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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS

Introduced By: Senator Frank Lombardo

Date Introduced: March 13, 2013

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-1-2, 5-1-5, 5-1-7, 5-1-13 and 5-1-13.1 of the General Laws in  
2 Chapter 5-1 entitled "Architects" are hereby amended to read as follows:

3 **5-1-2. Definitions.** -- The following definitions apply in the interpretation of the  
4 provisions of this chapter, unless the context requires another meaning:

5 (1) "Architect" means any person who engages in the practice of architecture, as that  
6 term is defined in this section as attested by his or her licensing as an architect in this state.

7 (2) "Board" means the board of examination and registration of architects established by  
8 this chapter.

9 (3) "Certificate" means the certificate of registration issued annually by the board,  
10 indicating that the individual named in the certificate is an architect.

11 (4) "Certificate of authorization" means the certificate of authorization issued by the  
12 board, indicating the sole proprietor, partnership, limited liability partnership, corporation, or  
13 limited liability company named in the certificate is permitted to practice architecture in the state.

14 (5) "Practice of architecture" means rendering or offering to render those services,  
15 described as follows:

16 (i) Rendering or offering to render services in connection with the design and  
17 construction, enlargement or alteration of a building or group of buildings and the space within  
18 and surrounding the buildings, which have as their principal purpose human occupancy or  
19 habitation;

1 (ii) The services referred to in this section include, but are not limited to, planning,  
2 providing preliminary studies, designs, drawings, specifications, and other technical submissions,  
3 the administration of construction contracts and the coordination of any elements of technical  
4 submissions prepared by others including, as appropriate and without limitation, consulting  
5 engineers and landscape architects;

6 (iii) The practice of architecture does not include the practice of engineering as defined  
7 in section 5-8-2(f)(1), but a registered architect may perform any engineering work that is  
8 incidental to the practice of architecture.

9 (6) "Responsible control" means that amount of control over and detailed knowledge of  
10 the content of technical submissions during their preparations as is ordinarily exercised by  
11 registered architects applying the required professional standard of care. Reviewing, or reviewing  
12 and correcting, technical submissions after they have been prepared by others does not constitute  
13 the exercise of responsible control because the reviewer has neither control over nor detailed  
14 professional knowledge of the content of such submissions throughout their preparation.

15 (7) "Department" means the department of business regulation.

16 (8) "Director" means the director of the department of business regulation or his or her  
17 designee.

18 **5-1-5. Board -- Rules and regulations -- Examination and registration powers. --** (a)

19 Subject to the approval of the director, the ~~The~~ board may establish any rules and regulations for  
20 the conduct of its own proceedings that it deems appropriate.

21 (b) Subject to the approval of the director, the ~~The~~ board may establish suitable rules and  
22 regulations for the examination and registration of architects ~~and also governing~~, the practice of  
23 the profession of architecture, and the issuance and renewal of certificates that it deems  
24 appropriate, including rules for the issuance of certificates by reciprocity. This shall not include  
25 any prohibition of employment of the registered architect as he or she chooses.

26 (c) To be registered, the applicant shall be required to pass examinations and grading  
27 procedure of the national council of architectural registration boards, provided that the applicant  
28 is qualified under subsections 5-1-8(a) and 5-1-8(b).

29 (d) With the assistance of the department, the ~~The~~ board shall issue and renew  
30 certificates to individuals who have qualified to practice architecture under the provisions of this  
31 chapter. ~~The board may establish any rules and regulations for the issuance and renewal of~~  
32 ~~certificates that it deems appropriate, including rules for the issuance of certificates by~~  
33 ~~reciprocity.~~ Any party aggrieved by the board's decision regarding license issuance or renewal  
34 may, within ten (10) days of the decision, appeal the matter to the director by submitting a written

1 [request for a formal hearing to be conducted in accordance with the provisions of section 5-1-](#)  
2 [13.1.](#)

3 (e) ~~In addition to its rulemaking authority, the~~ [The](#) board has the power to take all action  
4 that is necessary and proper to effectuate the purposes of this chapter, including the power to:

5 (1) ~~Suspend, revoke or annul certificates of registration and certificates of authorization~~  
6 ~~in accordance with the provisions of this chapter;~~ [Recommend that the director hold formal](#)  
7 [hearings in accordance with the provisions of section 5-1-13.1 to determine whether to suspend,](#)  
8 [revoke, annul, or take other permitted action with respect to certificates of registration and](#)  
9 [certificates of authorization in accordance with the provisions of this chapter;](#)

10 (2) Investigate all complaints and charges of unprofessional conduct, including, but not  
11 limited to, conduct specified under section 5-1-13, against any licensee or any applicant for a  
12 certificate of registration or certificate of authorization, ~~and to hold hearings, in accordance with~~  
13 ~~the provisions of section 5-1-13.1, to determine whether the complaints and charges are~~  
14 ~~substantiated;~~

15 (3) Appoint one or more members of the board, ~~legal counsel,~~ and/or an independent  
16 investigator to act on behalf of the board in investigating the conduct of any licensee, or of any  
17 applicant for a certificate of registration or certificate of authorization, or in the alternative to  
18 appoint a probable cause committee to investigate this conduct on its behalf. The committee is to  
19 be comprised of licensees in good standing, as the board determines;

20 (4) ~~Issue subpoenas, administer oaths, and summon and examine~~ [Examine](#) witnesses in  
21 connection with any investigation conducted under the authority of this chapter. ~~If a subpoena is~~  
22 ~~disobeyed, the board may invoke the aid of any court of competent jurisdiction in this state to~~  
23 ~~require the attendance and testimony of witnesses and the production of documentary evidence.~~

24 (5) [Enter into consent agreements or informal resolutions with any party under](#)  
25 [investigation for violations under this chapter and/or chapter 5-84.](#)

26 (6) [Participate in formal proceedings through representation by the department's legal](#)  
27 [staff acting as the prosecuting agent before the director.](#)

28 (f) The [department and/or](#) board and its members and agents are immune from personal  
29 liability for actions taken in good faith in the discharge of the ~~board's~~ responsibilities [set forth in](#)  
30 [this chapter](#), and the state shall indemnify the [department and/or](#) board and these members and  
31 agents for, and hold them harmless from, any and all costs, damages, and reasonable attorneys  
32 fees arising from or related in any way to claims or actions against them as to matters to which  
33 the immunity applies.

34 **5-1-7. Practice prohibited -- Criminal penalties -- Injunctions.** -- (a) No individual

1 shall:

2 (1) Practice or offer to practice architecture in this state;

3 (2) Use any title, sign, card, or device implying that the individual is an architect or is  
4 competent to practice architecture in this state;

5 (3) Use in connection with his or her name or otherwise any title or description  
6 conveying or tending to convey the impression that the individual is an architect or is competent  
7 to practice architecture in this state; or

8 (4) Use or display any words, letters, figures, seals, or advertisements indicating or  
9 implying that the individual is an architect or is competent to practice architecture in this state,  
10 unless that individual holds a currently valid certificate of registration/authorization issued  
11 pursuant to this chapter or is specifically exempted from holding a certificate under the provisions  
12 of this chapter.

13 (b) No sole proprietorship, partnership, limited liability partnership corporation, or  
14 limited liability company shall:

15 (1) Practice or offer to practice architecture in this state;

16 (2) Use any title, sign, card, or device implying that the sole proprietorship, partnership,  
17 limited liability partnership, corporation, or limited liability company is competent to practice  
18 architecture in this state;

19 (3) Use in connection with its name, or otherwise, any title or description conveying or  
20 tending to convey the impression that the entity is an architectural firm or is competent to practice  
21 architecture in this state; or

22 (4) Use or display any words, letters, figures, seals, or advertisements indicating that the  
23 entity is an architectural firm or is competent to practice architecture in this state, unless that sole  
24 proprietorship, partnership, limited liability partnership, corporation, or limited liability company  
25 complies with the requirements of this chapter.

26 (c) Any individual, sole proprietorship, limited liability partnership, corporation, or  
27 limited liability company which: (1) violates subsection (a) or (b) of this section; (2) presents or  
28 attempts to use the certificate of registration/authorization of another; (3) gives any false or  
29 forged evidence of any kind to the [department](#), board or to any member of the board in obtaining  
30 or attempting to obtain a certificate of registration/authorization; (4) falsely impersonates any  
31 other registrant whether of a like or different name; (5) uses or attempts to use an expired,  
32 revoked, or nonexistent certificate of registration/authorization; (6) falsely claims to be registered  
33 under this chapter; or (7) otherwise violates any provision of this chapter; is guilty of a  
34 misdemeanor, and upon conviction by a court of competent jurisdiction, shall be sentenced to pay

1 a fine of not more than one thousand dollars (\$1,000) for the first offense and a fine of not less  
2 than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000) for each  
3 subsequent offense, or imprisonment for not more than one year, or both; and in the court's  
4 discretion and upon good cause shown, reimburse the ~~board~~ department for any and all fees,  
5 expenses, and costs incurred by the department and/or board in connection with the proceedings,  
6 including attorneys fees (which amounts shall be deposited as general revenues); and be subject  
7 to, in the ~~board's~~ director's discretion, public censure or reprimand.

8 (d) Either on his or her own initiative or on the recommendation of the board, the  
9 director ~~The board~~ has the power to institute injunction proceedings in superior court to prevent  
10 violations of subsection (a) or (b) or violations of section 5-1-12. In injunction proceedings, the  
11 ~~board~~ director is not required to prove that an adequate remedy at law does not exist, or that  
12 substantial or irreparable damage would result from continued violations. The superior court, in  
13 its discretion and in addition to any injunctive relief granted to the ~~board~~ department, may order  
14 that any person or entity in violation of this section shall:

15 (1) Upon good cause shown, reimburse the ~~board~~ department for any and all fees,  
16 expenses, and costs incurred by the department and/or board in connection with the proceedings,  
17 including attorneys fees (which amounts shall be deposited as general revenues); and/or

18 (2) Be subject to public censure or reprimand.

19 **5-1-13. Revocation or suspension of certificates of registration or of authorization. --**

20 (a) After notice and hearing as provided in section 5-1-13.1, the ~~board~~ director may ~~in its~~  
21 ~~discretion:~~(1) suspend, revoke, ~~or~~ annul, or take other permitted action with respect to ~~or refuse to~~  
22 ~~renew~~ any certificate of registration; and/or (2) suspend, revoke, ~~or~~ annul, or take other permitted  
23 action with respect to ~~or refuse to renew~~ any certificate of authorization; and/or (3) publicly  
24 censure, reprimand, or censure in writing; and/or (4) limit the scope of practice of; and/or (5)  
25 impose an administrative fine upon (not to exceed one thousand dollars (\$1,000) for each  
26 violation); and/or (6) place on probation; and/or (7) for good cause shown, order a reimbursement  
27 of the department ~~board~~ for all fees, expenses, costs, and attorneys fees in connection with the  
28 proceedings (which amounts shall be deposited as general revenues), all with or without terms,  
29 conditions, or limitations, holders of a certificate of registration or a certificate of authorization  
30 (subsequently referred to as a licensee or licensees) for any or more of the causes set out in  
31 subsection (b) of this section.

32 (b) The ~~board~~ director may take actions specified in subsection (a) of this section for any  
33 of the following causes:

34 (1) Bribery, fraud, deceit, or misrepresentation in obtaining a certificate of registration or

1 certificate of authorization;

2 (2) Practicing architecture in another state, country, or jurisdiction in violation of the  
3 laws of that state, country, or jurisdiction;

4 (3) Practicing architecture in this state in violation of the standards of professional  
5 conduct established by the board [and approved by the director](#);

6 (4) Fraud, deceit, recklessness, gross negligence, misconduct, or incompetence in the  
7 practice of architecture;

8 (5) Use of an architect's stamp in violation of section 5-1-12;

9 (6) Violation of any of the provisions of this chapter [or chapter 5-84](#);

10 (7) Suspension or revocation of the right to practice architecture before any state or  
11 before any other country or jurisdiction;

12 (8) Conviction of or pleading guilty or nolo contendere to any felony, or to any crime of,  
13 or act constituting a crime of, forgery, embezzlement, obtaining money under false pretenses,  
14 bribery, larceny, extortion, conspiracy to defraud, or any other similar offense, in a court of  
15 competent jurisdiction of this state or any other state or of the federal government;

16 (9) Failure to furnish to the [department](#), board, or any person acting on behalf of the  
17 [department and/or](#) board, within sixty (60) days of notification any information that may be  
18 legally requested by the [department and/or](#) board;

19 (10) In conjunction with any violation of subdivisions (1) -- (9) of this subsection, any  
20 conduct reflecting adversely upon the licensee's fitness to engage in the practice of architecture;  
21 and

22 (11) In conjunction with any violation of subdivisions (1) -- (9) of this subsection, any  
23 other conduct injurious to the reputation of the architectural profession.

24 ~~**5-1-13.1. Initiation of proceedings -- Hearings before the board -- Appeals -- Notice**~~  
25 ~~**to other states. -- Initiation of proceedings -- Hearings before the department -- Appeals --**~~

26 ~~**Notice to other states.**~~ -- (a) The ~~board~~ [director](#) may initiate [formal](#) proceedings under this  
27 chapter against holders of a certificate of registration and/or a certificate of authorization  
28 (subsequently referred to as a licensee or licensees) either on [his or her](#) ~~its~~ own motion, [upon](#)  
29 [recommendation of the board](#), ~~or~~ on complaint of any person, ~~upon a finding of probable cause by~~  
30 ~~a probable cause committee appointed by the board pursuant to section 5-1-5~~, or upon receiving  
31 notification from another state board of architects or from the appropriate authority in another  
32 country or jurisdiction of its decision to:

33 (1) Revoke, suspend, annul, or refuse to renew the practice privileges granted in that  
34 state or in that country or jurisdiction to the licensee; or

1           (2) Publicly censure, or censure in writing, limit the scope of practice of, impose an  
2 administrative fine upon, or place on probation the licensee.

3           (b) A written notice stating the nature of the charge or charges against the licensee and  
4 the time and place of the hearing before the ~~board~~ department on the charges shall be served on  
5 the licensee not less than twenty (20) days prior to the date of the hearing either personally or by  
6 mailing a copy of the notice by certified mail, return receipt requested, to the address of the  
7 licensee last known to the board.

8           (c) If, after being served with the notice of hearing as provided for in this section, the  
9 licensee fails to appear at the hearing and to defend against the stated charges, the ~~board~~  
10 department may proceed to hear evidence against the licensee and may enter any order that is  
11 justified by the evidence. That order is final unless the licensee petitions for a review of it as  
12 provided in this section; provided, that within thirty (30) days from the date of any order, upon a  
13 showing of good cause for failing to appear and defend, the ~~board~~ department may reopen the  
14 proceedings and may permit the licensee to submit evidence in his, her or on its behalf.

15           (d) (1) At any hearing pursuant to this section, the licensee may:

16           (i) Appear in person or be represented by counsel;

17           (ii) Produce evidence and witnesses on his, her, or its behalf;

18           (iii) Cross examine witnesses; and

19           (iv) Examine the evidence that is produced.

20           (2) A sole proprietorship may be represented before the department or board by counsel  
21 or by the sole proprietor. A partnership or limited liability partnership may be represented before  
22 the department or board by counsel or any partner of the partnership. A corporation may be  
23 represented by counsel before the department or board or by any shareholder, officer or director  
24 of the corporation. A limited liability company may be represented before the department or  
25 board by counsel or by any member or manager of the limited liability company. The licensee is  
26 entitled, upon written application to the board, to the issuance of subpoenas to compel the  
27 attendance of witnesses on the licensee's behalf.

28           (e) The ~~board or any member of the board~~ director may issue subpoenas to compel the  
29 attendance of witnesses and the production of documents and may administer oaths, take  
30 testimony, hear proofs and receive exhibits in evidence in connection with or upon hearing  
31 pursuant to this chapter. In case of disobedience to a subpoena, the ~~board~~ director may petition  
32 the superior court to require the attendance and testimony of witnesses and the production of  
33 documentary evidence.

34           (f) The ~~board~~ department is not bound by strict rules of procedure or by laws of evidence

1 in the conduct of its proceedings, but any findings of fact and conclusions of law made by  
2 ~~determination of~~ the director ~~board is~~ must be based upon sufficient legal evidence ~~to sustain the~~  
3 ~~determination.~~

4 (g) ~~A stenographic record~~ Recordings of all hearings pursuant to this section shall be  
5 ~~kept and a transcript of the record filed with the board~~ in accordance with the department's rules  
6 of procedure for administrative hearings.

7 ~~(h) The decision of the board shall be made by vote in accordance with the rules and~~  
8 ~~regulations established under section 5-1-5.~~

9 ~~(h)~~ Any appeal from the decision of the ~~board~~ director, by a person or persons  
10 adversely affected by the decision, is governed by section 42-35-15.

11 ~~(i)~~ On the director rendering a decision to: (1) revoke, suspend, or annul, ~~or refuse to~~  
12 ~~renew~~ a certificate of registration issued under the laws of this state; (2) revoke, suspend, or annul  
13 ~~refuse to renew~~ a certificate of authorization issued under the laws of this state; or (3) publicly  
14 censure, censure in writing, limit the scope of practice of, impose an administrative fine upon, or  
15 place on probation a licensee, the board shall examine its records to determine whether the  
16 licensee holds a certificate of registration or a certificate of authorization to practice in any other  
17 state, country, or jurisdiction. If the board determines that the licensee in fact holds a certificate of  
18 registration or certificate of authorization, the board shall immediately notify the board of  
19 architecture of the other state, country, or jurisdiction by mail of ~~it's~~ the director's decision  
20 pursuant to this section, and include in the notice an indication as to whether or not the licensee  
21 has appealed the decision.

22 ~~(j)~~ The ~~board~~ director may, in ~~its~~ his or her discretion, order any licensee against  
23 whom proceedings have been initiated under sections 5-1-13 and 5-1-13.1 to reimburse the ~~board~~  
24 department for any fees, expenses, and costs incurred by the ~~board~~ department and/or in  
25 connection with the proceedings, including attorneys fees. These fees shall be paid within thirty  
26 (30) days from the date they are assessed and may be reviewed in accordance with section 42-35-  
27 15, and deposited as general revenues.

28 ~~(k)~~ The board may, in its discretion, issue a certificate of registration or certificate of  
29 authorization to any applicant denied a certificate of registration or certificate of authorization,  
30 under any of the provisions of this section upon presentation of suitable evidence.

31 ~~(m)~~ The ~~attorney general or his or her deputy~~ department shall make its legal staff  
32 available to act as legal advisor to the board and render any legal assistance that is necessary in  
33 carrying out the provisions of this chapter. The ~~board~~ director may employ other counsel and  
34 obtain other necessary assistance ~~to be appointed by the governor~~ to aid in the enforcement of this

1 chapter, and the compensation and expenses for the employment shall be paid from the fund of  
2 the ~~board~~ [department](#).

3 SECTION 2. Sections 5-8-2, 5-8-3, 5-8-8, 5-8-11, 5-8-13, 5-8-14, 5-8-18, 5-8-19, 5-8-20,  
4 5-8-23 and 5-8-24 of the General Laws in Chapter 5-8 entitled "Engineers" are hereby amended  
5 to read as follows:

6 **5-8-2. Definitions.** -- As used or within the intent of this chapter:

7 (a) "Accredited program" means specific engineering curricula within established  
8 institutions of higher learning that have both met the criteria of, and have been designated by, the  
9 Engineering Accreditation Commission of the Accreditation Board for Engineering and  
10 Technology, Inc. (ABET-EAC).

11 (b) "Board" means the state board of registration for professional engineers subsequently  
12 provided by this chapter.

13 (c) "Engineer" means a person who, by reason of his or her special knowledge and use of  
14 the mathematical, physical, and engineering sciences and the principles and methods of  
15 engineering analysis and design, acquired by engineering education and engineering experience,  
16 is qualified to practice engineering, as subsequently defined, and as attested by his or her  
17 registration as an engineer.

18 (d) "Engineer-in-training" means a person who complies with the requirements for  
19 education, experience, and character, and has passed an examination in the fundamental  
20 engineering subjects, as provided in sections 5-8-11 and 5-8-13.

21 (e) "National Council of Examiners for Engineering and Surveying (NCEES)" is a  
22 nationally recognized organization which assists state boards and territorial boards to better  
23 discharge their duties and responsibilities in regulating the practice of engineering and land  
24 surveying.

25 (f) (1) "Practice of engineering" means any service or creative work, the adequate  
26 performance of which requires engineering education, training, and experience in the application  
27 of special knowledge of the mathematical, physical, and engineering sciences to services or  
28 creative work such as consultation, investigation, evaluation surveys, planning and design of  
29 engineering systems, and the supervision of construction for the purpose of assuring compliance  
30 with specifications; and embracing those services or work in connection with any public or  
31 private utilities, structures, buildings, machines, equipment, processes, work, or projects in which  
32 the public welfare or the safeguarding of life, health, or property is concerned.

33 (2) Any person shall be construed to practice or offer to practice engineering, within the  
34 meaning and intent of this chapter, who:

1 (i) Practices any branch of the profession of engineering;  
2 (ii) By verbal claim, sign, advertisement, letterhead, card, or in any other way represents  
3 himself or herself to be an engineer, or through the use of some other title implies that he or she is  
4 an engineer or that he or she is registered under this chapter; or

5 (iii) Holds himself or herself out as able to perform, or who does perform any  
6 engineering service or work or any other service designated by the practitioner or recognized as  
7 engineering.

8 (g) "Professional engineer" means a person who has been registered and licensed by the  
9 state board of registration for professional engineers.

10 (h) "Responsible charge" means direct control and personal supervision of engineering  
11 work.

12 (i) "Rules and regulations" means that document of the same title, as amended from time  
13 to time, [subject to the director's approval](#), that has been adopted by the board and filed with the  
14 secretary of state in accordance with sections 42-35-3(a), 42-35-4(b), and 5-8-8.

15 [\(j\) "Department" means the department of business regulation.](#)

16 [\(k\) "Director" means the director of the department of business regulation or his or her](#)  
17 [designee.](#)

18 **5-8-3. Board -- Creation -- Duties -- Composition -- Appointments -- Terms. --** (a)

19 The duty of the board of engineers is to administer those provisions of this chapter that relate to  
20 the regulation of professional engineering and the registration of professional engineers.

21 (b) ~~The~~ [Subject to the approval of the director, the](#) board of engineers shall establish any  
22 rules and regulations for the conduct of its own proceedings, for examination of applicants, for  
23 registration of professional engineers and engineers-in-training, for continuing education  
24 requirements, ~~for conducting disciplinary proceedings to include~~ investigating complaints to the  
25 board and for governing the practice of engineering all that it deems appropriate.

26 (c) (1) Members of the board are subject to the provisions of chapter 14 of title 36. The  
27 board consists of five (5) persons, who are appointed by the governor, and must have the  
28 qualifications required by section 5-8-4. Each member of the board shall receive a certificate of  
29 his or her appointment from the governor and shall file with the secretary of state his or her  
30 written oath or affirmation for the faithful discharge of his or her official duty. Appointments to  
31 the board shall be in the manner and for a period of time that the term of each member expires at  
32 a different time. On the expiration of the term of any member, the governor shall in the manner  
33 previously provided appoint for a term of five (5) years a registered professional engineer having  
34 the qualifications required in section 5-8-4. A member may be reappointed to succeed himself or

1 herself, but shall not serve more than two (2) full consecutive terms. Each member may hold  
2 office until the expiration of the term for which appointed or until a successor has been appointed  
3 and has qualified.

4 (2) The board shall designate and establish a system of registration by discipline not later  
5 than December 31, 1994, and shall subsequently administer that registration system.

6 (3) The registration system shall provide, at a minimum, for the registration of:

7 (i) Civil engineers;

8 (ii) Chemical engineers;

9 (iii) Electrical engineers;

10 (iv) Mechanical engineers;

11 (v) Structural engineers;

12 (vi) Environmental engineers; and

13 (vii) Fire protection engineers.

14 (4) The board may establish additional classifications by rule and regulation [subject to](#)  
15 [the approval of the director](#).

16 (5) Classification of disciplines shall conform to the standards established by the  
17 NCEES. Nothing in this section shall be construed to limit the registration of a qualified applicant  
18 to only one discipline.

19 (d) The board shall annually provide a written report to the director of the department of  
20 business regulation presenting a summary of all fees collected, a list of all individuals registered,  
21 a summary of all disciplinary actions taken, and the disposition of all complaints made to the  
22 board. After reviewing the board's report, the director shall submit a copy of the report with his or  
23 her comments on the performance of the board, its compliance with this chapter and the director's  
24 recommendations, to the governor, the general assembly, and the board.

25 **5-8-8. Board -- Powers.** -- (a) (1) ~~The~~ [Subject to the approval of the director, the](#) board  
26 has the power to adopt and amend all bylaws and rules of procedure, not inconsistent with the  
27 constitution and laws of this state or this chapter, which may be reasonably necessary for the  
28 proper performance of its duties.

29 (2) The board shall adopt and have an official seal, which is affixed to each certificate  
30 issued.

31 (b) In carrying into effect the provisions of this chapter, the board, under the hand of its  
32 chairperson and the seal of the board, may [recommend that the director](#) subpoena witnesses and  
33 compel their attendance, and also may [recommend that the director order](#) ~~require~~ the submission  
34 of books, papers, documents, or other pertinent data, in any disciplinary matters, or in any case in

1 which a violation of this chapter or chapter 5-84 is alleged. Upon failure or refusal to comply with  
2 that order ~~of the board~~, or upon failure to honor ~~the its~~ subpoena, as provided in this section, the  
3 director ~~board~~ may apply to a court of any jurisdiction to enforce compliance with that order or  
4 subpoena.

5 (c) Either on his or her own initiative or on the recommendation of the board, the director  
6 ~~the board~~ is authorized in the name of the state to apply for relief by injunction in the established  
7 manner provided in cases of civil procedure, without bond, to enforce the provisions of this  
8 chapter, or to restrain any violation of the provisions of this chapter. In injunction proceedings, it  
9 shall not be necessary to allege or prove either that an adequate remedy at law does not exist or  
10 that substantial or irreparable damage would result from the continued violation. The department  
11 and/or members of the board are not personally liable under this proceeding.

12 (d) No action or other legal proceedings for damages shall be instituted against the  
13 department and/or board or against any member, employee, or agent thereof for any actions taken  
14 in good faith in the intended performance of any power granted under this chapter or for any  
15 neglect or default in the performance or exercise in good faith of that power. The state shall  
16 indemnify the department and/or board and these members, employees, or agents for, and hold  
17 them harmless from, any and all costs, damages, and reasonable attorneys' fees arising from or  
18 related in any way to claims or actions against them as to matters to which the immunity applies.

19 **5-8-11. General requirements for registration or certification.** -- (a) *Engineer or*  
20 *engineer-in-training.* To be eligible for registration as a professional engineer or certification as  
21 an engineer-in-training, an applicant must be of good character and reputation and shall submit  
22 five (5) references with his or her application for registration, three (3) of which references shall  
23 be registered engineers having personal knowledge of his or her engineering experience, or in the  
24 case of an application for certification as an engineer-in-training, by three (3) character  
25 references.

26 (b) The following shall be considered minimum evidence satisfactory to the board that  
27 the applicant is qualified for registration as a professional engineer or for certification as an  
28 engineer-in-training, respectively:

29 (1) As a professional engineer:

30 (i) *Registration by endorsement.* (A) A person holding a current certificate of registration  
31 to engage in the practice of engineering, on the basis of comparable written examinations, issued  
32 to him or her by either a proper authority of a state, territory, or possession of the United States,  
33 the District of Columbia, or of any foreign country, and whose qualifications meets the  
34 requirements of this chapter, based on verified evidence may, upon application, be registered

1 without further examination.

2 (B) A person holding a certificate of qualification issued by the National Council of  
3 Examiners for Engineering and Surveying, whose qualifications meet the requirements of this  
4 chapter, may, upon application, be registered without further examination, provided he or she is  
5 qualified.

6 (ii) *Graduation from an accredited program, experience and examination.* A graduate of  
7 or senior enrolled in an ABET-EAC accredited engineering curriculum of four (4) years or more  
8 approved by the board as being of satisfactory standing, shall be admitted to an ~~eight (8) hour~~  
9 ~~written~~ examination in the fundamentals of engineering. Upon passing this examination and  
10 obtaining a specific record of a minimum of four (4) years of experience in engineering work of a  
11 grade and character which indicates to the board that the applicant may be competent to practice  
12 engineering, the applicant may be admitted to an ~~eight (8) hour written~~ examination in the  
13 principles and practice of engineering. The graduate having a specific record of twelve (12) years  
14 or more of experience in engineering work of a grade and character which indicates to the board  
15 that the applicant may be competent to practice engineering, shall be admitted to an ~~eight (8) hour~~  
16 ~~written~~ examination in the principles and practice of engineering. Upon passing that examination,  
17 the applicant shall be granted a certificate of registration to practice engineering in this state,  
18 provided he or she is qualified.

19 (iii) *Graduation from a non-accredited program, experience, and examination.* A  
20 graduate of or senior enrolled in an engineering curriculum of four (4) years or more other than  
21 those approved by the board as being of satisfactory standing shall be admitted to an ~~eight (8)~~  
22 ~~hour written~~ examination in the fundamentals of engineering. Upon passing this examination and  
23 obtaining a specific record of a minimum of four (4) years of experience in engineering work of a  
24 grade and character which indicates to the board that the applicant may be competent to practice  
25 engineering, the applicant may be admitted to an ~~eight (8) hour written~~ examination in the  
26 principles and practice of engineering. Upon passing these examinations, the applicant shall be  
27 granted a certificate of registration to practice engineering in this state, provided he or she is  
28 qualified.

29 (iv) *Teaching.* Engineering teaching in a college or university offering an ABET-EAC  
30 accredited engineering curriculum of four (4) years or more may be considered as engineering  
31 experience.

32 (v) *Engineers previously registered.* Each engineer holding a certificate of registration  
33 and each engineer-in-training under the laws of this state as previously in effect shall be deemed  
34 registered as an engineer or engineer-in-training as appropriate under this chapter.

1 (2) As an engineer-in-training: the following is considered as minimum evidence that the  
2 applicant is qualified for certification as an engineer in training:

3 (i) *Graduation and examination.* A graduate of an ABET-EAC accredited engineering  
4 curriculum of four (4) years or more who has passed the board's ~~eight (8) hour written~~  
5 examination in the fundamentals of engineering shall be certified or enrolled as an engineer-in-  
6 training, if he or she is qualified.

7 (ii) *Graduation from a non-accredited program and examination.* A graduate of a non-  
8 accredited engineering curriculum of four (4) years or more who has passed the board's ~~eight (8)~~  
9 ~~hour written~~ examination in the fundamentals of engineering and has obtained two (2) years of  
10 engineering experience of a grade and character approved by the board shall be certified and  
11 enrolled as an engineer in training, if he or she is qualified.

12 (iii) *Duration of engineer in training certification.* The certification or enrollment of an  
13 engineer in training shall be valid for a minimum period of twelve (12) years.

14 **5-8-13. Examinations.** -- (a) ~~Written examinations~~ Examinations shall be held ~~twice~~  
15 ~~each year~~ at the times and places that the board determines. Examinations required on  
16 fundamental engineering subjects may be taken as provided in § 5-8-11. The principles and  
17 practice examinations may not be taken until the applicant has completed a period of engineering  
18 experience as prescribed in § 5-8-11.

19 (b) The passing grade on any examination shall not be less than seventy percent (70%) as  
20 established by NCEES. A candidate failing one examination may apply for reexamination, which  
21 may be granted upon payment of a fee to cover the charges and expenses of examination and  
22 scoring. Any candidate for registration having an average grade of less than fifty percent (50%)  
23 may not apply for reexamination for one year. Any candidate for certification or registration  
24 failing an examination three (3) or more times must appear before the board in person to request  
25 permission to be reexamined in accordance with the board's rules and regulations.

26 **5-8-14. Certificates of registration-Enrollment cards-Seals.**-- (a) With the assistance  
27 of the department, the ~~The~~ board shall issue and renew a certificate of registration, upon payment  
28 of the registration fee as provided for in this chapter, to any applicant, who, in the opinion of the  
29 board, has met the requirements of this chapter. Enrollment cards shall be issued to those who  
30 qualify as engineers-in-training. Certificates of registration shall carry the designation  
31 “professional engineer”, show the full name of the registrant without any titles, have a serial  
32 number and shall be signed by the chairperson of the board.

33 (b) The issuance of a certificate of registration by the board is prima facie evidence that  
34 the person named in the certificate is entitled to all rights and privileges of a professional engineer

1 while the certificate remains unrevoked or unexpired.

2 (c) Each registrant under this chapter may, upon registration obtain a seal of the design  
3 authorized by the board bearing the registrant's name, serial number, and the legend "Registered  
4 professional engineer". Final engineering drawings, specifications, plats, and reports prepared by  
5 a registrant shall be, when issued, signed, dated, and stamped with his or her seal or facsimile of a  
6 seal. It is unlawful for an engineer to affix, or permit his or her seal or facsimile of a seal to be  
7 affixed, to any work of which the engineer has not been responsibly charged to any engineering  
8 drawings, specifications, plats, or reports after expiration of a certificate or for the purpose of  
9 aiding or abetting any other person to evade or attempt to evade any provision of this chapter.

10 (d) Any party aggrieved by the board's decision regarding license issuance or renewal  
11 may, within ten (10) days of the decision, appeal the matter to the director by submitting a written  
12 request for a formal hearing to be conducted in accordance with the provisions of section 5-8-18.

13 ~~**5-8-18. Suspension, refusal to renew, and revocation of certificates Complaints-**~~  
14 ~~**Hearings.--Suspension and revocation of certificates – Complaints – Hearings.--**~~ (a) After  
15 notice and a hearing as provided in this section, the director board may in his or her its discretion  
16 or upon recommendation of the board: (1) suspend, revoke, or take other permitted action with  
17 respect to refuse to renew any certificate of registration; (2) revoke, ~~or~~ suspend or take other  
18 permitted action with respect to refuse to renew any certificate of authorization; (3) publicly  
19 censure, or reprimand or censure in writing; (4) limit the scope of practice of; (5) impose an  
20 administrative fine upon, not to exceed one thousand dollars (\$1,000) for each violation; (6) place  
21 on probation; and/or (7) for good cause shown order a reimbursement of the department board for  
22 all fees, expenses, costs, and attorneys fees in connection with the proceedings, which amounts  
23 shall be deposited as general revenues; all with or without terms, conditions or limitations,  
24 holders of a certificate of registration or a certificate of authorization, referred to as licensee(s),  
25 for any one or more of the causes set out in subsection (b) of this section.

26 (b) The director board may take actions specified in subsection (a) of this section for any  
27 of the following causes:

28 (1) Bribery, fraud, deceit, or misrepresentation in obtaining a certificate of registration or  
29 certificate of authorization;

30 (2) Practicing engineering in another state or country or jurisdiction in violation of the  
31 laws of that state or country or jurisdiction;

32 (3) Practicing engineering in this state in violation of the standards of professional  
33 conduct established by the board and approved by the director;

34 (4) Fraud, deceit, recklessness, gross negligence, misconduct, or incompetence in the

- 1 practice of engineering;
- 2 (5) Use of an engineer's stamp in violation of section 5-8-14;
- 3 (6) Violation of any of the provisions of this chapter [or chapter 5-84](#);
- 4 (7) Suspension or revocation of the right to practice engineering before any state or  
5 before any other country or jurisdiction;
- 6 (8) Conviction of or pleading guilty or nolo contendere to any felony or to any crime of,  
7 or an act constituting a crime of, forgery, embezzlement, obtaining money under false pretenses,  
8 bribery, larceny, extortion, conspiracy to defraud, or any other similar offense or offenses  
9 involving moral turpitude, in a court of competent jurisdiction of this state or any other state or of  
10 the federal government;
- 11 (9) Failure to furnish to the [department and/or](#) board or any person acting on behalf of the  
12 [department and/or](#) board in a reasonable time any information that may be legally requested by  
13 the [department and/or](#) board;
- 14 (10) In conjunction with any violation of subdivisions (1)--(9) of this subsection, any  
15 conduct reflecting adversely upon the licensee's fitness to engage in the practice of engineering;  
16 and
- 17 (11) In conjunction with any violation of subdivisions (1)--(9) of this subsection, any  
18 other conduct discreditable to the engineering profession.
- 19 (c) Any person may file complaints of fraud, deceit, gross negligence, incompetence, or  
20 misconduct against any registrant. Those charges shall be in writing, sworn to by the person or  
21 persons making them and filed with the board.
- 22 (d) All charges, unless dismissed by the [director board](#) as unfounded or trivial, shall be  
23 heard by the [director board](#) within six (6) months after the date on which they have been properly  
24 filed or within six (6) months following resolution of similar charges that have been brought  
25 against a registrant who is before another regulatory body.
- 26 (e) The time and place for the hearing pursuant to subsection (d) of this section shall be  
27 fixed by the [department board](#), and a copy of charges, together with a notice of the time and place  
28 of hearing, shall be personally served on or mailed to the last known address of the registrant, at  
29 least thirty (30) days before the date fixed for the hearing. At any hearing, the accused registrant  
30 shall have the right to appear personally and/or by counsel, to cross-examine witnesses appearing  
31 against him or her, and to produce evidence and witnesses in his or her own defense. [The board](#)  
32 [may participate in formal proceedings through representation by the department's legal staff](#)  
33 [acting as the prosecuting agent before the director.](#)
- 34 (f) If, after the hearing pursuant to subsection (d) of this section, the evidence is in favor

1 of sustaining the charges, the ~~director board~~ may in his or her ~~its~~ discretion suspend, ~~refuse to~~  
2 ~~renew, or~~ revoke, or take other permitted action with respect to the certificate of registration or  
3 certificate of authorization, or publicly censure the licensee, or take any other action and/or order  
4 any other penalty permitted by this section. The ~~department board~~, for reasons it deems sufficient,  
5 may reissue a certificate of registration or certificate of authorization or renewal to any person or  
6 firm whose certificate has been revoked.

7 (g) ~~In addition, the~~ The board or the department may on its own motion investigate the  
8 conduct of an applicant, engineer, sole proprietorship, partnership, limited liability partnership,  
9 corporation, limited liability company or individual.

10 (h) Nothing in this chapter shall be construed to prohibit the board from entering into  
11 consent agreements or informal resolutions with any party under investigation for violations  
12 under this chapter and/or chapter 5-84.

13 **5-8-19. Appeals.** -- Any person, sole proprietorship, partnership, limited liability  
14 partnership, corporation or limited liability company aggrieved by any decision or ruling of the  
15 ~~department board~~ may appeal from it in accordance with the provisions of chapter 35 of title 42.

16 ~~For the purposes of this section, the division or board is considered a person.~~

17 **5-8-20. Violations and penalties-Enforcement-Injunctions.**-- (a) No individual shall:  
18 (1) practice or offer to practice engineering in this state; (2) use any title, sign, card, or device  
19 implying that the individual is an engineer or is competent to practice engineering in this state; (3)  
20 use in connection with his or her name or otherwise any title or description conveying or tending  
21 to convey the impression that the individual is an engineer or is competent to practice engineering  
22 in this state; or (4) use or display any words, letters, figures, seals, or advertisements indicating  
23 that the individual is an engineer or is competent to practice engineering in this state; unless that  
24 individual holds a currently valid certificate issued pursuant to this chapter or is specifically  
25 exempted from the certificate requirement under the provisions of this chapter.

26 (b) No sole proprietorship, partnership, limited liability partnership, corporation or  
27 limited liability company shall: (1) practice or offer to practice engineering in this state; (2) use  
28 any title, sign, card, or device implying that the sole proprietorship, partnership, limited liability  
29 partnership, corporation or limited liability company is competent to practice engineering in this  
30 state; (3) use in connection with its name or otherwise any title or description conveying or  
31 tending to convey the impression that the entity is an engineering firm or is competent to practice  
32 engineering in this state; or (4) use or display any words, letters, figures, seals, or advertisements  
33 indicating that the entity is an engineering firm or is competent to practice engineering in this  
34 state; unless that sole proprietorship, partnership, limited liability partnership, corporation or

1 limited liability company complies with the requirements of this chapter.

2 (c) Any individual, sole proprietorship, partnership, limited liability partnership,  
3 corporation or limited liability company which: (1) violates subsection (a) or (b) of this section;  
4 (2) presents or attempts to use the certificate of registration/authorization of another; (3) gives any  
5 false or forged evidence of any kind to the department, board or to any member or employee  
6 thereof in obtaining or attempting to obtain a certificate of registration/authorization; (4) falsely  
7 impersonates any other registrant whether of a like or different name; (5) uses or attempts to use  
8 an expired, revoked, or nonexistent certificate of registration/authorization; (6) falsely claims to  
9 be registered under this chapter; or (7) otherwise violates any provision of this chapter; is guilty  
10 of a misdemeanor, and upon conviction by a court of competent jurisdiction shall be sentenced to  
11 pay a fine of not more than one thousand dollars (\$1,000) for the first offense and a fine of not  
12 less than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000) for each  
13 subsequent offense, or imprisonment for not more than one year, or both; and in the court's  
14 discretion and upon good cause shown reimburse the department board for any and all fees,  
15 expenses, and costs incurred by the board in connection with the proceedings, including attorneys  
16 fees, which amount shall be deposited as general revenues; and be subject to, in the director's  
17 board's discretion, public censure or reprimand.

18 (d) ~~The board~~ Either on his or her own initiative or on the recommendation of the board,  
19 the director has the power to institute injunction proceedings in superior court to prevent  
20 violations of subsection (a) or (b) of this section or violations of § 5-8-1. In injunction  
21 proceedings, the director board shall not be required to prove that an adequate remedy at law does  
22 not exist, or that substantial or irreparable damage would result from continued violations. The  
23 superior court, in its discretion and in addition to any injunctive relief granted to the department  
24 board, may order that any person or entity in violation of this section shall:

25 (1) Upon good cause shown reimburse the ~~board~~ department for any and all fees,  
26 expenses, and costs incurred by the board and/or the department in connection with the  
27 proceedings, including attorneys fees, which amounts shall be deposited as general revenues;  
28 and/or

29 (2) Be subject to public censure or reprimand.

30 (e) It is the duty of all constituted officers of the state and all political subdivisions of the  
31 state, to enforce the provisions of this chapter and to prosecute any persons violating those  
32 provisions.

33 (f) The ~~attorney general of the state or his or her assistant~~ department shall make its legal  
34 staff available to act as legal adviser to the board and render any legal assistance that is necessary

1 in carrying out the provisions of this chapter. The ~~director board~~ may employ counsel and  
2 necessary assistance to aid in the enforcement of this chapter, and their compensation and  
3 expenses shall be paid from funds as provided in § 5-8-23.

4 **5-8-23. Deposit of fees.--** ~~(a)~~ The proceeds of any fees collected pursuant to the  
5 provisions of this chapter shall be deposited as general revenues.

6 ~~(b) The board is empowered to collect any fees and charges that are prescribed in this  
7 chapter and to apply those fees and charges to the cost of fulfilling the requirements and  
8 responsibilities of this chapter. The board shall share proportionately with the board of  
9 registration of professional land surveyors the expenses of operating the two boards.~~

10 **5-8-24. Sole proprietorship, partnership, limited liability partnership, corporate and**  
11 **limited liability company.--** (a) The practice or offer to practice engineering as defined by this  
12 chapter by a sole proprietorship, partnership, limited liability partnership, corporation or a limited  
13 liability company subsequently referred to as the “firm”, through individuals is permitted;  
14 provided, that the individuals: (1) are in direct control of the practice; (2) exercise personal  
15 supervision of all personnel who act in behalf of the firm in professional and technical matters;  
16 and (3) are registered under the provisions of this chapter; and provided, that the firm has been  
17 issued a certificate of authorization by the board of engineers.

18 (b)(1) Within one year after enactment of this chapter, every firm must obtain a  
19 certificate of authorization from the board and those individuals in direct control of the practice  
20 and who exercise direct supervision of all personnel who act in behalf of the firm in professional  
21 and technical matters must be registered with the board. The certificate of authorization shall be  
22 issued by the board, with the assistance of the department, upon satisfaction of the provisions of  
23 this chapter and the payment of a fee not to exceed one hundred fifty dollars (\$150). This fee is  
24 waived if the firm consists of only one person who is the person in responsible charge.

25 (2) Every firm desiring a certificate of authorization must file with the board an  
26 application for a certificate of authorization on a form to be provided by the board. A separate  
27 form provided by the board shall be filed with each renewal of the certificate of authorization and  
28 within thirty (30) days of the time any information previously filed with the board has changed, is  
29 no longer true or valid, or has been revised for any reason. If, in its judgment, the information  
30 contained on the application and renewal form is satisfactory and complete, the board, with the  
31 assistance of the department, will issue a certificate of authorization for the firm to practice  
32 engineering in this state.

33 (3) No firm that has been granted a certificate of authorization by the board shall be  
34 relieved of responsibility for modification or derivation of the certificate, unless the board has

1 issued for the applicant a certificate of authorization or a letter indicating the eligibility of the  
2 applicant to receive the certificate. The firm applying shall supply the certificate or letter from the  
3 board with its application for incorporation, organization or registration as a foreign corporation.

4 [\(c\) Any party aggrieved by the board's decision regarding license issuance or renewal](#)  
5 [may, within ten \(10\) days of the decision, appeal the matter to the director by submitting a written](#)  
6 [request for a formal hearing in accordance with the provisions of section 5-8-18.](#)

7 SECTION 3. Sections 5-8.1-2, 5-8.1-4, 5-8.1-9, 5-8.1-10, 5-8.1-12, 5-8.1-15, 5-8.1-16,  
8 and 5-8.1-17 of the General Laws in Chapter 5-8.1 entitled "Land Surveyors" are hereby amended  
9 and/or added to read as follows:

10 **5-8.1-2. Definitions.** -- The following definitions apply in the interpretation of the  
11 provisions of this chapter, unless the context requires another meaning:

12 (1) "ABET" means the Accreditation Board for Engineering and Technology.

13 (2) "Accredited program" means an approved program or course of study currently  
14 accredited and subject to review by the accepted national organization ABET (land surveying)  
15 and any other similar school or course of study which fulfills equivalent requirements which the  
16 board approves.

17 (3) "Applicant" means an individual who has submitted an application for registration to  
18 practice land surveying as a surveyor-in-training, and/or a certification of authorization.

19 (4) "Board of land surveyors", "board of professional land surveyors" or "board" means  
20 the board of registration for professional land surveyors, as subsequently provided by this  
21 chapter.

22 (5) "Candidate" means a person who has the qualifications prerequisite by statute and  
23 board regulation for admission to examination and who has filed with the board an application for  
24 registration accompanied by the required examination fee.

25 (6) "Certificate of registration" means a certificate issued by the board of professional  
26 land surveyors to a person to engage in the profession regulated by the board.

27 (7) "Experience" means combined office and field work in land surveying satisfactory to  
28 the board, including any work which is performed under the direct control and personal  
29 supervision of a professional land surveyor.

30 (8) "Land surveyor-in-training" means a person who has qualified for, taken and passed  
31 an examination in the fundamentals of land surveying.

32 (9) "NCEES" means the National Council of Examiners for Engineering and Surveying.

33 (10) "Part-time" means any type of employment or work engagement that requires less  
34 than twenty (20) hours of labor per week.

1 (11) "Practice of land surveying" means any service or work, the adequate performance  
2 of which involves the application of special knowledge of the principles of mathematics, the  
3 related physical and applied sciences and the relevant requirements of law for adequate evidence  
4 to perform the act of measuring and locating lines, angles, elevations, natural and manmade  
5 features in the air, on the surface of the earth, within underground workings, and on the beds of  
6 bodies of water for the purpose of determining areas and volumes, for the monumenting of  
7 property boundaries and for the platting and layout of lands and their subdivisions, including the  
8 topography, alignment, and grades of streets and for the preparation of maps, record plats, field  
9 note records and property descriptions that represent these surveys.

10 (12) "Practice or offer to practice" means a person who engages in land surveying, or  
11 who by verbal claim, sign, letterhead, card or in any other way represents himself or herself to be  
12 a professional land surveyor.

13 (13) "Principal" means an individual who is a registered professional land surveyor and  
14 who is an officer, shareholder, director, partner, member, manager or owner of that organization  
15 and who is in responsible charge of an organization's professional practice for which he or she is  
16 registered.

17 (14) "Professional land surveyor" means a person who has been duly registered as a  
18 professional land surveyor by the board established under this chapter, and who is a professional  
19 specialist in the technique of measuring land, educated in the basic principles of mathematics, the  
20 related physical and applied sciences and the relevant requirements of law for adequate evidence  
21 and all to surveying of real property and engaged in the practice of land surveying as defined in  
22 this section.

23 (15) "Registrant" means an individual who has been issued a certificate of registration by  
24 the board of professional land surveyors.

25 (16) "Registrant's seal" means an emblem of a type, shape, and size and as specified by  
26 the board of registration of professional land surveyors for use by an individual registrant to  
27 stamp legal descriptions final drawings, specifications, and reports.

28 (17) "Related curriculum" means an educational program of sufficient length and  
29 academic quality and content to satisfy the board.

30 (18) "Responsible charge" means direct control and personal supervision of the work  
31 performed. No person may serve in responsible charge of land surveying work done in Rhode  
32 Island unless that person is registered as a professional land surveyor by the board.

33 (19) "Rules and regulations" means that document of the same title, as amended from  
34 time to time, [subject to the director's approval](#), that has been duly adopted by the board of

1 professional land surveyors, and which prescribes the manner in which that board administers its  
2 affairs and establishes rules of conduct, procedures, and standards for adherence by all persons  
3 registered by the board, filed with the secretary of state in accordance with the provisions of §§  
4 42-35-3(a) and 42-35-4(b), and this chapter.

5 (20) “Department” means the department of business regulation.

6 (21) “Director” means the director of the department of business regulation or his or her  
7 designee.

8 **5-8.1-4. Board of registration for professional land surveyors--Authority, powers,**  
9 **and duties--** (a) The duty of the board of land surveyors is to administer the provisions of this  
10 chapter in regards to the regulation of professional land surveying and the registration of  
11 professional land surveyors.

12 (b)(1) ~~The~~ Subject to the director’s approval, the board of land surveyors may establish  
13 any rules and regulations for the conduct of its own proceedings, for examination of applicants,  
14 for registration of professional land surveyors and surveyors in training, for continuing education  
15 requirements, and for governing the practice of land surveying, that it deems appropriate.

16 (2) Upon July 12, 1990, the rules and regulations in effect prior to that date shall remain  
17 in effect until adoption of new rules and regulations.

18 (c) The board of professional land surveyors shall hold examinations for qualified  
19 individuals applying for registration as professional land surveyors or for certification as  
20 surveyors-in-training at least once a year.

21 (d) ~~The~~ With the assistance of the department, the board of land surveyors shall issue and  
22 renew certificates of registration to individuals who have qualified to practice professional land  
23 surveying under the provisions of this chapter.

24 (e) The director, on his or her own motion or upon recommendation of the board of  
25 professional land surveyors, has the power to suspend, ~~refuse to renew, or~~ revoke, or take other  
26 permitted action with respect to certificates of registration in accordance with the provisions of  
27 this chapter. In all disciplinary proceedings brought pursuant to this chapter, the director ~~board~~  
28 has the power to administer oaths, to summon witnesses and to compel the production of  
29 documents in accordance with procedures applicable in the superior court. Upon failure of any  
30 person to appear to produce documents in accordance with the ~~board's~~ order, the director ~~board~~  
31 may apply to a court of any jurisdiction to enforce compliance with the order.

32 (f) ~~The board of professional land surveyors~~ Either on his or her own initiative or on the  
33 recommendation of the board, the director is authorized in the name of the state to apply for relief  
34 by injunction in the established manner provided in cases of civil procedure, without bond, to

1 enforce the provisions of this chapter, or to restrain any violations of this chapter. In those  
2 proceedings, it is not necessary to allege or prove, either that an adequate remedy at law does not  
3 exist or that substantial or irreparable damage would result from the continued violation of this  
4 chapter. The department and/or the members of the board are not personally liable under this  
5 proceeding.

6 (g) No action or other legal proceedings for damages shall be instituted against the  
7 department and/or board or against any ~~board~~-member or employee of the department or board  
8 for any act done in good faith and in the intended performance of any power granted under this  
9 chapter or for any neglect or default in the performance or exercise in good faith of that duty or  
10 power. The state shall indemnify the department and/or board and the members, employees, and  
11 agents for, and hold them harmless from, any and all costs, damages, and reasonable attorneys  
12 fees arising from or related in any way to claims or actions against them as to matters to which  
13 the immunity applies.

14 (h) The department and/or board is empowered to collect any fees and charges prescribed  
15 in this chapter and to apply the fees and charges to the cost of fulfilling the requirements and  
16 responsibilities of this chapter.

17 **5-8.1-9. Board of registration for professional land surveyors – Application and**  
18 **qualification for registration.** -- (a) Application for registration as a professional land surveyor  
19 or certification as a surveyor-in-training shall be made, in writing, on a form prescribed and  
20 furnished by the board of land surveyors. The application shall:

- 21 (i) Contain statements made under oath;
- 22 (ii) Show the applicant's education;
- 23 (iii) Contain a detailed summary of the applicant's technical and professional experience;
- 24 and
- 25 (iv) Designate references as described in this section.

26 (b) The fee established in § 5-8.1-11 must accompany each application. Failure to include  
27 this fee will result in the application being returned to the applicant without consideration by the  
28 board.

29 (c) To be eligible for registration as a professional land surveyor, an applicant must be of  
30 good character and reputation. Additionally, the applicant must submit five (5) references with  
31 his or her application, three (3) of which are from registered professional land surveyors having  
32 personal knowledge of his or her land surveying experience. No person seeking his or her initial  
33 registration as a professional land surveyor shall be granted the certificate without first  
34 completing a surveyor-in-training program as prescribed and approved by the board.

1 (d) To be eligible for certification as a surveyor-in-training, an applicant must be of good  
2 character and reputation substantiated by an interview with a quorum of the board of registration  
3 and additionally must submit three (3) character references one of which must be from a  
4 professional land surveyor.

5 (e) One of the following shall be considered as minimum evidence to the board that the  
6 applicant is qualified for registration as a professional land surveyor or for certification as a land-  
7 surveyor-in training, respectively:

8 (i) *Graduation from a four (4) year survey degree program, experience and examination.*

9 A graduate of a four (4) year survey degree program may be admitted to an ~~eight (8) hour written~~  
10 examination in the fundamentals of land surveying. Upon passing that examination the applicant  
11 is granted a surveyor-in-training certificate in this state. After receiving the surveyor-in-training  
12 certificate the applicant will need a specific record of a minimum four (4) years of experience in  
13 land surveying. This verified experience shall be under the direct supervision of a registered  
14 professional land surveyor, satisfactory to the board and shall be broken down as follows. At a  
15 minimum twenty percent (20%) shall be field experience, twenty percent (20%) shall be research,  
16 deed evidence, reconciliation, etc. and twenty percent (20%) shall be property line calculations  
17 and determination. Once the experience has been deemed satisfactory to the board, the applicant  
18 may be admitted to a ~~six (6) hour written~~ an examination in the principles and practice of land  
19 surveying plus an additional ~~two (2) hour written~~ Rhode Island legal portion. Upon passing that  
20 examination, the applicant is granted a certificate of registration to practice land surveying in this  
21 state, provided the applicant is qualified.

22 (ii) *Graduation from a four (4) year degree program, experience and examination.* A

23 graduate of a four (4) year degree program who has also fulfilled the four (4) year core  
24 curriculum (see paragraph (iii) below) may be admitted to an ~~eight (8) hour written~~ examination  
25 in the fundamentals of land surveying. Upon passing that examination the applicant is granted a  
26 surveyor-in-training certificate in this state. After receiving the surveyor-in-training certificate the  
27 applicant will need a specific record of a minimum five (5) years of experience in land surveying.  
28 This verified experience shall be under the direct supervision of a registered professional land  
29 surveyor, satisfactory to the board and shall be broken down as follows: At a minimum twenty  
30 percent (20%) shall be field experience; twenty percent (20%) shall be research, deed evidence,  
31 reconciliation, etc. and twenty percent (20%) shall be property line calculations and  
32 determination. Once the experience has been deemed satisfactory to the board, the applicant may  
33 be admitted to a ~~six (6) hour written~~ an examination in the principles and practice of land  
34 surveying plus an additional ~~two (2) hour written~~ Rhode Island legal portion. Upon passing that

1 examination, the applicant is granted a certificate of registration to practice land surveying in this  
2 state, provided the applicant is qualified.

3 (iii) *Four (4) year core curriculum.* An applicant with a four (4) year degree as described  
4 in paragraph (ii) above may need to take additional courses to fulfill, at a minimum, the following  
5 core curriculum. For the following list of classes any equivalent class may be taken and any  
6 survey related course may be substituted upon approval of the board:

7 (A) Surveying I (3 credit hours), Surveying II (3 credit hours).

8 (B) GPS & Geodetic control (3 credit hours).

9 (C) Photogrammetry and remote sensing (3 credit hours).

10 (D) Boundary adjustment computations (3 credit hours).

11 (E) Land development/planning (3 credit hours).

12 (F) Geographic/land information systems (3 credit hours).

13 (G) Physics I with lab (4 credit hours).

14 (H) Calculus I (4 credit hours), Calculus II (4 credit hours).

15 (I) Statistical analysis (3 credit hours).

16 (J) Law (12 credit hours): boundary law, law of contracts, law of property, estates &  
17 trusts, professional ethics.

18 (K) Business (9 credit hours): Quantitative business analysis I, business administration,  
19 small business management, micro economics.

20 (L) Science (9 credit hours): geology, astronomy, soils, dendrology, chemistry, biology,  
21 ecology.

22 (M) Computer usage (12 credit hours): introduction to computers, computer science,  
23 computer programming, AutoCAD basics, AutoCAD advanced.

24 (N) English composition (3 credit hours).

25 (O) Advanced communication (6 credit hours): technical writing, creative writing or  
26 speech.

27 (iv) *Graduation from a two (2) year survey degree program, experience, and*  
28 *examination.* A graduate of a two (2) year survey degree program may be admitted to an ~~eight (8)~~  
29 ~~hour-written~~ examination in the fundamentals of land surveying. Upon passing that examination  
30 the applicant is granted a surveyor-in-training certificate in this state. After receiving the  
31 surveyor-in-training certificate the applicant will need a specific record of a minimum six (6)  
32 years of verified experience in land surveying. (Four (4) of the years of experience shall be after  
33 receiving a surveyor-in-training certificate). All six (6) years of experience shall be under the  
34 direct supervision of a registered professional land surveyor, satisfactory to the board and shall be

1 broken down as follows: At a minimum twenty percent (20%) shall be field experience, twenty  
2 percent (20%) shall be research, deed evidence, reconciliation, etc. and twenty percent (20%)  
3 shall be property line calculations and determination. Once the experience has been deemed  
4 satisfactory to the board, the applicant may be admitted to ~~a six (6) hour written~~ an examination  
5 in the principles and practice of land surveying plus an additional ~~two (2) hour written~~ Rhode  
6 Island legal portion. Upon passing that examination, the applicant is granted a certificate of  
7 registration to practice land surveying in this state, provided the applicant is qualified.

8 (v) *Graduation from a two (2) year degree program, experience, and examination.* A  
9 graduate of a two (2) year degree program who has also fulfilled the two (2) year core curriculum  
10 (see paragraph (vi) below) may be admitted to an ~~eight (8) hour written~~ examination in the  
11 fundamentals of land surveying. Upon passing that examination the applicant is granted a  
12 surveyor-in-training certificate in this state. After receiving the surveyor-in-training certificate the  
13 applicant will need a specific record of a minimum seven (7) years of verified experience in land  
14 surveying. (Four (4) of the years of experience shall be after receiving a surveyor-in-training  
15 certificate). All seven (7) years of experience shall be under the direct supervision of a registered  
16 professional land surveyor, satisfactory to the board and shall be broken down as follows: At a  
17 minimum twenty percent (20%) shall be field experience; twenty percent (20%) shall be research,  
18 deed evidence, reconciliation, etc. and twenty percent (20%) shall be property line calculations  
19 and determination. Once the experience has been deemed satisfactory to the board, the applicant  
20 may be admitted to ~~a six (6) hour written~~ an examination in the principles and practice of land  
21 surveying plus an additional ~~two (2) hour written~~ Rhode Island legal portion. Upon passing that  
22 examination, the applicant is granted a certificate of registration to practice land surveying in this  
23 state, provided the applicant is qualified.

24 (vi) *Two (2) year core curriculum.* An applicant with a two (2) year degree as described  
25 in paragraph (v) above may need to take additional courses to fulfill, at a minimum, the following  
26 core curriculum. For the following list of classes any equivalent class may be taken and any  
27 survey related course may be substituted upon approval of the board:

28 (A) Surveying I (3 credit hours), Surveying II (3 credit hours).

29 (B) Mathematics (12 credit hours): advanced algebra, analytical trigonometry, analytical  
30 geometry, spherical trigonometry, statistical analysis or quantitative business analysis I,  
31 Analytical trigonometry and analytical geometry are mandatory classes to fulfill the (12 credit  
32 hours).

33 (C) Business and law (6 credit hours): legal principles, business administration, law of  
34 contracts, law of property, estates & trusts, professional ethics.

1 (D) Science (6 credit hours): physics, geology, astronomy, soils, dendrology, chemistry,  
2 biology, ecology.

3 (E) Computer usage (6 credit hours): introduction to computers, computer science,  
4 computer programming, AutoCAD basics, AutoCAD advanced.

5 (F) English composition (3 credit hours).

6 (G) Advanced communication (6 credit hours): technical writing, creative writing or  
7 speech.

8 (vii) *Graduation from a two (2) year program, experience and examination.* Any person  
9 obtaining a minimum of five (5) years experience under the supervision of a registered  
10 professional land surveyor, and is satisfactory to the board, may be admitted to an ~~eight (8) hour~~  
11 ~~written~~ examination in the fundamentals of land surveying. Upon passing that examination the  
12 applicant is granted a surveyor-in-training certificate (LSIT), in this state provided the applicant is  
13 qualified. Upon obtaining a specific record of a minimum of an additional five (5) years of  
14 experience of combined office and field experience satisfactory to the board in land surveying,  
15 which experience was under the direct supervision of a registered professional land surveyor, and  
16 which experience indicates to the board that the applicant may be competent to practice land  
17 surveying, and the person is a graduate of a land surveying or related curriculum of satisfactory  
18 standing, of two (2) years or more approved by the board, who has obtained an associates degree  
19 in land surveying or related curriculum, the applicant may be submitted to ~~a six (6) hour written~~  
20 ~~an~~ examination in the principles and practice of land surveying plus an additional ~~two (2) hour~~  
21 ~~written~~ Rhode Island legal portion. Upon passing that examination, the applicant is granted a  
22 certificate of registration to practice land surveying in this state, provided the applicant is  
23 qualified. This subsection expires at midnight, December 31, 2009.

24 (viii) In certain instances in which an applicant presents an experience of unusually high  
25 quality, the board, at its complete discretion, may allow an applicant, having acquired six (6)  
26 verified years of active office and field experience in land surveying, which experience has been  
27 under the direct supervision of a professional land surveyor, to be admitted to an ~~eight (8) hour~~  
28 ~~written~~ examination in the fundamentals of land surveying. Upon passing those examinations, the  
29 applicant is granted a surveyor-in-training certificate in the state. This subsection does not exempt  
30 the applicant from the required degree or the experience after obtaining the surveyor-in-training  
31 certificate (LSIT).

32 (ix) *Surveying teaching.* Teaching of advanced land surveying subjects in a college or  
33 university offering an approved land surveying curriculum may be considered as land surveying  
34 experience satisfactory to the board.

1           (x) *Registration by comity or endorsement.* A person holding a current certificate of  
2 registration to engage in the practice of land surveying issued to him or her by a proper authority  
3 of a state, territory, or possession of the United States, or the District of Columbia must have, at  
4 the time they were licensed, met the existing Rhode Island requirements for licensure. All  
5 applicants applying under this section must have passed the written examinations in the  
6 fundamentals of land surveying and the principles and practice of land surveying. If, based upon  
7 verified evidence and the opinion of the board, the applicant meets all appropriate requirements  
8 of this section, the applicant will be allowed to take the ~~two (2) hour written~~ Rhode Island legal  
9 portion. Upon passing this examination the applicant shall be granted a certificate of registration  
10 to practice land surveying in this state, provided the applicant is qualified.

11           (f) The passing grade on all examinations offered by the land surveyors is not less than  
12 seventy percent (70%). An applicant failing any examination may apply for re-examination upon  
13 payment of the appropriate fees. An applicant who scores less than fifty percent (50%) on any  
14 examination may not apply for re-examination for at least one year.

15           (g) An applicant who fails any of the exams three (3) times shall be interviewed by the  
16 board, before any further application can be acted upon. It is the applicant's responsibility to show  
17 the board that he or she will be successful if allowed to take the exam again. If in the board's  
18 opinion the applicant can not satisfactorily demonstrate that he or she is qualified to re-take the  
19 exam, the board may require that the applicant acquire additional knowledge, education, and or  
20 experience, satisfactory to the board before the applicant may sit for another exam.

21           **5-8.1-10. Board of registration for professional land surveyors--Issuance and**  
22 **renewal of certificates.--** (a) Surveyors previously registered. Each land surveyor holding a  
23 certificate of registration under the laws of this state as previously in effect shall be deemed  
24 registered as a professional land surveyor under this chapter.

25           (b) Surveyors-in-training previously registered. Each surveyor-in-training previously  
26 enrolled under the laws of this state as previously in effect shall be deemed enrolled under this  
27 chapter.

28           (c) Certificates of registration. ~~The~~ With the assistance of the department, the board of  
29 land surveyors shall issue a certificate of registration upon payment of the registration fee as  
30 provided for in this chapter to any applicant, who, in the judgment of the board, has met the  
31 requirements of this chapter. Enrollment cards are issued to those who qualify as surveyors-in-  
32 training. The certificate of registration shall:

- 33           (1) Carry the designation "professional land surveyor";  
34           (2) Show the full name of the registrant, without any titles;

1 (3) Have a serial number; and

2 (4) Be signed by both the chairperson and secretary of the board of land surveyors.

3 (d) Effect of certification. The issuance of a certificate of registration by the board of land  
4 surveyors is prima facie evidence that the person named in the certificate is entitled to all rights  
5 and privileges of a professional land surveyor while the certificate of registration remains  
6 unrevoked or unexpired.

7 (e) Expiration and renewals. Certificates of registration that expire are invalid, rendering  
8 practice authorized on the basis of that certificate illegal. It is the duty of the board of land  
9 surveyors to notify every person registered under this chapter of the date of the expiration of his  
10 or her certificate and the amount of the fee required for its renewal. That notice shall be mailed to  
11 the registrant at his or her last known address at least one month in advance of the date of the  
12 expiration of that certificate and it is the responsibility of each person registered under this  
13 chapter to renew his or her certificate of registration prior to its expiration. Renewal may be  
14 effected at any time prior to or during the month of June of each odd-numbered year (meaning  
15 biennially) commencing in year 2003 (provided, that any said renewal shall be post-marked no  
16 later than June 30th in that year in order to be valid), or at any other time that the law provides  
17 for, by the payment of the fee required by this chapter. Renewal of an expired certificate may be  
18 effected, [with the director's approval](#), within a period of four (4) years, provided, that evidence is  
19 submitted to the board of land surveyors attesting to the continued competence and good  
20 character of the applicant. The amount to be paid for the renewal of a certificate after the date of  
21 expiration shall be double the regular fee. In the event renewal is not made before the end of the  
22 second year, the board of land surveyors may require any re-examination that it deems  
23 appropriate and the amount to be paid for the renewal shall be as stated in this section.

24 (f) Lapsed certificates. Any registrant who allows his or her certificate of registration to  
25 lapse for more than four (4) years shall reapply for registration in accordance with the  
26 requirements stated in § 5-8.1-9.

27 (g) Re-issuance of certificate. A duplicate certificate of registration, to replace any  
28 certificate lost, destroyed, or mutilated may be issued by the board of land surveyors upon  
29 payment of the fee required by § 5-8.1-11.

30 [\(h\) Any party aggrieved by the board's decision regarding license issuance or renewal](#)  
31 [may, within ten \(10\) days of the decision, appeal the matter to the director by submitting a written](#)  
32 [request for a formal hearing to be conducted in accordance with the provisions of section 5-8.1-](#)  
33 [15.](#)

34 **5-8.1-12. Board of registration for professional land surveyors-Official stamp of**

1 **professional land surveyor.--** (a) A registrant under this chapter may obtain a Rhode Island seal  
2 of the design authorized by the board of land surveyors, bearing the registrant's name, registration  
3 number, and the legend "Professional Land Surveyor". Final surveys, drawings, reports, plats,  
4 replats, plans, legal descriptions, and calculations prepared by a registrant shall, when issued, be  
5 signed, dated, and stamped with the seal or facsimile of a seal. It is unlawful for a land surveyor  
6 to affix, or permit his or her seal or facsimile of a seal to be affixed, to any survey, drawing,  
7 report, plan, legal descriptions, plat, replat, report, legal description or calculations after  
8 expiration of a certificate or for the purpose of aiding or abetting any other person to evade or  
9 attempt to evade any provisions of this chapter. It is unlawful for any person other than the  
10 registered land surveyor who has signed and sealed the survey, drawing, plan, plat, replat, report,  
11 legal description or calculations to modify, change, amend, add, or delete any data, information,  
12 lines, angles, or areas shown on the survey, drawing, plan, plat, replat, or report.

13 (b) Upon revocation or suspension of his or her certificate of registration, or upon  
14 expiration of the certificate without renewal, a professional land surveyor shall surrender his or  
15 her stamp to the board of land surveyors. The director ~~board~~ has the power to institute  
16 proceedings in superior court to enforce this subsection.

17 (c) Upon the death of any professional land surveyor registered under this chapter, that  
18 person(s) appointed to administer the estate of the decedent shall surrender the stamp of the  
19 deceased professional land surveyor to the board of land surveyors. The director ~~board~~ has the  
20 power to institute proceedings in superior or probate court to enforce this subsection.

21 **5-8.1-15. Board of registration for professional land surveyors-Disciplinary actions.-**

22 z (a) Revocation, suspension, and censure. After notice and a hearing as provided in this section,  
23 the director ~~board of land surveyors~~ may in his or her ~~its~~ discretion or upon recommendation of  
24 the board: (1) suspend, ~~or~~ revoke, or take other permitted action with respect to ~~refuse to renew~~  
25 any certificate of registration; (2) revoke, ~~or~~ suspend or take other permitted action with respect to  
26 ~~refuse to renew~~ any certificate of authorization; (3) publicly censure, or reprimand or censure in  
27 writing; (4) limit the scope of practice of; (5) impose an administrative fine, not to exceed one  
28 thousand dollars (\$1,000) for each violation; (6) place on probation; and/or (7) for good cause  
29 shown order a reimbursement of the department ~~board~~ for all fees, expenses, costs, and attorneys'  
30 fees in connection with the proceedings, which amounts shall deposited as general revenues; all  
31 with or without terms, conditions or limitations, holders of a certificate of registration or a  
32 certificate of authorization, hereafter referred to as registrant(s), for any one or more of the causes  
33 set out in subsection (b) of this section.

34 (b) Grounds. The director ~~board~~ may take actions specified in subsection (a) of this

1 section for any of the following causes:

2 (1) Bribery, fraud, deceit, or misrepresentation in obtaining a certificate of registration or  
3 certificate of authorization;

4 (2) Practicing land surveying in another state or country or jurisdiction in violation of the  
5 laws of that state, country, or jurisdiction;

6 (3) Practicing land surveying in this state in violation of the standards of professional  
7 conduct established by the board [and approved by the director](#);

8 (4) Fraud, deceit, recklessness, gross negligence, misconduct, or incompetence in the  
9 practice of land surveying;

10 (5) Use of a land surveyor's stamp in violation of § 5-8.1-12;

11 (6) Violation of any of the provisions of this chapter [or chapter 5-84](#);

12 (7) Suspension or revocation of the right to practice land surveying before any state or  
13 before any other country or jurisdiction;

14 (8) Conviction of or pleading guilty or nolo contendere to any felony or to any crime of,  
15 or an act constituting a crime of, forgery, embezzlement, obtaining money under the false  
16 pretenses, bribery, larceny, extortion, conspiracy to defraud, or any other similar offense or  
17 offenses involving moral turpitude, in a court of competent jurisdiction of this state or any other  
18 state or of the federal government;

19 (9) Failure to furnish to the [department and/or](#) board or any person acting on behalf  
20 thereof in a reasonable time such information as may be legally requested by the [department](#)  
21 [and/or](#) board;

22 (10) In conjunction with any violation of subdivisions (1)-(9) of this subsection, any  
23 conduct reflecting adversely upon the registrant's fitness to engage in the practice of land  
24 surveying; and

25 (11) In conjunction with any violation of subdivisions (1)-(9) of this subsection, any other  
26 conduct discreditable to the land surveying profession.

27 (c) Procedures. (1) Any person may prefer charges of fraud, deceit, gross negligence,  
28 incompetence, or misconduct against any applicant or registrant. In addition, the [department or](#)  
29 board may, on its own motion, investigate the conduct of an applicant or registrant of the board,  
30 and may in appropriate cases file a written statement of charges with the secretary of the board.  
31 The charges shall be in writing and shall be sworn to by the person or persons making them and  
32 shall be filed with the board of land surveyors. All charges, unless dismissed by the [director board](#)  
33 ~~of land surveyors~~ as unfounded or trivial, shall be heard by the [director board](#) within three (3)  
34 months after the date on which they were referred.

1 (2) The time and place for the hearing shall be fixed by the ~~department board of land~~  
2 ~~surveyors~~, and a copy of the charges, together with a notice of the time and place of the hearing,  
3 shall be personally served on or mailed to the last known address of the registrant at least thirty  
4 (30) days before the date fixed for the hearing. At any hearing, the accused registrant or applicant  
5 has the right to appear personally and/or by counsel, to cross examine witnesses appearing against  
6 him or her, and to produce evidence and witnesses in his or her defense.

7 (3) If, after the hearing, the charges are sustained, the director, on his or her own motion  
8 or upon recommendation of the board of land surveyors, may in his or her ~~its~~ discretion suspend,  
9 ~~refuse to renew, or~~ revoke, or take other permitted action with respect to the certificate of  
10 registration, or certificate of authorization or publicly censure the registrant, or take any other  
11 action and/or order any other penalty permitted by this section.

12 (4) The ~~director board of land surveyors~~ may, at his or her ~~its~~ discretion, reissue a  
13 certificate of registration or certificate of authorization or renewal to any person or firm denied  
14 registration under this section or upon presentation of satisfactory evidence of reform and/or  
15 redress.

16 (5) The board may participate in hearings before the director through representation by  
17 the department's legal staff acting as the prosecuting agent before the director.

18 (d) Legal counsel. ~~The board of land surveyors may employ other counsel and necessary~~  
19 ~~assistance to aid in the enforcement of this chapter, and their compensation and expenses shall be~~  
20 ~~paid from the funds of the budgeted for and under the control of the board.~~ The department shall  
21 make its legal staff available to act as legal advisor to the board and to render any legal assistance  
22 that is necessary in carrying out the provisions of this chapter. The director may employ other  
23 counsel and necessary assistance to aid in the enforcement of this chapter, and their compensation  
24 and expenses shall be paid from the funds of the department.

25 (e) Nothing in this chapter shall prevent the department and/or board of land surveyors  
26 from charging one or both parties a fee for the direct costs associated with hearings and  
27 transcripts in accordance with the department's rules of procedure for administrative hearings.

28 (f) Nothing in this chapter shall prevent the board from entering into consent agreements  
29 or informal resolutions with any party under investigation for violations under this chapter and/or  
30 chapter 5-84.

31 **5-8.1-16. Board of registration for professional land surveyors-Appeals.-** Any person  
32 aggrieved by any decision or ruling of the ~~department board of land surveyors~~ may appeal that  
33 decision in accordance with the provisions of chapter 35 of title 42. ~~For the purposes of this~~  
34 ~~section, the board of land surveyors is considered a person.~~

1 **5-8.1-17. Board of registration for professional land surveyors --Violations and**

2 **penalties –Injunctions--** (a) No individual shall: (1) practice or offer to practice land surveying  
3 in this state; (2) use any title, sign, card, or device implying that the individual is a land surveyor  
4 or is competent to practice land surveying in this state; (3) use in connection with his or her name  
5 or otherwise any title or description conveying or tending to convey the impression that the  
6 individual is a land surveyor or is competent to practice land surveying in this state; or (4) use or  
7 display any words, letters, figures, seals, or advertisements indicating that the individual is a land  
8 surveyor or is competent to practice land surveying in this state; unless that individual holds a  
9 currently valid certificate issued pursuant to this chapter or is specifically exempted from the  
10 certificate requirement under the provisions of this chapter.

11 (b) It shall be the duty of all duly constituted officers of this state and all political  
12 subdivisions of the state to enforce the provisions of this chapter and to prosecute any persons  
13 violating those provisions.

14 (c) No sole proprietorship, partnership, limited liability partnership, corporation or  
15 limited liability company shall: (1) practice or offer to practice land surveying in this state; (2)  
16 use any title, sign, card, or device implying that the sole proprietorship, partnership, limited  
17 liability partnership, corporation or limited liability company is competent to practice land  
18 surveying in this state; (3) use in connection with its name or otherwise any title or description  
19 conveying or tending to convey the impression that the entity is a land surveying firm or is  
20 competent to practice land surveying in this state; or (4) use or display any words, letters, figures,  
21 seals, or advertisements indicating that the entity is a land surveying firm or is competent to  
22 practice land surveying in this state; unless that sole proprietorship, partnership, limited liability  
23 partnership, corporation or limited liability company complies with the requirements of this  
24 chapter.

25 (d) Any individual, sole proprietorship, partnership, limited liability partnership,  
26 corporation or limited liability company which knowingly and willfully: (1) violates subsection  
27 (a) or (c) of this section; (2) presents or attempts to use the certificate of registration/authorization  
28 of another; (3) gives any false or forged evidence of any kind to the [department and/or](#) board or to  
29 any member of the board in obtaining or attempting to obtain a certificate of  
30 registration/authorization; (4) falsely impersonates any other registrant whether of a like or  
31 different name; (5) uses or attempts to use an expired, revoked, or nonexistent certificate of  
32 registration/authorization; (6) falsely claims to be registered under this chapter; or (7) otherwise  
33 violates any provision of this chapter; shall be guilty of a misdemeanor and, upon conviction by a  
34 court of competent jurisdiction, shall be sentenced to pay a fine of not more than four thousand

1 dollars (\$4,000) for the first offense and a fine of not less than four thousand dollars (\$4,000) nor  
2 more than ten thousand dollars (\$10,000) for each subsequent offense, or imprisonment for not  
3 more than one year, or both; in the court's discretion and upon good cause shown reimburse the  
4 department and/or board for any and all fees, expenses, and costs incurred by the department  
5 and/or board in connection with the proceedings, including attorneys' fees, which amounts shall  
6 be deposited as general revenues; and be subject to, in the board's discretion, public censure or  
7 reprimand.

8 (e) ~~The~~ Either on his or her own initiative or on the recommendation of the board, the  
9 director has the power to institute injunction proceedings in superior court to prevent violations of  
10 subsection (a) or (c) of this section or violations of § 5-8.1-1. In injunction proceedings, the  
11 director ~~board~~ is not required to prove that an adequate remedy at law does not exist, or that  
12 substantial or irreparable damage would result from continued violations. The superior court, in  
13 its discretion and in addition to any injunctive relief granted to the director ~~board~~, may order that  
14 any person or entity in violation of this section shall:

15 (1) Upon good cause shown reimburse the department ~~board~~ for any and all fees,  
16 expenses, and costs incurred by the department and/or board in connection with the proceedings,  
17 including attorneys fees, which amounts shall be deposited as general revenues; and/or

18 (2) Be subject to public censure or reprimand.

19 SECTION 4. Sections 5-51-1, 5-51-2, 5-51-5, 5-51-7, 5-51-9, 5-51-16, 5-51-17, and 5-  
20 51-17.1 of the General Laws in Chapter 5-51 entitled "Rhode Island State Board of Examiners of  
21 Landscape Architects" is hereby amended and/or added to read as follows:

22 **5-51-1. Definitions.** -- As used in this chapter, the following definitions of words and  
23 terms apply:

24 (1) "Board" means the Rhode Island state board of examiners of landscape architects.

25 (2) "Decorative planting plans" means and refers to planning and designing intended  
26 exclusively for the decoration of residential structures or settings which contain no greater than  
27 two (2) "dwelling units" as the term is defined in subdivision 45-24-31(24) and which involves  
28 the use and arrangement of trees, shrubs, plants, ground-cover, and/or flowers for aesthetic and  
29 decorative purposes only, but specifically does not include the following:

30 (i) Plans or designs which create the layout of grading, vehicular paving, drainage, storm  
31 water management, irrigation, erosion control, retaining walls, decks, gazebos, pools, or any  
32 similar structures;

33 (ii) Plans or designs intended or used at any time or in any manner for or in furtherance of  
34 the purpose of obtaining federal, state, or local building, construction, or related permits or like

1 authorizations; and/or

2 (iii) Plans or designs relating to federal, state, or local public works or public projects, or  
3 otherwise relating to property which is not privately owned.

4 (3) "Landscape architect" means a person who engages or offers to engage in the practice  
5 of landscape architecture.

6 (4) "Landscape architecture" means planning and designing the use, allocation, and  
7 arrangement of land and water resources, through the creative application of biological, physical,  
8 mathematical, and social processes. Insofar as these services involve safeguarding life, health or  
9 property, and include any other professional services that may be necessary to the planning,  
10 progress, and completion of any landscape architectural services, these services may include, but  
11 not be limited to, the following:

12 (A) Consultation, research, analysis and assessment, selection, and allocation of land and  
13 water resources;

14 (B) Formulation of graphic and written criteria to govern the planning and design of land  
15 construction development programs including:

16 (I) The preparation, review and analysis of master and site plans;

17 (II) Reconnaissance, planning, design, preparation of drawings, construction documents  
18 and specifications, and responsible construction observation;

19 (C) Design coordination and review of technical plans and construction documents  
20 prepared by other professionals working under the direction of the landscape architect;

21 (D) Land preservation, restoration, conservation, reclamation, rehabilitation, management  
22 and development;

23 (E) Feasibility studies and site selection for developments;

24 (F) Integration, site analysis and determination of settings for grounds and locations of  
25 buildings, structures, transportation systems, and environmental systems;

26 (G) Analysis and design of grading and drainage, storm water management, irrigation  
27 systems for erosion and sediment controls, planting plans, lighting, and ground cover; and

28 (H) Feasibility studies, cost estimates and reports for development.

29 (ii) "Landscape architecture" does not mean nor extend to the preparation of "decorative  
30 planting plans" as defined in subdivision (2) of this section.

31 (5) "Department" means the department of business regulation.

32 (6) "Director" means the Director of the Department of Business Regulation or his or her  
33 designee.

34 **5-51-2. Board--Creation--Composition--Appointment, terms, and qualifications of**

1 **members-Duties-Compensation.--** (a)(1) There is established a state board of landscape  
2 architects which consists of seven (7) members.

3 (2) On May 19, 1975, the governor shall appoint one member to serve until the first day  
4 of February, 1976, or until his or her successor is appointed and qualified; one member to serve  
5 until the first day of February, 1977, or until his or her successor is appointed and qualified; one  
6 member to serve until the first day of February, 1978, or until his or her successor is appointed  
7 and qualified; one member to serve until the first day of February, 1979, or until his or her  
8 successor is appointed and qualified; and one member to serve until February, 1980, or until his  
9 or her successor is appointed and qualified.

10 (3) Upon completion of the original term the terms of members identified in subdivision  
11 (2) of this subsection shall be for five (5) years.

12 (4) One member of the board shall be from the general public. This member shall serve  
13 for terms of five (5) years.

14 (5) Four (4) members of the board shall be landscape architects whose residences and  
15 principal places of business shall be within this state, who have been actively engaged in the  
16 practice of landscape architecture within this state. The original appointees to the board do not  
17 need to be registered but engaged in the practice of landscape architecture for a minimum of four  
18 (4) years.

19 (6) The governor may remove any member from office for misconduct, incapacity or  
20 neglect of duty.

21 (b) During the month of July of each year, the board shall elect from its members a  
22 chairperson and a vice chairperson.

23 (c) The ~~secretary of the~~ board shall keep a true and complete record of all its proceedings  
24 ~~of the board and shall aid in the enforcement of this chapter.~~

25 (d) ~~The~~ Subject to the approval of the director, the board may make all necessary  
26 regulations and bylaws not inconsistent with this chapter.

27 (e) In carrying into effect the provisions of this chapter, the director ~~board~~ may subpoena  
28 witnesses and compel their attendance and may require the production of books, papers, and  
29 documents in any proceeding involving the revocation of registration, or practicing or offering to  
30 practice without registration.

31 (1) ~~Any member of the board~~ The director may administer oaths or affirmations to  
32 witnesses appearing before the director ~~board~~.

33 (2) If any person fails to appear in response to that process, or if, having appeared in  
34 obedience to the process, he or she refuses to answer any pertinent questions put to him or her by

1 any member of the board or ~~department its counsel~~, he or she, upon presentation of those facts to  
2 the superior court, shall be subject to any fines and penalties that might be imposed by this court  
3 if that failure or refusal occurred in any civil action pending in that court.

4 (f) ~~The~~ Subject to the director's approval, the board may establish a procedure for  
5 complaints concerning any licensed or certified landscape architects.

6 (g) ~~The~~ Subject to the director's approval, the board shall establish procedures and  
7 programs in conjunction with the department of environmental management and may annually  
8 publish a report of its activities, operations, and recommendations.

9 (h) Members of the board shall not be compensated for meetings attended.

10 (i) No action or other legal proceedings for damages shall be instituted against the  
11 department and/or board or against any member, employee, or agent thereof for any actions taken  
12 in good faith in the intended performance of any power granted under this chapter or for any  
13 neglect or default in the performance or exercise in good faith of that duty or power. The state  
14 shall indemnify the department and/or board and these members, employees, or agents for, and  
15 hold them harmless from, any and all costs, damages, and reasonable attorneys' fees arising from  
16 or related in any way to claims or actions against them as to matters to which the immunity  
17 applies.

18 **5-51-5. Procedure for processing applications for license.** -- (a) All applicants shall be  
19 considered individually by the board, with the assistance of the department, and passed or  
20 rejected on a roll call vote. The action taken by the board on each application shall be recorded in  
21 the minutes and an outline of the action taken by the board shall be placed with the application.

22 (b) Personal appearance before the board, if required, shall be at the time and place  
23 designated by the board.

24 (c) Failure to supply additional evidence or information within sixty (60) days from the  
25 date of a written request from the board, or to appear before the board when an appearance shall  
26 be deemed necessary by the board, may be considered just and sufficient cause for disapproval of  
27 the application.

28 (d) Any party aggrieved by the board's decision regarding license issuance may, within  
29 ten (10) days of the decision, appeal the matter to the director by submitting a written request for  
30 a formal hearing to be conducted in accordance with the provisions of section 5-51-17.1.

31 **5-51-7. Reciprocity.**--Waiver of requirements for examination

32 (a) The board may waive the requirements for examination of a competent landscape  
33 architect holding a license in another state, territory, or possession of the United States, or in a  
34 foreign country, provided that state, territory, possession, or country grants equal rights and has at

1 least equal standards, and provided that the applicant's license shall be based on comparable  
2 written examinations and that his or her qualifications meet all of the requirements of this chapter  
3 based on verified evidence satisfactory to the board.

4 (b) ~~The~~ [Subject to the director's approval, the](#) board shall establish standards for the  
5 determination and implementation of reciprocity with other states.

6 **5-51-9. Annual renewal of licenses and certificates of authorization.--** (a)(1) Every  
7 license shall be valid for a period of two (2) years and shall expire on the last day of June of each  
8 odd numbered year following its issuance. Every certificate of authorization shall be valid for a  
9 period of two (2) years and shall expire on the last day of June of each even numbered year  
10 following its issuance. A license or certificate of authorization may be renewed by paying the  
11 renewal fee required by § 5-51-14. A landscape architect who fails to renew his or her license  
12 prior to each June 30, may not thereafter renew his or her license except upon payment of the  
13 renewal fee and the additional fee(s) required by § 5-51-14. A landscape architectural firm, which  
14 fails to renew its certificate of authorization prior to each June 30, may not thereafter renew its  
15 certificate of authorization except upon payment of the renewal fee and the additional fee(s)  
16 required in § 5-51-14. The certificates of authorization shall be issued by the board, [with the](#)  
17 [assistance of the department](#), indicating the sole proprietorship, partnership, limited liability  
18 partnership, corporation, or limited liability company named in it is permitted to practice  
19 landscape architecture in this state. A license or certificate of authorization shall not be renewed  
20 until the renewal fee is received by the board.

21 (2) Licenses and certificates of authorization not renewed by the payment of the renewal  
22 fee prior to each June 30, shall be construed to be expired, and shall require an application for  
23 reinstatement.

24 (b) ~~The~~ [Subject to the approval of the director, the](#) board may determine and establish  
25 rules and regulations for continuing education requirements and other recertification procedures  
26 as the board deems necessary.

27 (c) The board may require all applicants for renewal to provide the board with any  
28 information, including but not limited to, a brief outline setting forth the professional activities of  
29 any applicant during a period in which a license or certificate of authorization has lapsed and  
30 other evidence of the continued competence and good character of the applicant, that the board  
31 deems necessary.

32 [\(d\) Any party aggrieved by the board's decision regarding license renewal may, within](#)  
33 [ten \(10\) days of the decision, appeal the matter to the director by submitting a written request for](#)  
34 [a formal hearing to be conducted in accordance with the provisions of section 5-51-17.1.](#)

1           **5-51-16. Penalty for violations-Injunctive relief.--** (a) No individual shall: (1) practice  
2 or offer to practice landscape architecture in this state; or (2) use any title, sign, card, or device  
3 implying that the individual is a landscape architect or is competent to practice landscape  
4 architecture in this state; or (3) use in connection with his or her name or otherwise any title or  
5 description conveying or tending to convey the impression that the individual is a landscape  
6 architect or is competent to practice landscape architecture in this state; or (4) use or display any  
7 words, letters, seals, or advertisements indicating that the individual is a landscape architect or is  
8 competent to practice landscape architecture in this state, unless that individual holds a current  
9 valid license issued pursuant to this chapter or is specifically exempted from holding a license  
10 under the provisions of this chapter.

11           (b) No sole proprietorship, partnership, limited liability partnership, corporation or  
12 limited liability company shall: (1) practice or offer to practice landscape architecture in this  
13 state; (2) use any title, sign, card, or device implying that the sole proprietorship, partnership,  
14 limited liability partnership, corporation or limited liability company is competent to practice  
15 landscape architecture in this state; (3) use in connection with its name or otherwise any title or  
16 description conveying or tending to convey the impression that the entity is a landscape  
17 architectural firm or is competent to practice landscape architecture in this state; or (4) use or  
18 display any words, letters, figures, seals, or advertisements indicating that the entity is a  
19 landscape architectural firm or is competent to practice landscape architecture in this state, unless  
20 that sole proprietorship, partnership, limited liability partnership, corporation or limited liability  
21 company complies with the requirements of this chapter.

22           (c) Any individual, sole proprietorship, partnership, limited liability partnership,  
23 corporation or limited liability company which: (1) violates subsection (a) or (b) of this section;  
24 (2) presents or attempts to use the license/certificate of authorization of another; (3) gives any  
25 false or forged evidence of any kind to the [department and/or](#) board or to any member [or](#)  
26 [employee](#) thereof in obtaining or attempting to obtain a license/certificate of authorization; (4)  
27 falsely impersonates any other registration whether of a like or different name; (5) uses or  
28 attempts to use an expired, revoked, or nonexistent license/certificate of authorization; (6) falsely  
29 claims to be registered under this chapter; or (7) otherwise violates any provision of this chapter,  
30 shall upon determination thereof by a court of competent jurisdiction, be subject to a civil penalty  
31 of one thousand dollars (\$1,000) for the first offense, and a civil penalty of two thousand dollars  
32 (\$2,000) for each subsequent offense; and in the court's discretion and upon good cause shown,  
33 reimburse the [department](#) ~~board~~ for any and all fees, expenses, and costs incurred by the  
34 [department and/or](#) board in connection with the proceedings, including attorneys fees (which

1 amounts shall be deposited as general revenues); and be subject to, in the board's discretion,  
2 public censure or reprimand.

3 (d) ~~The board~~ Either on his or her own initiative or on the recommendation of the board,  
4 the director shall have the power to institute injunction proceedings in superior court to prevent  
5 violations of subsection (a) or (b) of this section and/or for violations of § 5-51-3. In injunction  
6 proceedings, the director ~~board~~ shall not be required to prove that an adequate remedy at law does  
7 not exist, or that substantial or irreparable damage would result from continued violations. The  
8 superior court, in its discretion and in addition to any injunctive relief granted to the board, may  
9 order that any person or entity in violation of this section shall: (i) upon good cause shown,  
10 reimburse the department ~~board~~ for any and all fees, expenses, and costs incurred by the  
11 department and/or board in connection with the proceedings, including attorneys fees (which  
12 amounts shall be deposited as general revenues); and/or (ii) be subject to public censure or  
13 reprimand.

14 **5-51-17. Revocation or suspension of licenses or certificates of authorization.--** After  
15 notice and a hearing as provided in § 5-51-17.1, the director ~~board~~ may in his or her ~~its~~ discretion  
16 or upon recommendation of the board: suspend, revoke, or take other permitted action with  
17 respect to ~~refuse to renew~~ any license; and/or revoke, ~~or~~ suspend or take other permitted action  
18 with respect to ~~refuse to renew~~ any certificate of authorization; and/or publicly censure, or  
19 reprimand or censure in writing; and/or limit the scope of practice of; and/or impose an  
20 administrative fine upon (not to exceed one thousand dollars (\$1,000) for each violation); and/or  
21 place on probation; and/or for good cause shown, order a reimbursement of the ~~board~~ department  
22 for all fees, expenses, costs, and attorneys fees in connection with the proceedings (which  
23 amounts shall be deposited as general revenues), all with or without terms, conditions or  
24 limitations, holders of a license or certificate of authorization, (hereafter referred to as  
25 licensee(s)), for any one or more of the following causes:

26 (1) Bribery, fraud, deceit, or misrepresentation in obtaining a license or certificate of  
27 authorization;

28 (2) Practicing landscape architecture in another state or country or jurisdiction in  
29 violation of the laws of that state or country or jurisdiction;

30 (3) Practicing landscape architecture in this state in violation of the standards of  
31 professional conduct established by the board and approved by the director;

32 (4) Fraud, deceit, recklessness, gross negligence, misconduct, or incompetence in the  
33 practice of landscape architecture;

34 (5) Use of a landscape architect's stamp in violation of § 5-51-11;

1 (6) Violation of any of the provisions of this chapter [or chapter 5-84](#);

2 (7) Suspension or revocation of the right to practice landscape architecture before any  
3 state or before any other country or jurisdiction;

4 (8) Conviction of or pleading guilty or nolo contendere to any felony or to any crime of,  
5 or an act constituting a crime of, forgery, embezzlement, obtaining money under false pretenses,  
6 bribery, larceny, extortion, conspiracy to defraud, or any other similar offense or offenses  
7 involving moral turpitude, in a court of competent jurisdiction of this state or any other state or of  
8 the federal government;

9 (9) Failure to furnish to the [department and/or](#) board or any person acting on behalf of the  
10 board in a reasonable time the information that may be legally requested by the [department and/or](#)  
11 board;

12 (10) In conjunction with any violation of subdivisions (1) through (9) of this section, any  
13 conduct reflecting adversely upon the licensee's fitness to engage in the practice of landscape  
14 architecture; and

15 (11) In conjunction with any violation of subdivisions (1) through (9) of this section, any  
16 other conduct discreditable to the landscape architectural profession.

17 **5-51-17.1. Initiation of proceedings – Hearings before the board – Appeals – Notice**  
18 **to other states.** -- (a) The [director board](#) may initiate proceedings under this chapter against  
19 holders of a license and/or certificate of authorization (hereafter referred to as licensee(s)) either  
20 on [his or her](#) ~~its~~ own motion, [upon recommendation of the board](#), ~~or~~ on complaint of any person,  
21 ~~upon a finding of probable cause by the board~~, or upon receiving notification from another state  
22 board of landscape architects or from the appropriate authority in another country or jurisdiction  
23 of its decision to:

24 (1) Revoke, suspend, or refuse to renew the practice privileges granted in that state or in  
25 that country or jurisdiction to the licensee; or

26 (2) Publicly censure, or censure in writing, limit the scope of practice of, impose an  
27 administrative fine upon, or place on probation the licensee.

28 (b) A written notice stating the nature of the charge or charges against the licensee and  
29 the time and place of the hearing before the [department board](#) on the charges shall be served on  
30 the licensee not less than twenty (20) days prior to the date of the hearing either personally or by  
31 mailing a copy of the notice by certified mail, return receipt requested, to the address of the  
32 licensee last known to the board.

33 (c) If, after being served with the notice of hearing as provided for in this section, the  
34 licensee fails to appear at the hearing and to defend against the stated charges, the [director board](#)

1 may proceed to hear evidence against the licensee and may enter any order that is justified by the  
2 evidence. An order shall be final unless the licensee petitions for a review of the order as  
3 provided in this section. Within thirty (30) days from the date of any order, upon a showing of  
4 good cause for failing to appear and defend, the ~~director board~~ may reopen the proceedings and  
5 may permit the licensee to submit evidence in his, her or on its behalf.

6 (d) At any hearing under this section, the licensee may: (1) appear in person or be  
7 represented by counsel; (2) produce evidence and witnesses on his, her, or its behalf; (3) cross-  
8 examine witnesses; and (4) examine any evidence that might be produced. A sole proprietorship  
9 may be represented by counsel before the board or department, or by the sole proprietor. A  
10 partnership or limited liability partnership may be represented before the board or department by  
11 counsel or any partner. A corporation may be represented by counsel before the board or  
12 department, or any shareholder, officer or director of the corporation. A limited liability company  
13 may be represented before the board or department by counsel or any member or manager of the  
14 limited liability company. The licensee shall be entitled, upon written application to the  
15 department board, to the issuance of subpoenas to compel the attendance of witnesses on the  
16 licensee's behalf.

17 (e) The ~~director board or any member of the board~~ may issue subpoenas to compel the  
18 attendance of witnesses and the production of documents and may administer oaths, take  
19 testimony, hear proofs and receive exhibits in evidence in connection with or upon hearing under  
20 this chapter. In case of disobedience to a subpoena, the ~~director board~~ may petition the superior  
21 court to require the attendance and testimony of witnesses and the production of documentary  
22 evidence.

23 (f) The ~~director board~~ shall not be bound by strict rules of procedure or by laws of  
24 evidence in the conduct of its proceedings, but any determination of the board shall be based  
25 upon sufficient legal evidence to sustain the determination.

26 (g) ~~A stenographic record~~ Recordings of all hearings under this section shall be in  
27 accordance with the rules and regulations established by the department's rules of procedure for  
28 administrative hearings ~~kept and a transcript of the record filed with the board.~~

29 (h) ~~The decision of the board shall be made by vote in accordance with this chapter and~~  
30 ~~with the rules and regulations established by the board.~~ The board may participate in formal  
31 proceedings before the director through representation by the department's legal staff acting as  
32 the prosecuting agent before the director.

33 (i) Any appeal from the decision of the department board, by a person or persons  
34 adversely affected by the decision, shall be governed by § 42-35-15.

1 (j) On the director rendering a decision to: (1) revoke or suspend ~~or refuse to renew~~ a  
2 license issued under the laws of this state; (2) revoke or suspend ~~or refuse to renew~~ a certificate of  
3 authorization issued under the laws of this state; or (3) publicly censure, censure in writing, limit  
4 the scope of practice of, impose an administrative fine upon, or place on probation a licensee, the  
5 board shall examine its records to determine whether the licensee holds a license or a certificate  
6 of authorization to practice in any other state or country or jurisdiction. If the board determines  
7 that the licensee in fact holds a license or certificate of authorization, the board shall immediately  
8 notify the board of landscape architecture of the other state or country or jurisdiction by mail of  
9 ~~it's~~ the director's decision under this section, and shall include in the notice an indication as to  
10 whether or not the licensee has appealed the decision.

11 (k) The director board may, in ~~its~~ his or her discretion, order any licensee against whom  
12 proceedings have been initiated under this chapter to, upon good cause shown, reimburse the  
13 department and/or board for any and all fees, expenses, and costs incurred by the department  
14 ~~board~~ in connection with these proceedings, including attorneys fees. The fees shall be paid  
15 within thirty (30) days from the date they are assessed and may be reviewed in accordance with §  
16 42-35-15, and shall be deposited as general revenues.

17 (l) The department ~~attorney general or his or her deputy~~ shall make its legal staff  
18 available to act as legal advisor to the board and shall render any legal assistance that may be  
19 necessary in carrying out the provisions of this chapter. The director board may employ other  
20 counsel and obtain other necessary assistance to be appointed by the governor to aid in the  
21 enforcement of this chapter, and the compensation and expenses shall be paid from the fund of  
22 the department board.

23 (m) Nothing herein shall be construed to prevent the board from entering into consent  
24 agreements or informal resolutions with any party under investigation for violations under this  
25 chapter and/or chapter 5-84.

26 SECTION 5. Sections 5-84-5 of the General Laws in Chapter 5-84 entitled "Division of  
27 Design Professionals" is hereby amended to read as follows:

28 **5-84-5. Imposition of fines for unregistered activity.--** (a) In addition to any other  
29 provision of law, if a person or business practices or offers to practice architecture, engineering,  
30 land surveying, or landscape architecture in the state without being registered or authorized to  
31 practice as required by law, the boards within the division may recommend that the director of the  
32 department of business regulations issue an order imposing a fine; provided, however, that this  
33 section shall not apply to issues between the boards referred to in subsection (a) of this section as  
34 to the scope of a board registrant's authority to engage in work relating to another board's

1 jurisdiction or to issues relating to ISDS designers licensed by the department of environmental  
2 management.

3 (b) A fine ordered under this section may not exceed two thousand five hundred dollars  
4 (\$2,500) for each offense. In recommending a fine, the board shall set the amount of the penalty  
5 imposed under this section after taking into account factors, including the seriousness of the  
6 violation, the economic benefit resulting from the violation, the history of violations, and other  
7 matters the board considers appropriate.

8 (c) Before recommending that a fine be order under this section, the board shall provide  
9 the person or business written notice and the opportunity to request, with thirty (30) days of  
10 issuance of notice by the board, a hearing on the record.

11 (d) A person or business aggrieved by the ordering of a fine under this section may file  
12 an appeal with the superior court for judicial review of the ordering of a fine.

13 (e) If a person of business fails to pay the fine within thirty (30) days after entry of an  
14 order under (a) of this section, or if the order is stayed pending an appeal, within ten (10) days  
15 after the court enters a final judgment in favor of the ~~board~~ [department](#) of an order appealed under  
16 (d) of this section, the ~~board shall notify the attorney general. The attorney general~~ [director](#) may  
17 commence a civil action to recover the amount of the fine.

18 SECTION 6. Chapter 5-84 of the General Laws entitled "Division of Design  
19 Professionals" is hereby amended by adding thereto the following sections:

20 **5-84-1.1. Definitions.** – [As used in this chapter:](#)

21 [\(1\) "Department" means the department of business regulation;](#)

22 [\(2\) "Director" means the director, or his or her designee, of the department of business](#)  
23 [regulation.](#)

24 **5-84-6. Cease and Desist Authority.** -- [If the director has reason to believe that any](#)  
25 [person, firm, corporation, or association is conducting any activity under the jurisdiction of](#)  
26 [division of design professionals including professional engineering, professional land surveying,](#)  
27 [architecture, and/or landscape architecture without obtaining a license or registration, or who after](#)  
28 [the denial, suspension, or revocation of a license or registration is conducting that business, the](#)  
29 [director may, either on his or her own initiative or upon recommendation of the appropriate](#)  
30 [board, issue an order to that person, firm, corporation, or association commanding them to appear](#)  
31 [before the department at a hearing to be held not sooner than ten \(10\) days nor later than twenty](#)  
32 [\(20\) days after issuance of that order to show cause why the director should not issue an order to](#)  
33 [that person to cease and desist from the violation of the provisions of this chapter and/or chapters](#)  
34 [1, 8, 8.1 and/or 51 of title 5. That order to show cause may be served on any person, firm,](#)

1 corporation, or association named by any person in the same manner that a summons in a civil  
2 action may be served, or by mailing a copy of the order, certified mail, return receipt requested, to  
3 that person at any address at which that person has done business or at which that person lives. If  
4 during that hearing the director is satisfied that the person is in fact violating any provision of this  
5 chapter, the director may order that person, in writing, to cease and desist from that violation  
6 and/or impose an appropriate fine under section 5-84-5 or other applicable law and/or refer the  
7 matter to the attorney general for appropriate action under chapters 1, 8, 8.1 and/or 51 of title 5.  
8 All these hearings are governed in accordance with the administrative procedures act. If that  
9 person fails to comply with an order of the department after being afforded a hearing, the superior  
10 court for Providence county has jurisdiction upon complaint of the department to restrain and  
11 enjoin that person from violating chapter 1, 8, 8.1, 51 and/or 84 of title 5.

12 SECTION 7. This act shall take effect upon passage.

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LC01416  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO BUSINESSES AND PROFESSIONS

\*\*\*

1           This act would: (1) Clarify the department of business regulation's responsibilities over  
2 the boards within the division of design professionals; (2) Update the testing requirements for  
3 land surveyors and engineers due to changes in testing procedures at the national council of  
4 examiners for engineers and surveyors; (3) Provide cease and desist authority; (4) Provide  
5 uniform provisions regarding immunity and indemnification for good faith discharge of duties  
6 under the chapters amended herein; and (5) Clarify existing statutes.

7           This act would take effect upon passage.

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LC01416  
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