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FEB 26 1996

Place On Calendar

HOUSE FILE 2318
BY COMMITTEE ON COMMERCE AND
REGULATION

(SUCCESSOR TO HSB 549)

Passed House, Date ^(p. 835) 3-20-96 Passed Senate, Date 3/26/96 ^(p. 1043)
Vote: Ayes 98 Nays 0 Vote: Ayes 47 Nays 2
Approved April 4, 1996

A BILL FOR

1 An Act relating to the licensure and practice of land surveying,
2 to the unlawful practice of land surveying, architecture, and
3 professional engineering, and establishing a civil penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 2318

9

H-5389

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1 Amend House File 2318 as follows:

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2 1. By striking page 1, line 1, through page 4,
3 line 32.

12

4 2. By renumbering as necessary.

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adopted 3/20/96 (p. 835) By SUKUP of Franklin
BRUNKHORST of Bremer
WISE of Lee

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H-5389 FILED MARCH 13, 1996

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HF 2318

1 Section 1. Section 542B.2, Code Supplement 1995, is
2 amended to read as follows:

3 542B.2 ~~TERMS-DEFINED~~ DEFINITIONS.

4 As used in this chapter, unless the context otherwise
5 requires:

6 1. ~~The-"board"~~ "Board" means the engineering and land
7 surveying examining board ~~provided~~ created by this chapter.

8 2. ~~The-term-"engineering~~ "Engineering documents" ~~as-used~~
9 ~~in-this-chapter~~ includes all plans, specifications, drawings,
10 and reports, if the preparation of such documents constitutes
11 or requires the practice of engineering.

12 3. ~~The-term-"engineer~~ "Engineer intern" ~~as-used-in-this~~
13 ~~chapter~~ means a person who passes an examination in the
14 fundamental engineering subjects, but does not entitle the
15 person to claim to be a professional engineer.

16 4. ~~The-term-"in~~ "In responsible charge" ~~as-used-in-this~~
17 ~~chapter~~ means having direct control of and personal
18 supervision over any land surveying work or work involving the
19 practice of engineering. One or more persons, jointly or
20 severally, may be in responsible charge.

21 ~~5.---The-practice-of-"land-surveying"--within-the-meaning-and~~
22 ~~intent-of-this-chapter-includes-surveying-of-areas-for-their~~
23 ~~correct-determination-and-description-and-for-conveyancing,-or~~
24 ~~for-the-establishment-or-re-establishment-of-land-boundaries~~
25 ~~and-the-platting-of-lands-and-subdivisions-thereof.~~

26 ~~6. 5.~~ The-term-"land "Land surveying documents" ~~as-used-in~~
27 ~~this-chapter~~ includes all plats, maps, surveys, and reports,
28 if the preparation thereof constitutes or requires the
29 practice of land surveying.

30 ~~7. 6.~~ The-term-"land "Land surveyor" ~~as-used-in-this~~
31 ~~chapter-shall-mean~~ means a person who engages in the practice
32 of land surveying ~~as-hereinafter-defined.~~

33 ~~8. 7.~~ "Practice of engineering" ~~as-used-in-this-chapter~~
34 means any service or creative work, the adequate performance
35 of which requires engineering education, training, and

1 experience in the application of special knowledge of the
2 mathematical, physical, and engineering sciences, such as
3 consultation, investigation, evaluation, planning, design and
4 design coordination of engineering works and systems, planning
5 the use of land and water, performing engineering surveys and
6 studies, and the review of construction for the purpose of
7 monitoring compliance with drawings and specifications, any of
8 which embraces such services or creative work, either public
9 or private, in connection with any utilities, structures,
10 buildings, machines, equipment, processes, work systems,
11 projects, and industrial or consumer products or equipment of
12 a mechanical, electrical, hydraulic, pneumatic, or thermal
13 nature, insofar as they involve safeguarding life, health, or
14 property, and including such other professional services as
15 may be necessary to the planning, progress, and completion of
16 the services identified in this paragraph subsection. "Design
17 coordination" includes the review and coordination of
18 technical submissions prepared by others, including as
19 appropriate and without limitation, consulting engineers,
20 architects, landscape architects, land surveyors, and other
21 professionals working under the direction of the engineer.
22 "Engineering surveys" includes all survey activities required
23 to support the sound conception, planning, design,
24 construction, maintenance, and operation of engineered
25 projects, but excludes the surveying of real property for the
26 establishment of land boundaries, rights-of-way, easements,
27 and the dependent or independent surveys or resurveys of the
28 public land survey system.

29 A person is construed to be engaged in the practice of
30 engineering if the person does any of the following:

31 a. Practices any branch of the profession of engineering.

32 b. Makes a representation by verbal claim, sign,
33 advertisement, letterhead, card, or other manner that the
34 person is a professional engineer.

35 c. Uses any title which implies that the person is a

1 professional engineer or that the person is certified licensed
2 under this chapter.

3 d. The person holds the person's self out as able to
4 perform, or who does perform, any service or work included in
5 the practice of engineering.

6 8. a. "Practice of land surveying" includes providing
7 professional services such as consultation, investigation,
8 testimony, evaluation, planning, mapping, assembling, and
9 interpreting reliable scientific measurements and information
10 relative to the location, size, shape, or physical features of
11 the earth, improvements on the earth, the space above the
12 earth, or any part of the earth, and the utilization,
13 development, and interpretation of these facts into an orderly
14 survey map. The practice of land surveying includes, but is
15 not limited to, the following:

16 (1) Locating, relocating, establishing, reestablishing,
17 laying out, or retracing any property line or boundary of any
18 tract of land or any road, right-of-way, easement, alignment,
19 or elevation of any of the fixed works embraced within the
20 practice of professional engineering.

21 (2) Making any survey for the subdivision of any tract of
22 land.

23 (3) Determination, by the use of the principles of land
24 surveying, of the position for any survey monument or
25 reference point, or setting, resetting, or replacing any
26 survey monument or reference point.

27 (4) Determination of the configuration or contour of the
28 earth's surface or the position of fixed objects on the
29 earth's surface by measuring lines and angles and applying the
30 principles of mathematics or photogrammetry.

31 (5) Geodetic surveying which includes surveying for
32 determination of the size and shape of the earth both
33 horizontally and vertically and the precise positioning of
34 points on the earth utilizing angular and linear measurements
35 through spatially oriented spherical geometry.

1 (6) Creation, preparation, or modification of electronic
2 or computerized data, including land information systems and
3 geographic information systems, relative to the performance of
4 the activities identified in subparagraphs (1) through (5).

5 b. A person is construed to be engaged in or offering to
6 be engaged in the practice of land surveying if the person
7 does any of the following:

8 (1) Engages in land surveying.

9 (2) Makes a representation by verbal claim, sign,
10 advertisement, letterhead, card, or other manner that the
11 person is a land surveyor.

12 (3) The person uses any title which implies that the
13 person is a land surveyor or that the person is licensed under
14 this chapter.

15 (4) The person holds the person's self out as able to
16 perform, or who does perform, any service or work included in
17 the practice of land surveying.

18 ~~The term-~~"professional" Professional engineer" as-used
19 ~~in-this-chapter~~ means a person, who, by reason of the person's
20 knowledge of mathematics, the physical sciences, and the
21 principles of engineering, acquired by professional education
22 or practical experience, is qualified to engage in the
23 practice of engineering.

24 Sec. 2. Section 542B.7, Code 1995, is amended to read as
25 follows:

26 542B.7 ATTORNEY GENERAL TO ASSIST -- GENERAL POWERS.

27 Such The board, or any committee thereof of the board,
28 shall be entitled to the counsel and to the services of the
29 attorney general, and shall have power to compel the
30 attendance of witnesses, pay witness fees and mileage, and may
31 take testimony and proofs and may administer oaths concerning
32 any matter within its jurisdiction.

33 Sec. 3. Section 542B.16, Code 1995, is amended to read as
34 follows:

35 542B.16 SEAL -- CERTIFICATE OF RESPONSIBILITY --

1 REPRODUCTIONS.

2 1. Each registrant licensee, upon registration licensure,
3 ~~may shall~~ obtain a seal;--~~if the registrant obtains or uses a~~
4 ~~seal, it shall be~~ of a design approved by the board, bearing
5 the ~~registrant's~~ licensee's name, Iowa registration license
6 number, and the words "professional engineer" or "land
7 surveyor" or both, as the case may be. A legible rubber stamp
8 or other facsimile of the seal may be used and shall have the
9 same effect as the use of the actual seal.

10 2. All engineering documents and land surveying documents
11 shall be dated and shall contain all of the following: ~~(1)~~

12 a. The signature of the registrant licensee in responsible
13 charge;--~~(2)~~-a certificate.

14 b. A certification that the work was done by such
15 registrant the licensee or under the registrant's licensee's
16 direct personal supervision;--~~and (3)~~-the.

17 c. The Iowa registration number or legible seal of such
18 registrant the licensee.

19 ~~if engineering documents or land surveying documents comply~~
20 ~~with this section, reproductions thereof also comply with this~~
21 ~~section if the date, signature, certificate, and registration~~
22 ~~number thereon are legibly reproduced.~~

23 3. No An agency, of this state and no subdivision, or
24 municipal corporation of this state, nor any or an officer
25 thereof of the state, subdivision, or municipal corporation,
26 shall not file for record or approve any engineering document
27 or land surveying document which does not comply with this
28 section.

29 4. No registrant A licensee shall not place the
30 registrant's licensee's signature or seal on any engineering
31 document or land surveying document unless the registrant
32 licensee was in responsible charge of the work, except that
33 the registrant licensee may do so if the registrant licensee
34 contributed to the work and the registrant licensee in
35 responsible charge has signed and certified the work.

1 5. Violation of this section by a registrant licensee
2 shall be deemed fraud and deceit in the registrant's
3 licensee's practice.

4 Sec. 4. NEW SECTION. 542B.27 CIVIL PENALTY.

5 1. a. In addition to any other penalties provided for in
6 this section, the board may by order impose a civil penalty
7 upon a person who is not registered under this chapter as a
8 professional engineer or a land surveyor and who does any of
9 the following:

10 (1) Engages in or offers to engage in the practice of
11 professional engineering or land surveying.

12 (2) Uses or employs the words "professional engineer" or
13 "land surveyor", or implies authorization to provide or offer
14 professional engineering or land surveying services, or
15 otherwise uses or advertises any title, word, figure, sign,
16 card, advertisement, or other symbol or description tending to
17 convey the impression that the person is a professional
18 engineer or land surveyor or is engaged in the practice of
19 professional engineering or land surveying.

20 (3) Presents or attempts to use the certificate of
21 registration or the seal of a professional engineer or land
22 surveyor.

23 (4) Gives false or forged evidence of any kind to the
24 board or any member of the board in obtaining or attempting to
25 obtain a certificate of registration.

26 (5) Falsely impersonates any registered professional
27 engineer or land surveyor.

28 (6) Uses or attempts to use an expired, suspended,
29 revoked, or nonexistent certificate of registration.

30 (7) Knowingly aids or abets an unregistered person who
31 engages in any activity identified in this paragraph.

32 b. A civil penalty imposed shall not exceed one thousand
33 dollars for each offense. Each day of a continued violation
34 constitutes a separate offense.

35 c. In determining the amount of a civil penalty to be

1 imposed, the board may consider any of the following:

2 (1) Whether the amount imposed will be a substantial
3 economic deterrent to the violation.

4 (2) The circumstances leading to the violation.

5 (3) The severity of the violation and the risk of harm to
6 the public.

7 (4) The economic benefits gained by the violator as a
8 result of noncompliance.

9 (5) The interest of the public.

10 d. Before issuing an order under this section, the board
11 shall provide the person written notice and the opportunity to
12 request a hearing on the record. The hearing must be
13 requested within thirty days of the issuance of the notice and
14 shall be conducted in the same manner as provided in section
15 542B.22.

16 e. The board, in connection with a proceeding under this
17 subsection, may issue subpoenas to compel the attendance and
18 testimony of witnesses and the disclosure of evidence, and may
19 request the attorney general to bring an action to enforce the
20 subpoena.

21 f. A person aggrieved by the imposition of a civil penalty
22 under this subsection may seek judicial review in accordance
23 with section 17A.19.

24 g. If a person fails to pay a civil penalty within thirty
25 days after entry of an order under paragraph "a", or if the
26 order is stayed pending an appeal within ten days after the
27 court enters a final judgment in favor of the board, the board
28 shall notify the attorney general. The attorney general may
29 commence an action to recover the amount of the penalty,
30 including reasonable attorney's fees and costs.

31 h. An action to enforce an order under this section may be
32 joined with an action for an injunction.

33 Sec. 5. Section 544A.15, Code 1995, is amended to read as
34 follows:

35 544A.15 UNLAWFUL PRACTICE -- VIOLATIONS -- PENALTY --

1 CONSENT AGREEMENT -- CIVIL PENALTY.

2 1. It is unlawful for a person to engage in or to offer to
3 engage in the practice of architecture in this state or use in
4 connection with the person's name the title "architect",
5 "registered architect", or "architectural designer", or to
6 imply that the person provides or offers to provide
7 professional architectural services, or to otherwise assume,
8 use, or advertise any title, word, figure, sign, card,
9 advertisement, or other symbol or description tending to
10 convey the impression that the person is an architect or is
11 engaged in the practice of architecture unless the person is
12 qualified by registration as provided in this chapter.

13 2. A person who violates this section is guilty of a
14 serious misdemeanor.

15 3. a. In addition to the criminal penalty provided for in
16 this section, the board may by order impose a civil penalty
17 upon a person who is not registered under this chapter as an
18 architect pursuant to this chapter and who does any of the
19 following:

20 (1) Engages in or offers to engage in the practice of
21 architecture.

22 (2) Uses or employs the words "architect", "registered
23 architect", "architectural designer", or implies authorization
24 to provide or offer professional architectural services, or
25 otherwise uses or advertises any title, word, figure, sign,
26 card, advertisement, or other symbol or description tending to
27 convey the impression that the person or entity is an
28 architect or is engaged in the practice of architecture.

29 (3) Presents or attempts to use the certificate of
30 registration or the seal of an architect.

31 (4) Gives false or forged evidence of any kind to the
32 board or any member of the board in obtaining or attempting to
33 obtain a certificate of registration.

34 (5) Falsely impersonates any other registered architect.

35 (6) Uses or attempts to use an expired, suspended,

1 revoked, or nonexistent certificate of registration.

2 (7) Knowingly aids or abets an unregistered person who
3 engages in any activity identified in this paragraph.

4 b. A civil penalty imposed shall not exceed one thousand
5 dollars for each offense. Each day of a continued violation
6 constitutes a separate offense.

7 c. In determining the amount of a civil penalty to be
8 imposed, the board may consider any of the following:

9 (1) Whether the amount imposed will be a substantial
10 economic deterrent to the violation.

11 (2) The circumstances leading to the violation.

12 (3) The severity of the violation and the risk of harm to
13 the public.

14 (4) The economic benefits gained by the violator as a
15 result of noncompliance.

16 (5) The interest of the public.

17 d. Before issuing an order under this section, the board
18 shall provide the person written notice and the opportunity to
19 request a hearing on the record. The hearing must be
20 requested within thirty days of the issuance of the notice and
21 shall be conducted in the same manner as provided for
22 disciplinary proceedings involving a registered architect.

23 e. The board, in connection with a proceeding under this
24 subsection, may issue subpoenas to compel the attendance and
25 testimony of witnesses and the disclosure of evidence, and may
26 request the attorney general to bring an action to enforce the
27 subpoena.

28 f. A person aggrieved by the imposition of a civil penalty
29 under this subsection may seek judicial review in accordance
30 with section 17A.19.

31 g. If a person fails to pay a civil penalty within thirty
32 days after entry of an order under paragraph "a", or if the
33 order is stayed pending an appeal, within ten days after the
34 court enters a final judgment in favor of the board, the board
35 shall notify the attorney general. The attorney general may

1 commence an action to recover the amount of the penalty,
2 including reasonable attorney's fees and costs.

3 h. An action to enforce an order under this section may be
4 joined with an action for an injunction.

5 4. The board at its discretion and in lieu of prosecuting
6 a first offense ~~described-in~~ under this section may enter into
7 a consent agreement with a violator, or with a person guilty
8 of aiding or abetting a violator, which acknowledges the
9 violation and the violator's agreement to refrain from any
10 further violations.

11 Sec. 6. Sections 542B.1 and 542B.26, Code Supplement 1995,
12 are amended by striking from the sections the word
13 "registered" and inserting in lieu thereof the word
14 "licensed".

15 Sec. 7. Sections 542B.3, 542B.10, 542B.11, 542B.18,
16 542B.20, and 542B.35, Code 1995, are amended by striking from
17 the sections the word "registered" and inserting in lieu
18 thereof the word "licensed".

19 Sec. 8. Sections 542B.6, 542B.10, 542B.11, 542B.15,
20 542B.18, 542B.19, 542B.20, 542B.25, and 542B.30, Code 1995,
21 are amended by striking from the sections the word
22 "registration" and inserting in lieu thereof the word
23 "licensure".

24 Sec. 9. Sections 542B.13, 542B.14, 542B.17, 542B.21, and
25 542B.26, Code Supplement 1995, are amended by striking from
26 the sections the word "registration" and inserting in lieu
27 thereof the word "licensure".

28 Sec. 10. Section 542B.18, Code 1995, is amended by
29 striking from the section the word "registrant" and inserting
30 in lieu thereof the word "licensee".

31 Sec. 11. Section 542B.20, Code 1995, is amended by
32 striking from the section the word "registrants" and inserting
33 in lieu thereof the word "licensees".

34 Sec. 12. Section 542B.21, Code Supplement 1995, is amended
35 by striking from the section the word "registrant's" and

1 inserting in lieu thereof the word "licensee's".

2 Sec. 13. Section 542B.21, Code Supplement 1995, is amended

3 by striking from the section the word "registrant" and

4 inserting in lieu thereof the word "licensee".

5

EXPLANATION

6 This bill amends sections of chapter 542B which relates to

7 the regulation of professional engineers and land surveyors.

8 Section 542B.2 is amended by rewriting the definition of

9 the practice of "land surveying".

10 Section 542B.7 is amended by making stylistic changes.

11 Section 542B.16 is amended by making stylistic changes,

12 conforming changes relating to the licensure of professional

13 engineers, and by striking language that provides that if an

14 engineering or land surveying document complies with the

15 requirements of section 542B.16, then reproductions are also

16 deemed to be in compliance if the date, signature,

17 certificate, and registration number are legibly reproduced.

18 The bill also creates a new section 542B.27 and amends

19 section 544A.15 which authorizes the engineering and land

20 surveying examining board and the architectural examining

21 board to impose a civil penalty upon a person who is not

22 registered under chapter 542B as an engineer or land surveyor,

23 or under chapter 544A as an architect, and who engages in

24 certain acts involving the practice of engineering or land

25 surveying or the practice of architecture. Specific acts

26 which would trigger the possible imposition of the civil

27 penalty include holding oneself out as being registered,

28 presenting or attempting to use the certificate of another

29 registered person, falsely impersonating another registered

30 person, using or attempting to use an expired, suspended,

31 revoked, or nonexistent certificate of registration, or

32 knowingly aiding or abetting an unregistered person who

33 engages in any such activity. The civil penalty imposed can

34 be no more than \$1,000 for each violation with each day of a

35 continuing violation constituting a separate offense.

1 The board involved in imposing the penalty is permitted to
 2 consider certain identified factors in determining the amount
 3 of the civil penalty. The board must provide written notice
 4 to the person and the opportunity for a hearing on the record.
 5 The board, in connection with a hearing, is empowered to issue
 6 subpoenas to compel the attendance and testimony of witnesses
 7 and the disclosure of evidence, and may request the attorney
 8 general to bring an action to enforce the subpoena. A person
 9 against whom a civil penalty is imposed may seek judicial
 10 review in accordance with section 17A.19.

11 If a person fails to pay a civil penalty within 30 days
 12 after entry of an order, or if the order is stayed pending an
 13 appeal, within 10 days after the court enters a final judgment
 14 in favor of the board, the board shall notify the attorney
 15 general. The attorney general may commence an action to
 16 recover the amount of the penalty, including reasonable
 17 attorney's fees and costs. An action to enforce an order
 18 under this section may be joined with an action for an
 19 injunction.

20 Sections 6 through 13 of the bill amend sections in chapter
 21 542B by striking the words "registered", "registrant's",
 22 "registrant", and "registration", and inserting the words
 23 "licensed", "licensee's", "licensee", and "licensure".

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5-3/20/96 State Gov
5-3/21/96 Do Pass

HOUSE FILE 2318
BY COMMITTEE ON COMMERCE AND
REGULATION

(SUCCESSOR TO HSB 549)

(As Amended and Passed by the House, March 20, 1996)

Passed House, Date _____ Passed Senate, Date 3/26/96 (p.1043)
Vote: Ayes _____ Nays _____ Vote: Ayes 47 Nays 2
Approved April 4, 1996

A BILL FOR

1 An Act relating to the licensure and practice of land surveying,
2 to the unlawful practice of land surveying, architecture, and
3 professional engineering, and establishing a civil penalty.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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Deleted Language *

* 1 Section 1. Section 542B.16, Code 1995, is amended to read
2 as follows:

3 542B.16 SEAL -- CERTIFICATE OF RESPONSIBILITY --
4 REPRODUCTIONS.

5 1. Each registrant licensee, upon registration licensure,
6 may shall obtain a seal. ~~--if-the-registrant-obtains-or-uses-a~~
7 ~~seal,-it-shall-be~~ of a design approved by the board, bearing
8 the registrant's licensee's name, Iowa registration license
9 number, and the words "professional engineer" or "land
10 surveyor" or both, as the case may be. A legible rubber stamp
11 or other facsimile of the seal may be used and shall have the
12 same effect as the use of the actual seal.

13 2. All engineering documents and land surveying documents
14 shall be dated and shall contain all of the following: ~~(1)~~

15 a. The signature of the registrant licensee in responsible
16 charge. ~~(2)-a-certificate.~~

17 b. A certification that the work was done by such
18 registrant the licensee or under the registrant's licensee's
19 direct personal supervision. ~~and-(3)-the.~~

20 c. The Iowa registration number or legible seal of such
21 registrant the licensee.

22 ~~If-engineering-documents-or-land-surveying-documents-comply~~
23 ~~with-this-section,-reproductions-thereof-also-comply-with-this~~
24 ~~section-if-the-date,-signature,-certificate,-and-registration~~
25 ~~number-thereon-are-legibly-reproduced.~~

26 3. No An agency, of this state and no subdivision, or
27 municipal corporation of this state, ~~nor-any~~ or an officer
28 thereof of the state, subdivision, or municipal corporation,
29 shall not file for record or approve any engineering document
30 or land surveying document which does not comply with this
31 section.

32 4. No registrant A licensee shall not place the
33 registrant's licensee's signature or seal on any engineering
34 document or land surveying document unless the registrant
35 licensee was in responsible charge of the work, except that

1 the registrant licensee may do so if the registrant licensee
2 contributed to the work and the registrant licensee in
3 responsible charge has signed and certified the work.

4 5. Violation of this section by a registrant licensee
5 shall be deemed fraud and deceit in the registrant's
6 licensee's practice.

7 Sec. 2. NEW SECTION. 542B.27 CIVIL PENALTY.

8 1. a. In addition to any other penalties provided for in
9 this section, the board may by order impose a civil penalty
10 upon a person who is not registered under this chapter as a
11 professional engineer or a land surveyor and who does any of
12 the following:

13 (1) Engages in or offers to engage in the practice of
14 professional engineering or land surveying.

15 (2) Uses or employs the words "professional engineer" or
16 "land surveyor", or implies authorization to provide or offer
17 professional engineering or land surveying services, or
18 otherwise uses or advertises any title, word, figure, sign,
19 card, advertisement, or other symbol or description tending to
20 convey the impression that the person is a professional
21 engineer or land surveyor or is engaged in the practice of
22 professional engineering or land surveying.

23 (3) Presents or attempts to use the certificate of
24 registration or the seal of a professional engineer or land
25 surveyor.

26 (4) Gives false or forged evidence of any kind to the
27 board or any member of the board in obtaining or attempting to
28 obtain a certificate of registration.

29 (5) Falsely impersonates any registered professional
30 engineer or land surveyor.

31 (6) Uses or attempts to use an expired, suspended,
32 revoked, or nonexistent certificate of registration.

33 (7) Knowingly aids or abets an unregistered person who
34 engages in any activity identified in this paragraph.

35 b. A civil penalty imposed shall not exceed one thousand

1 dollars for each offense. Each day of a continued violation
2 constitutes a separate offense.

3 c. In determining the amount of a civil penalty to be
4 imposed, the board may consider any of the following:

5 (1) Whether the amount imposed will be a substantial
6 economic deterrent to the violation.

7 (2) The circumstances leading to the violation.

8 (3) The severity of the violation and the risk of harm to
9 the public.

10 (4) The economic benefits gained by the violator as a
11 result of noncompliance.

12 (5) The interest of the public.

13 d. Before issuing an order under this section, the board
14 shall provide the person written notice and the opportunity to
15 request a hearing on the record. The hearing must be
16 requested within thirty days of the issuance of the notice and
17 shall be conducted in the same manner as provided in section
18 542B.22.

19 e. The board, in connection with a proceeding under this
20 subsection, may issue subpoenas to compel the attendance and
21 testimony of witnesses and the disclosure of evidence, and may
22 request the attorney general to bring an action to enforce the
23 subpoena.

24 f. A person aggrieved by the imposition of a civil penalty
25 under this subsection may seek judicial review in accordance
26 with section 17A.19.

27 g. If a person fails to pay a civil penalty within thirty
28 days after entry of an order under paragraph "a", or if the
29 order is stayed pending an appeal within ten days after the
30 court enters a final judgment in favor of the board, the board
31 shall notify the attorney general. The attorney general may
32 commence an action to recover the amount of the penalty,
33 including reasonable attorney's fees and costs.

34 h. An action to enforce an order under this section may be
35 joined with an action for an injunction.

1 Sec. 3. Section 544A.15, Code 1995, is amended to read as
2 follows:

3 544A.15 UNLAWFUL PRACTICE -- VIOLATIONS -- PENALTY --
4 CONSENT AGREEMENT -- CIVIL PENALTY.

5 1. It is unlawful for a person to engage in or to offer to
6 engage in the practice of architecture in this state or use in
7 connection with the person's name the title "architect",
8 "registered architect", or "architectural designer", or to
9 imply that the person provides or offers to provide
10 professional architectural services, or to otherwise assume,
11 use, or advertise any title, word, figure, sign, card,
12 advertisement, or other symbol or description tending to
13 convey the impression that the person is an architect or is
14 engaged in the practice of architecture unless the person is
15 qualified by registration as provided in this chapter.

16 2. A person who violates this section is guilty of a
17 serious misdemeanor.

18 3. a. In addition to the criminal penalty provided for in
19 this section, the board may by order impose a civil penalty
20 upon a person who is not registered under this chapter as an
21 architect pursuant to this chapter and who does any of the
22 following:

23 (1) Engages in or offers to engage in the practice of
24 architecture.

25 (2) Uses or employs the words "architect", "registered
26 architect", "architectural designer", or implies authorization
27 to provide or offer professional architectural services, or
28 otherwise uses or advertises any title, word, figure, sign,
29 card, advertisement, or other symbol or description tending to
30 convey the impression that the person or entity is an
31 architect or is engaged in the practice of architecture.

32 (3) Presents or attempts to use the certificate of
33 registration or the seal of an architect.

34 (4) Gives false or forged evidence of any kind to the
35 board or any member of the board in obtaining or attempting to

1 obtain a certificate of registration.

2 (5) Falsely impersonates any other registered architect.

3 (6) Uses or attempts to use an expired, suspended,
4 revoked, or nonexistent certificate of registration.

5 (7) Knowingly aids or abets an unregistered person who
6 engages in any activity identified in this paragraph.

7 b. A civil penalty imposed shall not exceed one thousand
8 dollars for each offense. Each day of a continued violation
9 constitutes a separate offense.

10 c. In determining the amount of a civil penalty to be
11 imposed, the board may consider any of the following:

12 (1) Whether the amount imposed will be a substantial
13 economic deterrent to the violation.

14 (2) The circumstances leading to the violation.

15 (3) The severity of the violation and the risk of harm to
16 the public.

17 (4) The economic benefits gained by the violator as a
18 result of noncompliance.

19 (5) The interest of the public.

20 d. Before issuing an order under this section, the board
21 shall provide the person written notice and the opportunity to
22 request a hearing on the record. The hearing must be
23 requested within thirty days of the issuance of the notice and
24 shall be conducted in the same manner as provided for
25 disciplinary proceedings involving a registered architect.

26 e. The board, in connection with a proceeding under this
27 subsection, may issue subpoenas to compel the attendance and
28 testimony of witnesses and the disclosure of evidence, and may
29 request the attorney general to bring an action to enforce the
30 subpoena.

31 f. A person aggrieved by the imposition of a civil penalty
32 under this subsection may seek judicial review in accordance
33 with section 17A.19.

34 g. If a person fails to pay a civil penalty within thirty
35 days after entry of an order under paragraph "a", or if the

1 order is stayed pending an appeal, within ten days after the
2 court enters a final judgment in favor of the board, the board
3 shall notify the attorney general. The attorney general may
4 commence an action to recover the amount of the penalty,
5 including reasonable attorney's fees and costs.

6 h. An action to enforce an order under this section may be
7 joined with an action for an injunction.

8 4. The board at its discretion and in lieu of prosecuting
9 a first offense ~~described-in~~ under this section may enter into
10 a consent agreement with a violator, or with a person guilty
11 of aiding or abetting a violator, which acknowledges the
12 violation and the violator's agreement to refrain from any
13 further violations.

14 Sec. 4. Sections 542B.1 and 542B.26, Code Supplement 1995,
15 are amended by striking from the sections the word
16 "registered" and inserting in lieu thereof the word
17 "licensed".

18 Sec. 5. Sections 542B.3, 542B.10, 542B.11, 542B.18,
19 542B.20, and 542B.35, Code 1995, are amended by striking from
20 the sections the word "registered" and inserting in lieu
21 thereof the word "licensed".

22 Sec. 6. Sections 542B.6, 542B.10, 542B.11, 542B.15,
23 542B.18, 542B.19, 542B.20, 542B.25, and 542B.30, Code 1995,
24 are amended by striking from the sections the word
25 "registration" and inserting in lieu thereof the word
26 "licensure".

27 Sec. 7. Sections 542B.13, 542B.14, 542B.17, 542B.21, and
28 542B.26, Code Supplement 1995, are amended by striking from
29 the sections the word "registration" and inserting in lieu
30 thereof the word "licensure".

31 Sec. 8. Section 542B.18, Code 1995, is amended by striking
32 from the section the word "registrant" and inserting in lieu
33 thereof the word "licensee".

34 Sec. 9. Section 542B.20, Code 1995, is amended by striking
35 from the section the word "registrants" and inserting in lieu

1 thereof the word "licensees".

2 Sec. 10. Section 542B.21, Code Supplement 1995, is amended
3 by striking from the section the word "registrant's" and
4 inserting in lieu thereof the word "licensee's".

5 Sec. 11. Section 542B.21, Code Supplement 1995, is amended
6 by striking from the section the word "registrant" and
7 inserting in lieu thereof the word "licensee".

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HSB 549

COMMERCE - REGULATION

SENATE/HOUSE FILE 2318
BY (PROPOSED DEPARTMENT OF
COMMERCE/PROFESSIONAL
LICENSING AND REGULATION
DIVISION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the licensure and practice of land surveying.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 542B.2, Code Supplement 1995, is
2 amended to read as follows:

3 542B.2 PERMS-DEFINED DEFINITIONS.

4 As used in this chapter, unless the context otherwise
5 requires:

6 1. ~~The-"board"~~ "Board" means the engineering and land
7 surveying examining board ~~provided~~ created by this chapter.

8 2. ~~The-term-"engineering~~ "Engineering documents" ~~as-used~~
9 ~~in-this-chapter~~ includes all plans, specifications, drawings,
10 and reports, if the preparation of such documents constitutes
11 or requires the practice of engineering.

12 3. ~~The-term-"engineer~~ "Engineer intern" ~~as-used-in-this~~
13 ~~chapter~~ means a person who passes an examination in the
14 fundamental engineering subjects, but does not entitle the
15 person to claim to be a professional engineer.

16 4. ~~The-term-"in~~ "In responsible charge" ~~as-used-in-this~~
17 ~~chapter~~ means having direct control of and personal
18 supervision over any land surveying work or work involving the
19 practice of engineering. One or more persons, jointly or
20 severally, may be in responsible charge.

21 ~~5.--The-practice-of-"land-surveying"-within-the-meaning-and~~
22 ~~intent-of-this-chapter-includes-surveying-of-areas-for-their~~
23 ~~correct-determination-and-description-and-for-conveyancing, or~~
24 ~~for-the-establishment-or-re-establishment-of-land-boundaries~~
25 ~~and-the-platting-of-lands-and-subdivisions-thereof.~~

26 6. 5. ~~The-term-"land~~ "Land surveying documents" ~~as-used-in~~
27 ~~this-chapter~~ includes all plats, maps, surveys, and reports,
28 if the preparation thereof constitutes or requires the
29 practice of land surveying.

30 7. 6. ~~The-term-"land~~ "Land surveyor" ~~as-used-in-this~~
31 ~~chapter-shall-mean~~ means a person who engages in the practice
32 of land surveying ~~as-hereinafter-defined.~~

33 8. 7. "Practice of engineering" ~~as-used-in-this-chapter~~
34 means any service or creative work, the adequate performance
35 of which requires engineering education, training, and

1 experience in the application of special knowledge of the
2 mathematical, physical, and engineering sciences, such as
3 consultation, investigation, evaluation, planning, design and
4 design coordination of engineering works and systems, planning
5 the use of land and water, performing engineering surveys and
6 studies, and the review of construction for the purpose of
7 monitoring compliance with drawings and specifications, any of
8 which embraces such services or creative work, either public
9 or private, in connection with any utilities, structures,
10 buildings, machines, equipment, processes, work systems,
11 projects, and industrial or consumer products or equipment of
12 a mechanical, electrical, hydraulic, pneumatic, or thermal
13 nature, insofar as they involve safeguarding life, health, or
14 property, and including such other professional services as
15 may be necessary to the planning, progress, and completion of
16 the services identified in this paragraph subsection. "Design
17 coordination" includes the review and coordination of
18 technical submissions prepared by others, including as
19 appropriate and without limitation, consulting engineers,
20 architects, landscape architects, land surveyors, and other
21 professionals working under the direction of the engineer.
22 "Engineering surveys" includes all survey activities required
23 to support the sound conception, planning, design,
24 construction, maintenance, and operation of engineered
25 projects, but excludes the surveying of real property for the
26 establishment of land boundaries, rights-of-way, easements,
27 and the dependent or independent surveys or resurveys of the
28 public land survey system.

29 A person is construed to be engaged in the practice of
30 engineering if the person does any of the following:

- 31 a. Practices any branch of the profession of engineering.
- 32 b. Makes a representation by verbal claim, sign,
33 advertisement, letterhead, card, or other manner that the
34 person is a professional engineer.
- 35 c. Uses any title which implies that the person is a

1 professional engineer or that the person is certified licensed
2 under this chapter.

3 d. The person holds the person's self out as able to
4 perform, or who does perform, any service or work included in
5 the practice of engineering.

6 8. a. "Practice of land surveying" includes providing
7 professional services such as consultation, investigation,
8 testimony, evaluation, planning, mapping, assembling, and
9 interpreting reliable scientific measurements and information
10 relative to the location, size, shape, or physical features of
11 the earth, improvements on the earth, the space above the
12 earth, or any part of the earth, and the utilization,
13 development, and interpretation of these facts into an orderly
14 survey map. The practice of land surveying includes, but is
15 not limited to, the following:

16 (1) Locating, relocating, establishing, reestablishing,
17 laying out, or retracing any property line or boundary of any
18 tract of land or any road, right-of-way, easement, alignment,
19 or elevation of any of the fixed works embraced within the
20 practice of professional engineering.

21 (2) Making any survey for the subdivision of any tract of
22 land.

23 (3) Determination, by the use of the principles of land
24 surveying, of the position for any survey monument or
25 reference point, or setting, resetting, or replacing any
26 survey monument or reference point.

27 (4) Determination of the configuration or contour of the
28 earth's surface or the position of fixed objects on the
29 earth's surface by measuring lines and angles and applying the
30 principles of mathematics or photogrammetry.

31 (5) Geodetic surveying which includes surveying for
32 determination of the size and shape of the earth both
33 horizontally and vertically and the precise positioning of
34 points on the earth utilizing angular and linear measurements
35 through spatially oriented spherical geometry.

1 (6) Creation, preparation, or modification of electronic
2 or computerized data, including land information systems and
3 geographic information systems, relative to the performance of
4 the activities identified in subparagraphs (1) through (5).

5 b. A person is construed to be engaged in or offering to
6 be engaged in the practice of land surveying if the person
7 does any of the following:

8 (1) Engages in land surveying.

9 (2) Makes a representation by verbal claim, sign,
10 advertisement, letterhead, card, or other manner that the
11 person is a land surveyor.

12 (3) The person uses any title which implies that the
13 person is a land surveyor or that the person is licensed under
14 this chapter.

15 (4) The person holds the person's self out as able to
16 perform, or who does perform, any service or work included in
17 the practice of land surveying.

18 ~~9. The term "professional~~ "Professional engineer" as-used
19 ~~in this chapter~~ means a person, who, by reason of the person's
20 knowledge of mathematics, the physical sciences, and the
21 principles of engineering, acquired by professional education
22 or practical experience, is qualified to engage in the
23 practice of engineering.

24 Sec. 2. Section 542B.7, Code 1995, is amended to read as
25 follows:

26 542B.7 ATTORNEY GENERAL TO ASSIST -- GENERAL POWERS.

27 ~~Such~~ The board, or any committee thereof of the board,
28 shall be entitled to the counsel and to the services of the
29 attorney general, and shall have power to compel the
30 attendance of witnesses, pay witness fees and mileage, and may
31 take testimony and proofs and may administer oaths concerning
32 any matter within its jurisdiction.

33 Sec. 3. Section 542B.16, Code 1995, is amended to read as
34 follows:

35 542B.16 SEAL -- CERTIFICATE OF RESPONSIBILITY --

1 REPRODUCTIONS.

2 1. Each registrant licensee, upon registration licensure,
3 ~~may shall~~ obtain a seal. ~~---If-the-registrant-obtains-or-uses-a~~
4 ~~seal,-it-shall-be~~ of a design approved by the board, bearing
5 the registrant's licensee's name, Iowa registration license
6 number, and the words "professional engineer" or "land
7 surveyor" or both, as the case may be. A legible rubber stamp
8 or other facsimile of the seal may be used and shall have the
9 same effect as the use of the actual seal.

10 2. All engineering documents and land surveying documents
11 shall be dated and shall contain all of the following: ~~{}~~

12 a. The signature of the registrant licensee in responsible
13 charge; ~~{2}~~ a certificate.

14 b. A certification that the work was done by such
15 registrant the licensee or under the registrant's licensee's
16 direct personal supervision; ~~and-{3}~~ the.

17 c. ~~The Iowa registration-number-or~~ legible seal of such
18 registrant the licensee.

19 ~~If-engineering-documents-or-land-surveying-documents-comply~~
20 ~~with-this-section,-reproductions-thereof-also-comply-with-this~~
21 ~~section-if-the-date,-signature,-certificate,-and-registration~~
22 ~~number-thereon-are-legibly-reproduced.~~

23 3. No An agency, ~~of-this-state-and-no~~ subdivision, or
24 municipal corporation of this state, ~~nor-any~~ or an officer
25 thereof of the state, subdivision, or municipal corporation,
26 shall not file for record or approve any engineering document
27 or land surveying document which does not comply with this
28 section.

29 4. No registrant A licensee shall not place the
30 registrant's licensee's signature or seal on any engineering
31 document or land surveying document unless the registrant
32 licensee was in responsible charge of the work, except that
33 the registrant licensee may do so if the registrant licensee
34 contributed to the work and the registrant licensee in
35 responsible charge has signed and certified the work.

1 5. Violation of this section by a registrant licensee
2 shall be deemed fraud and deceit in the registrant's
3 licensee's practice.

4 Sec. 4. Sections 542B.3, 542B.10, 542B.11, 542B.18,
5 542B.20, and 542B.35, Code 1995, are amended by striking from
6 the sections the word "registered" and inserting in lieu
7 thereof the word "licensed".

8 Sec. 5. Sections 542B.1 and 542B.26, Code Supplement 1995,
9 are amended by striking from the section the word "registered"
10 and inserting in lieu thereof the word "licensed".

11 Sec. 6. Section 542B.20, Code 1995, is amended by striking
12 from the sections the word "registrant's" and inserting in
13 lieu thereof the word "licensee's".

14 Sec. 7. Section 542B.21, Code Supplement 1995, is amended
15 by striking from the section the word "registrant's" and
16 inserting in lieu thereof the word "licensee's".

17 Sec. 8. Section 542B.18, Code 1995, is amended by striking
18 from the sections the word "registrant" and inserting in lieu
19 thereof the word "licensee".

20 Sec. 9. Section 542B.21, Code Supplement 1995, is amended
21 by striking from the section the word "registrant" and
22 inserting in lieu thereof the word "licensee".

23 Sec. 10. Sections 542B.6, 542B.10, 542B.11, 542B.15,
24 542B.18, 542B.19, 542B.20, 542B.25, and 542B.30, Code 1995,
25 are amended by striking from the sections the word
26 "registration" and inserting in lieu thereof the word
27 "licensure".

28 Sec. 11. Sections 542B.13, 542B.14, 542B.17, 542B.21, and
29 542B.26, Code Supplement 1995, are amended by striking from
30 the sections the word "registration" and inserting in lieu
31 thereof the word "licensure".

32 EXPLANATION

33 This bill amends sections of chapter 542B which relates to
34 the regulation of professional engineers and land surveyors.

35 Section 542B.2 is amended by rewriting the definition of

1 the practice of "land surveying".

2 Section 542B.7 is amended by making stylistic changes.

3 Section 542B.16 is amended by making stylistic changes,
4 conforming changes relating to the licensure of professional
5 engineers, and by striking language that provides that if an
6 engineering or land surveying document complies with the
7 requirements of section 542B.16, then reproductions are also
8 deemed to be in compliance if the date, signature,
9 certificate, and registration number are legibly reproduced.

10 Sections 4 through 11 of the bill amend sections in chapter
11 542B by striking the words "registered", "registrant's",
12 "registrant", and "registration", and inserting the words
13 "licensed", "licensee's", "licensee", and "licensure".

14 BACKGROUND STATEMENT

15 SUBMITTED BY THE AGENCY

16 Proposed changes to chapter 542B include the following:

17 "Registration" to "licensure". After studying the issue at
18 both the national and state level, engineering licensing
19 boards have determined that the term "registration" may be
20 confused with the various certification programs offered by
21 professional associations, which are not the same as
22 licensing. The term "license," as defined by Black's law
23 dictionary clearly indicates permission by the appropriate
24 authority to perform an act which without such permission
25 would be illegal. Since this definition of "license"
26 accurately describes the authority to practice engineering or
27 land surveying in Iowa law, a global change for all of chapter
28 542B is proposed. Both the national council of examiners for
29 engineering and surveying (NCEES) and the national society of
30 professional engineers (NSPE) have endorsed this change. The
31 NCEES formally adopted this language at its annual meeting in
32 August 1995 and will modify its model licensing law and rules
33 accordingly. NSPE will use "license" in all new publications.

34 Section 542B.2 Terms defined. A new definition of the
35 practice of land surveying is proposed. The existing

1 definition is very narrow and does not specifically recognize
2 the evolution of technology as it pertains to land surveying.
3 The new definition describes in detail the responsibilities of
4 land surveyors as well as the knowledge required, including
5 those needed to utilize new technology. The language of the
6 new definition was developed for the model law of the national
7 council of examiners for engineering and surveying (NCEES) and
8 adopted by the NCEES at its 1995 annual meeting.

9 Section 542B.16 Sealing requirement. Iowa currently does
10 not require the use of a seal for engineering documents.
11 Almost every other state requires a seal. In addition, other
12 Iowa design boards, such as the architectural board, require a
13 seal. This inconsistency has been confusing for the public
14 and made it difficult for building code officials to enforce
15 the law properly. To remedy this situation, the seal would be
16 made mandatory rather than optional for engineering documents.
17 Iowa Code chapter 355 already makes the seal mandatory for
18 land surveying documents.

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HOUSE FILE 2318

AN ACT

RELATING TO THE LICENSURE AND PRACTICE OF LAND SURVEYING,
TO THE UNLAWFUL PRACTICE OF LAND SURVEYING, ARCHITECTURE,
AND PROFESSIONAL ENGINEERING, AND ESTABLISHING A CIVIL
PENALTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 542B.16, Code 1995, is amended to read
as follows:

542B.16 SEAL -- CERTIFICATE OF RESPONSIBILITY --
REPRODUCTIONS.

1. Each registrant licensee, upon registration licensure,
~~may shall~~ obtain a seal ~~---if-the-registrant-obtains-or-uses-a~~
~~seal,-it-shall-be~~ of a design approved by the board, bearing
the registrant's licensee's name, Iowa registration license
number, and the words "professional engineer" or "land
surveyor" or both, as the case may be. A legible rubber stamp
or other facsimile of the seal may be used and shall have the
same effect as the use of the actual seal.

2. All engineering documents and land surveying documents
shall be dated and shall contain all of the following: (1)

a. The signature of the registrant licensee in responsible
charge; ~~(2)-a-certificate.~~

b. A certification that the work was done by such
registrant the licensee or under the registrant's licensee's
direct personal supervision; ~~and-(3)-the.~~

c. The Iowa registration number or legible seal of such
registrant the licensee.

~~If-engineering-documents-or-land-surveying-documents-comply~~
~~with-this-section,-reproductions-thereof-also-comply-with-this~~
~~section-if-the-date,-signature,-certificate,-and-registration~~
~~number-thereon-are-legibly-reproduced.~~

3. ~~No An agency, of-this-state-and-no~~ subdivision, or
municipal corporation of this state, ~~nor-any or an officer~~
~~thereof of the state, subdivision, or municipal corporation,~~
shall not file for record or approve any engineering document
or land surveying document which does not comply with this
section.

4. ~~No-registrant A licensee shall not~~ place the
registrant's licensee's signature or seal on any engineering
document or land surveying document unless the registrant
licensee was in responsible charge of the work, except that
the registrant licensee may do so if the registrant licensee
contributed to the work and the registrant licensee in
responsible charge has signed and certified the work.

5. Violation of this section by a registrant licensee
shall be deemed fraud and deceit in the registrant's
licensee's practice.

Sec. 2. NEW SECTION. 542B.27 CIVIL PENALTY.

1. a. In addition to any other penalties provided for in
this section, the board may by order impose a civil penalty
upon a person who is not registered under this chapter as a
professional engineer or a land surveyor and who does any of
the following:

(1) Engages in or offers to engage in the practice of
professional engineering or land surveying.

(2) Uses or employs the words "professional engineer" or
"land surveyor", or implies authorization to provide or offer
professional engineering or land surveying services, or
otherwise uses or advertises any title, word, figure, sign,
card, advertisement, or other symbol or description tending to
convey the impression that the person is a professional
engineer or land surveyor or is engaged in the practice of
professional engineering or land surveying.

(3) Presents or attempts to use the certificate of
registration or the seal of a professional engineer or land
surveyor.

(4) Gives false or forged evidence of any kind to the board or any member of the board in obtaining or attempting to obtain a certificate of registration.

(5) Falsely impersonates any registered professional engineer or land surveyor.

(6) Uses or attempts to use an expired, suspended, revoked, or nonexistent certificate of registration.

(7) Knowingly aids or abets an unregistered person who engages in any activity identified in this paragraph.

b. A civil penalty imposed shall not exceed one thousand dollars for each offense. Each day of a continued violation constitutes a separate offense.

c. In determining the amount of a civil penalty to be imposed, the board may consider any of the following:

(1) Whether the amount imposed will be a substantial economic deterrent to the violation.

(2) The circumstances leading to the violation.

(3) The severity of the violation and the risk of harm to the public.

(4) The economic benefits gained by the violator as a result of noncompliance.

(5) The interest of the public.

d. Before issuing an order under this section, the board shall provide the person written notice and the opportunity to request a hearing on the record. The hearing must be requested within thirty days of the issuance of the notice and shall be conducted in the same manner as provided in section 542B.22.

e. The board, in connection with a proceeding under this subsection, may issue subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence, and may request the attorney general to bring an action to enforce the subpoena.

f. A person aggrieved by the imposition of a civil penalty under this subsection may seek judicial review in accordance with section 17A.19.

g. If a person fails to pay a civil penalty within thirty days after entry of an order under paragraph "a", or if the order is stayed pending an appeal within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney's fees and costs.

h. An action to enforce an order under this section may be joined with an action for an injunction.

Sec. 3. Section 544A.15, Code 1995, is amended to read as follows:

544A.15 UNLAWFUL PRACTICE -- VIOLATIONS -- PENALTY -- CONSENT AGREEMENT -- CIVIL PENALTY.

1. It is unlawful for a person to engage in or to offer to engage in the practice of architecture in this state or use in connection with the person's name the title "architect", "registered architect", or "architectural designer", or to imply that the person provides or offers to provide professional architectural services, or to otherwise assume, use, or advertise any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person is an architect or is engaged in the practice of architecture unless the person is qualified by registration as provided in this chapter.

2. A person who violates this section is guilty of a serious misdemeanor.

3. a. In addition to the criminal penalty provided for in this section, the board may by order impose a civil penalty upon a person who is not registered under this chapter as an architect pursuant to this chapter and who does any of the following:

(1) Engages in or offers to engage in the practice of architecture.

(2) Uses or employs the words "architect", "registered architect", "architectural designer", or implies authorization to provide or offer professional architectural services, or

otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person or entity is an architect or is engaged in the practice of architecture.

(3) Presents or attempts to use the certificate of registration or the seal of an architect.

(4) Gives false or forged evidence of any kind to the board or any member of the board in obtaining or attempting to obtain a certificate of registration.

(5) Falsely impersonates any other registered architect.

(6) Uses or attempts to use an expired, suspended, revoked, or nonexistent certificate of registration.

(7) Knowingly aids or abets an unregistered person who engages in any activity identified in this paragraph.

b. A civil penalty imposed shall not exceed one thousand dollars for each offense. Each day of a continued violation constitutes a separate offense.

c. In determining the amount of a civil penalty to be imposed, the board may consider any of the following:

(1) Whether the amount imposed will be a substantial economic deterrent to the violation.

(2) The circumstances leading to the violation.

(3) The severity of the violation and the risk of harm to the public.

(4) The economic benefits gained by the violator as a result of noncompliance.

(5) The interest of the public.

d. Before issuing an order under this section, the board shall provide the person written notice and the opportunity to request a hearing on the record. The hearing must be requested within thirty days of the issuance of the notice and shall be conducted in the same manner as provided for disciplinary proceedings involving a registered architect.

e. The board, in connection with a proceeding under this subsection, may issue subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence, and may

request the attorney general to bring an action to enforce the subpoena.

f. A person aggrieved by the imposition of a civil penalty under this subsection may seek judicial review in accordance with section 17A.19.

g. If a person fails to pay a civil penalty within thirty days after entry of an order under paragraph "a", or if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney's fees and costs.

h. An action to enforce an order under this section may be joined with an action for an injunction.

4. The board at its discretion and in lieu of prosecuting a first offense described in under this section may enter into a consent agreement with a violator, or with a person guilty of aiding or abetting a violator, which acknowledges the violation and the violator's agreement to refrain from any further violations.

Sec. 4. Sections 542B.1 and 542B.26, Code Supplement 1995, are amended by striking from the sections the word "registered" and inserting in lieu thereof the word "licensed".

Sec. 5. Sections 542B.3, 542B.10, 542B.11, 542B.18, 542B.20, and 542B.35, Code 1995, are amended by striking from the sections the word "registered" and inserting in lieu thereof the word "licensed".

Sec. 6. Sections 542B.6, 542B.10, 542B.11, 542B.15, 542B.18, 542B.19, 542B.20, 542B.25, and 542B.30, Code 1995, are amended by striking from the sections the word "registration" and inserting in lieu thereof the word "licensure".

Sec. 7. Sections 542B.13, 542B.14, 542B.17, 542B.21, and 542B.26, Code Supplement 1995, are amended by striking from the sections the word "registration" and inserting in lieu thereof the word "licensure".

Sec. 8. Section 542B.18, Code 1995, is amended by striking from the section the word "registrant" and inserting in lieu thereof the word "licensee".

Sec. 9. Section 542B.20, Code 1995, is amended by striking from the section the word "registrants" and inserting in lieu thereof the word "licensees".

Sec. 10. Section 542B.21, Code Supplement 1995, is amended by striking from the section the word "registrant's" and inserting in lieu thereof the word "licensee's".

Sec. 11. Section 542B.21, Code Supplement 1995, is amended by striking from the section the word "registrant" and inserting in lieu thereof the word "licensee".

RON J. CORBETT
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2318, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 4, 1996

TERRY E. BRANSTAD
Governor