

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative J. Miller**

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS PROVISIONS OF CHAPTER 27 OF TITLE
9 17 OF THE ARKANSAS CODE PERTAINING TO ENGINEERS; AND FOR
10 OTHER PURPOSES."

Subtitle

13 "TO AMEND VARIOUS PROVISIONS OF CHAPTER 27 OF TITLE 17 OF
14 THE ARKANSAS CODE PERTAINING TO ENGINEERS."

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18 SECTION 1. Arkansas Code 17-27-101 and 102 are hereby amended to read
19 as follows:

20 "17-27-101. Definition. As used in this chapter, unless the context
21 otherwise requires:

22 (1) Professional Engineer - The term Professional Engineer, as used in
23 this chapter shall mean a person who has been duly registered or licensed as a
24 professional engineer by the board.

25 (2) Engineer-Intern - The term Engineer-Intern, as used in this
26 chapter, shall mean a person who has qualified for, taken, and has passed an
27 examination in the fundamental engineering subjects, as provided in this
28 chapter.

29 (3) Practice of engineering means any service or creative work, the
30 adequate performance of which requires engineering education, training, and
31 experience in the application of special knowledge in the mathematical,
32 physical, and engineering sciences to services or creative work such as
33 consultation, investigation, evaluation, planning, and design of engineering
34 works and systems relating to the use of air, land, waters, municipal and
35 regional planning, forensic services, engineering teaching of advanced

1 engineering subjects or courses related thereto, engineering surveys, and the
2 inspection of construction for the purpose of assuring compliance with
3 drawings and specifications; any of which embraces service or work either
4 public or private, in connection with any utilities, structures, buildings,
5 machines, equipment, processes, work systems, or projects including such
6 architectural work as is incidental to the practice of engineering.

7 (A) A person shall be construed to practice or offer to practice
8 engineering, within the meaning and intent of this chapter, who:

9 (a) Practices any branch of the profession of engineering;

10 (b) By verbal claim, sign advertisement, letterhead, card, or in any
11 other way represents himself to be an engineer;

12 (c) Through the use of some other title implies that he is an engineer
13 or that he is registered under this chapter;

14 (d) Holds himself out as able to perform or does perform any
15 engineering service or work or any other service designated by the
16 practitioner which is recognized as engineering.

17 (B) The term practice of engineering shall not include persons who
18 merely operate or maintain machinery or equipment.

19 (C) The practice of engineering shall not include the act of measuring
20 land or drawing or reading plans or other work normally done by mechanics,
21 technicians, land surveyors, or draftsmen.

22 (4) Consulting Engineer - The term Consulting Engineer", as used in
23 this chapter, shall mean a professional engineer whose principal occupation is
24 the independent practice of engineering; whose livelihood is obtained by
25 offering engineering services to the public; who serves clients as an
26 independent fiduciary; who is devoid of public, commercial, and product
27 affiliation that might tend to infer a conflict of interest; and who is
28 cognizant of their public and legal responsibilities, and is capable of
29 discharging them.

30 (5) Board - The term Board, as used in this chapter, shall mean the
31 State Board of Registration for Professional Engineers and Land Surveyors,
32 hereinafter provided by this chapter.

33 (6) Responsible Charge - The term Responsible Charge, as used in
34 this chapter, shall mean direct control, supervision of and legal
35 responsibility for all engineering work performed.

1 (7) The provisions of this chapter shall not be construed to amend in
2 any manner the Arkansas Architectural Act, § 17-14-101 et seq.

3

4 17-27-102. Penalties. Any person who shall practice or offer to
5 practice engineering in this state in violation of this chapter and any person
6 using or attempting to use as his own the certificate of registration of
7 another; who shall give false evidence of any kind to the State Board of
8 Registration for Professional Engineers and Land Surveyors, or to any member
9 of the board, in obtaining a certificate of registration; or who shall falsely
10 impersonate any other practitioner or shall in any manner falsely imply that
11 he is registered or shall violate any of the provisions of this chapter or the
12 rules and regulations of the board shall be deemed guilty of a misdemeanor.
13 For each such offense of which he is convicted, that person shall be punished
14 by a fine of not less than one hundred dollars (\$100) nor more than one
15 thousand dollars (\$1,000) or by imprisonment not to exceed three (3) months,
16 or by both fine and imprisonment. Each violation and each day of any violation
17 shall constitute a separate offense."

18

19 SECTION 2. Arkansas Code 17-27-201 and 202 are hereby amended to read
20 as follows:

21 "17-27-201. Creation - Members.

22 (a) There is created a State Board of Registration for Professional
23 Engineers and Land Surveyors consisting of nine (9) members to be appointed by
24 the Governor.

25 (b) Each member of the board shall be a citizen of the United States,
26 at least thirty-five (35) years of age, and shall have been a resident of this
27 state for at least three (3) years immediately preceding his appointment.

28 (1) Five (5) members shall be professional engineers of at least
29 ten (10) years' active experience, of good standing in their profession, and
30 registered as professional engineers at the time of their appointments.

31 (2) One (1) member shall be a professional engineer and a
32 professional land surveyor of at least ten (10) years_ active experience in
33 both, of good standing in both professions and registered as both a
34 professional engineer and a professional land surveyor at the time of their
35 appointment.

1 (3) One (1) member shall be a professional land surveyor of at
2 least ten (10) years_ of active experience, of good standing in their
3 profession, and registered as a professional land surveyor at the time of
4 their appointment.

5 (4) Two (2) members of the board shall not be actively engaged as
6 or retired as professional engineers or land surveyors. One (1) shall
7 represent consumers, and one (1) member shall be sixty (60) years of age or
8 older and shall represent the elderly. Both shall be appointed from the state
9 at large subject to confirmation by the Senate. The two (2) positions may not
10 be held by the same person. Both shall be full voting members but shall not
11 participate in the grading of examinations.

12 (c) The term of office for each member appointed shall be four (4)
13 years.

14 (d) Each member shall hold office until his successor shall be duly
15 appointed and qualified.

16 (e) The Governor may remove any member of the board for misconduct,
17 incompetency, or neglect of duty.

18 (f) Vacancies on the board, however created, shall be filled by the
19 Governor for the unexpired term.

20 (g) Each member of the board shall serve without compensation, except
21 that he shall be repaid his actual necessary expenses incident to the
22 performance of his duties under this chapter.

23

24 17-27-202. Officers and employees. The board shall:

25 (1) Select its own officers;

26 (2) Have the power to appoint an Executive Director who shall serve as
27 Secretary-Treasurer of the Board."

28

29 SECTION 3. Arkansas Code 17-27-301 through 308 are amended to read as
30 follows:

31 "17-27-301. Registration requirement - Exceptions. No person, unless
32 registered under the present law, shall practice or offer to practice
33 engineering unless that person has been registered as provided in this
34 chapter, except that:

35 (1) An engineer-intern may engage in such practice as an employee of or

1 under the supervision of a registered engineer;

2 (2) A person not a resident of, or having no established place of
3 business in, this state may engage in such practice if that person is legally
4 qualified by registration to practice engineering in his own state, provided
5 that the requirements for registration in their state is comparable to the
6 requirements in Arkansas. The person shall make an application to the board in
7 writing and, after payment of a fee established by board regulation, may be
8 granted a written permit to do a specific job for a definite period not to
9 exceed sixty (60) calendar days. The temporary permit is a courtesy extended
10 to authorize such practice while an application for Arkansas registration is
11 being processed;

12 (3) A person may engage in such practice if that person is employed by a
13 professional engineer and acts under his supervision and direction;

14

15 (4) A firm, association, partnership, or corporation may not engage in
16 the practice of engineering as a profession except through its officers,
17 agents, or employees and then not unless one of the owners or incorporators is
18 a professional engineer and unless the practice of engineering as engaged in
19 is done under the supervision and direction of a professional engineer. A
20 firm, association, partnership, or corporation may engage in the practice of
21 engineering with relation to its own property or business so long as the
22 engineering practice is done under the supervision of a professional engineer.

23

24 17-27-302. Applicant qualifications - Examination.

25 (a) Except as provided hereafter, all applicants for registration shall
26 submit to an examination by the board and, if found to be qualified, shall be
27 registered, depending on his education and experience, either as:

28 (1) A professional engineer; or

29 (2) An engineer-intern.

30 (b) A person may make application to be registered as an engineer:

31 (1) If he is a graduate of an Accreditation Board for Engineering
32 and Technology, Inc. (ABET) approved engineering curriculum or equivalent as
33 approved by this board of four (4) years from a school or college approved by
34 the board and has had four (4) years' experience in engineering work of a type
35 satisfactory to the board. In its discretion, the board may consider

1 satisfactory graduate study in engineering equal to one (1) year's
2 experience. This shall be effective July 1, 2001.

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4 (c) A person may make application to be registered as an
5 engineer-intern:

6 (1) If he is a graduate of an approved ABET or equivalent as
7 approved by this board engineering curriculum of four (4) years from a school
8 or college approved by the board This shall be effective July 1, 1997.

9 (d) The board in its discretion may waive examination of a person
10 applying to be registered as an engineer or an engineer-intern if he is
11 registered either as an engineer or an engineer-in-training or engineer-intern
12 by the registering authority of any state or territory or possession of the
13 United States or of any foreign country, provided his qualifications at the
14 time he was registered are not less than those provided in this chapter.

15

16 17-27-303. Fees - Renewal of certificates - Disposition of funds.

17 (a) The board shall have the power to establish application fees,
18 certificate fees, and renewal fees as it deems necessary within the guidelines
19 of the state of Arkansas.

20 (b) The board shall have the power and authority to establish
21 guidelines and to require a demonstration of continuing professional
22 competency as a condition of renewal or re-licensure.

23 (c) All certificates shall be renewed on January 1 in each year. The
24 board may, at its discretion, send out certificate renewal fees every two (2)
25 years.

26 (d) The fees shall be deposited in a bank designated by the board and the
27 officer or employee who collects the fees and disburses them shall be required
28 to execute a corporate surety bond for the proper accounting thereof.

29

30 17-27-304. Suspension or revocation.

31

32 (a) The board shall have the power to suspend or revoke or to refuse to
33 issue, restore or renew a certificate of registration of, or place on
34 probation, fine or reprimand or any combination of these any professional
35 engineer who is found guilty of:

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

4 (2) Any negligence, incompetency or misconduct in the practice
5 of engineering.

6 (3) Conviction of or entry of a plea of nolo contendere to any
7 crime under the laws of the United States, or any state or territory thereof,
8 which is a felony, whether related to practice or not; and conviction of or
9 entry of a plea of nolo contendere to any crime, whether a felony,
10 misdemeanor, or otherwise, an essential element of which is dishonest or which
11 is directly related to the practice of engineering.

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

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

18 (6) Failure, within thirty (30) days to provide information
19 requested by the board as a result of a formal or informal complaint to the
20 board which would indicate a violation of this chapter.

21 (7) Knowingly making false statements or signing false
22 statements, certificate, or affidavits to induce payment.

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

25 (9) Violating any terms of probation imposed by the board or
26 using a seal or practicing engineering while the professional engineer_s
27 license is suspended, revoked, non-renewed, or inactive.

28 (10) Signing, affixing the professional engineer_s seal, or
29 permitting the professional engineer_s seal or signature to be affixed to any
30 specifications, reports, drawings, plans, design information, construction
31 documents or calculations, or revisions thereof which have not been prepared
32 or completely checked by the professional engineer or under the professional
33 engineer_s direct supervision or control.

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

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

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

4 (14) In addition to any other penalty provided in this section,
5 any person who violates any provision of this chapter or any rule or
6 regulation pertaining thereto, shall pay to the board a civil penalty in an
7 amount determined by the board of not more than two thousand dollars (\$2,000)
8 for each offense.

9 (b) The board shall have prepared and shall adopt Rules of
10 Professional Conduct as provided in A.C.A. 17-27-203, which shall be made
11 known in writing to every registrant for registration under this chapter, and
12 which shall be published in the roster. Such publication shall constitute due
13 notice to all registrants. The board may revise and amend these Rules of
14 Professional Conduct from time to time and shall forthwith notify each
15 registrant in writing of such revisions or amendments.

16 (c) The board shall have the power to (1) revoke a certificate of
17 authorization, or (2) suspend a certificate of authorization, for a period of
18 time not exceeding two (2) years, of any corporation where one or more of its
19 officers or directors have been found guilty of any conduct which would
20 authorize a revocation or suspension of their certificates of registration
21 under the provisions of this section, or (3) place on probation for a period
22 of time and subject to such conditions as the board may specify, or (4) levy a
23 fine in an amount not to exceed two thousand dollars (\$2,000) for each count
24 or separate offense.

25 (d) The board shall have the power to discipline non-registrants that
26 violate provisions of this chapter by the levy of a fine in an amount not to
27 exceed two thousand dollars (\$2,000) for each offense.

28

29 17-27-305. Disciplinary Action - Procedures.

30 (a) Any person may prefer charges of fraud, deceit, gross negligence,
31 incompetence, misconduct or violation of the Rules of Professional Conduct
32 against any individual registrant or against any corporation holding a
33 certificate of authorization.

34 (b) All charges, unless dismissed by the board as unfounded, trivial,
35 or unless settled informally, shall be heard by the board within three (3)

1 months after the date on which they shall have been preferred.

2 (c) The time and place for said hearings shall be fixed by the board
3 and a copy of the charges, together with a notice of the time and place of
4 hearing, shall be personally served on or mailed to the last known address of
5 such individual registrant, or corporation holding a certificate of
6 authorization at least twenty (20) days before the date fixed for the hearing.
7 At any hearing, the accused individual registrant or corporation holding a
8 certificate of authorization shall have the right to appear in person or by
9 counsel, or both, to cross-examine witnesses in their defense and to produce
10 evidence and witnesses in their own defense. If the accused person or
11 corporation fails or refuses to appear, the board may proceed to hear and
12 determine the validity of the charges.

13 (d) If after such hearing a majority of the board votes in favor of
14 sustaining the charges, the board shall reprimand, refuse to issue, restore or
15 renew, place on probation for a period of time, and subject to such conditions
16 as the board may specify, suspend, or revoke the individual_s certificate of
17 registration or a corporation_s certificate of authorization. The board may
18 in addition to any of the above items or in lieu of any of the above fine the
19 individual or corporation in an amount not to exceed two thousand dollars
20 (\$2,000) for each offense.

21 (e) An individual registrant having a certificate of registration or a
22 corporation having a certificate of authorization, or a non-registrant
23 aggrieved by any action of the board in levying a fine, denying, suspending,
24 refusing to issue, restore or renew, or revoking their certificate of
25 registration or its certificate of authorization, may appeal therefrom to the
26 proper court under normal civil procedures.

27 (f) A penalty assessed pursuant to A.C.A. 17-27-304 of this chapter
28 shall be assessed in a proceeding as provided in this section. Unless the
29 amount of the penalty is paid within fifty (50) days after the order becomes
30 final, the order shall constitute a judgment and shall be filed and execution
31 issued thereon in the same manner as any other judgment of a court of record.

32 (g) The board may, upon petition of an individual registrant or
33 corporation holding a certificate of authorization, reissue a certificate of
34 registration or authorization, provided that a majority of the members of the
35 board votes in favor of such issuance.

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2 17-27-306. Criminal Offenses. Any person who shall practice or offer
3 to practice engineering in this state without being registered in accordance
4 with the provisions of this chapter, or any person, firm, partnership,
5 organization, association, corporation, or other entity using or employing the
6 words Engineer, or Engineering or any modification or derivative thereof
7 in its name or form or business activity except as authorized in this chapter,
8 or any person presenting or attempting to use the certificate of registration
9 or the seal of another, or any person who shall give false or forged evidence
10 of any kind to the board or to any member thereof in obtaining or attempting
11 to obtain a certificate of registration, or any person who shall falsely
12 impersonate any other registrant of like or different name, or any person who
13 shall attempt to use an expired, suspended or revoked or non-existent
14 certificate of registration, or who shall practice or offer to practice when
15 not qualified, or any person who falsely claims that they are registered or
16 authorized under this chapter, or any person who shall violate any of the
17 provisions of the chapter, shall be guilty of a (highest degree of)
18 misdemeanor for the first offense and a (lowest degree of) felony for the
19 second or any subsequent offenses.

20 It shall be the duty of the attorney general of the state to enforce the
21 provisions of this chapter and to prosecute any person violating same.

22 The attorney general of the state or the assistant shall act as legal
23 advisor to the board and render such legal assistance as may be necessary in
24 carrying out the provisions of this chapter. The board may employ counsel and
25 necessary assistance to aid in the enforcement of this chapter and the
26 compensation and expenses therefor shall be paid from the funds of the board.

27

28 17-27-307. Authorization Certificates.

29 (a) The practice of or offer to practice for others as defined in
30 A.C.A. 17-27-101 by individuals registered under this chapter through a
31 corporation as officers, employees, or agents, is permitted, subject to the
32 provisions of this chapter; provided, that one or more of the corporate
33 officers of said corporation designated as being responsible for the
34 engineering activities and decisions is a professional engineer under this
35 chapter or under the engineering registration law of another state, territory,

1 or possession of the United States or the District of Columbia; provided that
2 all personnel of said corporation who act in its behalf as professional
3 engineers are registered under this chapter, or are persons lawfully
4 practicing under A.C.A. 17-27-308; and further provided that said corporation
5 has been issued a certificate of authorization by the board as hereinafter
6 provided. All final drawings, specifications, plans, reports, calculations or
7 other engineering papers or documents involving the practice of engineering as
8 defined in this chapter, when issued or filed for public record, shall be
9 dated and bear signature and seal of the professional engineer qualified in
10 the appropriate branch of engineering who prepared them or under whose
11 immediate direction they were prepared.

12 (b) A corporation desiring a certificate of authorization shall file
13 with the board an application, using the form provided by the board, listing
14 names and addresses of all officers and board members of the corporation, and
15 also of the individual or individuals duly registered to practice engineering
16 in this state who shall be in responsible charge of the practice of
17 engineering in the state through said corporation, and other information, must
18 accompany the annual renewal fee. In the event there shall be a change in any
19 of these persons during the year, such changes shall be designated on the same
20 form and filed with the board within thirty (30) days after the effective date
21 of said changes. If all of the requirements of this section are met, the
22 board shall issue a certificate of authorization to such corporation and such
23 corporation shall be authorized to contract for and to collect fees for
24 furnishing engineering services.

25 (c) The requirements of this chapter shall not prevent a corporation
26 from performing engineering services for the corporation itself or a
27 subsidiary or an affiliate of said corporation.

28 (d) No such corporation shall be relieved of responsibility for the
29 conduct or acts of its agents, employees, officers, or partners by reason of
30 its compliance with the provisions of this section. No individual practicing
31 engineering under the provisions of this chapter shall be relieved of
32 responsibility for engineering services performed by reason of employment or
33 other relationship with a corporation holding an authorization certificate.

34 (e) Effective one (1) year from the date of this chapter, the
35 secretary of state shall not issue a certificate of incorporation to an

1 applicant or a registration as a foreign firm to a firm which includes among
2 the objectives for which it is established any of the words _engineer_,
3 _engineering_, or any modification or derivation thereof unless the board of
4 registration for this profession has issued for said applicant a certificate
5 of authorization or a letter indicating the eligibility of such applicant to
6 receive such certificate. The firm applying shall supply such certificate or
7 letter from the board with its application for incorporation or registration.

8 (f) Effective one (1) year after the date of this chapter, the
9 secretary of state shall decline to register any trade name or service mark
10 which includes such words, as set forth in the above article, or modifications
11 or derivatives thereof in its firm name or logos except those corporations
12 holding authorization certificates issued under the provisions of this
13 section.

14 (g) The certificate of authorization shall be renewed as hereinafter
15 provided in this chapter.

16 (h) An engineer who renders occasional, part-time, or consulting
17 engineering services to or for a firm may not, for the purpose of this
18 section, be designated as being responsible for the professional activities of
19 the firm.

20

21 17-27-308. Exemption Clause. This chapter shall not be construed to
22 prevent the practice by:

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

25 (b) Temporary Permits - The practice or offer to practice engineering
26 by a person not a resident of or having no established place of business in
27 this state, provided such person is legally qualified by registration to
28 practice engineering, as defined elsewhere in this chapter, in their own state
29 or country. Such person shall make application to the board in writing and
30 after payment of a fee established by board regulation may be granted a
31 written permit for a definite period of time to do a specific job; provided,
32 however, no right to practice engineering shall accrue to such applicant with
33 respect to any other works not set forth in said permit.

34 (c) Employees and Subordinates - The work of an employee or a
35 subordinate of a person holding a certificate of registration under this

1 chapter, or an employee of a person practicing lawfully under subsection (b)
2 of this section, provided such work does not include final engineering designs
3 or decisions and is done under the direct supervision of and verified by a
4 person holding certificate of registration under this chapter or a person
5 practicing lawfully under subsection (b) of this section."

6

7 SECTION 4. All provisions of this act of a general and permanent nature
8 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
9 Revision Commission shall incorporate the same in the Code.

10

11 SECTION 5. If any provision of this act or the application thereof to
12 any person or circumstance is held invalid, such invalidity shall not affect
13 other provisions or applications of the act which can be given effect without
14 the invalid provision or application, and to this end the provisions of this
15 act are declared to be severable.

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17 SECTION 6. All laws and parts of laws in conflict with this act are
18 hereby repealed.

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