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AN ACT

RELATING TO LICENSURE; AMENDING PROVISIONS OF THE ENGINEERING AND SURVEYING PRACTICE ACT PERTAINING TO DEFINITIONS, ROSTER OF LICENSED PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS, EDUCATIONAL REQUIREMENTS FOR PROFESSIONAL ENGINEERS, ENGINEERING PUBLIC WORKS AND SURVEYING PUBLIC WORKS; EXTENDING THE SUNSET DATE FOR THE STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS; MAKING TECHNICAL AND CONFORMING CHANGES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-23-2 NMSA 1978 (being Laws 1987, Chapter 336, Section 2, as amended) is amended to read:

"61-23-2. DECLARATION OF POLICY.--The legislature declares that it is a matter of public safety, interest and concern that the practices of engineering and surveying merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practices of engineering and surveying. In order to safeguard life, health and property and to promote the public welfare, any person in either public or private capacity practicing or offering to practice engineering or surveying shall be required to submit evidence that the person is qualified to so practice and shall be licensed as provided in the Engineering and Surveying Practice Act. It is unlawful for

1 any person to practice, offer to practice, engage in the
2 business, act in the capacity of, advertise or use in
3 connection with the person's name or otherwise assume, use or
4 advertise any title or description tending to convey the
5 impression that the person is a professional, licensed
6 engineer or surveyor unless that person is licensed or exempt
7 under the provisions of the Engineering and Surveying
8 Practice Act. A person who engages in the business or acts
9 in the capacity of an engineer or surveyor in New Mexico,
10 except as otherwise provided in Sections 61-23-22 and
11 61-23-27.10 NMSA 1978, with or without a New Mexico license,
12 has thereby submitted to the jurisdiction of the state and to
13 the administrative jurisdiction of the board and is subject
14 to all penalties and remedies available for a violation of
15 any provision of Chapter 61, Article 23 NMSA 1978. The
16 practice of engineering or surveying shall be deemed a
17 privilege granted by the board based on the qualifications of
18 the individual as evidenced by the licensee's certificate,
19 which shall not be transferable."

20 SECTION 2. Section 61-23-3 NMSA 1978 (being Laws 1987,
21 Chapter 336, Section 3, as amended) is amended to read:

22 "61-23-3. DEFINITIONS.--As used in the Engineering and
23 Surveying Practice Act:

24 A. "approved" or "approval" means acceptable to
25 the board;

1 B. "authorized company officer" means an employee
2 of a business entity duly authorized by the business entity
3 to contractually obligate the business entity;

4 C. "board" means the state board of licensure for
5 professional engineers and professional surveyors;

6 D. "business entity" means a corporation,
7 professional corporation, limited liability corporation,
8 professional limited liability corporation, general
9 partnership, limited partnership, limited liability
10 partnership, professional limited liability partnership, a
11 joint stock association or any other form of business,
12 whether or not for profit;

13 E. "conviction" or "convicted" means a final
14 adjudication of guilt, whether pursuant to a plea of nolo
15 contendere or otherwise and whether or not the sentence is
16 deferred or suspended;

17 F. "engineer", "professional engineer",
18 "consulting engineer", "licensed engineer" or "registered
19 engineer" means a person who is qualified to practice
20 engineering by reason of the person's intensive preparation
21 and knowledge in the use of mathematics, chemistry, physics
22 and engineering sciences, including the principles and
23 methods of engineering analysis and design acquired by
24 professional education and engineering experience and who is
25 licensed by the board to practice engineering;

1 G. "engineering accreditation commission" means
2 the engineering accreditation commission of the accreditation
3 board for engineering and technology, incorporated, or any
4 successor commission or organization;

5 H. "engineering", "practice of engineering" or
6 "engineering practice" means any creative or engineering work
7 that requires engineering education, training and experience
8 in the application of special knowledge of the mathematical,
9 physical and engineering sciences to such creative work as
10 consultation, investigation, forensic investigation,
11 evaluation, planning and design of engineering works and
12 systems, expert technical testimony, engineering studies and
13 the review of construction for the purpose of assuring
14 substantial compliance with drawings and specifications; any
15 of which embrace such creative work, either public or
16 private, in connection with any utilities, structures,
17 buildings, machines, equipment, processes, work systems,
18 projects and industrial or consumer products or equipment of
19 a mechanical, electrical, hydraulic, chemical, pneumatic,
20 environmental or thermal nature, insofar as they involve
21 safeguarding life, health or property, and including such
22 other professional services as may be necessary to the
23 planning, progress and completion of any engineering work.
24 The "practice of engineering" may include the use of
25 photogrammetric methods to derive topographical and other

1 data. The "practice of engineering" does not include
2 responsibility for the supervision of construction, site
3 conditions, operations, equipment, personnel or the
4 maintenance of safety in the work place;

5 I. "engineering committee" means a committee of
6 the board entrusted to implement all business of the
7 Engineering and Surveying Practice Act as it pertains to the
8 practice of engineering, including the promulgation and
9 adoption of rules of professional responsibility for
10 professional engineers exclusive to the practice of
11 engineering;

12 J. "engineer intern" means a person who has
13 qualified for, taken and passed an examination in the
14 fundamental engineering subjects as provided in the
15 Engineering and Surveying Practice Act;

16 K. "fund" means the professional engineers' and
17 surveyors' fund;

18 L. "incidental practice" means the performance of
19 other professional services that are related to a licensee's
20 work as an engineer;

21 M. "person" means an individual, corporation,
22 business trust, estate, trust, partnership, limited liability
23 company, association, joint venture or a legal or commercial
24 entity;

25 N. "professional development" means education by a HB 188
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1 licensee in order to maintain, improve or expand skills and
2 knowledge obtained prior to initial licensure or to develop
3 new and relevant skills and knowledge to maintain licensure;

4 O. "responsible charge" means responsibility for
5 the direction, control and supervision of engineering or
6 surveying work, as the case may be, to assure that the work
7 product has been critically examined and evaluated for
8 compliance with appropriate professional standards by a
9 licensee in that profession, and by sealing or signing the
10 documents, the professional engineer or professional surveyor
11 accepts responsibility for the engineering or surveying work,
12 respectively, represented by the documents and that
13 applicable engineering or surveying standards have been met;

14 P. "surveying", "practice of surveying" or
15 "surveying practice" means any service or work, the
16 substantial performance of which involves the application of
17 the principles of mathematics and the related physical and
18 applied sciences for:

19 (1) the measuring and locating of lines,
20 angles, elevations and natural and man-made features in the
21 air, on the surface of the earth, within underground workings
22 and on the beds or bodies of water for the purpose of
23 defining location, areas and volumes;

24 (2) the monumenting of property boundaries
25 and for the platting and layout of lands and subdivisions;

1 (3) the application of photogrammetric
2 methods used to derive topographic and other data;

3 (4) the establishment of horizontal and
4 vertical controls that will be the basis for all geospatial
5 data used for future design surveys, including construction
6 staking surveys, surveys to lay out horizontal and vertical
7 alignments, topographic surveys, control surveys for aerial
8 photography for the collection of topographic and planimetric
9 data using photogrammetric methods and construction surveys
10 of engineering and architectural public works projects;

11 (5) the preparation and perpetuation of
12 maps, records, plats, field notes, easements and property
13 descriptions; and

14 (6) the depiction and transmittal by paper
15 or digital means of any digital geospatial data for use in
16 geographic information systems or land information systems
17 that purports to be the authoritative location of points or
18 features of a survey regulated by the Engineering and
19 Surveying Practice Act, but excludes data used solely for a
20 cadastre, such as assessment and tax mapping purposes, or
21 general representations of surveyed or historic data used for
22 mapping purposes, such as land parcels and built
23 infrastructure;

24 Q. "surveying committee" means a committee of the
25 board entrusted to implement all business of the Engineering

1 and Surveying Practice Act as it pertains to the practice of
2 surveying, including the promulgation and adoption of rules
3 of professional responsibility for professional surveyors
4 exclusive to the practice of surveying;

5 R. "surveyor", "professional surveyor", "licensed
6 surveyor" or "registered surveyor" means a person who is
7 qualified to practice surveying by reason of the person's
8 intensive preparation and knowledge in the use of
9 mathematics, physical and applied sciences and surveying,
10 including the principles and methods of surveying acquired by
11 education and experience, and who is licensed by the board to
12 practice surveying;

13 S. "surveyor intern" means a person who has
14 qualified for, taken and passed an examination in the
15 fundamentals of surveying subjects as provided in the
16 Engineering and Surveying Practice Act;

17 T. "surveying work" means the work performed in
18 the practice of surveying; and

19 U. "supplemental surveying work" means surveying
20 work performed in order to densify, augment and enhance
21 previously performed survey work or site information but
22 excludes the surveying of real property for the establishment
23 of land boundaries, rights of way and easements and the
24 dependent or independent surveys or resurveys of the public
25 land system."

1 SECTION 3. Section 61-23-11 NMSA 1978 (being Laws 1987,
2 Chapter 336, Section 11, as amended) is amended to read:

3 "61-23-11. RECEIPTS AND DISBURSEMENT--FUND CREATED.--

4 A. The "professional engineers' and surveyors'
5 fund" is created in the state treasury. The executive
6 director of the board shall receive and account for all money
7 received under the provisions of the Engineering and
8 Surveying Practice Act and shall pay that money to the state
9 treasurer for deposit in the fund. Money in this fund shall
10 be paid out only by warrant of the secretary of finance and
11 administration upon the state treasurer, upon itemized
12 vouchers approved by the chair and attested by the executive
13 director of the board. All money in the fund is appropriated
14 for the use of the board. Earnings from investment of the
15 fund shall accrue to the credit of the fund.

16 B. The executive director of the board shall give
17 a surety bond to the state in such sum as the board may
18 determine. The premium on the bond shall be regarded as a
19 proper and necessary expense of the board and shall be paid
20 out of the fund.

21 C. The board may make expenditures of the fund for
22 any purpose that in the opinion of the board is reasonably
23 necessary for the proper performance of its duties pursuant
24 to the Engineering and Surveying Practice Act, including the
25 expenses of the board's delegates to the conventions of, and

1 for membership dues to, the national council of examiners for
2 engineering and surveying and any of its subdivisions or any
3 other body of similar purpose."

4 SECTION 4. Section 61-23-12 NMSA 1978 (being Laws 1987,
5 Chapter 336, Section 12, as amended) is amended to read:

6 "61-23-12. RECORDS AND REPORTS.--

7 A. The board shall keep a record of its
8 proceedings and a register of all applications for licensure,
9 indicating the name, age and residence of each applicant, the
10 applicant's educational and other qualifications, whether an
11 examination was required, whether the applicant was rejected,
12 whether a certificate of licensure was granted, the date of
13 the action of the board and such other information as may be
14 deemed necessary by the board. The record and register shall
15 be open to public inspection.

16 B. The following board records and papers are of a
17 confidential nature and are not public records:

18 (1) examination material for examinations
19 not yet given;

20 (2) file records of examination problem
21 solutions;

22 (3) letters of inquiry and reference
23 concerning applicants;

24 (4) board inquiry forms concerning
25 applicants;

1 (5) investigation files where any
2 investigation is ongoing or is still pending; and

3 (6) all other materials of like confidential
4 nature.

5 C. The records of the board shall be prima facie
6 evidence of the proceedings of the board set forth in those
7 records, and a transcript thereof, duly certified by the
8 secretary of the board under seal, shall be admissible in
9 evidence with the same effect as if the original were
10 produced.

11 D. Annually, on or before August 30, the board
12 shall submit to the governor a report of its transactions of
13 the preceding year, accompanied by a complete statement of
14 the receipts and expenditures of the board attested by
15 affidavits of the board's chair, secretary and executive
16 director."

17 **SECTION 5.** Section 61-23-13 NMSA 1978 (being Laws 1987,
18 Chapter 336, Section 13, as amended) is amended to read:

19 "61-23-13. ROSTER OF LICENSED PROFESSIONAL ENGINEERS
20 AND PROFESSIONAL SURVEYORS.--A roster showing the names and
21 addresses of all licensed professional engineers and licensed
22 professional surveyors shall be maintained by the board and
23 shall be placed on file with the state commission of public
24 records and made available to the public."

25 **SECTION 6.** Section 61-23-14.1 NMSA 1978 (being Laws

1 1993, Chapter 218, Section 12, as amended) is amended to
2 read:

3 "61-23-14.1. LICENSURE AS A PROFESSIONAL ENGINEER--
4 REQUIREMENTS.--

5 A. Licensure as a professional engineer may be
6 either through examination or through endorsement or comity.
7 In either case, an applicant shall file the appropriate
8 application in which it shall be demonstrated that the
9 applicant:

10 (1) is of good moral character and
11 reputation; and

12 (2) has five references, three of whom shall
13 be licensees practicing in the branch of engineering for
14 which the applicant is applying and who have personal
15 knowledge of the applicant's engineering experience and
16 reputation. The use of nonlicensed engineer references
17 having personal knowledge of the applicant's engineering
18 experience and reputation may be accepted by the board;
19 provided that a satisfactory written explanation is given.

20 B. An applicant may be licensed through
21 examination if the applicant can demonstrate the following:

22 (1) the applicant is certified as an
23 engineer intern and has at least one of the following:

24 (a) received a bachelor's degree in an
25 engineering discipline recognized by the board from a program

1 accredited by the engineering accreditation commission or a
2 program that fulfills the required content of the engineering
3 education standard as defined by the national council of
4 examiners for engineering and surveying and has at least four
5 years of engineering experience subsequent to receiving the
6 degree;

7 (b) received a bachelor's degree in an
8 engineering discipline recognized by the board from a foreign
9 educational institution where the program that was completed
10 fulfills the required content of the engineering education
11 standard as defined by the national council of examiners for
12 engineering and surveying and has at least four years of
13 engineering experience in the United States subsequent to
14 receiving the degree;

15 (c) received a master's degree in an
16 engineering discipline recognized by the board from a program
17 accredited by the engineering accreditation commission or an
18 institution that offers programs accredited by the
19 engineering accreditation commission or that fulfills the
20 required content of the engineering education standard as
21 defined by the national council of examiners for engineering
22 and surveying and has at least three years of engineering
23 experience subsequent to receiving the degree;

24 (d) received a master's degree in an
25 engineering discipline recognized by the board from a foreign

1 educational institution where the program that was completed
2 fulfills through evaluation the required curricular content
3 and educational standards as defined by the national council
4 of examiners for engineering and surveying and has at least
5 three years of engineering experience in the United States
6 subsequent to receiving the degree;

7 (e) received a doctorate degree in an
8 engineering discipline recognized by the board from a board-
9 approved engineering curriculum and has at least two years of
10 engineering experience subsequent to receiving the degree; or

11 (f) at least six years of board-
12 approved engineering experience after graduation from a
13 school offering a board-approved, four-year engineering
14 technology curriculum accredited by the technology
15 accreditation commission of the accreditation board for
16 engineering and technology, including the two years for
17 engineer intern certification; or

18 (2) the applicant is not certified as an
19 engineer intern and has at least one of the following:

20 (a) received a bachelor's degree in an
21 engineering discipline recognized by the board from a program
22 accredited by the engineering accreditation commission or a
23 program that fulfills the required content of the engineering
24 education standard as defined by the national council of
25 examiners for engineering and surveying and has twelve years

1 of engineering experience subsequent to receiving the degree;

2 (b) received a master's degree in an
3 engineering discipline recognized by the board from a program
4 accredited by the engineering accreditation commission or an
5 institution that offers programs accredited by the
6 engineering accreditation commission or that fulfills the
7 required content of the engineering education standard as
8 defined by the national council of examiners for engineering
9 and surveying and has at least six years of engineering
10 experience subsequent to receiving the degree; or

11 (c) received a doctorate degree in an
12 engineering discipline recognized by the board from a board-
13 approved engineering curriculum and has at least four years
14 of engineering experience subsequent to receiving the degree.

15 C. Upon successfully completing the examination,
16 required experience and all the requirements as noted in this
17 section, the applicant shall be eligible to be licensed as a
18 professional engineer upon action of the board.

19 D. An applicant may be licensed by endorsement or
20 comity if the applicant:

21 (1) is currently licensed as an engineer in
22 the District of Columbia, another state, a territory or a
23 possession of the United States; provided that the licensure
24 does not conflict with the provisions of the Engineering and
25 Surveying Practice Act and that the standards required by the

1 licensure or the applicant's qualifications equaled or
2 exceeded the licensure standards in New Mexico at the time
3 the applicant was initially licensed; or

4 (2) is currently licensed as an engineer in
5 a foreign country and can demonstrate, to the board's
6 satisfaction, evidence that the licensure was based on
7 standards that equal or exceed those currently required for
8 licensure by the Engineering and Surveying Practice Act and
9 can satisfactorily demonstrate to the board competence in
10 current engineering standards and procedures."

11 SECTION 7. Section 61-23-19 NMSA 1978 (being Laws 1987,
12 Chapter 336, Section 19, as amended) is amended to read:

13 "61-23-19. ENGINEERING--LICENSES--SEALS-- INCIDENTAL
14 ARCHITECTURAL WORK--SUPPLEMENTAL SURVEYING WORK.--

15 A. The board shall issue licenses pursuant to the
16 provisions of the Engineering and Surveying Practice Act.
17 The board shall provide for the proper authentication of all
18 documents.

19 B. The board shall regulate the use of seals.

20 C. An engineer shall have the right to engage in
21 activities properly classified as architecture insofar as it
22 is incidental to the engineer's work as an engineer; provided
23 that the engineer shall not make any representation as being
24 an architect or as performing architectural services unless
25 duly registered as such.

1 D. The board shall recognize that there may be
2 occasions when professional engineers need to obtain
3 supplemental survey information for the planning and design
4 of an engineering project. A professional engineer who has
5 primary engineering responsibility and control of an
6 engineering project may perform supplemental surveying work
7 in obtaining data incidental to that project. Supplemental
8 surveying work may be performed by a professional engineer
9 only on a project for which the engineer is providing
10 engineering design services."

11 **SECTION 8.** Section 61-23-20 NMSA 1978 (being Laws 1987,
12 Chapter 336, Section 20, as amended) is amended to read:

13 "61-23-20. ENGINEERING--LICENSURE AND RENEWAL FEES--
14 EXPIRATIONS.--

15 A. Licensure shall be for a period of two years as
16 prescribed in the rules of procedure. Initial licenses shall
17 be issued in accordance with the board's rules.

18 B. The board shall establish by rule a biennial
19 fee for professional engineers. Licensure renewal is
20 accomplished upon payment of the required fee and
21 satisfactory completion of the requirements of professional
22 development.

23 C. The executive director of the board shall send
24 a renewal notice to each licensee's last known address.

25 Notice shall be mailed at least one month in advance of the

1 date of expiration of the license.

2 D. Each licensee shall have the responsibility to
3 notify the board of any change of address within thirty days
4 of the change.

5 E. Upon receipt of a renewal fee and fulfillment
6 of other requirements, the board shall issue a licensure
7 renewal card that shall show the name and license number of
8 the licensee and shall state that the person named has been
9 granted licensure to practice as a professional engineer for
10 the biennial period.

11 F. Every license shall automatically expire if not
12 renewed on or before December 31 of the applicable biennial
13 period. A delinquent licensee may renew a license by the
14 payment of twice the biennial renewal fee at any time before
15 March 1, but the delinquent licensee shall not practice
16 during this period. Should the licensee apply to renew an
17 expired license after the March 1 deadline has elapsed, the
18 licensee shall submit a formal application and fee as
19 provided in Section 61-23-17 NMSA 1978. The board, in
20 considering the reapplication, may consider the applicant's
21 qualifications for licensure if the requirements for
22 licensure have changed since the applicant was first
23 licensed. The board may adopt rules for inactive and retired
24 status."

25 SECTION 9. Section 61-23-21 NMSA 1978 (being Laws 1987, HB 188
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1 Chapter 336, Section 21, as amended) is amended to read:

2 "61-23-21. PRACTICE OF ENGINEERING.--

3 A. No business entity shall be licensed pursuant
4 to the Engineering and Surveying Practice Act. No business
5 entity shall practice or offer to practice engineering in the
6 state except as provided in the Engineering and Surveying
7 Practice Act.

8 B. Professional engineers may engage in the
9 practice of engineering and perform engineering work pursuant
10 to the Engineering and Surveying Practice Act as individuals
11 or through a business entity. In the case of an individual,
12 the individual shall be a professional engineer pursuant to
13 the Engineering and Surveying Practice Act. All plans,
14 designs, drawings, specifications or reports that are
15 involved in such practice, or that are issued by or for the
16 practice, shall bear the seal and signature of the
17 professional engineer in responsible charge of and directly
18 responsible for the work issued. In the case of practice
19 through a business entity that is a partnership, at least one
20 of the partners shall be a professional engineer pursuant to
21 the Engineering and Surveying Practice Act, and all plans,
22 designs, drawings, specifications or reports that are
23 involved in such practice, or that are issued by or for the
24 partnership, shall bear the seal and signature of the
25 professional engineer in responsible charge of and directly

1 responsible for such work when issued. In the case of
2 practice through a business entity other than a partnership,
3 services or work involving the practice of engineering may be
4 offered through that business entity; provided that the
5 person in responsible charge of the activities of the
6 business entity that constitute engineering practice is a
7 professional engineer who has authority to bind such business
8 entity by contract; and further provided that all plans,
9 designs, drawings, specifications or reports that are
10 involved in engineering practice, or that are issued by or
11 for such business entity, bear the seal and signature of a
12 professional engineer in responsible charge of and directly
13 responsible for the work when issued.

14 C. An individual or business entity may not use or
15 assume a name involving the terms "engineer", "professional
16 engineer", "engineering", "registered" or "licensed" engineer
17 or any modification or derivative of such terms unless that
18 individual or business entity is qualified to practice
19 engineering in accordance with the requirements of the
20 Engineering and Surveying Practice Act.

21 D. In the case of practice through a business
22 entity offering or providing services or work involving the
23 practice of engineering, an authorized company officer and
24 the professional engineer who is employed by the business
25 entity and in responsible charge shall place on file with the

1 board a signed affidavit, as prescribed by board rule. The
2 affidavit shall be kept current, and, if there is any change
3 in the professional engineer or authorized company officer,
4 the affidavit shall be promptly revised and resubmitted to
5 the board."

6 SECTION 10. Section 61-23-22 NMSA 1978 (being Laws
7 1993, Chapter 218, Section 17, as amended) is amended to
8 read:

9 "61-23-22. ENGINEERING--EXEMPTIONS.--

10 A. A New Mexico licensed architect who has
11 complied with all of the laws of New Mexico relating to the
12 practice of architecture has the right to engage in the
13 incidental practice, as defined by regulation, of activities
14 properly classified as engineering; provided that the
15 architect shall not make any representation as being an
16 engineer or as performing engineering services; and further
17 provided that the architect shall perform only that part of
18 the work for which the architect is professionally qualified
19 and shall use qualified professional engineers or others for
20 those portions of the work in which the contracting architect
21 is not qualified. Furthermore, the architect shall assume
22 all responsibility for compliance with all laws, codes,
23 regulations and ordinances of the state or its political
24 subdivisions pertaining to all documents bearing the
25 architect's professional seal.

1 B. An engineer employed by a business entity who
2 performs only the engineering services involved in the
3 operation of the business entity's business shall be exempt
4 from the provisions of the Engineering and Surveying Practice
5 Act; provided that neither the employee nor the business
6 entity offers engineering services to the public.
7 Performance of engineering on public works projects pursuant
8 to Section 61-23-26 NMSA 1978 constitutes engineering
9 services to the public and is not exempt."

10 SECTION 11. Section 61-23-24 NMSA 1978 (being Laws
11 1993, Chapter 218, Section 18, as amended) is amended to
12 read:

13 "61-23-24. ENGINEERING--VIOLATIONS--DISCIPLINARY
14 ACTION--PENALTIES--REISSUANCE OF LICENSES.--

15 A. The board may suspend, refuse to renew or
16 revoke a license, impose a fine not to exceed seven thousand
17 five hundred dollars (\$7,500), place on probation for a
18 specific period of time with specific conditions or reprimand
19 any professional engineer who is found by the board to have:

20 (1) practiced or offered to practice
21 engineering in New Mexico in violation of the Engineering and
22 Surveying Practice Act;

23 (2) attempted to use the license of another;

24 (3) given false or forged evidence to the
25 board or to a board member for obtaining a license;

1 (4) falsely impersonated any other licensee
2 of like or different name;

3 (5) attempted to use an expired, suspended
4 or revoked license;

5 (6) falsely purported to be a professional
6 engineer by claim, sign, advertisement or letterhead;

7 (7) violated the rules of professional
8 responsibility for professional engineers adopted and
9 promulgated by the board;

10 (8) been disciplined in another state for
11 action that would constitute a violation of either or both
12 the Engineering and Surveying Practice Act or the rules
13 adopted by the board;

14 (9) been convicted of a felony; or

15 (10) procured, aided or abetted any
16 violation of the provisions of the Engineering and Surveying
17 Practice Act or the rules of the board.

18 B. Except as provided in Subsection C of Section
19 61-23-21 NMSA 1978, nothing in the Engineering and Surveying
20 Practice Act shall prohibit the general use of the word
21 "engineer", "engineered" or "engineering" so long as such
22 words are not used in an offer to the public to perform
23 engineering work as defined in Subsections F and H of Section
24 61-23-3 NMSA 1978.

25 C. The board may by rule establish the guidelines

1 for the disposition of disciplinary cases involving specific
2 types of violations. The guidelines may include minimum and
3 maximum fines, periods of probation or conditions of
4 probation or reissuance of a license.

5 D. Failure to pay a fine levied by the board or to
6 otherwise comply with an order issued by the board pursuant
7 to the Uniform Licensing Act is a misdemeanor and shall be
8 grounds for further action against the licensee by the board
9 and for judicial sanctions or relief.

10 E. A person may prefer charges of fraud, deceit,
11 gross negligence, incompetence or misconduct against a
12 licensed professional engineer. The charges shall be in
13 writing and shall be sworn to by the person making the
14 charges and filed with the executive director of the board.
15 All charges shall be referred to the engineering committee,
16 acting for the board. No action that would have any of the
17 effects specified in Subsection D, E or F of Section 61-1-3
18 NMSA 1978 may be initiated later than two years after the
19 discovery by the board, but in no case shall an action be
20 brought more than ten years after the completion of the
21 conduct that constitutes the basis for the action. All
22 charges, unless dismissed as unfounded, trivial, resolved by
23 reprimand or settled informally, shall be heard in accordance
24 with the provisions of the Uniform Licensing Act by the
25 engineering committee acting for the board or by the board.

1 F. Persons making charges shall not be subject to
2 civil or criminal suits; provided that the charges are made
3 in good faith and are not frivolous or malicious.

4 G. The board or a board member may initiate
5 proceedings pursuant to the provisions of this section in
6 accordance with the provisions of the Uniform Licensing Act.
7 Nothing in the Engineering and Surveying Practice Act shall
8 deny the right of appeal from the decision and order of the
9 board in accordance with the provisions of the Uniform
10 Licensing Act.

11 H. The board, for reasons it deems sufficient, may
12 reissue a license to a person whose license has been revoked
13 or suspended; provided that a majority of the members of the
14 engineering committee, acting for the board, or of the board
15 votes in favor of the reissuance. A new license bearing the
16 original license number to replace a revoked, lost, destroyed
17 or mutilated license may be issued subject to the rules of
18 the board with payment of a fee.

19 I. A violation of any provision of the Engineering
20 and Surveying Practice Act is a misdemeanor punishable upon
21 conviction by a fine of not more than seven thousand five
22 hundred dollars (\$7,500) or by imprisonment of no more than
23 one year, or both.

24 J. The attorney general or district attorney of
25 the proper district or special prosecutor retained by the

1 board shall prosecute violations of the Engineering and
2 Surveying Practice Act by a nonlicensee.

3 K. The practice of engineering in violation of the
4 provisions of the Engineering and Surveying Practice Act
5 shall be deemed a nuisance and may be restrained and abated
6 by injunction without bond in an action brought in the name
7 of the state by the district attorney or on behalf of the
8 board by the attorney general or the special prosecutor
9 retained by the board. Action shall be brought in the county
10 where the violation occurs."

11 SECTION 12. Section 61-23-26 NMSA 1978 (being Laws
12 1987, Chapter 336, Section 26, as amended) is amended to
13 read:

14 "61-23-26. ENGINEERING--PUBLIC WORK.-- It is unlawful
15 for the state or any of its political subdivisions or any
16 person to engage in the construction of any public work
17 involving engineering unless the engineering is under the
18 responsible charge of a licensed professional engineer."

19 SECTION 13. Section 61-23-27.5 NMSA 1978 (being Laws
20 1993, Chapter 218, Section 26, as amended) is amended to
21 read:

22 "61-23-27.5. SURVEYING--APPLICATION AND EXAMINATION
23 FEES.--

24 A. All applicants for licensure pursuant to the
25 Engineering and Surveying Practice Act shall apply for

1 examination, licensure or certification on forms prescribed
2 and furnished by the board. Applications shall be
3 accompanied by the appropriate fee, any sworn statements the
4 board may require to show the applicant's citizenship and
5 education, a detailed summary of the applicant's technical
6 work and appropriate references.

7 B. All application, reapplication, examination and
8 reexamination fees shall be set by the board and shall not
9 exceed the actual cost of carrying out the provisions of the
10 Engineering and Surveying Practice Act. Fees shall not be
11 refundable.

12 C. Any application may be denied for fraud,
13 deceit, conviction of a felony or for any crime involving
14 moral turpitude."

15 SECTION 14. Section 61-23-27.9 NMSA 1978 (being Laws
16 1993, Chapter 218, Section 30, as amended) is amended to
17 read:

18 "61-23-27.9. SURVEYING--PRACTICE OF SURVEYING--
19 MANDATORY DISCLOSURE.--

20 A. No business entity shall be licensed pursuant
21 to the Engineering and Surveying Practice Act. No business
22 entity shall practice or offer to practice surveying in the
23 state except as provided in the Engineering and Surveying
24 Practice Act.

25 B. Professional surveyors may engage in the

1 practice of surveying and perform surveying work pursuant to
2 the Engineering and Surveying Practice Act as individuals or
3 through a business entity. In the case of an individual, the
4 individual shall be a professional surveyor pursuant to the
5 Engineering and Surveying Practice Act. All plats, drawings
6 and reports that are involved in the practice, or that are
7 issued by or for the practice, shall bear the seal and
8 signature of a professional surveyor in responsible charge of
9 and directly responsible for the work issued. In the case of
10 practice through a business entity that is a partnership, at
11 least one of the partners shall be a professional surveyor
12 pursuant to the Engineering and Surveying Practice Act. In
13 the case of a single professional surveyor partner, all
14 drawings or reports issued by or for the partnership shall
15 bear the seal of the professional surveyor partner who shall
16 be responsible for the work. In the case of practice through
17 a business entity other than a partnership, services or work
18 involving the practice of surveying may be offered through
19 the business entity; provided the person in responsible
20 charge of the activities of the business entity that
21 constitute the practice of surveying is a professional
22 surveyor who has authority to bind the business entity by
23 contract; and further provided that all drawings or reports
24 that are involved in such practice, or that are issued by or
25 for the business entity, bear the seal and signature of a

1 professional surveyor in responsible charge of and directly
2 responsible for the work when issued.

3 C. In the case of practice through a business
4 entity offering or providing services or work involving the
5 practice of surveying, an authorized company officer and the
6 professional surveyor who is employed by the business entity
7 and in responsible charge shall place on file with the board
8 a signed affidavit, as prescribed by board rule. The
9 affidavit shall be kept current, and, if there is any change
10 in the professional surveyor or authorized company officer,
11 the affidavit shall be promptly revised and resubmitted to
12 the board.

13 D. An individual or business entity may not use or
14 assume a name involving the terms "surveyor", "professional
15 surveyor" or "surveying" or any modification or derivative of
16 those terms unless that individual or business entity is
17 qualified to practice surveying in accordance with the
18 requirements of the Engineering and Surveying Practice Act.

19 E. For all contracts and agreements for
20 professional surveying services, the surveying services
21 contractor shall provide a written statement indicating:

22 (1) the minimum terms and conditions of
23 professional liability insurance coverage, including limits
24 and exceptions; or

25 (2) the absence of professional liability

1 insurance coverage."

2 SECTION 15. Section 61-23-27.10 NMSA 1978 (being Laws
3 1993, Chapter 218, Section 31, as amended) is amended to
4 read:

5 "61-23-27.10. SURVEYING EXEMPTIONS.--An employee of a
6 business entity who performs only the surveying services
7 involved in the operation of the business entity's business
8 shall be exempt from the provisions of the Engineering and
9 Surveying Practice Act; provided that neither the employee
10 nor the business entity offers surveying services to the
11 public; and provided further that the surveying services
12 performed do not include any determination, description,
13 portraying, measuring or monumentation of the boundaries of a
14 tract of land. Performance of surveying on public works
15 projects pursuant to Section 61-23-27.13 NMSA 1978
16 constitutes surveying services to the public and is not
17 exempt."

18 SECTION 16. Section 61-23-27.11 NMSA 1978 (being Laws
19 1993, Chapter 218, Section 32, as amended) is amended to
20 read:

21 "61-23-27.11. SURVEYING--VIOLATIONS--DISCIPLINARY
22 ACTIONS--PENALTIES--REISSUANCE OF LICENSES.--

23 A. The board may suspend, refuse to renew or
24 revoke the license, impose a fine not to exceed seven
25 thousand five hundred dollars (\$7,500), place on probation

1 for a specific period of time with specific conditions or
2 reprimand a professional surveyor who is found by the board
3 to have:

4 (1) practiced or offered to practice
5 surveying in New Mexico in violation of the Engineering and
6 Surveying Practice Act;

7 (2) attempted to use the license of another;

8 (3) given false or forged evidence to the
9 board or to any board member for obtaining a license;

10 (4) falsely impersonated any other licensee
11 of like or different name;

12 (5) attempted to use an expired, suspended
13 or revoked license;

14 (6) falsely purported to be a professional
15 surveyor by claim, sign, advertisement or letterhead;

16 (7) violated the rules of professional
17 responsibility for professional surveyors adopted and
18 promulgated by the board;

19 (8) been disciplined in another state for
20 action that would constitute a violation of either or both
21 the Engineering and Surveying Practice Act or the rules
22 adopted by the board pursuant to the Engineering and
23 Surveying Practice Act;

24 (9) been convicted of a felony; or

25 (10) procured, aided or abetted any

1 violation of the provisions of the Engineering and Surveying
2 Practice Act or the rules adopted by the board.

3 B. The board may by rule establish the guidelines
4 for the disposition of disciplinary cases involving specific
5 types of violations. Guidelines may include minimum and
6 maximum fines, periods of probation or conditions of
7 probation or reissuance of a license.

8 C. Failure to pay a fine levied by the board or to
9 otherwise comply with an order issued by the board pursuant
10 to the Uniform Licensing Act is a misdemeanor and shall be
11 grounds for further action against the licensee by the board
12 and for judicial sanctions or relief.

13 D. A person may prefer charges of fraud, deceit,
14 gross negligence, incompetency or misconduct against a
15 professional surveyor. Such charges shall be in writing,
16 shall be sworn to by the person making them and shall be
17 filed with the executive director of the board. No action
18 that would have any of the effects specified in Subsection D,
19 E or F of Section 61-1-3 NMSA 1978 may be initiated later
20 than two years after the discovery by the board, but in no
21 case shall such an action be brought more than ten years
22 after the completion of the conduct that constitutes the
23 basis for the action. All charges shall be referred to the
24 professional surveying committee, acting for the board, or to
25 the board. All charges, unless dismissed as unfounded,

1 trivial, resolved by reprimand or settled informally, shall
2 be heard in accordance with the provisions of the Uniform
3 Licensing Act by the surveying committee, acting for the
4 board, or by the board.

5 E. Persons making charges shall not be subject to
6 civil or criminal suits; provided that the charges are made
7 in good faith and are not frivolous or malicious.

8 F. The board or a board member may initiate
9 proceedings pursuant to the provisions of this section in
10 accordance with the provisions of the Uniform Licensing Act.
11 Nothing in the Engineering and Surveying Practice Act shall
12 deny the right of appeal from the decision and order of the
13 board in accordance with the provisions of the Uniform
14 Licensing Act.

15 G. The board, for reasons it deems sufficient, may
16 reissue a license to a person whose license has been revoked
17 or suspended; provided that a majority of the members of the
18 surveying committee, acting for the board, or of the board
19 votes in favor of reissuance. A new license bearing the
20 original license number to replace a revoked, lost, destroyed
21 or mutilated license may be issued subject to the rules of
22 the board with payment of a fee determined by the board.

23 H. A violation of any provision of the Engineering
24 and Surveying Practice Act is a misdemeanor punishable upon
25 conviction by a fine of not more than seven thousand five

1 hundred dollars (\$7,500) or by imprisonment of no more than
2 one year, or both.

3 I. The attorney general or district attorney of
4 the proper district or special prosecutor retained by the
5 board shall prosecute violations of the Engineering and
6 Surveying Practice Act by a nonlicensee.

7 J. The practice of surveying in violation of the
8 provisions of the Engineering and Surveying Practice Act
9 shall be deemed a nuisance and may be restrained and abated
10 by injunction without bond in an action brought in the name
11 of the state by the district attorney or on behalf of the
12 board by the attorney general or the special prosecutor
13 retained by the board. Action shall be brought in the county
14 in which the violation occurs."

15 **SECTION 17.** Section 61-23-27.13 NMSA 1978 (being Laws
16 1993, Chapter 218, Section 34, as amended) is amended to
17 read:

18 "61-23-27.13. SURVEYING--PUBLIC WORK.--It is unlawful
19 for the state or any of its political subdivisions or any
20 person to engage in the construction of any public work
21 involving surveying unless the surveying is under the
22 responsible charge of a licensed professional surveyor."

23 **SECTION 18.** Section 61-23-28.2 NMSA 1978 (being Laws
24 1999, Chapter 259, Section 34, as amended) is amended to
25 read:

1 "61-23-28.2. SURVEYING--RECORD OF SURVEY.--

2 A. For those surveys that do not create a division
3 of land but only show existing tracts of record, except in
4 the instance of remonumentation as specified in the board's
5 minimum standards for boundary surveys, within sixty calendar
6 days of the completion of the survey, a professional surveyor
7 shall cause to be recorded at the office of the county clerk
8 a survey entitled "boundary survey" that shall:

9 (1) contain a printed certification of the
10 professional surveyor stating that "this is a boundary survey
11 of an existing tract", or existing tracts, if appropriate,
12 and that "it is not a land division or subdivision as defined
13 in the New Mexico Subdivision Act";

14 (2) identify all tracts by the uniform
15 parcel code designation or other designation established by
16 the county assessor, if applicable;

17 (3) meet the minimum standards for surveying
18 in New Mexico as established by the board; and

19 (4) not exceed a size of eighteen inches by
20 twenty-four inches and be at least eight and one-half inches
21 by eleven inches or as required by the local governing
22 authority.

23 B. Fees for recording a boundary survey shall be
24 in conformance with Section 14-8-15 NMSA 1978.

25 C. For those surveys that create a division of

1 land, the survey shall be completed in conformity with the
2 board's minimum standards and in conformity with the New
3 Mexico Subdivision Act and any applicable local subdivision
4 ordinances. Filing procedures shall be prescribed in the
5 board's minimum standards. The record of survey required to
6 be filed and recorded pursuant to this subsection shall be
7 recorded at the office of the county clerk within sixty
8 calendar days after completion of the survey or approval by
9 the governing authority."

10 SECTION 19. Section 61-23-32 NMSA 1978 (being Laws
11 1987, Chapter 336, Section 32, as amended) is amended to
12 read:

13 "61-23-32. TERMINATION OF AGENCY LIFE--DELAYED
14 REPEAL.--The state board of licensure for professional
15 engineers and professional surveyors is terminated on July 1,
16 2023 pursuant to the Sunset Act. The board shall continue to
17 operate according to the provisions of the Engineering and
18 Surveying Practice Act until July 1, 2024. Effective July 1,
19 2024, the Engineering and Surveying Practice Act is
20 repealed."

21 SECTION 20. APPLICABILITY.--The provisions of Section
22 61-23-14.1 NMSA 1978 apply to persons initially applying for
23 licensure as a professional engineer on or after July 1,
24 2017.

25 SECTION 21. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2017.

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