

No. 1990-192

AN ACT

SB 709

Amending the act of May 23, 1945 (P.L.913, No.367), entitled, as amended, "An act relating to and regulating the practice of the profession of engineering; including civil engineering, mechanical engineering, electrical engineering, mining engineering, chemical engineering, surveying and constituent parts and combinations thereof as herein defined; providing for the licensing and registration of persons practicing said profession, and the certification of engineers in training, and the suspension and revocation of said licenses, registrations and certifications for violation of this act; prescribing the powers and duties of the State Registration Board for Professional Engineers, the Department of State and the courts; prescribing penalties; and repealing existing laws," further providing for the regulation of the professions of engineering and land surveying.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title of the act of May 23, 1945 (P.L.913, No.367), known as the Professional Engineers Registration Law, amended December 13, 1979 (P.L.534, No.120), is amended to read:

AN ACT

Relating to and regulating the practice of the profession of engineering[;], including civil engineering, mechanical engineering, electrical engineering, mining engineering[,] *and* chemical engineering, *and the profession of land* surveying and constituent parts and combinations thereof as herein defined; providing for the licensing and registration of persons practicing said profession, and the certification of [engineers in training] *engineers-in-training and surveyors-in-training*, and the suspension and revocation of said licenses, registrations and certifications for violation of this act; prescribing the powers and duties of the State Registration Board for Professional Engineers *and Professional Land Surveyors*, the Department of State and the courts; prescribing penalties; and repealing existing laws.

Section 2. Section 1 of the act is amended to read:

Section 1. Short Title.—This act shall be known and may be cited as the "Professional Engineers *and Professional Land Surveyors* Registration Law."

Section 3. Section 2(a), (g) and (j) of the act, amended or added November 24, 1967 (P.L.548, No.270) and December 13, 1979 (P.L.534, No.120), are amended and the section is amended by adding subsections to read:

Section 2. Definitions.—As used in this act—

(a) (1) "Practice of Engineering" shall mean the application of the mathematical and physical sciences for the design of public or private buildings, structures, machines, equipment, processes, works or engineering systems, and the consultation, investigation, evaluation, engineering

surveys, *construction management*, planning and inspection in connection therewith, the performance of the foregoing acts and services being prohibited to persons who are not licensed under this act as professional engineers unless exempt under other provisions of this act.

(2) The term "Practice of Engineering" shall also mean and include related acts and services that may be performed by other qualified persons, including but not limited to, municipal planning, incidental landscape architecture, teaching, construction, maintenance and research but licensure under this act to engage in or perform any such related acts and services shall not be required.

(3) The foregoing shall not be deemed to include the practice of architecture as such, for which separate registration is required under the provisions of the act of July 12, 1919 (P.L.933, No.369), entitled "An act to regulate the practice of architecture in the Commonwealth of Pennsylvania by providing for the examination and registration of architects by a State Board of Examiners; defining the power and duties of said board of examiners; and providing penalties for the violation of this act," excepting only architectural work incidental to the "practice of engineering."

(4) The "Practice of Engineering" shall not preclude the practice of [other] *the* sciences which shall include but not be limited to: soil science, geology, physics and chemistry.

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(g) "Board" means The State Registration Board for Professional Engineers *and Professional Land Surveyors*.

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(j) "Engineering Land Surveys" means surveys for: (i) the development of any tract of land including the incidental design of related improvements, such as line and grade extension of roads, sewers and grading but not requiring independent engineering judgment: Provided, however, That tract perimeter surveys shall be the function of the Professional Land Surveyor; (ii) the determination of the configuration or contour of the earth's surface, or the position of fixed objects thereon or related thereto by means of measuring lines and angles and applying the principles of mathematics, photogrammetry or other measurement methods; (iii) geodetic [or] *survey*, [cadastral survey,] underground survey and hydrographic survey; (iv) *storm water management surveys and* sedimentation and erosion control surveys; (v) the determination of the quantities of materials; (vi) tests for water percolation in soils; and (vii) the preparation of plans and specifications and estimates of proposed work *and attendant costs* as described in this subsection.

(k) "Employe" means an individual who is on payroll and for whom taxes are withheld and Social Security is withheld and matched.

(l) "Surveyor-in-Training" means a candidate for licensure as a professional land surveyor who has been granted a certificate as a surveyor-in-training after successfully passing the prescribed written examination in fundamental land surveying subjects and who shall be eligible, upon the completion of the requisite years of experience in land surveying, under the supervision of a professional land surveyor or similarly qualified surveyor, for the final examination prescribed for licensure as a professional land surveyor.

Section 4. Section 3 of the act, amended December 13, 1979 (P.L.534, No.120), is amended to read:

Section 3. Practice of Engineering or Land Surveying Without Licensure and Registration Prohibited.—(a) In order to safeguard life, health or property and to promote the general welfare, it is unlawful for any person to practice or to offer to practice engineering in this Commonwealth, unless he is licensed and registered under the laws of this Commonwealth as a professional engineer, or for any person to practice or to offer to practice land surveying, unless he is licensed and registered under the laws of this Commonwealth as a professional land surveyor.

(b) A person shall be construed to practice or offer to practice engineering or land surveying who practices any branch of the profession of engineering or land surveying; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be an engineer or land surveyor, or through the use of some other title implies that he is an engineer or land surveyor or that he is registered under this act; or who holds himself out as able to perform, or who does perform any engineering *or land surveying* service or work or any other service designated by the practitioner or recognized as engineering or land surveying.

Section 5. Section 4 of the act, amended, added or repealed in part December 13, 1979 (P.L.534, No.120), June 25, 1982 (P.L.633, No.181) and December 22, 1983 (P.L.348, No.87), is amended to read:

Section 4. General Powers of Board.—The board shall have power—

(a) Approval of [Institutions and Colleges] *Engineering and Surveying Curricula*.—To investigate and to approve or disapprove [institutions and colleges] *engineering and surveying curricula* of this State, and other states, territories and countries for the education of students desiring to be licensed to engage in the practice of engineering or land surveying, and to revoke or suspend approvals where [such institutions and colleges] *they are* no longer [are] deemed proper.

(b) Licensing Professional Engineers *and Professional Land Surveyors*.—To provide for and to regulate the licensing, and to license to engage in the practice of engineering *or land surveying* any person of good *moral* character and repute [who is at least in his twenty-fifth year of age, and] who speaks and writes the English language, if such person either—

(1) Holds an unexpired license or certificate of registration issued to him by proper authority of some other state, [or] foreign country *or territory of the United States* in which the requirements and qualifications to engage in the practice of engineering *or land surveying* were at the time of the initial issuance of such license or certificate of registration at least equal to the existing standards of this Commonwealth: Provided, however, That such other state, territory or foreign country shall similarly license or register professional engineers *or professional land surveyors* licensed and registered in this Commonwealth. A person may be licensed under this subsection without examination.

(2) Holds a certificate of qualifications issued by the National Bureau of Engineering Registration of the National Council of [State Boards of Engi-

neering] *Examiners for Engineering and Surveying*: Provided, The requirements and qualifications of said bodies to engage in the practice of engineering or land surveying are at least equal to the standards of this Commonwealth. A person may be licensed under this subsection without examination.

In carrying into effect clauses (1) and (2) of subsection (b) of this section the board may in its discretion enter into agreements for reciprocity with the National Council of [State Boards of Engineering] *Examiners for Engineering and Surveying* and with states under such rules and regulations as the board may prescribe.

(3) Has had four or more years' progressive experience in engineering work under the supervision of a professional engineer, or a similarly qualified engineer of a grade or character to fit him to assume responsible charge of the work involved in the practice of engineering, and is either an engineer-in-training or a graduate in engineering of an approved institution or college having a course in engineering of four or more years, or has had four or more years of progressive experience in engineering work, teaching in an approved institution or college, and who is a graduate of an approved institution or college having a course in engineering of four or more years and who in either event successfully passes written examinations prescribed by the board in engineering subjects. In the case of the examination of an engineer-in-training his examination shall be directed and limited to those matters which will test the applicant's ability to apply the principles of engineering to the actual practice of engineering. In the case of an applicant who is not an engineer-in-training the examination shall be for the purpose of testing the applicant's knowledge of fundamental engineering subjects, including mathematics and the physical sciences and those matters which will test the applicant's ability to apply the principles of engineering to the actual practice of engineering. To be licensed under this subsection, the person shall be required to successfully pass the examinations prescribed by the board for both professional engineers and engineers-in-training: Provided, That graduates in engineering who were graduated prior to January 1, 1968 or engineers-in-training who received a certificate from the board prior to January 1, 1968, shall not be required to take the examination prescribed for engineers-in-training.

(4) Has had twelve or more years of progressive experience in engineering work, at least eight years of which shall have been under the supervision of a professional engineer, or similarly qualified engineer of a grade and character to fit him to assume responsible charge of the work involved in the practice of engineering, and who successfully passes written examinations prescribed by the board for the purpose of testing the applicant's knowledge of fundamental engineering subjects, including mathematics and the physical sciences and those matters which will test the applicant's ability to apply the principles of engineering to the actual practice of engineering. To be licensed under this subsection, the person shall be required to successfully pass the examinations prescribed by the board for both professional engineers and engineers-in-training.

(5) Is possessed of long established and recognized standing in the engineering field, provided said person is not less than fifty years of age and has a record of not less than twenty-five years' experience in engineering, of which at least fifteen years has been in responsible charge of important and outstanding engineering work or teaching. Upon application from such an individual and the payment of the required registration fees, the board may issue to such an applicant a certificate of registration as a professional engineer based upon an oral examination and after approval of a majority of the board: Provided, however, That no certificate of registration as a professional engineer shall be issued by the board pursuant to this provision on any application for same which is filed more than two years after the effective date of this act.

Prior to consideration by the board of any such application made under this clause (5) and prior to giving any such oral examination, the board shall issue public notice of the names of all such applicants in a newspaper of general circulation in Dauphin County, Pennsylvania, and the duly approved Legal Journal of Dauphin County. The application forms relative to such applicants shall be open to public inspection, and the board shall receive and consider all written comments relative to such applicants in processing such applications.

(c) Examination and Certification of Engineers-in-Training.—To provide for and to regulate the examination of any person who has produced satisfactory evidence that he has graduated in an engineering curriculum from an approved institution or college having a course of four years or more in engineering or who has had four or more years' experience in engineering work, and who produces satisfactory evidence to show knowledge, skill and education approximating that attained through graduation from an approved institution or college, and to issue to any such person who successfully passes such examination a certificate showing that he has successfully passed this portion of the professional examination and is recognized as an engineer-in-training. The examination of applicants as engineers-in-training shall be designed to permit an applicant for licensure as a professional engineer to take his examination in two stages. The examination for certification as an engineer-in-training shall be for the purpose of testing the applicant's knowledge of fundamental engineering subjects, including mathematics and the physical sciences. Satisfactory passing of this portion of the examination shall constitute a credit for the life of the applicant or until he is licensed under this act as a professional engineer.

(d) Licensing of Land Surveyors.—To provide for and to regulate the licensing and to license to engage in the practice of land surveying any person of good character and repute who is at least in his twenty-first year of age, and who speaks and writes the English language if such person:

(1) Has graduated in civil engineering or surveying from an approved institution or college having an engineering course of not less than four years, and including at least ten credit hours of surveying, or has graduated in an approved two-year course in surveying and related areas of engineering design leading to an associate degree in surveying, and if licensing occurs

before 1983 has had two or more years' progressive experience or if licensing occurs in 1983 or thereafter has had four or more years' progressive experience in land surveying under the supervision of a professional land surveyor, or a similarly qualified surveyor of a character indicating that the applicant is competent to assume responsible charge of the practice of land surveying, and who successfully passes a written examination prescribed by the board in surveying and related design subjects; or

(2) If licensing occurs before 1985 has had six or more years' progressive experience or if licensing occurs in 1985 or thereafter has had ten or more years' progressive experience in land surveying work half of which time shall have been spent in responsible charge of primary land surveying functions, under the supervision of a professional land surveyor or a similarly qualified surveyor of a character indicating that the applicant is competent to assume responsible charge of the work involved in the practice of land surveying and who successfully passes a written examination prescribed by the board in surveying and related design subjects.

(3) Holds an unexpired license or certificate of registration issued to him by proper authority of some other state or foreign country in which the requirements and qualifications to engage in the practice of land surveying were at the time of the initial issuance of such license or certificate of registration at least equal to the existing standards of this Commonwealth: Provided, however, That such other state, territory or foreign country shall similarly license or register professional land surveyors licensed and registered in this Commonwealth. A person may be licensed under this clause without examination.

In carrying into effect clauses (1) and (2), the board shall require all applicants to show a diversification in both field and office experience, with the smallest percentage of time allowed in either category to be twenty-five per cent.]

(3) *Complies with the education and experience criteria and successfully completes the two-examination process for licensing as a professional engineer, as set forth in section 4.2, or as a professional land surveyor, as set forth in section 4.3.*

[(e)] (c) Investigations of Applications; Determination of Competency of Applicants.—To investigate the allegations contained in any application for licensure or certification under this act in order to determine the truth of such allegations and to determine the competency of any person applying for licensure to assume responsible charge of the work involved in the practice of engineering or land surveying, such competency to be determined by the grade and character of the engineering work, or the grade and character of the land surveying work actually performed. The mere execution as a contractor of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent, or the operation or maintenance of machinery or equipment, or work performed as a salesman of engineering equipment or apparatus, shall not be deemed to be active practice in engineering, unless such work has involved the actual practice of engineering. Engineering and land surveying work, performed under the

supervision of a professional engineer or land surveyor, respectively, shall be given full credit. Whenever the board determines otherwise than by examination, that an applicant has not produced sufficient evidence to show that he is competent to be placed in responsible charge and shall refuse to examine or to license such applicant, it shall set forth in writing its findings and the reasons for its conclusions and furnish a copy thereof to the applicant.

[(f)] (d) Examinations; Fees.—To prescribe the subjects, manner, time and place of examinations for licenses as professional engineers and *professional land surveyors* and for certificates for engineers-in-training and *surveyors-in-training*, and the filing of applications for such examinations, and to prepare or provide for the preparation of such examinations, conduct or provide for the conduct of such examinations, to make written reports of such examinations, which reports shall be preserved for a period of not less than three years, to collect such fees for such examinations, and for licenses and certificates issued without examination, as may be fixed according to law, and to issue licenses and certificates to such persons as successfully pass such examinations.

[(g)] (e) Biennial Registrations; Fees.—To provide for, regulate and require all persons licensed in accordance with the provisions of this act and all persons licensed and registered under prior laws of this Commonwealth, relating to the licensing of professional engineers and professional land surveyors, to register biennially with the board, to prescribe the form of such registration, after consultation with the Commissioner of Professional and Occupational Affairs and the payment of such biennial registration fee, as shall be fixed according to law, to issue biennial registration to such persons and to suspend or revoke the license or registration of such persons as fail, refuse or neglect to so register, or pay such fee within such time as the board shall prescribe by its rules and regulations, and to reinstate licenses and registrations of persons who shall thereafter pay such registration fees in accordance with the rules and regulations of the board.

[(h)] (f) Roster of Registrants.—To keep a roster showing the names and addresses of, **the places of business of all** professional engineers and professional land surveyors licensed under this act, and under prior laws, and registered by the board, which roster shall be published in booklet form by the board **every five years. The roster shall also contain the names and addresses of all engineers-in-training certified under this act, and under prior laws, and registered by the board. In the interim years following the publishing of the complete roster, the board shall each year publish a supplemental roster containing the names, registration numbers where applicable, and addresses of all professional engineers, professional land surveyors and engineers-in-training registered or certified by the board subsequent to the publishing of the last published roster or supplemental roster** following each biennial renewal. Copies of the roster **[and supplemental roster]** shall be furnished upon request to each registered or certified person and may be furnished to other persons upon such terms as the board shall prescribe: Provided, however, That copies of the roster **[and supplemental roster]** shall be furnished to the Planning Commission and the prothonotary of each county in the Commonwealth.

[(b)] (g) Suspension and Revocation of Licenses; Registrations and Certificates; Reinstatements.—To suspend or revoke the license and registration of any professional engineer or professional land surveyor or the certificate of any engineer-in-training *or surveyor-in-training*, who is found guilty by the board, by a majority vote of all its members, of the practice of any fraud, deceit or misrepresentation in obtaining his license, certification or registration, or of gross negligence, incompetency or misconduct in the practice of engineering, or in the practice of land surveying, or of violation of the code of ethics of the engineering profession, and to reinstate suspended licenses, registrations and certificates in any cases where a majority of all the members of the board shall determine the same to be just and proper. Unless ordered to do so by a court, the board shall not reinstate the license, certificate or registration of a person to practice as a professional engineer or professional land surveyor or an engineer-in-training *or a surveyor-in-training* which has been revoked, and such person shall be required to apply for a license, certificate or registration after a period of five years in accordance with section 2 if he desires to practice at any time after such revocation. ***The board shall require a person whose license or registration has been suspended or revoked to return the license or registration in such manner as the board directs. Failure to do so shall be a misdemeanor of the third degree.*** Misconduct in the practice of engineering or land surveying shall include, but not be limited to conviction for a criminal offense such as extortion, bribery or fraud or entry of a plea of nolo contendere to a charge thereof for conduct relating to the practice of engineering or land surveying, or has violated any provision of this act or any regulation promulgated by the board. For the purposes of this subsection, the code of ethics is as follows:

It shall be considered unprofessional and inconsistent with honorable and dignified bearing for any professional engineer or professional land surveyor:

(1) To act for his client or employer in professional matters otherwise than as a faithful agent or trustee, or to accept any remuneration other than his stated recompense for services rendered.

(2) To attempt to injure falsely or maliciously, directly or indirectly, the professional reputation, prospects or business of anyone.

(3) To attempt to supplant another engineer or land surveyor after definite steps have been taken toward his employment.

(4) To compete with another engineer or land surveyor for employment by the use of unethical practices.

(5) To review the work of another engineer or land surveyor for the same client, except with the knowledge of such engineer or land surveyor, or unless the connection of such engineer or land surveyor with the work has terminated.

(6) To attempt to obtain or render technical services or assistance without fair and just compensation commensurate with the services rendered: Provided, however, the donation of such services to a civic, charitable, religious or eleemosynary organization shall not be deemed a violation.

(7) To advertise in self-laudatory language, or in any other manner, derogatory to the dignity of the profession.

(8) To attempt to practice in any field of engineering *or land surveying* in which the registrant is not proficient.

(9) To use or permit the use of his professional seal on work over which he was not in responsible charge.

(10) To aid or abet any person in the practice of engineering or land surveying not in accordance with the provision of this act or prior laws.

The board shall appoint, with the approval of the Governor, such hearing examiners as shall be necessary to conduct hearings as may be required under this subsection.

The board shall have the power to adopt and promulgate rules and regulations setting forth the functions, powers, standards and duties to be followed by the hearing examiners.

The hearing examiners shall have the power to conduct hearings in accordance with the regulations of the board, and to issue subpoenas requiring the attendance and testimony of individuals or the production of, pertinent books, records, documents and papers by persons whom they believe to have information relevant to any matter pending before the examiner. Such examiner shall also have the power to administer oaths.

The hearing examiner shall hear evidence submitted and arguments of counsel, if any, with reasonable dispatch, and shall promptly record his decision, supported by findings of fact, and a copy thereof shall immediately be sent to the board and to counsel of record, or the parties, if not represented.

If application for review is made to the board within twenty days from the date of any decision made as a result of a hearing held by a hearing examiner, the board shall review the evidence, and if deemed advisable by the board, hear argument and additional evidence. As soon as practicable, the board shall make a decision and shall file the same with its finding of the facts on which it is based and send a copy thereof to each of the parties in dispute.

[(j)] (h) Financial Requirements of Board.—(1) To submit annually to the Department of State an estimate of the financial requirements of the board for its administrative, investigative, legal and miscellaneous expenses.

(2) To submit annually to the House and Senate Appropriations Committees, fifteen days after the Governor has submitted his budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the department.

[(k)] (i) Administration and Enforcement of Laws.—To administer and enforce the laws of the Commonwealth relating to the practice of engineering and land surveying, and to instruct and require its agents to bring prosecutions for unauthorized and unlawful practices.

[(l)] (j) Minutes and Records.—To keep minutes and records of all its transactions and proceedings. Copies thereof duly certified by the secretary of the board shall be received in evidence in all courts and elsewhere.

[(m)] (k) Member of National Council of [Engineering] Examiners for Engineering and Surveying; Dues.—To become a member of the National Council of [Engineering] Examiners for Engineering and Surveying, and to

pay such dues as said council shall establish, and to send delegates to the annual meeting of said council, and to defray their expenses.

[(n)] (l) Administrative Rules and Regulations.—To adopt, promulgate and enforce such administrative rules and regulations, not inconsistent with this act, as are deemed necessary and proper by the board to carry into effect the powers conferred by this act.

[(o)] (m) Status of Complaints.—The board shall submit annually a report to the Professional Licensure Committee of the House of Representatives and to the Consumer Protection and Professional Licensure Committee of the Senate a description of the types of complaints received, status of cases, board action which has been taken and the length of time from the initial complaint to final board resolution.

Section 6. Section 4.1 of the act, added December 22, 1983 (P.L.348, No.87), is amended to read:

Section 4.1. State Registration Board for Professional Engineers *and Professional Land Surveyors*.—(a) **[The State Registration Board for Professional Engineers shall consist of the Commissioner of Professional and Occupational Affairs, the Director of the Bureau of Consumer Protection in the Office of Attorney General, or his designee, two]** *There is hereby established within the Department of State the State Registration Board for Professional Engineers and Professional Land Surveyors. The board shall consist of the Commissioner of Professional and Occupational Affairs, three* members appointed by the Governor who shall be persons representing the public at large and **[five]** *seven* members appointed by the Governor, **[all]** *five* of whom shall be registered professional engineers[.] *and two of whom shall be registered professional land surveyors. Any land surveyor appointed to serve on the board shall have received the land surveyor license upon the passage of the appropriate examinations.* The professional members of the board shall be so selected that not more than two of them shall specialize in any one of the five major disciplines of engineering: civil, mining and metallurgical, mechanical, electrical and chemical. Each member of the board shall be a citizen of the United States and a resident of this Commonwealth. Each professional member shall have been engaged in the practice of the *respective* profession **[of engineering]** for at least ten years and shall have been in responsible charge of **[engineering]** work for at least five years.

(b) The terms of members of the board shall be six years, or until his successor has been appointed and qualified but not longer than six months beyond the six-year period. In the event that any of said members shall die or resign during his term, his successor shall be appointed in the same way and with the same qualifications and shall hold office for the unexpired term. *No member shall be eligible for appointment to serve more than two consecutive full terms.*

(c) **[Five]** *Six* members of the board shall constitute a quorum. *A member may not be counted as part of a quorum or vote on any issue, other than temporary and automatic suspension, under this act unless he is physically in attendance at the meeting.*

(d) The board shall select annually a president from among its members.

(e) Each member of the board, except the Commissioner of Professional and Occupational Affairs and the Director of the Bureau of Consumer Protection in the Office of Attorney General, or his designee, shall receive sixty dollars per diem when actually attending to the work of the board. Members shall also receive the amount of reasonable traveling, hotel and other necessary expenses incurred in the performance of their duties.

(f) The board is subject to evaluation, review and termination within the time and in the manner provided in the act of December 22, 1981 (P.L.508, No.142), known as the "Sunset Act."

(g) A member of the board who fails to attend three consecutive meetings shall forfeit his seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of a family member.

(h) *A public member who fails to attend two consecutive statutorily mandated training seminars in accordance with section 813(e) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," shall forfeit board membership unless the Commissioner of Professional and Occupational Affairs, upon written request from the public member, finds that the public member should be excused from a meeting because of illness or the death of a family member.*

Section 7. The act is amended by adding sections to read:

Section 4.2. Procedure for Licensing as Professional Engineer.—

(a) *An applicant for licensure as a professional engineer shall satisfactorily complete the engineering fundamentals examination and become certified as an engineer-in-training and subsequently show evidence of experience satisfactory to the board to prepare him for the engineering principles and practice examination.*

(b) (1) *An applicant for the engineer-in-training certificate shall show satisfactory evidence of:*

(i) *graduation from an approved engineering curriculum of four or more years; or*

(ii) *eight or more years of progressive experience in engineering work and knowledge, skill and education approximating that attained through graduation from an approved engineering curriculum.*

(2) *An engineering student who has completed two or more years of an approved program in engineering may, subject to board approval, sit for the examination; but such student shall not be eligible for certification until he shows proof of graduation.*

(3) *An applicant who satisfactorily completes the examination in engineering fundamentals shall be certified as an engineer-in-training without time limitation and may remain certified until such time as he becomes licensed under this act as a professional engineer.*

(c) *An applicant who is a certified engineer-in-training may apply for licensure and shall pass the examination in engineering principles and practice. To qualify for the principles and practice examination, an applicant*

shall, in addition to holding the engineer-in-training certificate, show satisfactory proof of:

(1) four or more years of progressive experience in engineering work performed after the issuance of the engineer-in-training certificate and under the supervision of a professional engineer or a similarly qualified engineer of a grade and character to fit him to assume responsible charge of the work involved in the practice of engineering; or

(2) four or more years of progressive teaching experience in an approved curriculum under the supervision of a professional engineer or a similarly qualified engineer of a grade or character to fit him to assume responsible charge of the work involved in the practice of engineering.

Section 4.3. Procedure for Licensing as Professional Land Surveyor.—

(a) An applicant for licensure as a professional land surveyor shall satisfactorily complete the surveying fundamentals examination and become certified as a surveyor-in-training and subsequently show evidence of experience satisfactory to the board to prepare for the land surveying principles and practice examination.

(b) (1) An applicant for the surveyor-in-training certificate shall show satisfactory evidence of:

(i) graduation from an approved civil engineering curriculum of at least four years, including no less than ten credit hours instruction in surveying;

(ii) six or more years of progressive experience in surveying and knowledge, skill and education deemed equivalent, in accordance with board regulation, to graduation from an approved curriculum in land surveying or civil engineering; or

(iii) an associate's degree in an approved surveying technology curriculum.

(2) An applicant who satisfactorily completes the fundamentals examination shall be certified as a surveyor-in-training without time limitation and may remain certified until such time as he becomes licensed under this act as a professional land surveyor.

(3) An applicant shall show diversification of field and office experience, with at least twenty-five per cent of his experience in each.

(c) Each applicant for licensure shall be certified as a surveyor-in-training and shall pass an examination in land surveying principles and practice. To qualify for the principles and practice examination, the applicant shall demonstrate:

(1) Four or more years of progressive experience in land surveying work performed after the issuance of the surveyor-in-training certificate and under the supervision of a professional land surveyor or a similarly qualified surveyor of a grade or character to fit him to assume responsible charge of the work involved in the practice of land surveying.

(2) Four or more years of progressive teaching experience in an approved curriculum under the supervision of a professional land surveyor or a similarly qualified surveyor of a grade and character to fit him to assume responsible charge of the work involved in the practice of land surveying.

Section 8. Section 5(a), (b), (f), (g) and (h) of the act, amended December 13, 1979 (P.L.534, No.120), are amended and the section is amended by adding a subsection to read:

Section 5. *Exemption from Licensure and Registration.*—Except as specifically provided in this section, this act shall not be construed to require licensure and registration in the following cases:

(a) The practice of engineering or land surveying by any person who acts under the supervision of a professional engineer or *professional* land surveyor, respectively, or by an employe of a person lawfully engaged in the practice of engineering or land surveying and who, in either event, does not assume responsible charge of design or supervisions;

(b) The practice of engineering or land surveying, not exceeding thirty days in the aggregate in one calendar year, by a nonresident not having a place of business in this Commonwealth, if such person is legally qualified to engage in the practice of engineering or land surveying in the state or territory of his residence: Provided, That standards of such state or territory are at least equal to the standards of this Commonwealth;

* * *

(f) The practice of engineering or land surveying by any person or by any employe of any copartnership, association or corporation upon property owned by such person or such copartnership, association or corporation, unless such practice affects the public safety or health or the property of some other person *or entity*.

(g) The practice of engineering or land surveying work by a manufacturing, mining, communications common carrier, research and development or other industrial corporation or by employes of such corporation, provided such work is in connection with or incidental to products of, or non-engineering services rendered by, such corporation or its affiliates.

(h) The running of lines or grades and layout work on or within established property limits, or from established points outside the property limits to or within such property limits when performed by a contractor or home builder in conjunction with the construction, reconstruction, alteration, maintenance or demolition of a structure or other facility.

* * *

(j) *The preparation of shop drawings or the performance of construction management services by persons customarily engaged in construction work.*

Section 9. Sections 6 and 7 of the act, amended December 13, 1979 (P.L.534, No.120), are amended to read:

Section 6. *Practice by Firms and Corporations.*—The practice of engineering and of land surveying being the function of an individual or of individuals working in concerted effort, it shall be unlawful for any firm or corporation to engage in such practice, or to offer to practice, or to assume use or advertise any title or description conveying the impression that such firm or corporation is engaged in or is offering to practice such profession, unless the directing heads and employes of such firm or corporation in responsible charge of its activities in the practice of such profession are licensed and registered in conformity with the requirements of this act, and whose name

[and], seal and signature, along with the date of signature, shall be stamped on all plans, [specification plates] specifications, plats and reports issued by such firm or corporation.

Section 7. Seal of Registrants.—(a) Each person, registered under this act, shall obtain a seal of a design authorized by the board which shall bear the registrant's name and number and the legend "Registered Professional Engineer" or "Registered Professional Land Surveyor." Such seal, or a facsimile imprint of same, shall be stamped on all plans, specifications, [plates] plats and reports issued by a professional engineer or *professional* land surveyor.

(b) It shall be unlawful for any person to use such seal during the period the license or registration of the holder thereof has been suspended or revoked, or to use a seal of any design not approved by the board.

Section 10. Sections 9 and 10 of the act, amended December 22, 1983 (P.L.348, No.87), are amended to read:

Section 9. Fees.—(a) The fee for an applicant for licensure as a professional engineer or professional land surveyor, including examination, and for examination or certification, or both, as an engineer-in-training *or a surveyor-in-training*, shall be as fixed by the board by regulation and shall be subject to review in accordance with the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act." If the revenues generated by fees, fines and civil penalties imposed in accordance with the provisions of this act are not sufficient to match expenditures over a two-year period, the board shall increase those fees by regulation, subject to review in accordance with the "Regulatory Review Act," such that the projected revenues will meet or exceed projected expenditures.

(b) If the Bureau of Professional and Occupational Affairs determines that the fees established by the board are inadequate to meet the minimum enforcement efforts required, then the bureau, after consultation with the board, shall increase the fees by regulation, subject to review in accordance with the "Regulatory Review Act," such that adequate revenues are raised to meet the required enforcement effort.

(c) All persons now qualified and engaged in the practice of engineering and land surveying, or who shall hereafter be licensed by the board, shall register, biennially, with the board and pay the fee for each biennial registration. All fees collected under the provisions of this act shall be received by the board and shall be paid into the Professional Licensure Augmentation Account.

Section 10. Status of Existing Licensees and Registrants Preserved.—Any person, licensed or legally authorized to practice as a professional engineer or *professional land* surveyor in this Commonwealth at the time this act takes effect, shall thereafter continue to possess the same rights and privileges with respect to the practice of engineering or land surveying without being required to be licensed anew under the provisions of this act. I, subject, however, to the following:

(a) Any person licensed to practice as a professional engineer at the time of the effective date of this act, upon application to the board within two

years of the effective date of this act, shall be granted a certificate of registration to practice land surveying.

(a.1) Any person licensed to practice as a professional engineer limited to the practice of surveying at the time of the effective date of this act may continue the practice of land surveying thereunder and upon application to the board at any time shall be granted a certificate of registration to practice land surveying.

(b) All] *However, all* actions shall be subject to the power of the board as provided in this act to suspend or revoke the license of any such person for any of the causes set forth in this act, and subject to the power of the board to require any such person to register biennially with the board as provided in this act.

Section 11. The act is amended by adding sections to read:

Section 10.1. Temporary and Automatic Suspensions.—(a) A license issued under this act may be temporarily suspended under circumstances as determined by the board to be an immediate and clear danger to the public health and safety. The board shall issue an order to that effect without a hearing, but upon due notice to the licensee concerned at his or her last known address, which shall include a written statement of all allegations against the licensee. The board shall thereupon commence formal action to suspend, revoke or restrict the license of the person concerned as otherwise provided for in this act. All actions shall be taken promptly and without delay. Within thirty days following the issuance of an order temporarily suspending a license, the board shall conduct, or cause to be conducted, a preliminary hearing to determine that there is a prima facie case supporting the suspension. The licensee whose license has been temporarily suspended may be present at the preliminary hearing and may be represented by counsel, cross-examine witnesses, inspect physical evidence, call witnesses, offer evidence and testimony and make a record of the proceedings. If it is determined that there is not a prima facie case, the suspended license shall be immediately restored. The temporary suspension shall remain in effect until vacated by the board, but in no event longer than one hundred eighty days.

(b) A license issued under this act shall automatically be suspended upon the legal commitment to an institution of a licensee because of mental incompetency from any cause upon filing with the board a certified copy of such commitment, conviction of a felony under the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or conviction of an offense under the laws of another jurisdiction, which, if committed in Pennsylvania, would be a felony under "The Controlled Substance, Drug, Device and Cosmetic Act." As used in this subsection, the term "conviction" shall include a judgment, an admission of guilt or a plea of nolo contendere. Automatic suspension under this subsection shall not be stayed pending any appeal of a conviction. Restoration of such license shall be made as hereinafter provided in the case of revocation or suspension of such license.

(c) An attorney responsible for representing the Commonwealth in disciplinary matters before the board shall notify the board immediately upon

receiving notification of an alleged violation of this act. The board shall maintain current records of all reports of alleged violations and periodically review the records for the purpose of determining that each alleged violation has been resolved in a timely manner.

Section 10.2. Reporting of Multiple Licensure.—Any licensee of this Commonwealth who is also licensed to practice engineering or land surveying in any other state, territory or country shall report this information to the board on the biennial renewal application. Any disciplinary action taken in other states, territories or countries shall be reported to the board on the biennial renewal application or within ninety days of final disposition, whichever is sooner. Multiple licensure shall be noted by the board on the engineer's or land surveyor's record, and each state, territory or country shall be notified by the board of any disciplinary action taken against the licensee in this Commonwealth.

Section 12. Section 11 of the act, amended December 22, 1983 (P.L.348, No.87), is amended to read:

Section 11. Penalties.—(a) Whoever shall engage in the practice of engineering or the practice of land surveying without being licensed and registered as required by this act, or exempted therefrom, as provided in this act, or shall present or attempt to use, as his own, the license or certificate of registration of another, or shall give any false or forged evidence of any kind to the board, or to any member thereof, in order to obtain a license or registration as a professional engineer or professional land surveyor or a certificate as an engineer-in-training *or surveyor-in-training*, or shall use any expired, suspended or revoked certificate of registration, or shall otherwise violate the provisions of this act, shall be guilty of a summary offense and upon conviction thereof for a first offense, shall be sentenced to pay a fine not exceeding **[five hundred]** *one thousand* dollars, or suffer imprisonment, not exceeding three months, or both and for a second or subsequent offense shall be guilty of a felony, and upon conviction thereof, shall be sentenced to pay a fine of not less than two thousand dollars but not more than five thousand dollars or to imprisonment for not less than one year but not more than two years, or both.

(b) In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law, or by a vote of the majority of the duly qualified and confirmed membership or a minimum of **[four]** *five* members, whichever is greater, may levy a civil penalty of up to one thousand dollars on any current licensee who violates any provision of this act or on any person who practices the profession of an engineer *or land surveyor* without being properly licensed to do so under this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(c) All fines and civil penalties imposed in accordance with this section shall be paid into the Professional Licensure Augmentation Account.

Section 13. The act is amended by adding sections to read:

Section 11.1. Injunction Against Unlawful Practice.—*It shall be unlawful for any person to practice, or attempt to offer to practice, engineering or land surveying, as defined in this act, without having at the time of so doing a valid, unexpired, unrevoked and unsuspended license issued under this act. The unlawful practice of engineering or land surveying, as defined in this act, may be enjoined by the courts on petition of the board or the Commissioner of Professional and Occupational Affairs. In any such proceeding, it shall not be necessary to show that any person is individually injured by the actions complained of. If the respondent is found guilty of the unlawful practice of engineering or land surveying, the court shall enjoin him from so practicing unless and until he has been duly licensed. Procedure in such cases shall be the same as in any other injunction suit. The remedy by injunction hereby given is in addition to any other civil or criminal prosecutions and punishment.*

Section 11.2. Investigative Subpoena.—*The board shall have the authority to issue subpoenas, upon application of an attorney responsible for representing the Commonwealth in disciplinary matters before the board, for the purpose of investigating alleged violations of the disciplinary provisions administered by the board. The board shall have the power to subpoena witnesses, to administer oaths, to examine witnesses and to take such testimony or compel the production of such books, records, papers and documents as it may deem necessary or proper in, and pertinent to, any proceeding, investigation or hearing held or had by it. Client records may not be subpoenaed without consent of the client or without order of a court of competent jurisdiction on a showing that the records are reasonably necessary for the conduct of the investigation. The court may impose such limitations on the scope of the subpoenas as are necessary to prevent unnecessary intrusion in client confidential information. The board is authorized to apply to the Commonwealth Court to enforce its subpoenas.*

Section 14. Sections 4.2 and 4.3 added by this act shall not apply to any person who completes the educational requirements by June 30, 1994, for licensure as a professional engineer or professional land surveyor as those requirements existed on the day prior to the effective date of this act. Sections 4.2 and 4.3 added by this act shall not apply to any person who begins the experience requirements prior to the effective date of this act for licensure as a professional engineer or land surveyor as those requirements existed on the day prior to the effective date of this act. Such persons to whom sections 4.2 and 4.3 do not apply shall comply with the education and experience requirements as they existed on the day prior to the effective date of this act.

Section 15. This act shall take effect in 60 days.

APPROVED—The 19th day of December, A. D. 1990.

ROBERT P. CASEY