

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 HOUSE BILL 3377

 By: Wallace

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6
7 AS INTRODUCED

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
13 requirements for certificates of authorization;
14 requiring an engineer or land surveyor designated in
15 responsible charge to be full-time employee; and
16 providing an effective date.

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

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

20 Section 475.21 A. The practice of or offer to practice
21 engineering or land surveying by firms authorized under Section
22 475.1 et seq. of this title, or by more than one person acting
23 individually through a firm, is permitted provided:
24

1 1. The person(s) in responsible charge of such practice and all
2 personnel who act in behalf of the firm in professional engineering
3 and land surveying matters in this state are licensed under Section
4 475.1 et seq. of this title; and

5 2. The firm has been issued a certificate of authorization by
6 the Board.

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

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

1 C. The Secretary of State shall not issue a certificate of
2 incorporation to an applicant, approve for filing articles of
3 organization for a limited liability company, approve for filing a
4 certificate of limited partnership or accept a registration as a
5 foreign firm to a firm which includes in the firm's name or among
6 the objectives for which it is established any of the words
7 "Engineer", "Engineering", "Surveyor", "Land Surveying" or any
8 modification or derivation thereof unless the Board(s) of Licensure
9 for these professions has issued for the applicant a certificate of
10 authorization or a letter indicating the eligibility of such
11 applicant to receive such a certificate. The firm applying shall
12 supply such certificate or letter from the Board with its
13 application for incorporation or registration.

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

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

22 F. ~~Effective November 1, 2017, all firms applying for a~~
23 ~~certificate of authorization shall designate a managing agent.~~
24

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

1 ~~approval to be named the managing agent by submitting a letter to~~
2 ~~the Board on firm letterhead signed by a person within the firm~~
3 ~~holding one of the above-stated titles, describing the special~~
4 ~~circumstances surrounding the requested exception and the extent of~~
5 ~~authority this employee holds regarding engineering or surveying~~
6 ~~decisions, respectively, as it pertains to paragraphs 1 through 3 of~~
7 ~~this subsection. A licensee who is self-employed, an independent~~
8 ~~contractor or who renders consulting engineering or surveying~~
9 ~~services to, or for, a firm shall not be designated as a managing~~
10 ~~agent. Firms holding a certificate of authorization with this Board~~
11 ~~prior to November 1, 2017, must be in compliance with this provision~~
12 ~~of law by November 1, 2019. The managing agent's responsibilities~~
13 ~~include:~~

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

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

20 ~~3. Institution and adherence of policies of the firm that are~~
21 ~~in accordance with Section 475.1 et seq. of this title, Section 3-~~
22 ~~116 et seq. of Title 65 of the Oklahoma Statutes and the rules of~~
23 ~~the Board~~ An engineer or land surveyor designated in responsible
24 charge of the professional activities of a firm for the purposes of

1 this section shall be a full-time employee of the firm. A licensee
2 who performs only part-time, occasional or consulting services for a
3 firm shall not qualify as a person designated in responsible charge.

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

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

19 2. Overall administrative supervision of the firm's licensed
20 and subordinate personnel who provide the engineering work in this
21 state; and

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

3 SECTION 2. This act shall become effective November 1, 2018.
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5 COMMITTEE REPORT BY: COMMITTEE ON BANKING AND BUSINESS, dated
6 02/27/2018 - DO PASS.
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