

1 ENGROSSED HOUSE  
2 BILL NO. 3377

By: Wallace and Osburn (Mike)  
of the House

3 and

4 Leewright of the Senate

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8 An Act relating to professions and occupations;  
9 amending 59 O.S. 2011, Section 475.21, as last  
10 amended by Section 19, Chapter 259, O.S.L. 2017 (59  
11 O.S. Supp. 2017, Section 475.21), which relates to  
12 engineering and land surveying; modifying  
requirements for certificates of authorization;  
requiring an engineer or land surveyor designated in  
responsible charge to be full-time employee; and  
providing an effective date.

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15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 59 O.S. 2011, Section 475.21, as  
17 last amended by Section 19, Chapter 259, O.S.L. 2017 (59 O.S. Supp.  
18 2017, Section 475.21), is amended to read as follows:

19 Section 475.21 A. The practice of or offer to practice  
20 engineering or land surveying by firms authorized under Section  
21 475.1 et seq. of this title, or by more than one person acting  
22 individually through a firm, is permitted provided:

23 1. The person(s) in responsible charge of such practice and all  
24 personnel who act in behalf of the firm in professional engineering

1 and land surveying matters in this state are licensed under Section  
2 475.1 et seq. of this title; and

3 2. The firm has been issued a certificate of authorization by  
4 the Board.

5 B. An engineering or land surveying firm requiring a  
6 certificate of authorization shall file with the Board an  
7 application, using a form provided by the Board, and provide all the  
8 information required by the Board. The Board shall prescribe a form  
9 to be filed with the renewal fee and which shall be updated within  
10 thirty (30) days of the time any information contained on the form  
11 is changed or differs for any reason. If, in the Board's judgment,  
12 the information contained on the form warrants such action, the  
13 Board shall issue a certificate of authorization for the firm to  
14 practice engineering and/or land surveying.

15 No such firm shall be relieved of responsibility for the conduct  
16 or acts of its agents, employees, officers or partners by reason of  
17 its compliance with the provisions of this section. No individual  
18 practicing engineering or land surveying, pursuant to the provisions  
19 of Section 475.1 et seq. of this title, shall be relieved of  
20 responsibility for engineering or land surveying services performed  
21 by reason of employment or other relationship with a firm holding a  
22 certificate of authorization.

23 C. The Secretary of State shall not issue a certificate of  
24 incorporation to an applicant, approve for filing articles of

1 organization for a limited liability company, approve for filing a  
2 certificate of limited partnership or accept a registration as a  
3 foreign firm to a firm which includes in the firm's name or among  
4 the objectives for which it is established any of the words  
5 "Engineer", "Engineering", "Surveyor", "Land Surveying" or any  
6 modification or derivation thereof unless the Board(s) of Licensure  
7 for these professions has issued for the applicant a certificate of  
8 authorization or a letter indicating the eligibility of such  
9 applicant to receive such a certificate. The firm applying shall  
10 supply such certificate or letter from the Board with its  
11 application for incorporation or registration.

12 D. The Secretary of State shall decline to register any trade  
13 name or service mark which includes such words, as set forth in  
14 subsection C of this section, or modifications or derivatives  
15 thereof in its firm name or logotype except those firms holding  
16 certificates of authorization issued under the provisions of this  
17 section.

18 E. The certificate of authorization shall be renewed as  
19 hereinbefore provided in Section 475.16 of this title.

20 F. ~~Effective November 1, 2017, all firms applying for a~~  
21 ~~certificate of authorization shall designate a managing agent.~~

22 ~~Managing agent. A firm offering either engineering or surveying~~  
23 ~~services shall designate an engineer or surveyor, respectively, to~~  
24 ~~be the managing agent for the firm. A firm offering both~~

1 ~~engineering and land surveying services must have a licensed~~  
2 ~~professional engineer and licensed professional land surveyor listed~~  
3 ~~as managing agent. A licensee may not be designated as a managing~~  
4 ~~agent for more than one firm without prior Board approval. The~~  
5 ~~managing agent must hold a position of recognized authority within~~  
6 ~~the firm to be designated as the managing agent. In the case of a~~  
7 ~~corporation, a licensee must be an officer, principal, director or~~  
8 ~~shareholder of the firm to be designated as the managing agent. In~~  
9 ~~the case of a limited liability company or limited liability~~  
10 ~~partnership, the licensee must be a member of the firm to be~~  
11 ~~designated as the managing agent. In the case of a limited~~  
12 ~~partnership, the licensee must be a general partner of the firm to~~  
13 ~~be designated as the managing agent. In the case of a partnership,~~  
14 ~~the licensee must be an owner of the firm to be designated as the~~  
15 ~~managing agent. If the ownership is less than fifty percent (50%)~~  
16 ~~ownership, an explanation must be included as to the extent of~~  
17 ~~authority this partner holds regarding engineering or surveying~~  
18 ~~decisions, respectively, as it pertains to paragraphs 1 through 3 of~~  
19 ~~this subsection. A licensee who is a full-time employee of a firm~~  
20 ~~and holds a position of recognized authority within the firm but~~  
21 ~~does not hold one of the above-stated titles may request Board~~  
22 ~~approval to be named the managing agent by submitting a letter to~~  
23 ~~the Board on firm letterhead signed by a person within the firm~~  
24 ~~holding one of the above-stated titles, describing the special~~

~~circumstances surrounding the requested exception and the extent of authority this employee holds regarding engineering or surveying decisions, respectively, as it pertains to paragraphs 1 through 3 of this subsection. A licensee who is self-employed, an independent contractor or who renders consulting engineering or surveying services to, or for, a firm shall not be designated as a managing agent. Firms holding a certificate of authorization with this Board prior to November 1, 2017, must be in compliance with this provision of law by November 1, 2019. The managing agent's responsibilities include:~~

~~1. Renewal of the firm's certificate of authorization and notification to the Board of any change in managing agent or firm's contact information;~~

~~2. Overall administrative supervision of the firm's licensed and subordinate personnel performing engineering or surveying work in Oklahoma; and~~

~~3. Institution and adherence of policies of the firm that are in accordance with Section 475.1 et seq. of this title, Section 3-116 et seq. of Title 65 of the Oklahoma Statutes and the rules of the Board~~ An engineer or land surveyor designated in responsible charge of the professional activities of a firm for the purposes of this section shall be a full-time employee of the firm. A licensee who performs only part-time, occasional or consulting services for a firm shall not qualify as a person designated in responsible charge.

1       G. Out-of-state firms authorized to offer or perform  
2 professional engineering or professional land surveying services in  
3 Oklahoma may have one or more branch offices located in Oklahoma  
4 only if the firm has a professional engineer or professional land  
5 surveyor, respectively, designated as the managing agent in  
6 Oklahoma. The professional engineer or professional land surveyor  
7 designated for this purpose shall be required to spend a majority of  
8 normal business hours at one or more branch offices located in  
9 Oklahoma and be duly licensed as a professional engineer or  
10 professional land surveyor, respectively, in this state. The  
11 professional engineer or professional land surveyor designated  
12 managing agent shall be responsible for:

13       1. Maintaining and renewal of the firm's certificate of  
14 authorization and notification to the Board of any change in  
15 managing agent or firm's contact information;

16       2. Overall administrative supervision of the firm's licensed  
17 and subordinate personnel who provide the engineering work in this  
18 state; and

19       3. The institution of and adherence to policies of the firm  
20 that shall be in accordance with Section 475.1 et seq. of this  
21 title, Section 3-116 et seq. of Title 65 of the Oklahoma Statutes  
22 and the rules promulgated by the Board.

23       SECTION 2. This act shall become effective November 1, 2018.  
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1 Passed the House of Representatives the 12th day of March, 2018.

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4 Presiding Officer of the House  
of Representatives

5 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2018.

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8 Presiding Officer of the Senate