WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

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ENROLLED

Com. Sub. for

HOUSE BILL No. 2275

(By Del. M. Barke & Stevée)

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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.


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

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

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

(c) "Board" means the West Virginia state board of examiners of land surveyors created under the provisions of this article;

(d) "Practice of land surveying" means the rendering or offering to render for a fee, salary or other compensation, monetary or otherwise, for the public generally, any of the following services:

(1) The location, relocation, establishment, reestablishment or retracement of any property line or boundary of any parcel of land or of any road or utility right-of-way, easement or alignment;

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

(3) The determination of the position of any monument or reference point which marks a property line boundary or corner, or setting, resetting or replacing any such monument or reference point, by the use of the principles of land surveying;

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

(5) The performance of cadastral surveying, underground surveying, surface mine surveying or hydrographic surveying;

(6) The preparation of subdivision maps; and
(7) The preparation of maps or drawings showing any of the above.

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

(f) "Equivalent curriculum" includes, but is not limited to, degrees in related curricula such as engineering, forestry, geology, mathematics, physics, computer science or other related fields.

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

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

(1) Examine applicants and determine their eligibility for a license to engage in the practice of land surveying;

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

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

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

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

(6) Keep accurate and complete records of its proceedings, certify the same as may be appropriate, and
prepare, from time to time, a list showing the names and
addresses of all licensees;

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

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

(b) All moneys paid to the board shall be accepted by
a person designated by the board and deposited by him
with the treasurer of the state and credited to an
account to be known as the “board of examiners of land
surveyors fund.” All of the reasonable compensation of
the members of the board, the reimbursement of all
reasonable and necessary expenses actually incurred by
such members and all other costs and expenses incurred
by the board in the administration of this article shall
be paid from such fund, and no part of the state’s
general revenue fund shall be expended for this purpose.

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

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

(1) Be at least eighteen years of age;

(2) Be of good moral character;

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

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

(5) Have four years or more experience in the practice
of land surveying under the supervision of a person
authorized to practice land surveying in this state, or a
person authorized in another state or country to engage
in the practice of land surveying; and each year of
satisfactory study in a surveying or equivalent curric-
ulum shall be substituted for one year of experience, but
only two years of such experience requirement may be
fulfilled by such study. On and after the first day of
July, one thousand nine hundred ninety-one, six years
or more of such experience under the supervision of a
licensee or a person authorized in another state or
country to engage in the practice of land surveying shall
be required by those applicants who are graduates of a
surveying or equivalent curriculum of two scholastic
years or more. However, only three years of such
experience may be fulfilled by such study, and eight
years of such experience under the supervision of a
person authorized to practice land surveying in this
state, or a person authorized in another state or country
to engage in the practice of land surveying, shall be
required for those applicants who are not graduates of
a surveying or equivalent curriculum; and

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

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

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

(d) Examinations shall be held at least once each year
at such time and place as the board shall determine. The
scope of the examination and methods of procedure shall
be determined by the board. An applicant who fails to pass all or any part of an examination may reapply at any time and shall furnish additional information as requested by the board. The cost of reexamination will be based on the cost of the examination as determined by the board by rule.

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

Whenever the board finds that an applicant meets all of the requirements of this article for a license to engage in the practice of land surveying, it shall forthwith issue to such person such license; and otherwise the board shall deny the same. All licenses, whether original or renewal, shall expire on the thirtieth day of June following the date of issuance or renewal. The secretary-treasurer of the board shall mail to every licensee, at least thirty days prior to the expiration of such license, notice of the expiration date and the amount of the renewal fee. A license may be renewed without examination upon application for a renewal on a form prescribed by the board and payment to the board of an annual renewal fee of forty dollars. If a license is not renewed when due, the fee shall increase one dollar per month for each month or fraction thereof that such renewal fee is not paid, up to a maximum of thirty-six months. No license shall be renewed after expiration of said period of thirty-six months, and the fact that a license cannot be renewed because of the expiration of said period of thirty-six months shall not prevent such person from making application for a new license. The board may deny any application for renewal for any reason which would justify the denial of an original application for a license. The board shall prescribe the form of licenses and each such license shall be conspicuously displayed by the licensee at his or her principal place of practice. A duplicate license may be issued upon payment of a fee of ten dollars.

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

The following persons are exempt from regulation and licensing under the provisions of this article and any
reasonable rules promulgated hereunder, and may engage in the practice of land surveying without a license issued under the provisions of this article and any such reasonable rules:

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

(b) Any employee of a proprietorship, partnership, association, corporation or other business entity which is engaged in the practice of land surveying in this state or any employee of a proprietorship, partnership, association, corporation or other business entity exempted from rules and licensing under subdivision (a) of this section: Provided, That the work of any such employee is done under the supervision of and certified by a licensed employee of the proprietorship, partnership, association, corporation or other business entity;

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

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

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

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

(b) The board shall suspend or revoke the license of any licensee, put the holder of any such license on probation, or impose a fine not to exceed one thousand
dollars on the holder of any such license when it finds
the holder thereof has:

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

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

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

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

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


No plat, report of survey or any survey related
document shall be filed by any clerk of a county
commission or accepted by any public official of this
state unless the seal required by section eleven of this
article has been affixed thereto, except that any
document prepared by a person exempted from the
regulation and licensing requirements of this article, as
provided in section seven of this article, shall not be
required to have the seal required by section eleven of
this article affixed thereto. Nothing in this section shall
prevent a document prepared prior to the twenty-fifth
day of May, one thousand nine hundred sixty-nine, from
being recorded without such seal. If a seal of such
exempt person is not affixed to said document, a
certificate shall be placed thereon by the exempt person,
stating upon what the exemption is claimed. Said
Certificate may be in a form similar to the following:

"I certify that I am engaged in surveying exclusively for ___________________ and believe I am exempt from regulations and licensing under West Virginia Code 30-13A-7.

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

[Signature]
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

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

[Signature]
Governor

[Signature]
V. W. C. Cooper