An Act

ENROLLED SENATE
BILL NO. 1871

By: Coates, Burrage and Barrington of the Senate

and

Steele, Jones and Harrison of the House

An Act relating to engineering; amending 59 O.S. 2001, Sections 475.8, as amended by Section 7, Chapter 115, O.S.L. 2005 and 475.22, as amended by Section 21, Chapter 115, O.S.L. 2005 (59 O.S. Supp. 2009, Sections 475.8 and 475.22), which relate to engineering and surveying; modifying powers of the Board; modifying exceptions to prohibited acts; exempting certain persons and businesses from certain licensing requirements based upon certain acts; allowing certain persons to determine cost estimates, material options and material takeoff from certain source for certain construction projects; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 475.8, as amended by Section 7, Chapter 115, O.S.L. 2005 (59 O.S. Supp. 2009, Section 475.8), is amended to read as follows:

Section 475.8 A. The State Board of Licensure for Professional Engineers and Land Surveyors shall have the power to adopt and amend all bylaws and rules of procedure, not inconsistent with the Constitution and laws of this state or Section 475.1 et seq. of this title, including the adoption and promulgation of Rules of Professional Conduct for Professional Engineers and Land Surveyors, which may be reasonably necessary for the proper performance of its

duties and the regulation of its proceedings, meetings, records, examinations and the conduct thereof. These actions by the Board shall be binding upon persons licensed under Section 475.1 et seq. of this title and shall be applicable to firms holding a certificate of authorization. The Board shall adopt and have an official seal, which shall be affixed to each certificate issued. The Board shall have the further power and authority to:

1. Establish and amend minimum standards for the practice of engineering and land surveying;

2. Establish continuing education requirements for renewal of professional engineering and professional land surveyor licenses;

3. Promulgate rules concerning the ethical marketing of professional engineering and land surveying services;

4. Upon good cause shown, as hereinafter provided, deny the issuance of a certificate of licensure or certificate of authorization or suspend, revoke or refuse to renew certificates of licensure or certificates of authorization previously issued, and upon proper showing to review, affirm, reverse, vacate or modify its orders with respect to such denial, suspension, revocation or refusal to renew; ~~and~~

5. Levy administrative penalties against any person or entity who or which violates any of the provisions of Section 475.1 et seq. of this title or any rule or regulation promulgated pursuant thereto. The Board is hereby authorized to initiate disciplinary, prosecutorial and injunctive proceedings against any person or entity who or which has violated any of the provisions of Section 475.1 et seq. of this title or any rule or regulation of the Board promulgated pursuant thereto. The Board shall investigate alleged violations of the provisions of Section 475.1 et seq. of this title or of the rules or regulations, orders or final decisions of the Board; and

6. Acquire by purchase, lease, gift, solicitation of gift or by any other lawful means, and maintain, use and operate real property and improvements; contract for the maintenance, use, and operation of or lease of any and all real property and improvements; lease or sublease any part of real property and improvements acquired

pursuant to this section to public entities, private entities, or private persons, on any terms and for any consideration deemed appropriate by the Board, subject to restrictions in purchase or lease documents relating to property acquired; provided, all contracts for real property and improvements shall be subject to the provisions of Section 63 of Title 74 of the Oklahoma Statutes.

B. In carrying into effect the provisions of Section 475.1 et seq. of this title, the Board, under the hand of its Chair, Vice Chair, or Executive Director and the seal of the Board, may subpoena witnesses and compel their attendance, and may also require the submission of books, papers, documents or other pertinent data, in any disciplinary matters, or in any case wherever a violation of Section 475.1 et seq. of this title is alleged. Upon failure or refusal to comply with any such order of the Board, or upon failure to honor its subpoena, as herein provided, the Board may apply to a court of proper jurisdiction for an order to enforce compliance with same.

C. The Board is hereby authorized in the name of the state to apply for relief by injunction in the established manner provided in cases of civil procedure, without bond, to enforce the provisions of Section 475.1 et seq. of this title, or to restrain any violation thereof. In such proceedings, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation thereof. The members of the Board shall not be personally liable under this proceeding.

D. The Board may subject an applicant for licensure or a licensee to such examinations as it deems necessary to determine the applicant's or licensee's qualifications. The Board may dispose of a formal complaint against a licensee for a violation of Section 475.1 et seq. of this title by an order that a licensee shall complete the examinations as the Board deems necessary to determine the qualifications of the licensee, and upon the initial failure or refusal to successfully complete the examination, within the time ordered, place conditions on the license of the licensee to practice and order other remedies until competence is demonstrated.

E. No action or other legal proceedings for damages shall be instituted against the Board or against any Board member or employee

of the Board for any act done in good faith and in the intended performance of any power granted under Section 475.1 et seq. of this title or for any neglect or default in the performance or exercise in good faith of any such duty or power.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 475.22, as amended by Section 21, Chapter 115, O.S.L. 2005 (59 O.S. Supp. 2009, Section 475.22), is amended to read as follows:

Section 475.22 Section 475.1 et seq. of this title shall not be construed to prevent:

1. Other Professions. The practice of any other legally recognized profession;

2. Temporary Permit:

a. Professional engineer. The practice or offer to practice engineering by a person not a resident of or having no established place of business in this state is allowed; provided, such person is legally qualified by licensure to practice engineering, as defined in Section 475.2 of this title, in the applicant's own state or country and who has made application for licensure to this Board. Such person shall make application for temporary permit to the Board, in writing, and after payment of a temporary permit fee may be granted a written permit to perform a particular job for a definite period of time, to expire the earliest of the issuance of a license by this Board, the rejection of the application for licensure or a time limit stated in the temporary permit; provided, however, no right to practice engineering shall accrue to such applicant by reason of a temporary permit for any works not set forth in said permit, and

b. Professional land surveyor. The practice of land surveying under a temporary permit by a person licensed as a land surveyor in another state is not considered to be in the best interest of the public and therefore shall not be granted; ~~and~~

3. Employees and subordinates. The work of an employee or a subordinate of a person holding a certificate of licensure under Section 475.1 et seq. of this title, or an employee of a person practicing lawfully under paragraph 2 of this section is allowed; provided, such work does not include final engineering or land surveying designs or decisions and is done under the direct supervision of and verified by a person holding a certificate of licensure under Section 475.1 et seq. of this title or a person practicing lawfully under paragraph 2 of this section; and

4. Material Takeoff. Providing a list of material derived from measuring and interpreting a set of blueprints or plans, otherwise known as a "material takeoff" or advising a person on such a "material takeoff" shall not constitute the practice of engineering.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4002 of Title 59, unless there is created a duplication in numbering, reads as follows:

The owner of property, or an owner's agent, or a lumber yard or building material center, or its agents or employees, who attempts to determine cost estimates, determine various material options, secure a detailed list of materials, or prepare a material takeoff based upon a drawing, plan, computer program calculation or any professional source of written information for his or her construction project, shall not be held liable for the acts of, nor deemed to practice, a profession or trade required to be licensed in this state.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 20th day of May, 2010.

Presiding Officer of the Senate

Passed the House of Representatives the 24th day of May, 2010.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 26th **day of** May, **20** 10, **at** 2:12 **o'clock** P **M.**

By:

Approved by the Governor of the State of Oklahoma the 6th **day of** June, **20** 10, **at** 3:00 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 7th **day of** June, **20** 10, **at** 2:14 **o'clock** P **M.**

By: