

No. 2275

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE


REGULAR SESSION, 1989



ENROLLED

Com. Sub. for

HOUSE BILL No. 2275

(By  Del. M. Burke + Stevens)



Passed April 7, 1989

In Effect Ninety Days from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2275
(By DELEGATES M. BURKE AND GIVENS)

[Passed April 7, 1989; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, four, five, six, seven, eight and twelve, article thirteen-a, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the board of examiners of land surveyors and qualifications for the practice of land surveying; expanding the definition of the practice of land surveying to include surface mining surveying; increasing the experience requirement prior to licensure; allowing certain equivalent curricula; removing certain eligibilities for persons to obtain a license without examination; changing the license fee from seventy dollars to not to exceed two hundred dollars; providing lower fees for partial reexaminations; renewal fees; removing the exemption of certain persons from application of this article and including other persons; and providing for probation and fines as penalties to be imposed by the board as disciplinary actions.

Be it enacted by the Legislature of West Virginia:

That sections two, four, five, six, seven, eight and twelve, article thirteen-a, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be

amended and reenacted, all to read as follows:

ARTICLE 13A. LAND SURVEYORS.

§30-13A-2. Definitions.

1 Unless the context in which used clearly requires a
2 different meaning, as used in this article:

3 (a) "Applicant" means any person making application
4 for an original or renewal license under the provisions
5 of this article;

6 (b) "Licensee" means any person holding a license
7 issued under the provisions of this article;

8 (c) "Board" means the West Virginia state board of
9 examiners of land surveyors created under the provi-
10 sions of this article;

11 (d) "Practice of land surveying" means the rendering
12 or offering to render for a fee, salary or other compen-
13 sation, monetary or otherwise, for the public generally,
14 any of the following services:

15 (1) The location, relocation, establishment, reestab-
16 lishment or retracement of any property line or
17 boundary of any parcel of land or of any road or utility
18 right-of-way, easement or alignment;

19 (2) The performance of any survey for the division,
20 subdivision or resubdivision of any tract of land;

21 (3) The determination of the position of any monu-
22 ment or reference point which marks a property line
23 boundary or corner, or setting, resetting or replacing
24 any such monument or reference point, by the use of the
25 principles of land surveying;

26 (4) The determination of the configuration or contour
27 of the earth's surface or the position of fixed objects
28 thereon or related thereto, by means of measuring lines
29 and angles, and applying the principles of mathematics;

30 (5) The performance of cadastral surveying, under-
31 ground surveying, surface mine surveying or hydrogra-
32 phic surveying;

33 (6) The preparation of subdivision maps; and

34 (7) The preparation of maps or drawings showing any
35 of the above.

36 (e) "Professional surveyor" means any person who
37 engages in the practice of land surveying.

38 (f) "Equivalent curriculum" includes, but is not
39 limited to, degrees in related curricula such as engineer-
40 ing, forestry, geology, mathematics, physics, computer
41 science or other related fields.

§30-13A-4. Powers and duties of board; funds.

1 (a) The board shall have the power and duty to:

2 (1) Examine applicants and determine their eligibil-
3 ity for a license to engage in the practice of land
4 surveying;

5 (2) Prepare, conduct and grade an apt and proper
6 written, oral or written and oral examination of
7 applicants for a license and determine the satisfactory
8 passing score thereon;

9 (3) Promulgate reasonable rules implementing the
10 provisions of this article and the powers and duties
11 conferred upon the board hereby, all of which reasona-
12 ble rules shall be promulgated in accordance with the
13 provisions of article three, chapter twenty-nine-a of this
14 code;

15 (4) Issue, renew, deny, suspend or revoke licenses to
16 engage in the practice of land surveying in accordance
17 with the provisions of this article;

18 (5) Investigate alleged violations of the provisions of
19 this article, reasonable rules promulgated hereunder
20 and orders and final decisions of the board and take
21 appropriate disciplinary action against any licensee for
22 the violation thereof or institute appropriate legal action
23 for the enforcement of the provisions of this article,
24 reasonable rules promulgated hereunder and orders and
25 final decisions of the board or take such disciplinary
26 action and institute such legal action;

27 (6) Keep accurate and complete records of its proceed-
28 ings, certify the same as may be appropriate, and

29 prepare, from time to time, a list showing the names and
30 addresses of all licensees;

31 (7) Take such other action as may be reasonably
32 necessary or appropriate to effectuate the provisions of
33 this article; and

34 (8) Establish standards to evaluate surveying or
35 equivalent curricula as it relates to the practice of land
36 surveying under the provisions of this article and to
37 determine the amount of experience required under
38 section five of this article which may be substituted for
39 a particular curriculum.

40 (b) All moneys paid to the board shall be accepted by
41 a person designated by the board and deposited by him
42 with the treasurer of the state and credited to an
43 account to be known as the "board of examiners of land
44 surveyors fund." All of the reasonable compensation of
45 the members of the board, the reimbursement of all
46 reasonable and necessary expenses actually incurred by
47 such members and all other costs and expenses incurred
48 by the board in the administration of this article shall
49 be paid from such fund, and no part of the state's
50 general revenue fund shall be expended for this purpose.

**§30-13A-5. Qualifications of applicants for licenses;
surveyor in training applications; fees;
examinations.**

1 (a) To be eligible for a license to engage in the
2 practice of land surveying, the applicant must:

3 (1) Be at least eighteen years of age;

4 (2) Be of good moral character;

5 (3) Have been a resident of the United States for one
6 year immediately preceding the date of application;

7 (4) Not have been convicted of a crime involving
8 moral turpitude;

9 (5) Have four years or more experience in the practice
10 of land surveying under the supervision of a person
11 authorized to practice land surveying in this state, or a
12 person authorized in another state or country to engage

13 in the practice of land surveying; and each year of
14 satisfactory study in a surveying or equivalent curric-
15 ulum shall be substituted for one year of experience, but
16 only two years of such experience requirement may be
17 fulfilled by such study. On and after the first day of
18 July, one thousand nine hundred ninety-one, six years
19 or more of such experience under the supervision of a
20 licensee or a person authorized in another state or
21 country to engage in the practice of land surveying shall
22 be required by those applicants who are graduates of a
23 surveying or equivalent curriculum of two scholastic
24 years or more. However, only three years of such
25 experience may be fulfilled by such study, and eight
26 years of such experience under the supervision of a
27 person authorized to practice land surveying in this
28 state, or a person authorized in another state or country
29 to engage in the practice of land surveying, shall be
30 required for those applicants who are not graduates of
31 a surveying or equivalent curriculum; and

32 (6) Have passed the examination prescribed by the
33 board, which examination shall cover the basic subject
34 matter of land surveying and land surveying skills and
35 techniques.

36 (b) Any applicant for any such license shall submit an
37 application therefor on forms provided by the board.
38 Such application shall be verified and shall contain a
39 statement of the applicant's education and experience,
40 the names of five persons for reference (at least three
41 of whom shall be licensees or persons authorized in
42 another state or country to engage in the practice of land
43 surveying, who have knowledge of his work) and such
44 other information as the board may from time to time
45 by reasonable rule prescribe.

46 (c) An applicant shall pay to the board with his
47 application an examination fee for the purpose of
48 covering the cost of the examination not to exceed two
49 hundred dollars as determined by the board by rule.

50 (d) Examinations shall be held at least once each year
51 at such time and place as the board shall determine. The
52 scope of the examination and methods of procedure shall

53 be determined by the board. An applicant who fails to
54 pass all or any part of an examination may reapply at
55 any time and shall furnish additional information as
56 requested by the board. The cost of reexamination will
57 be based on the cost of the examination as determined
58 by the board by rule.

**§30-13A-6. Issuance of license; notice of expiration;
renewal; renewal fee; display.**

1 Whenever the board finds that an applicant meets all
2 of the requirements of this article for a license to engage
3 in the practice of land surveying, it shall forthwith issue
4 to such person such license; and otherwise the board
5 shall deny the same. All licenses, whether original or
6 renewal, shall expire on the thirtieth day of June
7 following the date of issuance or renewal. The secretary-
8 treasurer of the board shall mail to every licensee, at
9 least thirty days prior to the expiration of such license,
10 notice of the expiration date and the amount of the
11 renewal fee. A license may be renewed without exam-
12 ination upon application for a renewal on a form
13 prescribed by the board and payment to the board of
14 an annual renewal fee of forty dollars. If a license is not
15 renewed when due, the fee shall increase one dollar per
16 month for each month or fraction thereof that such
17 renewal fee is not paid, up to a maximum of thirty-six
18 months. No license shall be renewed after expiration of
19 said period of thirty-six months, and the fact that a
20 license cannot be renewed because of the expiration of
21 said period of thirty-six months shall not prevent such
22 person from making application for a new license. The
23 board may deny any application for renewal for any
24 reason which would justify the denial of an original
25 application for a license. The board shall prescribe the
26 form of licenses and each such license shall be conspic-
27 uously displayed by the licensee at his or her principal
28 place of practice. A duplicate license may be issued upon
29 payment of a fee of ten dollars.

§30-13A-7. Exemption from regulation and licensing.

1 The following persons are exempt from regulation and
2 licensing under the provisions of this article and any

3 reasonable rules promulgated hereunder, and may
4 engage in the practice of land surveying without a
5 license issued under the provisions of this article and
6 any such reasonable rules:

7 (a) Any professional engineer authorized to practice
8 the profession of engineering as provided in article
9 thirteen of this chapter;

10 (b) Any employee of a proprietorship, partnership,
11 association, corporation or other business entity which
12 is engaged in the practice of land surveying in this state
13 or any employee of a proprietorship, partnership,
14 association, corporation or other business entity exemp-
15 ted from rules and licensing under subdivision (a) of this
16 section: *Provided*, That the work of any such employee
17 is done under the supervision of and certified by a
18 licensed employee of the proprietorship, partnership,
19 association, corporation or other business entity;

20 (c) Any employee of a person, firm, association or
21 corporation, when such employee is engaged in the
22 practice of land surveying exclusively for the person,
23 firm, association or corporation by which employed, or,
24 if a corporation, its parents, affiliates or subsidiaries,
25 and such person, firm, association or corporation does
26 not hold himself or itself out to the public as being
27 engaged in the business of land surveying;

28 (d) Any employee or officer of the United States, this
29 state or any political subdivision thereof, when such
30 employee is engaged in the practice of land surveying
31 exclusively for such governmental unit.

§30-13A-8. Suspension or revocation of license.

1 (a) The board may at any time upon its own motion
2 and shall upon the verified written complaint of any
3 person conduct an investigation to determine whether
4 there are any grounds for disciplinary action against the
5 holder of a license or the suspension or revocation of a
6 license issued under the provisions of this article.

7 (b) The board shall suspend or revoke the license of
8 any licensee, put the holder of any such license on
9 probation, or impose a fine not to exceed one thousand

10 dollars on the holder of any such license when it finds
11 the holder thereof has:

12 (1) Been convicted of a crime involving moral
13 turpitude;

14 (2) Obtained a license by means of fraud or deceit;

15 (3) Been incompetent, grossly negligent, or guilty of
16 fraud, deceit or other misconduct in the practice of land
17 surveying as defined by the board by reasonable rules;
18 or

19 (4) Failed or refused to comply with the provisions of
20 this article or any order or final decision of the board.

21 (c) Any suspension of a license shall continue for the
22 period specified in the order of suspension. Revocation
23 of a license shall not preclude application for a new
24 license, which application shall be processed in the same
25 manner and the application approved or denied and the
26 license issued or refused on the same grounds as any
27 other application for a license is processed, considered
28 and determined, except that any previous suspension
29 and the revocation may be considered in deciding
30 whether to approve or deny such application and issue
31 or refuse to issue such license.

§30-13A-12. Duty of county clerks and public officials.

1 No plat, report of survey or any survey related
2 document shall be filed by any clerk of a county
3 commission or accepted by any public official of this
4 state unless the seal required by section eleven of this
5 article has been affixed thereto, except that any
6 document prepared by a person exempted from the
7 regulation and licensing requirements of this article, as
8 provided in section seven of this article, shall not be
9 required to have the seal required by section eleven of
10 this article affixed thereto. Nothing in this section shall
11 prevent a document prepared prior to the twenty-fifth
12 day of May, one thousand nine hundred sixty-nine, from
13 being recorded without such seal. If a seal of such
14 exempt person is not affixed to said document, a
15 certificate shall be placed thereon by the exempt person,
16 stating upon what the exemption is claimed. Said

17 certificate may be in a form similar to the following:

18 "I certify that I am engaged in surveying exclusively
19 for _____ and believe

20 I am exempt from regulations and licensing under

21 West Virginia Code 30-13A-7

22 _____
23 Signature"

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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Fredrick L. Parker
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Judd C. Miller
Clerk of the Senate

Donald E. Hoyle
Clerk of the House of Delegates

Sam R. Tucker
President of the Senate

Bob Caldwell
Speaker of the House of Delegates

The within *is approved* this the *27th*
day of *April*, 1989.

Yaston Caperton
Governor

PRESENTED TO THE

GOVERNOR

Date 4/21/89

Time 2:36 *HC*