authorization issued to a corporation, partnership or firm shall lapse on January 31 following the issuance or renewal if not renewed, and the corporation,

partnership or firm may not offer or engage in engineering or land surveying services until the certificate of authorization has been renewed. A certificate of authorization not renewed within two years after it has lapsed will become null and void and is considered expired.

(2) Certificates of Authorization are renewed annually. Renewal notifications will be mailed no later than December 1 to every corporation, partnership, or firm holding a certificate of authorization. An application form shall be completed and returned with the renewal fee prescribed by the Board. All requirements for completing a renewal application will be the same as for an initial application as identified in Section 330-X-15.02.

CHAPTER 330-X-16 DISCIPLINARY ACTION

330-X-16-.01 Complaints.

The Board may initiate action in cases where a person's actions or business entity's actions are in violation of the law. Complaints must be filed within two years of the date the violation occurred or within two years of the date of the discovery of the violation but no later than 10 years from the date of the violation. Any violation that was caused by fraud, deceit, or concealment, however, is not subject to the 10-year time limitation. Upon receipt of a signed written complaint from any person that an individual has violated the law and/or the rules of the Board, the Board may assemble the facts, obtain legal guidance, follow the case to completion based on the legal guidance given and begin administrative action, levy a civil administrative penalty, file a civil action, and/or refer the matter for criminal prosecution.

(1) A complaint initiated by an individual or entity against a licensee or non-licensee shall be in writing and shall contain:

- (a) Name and address of the complaining party as well as the name and address of the individual or entity against which the complaint has been filed.
- (b) A plain and concise statement of the facts which indicate that the provisions of Code of Ala. 1975, Chapter 11, Title 34, rules promulgated by the Board, or Rules of Professional Conduct (Code of Ethics) may have been violated.
- (c) The signature of the complainant.

(2) A complaint may be initiated by the Board or board staff against a licensee or non-licensee. The complaint shall be referred to an investigative committee to determine if sufficient facts are present that indicate provisions of Code of Ala. 1975, Chapter 11,

Title 34, rules promulgated by the Board, or Rules of Professional Conduct (Code of Ethics) have been violated. If sufficient evidence is present, the investigation will proceed in strict accordance with due process.

(3) All disciplinary cases involving geology/engineering professional overlaps will be referred to the board issuing the license for hearing and disposition. The complaining board may have a board member or designated representative at the hearing for liaison and evidence as necessary.

330-X-16-.02 Probable Cause.

Upon receiving a complaint the Executive Director shall refer the complaint to one member of the Board; provided, however, that if the complaint is first made to a Board member, then it shall be referred to that Board member. The Board member to whom a **complaint is referred, the Executive Director, and the Board's attorney**, (Investigative Committee), shall determine appropriate action and/or whether probable cause exists. If charges are filed, the Board member who was a member of the Investigative Committee that made the probable cause determination shall not sit as a member of the Board at the disciplinary hearing held pursuant to the charges.

330-X-16-.03 Charges.

(1) The Board through its Investigative Committee shall instruct the Board's attorney to prepare charges once the Investigative Committee determines that probable cause exists.

(2) The charges shall be sent certified mail, return receipt requested, to the most recent address of the respondent and shall be mailed at least 30 days prior to the scheduled date of the hearing. A copy shall also be sent first class mail.

(3) The charges will contain a short and plain statement of the matters asserted and give notice in compliance with the Alabama Administrative Procedure Act, Section 41-22-12(b) and Section 34-11-11, Code of Ala. 1975. If the Board is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

330-X-16-.04 Pre-Hearing Discovery.

(1) Pre-hearing discovery shall be permitted in accordance with this rule to the extent **necessary to prevent fraud, conserve the Board's time, prevent undue surprise at hearing, and facilitate the carriage of justice.**

(2) The attorney for the Board or the respondent may upon application to the Hearing officer, or the person appointed to act as Hearing officer, obtain discovery regarding

any matter not privileged which is relevant to the subject matter involved in the pending action, whether it relates to the charges of the Board or the defense of the respondent.

(3) Methods of Discovery.

(a) Upon written application to the Hearing officer, or the person appointed to act as Hearing officer, the following discovery shall be allowed or ordered:

1. Deposition upon oral examination of any expert witness.
2. Interrogatories to respondent.
3. Order for production and copying of documents and things and entry upon land for inspection and other purposes, against any person.

(b) The discovery must be had in accordance with any terms and conditions imposed by the Hearing officer, or the person appointed to act as Hearing officer. The Hearing officer, or the person appointed to act as Hearing officer, may impose any such terms and conditions as are just upon discovery in order to protect a person from annoyance, embarrassment, oppression, or undue burden or expense.

330-X-16-.05 Disciplinary Hearings.

(1) Conduct of Hearing.

(a) Hearing Officer. The Board may, in its discretion, and subject to the applicable provisions of the Alabama Administrative Procedures Act appoint a person to act as Hearing officer at disciplinary hearings. In the event a Hearing officer is appointed to preside at the hearing, he or she shall rule on all questions of evidence and procedure, notwithstanding any other provisions of these rules to the contrary.

(1) The Board may, in its discretion and subject to the applicable provisions of the Alabama Administrative Procedures Act, appoint a Hearing officer to hear the evidence and submit a recommendation to the Board, including recommended finding of facts and conclusions of law at disciplinary hearings. The Board will consider the Hearing officer's recommendations and the Board shall issue an appropriate administrative order approving, modifying or rejecting the Hearing officer's recommendation.

(b) Plea. The respondent shall plead either "guilty" or "not guilty" to the charges.

(c) Opening Statement. Each side shall be permitted to make a short opening statement.

(d) The Board shall present its evidence, followed by the respondent, followed by rebuttal by the State. Each witness called may be examined in the following manner:

1. Direct examination.
2. Cross-examination.
3. Examination by Board.
4. Re-direct examination.
5. Re-cross examination.
6. Re-examination by Board.

(e) Closing Argument. Each side shall be permitted to make a short closing statement summarizing the evidence presented and urging the application of relevant law to the evidence presented.

(f) The Board may request one or both sides to prepare within seven days a **proposed order of the Board for the Board's consideration including findings of fact**, official notice, and conclusions of law. Underlying facts of record which support the findings should be cited.

(g) Order. Following completion of the hearing or upon receipt of the Hearing officer's recommendations, findings of facts and conclusions of law, the Board shall issue an order within 30 days, which shall include findings of fact, official notice taken, and conclusions of law stated separately. A copy of the order shall be delivered by certified mail, return receipt requested, and first class mail, postage prepaid, to the respondent or if represented by counsel, to his or her counsel of record.

(2) Evidence. Evidence shall be admitted in accordance with the Alabama Administrative Procedure Act, Code of Ala. 1975, Section 41-22-13. Relevant Federal, State, and local codes as well as relevant engineering and land surveying society codes, guidelines, and standards may be admitted into evidence in disciplinary proceedings before the Board to set forth standards generally accepted by the professions.

(3) Other. The hearing shall be conducted in compliance with the provisions of the Alabama Administrative Procedure Act, Code of Ala. 1975, Chapter 22, Title 41. If the accused person or corporation fails or refuses to appear, the Board may proceed to hear and determine the validity of the charges.

(4) Negotiated Settlements. The Board attorney, in cooperation with the Investigative Committee, is hereby authorized to negotiate settlements with any respondent wishing to do so. In the event that the Investigative Committee and the respondent have reached tentative agreement on a negotiated settlement prior to the date set for hearing of the charges, such agreement shall be presented to the Board at the first available opportunity. The Board may either accept or reject the tentative agreement of

negotiated settlement and if accepted, the respondent shall be notified and no hearing held. If the Board rejects the tentative agreement of negotiated settlement, the charges shall be heard by the Board within a reasonable time.

330-X-16-.06 Disciplinary Actions.

(1) Upon a finding that the respondent has violated any enumerated provision of Code of Ala. 1975, Sections 34-11-11, 34-11-15, 34-11-16, or any rule adopted pursuant to Code of Ala. 1975, Section 34-11-35, the Board shall impose any or all of the disciplinary penalties set forth in Code of Ala. 1975, Section 34-11-11.

(2) Stay of Execution of Order. The Board may, in its discretion, permanently or temporarily stay the execution of its order to censure, place on probation, fine, revoke, or suspend a licensee respondent's license, certification, or certificate of authorization. The Board may, in its discretion, permanently or temporarily stay the execution of its order to fine a non-licensee respondent. The stay may be conditioned on any provision the Board deems appropriate under all the circumstances of a particular case.

(3) Consideration. In determining whether a license, certification or certificate of authorization should be revoked or suspended, and whether execution of the order should be stayed, and upon what conditions, the Board shall consider all relevant factors.

(4) The Board shall not accept voluntary surrender of a license, certification, or certificate of authorization to avoid possible disciplinary actions by the Board.

330-X-16-.07 Reissuance of Licensure or Certification after Revocation, Surrender, or Suspension.

(1) Revocation or Surrender. Any person, corporation, partnership, or firm whose license, certification, or certificate of authorization has been revoked or surrendered may apply, when permitted by Law, to the Board for reissuance of the license, certification, or certificate of authorization. Eligibility for reissuance is as outlined in Section 34-11-12, Code of Ala. 1975.

(a) In the application for reissuance, the applicant should state why the license, certification, or certificate of authorization should be reissued and should specifically set forth any changed circumstances which would justify reissuance. The fee for a reissuance application will be the same fee as set by the Board for an original application. The fee shall accompany the application.

(b) Upon receipt of such application the Board shall grant the applicant a hearing on reissuance, at which time the applicant may appeal to the Board to reissue his or her license, certification, or certificate of authorization. The hearing shall be held within a

reasonable time after receipt of the application or at such time agreed upon by stipulation between the applicant and the Executive Director.

(c) At least a quorum of the Board must be present to hold a hearing.

(d) Evidence including oral testimony, shall be freely admitted. The applicant shall be allowed to have counsel present if desired.

(e) The Board shall issue a final decision within thirty days of the date of the hearing, which shall include findings of fact and official action taken. The applicant shall be delivered a copy of the decision by first class and registered mail.

(f) The decision of the Board may be appealed to the circuit court of Montgomery County within thirty day of the decision of the Board.

(g) The record on appeal shall be certified by the Executive Director of the board, and shall include the entire record including a transcript of the hearing, if a transcript is made.

(2) Suspension. Any person, corporation, partnership, or firm whose license, certification, or certificate of authorization has been suspended may apply, when permitted by Law, to the Board for reissuance of the license, certification, or certificate of authorization.

(a) Thirty days prior to the completion of the suspension, the Board will send a notification to the suspended person, corporation, partnership, or firm outlining the necessary actions that need to be taken in order for the license, certification, or certificate of authorization to be reissued.

(b) If all conditions for reissuance of a license or a certificate of authorization have been met, but a request for reissuance is not received within thirty days after completion of the suspension period, the status of the license or certificate of authorization will be changed to lapsed.

(c) If a request for reissuance is not received within four years from the time the license is placed in lapsed status, the license will be considered expired.

(d) If a request for reissuance is not received within two years from the time the certificate of authorization is placed in lapsed status, the certificate of authorization will be considered expired.

(e) If all conditions for reissuance for a certification have been met, but a request for reissuance of a certification is not received within thirty days after completion of the suspension period, the status of the certification will be changed to delinquent.

330-X-16-.08 Conflict and Bias.

(1) No Board member shall be entitled to vote in any disciplinary matter if the Board member is personally biased, or if a conflict exists with the respondent, or if such voting would violate the provisions of the Alabama Administrative Procedure Act, Code of Ala. 1975, Section 41-22-18 (a).

(2) Any respondent in a disciplinary action who wishes to assert bias or conflict may do so by filing an affidavit asserting the disqualification together with the underlying factual bias for the assertion with the Executive Director at least three days before the scheduled disciplinary hearing.

(3) The Board shall consider the assertion of disqualification on the record as a preliminary matter at the hearing before any other action is initiated.

CHAPTER 330-X-17 SEVERABILITY

330-X-17-.01 Severability.

If any of the rules and regulations of the Board which shall be known as “The Alabama State Board of Licensure for Professional Engineers and Land Surveyors Administrative Code” or any part thereof, or any sentence, paragraph, clause, phrase or word thereof is construed by the courts to be invalid for any reason, it is the intention of the Board that the remainder shall continue in full force and effect; that is, it is the intention of the Board that each rule and/or any portions thereof, are severable.

CHAPTER 330-X-18 AMENDMENT OF RULES

330-X-18-.01 Petition for Adoption of Rules.

(1) Any person who wishes to propose that the Board adopt, repeal or amend any rule may file a petition for adoption of rules on a form as provided by the Board.

(2) The Board shall meet and consider any petition for adoption, repeal or amendment within ninety days of its submission.

330-X-18-.02 Notice.

(1) The Board shall give at least 35 days’ notice of any proposed action on any rule by publication in the Alabama Administrative Monthly in compliance with the Alabama Administrative Procedure Act, Code of Ala. 1975, Section 41-22-5(a)(1).

(2) Any person who wishes to receive notice by mail of all proposed actions on rules may do so by requesting such notice from the Executive Director and pay an annual charge of \$50 to cover costs of the mailings. All annual subscriptions begin October 1 and expire September 30.

330-X-18-.03 Public Comments.

The Board shall permit all interested persons reasonable opportunity to submit data, views or arguments concerning any proposed rule action. Data, views or arguments submitted in writing must be received by the Executive Director before the date specified in the notice. Upon written request, a public hearing will be held.

330-X-18-.04 Board Decision.

The Board shall consider all written and oral submissions concerning every proposed rule action. Upon adoption of a rule, if conflicting views are submitted on the proposed rule, the Board shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling any considerations urged against its adoption.

330-X-18-.05 Emergency Rules.

In the event the Board finds that an immediate danger to the public health, safety, or **welfare requires adoption of a rule upon fewer than 35 days' notice or that action is required by or to comply with a federal statute or regulation which requires adoption of a rule upon fewer than 35 days' notice, the Board may adopt an emergency rule under the provisions of the Administrative Procedure Act, Code of Ala. 1975, Section 41-22-5(b).**

330-X-18-.06 Compliance with Administrative Procedure Act.

All rules adopted by the Board shall otherwise substantively and procedurally comply with the provisions of the Alabama Administrative Procedure Act, Code of Ala. 1975, Chapter 22, Title 41.

APPENDIX A CHAPTER 330-X-4 FEES

Application Fees

Engineer Intern/Land Surveyor Intern	\$15
Professional Engineer/Professional Land Surveyor	\$50
Certificate of Authorization	\$80

Exam & Re-Exam Fees

Alabama Land Surveying Standards, History and Law	\$100
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Licensure Fees

Professional Engineer/Professional Land Surveyor	\$75
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Renewal Fees

Engineer Intern/Land Surveyor Interns	\$0
Late Fee	\$0
Professional Engineer/Professional Land Surveyor	\$100
Certificate of Authorization	\$80
Professional Engineer/Professional Land Surveyor – Retired	\$0
Reactivation fee during the same year for retirees	\$100

Reinstatement Fees for Lapsed License

Professional Engineer/Professional Land Surveyor Reinstatement

0- 2 years	\$250 + 100
2- 4 years	\$350 + 100

CA Reinstatement

0-1 year	\$250 + 80
1-2 years	\$350 + 80

Other Fees

Roster	\$15
Copy charges per sheet	\$.25
Certificate replacement	\$25

Bad Check	\$30
<u>Mailing Labels</u>	
Electronic Version	\$75
1,000 Labels (min amt)	\$75
2,000 Labels	\$106
3,000 Labels	\$137
4,000 Labels	\$168
5,000 Labels	\$197
10,000 Labels +	\$359

CODE OF ETHICS

Preamble

Engineering is an important and learned profession. As members of this profession, engineers are expected to exhibit the highest standards of honesty and integrity. Engineering has a direct and vital impact on the quality of life for all people. Accordingly, the services provided by engineers require honesty, impartiality, fairness, and equity, and must be dedicated to the protection of the public health, safety, and welfare. Engineers must perform under a standard of professional behavior that requires adherence to the highest principles of ethical conduct.

I. Fundamental Canons

Engineers, in the fulfillment of their professional duties, shall:

- 1) Hold paramount the safety, health, and welfare of the public.
- 2) Perform services only in areas of their competence.
- 3) Issue public statements only in an objective and truthful manner.
- 4) Act for each employer or client as faithful agents or trustees.
- 5) Avoid deceptive acts.
- 6) Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

II. Rules of Practice

1. Engineers shall hold paramount the safety, health, and welfare of the public.

- 1) If engineers' judgment is overruled under circumstances that endanger life or property, they shall notify their employer or client and such other authority as may be appropriate.
 - 2) Engineers shall approve only those engineering documents that are in conformity with applicable standards.
 - 3) Engineers shall not reveal facts, data, or information without the prior consent of the client or employer except as authorized or required by law or this Code.
 - 4) Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.
 - 5) Engineers shall not aid or abet the unlawful practice of engineering by a person or firm.
 - 6) Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.
2. Engineers shall perform services only in the areas of their competence.
- 1) Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.
 - 2) Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their direction and control.
 - 3) Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.
3. Engineers shall issue public statements only in an objective and truthful manner.
- 1) Engineers shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent

information in such reports, statements, or testimony, which should bear the date indicating when it was current.

2) Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.

3) Engineers shall issue no statements, criticisms, or arguments on technical matters that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested parties on whose behalf they are speaking, and by revealing the existence of any interest the engineers may have in the matters.

4. Engineers shall act for each employer or client as faithful agents or trustees.

1) Engineers shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.

2) Engineers shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.

3) Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.

4) Engineers in public service as members, advisors, or employees of a governmental or quasi-governmental body or department shall not participate in decisions with respect to services solicited or provided by them or their organizations in private or public engineering practice.

5) Engineers shall not solicit or accept a contract from a governmental body on which a principal or officer of their organization serves as a member.

5. Engineers shall avoid deceptive acts.

1) Engineers shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the

solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers, or past accomplishments.

2) Engineers shall not offer, give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by public authority, or which may be reasonably construed by the public as having the effect or intent of influencing the awarding of a contract. They shall not offer any gift or other valuable consideration in order to secure work. They shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a bona fide employee or bona fide established commercial or marketing agencies retained by them.

III. Professional Obligations

1. Engineers shall be guided in all their relations by the highest standards of honesty and integrity.

1) Engineers shall acknowledge their errors and shall not distort or alter the facts.

2) Engineers shall advise their clients or employers when they believe a project will not be successful.

3) Engineers shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering employment, they will notify their employers.

4) Engineers shall not attempt to attract an engineer from another employer by false or misleading pretenses.

5) Engineers shall not promote their own interest at the expense of the dignity and integrity of the profession.

2. Engineers shall at all times strive to serve the public interest.

1) Engineers are encouraged to participate in civic affairs; career guidance for youths; and work for the advancement of the safety, health, and well-being of their community.

2) Engineers shall not complete, sign, or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the

- client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.
- 3) Engineers are encouraged to extend public knowledge and appreciation of engineering and its achievements.
 - 4) Engineers are encouraged to adhere to the principles of sustainable development¹ in order to protect the environment for future generations.
3. Engineers shall avoid all conduct or practice that deceives the public.
- 1) Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.
 - 2) Consistent with the foregoing, engineers may advertise for recruitment of personnel.
 - 3) Consistent with the foregoing, engineers may prepare articles for the lay or technical press, but such articles shall not imply credit to the author for work performed by others.
4. Engineers shall not disclose, without consent, confidential information concerning the business affairs or technical processes of any present or former client or employer, or public body on which they serve.
- 1) Engineers shall not, without the consent of all interested parties, promote or arrange for new employment or practice in connection with a specific project for which the engineer has gained particular and specialized knowledge.
 - 2) Engineers shall not, without the consent of all interested parties, participate in or represent an adversary interest in connection with a specific project or proceeding in which the engineer has gained particular specialized knowledge on behalf of a former client or employer.
5. Engineers shall not be influenced in their professional duties by conflicting interests.
- 1) Engineers shall not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product.
 - 2) Engineers shall not accept commissions or allowances, directly or indirectly, from contractors or other parties dealing with clients or

employers of the engineer in connection with work for which the engineer is responsible.

6. Engineers shall not attempt to obtain employment or advancement or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods.

1) Engineers shall not request, propose, or accept a commission on a contingent basis under circumstances in which their judgment may be compromised.

2) Engineers in salaried positions shall accept part-time engineering work only to the extent consistent with policies of the employer and in accordance with ethical considerations.

3) Engineers shall not, without consent, use equipment, supplies, laboratory, or office facilities of an employer to carry on outside private practice.

7. Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. Engineers who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.

1) Engineers in private practice shall not review the work of another engineer for the same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated.

2) Engineers in governmental, industrial, or educational employ are entitled to review and evaluate the work of other engineers when so required by their employment duties.

3) Engineers in sales or industrial employ are entitled to make engineering comparisons of represented products with products of other suppliers.

8. Engineers shall accept personal responsibility for their professional activities, provided, however, that engineers may seek indemnification for services arising out of their practice for other than gross negligence, where the engineer's interests cannot otherwise be protected.

- 1) Engineers shall conform with state registration laws in the practice of engineering.
 - 2) Engineers shall not use association with a nonengineer, a corporation, or partnership as a "cloak" for unethical acts.
9. Engineers shall give credit for engineering work to those to whom credit is due, and will recognize the proprietary interests of others.
- 1) Engineers shall, whenever possible, name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.
 - 2) Engineers using designs supplied by a client recognize that the designs remain the property of the client and may not be duplicated by the engineer for others without express permission.
 - 3) Engineers, before undertaking work for others in connection with which the engineer may make improvements, plans, designs, inventions, or other records that may justify copyrights or patents, should enter into a positive agreement regarding ownership.
 - 4) Engineers' designs, data, records, and notes referring exclusively to an employer's work are the employer's property. The employer should indemnify the engineer for use of the information for any purpose other than the original purpose.
 - 5) Engineers shall continue their professional development throughout their careers and should keep current in their specialty fields by engaging in professional practice, participating in continuing education courses, reading in the technical literature, and attending professional meetings and seminars.

REFERENCES

Alabama Board of Licensure for Professional Engineers and Land Surveyors: Law & Administrative Code

<http://www.bels.alabama.gov/Laws.aspx>

Code of Alabama: Title 34. Professions and Businesses, Ch. 11 Engineers and Land Surveyors, (Sec. 34-11-1 to Sec. 34-11-37)

<http://alisondb.legislature.state.al.us/alison/codeofalabama/1975/coatoc.htm>

Alabama Administrative Code: Ch. 330 Alabama State Board of Registration for Professional Engineers and Land Surveyors, (Ch. 330-X-1 to Ch.330-X-18)

<http://www.alabamaadministrativecode.state.al.us/docs/eng/index.html>

National Society of Professional Engineers, Code of Ethics

<http://www.nspe.org/resources/ethics/code-ethics>