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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- ENGINEERS

Introduced By: Representatives Marshall, O'Brien, Serpa, Shekarchi, and Costantino

Date Introduced: March 03, 2016

Referred To: House Corporations

(Business Regulations)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-8-11, 5-8-12, 5-8-15, 5-8-18, 5-8-20 and 5-8-21 of the General
2 Laws in Chapter 5-8 entitled "Engineers" are hereby amended to read as follows:

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

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

13 (1) As a professional engineer:

14 (i) Registration by endorsement. - (A) A person holding a current certificate of
15 registration to engage in the practice of engineering, on the basis of comparable written
16 examinations, issued to him or her by either a proper authority of a state, territory, or possession
17 of the United States, the District of Columbia, or of any foreign country, and whose qualifications
18 meets the requirements of this chapter, based on verified evidence may, upon application, be
19 registered without further examination.

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

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

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

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

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

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

34 (i) Graduation and examination. - A graduate of an ABET-EAC accredited engineering

1 curriculum of four (4) years or more who has passed the board's examination in the fundamentals
2 of engineering shall be certified or enrolled as an engineer-in-training, if he or she is qualified.

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

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

10 **5-8-12. Form of application for registration or certification -- Registration,**
11 **certification, and enrollment fees.** -- (a) Application for registration as a professional engineer

12 or land surveyor or certification as an engineer-in-training shall:

13 (1) Be on a form prescribed and furnished by the board; [and](#)

14 (2) ~~Contain statements made under oath, showing the applicant's education and a~~
15 ~~detailed summary of his or her technical experience, and~~ [Establish compliance with the licensing](#)
16 [requirements pursuant to §5-8-11.](#)

17 (3) ~~Contain references as prescribed in § 5-8-11, none of whom may be members of the~~
18 ~~board.~~

19 (b) The application and reexamination fees for professional engineers shall be set by the
20 board in an amount to cover the charges and expenses of examination and scoring, and shall
21 accompany the application.

22 (c) The fee for engineer-in-training certification or enrollment shall be set by the board
23 in an amount to cover the charges and expenses of examination and scoring, and shall accompany
24 the application.

25 (d) Should the board deny the issuance of a certificate to any applicant, the fee paid shall
26 be retained as an application fee.

27 **5-8-15. Expiration and renewal of certificates of registration.** -- (a) Certificates of

28 registration shall expire on the last day of the month of June following their issuance and become
29 invalid after that date unless renewed. It is the duty of the board to notify every person registered
30 under this chapter of the date of the expiration of his or her certificate, and the amount of the fee
31 required for its renewal. The notice shall be ~~mailed~~ [delivered, electronically or otherwise](#) to the
32 registrant at his or her last known address at least one month in advance of the date of the
33 expiration of the certificate.

34 (b) Renewal may be effected at any time prior to or during the month of June by the

1 payment of a fee set by the board in an amount not less than one hundred fifty dollars (\$150), but
2 not to exceed one hundred eighty dollars (\$180). Renewal of an expired certificate may be
3 effected within a period of three (3) years, provided evidence is submitted to the board attesting
4 to the continued competence and good character of the applicant. In the event renewal is not
5 made before the end of the third year, the board may require any reexamination that it deems
6 appropriate. The amount to be paid for that renewal is the annual fee set by the board in an
7 amount not to exceed one hundred eighty dollars (\$180) times the number of years the applicant
8 has been delinquent, plus a penalty of sixty dollars (\$60.00) per delinquent year.

9 **5-8-18. Suspension and revocation of certificates -- Complaints -- Hearings. --** (a)

10 After notice and a hearing as provided in this section, the director may in his or her discretion or
11 upon recommendation of the board:

12 (1) suspend, revoke, or take other permitted action with respect to any certificate of
13 registration;

14 (2) ~~revoke, suspend or take other permitted action with respect to any certificate of~~
15 ~~authorization;~~

16 (3) publicly censure, or reprimand or censure in writing;

17 (4) limit the scope of practice of;

18 (5) impose an administrative fine upon, not to exceed one thousand dollars (\$1,000) for
19 each violation;

20 (6) place on probation; and/or

21 (7) for good cause shown order a reimbursement of the department for all fees, expenses,
22 costs, and attorneys fees in connection with the proceedings, which amounts shall be deposited as
23 general revenues; all with or without terms, conditions or limitations, holders of a certificate of
24 registration ~~or a certificate of authorization~~, referred to as licensee(s), for any one or more of the
25 causes set out in subsection (b) of this section.

26 (b) The director may take actions specified in subsection (a) of this section for any of the
27 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 § 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
12 the department and/or board in a reasonable time any information that may be legally requested
13 by 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 as unfounded or trivial, shall be heard
23 by the director within six (6) months after the date on which they have been properly filed or
24 within six (6) months following resolution of similar charges that have been brought against a
25 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, and a copy of charges, together with a notice of the time and place of
28 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 may in his or her discretion suspend, revoke, or take other
2 permitted action with respect to the certificate of registration ~~or certificate of authorization~~, or
3 publicly censure the licensee, or take any other action and/or order any other penalty permitted by
4 this section. The department, for reasons it deems sufficient, may reissue a certificate of
5 registration ~~or certificate of authorization~~ or renewal to any person or firm whose certificate has
6 been revoked.

7 (g) The board or the department may on its own motion investigate the conduct of an
8 applicant, engineer, sole proprietorship, partnership, limited liability partnership, corporation,
9 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 **5-8-20. Violations and penalties -- Enforcement -- Injunctions.** -- (a) No individual
14 shall:

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

16 (2) use any title, sign, card, or device implying that the individual is an engineer or is
17 competent to practice engineering in this state;

18 (3) use in connection with his or her name or otherwise any title or description conveying
19 or tending to convey the impression that the individual is an engineer or is competent to practice
20 engineering in this state; or

21 (4) use or display any words, letters, figures, seals, or advertisements indicating that the
22 individual is an engineer or is competent to practice engineering in this state; unless that
23 individual holds a currently valid certificate issued pursuant to this chapter or is specifically
24 exempted from the certificate requirement under the provisions of this chapter.

25 (b) ~~No sole proprietorship, partnership, limited liability partnership, corporation or~~
26 ~~limited liability company shall:~~

27 (1) ~~practice or offer to practice engineering in this state;~~

28 (2) ~~use any title, sign, card, or device implying that the sole proprietorship, partnership,~~
29 ~~limited liability partnership, corporation or limited liability company is competent to practice~~
30 ~~engineering in this state;~~

31 (3) ~~use in connection with its name or otherwise any title or description conveying or~~
32 ~~tending to convey the impression that the entity is an engineering firm or is competent to practice~~
33 ~~engineering in this state; or~~

34 (4) ~~use or display any words, letters, figures, seals, or advertisements indicating that the~~

1 ~~entity is an engineering firm or is competent to practice engineering in this state; unless that sole~~
2 ~~proprietorship, partnership, limited liability partnership, corporation or limited liability company~~
3 ~~complies with the requirements of this chapter.~~

4 (c) Any individual, ~~sole proprietorship, partnership, limited liability partnership,~~
5 ~~corporation or limited liability company which~~ who:

6 (1) violates subsection (a) ~~or (b)~~ of this section;

7 (2) presents or attempts to use the certificate of ~~registration/authorization~~ registration of
8 another;

9 (3) gives any false or forged evidence of any kind to the department, board or to any
10 member or employee thereof in obtaining or attempting to obtain a certificate of
11 ~~registration/authorization~~ registration;

12 (4) falsely impersonates any other registrant whether of a like or different name;

13 (5) uses or attempts to use an expired, revoked, or nonexistent certificate of
14 ~~registration/authorization~~ registration;

15 (6) falsely claims to be registered under this chapter; or

16 (7) otherwise violates any provision of this chapter; is guilty of a misdemeanor, and upon
17 conviction by a court of competent jurisdiction shall be sentenced to pay a fine of not more than
18 one thousand dollars (\$1,000) for the first offense and a fine of not less than one thousand dollars
19 (\$1,000) nor more than two thousand dollars (\$2,000) for each subsequent offense, or
20 imprisonment for not more than one year, or both; and in the court's discretion and upon good
21 cause shown reimburse the department for any and all fees, expenses, and costs incurred by the
22 board in connection with the proceedings, including attorneys fees, which amount shall be
23 deposited as general revenues; and be subject to, in the director's discretion, public censure or
24 reprimand.

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

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

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

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

5 (f) The department shall make its legal staff available to act as legal adviser to the board
6 and render any legal assistance that is necessary in carrying out the provisions of this chapter. The
7 director may employ counsel and necessary assistance to aid in the enforcement of this chapter,
8 and their compensation and expenses shall be paid from funds as provided in § 5-8-23.

9 **5-8-21. Exemptions.** -- This chapter shall not be construed to prevent or to affect:

10 (1) Temporary certificates of registration.

11 (i) Nonresidents. - The practice or offer to practice of engineering by a person not a
12 resident of or having no established place of business in this state, when that practice does not
13 exceed in the aggregate more than thirty (30) days in any calendar year; provided, the person is
14 legally qualified by registration to practice engineering, as defined in § 5-8-2(f), in his or her own
15 state or country. The person shall make application to the board, in writing, and after payment of
16 a fee set by the board in an amount not to exceed two hundred dollars (\$200) may be granted a
17 written temporary certificate of registration for a definite period of time to do a specific job;
18 provided, no right to practice engineering accrues to an applicant as to any work not prescribed in
19 the temporary certificate.

20 (ii) Recent arrivals in state. - The practice of a person not a resident of and having no
21 established place of business in this state, or who has recently become a resident of the state,
22 practicing or offering to practice engineering in the state for more than thirty (30) days in any
23 calendar year, if he or she has filed with the board an application for a certificate of registration
24 and has paid the fee required by this chapter; provided, that the person is legally qualified by
25 registration to practice engineering in his or her own state or country. That practice shall continue
26 only for the time that the board requires for the consideration of the application for registration.

27 (2) Employees and subordinates. - The work of an employee or a subordinate of a person
28 holding a certificate of registration under this chapter, or an employee of a person practicing
29 lawfully under paragraph (1)(ii) of this section; provided, that work does not include final
30 engineering designs or decisions and is done under the direct supervision of or checked by a
31 person holding a certificate of registration under this chapter or a person practicing lawfully under
32 subdivision (1) of this section.

33 (3) ~~Partnership, limited liability partnership, corporate and limited liability company~~
34 ~~practice. —The practice or offer to practice of engineering as defined by this chapter by individual~~

1 ~~registered professional engineers through a partnership, limited liability partnership, corporation,~~
2 ~~joint stock company, or limited liability company, or by a partnership, limited liability~~
3 ~~partnership, corporation, limited liability company, or joint stock company, through individual~~
4 ~~registered professional engineers as agents, employees, officers, or partners or members or~~
5 ~~managers, provided, that they are jointly and severally liable for their professional acts; and~~
6 ~~provided, that all personnel of that partnership, limited liability partnership, joint stock company,~~
7 ~~corporation or limited liability company who act in its behalf as engineers in the state are~~
8 ~~registered under this chapter or are persons practicing lawfully or are exempt under subdivision~~
9 ~~(2) or (3) of this section. Each partnership, limited liability partnership, joint stock company,~~
10 ~~corporation or limited liability company providing engineering services is jointly and severally~~
11 ~~liable with the individually registered professional engineers, and all final plans, designs,~~
12 ~~drawings, specifications, and reports involving engineering judgment and discretion, when issued,~~
13 ~~shall be dated and bear the seals and signatures of the engineers who prepared them.~~

14 (4) Federal employees. - The practice by officers and employees of the government of
15 the United States while engaged within this state in the practice of engineering for that
16 government; provided, that no right to practice engineering accrues to those persons as to any
17 other engineering work. The rights to registration after leaving government employment shall not
18 be granted except under the provisions established under § 5-8-11.

19 (5) Railroad, telephone, telegraph, and other public utility companies. - The practice of
20 engineering, as prescribed in this chapter, by railroad, telephone, telegraph, and other public
21 utility companies, and their officers and employees while engaged in the work of those
22 companies in this state; provided, that the practice is carried on under the responsible charge of an
23 engineer or engineers in this state, or in any other state under requirements equivalent to those
24 prescribed in this chapter; and provided, that no right to practice engineering accrues to any
25 unregistered person as to any other engineering work.

26 (6) Manufacturing corporations. - The practice of engineering, as prescribed in this
27 chapter, by manufacturing corporations, and their officers and employees while engaged in
28 manufacturing, research and development activities for those corporations.

29 (7) Research and development corporations. - The practice of engineering, as prescribed
30 in this chapter, by research and development corporations, and their officers and employees while
31 engaged in research and development activities for that corporation.

32 (8) Other professions. - The practice of architecture, landscape architecture, or land
33 surveying.

34 SECTION 2. Sections 5-8.1-2, 5-8.1-8, 5-8.1-10, 5-8.1-13, 5-8.1-15 and 5-8.1-17 of the

1 General Laws in Chapter 5-8.1 entitled "Land Surveyors" are hereby amended to read as follows:

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

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

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

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

11 (4) "Board of land surveyors", "board of professional land surveyors" or "board" means
12 the board of registration for professional land surveyors, as subsequently provided by this
13 chapter.

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

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

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

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

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

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

27 (11) "Practice of land surveying" means any service or work, the adequate performance
28 of which involves the application of special knowledge of the principles of mathematics, the
29 related physical and applied sciences and the relevant requirements of law for adequate evidence
30 to perform the act of measuring and locating lines, angles, elevations, natural and manmade
31 features in the air, on the surface of the earth, within underground workings, and on the beds of
32 bodies of water for the purpose of determining areas and volumes, for the monumenting of
33 property boundaries and for the platting and layout of lands and their subdivisions, including the
34 topography, alignment, and grades of streets and for the preparation of maps, record plats, field

1 note records and property descriptions that represent these surveys.

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

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

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

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

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

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

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

25 (19) "Rules and regulations" means that document of the same title, as amended from
26 time to time, subject to the director's approval, that has been duly adopted by the board of
27 professional land surveyors and which prescribes the manner in which that board administers its
28 affairs and establishes rules of conduct, procedures, and standards for adherence by all persons
29 registered by the board, filed with the secretary of state in accordance with the provisions of §§
30 42-35-3(a) and 42-35-4(b), and this chapter.

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

32 (21) "Director" means the director of the department of business regulation or his or her
33 designee.

34 **5-8.1-8. Board of registration for professional land surveyors -- Records and**

1 **reports.** -- (a) The board of land surveyors shall keep a record of its proceedings and of all
2 applications for registration, which applications shall show:

- 3 (1) Name, date of birth, and last known address of each applicant;
- 4 (2) Date of the application;
- 5 (3) The last known place of business of the applicant;
- 6 (4) The education, experience, and other qualifications of the applicant;
- 7 (5) The type of examination administered;
- 8 (6) Whether or not the applicant was accepted or rejected;
- 9 (7) Whether or not a certificate of registration was granted;
- 10 (8) The date of action of the board; and
- 11 (9) Any other information that the board deems appropriate.

12 (b) Board records and papers of the following classes are of a confidential nature and are
13 not public records:

- 14 (1) Examination material for examinations not yet given;
- 15 (2) File records of examination problem solutions;
- 16 (3) Letters of inquiry and references concerning applicants;
- 17 (4) Completed board inquiry forms concerning applicants;
- 18 (5) Investigatory files where any investigation is still pending; and
- 19 (6) All other materials of like nature.

20 (c) The record of the board of land surveyors is prima facie evidence of the proceedings
21 of the board and a certified transcript by the board is admissible in evidence with the same force
22 and effect as if the original were produced.

23 (d) A complete roster showing the names and last-known addresses of all registered
24 professional land surveyors and surveyors in training ~~and any sole proprietorship, partnership,~~
25 ~~limited liability partnership, corporation or limited liability company receiving a certificate of~~
26 ~~authorization~~ shall be available on the board's website.

27 **5-8.1-10. Board of registration for professional land surveyors -- Issuance and**

28 **renewal of certificates.** -- (a) Surveyors previously registered. - Each land surveyor holding a
29 certificate of registration under the laws of this state as previously in effect shall be deemed
30 registered as a professional land surveyor under this chapter.

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

34 (c) Certificates of registration. - With the assistance of the department, the board of land

1 surveyors shall issue a certificate of registration upon payment of the registration fee as provided
2 for in this chapter to any applicant, who, in the judgment of the board, has met the requirements
3 of this chapter. Enrollment cards are issued to those who qualify as surveyors-in-training. The
4 certificate of registration shall:

5 (1) Carry the designation "professional land surveyor";

6 (2) Show the full name of the registrant, without any titles;

7 (3) Have a serial number; and

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

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

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

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

34 (g) Any party aggrieved by the board's decision regarding license issuance or renewal

1 may, within ten (10) days of the decision, appeal the matter to the director by submitting a written
2 request for a formal hearing to be conducted in accordance with the provisions of § 5-8.1-15.

3 **5-8.1-13. Board of registration for professional land surveyors -- Permitted**
4 **practices.** -- (a) Exemption clause. - This chapter shall not be construed to prevent or to affect:

5 (1) Employees and subordinates. - The work of an employee or subordinate of a person
6 holding a certificate of registration under this chapter; provided, that the work does not include
7 final land surveying work or decisions and is done under the direct supervision of, or checked by,
8 a person holding a certificate of registration issued under this chapter.

9 (2) Federal employees. - The practice by officers and employees of the government of
10 the United States while engaged within this state in the practice of land surveying for the
11 government on property owned by the federal government; provided, that no right to practice land
12 surveying accrues to those persons as to any other land surveying work. The right to registration
13 after government employment shall not be granted except under the provisions prescribed under §
14 5-8.1-11.

15 (3) Other professions. - The practice of engineering, architecture, or landscape
16 architecture.

17 (b) ~~Sole proprietorship, partnership, limited liability partnership, corporate and limited~~
18 ~~liability company practice.~~

19 (1) ~~The practice or offer to practice land surveying as defined by this chapter by sole~~
20 ~~proprietorship, partnership, limited liability partnership, corporation or limited liability company,~~
21 ~~subsequently referred to as the "firm", through individuals is permitted; provided, that the~~
22 ~~individuals are in direct control of that practice; exercise personal supervision of all personnel~~
23 ~~who act in behalf of the firm in professional and technical matters; and are registered under the~~
24 ~~provisions of this chapter; and provided, that the firm has been issued a certificate of~~
25 ~~authorization by the board of land surveyors.~~

26 (2) ~~Within one year after the enactment of this chapter [July 12, 1990] every firm must~~
27 ~~obtain a certificate of authorization from the board and those individuals in direct control of the~~
28 ~~practice and who exercise direct supervision of all personnel who act in behalf of the firm in~~
29 ~~professional and technical matters must be registered with the board. The certificate of~~
30 ~~authorization shall be issued by the board upon satisfaction of the provisions of this chapter and~~
31 ~~the payment of an annual fee not to exceed sixty dollars (\$60).~~

32 (3) ~~It is the intent of the board of registration to establish that the professional land~~
33 ~~surveyor is responsible for land surveying services.~~

34 (4) ~~Every firm desiring a certificate of authorization must file with the board an~~

1 application for the certificate on a form provided by the board. A separate form provided by the
2 board shall be filed with each renewal of the certificate of authorization and within thirty (30)
3 days of the time any information previously filed with the board has changed, is no longer true or
4 valid, or has been revised for any reason. If, in its judgment, the information contained on the
5 application and renewal form is satisfactory and complete, the board shall issue a certificate of
6 authorization for the firm to practice land surveying in this state.

7 (5) ~~No firm that has been granted a certificate of authorization by the board of land~~
8 ~~surveyors is relieved of responsibility for the conduct or acts of its agents, employees, partners (if~~
9 ~~a partnership or a limited liability partnership), officers or directors (if a corporation), or members~~
10 ~~or managers (if a limited liability company) because of its compliance with the provisions of this~~
11 ~~section. No individual practicing land surveying under the provisions of this chapter is relieved of~~
12 ~~responsibility for land surveying services performed by reason of his or her employment or other~~
13 ~~relationship with a firm holding a certificate of authorization as subsequently described. In the~~
14 ~~event of unexpected death, retirement, dismissal or any other occasion where an entity has one~~
15 ~~person who is a registered land surveyor, and that person no longer can continue in the operation~~
16 ~~of the entity, then the board of registration may waive certain requirements for a certificate of~~
17 ~~authorization, for a period of not longer than forty five (45) days, provided that the entity retains~~
18 ~~a person who is a registered professional land surveyor to review and pursue the duties of~~
19 ~~surveying that are required under this chapter.~~

20 (6) ~~A land surveyor may not, for the purposes of this section, be designated as being in~~
21 ~~responsible charge on more than two (2) certificates of authorization.~~

22 (7) ~~Certificates of authorization shall be treated for all purposes hereunder, including, but~~
23 ~~not limited to, renewal, expiration and lapsing, as previously provided for certificates of~~
24 ~~registration in section 5-8.1-10; provided, however, that renewal may be effected at any time~~
25 ~~prior to or during the month of June of each even-numbered year (meaning biennially)~~
26 ~~commencing in year 2004.~~

27 (8) ~~Limited liability partnerships, corporations and limited liability companies shall~~
28 ~~submit a copy of their articles of incorporation, articles of organization or certificate of~~
29 ~~registration in order to obtain a certificate of authorization from the board of land surveyors.~~

30 (9) ~~Corporations other than those organized under chapter 5.1 of title 7, partnerships and~~
31 ~~sole proprietorships practicing in this state prior to July 12, 1990, shall fully comply with the~~
32 ~~provisions of this section within one year of that date.~~

33 (10) ~~Effective one year from July 1, 1990, the secretary of state shall not issue a~~
34 ~~certificate of incorporation or certificate of organization or certificate of registration to any~~

1 ~~applicant, or a registration as a foreign corporation, limited liability partnership or limited liability~~
2 ~~company, to any firm, which includes among the objectives for which it is being established any~~
3 ~~of the words "surveyor", "surveying" or any modification or derivation of those words, unless the~~
4 ~~board of land surveyors has issued for the applicant a certificate of authorization or a letter~~
5 ~~indicating the eligibility of the applicant to receive the certificate. The firm applying shall supply~~
6 ~~the certificate or letter from the board with its application for incorporation or registration as a~~
7 ~~foreign corporation, limited liability partnership or limited liability company.~~

8 (c) Land surveyor previously registered. - Each land surveyor holding a certificate of
9 registration and each land surveyor-in-training under the laws of this state as previously in effect
10 shall be deemed registered as a land surveyor or land surveyor-in-training as appropriate under
11 this chapter.

12 ~~(d) This section does not exempt the political subdivisions of the state, such as county,~~
13 ~~city, or town, or legally constituted boards, districts, or commissions, from obtaining a certificate~~
14 ~~of authorization from the board of registration when applicable.~~

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

16 **actions.** -- (a) Revocation, suspension, and censure. - After notice and a hearing as provided in
17 this section, the director may in his or her discretion or upon recommendation of the board:

18 (1) suspend, revoke, or take other permitted action with respect to any certificate of
19 registration;

20 ~~(2) revoke, suspend or take other permitted action with respect to any certificate of~~
21 ~~authorization;~~

22 (3) publicly censure, or reprimand or censure in writing;

23 (4) limit the scope of practice of;

24 (5) impose an administrative fine, not to exceed one thousand dollars (\$1,000) for each
25 violation;

26 (6) place on probation; and/or

27 (7) for good cause shown order a reimbursement of the department for all fees, expenses,
28 costs, and attorneys' fees in connection with the proceedings, which amounts shall deposited as
29 general revenues; all with or without terms, conditions or limitations, holders of a certificate of
30 registration ~~or a certificate of authorization~~, hereafter referred to as registrant(s), for any one or
31 more of the causes set out in subsection (b) of this section.

32 (b) Grounds. - The director may take actions specified in subsection (a) of this section
33 for any 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 land surveying in another state or country or jurisdiction in violation of the
3 laws of that state, country, or jurisdiction;

4 (3) Practicing land surveying 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 land surveying;

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

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 land surveying 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 an act constituting a crime of, forgery, embezzlement, obtaining money under the false
14 pretenses, bribery, larceny, extortion, conspiracy to defraud, or any other similar offense or
15 offenses involving moral turpitude, in a court of competent jurisdiction of this state or any other
16 state or of the federal government;

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

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

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

25 (c) Procedures.

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

34 (2) The time and place for the hearing shall be fixed by the department, and a copy of the

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

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

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

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

16 (d) Legal counsel. - The department shall make its legal staff available to act as legal
17 advisor to the board and to render any legal assistance that is necessary in carrying out the
18 provisions of this chapter. The director may employ other counsel and necessary assistance to aid
19 in the enforcement of this chapter, and their compensation and expenses shall be paid from the
20 funds of the department.

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

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

27 **5-8.1-17. Board of registration for professional land surveyors -- Violations and**
28 **penalties -- Injunctions.** -- (a) No individual shall:

- 29 (1) practice or offer to practice land surveying in this state;
30 (2) use any title, sign, card, or device implying that the individual is a land surveyor or is
31 competent to practice land surveying in this state;
32 (3) use in connection with his or her name or otherwise any title or description conveying
33 or tending to convey the impression that the individual is a land surveyor or is competent to
34 practice land surveying in this state; or

1 (4) use or display any words, letters, figures, seals, or advertisements indicating that the
2 individual is a land surveyor or is competent to practice land surveying in this state; unless that
3 individual holds a currently valid certificate issued pursuant to this chapter or is specifically
4 exempted from the certificate requirement under the provisions of this chapter.

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

8 (c) ~~No sole proprietorship, partnership, limited liability partnership, corporation or~~
9 ~~limited liability company shall:~~

10 (1) ~~practice or offer to practice land surveying in this state;~~

11 (2) ~~use any title, sign, card, or device implying that the sole proprietorship, partnership,~~
12 ~~limited liability partnership, corporation or limited liability company is competent to practice land~~
13 ~~surveying in this state;~~

14 (3) ~~use in connection with its name or otherwise any title or description conveying or~~
15 ~~tending to convey the impression that the entity is a land surveying firm or is competent to~~
16 ~~practice land surveying in this state; or~~

17 (4) ~~use or display any words, letters, figures, seals, or advertisements indicating that the~~
18 ~~entity is a land surveying firm or is competent to practice land surveying in this state; unless that~~
19 ~~sole proprietorship, partnership, limited liability partnership, corporation or limited liability~~
20 ~~company complies with the requirements of this chapter.~~

21 (d) Any individual, ~~sole proprietorship, partnership, limited liability partnership,~~
22 ~~corporation or limited liability company which~~ who knowingly and willfully:

23 (1) violates subsection (a) or (c) of this section;

24 (2) presents or attempts to use the certificate of ~~registration/authorization~~ registration of
25 another;

26 (3) gives any false or forged evidence of any kind to the department and/or board or to
27 any member of the board in obtaining or attempting to obtain a certificate of
28 ~~registration/authorization~~ registration;

29 (4) falsely impersonates any other registrant whether of a like or different name;

30 (5) uses or attempts to use an expired, revoked, or nonexistent certificate of
31 ~~registration/authorization~~ registration;

32 (6) falsely claims to be registered under this chapter; or

33 (7) otherwise violates any provision of this chapter; shall be guilty of a misdemeanor and,
34 upon conviction by a court of competent jurisdiction, shall be sentenced to pay a fine of not more

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

8 (e) 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 is not required to prove that an adequate remedy at law does not exist, or that substantial
12 or irreparable damage would result from continued violations. The superior court, in its discretion
13 and in addition to any injunctive relief granted to the department, may order that any person or
14 entity in violation of this section shall:

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

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

19 SECTION 3. Sections 5-51-9, 5-51-13, 5-51-14, 5-51-16, 5-51-17 and 5-51-17.1 of the
20 General Laws in Chapter 5-51 entitled "Rhode Island State Board of Examiners of Landscape
21 Architects" are hereby amended to read as follows:

22 **5-51-9. Annual renewal of licenses and certificates of authorization.** -- (a) (1) Every
23 license shall be valid for a period of two (2) years and shall expire on the last day of June of each
24 odd numbered year following its issuance. ~~Every certificate of authorization shall be valid for a~~
25 ~~period of two (2) years and shall expire on the last day of June of each even numbered year~~
26 ~~following its issuance.~~ A license ~~or certificate of authorization~~ may be renewed by paying the
27 renewal fee required by § 5-51-14. A landscape architect who fails to renew his or her license
28 prior to each June 30, may not thereafter renew his or her license except upon payment of the
29 renewal fee and the additional fee(s) required by § 5-51-14. ~~A landscape architectural firm, which~~
30 ~~fails to renew its certificate of authorization prior to each June 30, may not thereafter renew its~~
31 ~~certificate of authorization except upon payment of the renewal fee and the additional fee(s)~~
32 ~~required in § 5-51-14. The certificates of authorization shall be issued by the board, with the~~
33 ~~assistance of the department, indicating the sole proprietorship, partnership, limited liability~~
34 ~~partnership, corporation, or limited liability company named in it is permitted to practice~~

1 ~~landscape architecture in this state.~~ A license ~~or certificate of authorization~~ shall not be renewed
2 until the renewal fee is received by the board.

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

6 (b) Subject to the approval of the director, the board may determine and establish rules
7 and regulations for continuing education requirements and other recertification procedures as the
8 board deems necessary.

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

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

17 **5-51-13. Partnerships, limited liability partnerships, corporations, and limited**
18 **liability companies.** -- (a) ~~Partnerships, limited liability partnerships, corporations and limited~~
19 ~~liability companies may not be licensed as registered to practice landscape architecture or to use~~
20 ~~any form of the title "landscape architect" in connection with the corporate or partnership~~
21 ~~company name unless authorized by this chapter.~~

22 (b) (1) The right to engage in the practice of landscape architecture shall be a personal
23 right, based upon the qualifications of the individual evidenced by his or her license and shall not
24 be transferable.

25 (2) No person shall practice landscape architecture, or use the title "landscape architect",
26 or any title, sign, card, or device to indicate that this person is practicing landscape architecture,
27 or is a landscape architect, unless that person has secured from the board a license in the provided
28 manner.

29 (3) All final drawings, specifications, plans, reports, or other papers or documents
30 involving the practice of landscape architecture, as defined in § 5-51-1, for use in this state shall
31 be dated, and shall bear the signature and seal of the landscape architect or landscape architects
32 who prepared or personally supervised their preparation.

33 (c) ~~The practice or offer to practice landscape architecture as defined by this chapter by a~~
34 ~~sole proprietorship, partnership, limited liability partnership, corporation, or limited liability~~

1 ~~company (hereafter "the firm"), through one or more landscape architects license under the~~
2 ~~provisions of this chapter, shall be permitted; provided, that those licensed landscape architect(s):~~

3 (1) ~~shall be in direct control of the practice;~~

4 (2) ~~shall exercise personal supervision of all personnel who act on behalf of the firm in~~
5 ~~professional and technical matters;~~

6 (3) ~~are registered under the provisions of this chapter; and (4) the firm has been issued a~~
7 ~~certificate of authorization by the board of examiners of landscape architects.~~

8 (d) (1) ~~Within one year after enactment of this chapter, every firm must obtain a~~
9 ~~certificate of authorization from the board, and those individuals in direct control of the practice,~~
10 ~~and who exercise direct supervision of all personnel who act on behalf of the firm in professional~~
11 ~~and technical matters, must be registered with the board.~~

12 (2) ~~The certificate of authorization shall be issued by the board upon satisfaction of the~~
13 ~~provisions of this chapter and the payment of the required fee. This fee shall be waived if the firm~~
14 ~~consists of only one person who is the person in responsible charge.~~

15 (e) (1) ~~Every firm desiring a certificate of authorization must file with the board an~~
16 ~~application on a form provided by the board. Every certificate of authorization shall be valid for a~~
17 ~~period of two (2) years and shall expire on the last day of June of each even numbered year~~
18 ~~following its issuance.~~

19 (2) ~~A separate form provided by the board shall be filed with each renewal of the~~
20 ~~certificate of authorization. In addition, each firm shall complete a renewal form within thirty (30)~~
21 ~~days of the time any information previously filed with the board has changed, is no longer true or~~
22 ~~valid, or has been revised for any reason.~~

23 (3) ~~If, in its judgment, the information contained on the application and renewal form is~~
24 ~~satisfactory and complete, the board shall issue a certificate of authorization for the firm to~~
25 ~~practice landscape architecture in this state.~~

26 **5-51-14. Fees. --** The following is the schedule of fees to be charged by the board:

27 (1) The fees to be paid by an applicant for examination or reexamination to determine his
28 or her fitness to receive a certificate of registration shall be determined by the board so as to cover
29 expenses associated with administering and evaluating the examination or reexamination.

30 (2) The fee to be paid for the restoration of an expired certificate of registration shall not
31 exceed one hundred fifty dollars (\$150) for every year, or portion of a year, the applicant has
32 been delinquent, plus a penalty of twenty-five dollars (\$25.00).

33 (3) The fee to be paid upon the renewal of a certificate of registration shall not exceed
34 one hundred fifty dollars (\$150).

1 (4) The fee to be paid by an applicant for a certificate of registration who is a landscape
2 architect registered or licensed under the laws of another state under § 5-51-7, shall not exceed
3 one hundred eighty dollars (\$180).

4 (5) The fee to be paid by an applicant for a certificate of registration who qualifies and is
5 a resident of this state is thirty-six dollars (\$36.00).

6 (6) ~~The initial fee for a certificate of authorization shall not exceed one hundred fifty~~
7 ~~dollars (\$150).~~

8 (7) ~~The annual renewal fee for a certificate of authorization is sixty dollars (\$60.00).~~

9 (8) ~~The fee to be paid for the reinstatement of an expired certificate of authorization is~~
10 ~~sixty dollars (\$60.00) for every year or portion of a year the applicant has been delinquent, plus a~~
11 ~~penalty of twenty five dollars (\$25.00).~~

12 (9) All fees received by the board shall be deposited as general revenues.

13 **5-51-16. Penalty for violations-Injunctive relief.** -- (a) No individual shall: (1) practice

14 or offer to practice landscape architecture in this state; or (2) use any title, sign, card, or device
15 implying that the individual is a landscape architect or is competent to practice landscape
16 architecture in this state; or (3) use in connection with his or her name or otherwise any title or
17 description conveying or tending to convey the impression that the individual is a landscape
18 architect or is competent to practice landscape architecture in this state; or (4) use or display any
19 words, letters, seals, or advertisements indicating that the individual is a landscape architect or is
20 competent to practice landscape architecture in this state, unless that individual holds a current
21 valid license issued pursuant to this chapter or is specifically exempted from holding a license
22 under the provisions of this chapter.

23 (b) ~~No sole proprietorship, partnership, limited liability partnership, corporation or~~
24 ~~limited liability company shall:~~

25 (1) ~~practice or offer to practice landscape architecture in this state;~~

26 (2) ~~use any title, sign, card, or device implying that the sole proprietorship, partnership,~~
27 ~~limited liability partnership, corporation or limited liability company is competent to practice~~
28 ~~landscape architecture in this state;~~

29 (3) ~~use in connection with its name or otherwise any title or description conveying or~~
30 ~~tending to convey the impression that the entity is a landscape architectural firm or is competent~~
31 ~~to practice landscape architecture in this state; or~~

32 (4) ~~use or display any words, letters, figures, seals, or advertisements indicating that the~~
33 ~~entity is a landscape architectural firm or is competent to practice landscape architecture 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~~ who:

4 (1) violates subsection (a) or (b) of this section;

5 (2) presents or attempts to use the ~~license/certificate of authorization~~ license of another;

6 (3) gives any false or forged evidence of any kind to the department and/or board or to
7 any member or employee thereof in obtaining or attempting to obtain a ~~license/certificate of~~
8 ~~authorization~~ license;

9 (4) falsely impersonates any other registration whether of a like or different name;

10 (5) uses or attempts to use an expired, revoked, or nonexistent ~~license/certificate of~~
11 ~~authorization~~ license;

12 (6) falsely claims to be registered under this chapter; or

13 (7) otherwise violates any provision of this chapter, shall upon determination thereof by a
14 court of competent jurisdiction, be subject to a civil penalty of one thousand dollars (\$1,000) for
15 the first offense, and a civil penalty of two thousand dollars (\$2,000) for each subsequent offense;
16 and in the court's discretion and upon good cause shown, reimburse the department for any and
17 all fees, expenses, and costs incurred by the department and/or board in connection with the
18 proceedings, including attorneys fees (which amounts shall be deposited as general revenues);
19 and be subject to, in the board's discretion, public censure or reprimand.

20 (d) Either on his or her own initiative or on the recommendation of the board, the
21 director shall have the power to institute injunction proceedings in superior court to prevent
22 violations of subsection (a) ~~or (b)~~ of this section and/or for violations of § 5-51-3. In injunction
23 proceedings, the director shall not be required to prove that an adequate remedy at law does not
24 exist, or that substantial or irreparable damage would result from continued violations. The
25 superior court, in its discretion and in addition to any injunctive relief granted to the department,
26 may order that any person or entity in violation of this section shall:

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

30 (ii) be subject to public censure or reprimand.

31 **5-51-17. Revocation or suspension of licenses or certificates of authorization.** -- After
32 notice and a hearing as provided in § 5-51-17.1, the director may in his or her discretion or upon
33 recommendation of the board: suspend, revoke, or take other permitted action with respect to any
34 license; ~~and/or revoke, suspend or take other permitted action with respect to any certificate of~~

1 ~~authorization~~; and/or publicly censure, or reprimand or censure in writing; and/or limit the scope
2 of practice of; and/or impose an administrative fine upon (not to exceed one thousand dollars
3 (\$1,000) for each violation); and/or place on probation; and/or for good cause shown, order a
4 reimbursement of the department for all fees, expenses, costs, and attorneys fees in connection
5 with the proceedings (which amounts shall be deposited as general revenues), all with or without
6 terms, conditions or limitations, holders of a license ~~or certificate of authorization~~, (hereafter
7 referred to as licensee(s)), for any one or more of the following causes:

8 (1) Bribery, fraud, deceit, or misrepresentation in obtaining a license ~~or certificate of~~
9 ~~authorization~~;

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

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

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

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

17 (6) Violation of any of the provisions of this chapter or chapter 5-84;

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

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

25 (9) Failure to furnish to the department and/or board or any person acting on behalf of
26 the board in a reasonable time the information that may be legally requested by the department
27 and/or board;

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

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

33 **5-51-17.1. Initiation of proceedings -- Hearings before the board -- Appeals -- Notice**
34 **to other states.** -- (a) The director may initiate proceedings under this chapter against holders of a

1 license ~~and/or certificate of authorization~~ (hereafter referred to as licensee(s)) either on his or her
2 own motion, upon recommendation of the board, on complaint of any person, or upon receiving
3 notification from another state board of landscape architects or from the appropriate authority in
4 another country or jurisdiction of its decision to:

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

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

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

14 (c) If, after being served with the notice of hearing as provided for in this section, the
15 licensee fails to appear at the hearing and to defend against the stated charges, the director may
16 proceed to hear evidence against the licensee and may enter any order that is justified by the
17 evidence. An order shall be final unless the licensee petitions for a review of the order as
18 provided in this section. Within thirty (30) days from the date of any order, upon a showing of
19 good cause for failing to appear and defend, the director may reopen the proceedings and may
20 permit the licensee to submit evidence in his, her or on its behalf.

21 (d) At any hearing under this section, the licensee may:

22 (1) appear in person or be represented by counsel;

23 (2) produce evidence and witnesses on his, her, or its behalf;

24 (3) cross-examine witnesses; and

25 (4) examine any evidence that might be produced. A sole proprietorship may be
26 represented by counsel before the board or department, or by the sole proprietor. A partnership or
27 limited liability partnership may be represented before the board or department by counsel or any
28 partner. A corporation may be represented by counsel before the board or department, or any
29 shareholder, officer or director of the corporation. A limited liability company may be
30 represented before the board or department by counsel or any member or manager of the limited
31 liability company. The licensee shall be entitled, upon written application to the department, to
32 the issuance of subpoenas to compel the attendance of witnesses on the licensee's behalf.

33 (e) The director may issue subpoenas to compel the attendance of witnesses and the
34 production of documents and may administer oaths, take testimony, hear proofs and receive

1 exhibits in evidence in connection with or upon hearing under this chapter. In case of
2 disobedience to a subpoena, the director may petition the superior court to require the attendance
3 and testimony of witnesses and the production of documentary evidence.

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

7 (g) Recordings of all hearings under this section shall be in accordance with the rules and
8 regulations established by the department's rules of procedure for administrative hearings.

9 (h) The board may participate in formal proceedings before the director through
10 representation by the department's legal staff acting as the prosecuting agent before the director.

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

13 (j) On the director rendering a decision to:

14 (1) revoke or suspend a license issued under the laws of this state; or

15 (2) ~~revoke or suspend a certificate of authorization issued under the laws of this state; or~~

16 (3) publicly censure, censure in writing, limit the scope of practice of, impose an
17 administrative fine upon, or place on probation a licensee, the board shall examine its records to
18 determine whether the licensee holds a license ~~or a certificate of authorization~~ to practice in any
19 other state or country or jurisdiction. If the board determines that the licensee in fact holds a
20 license ~~or certificate of authorization~~, the board shall immediately notify the board of landscape
21 architecture of the other state or country or jurisdiction by mail of the director's decision under
22 this section, and shall include in the notice an indication as to whether or not the licensee has
23 appealed the decision.

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

30 (l) The department shall make its legal staff available to act as legal advisor to the board
31 and shall render any legal assistance that may be necessary in carrying out the provisions of this
32 chapter. The director may employ other counsel and obtain other necessary assistance to be
33 appointed by the governor to aid in the enforcement of this chapter, and the compensation and
34 expenses shall be paid from the fund of the department.

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

4 SECTION 4. Sections 5-84-5 and 5-84-6 of the General Laws in Chapter 5-84 entitled
5 "Division of Design Professionals" are hereby amended to read as follows:

6 **5-84-5. Imposition of fines for unregistered activity.** -- (a) In addition to any other
7 provision of law, if a person ~~or-business~~ practices or offers to practice architecture, engineering,
8 land surveying, or landscape architecture in the state without being registered ~~or-authorized-to~~
9 ~~practice~~ as required by law, the boards within the division may recommend that the director of the
10 department of business regulations issue an order imposing a fine; provided, however, that this
11 section shall not apply to issues between the boards referred to in subsection (a) of this section as
12 to the scope of a board registrant's authority to engage in work relating to another board's
13 jurisdiction or to issues relating to ISDS designers licensed by the department of environmental
14 management.

15 (b) A fine ordered under this section may not exceed two thousand five hundred dollars
16 (\$2,500) for each offense. In recommending a fine, the board shall set the amount of the penalty
17 imposed under this section after taking into account factors, including the seriousness of the
18 violation, the economic benefit resulting from the violation, the history of violations, and other
19 matters the board considers appropriate.

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

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

25 (e) If a person ~~of-business~~ fails to pay the fine within thirty (30) days after entry of an
26 order under (a) of this section, or if the order is stayed pending an appeal, within ten (10) days
27 after the court enters a final judgment in favor of the department of an order appealed under (d) of
28 this section, the director may commence a civil action to recover the amount of the fine.

29 **5-84-6. Cease and Desist Authority.** -- If the director has reason to believe that any
30 person, ~~firm, corporation, or association~~ is conducting any activity under the jurisdiction of the
31 division of design professionals including professional engineering, professional land surveying,
32 architecture, and/or landscape architecture without obtaining a license or registration, or who after
33 the denial, suspension, or revocation of a license or registration is conducting that business, the
34 director may, either on his or her own initiative or upon recommendation of the appropriate

1 board, issue an order to that person, firm, corporation, or association commanding them to appear
2 before the department at a hearing to be held not sooner than ten (10) days nor later than twenty
3 (20) days after issuance of that order to show cause why the director should not issue an order to
4 that person to cease and desist from the violation of the provisions of this chapter and/or chapters
5 1, 8, 8.1 and/or 51 of title 5. That order to show cause may be served on any person, ~~firm,~~
6 ~~corporation, or association~~ named by any person in the same manner that a summons in a civil
7 action may be served, or by mailing a copy of the order, certified mail, return receipt requested, to
8 that person at any address at which that person has done business or at which that person lives. If
9 during that hearing the director is satisfied that the person is in fact violating any provision of this
10 chapter, the director may order that person, in writing, to cease and desist from that violation
11 and/or impose an appropriate fine under § 5-84-5 or other applicable law and/or refer the matter
12 to the attorney general for appropriate action under chapters 1, 8, 8.1 and/or 51 of title 5. All these
13 hearings are governed in accordance with the administrative procedures act. If that person fails to
14 comply with an order of the department after being afforded a hearing, the superior court for
15 Providence county has jurisdiction upon complaint of the department to restrain and enjoin that
16 person from violating chapters 1, 8, 8.1, 51 and/or 84 of title 5.

17 SECTION 5. Section 5-8-24 of the General Laws in Chapter 5-8 entitled "Engineers" is
18 hereby repealed.

19 ~~**5-8-24. Sole proprietorship, partnership, limited liability partnership, corporate and**~~
20 ~~**limited liability company.**~~ (a) ~~The practice or offer to practice engineering as defined by this~~
21 ~~chapter by a sole proprietorship, partnership, limited liability partnership, corporation or a limited~~
22 ~~liability company subsequently referred to as the "firm", through individuals is permitted;~~
23 ~~provided, that the individuals: (1) are in direct control of the practice; (2) exercise personal~~
24 ~~supervision of all personnel who act in behalf of the firm in professional and technical matters;~~
25 ~~and (3) are registered under the provisions of this chapter; and provided, that the firm has been~~
26 ~~issued a certificate of authorization by the board of engineers.~~

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

34 ~~(2) Every firm desiring a certificate of authorization must file with the board an~~

1 ~~application for a certificate of authorization on a form to be provided by the board. A separate~~
2 ~~form provided by the board shall be filed with each renewal of the certificate of authorization and~~
3 ~~within thirty (30) days of the time any information previously filed with the board has changed, is~~
4 ~~no longer true or valid, or has been revised for any reason. If, in its judgment, the information~~
5 ~~contained on the application and renewal form is satisfactory and complete, the board, with the~~
6 ~~assistance of the department, will issue a certificate of authorization for the firm to practice~~
7 ~~engineering in this state.~~

8 ~~(3) No firm that has been granted a certificate of authorization by the board shall be~~
9 ~~relieved of responsibility for modification or derivation of the certificate, unless the board has~~
10 ~~issued for the applicant a certificate of authorization or a letter indicating the eligibility of the~~
11 ~~applicant to receive the certificate. The firm applying shall supply the certificate or letter from the~~
12 ~~board with its application for incorporation, organization or registration as a foreign corporation.~~

13 ~~(c) Any party aggrieved by the board's decision regarding license issuance or renewal~~
14 ~~may, within ten (10) days of the decision, appeal the matter to the director by submitting a written~~
15 ~~request for a formal hearing in accordance with the provisions of § 5-8-18.~~

16 SECTION 6. This act shall take effect upon passage.

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

1 This act would amend statutes governing engineers, land surveyors and landscape
2 architects (design professionals) to eliminate outmoded, inconsistent and unnecessary regulations
3 and would bring Rhode Island in line with our neighbors to level the playing field for business.

4 This act would take effect upon passage.

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