

NCEES

MODEL LAW

REVISED AUGUST 1999

TABLE OF CONTENTS

[Introduction](#)

[An Act](#)

[General Provisions](#)

[Definitions](#)

[Board Appointments, Terms](#)

[Board Qualifications](#)

[Board Compensation, Expenses](#)

[Board Removal of Members, Vacancies](#)

[Board Organization and Meetings](#)

[Board Powers](#)

[Receipts and Disbursements](#)

[Records and Reports](#)

[Roster](#)

[General Requirements for Licensure](#)

[Application and Licensure Fees](#)

[Examinations](#)

[Certificates, Seals](#)

[Expirations, Renewals, and Reinstatement to Active Practice](#)

[Reissuance of Certificates](#)

[Public Works](#)

[Disciplinary Action Revocation, Suspension, Refusal to Issue, Restore or Renew, Probation, Fine, Reprimand](#)

[Disciplinary Action Procedures](#)

[Civil Penalties for Non-Licensees](#)

[Criminal Offenses](#)

[Authorization Certificates](#)

[Authorization Certificates \(Alternative Section\)](#)

[Exemption Clause](#)

[Duties of Recorders](#)

[Invalid Sections](#)

[Repeal of Conflicting Legislation](#)

[Savings Clause](#)

[Effective Date](#)

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INTRODUCTION

To be of maximum value, this document should be used as a reference work in the preparation of amendments to existing legislation or in the preparation of new proposed laws. The intent of the NCEES in preparing this document is to present to the states a sound and realistic guide that will provide greater uniformity of qualifications for licensure, to raise these qualifications to a higher level of accomplishment, and to simplify the interstate licensure of engineers and surveyors or land surveyors.

The primary purpose of the NCEES is to serve as an organization through which its Member Boards can counsel and act together to better discharge their duties as individual, autonomous regulatory agencies dedicated to the protection of the public life, health, and property. Standards presented in this publication have been approved by the NCEES Member Boards and represent optimum, realistic levels of qualifications for initial and subsequent licensure to ensure protection of the public's interest.

As revised through August 1999, this guide contains 29 sections designed to assist legislative counsels, legislators, and NCEES members in preparing new or amendatory legislation. To eliminate the redundancy present in previous versions, this document was condensed into a single chapter that covers all specific situations: boards that regulate only engineers, boards that regulate only surveyors, boards that regulate both engineers and surveyors, and independent boards that regulate both engineers and surveyors.

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LICENSURE OF ENGINEERS AND LAND SURVEYORS

AN ACT

To regulate the practice of engineering and/or ¹surveying or land surveying; provide for the licensure of qualified persons as professional engineers and/or professional surveyors or professional land surveyors and for the certification of engineer interns and/or surveyor interns; define the terms "Engineer," "Professional Engineer," "Professional Engineer, Retired," "Engineer Intern," and "Practice of Engineering"; define the terms "Professional Surveyor or Land Surveyor," "Professional Surveyor or Land Surveyor, Retired," "Surveyor Intern," and "Practice of Surveying or Land Surveying"; create a jurisdiction board of licensure for professional engineers and/or professional surveyors or professional land surveyors and provide for the appointment and compensation of its members; fix the term of members of the board and define its powers and duties; *establish the board as an independent jurisdiction agency which receives no funding from the jurisdiction general fund, relying on revenues from licensure and examination fees and interest to meet its operating and capital costs, and not having its budget, fees, or expenditures subject to review and/or approval by the legislative assembly or emergency board, or any other agency or department, but required to submit a full annual report of its activities and financial affairs to the governor for inclusion in annual financial statements*; set forth the minimum qualifications and other requirements for licensure as a professional engineer, and/or a professional surveyor or professional land surveyor and for certification as an engineer intern or surveyor intern; establish fees and expiration and renewal requirements; impose certain duties upon the jurisdiction and political subdivisions thereof in connection with public work; and provide for the enforcement of this Act and penalties for its violation.

Be it enacted by the General Assembly of the Jurisdiction of as follows.

¹The Model Law has been simplified to serve boards of engineers and surveyors, or land surveyors, boards of engineers, boards of surveyors or land surveyors, and independent boards. The reader should substitute the appropriate "and/or" terminology and delete the text that does not apply to the situation. Text shown in italics is language specific to independent boards. Language specific to state government boards is shown in brackets([]).

SECTION 1. GENERAL PROVISIONS

(a) Regulation of Engineers and Surveyors or Land Surveyors

In order to safeguard life, health, and property and to promote the public welfare, the practice of engineering and/or the practice of surveying or land surveying in this jurisdiction is hereby declared to be subject to regulation in the public interest. It shall be unlawful for any person to practice, or to offer to practice, engineering and/or surveying or land surveying in this jurisdiction, as defined in the provisions of this Act, or to use in connection with their name or

otherwise assume, or advertise any title or description tending to convey the impression that they are a licensed engineer and/or surveyor or land surveyor, unless such person has been duly licensed or is exempted under the provisions of this Act. The practice of engineering or surveying or land surveying shall be deemed a privilege granted by the jurisdiction through the licensure board based on the qualifications of the individual as evidenced by their certificate of licensure, which shall not be transferable.

(b) Independent Board

- (1) It is the intent of this Act that the board shall be an independent jurisdiction agency. It shall receive no financial support from the jurisdiction general fund, and shall utilize its fees for licensure and renewal and for examinations as its principal source of revenue.*
- (2) Any revenues from fines enacted by the board in disciplinary actions shall be deposited in the jurisdiction general fund, and shall not be available to the board.*
- (3) All revenues, except fines, received by the board shall be deposited with the jurisdiction treasurer in a separate account for the board separate from the general fund.*
- (4) Any such receipts shall constitute a continuous appropriation of such amounts for the purpose of carrying out the functions of the board. All necessary expenses of the board shall be paid from the account by the Treasurer in the same manner as other claims against the jurisdiction are paid, after approval thereof by the chairperson or secretary of the board.*
- (5) Monies in the board account may be invested by the treasurer in the same manner as other jurisdiction monies, and any interest earned on monies in the board account shall be credited to that account.*
- (6) The board shall adopt a budget only after a public hearing, using the same classifications of expenditures and revenues as tax-supported jurisdiction agencies.*

SECTION 2. DEFINITIONS

(a) Engineer

- (1) Engineer** - The term "Engineer," within the intent of this Act, shall mean a person who is qualified to practice engineering by reason of special knowledge and use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience.
- (2) Professional Engineer** - The term "Professional Engineer," as used in this Act, shall mean a person who has been duly licensed as a professional engineer by the board. 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. In addition, the model law engineer is a professional engineer who meets the requirements of the *Model Law* as

defined by Section 12, General Requirements for Licensure.

(3) Model Law Engineer - The term "Model Law Engineer" refers to a person who meets the minimum requirements of this act and:

(aa) Is a graduate of an engineering curriculum accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET), or the equivalent

(bb) Has passed the Fundamentals of Engineering examination using the NCEES cut score

(cc) Has a specific record of an additional four years of progressive experience on engineering projects following graduation

(dd) Has passed the Principles and Practices of Engineering examination using the NCEES cut score

(ee) Has a current NCEES Record on file

(4) Professional Engineer, Retired - The term "Professional Engineer, Retired," as used in this Act, shall mean a person who has been duly licensed as a professional engineer by the board and who chooses to relinquish or not to renew a license and who applies to and is approved by the board to be granted the use of the honorific title "Professional Engineer, Retired."

(5) Engineer Intern - The term "Engineer Intern," as used in this Act, shall mean a person who has qualified for, taken, and passed an examination in the fundamental engineering subjects, as provided in this Act.

(6) Practice of Engineering - The term "Practice of Engineering," within the intent of this Act, shall mean any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, expert technical testimony, evaluation, planning, design and design coordination of engineering works and systems, planning the use of land and water, teaching of advanced engineering subjects, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications; any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products, or equipment of a control systems, communications, mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health, or property, and including such other professional services as may be necessary to the planning, progress, and completion of any engineering services.

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

Engineering surveys include all survey activities required to support the sound

conception, planning, design, construction, maintenance, and operation of engineered projects, but exclude the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this Act, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents themselves to be a professional engineer, or through the use of some other title implies that they are a professional engineer or that they are licensed under this Act; or who hold themselves out as able to perform, or who does perform any engineering service or work or any other service designated by the practitioner which is recognized as engineering.

(7) Consulting Engineer - The term "Consulting Engineer," as used in this Act, shall mean a professional engineer whose principal occupation is the independent practice of engineering; whose livelihood is obtained by offering engineering services to the public; who is devoid of public, commercial, and product affiliation that might tend to imply a conflict of interest; and who is cognizant of their public and legal responsibilities, and is capable of discharging them.

(8) Inactive Licensee - Licensees who are not engaged in engineering practice which requires licensure in this jurisdiction may be granted inactive status. No inactive licensee may practice in this jurisdiction unless otherwise exempted in this chapter. Inactive licensees are exempt from the continuing education requirements.

(b) Professional Surveyor or Land Surveyor

(1) Professional Surveyor or Land Surveyor - The term "Professional Surveyor or Land Surveyor," as used in this Act, shall mean a person who has been duly licensed as a professional surveyor or land surveyor by the board established under this Act, and who is a professional specialist in the technique of measuring land, educated in the basic principles of mathematics, the related physical and applied sciences, and the relevant requirements of law for adequate evidence and all requisite to surveying of real property, and engaged in the practice of surveying or land surveying as herein defined. In addition, the model law surveyor is a professional surveyor or land surveyor who meets the requirements of the *Model Law* as defined by Section 12, General Requirements for Licensure.

(2) Model Law Surveyor - The term "Model Law Surveyor" refers to a person who meets the minimum requirements of this act and is a graduate of an EAC/ABET engineering curriculum, RAC/ABET curriculum, or the equivalent.

(3) Professional Surveyor or Land Surveyor, Retired - The term "Professional Surveyor or Land Surveyor, Retired" as used in this Act shall mean a person who has been duly licensed as a professional surveyor or land surveyor by the board and who chooses to relinquish or not to renew a license and who applies to and is approved by the board to be granted the use of the honorific title "Professional Surveyor or Land Surveyor, Retired."

(4) Surveyor Intern - The term "Surveyor Intern," as used in this Act, shall mean a person who has qualified for, taken, and has passed an examination in the fundamental surveyor intern subjects, as provided by this Act.

(5) Practice of Surveying or Land Surveying - The term "Practice of Surveying or Land Surveying," within the intent of this Act shall mean providing professional services such as consultation, investigation, testimony evaluation, expert technical testimony, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location, size, shape, or physical features of the earth, improvements on the earth, the space above the earth, or any part of the earth, and utilization and development of these facts and interpretation into an orderly survey map, plan, report, description, or project. The practice of surveying or land surveying includes, but is not limited to, any one or more of the following:

- (a) Determining 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.
- (b) Performing geodetic surveying which includes surveying for determination of the size and shape of the earth utilizing angular and linear measurements through spatially oriented spherical geometry.
- (c) Determining, by the use of principles of surveying, the position for any survey control (non-boundary) monument or reference point; or setting, resetting, or replacing any such monument or reference point.
- (d) Creating, preparing, or modifying electronic or computerized data, including land information systems, and geographic information systems, relative to the performance of the activities in the above described items (a) through (c).
- (e) Locating, relocating, establishing, reestablishing, laying out, or retracing any property line or boundary of any tract of land or any road, right of way, easement, alignment, or elevation of any of the fixed works embraced within the practice of engineering.
- (f) Making any survey for the subdivision of any tract of land.
- (g) Determining, by the use of principles of land surveying, the position for any survey monument or reference point; or setting, resetting, or replacing any such monument or reference point.
- (h) Creating, preparing, or modifying electronic or computerized data, including land information systems, and geographic information systems, relative to the performance of the activities in the above described items (e) through (g).

Any person shall be construed to practice or offer to practice surveying or land surveying, within the meaning and intent of this Act, who engages in surveying or land surveying or who by verbal claim, sign, advertisement, letterhead, card, or in any other way represents themselves to be a professional surveyor or land surveyor or, through the use of some other title implies that they are able to perform, or who

does perform any surveying or land surveying service or work or any other service designated by the practitioner which is recognized as surveying or land surveying.

(6) Inactive Licensee - Licensees who are not engaged in surveying or land surveying practice which requires licensure in this jurisdiction may be granted inactive status. No inactive licensee may practice in this jurisdiction unless otherwise exempted in this chapter. Inactive licensees are exempt from the continuing education requirements.

(c) Board - The term "Board," as used in this Act, shall mean the jurisdiction board of licensure for professional engineers and professional surveyors or professional land surveyors, hereinafter provided by this Act.

(d) Responsible Charge - The term "Responsible Charge," as used in this Act, shall mean direct control and personal supervision of engineering work or surveying or land surveying as the case may be.

(e) Rules of Professional Responsibility for Professional Engineers and Professional Surveyors or Land Surveyors - The term "Rules of Professional Responsibility for Professional Engineers and Professional Surveyors or Land Surveyors," as used in this Act, shall mean those rules, if any, promulgated by the board as authorized by this Act.

(f) Firm - The term "Firm," as used in this Act, shall mean the business entity that offers professional engineering or surveying or land surveying services to the public of their licensed personnel who are either employees, officers, directors, partners, members or managers. The business entity may be formed as either:

- (1) a professional service corporation, as defined in the Professional Service Corporation Act (reference the cite in a footnote).
- (2) a corporation, as defined in the Business Corporation Act (reference the cite in a footnote).
- (3) a partnership, including limited partnerships and limited liability partnerships, as defined in the Uniform Partnership Act (reference the cite in a footnote) or the Revised Uniform Limited Partnership Act (reference the cite in a footnote).
- (4) a limited liability company, as defined in the Limited Liability Company Act (reference the cite in a footnote).

Prior to any contract for or the provision of professional engineering or surveying or land surveying services in this jurisdiction, the firm shall obtain a certificate of authority under Section 22 of this Act. A sole proprietorship, owned and operated by licensee under this Act, is not required to obtain a certificate of authority under Section 22. A professional association of

licensed professional engineers or professional surveyors or professional land surveyors in compliance with the Professional Association Act (reference the cite in a footnote) is not required to obtain a certificate of authority under Section 22. Both the licensed sole proprietor and the licensees within a professional association shall maintain their individual licenses in active status and only offer the professional services for which they are licensed and qualified to provide.

(g) Managing Agent - The term "Managing Agent," as used in this Act, shall mean a natural person who is licensed under this Act and who has been designated pursuant to Section 22 of this Act by the firm. The managing agent is responsible for the engineering or surveying or land surveying work in this jurisdiction and/or for projects or property within this jurisdiction offered or provided by the firm. A licensee may not be designated as a managing agent for more than one firm. An engineer or surveyor who renders occasional, part-time or consulting engineering or surveying or land surveying services to, or for, a firm may not be designated as a managing agent.

The managing agent's responsibilities include:

- (1) renewal of the certificate of authority and notification to the board of any change in managing agent.
- (2) overall supervision of the firm's licensed and subordinate personnel providing the engineering or surveying or land surveying work in this jurisdiction.
- (3) institution and adherence of policies of the firm that are in accordance with the Rules of Professional Responsibility for Professional Engineers and Professional Surveyors or Land Surveyors, adopted pursuant to Section 19(b) of this Act.

SECTION 3. BOARD APPOINTMENTS, TERMS

A jurisdiction board of licensure for professional engineers and/or professional surveyors or land surveyors is hereby created whose duty it shall be to administer the provisions of this Act. The board shall consist of professional engineers, professional surveyors or land surveyors, and public members who shall be appointed by the governor. The engineer and surveyor or land surveyor members shall preferably be appointed from a list of nominees submitted by the respective engineering and/or surveying or land surveying societies of the jurisdiction and shall have the qualifications required by Section 4. Each member of the board shall receive a certificate of their appointment from the governor and shall file with the secretary of the jurisdiction a written oath or affirmation for the faithful discharge of their official duty. Appointments to the board shall be in such manner and for such period of time that the term of each member shall expire at the end of a different year, insofar as is possible. On the expiration of the term of any member, the governor shall in the manner hereinbefore provided appoint for a term of years a professional engineer, a professional surveyor or land surveyor, or a public member having the qualifications required in Section 4. A member may be reappointed to succeed themselves. Each member shall hold office until the expiration of the term for which appointed or until a successor has been duly appointed and has qualified. In the event of a

vacancy on the board due to resignation, death or for any cause resulting in an unexpired term, if not filled within three months by the governor, the board may appoint a provisional member to serve in the interim until the governor acts.

SECTION 4. BOARD QUALIFICATIONS

Each engineering member of the board shall be a citizen of the United States and a resident of this jurisdiction. They shall have been engaged in the lawful practice of engineering as a professional engineer for at least twelve years, shall have been in responsible charge of engineering projects for at least five years, and shall be a licensed professional engineer in this jurisdiction.

Each surveying or land surveying member of the board shall be a citizen of the United States and a resident of this jurisdiction. They shall have been engaged in the lawful practice of surveying or land surveying as a professional surveyor or land surveyor for at least twelve years, shall have been in responsible charge of surveying or land surveying projects for at least five years, and shall be a licensed professional surveyor or land surveyor in this jurisdiction.

Each public member *shall be a citizen of the United States and a resident of this jurisdiction and* shall not be or have been either an engineer or surveyor or land surveyor. The majority of the board members shall be engineers and/or surveyors or land surveyors.

SECTION 5. BOARD COMPENSATION, EXPENSES

Each member of the board shall receive compensation as prescribed in Section 8 of this Act when attending to the work of the board or any of its committees and for the time spent in necessary travel; and, in addition thereto, shall be reimbursed for all actual traveling, incidental, and clerical expenses necessarily incurred in carrying out the provisions of this Act.

SECTION 6. BOARD REMOVAL OF MEMBERS, VACANCIES

The governor may remove any member of the board for misconduct, incompetency, neglect of duty, or for reason prescribed by law for removal of jurisdiction officials. Vacancies in the membership of the board shall be filled for the unexpired term by appointment of the governor as provided in Section 3.

SECTION 7. BOARD ORGANIZATION AND MEETINGS

The board shall hold at least regular meetings each year. Special meetings may be held as the bylaws o officers: a chairman, a vice chairman, and a secretary. A quorum of the board shall consist of not less than professional engineer members, professional surveyor or land surveyor members, and public members.

SECTION 8. BOARD POWERS

(a) The board shall have the power to adopt and amend all bylaws and rules of procedure not inconsistent with the constitution and laws of this jurisdiction or this Act, including, but not limited to, the adoption and promulgation of Rules of Professional Responsibility for Professional Engineers and Professional Surveyors or Land Surveyors which may be reasonably necessary for the proper performance of its duties and the regulation of its procedures, meetings, records, examinations, and the conduct thereof. These actions by the board shall be binding upon persons licensed under this Act and on non-licensees found by the board to be in violation of provisions of this Act and shall be applicable to corporations holding a certificate of authorization as provided in Section 23 of this Act. The board shall adopt and have an official seal, which shall be affixed to each certificate issued.

(b) In carrying into effect the provisions of this Act, the board may subpoena witnesses and compel their attendance, and also may require the submission of books, papers, documents, or other pertinent data, in any disciplinary matter, or in any case wherever a violation of this Act is alleged. Upon failure or refusal to comply with any such order of the board, or upon failure to honor its subpoena, as herein provided, the board may apply to a court of any jurisdiction to enforce compliance with same.

(c) The board is hereby authorized in the name of the jurisdiction to apply for relief by injunction in the established manner provided in cases of civil procedure, without bond, to enforce the provisions of this Act, or to restrain any violation thereof. 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 or irreparable damage would result from the continued violation thereof. The members of the board shall not be personally liable under these proceedings.

(d) The board may subject an applicant for licensure to such examinations as it deems necessary to determine their qualifications.

(e) The board shall have the power and authority to require a demonstration of continuing professional competency of engineers and surveyors or land surveyors as a condition of renewal or relicensure.

(f) The board has the authority for citation and fining of persons engaged in the unlawful practice of engineering or surveying or land surveying who are not licensed in this jurisdiction as provided by law.

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

(h) The board shall have the power and authority to waive requirements of this law pertaining to surveying or engineering licensure provided consideration is given to safeguarding life, health, and property, and promoting the public welfare.

(i) *In carrying out the duties, functions, and powers of the board, the board may contract with any jurisdiction agency for the performance of such duties, functions, and powers as the board considers appropriate. A jurisdiction agency may not charge the board for such services an amount that is greater than the actual cost of the services. Except as otherwise specifically provided in this Act, the board may contract with private entities for such duties, functions, and powers as the board considers appropriate.*

(j) *The board may sue and be sued in its own name.*

(k) *The board may, notwithstanding any other statute to the contrary, enter into contracts and acquire, own, encumber, issue, replace, deal in, and dispose of real and personal property.*

(l) *The board may fix a per diem amount to be paid to board members for each day or portion thereof during which the member is actually engaged in the performance of official duties. Board members may also receive actual and necessary travel or other expenses incurred in the performance of their duties. If an advisory council or peer review committee is established by the board to assist it in carrying out its duties, functions, and powers, the board may also pay per diem amounts and actual expenses for members thereof.*

(m) *The board may establish and collect fees not to exceed amounts necessary for the purpose of carrying out its functions. Such fees shall cover engineering licensure, engineer intern certification, surveyor or land surveyor licensure, surveyor intern certification, and renewals and examinations. It may establish and collect separate fees for examination than those for*

licensure and/or certification as the board considers appropriate.

SECTION 9. RECEIPTS AND DISBURSEMENTS

The secretary of the board shall receive and account for all monies derived under the provisions of this Act. [This fund shall be known as the "Professional Engineers' and Professional Surveyors or Land Surveyors' Fund" and shall be kept in a local bank or deposited with the jurisdiction treasurer, and shall be paid out only upon requisitions submitted by the secretary. All monies in this fund are hereby specifically appropriated for the use of the board.] *Such monies shall be deposited with the jurisdiction treasurer and kept in a separate account from the jurisdiction general fund, which shall be known as the "Professional Engineers' and/or Professional Surveyors or Land Surveyors' Account," and shall be paid out only upon requisitions submitted by the secretary or board chairperson. All monies in this account including interest are hereby specifically appropriated for the use of the board.* [The secretary] shall give a surety bond to the jurisdiction in such sum as may be required by the laws of this jurisdiction. The premium on said bond shall be regarded as a proper and necessary expense of the board. The secretary shall receive such salary as the board shall determine. The board shall employ such clerical or other assistants as are necessary for the proper performance of its work, and shall make expenditures from the abovementioned fund for any purpose which, in the opinion of the board, is reasonably necessary for the proper performance of its duties under this Act, including the expenses of the board's delegates to meetings of and membership fees to the National Council of Examiners for Engineering and Surveying and any of its subdivisions. Under no circumstances shall the total amount of warrants issued in payment of the expenses and compensation provided for in this Act exceed the amount of monies collected.

SECTION 10. RECORDS AND REPORTS

(a) The board shall keep a record of its proceedings and of all applications for licensure, which record shall show (1) the name, age, and last known address of each applicant, (2) the date of application, (3) the place of business of such applicant, (4) education, experience, and other qualifications, (5) type of examination required, (6) whether or not the applicant was rejected, (7) whether or not a certificate of licensure was granted, (8) the date of the action by the board, and (9) such other information as may be deemed necessary by the board.

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

(c) Annually, as of the end of the fiscal year, the board shall submit to the governor a report of its transactions of the preceding year and shall transmit to the governor a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and

secretary.

(d) 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 problem solutions, letters of inquiry and reference concerning applicants, board inquiry forms concerning applicants, investigation files where any investigation is still pending, and all other materials of like confidential nature.

SECTION 11. ROSTER

A complete roster showing the names and last known addresses of all licensed professional engineers and of all licensed professional surveyors or land surveyors shall be published by the secretary of the board once each year, or at intervals as established by board regulation.

SECTION 12. GENERAL REQUIREMENTS FOR LICENSURE

(a) Professional Engineer - To be eligible for admission to the examination for professional engineer or engineer intern, an applicant must be of good character and reputation and shall submit five references with their application for licensure as a professional engineer, three of which references shall be professional engineers having personal knowledge of the applicant's engineering experience, or in the case of an application for certification as an engineer intern, by three character references.

The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional engineer or for certification as an engineer intern, respectively.

(1) As a Professional Engineer

(aa) Licensure by Comity or Endorsement - A person holding a certificate of licensure to engage in the practice of engineering, issued by a proper authority of a jurisdiction or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the provisions of this Act and were of a standard not lower than that specified in the applicable licensure act in effect in this jurisdiction at the time such certificate was issued, or meeting the requirements of the model law engineer, may, upon application, be licensed without further examination.

A person holding an active Council Record with the National Council of Examiners for Engineering and Surveying, whose qualifications as evidenced by the Council Record, meet the requirements of this Act may, upon application, be licensed without further examination.

(1) As a Professional Engineer (Alternative Section)

Jurisdictions that do not license by discipline - An engineer licensed in an engineering discipline may be licensed by this board as a professional engineer.

Jurisdictions that license by discipline - An engineer licensed as a professional engineer may be licensed by this board in any discipline in which they can verify their competency.

(bb) Graduation, Experience, and Examination - A graduate of an engineering curriculum of four years or more accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET), or the equivalent, and with a specific record of an additional four years or more of progressive experience on engineering projects of a grade and a character which indicates to the board that the applicant may be competent to practice engineering, shall be admitted to an eight-hour written examination in the fundamentals of engineering, and, if passed, then shall be admitted to an eight-hour written examination in the principles and practice of engineering. Upon passing such examinations, the applicant shall be granted a certificate of licensure to practice engineering in this jurisdiction, provided the applicant is otherwise qualified.

(cc) Engineering Teaching - Teaching of advanced subjects and the design of engineering research projects in a college or university offering an approved engineering curriculum of four years or more may be considered as engineering experience.

(2) As an Engineer Intern

The following shall be considered as minimum evidence that the applicant is qualified for certification as an engineer intern.

(aa) Graduation and Examination - A college senior or graduate of an engineering curriculum of four years or more accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET), or the equivalent, shall be admitted to an eight-hour written examination in the fundamentals of engineering. Upon passing such examination, the applicant shall be certified or enrolled as an engineer intern, if otherwise qualified.

(b) Professional Surveyor or Land Surveyor - To be eligible for admission to the examination for professional surveyor or land surveyor or surveyor intern, an applicant must be of good character and reputation and shall submit five references with their application for licensure as a professional surveyor or land surveyor, three of which references shall be professional surveyors or land surveyors having personal knowledge of the applicant's surveying or land surveying experience, or in the case of an application for certification as a surveyor intern, by three character references.

The evaluation of a surveyor or land surveyor applicant's qualifications involves consideration of education, technical, and surveying or land surveying experience, exhibits of surveying or land surveying projects with which the applicant has been associated, recommendations by

references and a review of these categories during an examination. The surveyor intern applicant's qualifications may be reviewed at an interview if the board deems it necessary.

(1) As a Surveyor or Land Surveyor

The following shall be considered as minimum evidence to the board that the applicant is qualified for licensure as a professional surveyor or land surveyor.

(aa) A surveyor intern with a specific record of an additional four years of combined office and field experience satisfactory to the board in surveying or land surveying, of which a minimum of three years' progressive experience has been on surveying or land surveying projects under the supervision of a professional surveyor or land surveyor, shall be admitted to an eight-hour written examination in the principles and practice of surveying or land surveying. Upon passing such examination, the applicant shall be granted a certificate of licensure to practice surveying or land surveying in this jurisdiction, provided the applicant is otherwise qualified.

(2) As a Surveyor Intern

The following shall be considered as minimum evidence to the board that the applicant is qualified for certification as a surveyor intern.

(aa) A college senior or graduate of an EAC/ABET or RAC/ABET surveying curriculum of four years or more shall be admitted to an eight-hour written examination in the fundamentals of surveying. Upon passing such examination, the applicant shall be certified or enrolled as a surveyor intern, if the applicant is otherwise qualified.

(bb) A graduate of a curriculum related to surveying of four years or more as approved by the board and with a specific record of two years of progressive experience in surveying or land surveying shall be admitted to an eight-hour written examination in the fundamentals of surveying or land surveying. Upon passing such examination, the applicant shall be certified or enrolled as a surveyor intern, if the applicant is otherwise qualified.

(cc) A graduate of a four-year or more curriculum as acceptable to the board and with a specific record of four years of progressive experience in surveying or land surveying shall be admitted to an eight-hour written examination in the fundamentals of surveying or land surveying. Upon passing such examination, the applicant shall be certified or enrolled as a surveyor intern, if the applicant is otherwise qualified.

(3) Licensure by Comity or Endorsement - A person holding a certificate of licensure to engage in the practice of surveying or land surveying issued on comparable qualifications from a jurisdiction, territory, or possession of the United States and experience satisfactory to the board, or meeting the requirements of the model law surveyor, will be given comity consideration. However, the applicant may be required to take such examinations as the board deems necessary to determine their qualifications. The

examination shall include questions on laws, procedures, and practices pertaining to surveying or land surveying in this jurisdiction.

(4) Surveying Teaching - Teaching of advanced surveying or land surveying subjects in a college or university offering an approved surveying or land surveying curriculum may be considered as surveying or land surveying experience satisfactory to the board.

SECTION 13. APPLICATION AND LICENSURE FEES

(a) Application for licensure as a professional engineer and/or professional surveyor or land surveyor or certification as an engineer intern or surveyor intern shall be on a form prescribed and furnished by the board; shall contain statements made under oath, showing the applicant's education and a detailed summary of technical and engineering experience or surveying or land surveying experience; and shall include the names and complete mailing addresses of the references, none of whom should be members of the board, as set forth in Section 12.

The board may accept the verified information contained in a valid Council Record issued by the National Council of Examiners for Engineering and Surveying for professional engineer applicants in lieu of the same information that is required on the form prescribed and furnished by the board.

(b) The applicant shall furnish, with the application for licensure as a professional surveyor or land surveyor, five or more exhibits of surveying or land surveying projects with which the applicant has been associated, at least three to be subdivision plats for or of record, or the equivalent thereof, subject to the approval of the board.

(c) The licensure fee shall be established by regulation of the board for licensure as a professional engineer or a professional surveyor or land surveyor, for certification as an engineer intern or surveyor intern and shall accompany the applications.

(d) The certification fee for corporations shall be established by regulation of the board and shall accompany the application.

(e) Should the board deny the issuance of a certificate to any applicant, including the application of a corporation for a certificate of authorization, the fee paid shall be retained as an application fee.

SECTION 14. EXAMINATIONS

(a) The examinations will be held at such times and places as the board directs. The board shall determine the acceptable passing grade on examinations. The board may require a take-home, pre-application questionnaire based on this jurisdiction's rules and regulations as they apply to professionalism and ethics.

(b) Written examinations will be given in two sections and may be taken only after the applicant has met the other minimum requirements as given in Section 12, and has been approved by the board for admission to the examinations as follows:

(1) Fundamentals of Engineering - The examination consists of an eight-hour test period on the fundamentals of engineering. Passing this examination qualifies the examinee for an engineer intern certificate, provided the examinee has met all other requirements for certification required by this Act.

(2) Principles and Practice of Engineering - The examination consists of an eight-hour test period on applied engineering. Passing this examination qualifies the examinee for licensure as a professional engineer, provided the examinee has met the other requirements for licensure required by this Act.

(3) Fundamentals of Surveying - The examination consists of an eight-hour test period on the basic disciplines of surveying. Passing this examination qualifies the examinee for a surveyor intern certification, provided the examinee has met all other requirements for certification required by this Act.

(4) Principles and Practice of Surveying or Land Surveying - The examination consists of an eight-hour test period on the applied disciplines of surveying or land surveying, divided in separate parts as determined by the board. Passing these parts qualifies the examinee for licensure as a professional surveyor or land surveyor, provided the examinee has met the other requirements for licensure required by this Act.

(c) A candidate failing one examination may apply for re-examination, which may be granted upon payment of a fee established by regulation of the board. Before readmission to the examination, in the event of a second failure, the examinee may, at the discretion of the board, be required to appear before the board with evidence of having acquired the necessary additional knowledge to qualify.

(d) The board may prepare and adopt specifications for the written examinations in engineering and surveying or land surveying. They shall be published in brochure form and be available to any person interested in being licensed as a professional engineer or as a professional surveyor or land surveyor. The board may elect to waive any additional written examination requirements for the performance of the activities described in Section 2 (b)(5)(a) through (d) to facilitate mobility between jurisdictions.

SECTION 15. CERTIFICATES, SEALS

(a) The board shall issue to any applicant who, in the opinion of the board, has met the requirements of this Act, a certificate of licensure giving the licensee proper authority to practice their profession in this jurisdiction. The certificate of licensure for a professional engineer shall carry the designation "Professional Engineer" and for a professional surveyor or land surveyor, "Professional Surveyor" or "Professional Land Surveyor." It shall give the full name of the licensee with licensure number and shall be signed by the chairman and the secretary under the seal of the board.

(b) This certificate shall be prima facie evidence that the person named thereon is entitled to all rights, privileges, and responsibilities of a professional engineer or a professional surveyor or land surveyor while the said certificate of licensure remains unrevoked and unexpired.

(c) Each licensee hereunder must, upon licensure, obtain a seal, the use and design of which is described below. It shall be unlawful for a licensee to affix or to permit their seal and signature to be affixed to any document described here below after the expiration of a certificate or for the purpose of aiding or abetting any other person to evade or attempt to evade any provisions of this Act.

(1) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile found acceptable to the board that becomes a permanent addition to a document. Whenever the seal is applied, the licensee's written signature shall be adjacent to or across the seal.

(2) The seal, signature, and date 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.

(3) Drawings, reports, or documents which require sealing, dating, and signing may also be transmitted electronically. The board shall, by rule, establish procedures for this process.

(4) The seal, signature, and date shall be placed on all originals, copies, tracings, or other reproducible documents in such a manner that the seal, signature, and date will be reproduced. The application of the licensee's seal and signature shall constitute certification that the work thereon was done by the licensee or under the licensee's control. In the case of multiple sealings, the first or title page of drawings shall be sealed, signed, and dated by all involved. In addition, each sheet shall be sealed, signed, and dated by the licensee or licensees responsible for each sheet. In the case of reports or specifications, the cover sheet shall be signed, sealed, and dated. In the case of an authorized firm, under Section 22 of this Act, each sheet shall be sealed, signed, and dated by the licensee or licensees involved. The principal in responsible charge shall sign, seal, and date the title or first sheet.

(5) No licensee shall affix his seal or signature to sketches, working drawing, specifications, or other documents developed by others not under his direct personal supervision and not subject to the authority of that licensee.

(6) Direct Personal Supervision. Plans, plats, specifications, drawings, reports, or other documents will be deemed to have been prepared under the immediate, personal supervision of a licensee only when:

- (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, so long as the firm member or employee works in the firm's place of business and not a separate location;
- (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.

(7) In the case of a temporary permit issued to an engineering licensee of another jurisdiction, the licensee shall use their jurisdiction of licensure seal and shall affix their signature and temporary permit to all their work.

(8) The design of the seal shall be determined by the jurisdiction board; however, the following minimum information shall be on the seal:

Jurisdiction of Licensure

Licensee's name

Licensee's licensure number

The words "Professional Engineer" and discipline (if licensed by) or "Professional Surveyor" or "Professional Land Surveyor."

(9) In the case of an engineering licensee checking the work of an out-of-state licensee, the jurisdiction licensee of the use jurisdiction shall completely check and have complete dominion and control of the design. Such complete dominion and control must include possession of the sealed and signed reproducible construction drawings, with complete signed and sealed design calculations indicating all changes in design.

(d) The board shall issue to any applicant who, in the opinion of the board, has met the requirements of this Act, an enrollment card as engineer intern or surveyor intern, which indicates that their name has been recorded as such in the board office. The engineer intern or surveyor intern enrollment card does not authorize the holder to practice as a professional engineer or a professional surveyor or land surveyor.

SECTION 16. EXPIRATIONS, RENEWALS, AND REINSTATEMENT TO ACTIVE PRACTICE

(a) Certificates of licensure and certificates of authorization for firms shall expire on the last day of the month of following their issuance and shall become invalid after that date unless

renewed. It shall be the duty of the secretary of the board to notify every person licensed under this Act and every firm holding a certificate of authorization under this Act of the date of the expiration of the certificate of licensure or certificate of authorization and the amount of the fee required for its renewal. Such notice shall be mailed to the licensee or firm at their last known address at least one month in advance of the date of the expiration of the certificate.

Renewal may be effected at any time prior to or during the month of by payment of a fee as established by regulation of the board. Renewal of an expired certificate may be effected under rules promulgated by the board regarding requirements for re-examination and penalty fees.

(b) If a licensee is granted inactive status, the licensee may return to active status by notifying the board in advance of this intention, by paying appropriate fees, and by meeting all requirements of the board including demonstration of continuing professional competency as a condition of reinstatement.

SECTION 17. REISSUANCE OF CERTIFICATES

A new certificate of licensure or certificate of authorization to replace any certificate lost, destroyed, or mutilated may be issued subject to the rules of the board. A charge established by regulation shall be made for each issuance.

SECTION 18. PUBLIC WORKS

Any jurisdiction, county, or local government agencies or authorities, or officials or employees thereof, shall not engage in the practice of engineering or surveying or land surveying involving either public or private property without the project being under the direct charge and supervision of a professional engineer for engineering projects or a professional surveyor or land surveyor for surveying or land surveying projects, as provided for the practice of the respective professions by this Act.

AL TO ISSUE,
RESTORE OR RENEW, PROBATION, FINE, REPRIMAND

(a) The board shall have the power to suspend, revoke, place on probation, fine and/or reprimand, or to refuse to issue, restore or renew a certificate of licensure, to any professional engineer, professional surveyor, or professional land surveyor who is found guilty of:

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

(2) Any negligence, incompetency or misconduct in the practice of engineering, surveying,

or land surveying.

(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime which is a felony, whether related to practice or not; and 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, surveying, or land surveying.

(4) Failure to comply with any of the provisions of this Act or any of the rules or regulations pertaining thereto.

(5) Discipline by another jurisdiction, territory, the District of Columbia, foreign country, the United States government, or any other governmental agency, if at least one of the grounds for discipline is the same or substantially equivalent to those contained in this section.

(6) Failure to provide information requested by the board as a result of a formal or informal complaint to the board which would indicate a violation of this Act.

(7) Knowingly making false statements or signing false statements, certifications, or affidavits to induce payment.

(8) Aiding or assisting another person in violating any provision of this Act or the rules or regulations pertaining thereto.

(9) Violating any terms of probation imposed by the board or using a seal or practicing engineering, surveying, or land surveying while the professional engineer's license, professional surveyor's license, or professional land surveyor's license is suspended, revoked, non-renewed, or inactive.

(10) Signing, affixing, or permitting the licensee's seal or signature to be affixed to any specifications, reports, drawings, plans, plats, design information, construction documents or calculations, surveys, or revisions thereof which have not been prepared by the licensee or under the licensee's responsibility or direct personal supervision.

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

(12) Providing false testimony or information to the board.

(13) Habitual intoxication or addiction to the use of drugs or alcohol.

(14) Providing engineering, surveying, or land surveying services outside any of the licensee's areas of competence. Licensees must demonstrate by education or experience that they are competent to practice in their field.

(b) In addition to or in lieu of any other penalty provided in this section, any licensee who violates a provision of this Act or any rule or regulation pertaining thereto, a civil penalty in an amount determined by the board of not more than \$5,000 for each offense.

- (1)** Each day of continued violation may constitute a separate offense.
- (2)** In determining the amount of civil penalty to be assessed pursuant to this section the board may consider such factors as the following:
- (a) Whether the amount imposed will be a substantial economic deterrent to the violation;
 - (b) The circumstances leading to the violation;
 - (c) The severity of the violation and the risk of harm to the public.

(c) The board shall have prepared and shall adopt rules of professional responsibility for Professional Engineers and Professional Surveyors or Land Surveyors as provided for in Section 8, which shall be made known in writing to every licensee and applicant for licensure under this Act, and which shall be published in the roster provided for in Section 11. Such publication shall constitute due notice to all licensees. The board may revise and amend these Rules of Professional Responsibility for Professional Engineers and Professional Surveyors or Land Surveyors from time to time and shall forthwith notify each licensee in writing of such revisions or amendments.

(d) In addition to any other penalty provided in this section, the board shall have the power to revoke, suspend, place on probation, fine and/or reprimand, or refuse to issue, restore or renew, the certificate of authorization of any firm where one or more of its officers, directors, partners, members, or managers have been found guilty of any conduct which would constitute a violation under the provisions of this section.

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

(f) In connection with proceeding under (a) and (b) of 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.

SECTION 20. DISCIPLINARY ACTION PROCEDURES

(a) Any person may prefer charges of fraud, deceit, gross negligence, incompetence, negligence, misconduct, or violation of the Rules of Professional Responsibility for Professional Engineers and Professional Surveyors or Land Surveyors against any individual licensee or

against any firm holding a certificate of authorization.

(b) All charges, unless dismissed by the board as unfounded, trivial, or unless settled informally, shall be heard by the board.

[(b) The time and place for the hearings shall be fixed by the board and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of such individual licensee or firm holding a certificate of authorization at least thirty days before the date fixed for the hearing. At any hearing, the accused individual licensee or firm holding a certificate of authorization shall have the right to appear in person or by counsel, or both, to cross-examine witnesses in their defense and to produce evidence and witnesses in their own defense. If the accused person or firm fails or refuses to appear, the board may proceed to hear and determine the validity of the charges.]

(c) If after such hearing a majority of the board votes in favor of sustaining the charges, the board shall reprimand, fine in an amount not to exceed dollars (\$.....) for each count, refuse to issue, restore or renew, place on probation for a period of time, and subject to such conditions as the board may specify, suspend, revoke, or any combination thereof, the individual's certificate of licensure or a firm's certificate of authorization.

(d) An individual licensee having a certificate of licensure or a firm having a certificate of authorization aggrieved by any action of the board in levying a fine, denying, suspending, refusing to issue, restore or renew, or revoking their certificate of licensure or a firm's certificate of authorization, may appeal therefrom to the proper court under normal civil procedures.

(e) A penalty assessed pursuant to Section 19(b) of this Act shall be assessed in a proceeding as provided in this section. Unless the amount of the penalty is paid within 50 days after the order becomes final, the order shall constitute a judgement and shall be filed and execution issued thereon in the same manner as any other judgement of a court of record.

(f) The board may, upon petition of an individual licensee or firm holding a certificate of authorization, reissue a certificate of licensure or authorization, provided that a majority of the members of the board votes in favor of such issuance.

SECTION 21. CIVIL PENALTIES FOR NON-LICENSEES

(a) In addition to any other provisions of law, the board may enter an order assessing a civil penalty against any person, firm, partnership or corporation found guilty by the board of:

(1) Engaging in the practice or offer to practice of engineering or surveying or land

surveying in this jurisdiction without being licensed in accordance with the provisions of this Act;

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

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

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

(5) Falsely impersonating any other licensed engineer or licensed surveyor or land surveyor of like or different name; or

(6) Using or attempting to use an expired, suspended, or revoked or non-existent certificate of licensure.

(b) A civil penalty levied under this section may not exceed \$5,000 for each offense.

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

(d) In determining the amount of civil penalty to be assessed pursuant to this section, the board may consider such factors as the following:

(1) Whether the amount imposed will be a substantial economic deterrent to the violation;

(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; and

(5) The interest of the public.

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

(f) In connection with proceeding under (a) and (b) of 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.

(g) A person aggrieved by the levy of a civil penalty under this section may file an appeal with the superior court for judicial review of the penalty aforementioned.

(h) If a person fails to pay a civil penalty within 30 days after entry of an order under (a) of this section, or if the order is stayed pending an appeal, within 10 days after the court enters a final judgement in favor of the board of an order appealed under (e) of this section, 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.

(i) An action to enforce an order under this section may be combined with an action for an injunction.

SECTION 22. CRIMINAL OFFENSES

Any person who shall practice or offer to practice engineering or surveying or land surveying in this jurisdiction being licensed in accordance with the provisions of this Act, or any person, firm, partnership, organization, association, corporation, or other entity using or employing the words "Engineer" or "Engineering" or "Surveyor" or "Land Surveyor" or "Surveying" or "Land Surveying," or any modification or derivative thereof in its name or form of business activity except as authorized in this Act, or any person presenting or attempting to use the certificate of licensure or the seal of another, 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 or revoked, or non-existent certificate of licensure, or who shall practice or offer to practice when not qualified, or any person who falsely claims that they are licensed or authorized under this Act, or any person who shall violate any of the provisions of the Act, shall be guilty of a (highest degree of) misdemeanor for the first offense and a (lowest degree of) felony for the second or any subsequent offenses.

It shall be the duty of the attorney general of the jurisdiction to enforce the provisions of this Act and to prosecute any person violating same.

The attorney general of the jurisdiction or the assistant shall act as legal adviser to the board and render such legal assistance as may be necessary in carrying out the provisions of this Act. The board may employ counsel and necessary assistance to aid in the enforcement of this Act and the compensation and expenses therefor shall be paid from the funds of the board.

SECTION 23. AUTHORIZATION CERTIFICATES

(a) The practice of or offer to practice for others as defined in Section 2, engineering and surveying or land surveying, by individuals licensed under this Act through a firm as officers, directors, members, partners, employees, or agents, is permitted, subject to the provisions of this Act; provided that:

(1) In the case of a professional service corporation, including foreign professional service corporations, the following persons shall either be licensed under this Act, or are professional surveyors land surveyors, engineers, structural engineers, and/or architects under the licensing laws of another state, territory, or possession of the United States or the District of Columbia:

- (a) Shareholders, except liquidating shareholders for the purposes of dissolution.
- (b) Officers, except secretary and/or registered agent of the corporation.
- (c) Directors.
- (d) Agents and employees, other than ancillary personnel.

In addition, at least one director and officer shall be a professional engineer or professional surveyor or land surveyor licensed under this Act and is designated as a managing agent responsible for engineering or surveying or land surveying activities and decisions in this jurisdiction by way of resolution of the Board of Directors;

(2) In the case of a corporation that one or more of the corporate directors, and one or more of the corporate officers of the corporation designated as a managing agent being responsible for the engineering activities and decisions is a professional engineer or, for surveying or land surveying activities and decisions, is a professional surveyor or land surveyor under this Act *or under the engineering licensure law of another jurisdiction, territory, or possession of the United States, the District of Columbia*, the managing agent is designated by way of a resolution of the Board of Directors;

(3) In the case of a partnership, including registered limited liability partnerships and limited partnerships, that one or more of the general partners designated as a managing agent by way of resolution adopted by the general partners is responsible for the engineering or surveying or land surveying activities and decisions in this jurisdiction is a professional engineer or professional surveyor or professional land surveyor licensed under this Act:

(4) In the case of a limited liability company, including professional limited liability companies and professional service limited liability companies, a minimum of two members are either natural persons and/or corporations or partnerships. At least one or more of the members shall satisfy either the licensing requirements under Section 2 of this Act, or the requirements of this Section 23. Therefore, if the member is:

- (a) A natural person, then that member shall be a professional engineer or professional surveyor or land surveyor licensed under this Act;
- (b) Not a natural person, but either a professional service corporation, corporation or partnership, then each member that is not a natural person that offers or provides

engineering or land surveying services shall be in compliance with subsection 1, 2, or 3 above, respectively, and designate the managing agent(s) according to the relevant subsection above.

The management of the limited liability company may be vested with the members or a subset of the members. The limited liability company's management also may be vested in managers identified in a written operating agreement. If any manager is responsible for the firm's engineering or surveying or land surveying activities or decisions in this jurisdiction, then one or more of those managers shall be a professional engineer or professional surveyor or land surveyor under this Act, and be designated also as a managing agent, in addition to the member who is a managing agent for professional engineering or professional surveying or land surveying.

The designated managing agent(s) responsible for the engineering or surveying or land surveying activities and decisions shall be a natural person. Those members, and managers if any, shall be designated as a managing agent responsible for the engineering or surveying or land surveying activities and decisions in this jurisdiction by way of articles of organization or written operating agreement;

(b) All personnel of the firm who act on its behalf in this jurisdiction or for projects in this jurisdiction, as professional engineers or professional surveyors or land surveyors, are licensed under this Act or are persons lawfully practicing under Section 23. Further, provided that the firm has been issued a certificate of authorization by the board as hereinafter provided. All final drawings, specifications, plans, reports, land descriptions, calculators, or other engineering or surveying or land surveying papers or documents involving the practice of engineering or surveying or land surveying as defined in this Act, when issued or filed for public record, shall be dated and bear the signature and seal of the professional qualified in the appropriate branch of professional engineering or surveying or land surveying who prepared them or under whose immediate direction they were prepared.

(c) A firm desiring a certificate of authorization shall file with the board an application, using the form provided by the board, listing the names and addresses and any professional license numbers and jurisdiction of licensure of:

- (1)** All officers, board of director members of the corporation, and shareholders of the professional service corporation.
- (2)** All officers and board of directors members of the corporation,
- (3)** All limited and general partners of the partnership, or
- (4)** All members and managers of the limited liability company,
- (5)** All managing agents.

and other information, including resolutions, articles of organization or operating agreements designating the managing agent(s), all assumed business names and office locations at which the firm provides professional engineering or surveying or land surveying services to the public,

shall accompany the annual renewal fee.

(d) In the event there shall be a change in any of the managing agents during the year, such change shall be designated on the same form and in the same manner and filed by certified mail, return receipt requested, with the board within thirty days after the effective date of the change. The duty to notify the board of a change in managing agent is upon (independently) each departing managing agent, the firm and each incoming managing agent. Upon good cause shown, the board may extend the original thirty (30) day substitution period for a period not to exceed thirty days.

(e) Failure to notify the board of the newly designated managing agent within the prescribed time period shall result in the termination of the certificate of authorization without prior hearing. Notification of proposed termination and the basis therefore shall be sent by certified mail, return receipt requested to the last known address of the firm, at least thirty days prior to the termination date. If after the termination date, the firm continues to contract for, provide, or collect fees for professional engineering or land surveying services, then the board may seek penalties as provided under Sections 19, 20, 21, or 8 of this Act.

(f) If all of the requirements of this Section are met, the board shall issue a certificate of authorization to the firm and the firm shall be authorized to contract for and to collect fees for furnishing the engineering or surveying or land surveying services of its professional engineers or professional surveyors or land surveyors licensed under this Act.

(g) The requirements of this Act shall not prevent a firm from performing engineering or surveying or land surveying services for the firm itself or a subsidiary or an affiliate of the firm.

(h) No firm shall be relieved of responsibility for the conduct or acts of its agents, employees, officers, partners, members, or managers by reason of its compliance with the provisions of this Section. No individual practicing engineering or surveying or land surveying under the provisions of this Act shall be relieved of responsibility for engineering or surveying or land surveying services performed by reason of their employment or other relationship with a firm holding an authorization certificate.

(i) Effective one year from the date of this Act, the secretary of jurisdiction shall not issue a certificate of incorporation, certificate of licensure or authorization to an applicant or a licensure as a foreign firm to a firm which includes among the objectives for which it is established any of the words "engineer," "engineering," "surveyor," "land surveyor," "surveying," "land surveying," or any modification or derivation thereof unless the board of licensure for this profession has issued for the applicant a certificate of authorization or a letter indicating the eligibility of such applicant to receive such a certificate. The firm applying shall supply such certificate or letter

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

(j) Effective one year after the date of this Act, the secretary of jurisdiction shall decline to license any trade name or service mark which includes such words, as set forth in the above article, or modifications or derivatives thereof in its firm name or logotype except those firms holding authorization certificates issued under the provisions of this Section.

(k) The certificate of authorization shall be renewed as hereinbefore provided in Section 16 of this Chapter.

(l) A professional engineer or professional surveyor or land surveyor who renders occasional, part-time, or consulting engineering or surveying or land surveying services to, or for, a firm may not, for the purposes of this Section, be designated as being responsible for the professional activities of the firm.

(m) An entity authorized to do business in this jurisdiction may offer a combination of engineering and construction services, provided that:

- (1)** The entity obtains an authorization certificate from the board by filing, on a form approved by the board, a written disclosure on which it shall designate an engineer licensed in this jurisdiction to be in responsible charge of all engineering services offered and/or provided by the entity;
- (2)** An engineer licensed in this jurisdiction and associated with such entity participates in the material aspects of the offering of engineering services with respect to any project;
- (3)** One or more of the officers, partners, or members of the entity, and all personnel of such entity who act on its behalf as engineers, are licensed as engineers in this jurisdiction; and
- (4)** The engineer(s) competent in the required specific areas of practice and licensed in this jurisdiction shall be in responsible charge of all engineering design and be directly involved during the construction of the project.

SECTION 23. AUTHORIZATION CERTIFICATES (ALTERNATIVE SECTION)

(a) The practice of, or offer to practice engineering or surveying or land surveying by consulting engineers or surveyors or land surveyors licensed under this Act, by more than one person acting individually, through a firm, as defined in Section 2 of this Act, corporation, co-partnership, joint stock association, or private practitioner employing others, referred to

hereinafter as a firm, is permitted, provided that the person in direct control or having personal supervision of such practice and all personnel who act on behalf of the firm in professional matters are licensed under this Act and further that the firm has been issued a certificate of authorization by the board.

(b) A consulting engineering or surveying or land surveying 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 said board. A form as provided by the board is to be filed with the board with the renewal fee and within thirty days of the time any information contained on the form is changed or differs for any reason. If in its judgment the information contained on the form warrants such action, the board will issue a certificate of authorization for said firm to practice engineering or land surveying and to contract and collect fees for furnishing this service.

(c) The requirements of this Act shall not prevent a firm from performing engineering or surveying or land surveying for the firm itself or a subsidiary or an affiliate of said firm.

(d) No such firm shall be relieved of responsibility for the conduct or acts of its agents, employees, officers, partners, members, or managers by reason of its compliance with the provisions of this Section. No individual practicing engineering or surveying or land surveying under the provisions of this Act shall be relieved of responsibility for engineering or surveying or land surveying services performed by reason of employment or other relationship with a firm holding an authorization certificate.

(e) Effective one year from the date of this Act, the secretary of jurisdiction shall not issue a certificate of incorporation, licensure, or authorization to an applicant or licensure as a foreign firm to a firm which includes among the objectives for which it is established any of the words "engineer," "engineering," "surveyor," "land surveyor," "surveying," "land surveying," or any modification or derivation thereof unless the board of licensure for this profession has issued for said applicant a certificate of authorization or a letter indicating the eligibility of such applicant to receive such a certificate. The firm applying shall supply such certificate or letter from the board with its application for incorporation, licensure, or authorization.

(f) Effective one year after the date of this Act, the secretary of jurisdiction shall decline to license any trade name or service mark which includes such words, as set forth in the above article, or modifications or derivatives thereof in its firm name or logotype except those firms holding authorization certificates issued under the provisions of this Section.

(g) The certificate of authorization shall be renewed as hereinbefore provided in Section 16.

(h) An engineer or surveyor or land surveyor who renders occasional, part-time, or consulting engineering or surveying or land surveying services to or for a firm may not, for the purposes of this Section, be designated as being responsible for the professional activities of the firm.

SECTION 24. EXEMPTION CLAUSE

This Act shall not be construed to prevent the practice by:

(a) Other Professions. The practice of any other legally recognized profession.

(b) Temporary Permits.

(1) Professional Engineer - The practice or offer to practice engineering by a person not a resident of or having no established place of business in this jurisdiction, provided such person is legally qualified by licensure to practice engineering, as defined in Section 2 (a) (6) herein, in their own jurisdiction or country and meets the licensure requirements of the jurisdiction from which the temporary permit is being requested. Such person shall make application to the board in writing and, after payment of a fee established by board regulation, may be granted a written permit for a definite period of time not to exceed one year to do a specific job; provided, however, no right to practice engineering shall accrue to such applicant with respect to any other works not set forth in said permit.

(2) Professional Surveyor or Land Surveyor - The practice of surveying or land surveying under a temporary permit by a person licensed as a professional surveyor or land surveyor in another jurisdiction is not considered to be in the best interests of the public and therefore shall not be granted.

(c) Employees and Subordinates. The work of an employee or a subordinate of a person holding a certificate of licensure under this Act, or an employee of a person practicing lawfully under Subsection (b) of this Section, provided such work does not inc>

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r land surveying designs or decisions and is done under the direct supervision of and verified by a person holding a certificate of licensure under this Act or a person practicing lawfully under Subsection (b) of this Section.

SECTION 25. DUTIES OF RECORDERS

It shall be unlawful for the recorder of deeds or the registrar of titles of any county or proper public authority to file or record any map, plat, survey, or other documents within the definition of land surveying *as set forth in this Act* which do not have impressed thereon and affixed thereto the personal signature and seal of a professional surveyor or land surveyor by whom or under whose direct supervision the map, plat, survey, or other documents were prepared.

SECTION 26. INVALID SECTIONS

If any of the provisions of this Act or if any rule, regulation, or order thereunder or if the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act and the application of such provision of this Act or such rule, regulation or order to persons or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

SECTION 27. REPEAL OF CONFLICTING LEGISLATION

All laws or parts of laws in conflict with the provisions of this Act shall be, and the same are hereby repealed.

SECTION 28. SAVINGS CLAUSE

(a) Licensure of Professionals Currently Practicing Surveying or Land Surveying as defined in the *Model Law*, Section 2(b)(5)(a).

Any person presently practicing surveying in the jurisdiction of, as defined in Section 2 of (the *Model Law*), using photogrammetric technologies with at least eight years' experience in the profession, two or more of which shall have been in responsible charge of photogrammetric mapping projects meeting ASPRS Aerial Photography and Mapping Standards, or U.S. National Mapping Standards, shall, upon application, be licensed to practice surveying and/or mapping in the jurisdiction of, provided:

- (1)** the applicant submits certified proof of graduation from high school, high school equivalency, or a higher degree.
- (2)** the applicant, optionally, submits: certified proof of a baccalaureate degree in surveying or a related field of study approved by the (Board), which may be substituted for

four of the above required years of experience; or certified proof of a master's degree in surveying or a related field of study approved by the (Board), which may be substituted for a maximum of five of the above required years of experience.

(3) the applicant submits proof of employment in responsible charge of photogrammetric surveying and/or mapping projects, practicing within any of the fifty United States, including itemized reports detailing methods, procedures, amount of the applicant's personal involvement, and the name, address, and telephone numbers of the client for five projects completed under the supervision of the applicant within the United States. A final map for each of the five projects shall also be submitted.

(4) the applicant submits five references as to the applicant's character and quality of work, three of which shall be from professional surveyors, mappers, or engineers currently practicing within the scope of their license in an area of surveying and/or mapping.

(5) Said application is filed with the Board within two years, next after _____ 20___. Thereafter, no photogrammetric surveyor or mapper shall be licensed without meeting the requirements for education, length of experience, testing, or reciprocity criteria, as set forth by the Board for all applicants.

SECTION 29. EFFECTIVE DATE

This law shall take effect days from and after the date of passage.