

SB 0364

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STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

Committee Substitute for
SENATE BILL NO. 364

(By Senators SHARPE & FOSS)



PASSED MARCH 11, 1995
In Effect July 1, 1995 ~~Passage~~

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 364

(SENATORS SHARPE AND ROSS, *original sponsors*)

[Passed March 11, 1995; to take effect July 1, 1995.]

AN ACT to amend and reenact sections one, two, four, five, seven and twelve, article thirteen-a, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section eighteen, all relating to requiring surveying firms to maintain a licensee on their company staff; exemptions to examination requirements; and establishing minimum technical criteria to govern the performance of surveyors when more stringent specifications are not required by other agencies.

Be it enacted by the Legislature of West Virginia:

That sections one, two, four, five, seven 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; and that said article be further amended by adding thereto a new section, designated section eighteen, all to read as follows:

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 13A. LAND SURVEYORS.

§30-13A-1. License required.

1 In order to provide for the regulation of land surveying
2 in this state, no person shall engage in, offer to engage in,
3 or hold himself out to the public as being engaged in, the
4 practice of land surveying in this state (except for the
5 persons exempted under the provisions of section seven
6 of this article), unless and until he shall first obtain a
7 license to engage in the practice of land surveying in
8 accordance with the provisions of this article, which
9 license remains unexpired, unsuspended and unrevoked.

10 Any firm, association, partnership or corporation
11 offering surveying services or advertising as offering
12 land surveying services must maintain a licensee on their
13 company staff by means of ownership interest or full-
14 time employee of the company.

§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 of
5 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 provisions
10 of this article;

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

15 (1) The location, relocation, establishment, reestablish-
16 ment or retracement of any property line or boundary of
17 any parcel of land or of any road or utility right-of-way,
18 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 monument
22 or reference point which marks a property line boundary
23 or corner, or setting, resetting or replacing any such
24 monument or reference point, by the use of the principles
25 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, whether directly, indirectly, by conventional
30 methods or GPS, and applying the principles of mathe-
31 matics;

32 (5) The performance of cadastral surveying, under-
33 ground surveying, surface mine surveying or hydro-
34 graphic surveying;

35 (6) The preparation of subdivision maps; and

36 (7) The preparation of maps or drawings showing any
37 of the above;

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

40 (f) "Direct supervision" means the responsible licensee
41 shall be in direct control of all field and office opera-
42 tions, including research, evaluation of all data and
43 decisions relative to the final output data/material, i.e.
44 plats, plans, descriptions, etc. that could affect the

45 general public;

46 (g) "Global positioning system (GPS)" means any
47 measurement of elevations or positions either absolute or
48 relative which utilizes the observation of artificial
49 satellites;

50 (h) "Mortgage/loan inspection survey" means a survey
51 in which property lines and corners have not been
52 established.

§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 eligibility
3 for a license to engage in the practice of land surveying;

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

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

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

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

26 (6) Keep accurate and complete records of its proceed-
27 ings, certify the same as may be appropriate and pre-
28 pare, from time to time, a list showing the names and
29 addresses of all licensees;

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

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

38 (b) All moneys paid to the board shall be accepted by
39 a person designated by the board and deposited by him
40 with the treasurer of the state and credited to an account
41 to be known as the "board of examiners of land survey-
42 ors fund". All of the reasonable compensation of the
43 members of the board, the reimbursement of all reason-
44 able and necessary expenses actually incurred by such
45 members and all other costs and expenses incurred by
46 the board in the administration of this article shall be
47 paid from such fund, and no part of the state's general
48 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 practice
2 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 moral
8 turpitude;

9 (5) On and after the first day of July, one thousand nine

10 hundred ninety-five, six years or more of experience
11 under the direct supervision of a licensee or a person
12 authorized in another state or country to engage in the
13 practice of land surveying shall be required by those
14 applicants who are graduates of a surveying curriculum
15 of two scholastic years or more. Eight years of experi-
16 ence under the supervision of a person authorized to
17 practice land surveying in this state, or a person autho-
18 rized in another state or country to engage in the prac-
19 tice of land surveying, shall be required for those appli-
20 cants who are not graduates of a surveying curriculum;
21 and

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

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

36 (c) An applicant shall pay to the board with his appli-
37 cation an examination fee for the purpose of covering the
38 cost of the examination as determined by the board by
39 rule.

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

47 be based on the cost of the examination as determined by
48 the board by rule.

49 (e) The board shall offer a surveyor-in-training (SIT)
50 examination to applicants who meet the requirements of
51 subdivisions (1), (2), (3) and (4), subsection (a) of this
52 section, and are graduates of a surveying curriculum of
53 two or more years which has been approved by the board
54 of examiners of land surveyors. The examination shall
55 include an eight-hour portion of fundamentals in sci-
56 ence, mathematics and surveying. Applicants must pass
57 the other portions of the surveyor-in-training examina-
58 tion and complete the work experience and other re-
59 quirements of this section before they are allowed to
60 take the second eight-hour examination which consists
61 of principles and practices.

§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 engage
4 in the practice of land surveying without a license issued
5 under the provisions of this article and any such reason-
6 able rules:

7 (a) Any professional engineer authorized to practice
8 the profession of engineering as provided in article
9 thirteen of this chapter may apply within one year after
10 the effective date of this section and if such person meets
11 the requirements of subdivisions (1), (2), (3) and (4),
12 subsection (a), section five of this article, he or she is
13 eligible for a license without examination. Any appli-
14 cant for any such license shall submit an application and
15 proof of surveying experience as specified in said sec-
16 tion;

17 (b) Any employee of a proprietorship, partnership,
18 association, corporation or other business entity which
19 is engaged in the practice of land surveying in this state:
20 *Provided*, That the work of any such employee is done

21 under the supervision of and certified by a licensed
22 employee of the proprietorship, partnership, association,
23 corporation or other business entity;

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

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

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

1 No plat, document, plan, map, drawing, exhibit, sketch
2 or pictorial representation intended to be used in the
3 transfer of real property shall be filed by any clerk of a
4 county commission or accepted by any public official of
5 this state unless the seal required by section eleven of
6 this article has been affixed thereto, except that any
7 document, plan, map, drawing, exhibit, sketch or picto-
8 rial representation, prepared by a person exempted from
9 the regulation and licensing requirements of this article,
10 as provided in section seven of this article, shall not be
11 required to have the seal required by section eleven of
12 this article affixed thereto. If a document, plan, plat,
13 map, drawing, exhibit, sketch or pictorial representation
14 has been altered from its original form, it shall not be
15 filed by any clerk of a county or accepted by any public
16 official of this state. Nothing in this section shall
17 prevent a document prepared prior to the twenty-fifth
18 day of May, one thousand nine hundred sixty-nine, from
19 being recorded without such seal. If a seal of such
20 exempt person is not affixed to said document, plan,
21 plat, map, drawing, exhibit, sketch or pictorial represen-

22 tation, a certificate shall be placed thereon by the
23 exempt person, stating upon what the exemption is
24 claimed. Said certificate may be in a form similar to the
25 following:

26 "I certify that I am engaged in surveying
27 exclusively for _____ and
28 believe I am exempt from regulations and
29 licensing under West Virginia Code 30-13A-7

30 _____
31 Signature"

§30-13A-18. Minimum standards for boundary surveys.

1 The purpose of these standards is to establish mini-
2 mum technical criteria to govern the performance of
3 surveyors when more stringent specifications are not
4 required by other agencies, contract, etc. Further, the
5 purpose is to protect the inhabitants of this state from
6 dishonest or incompetent surveying, and generally to
7 protect the public welfare.

8 (a) The client discussion prior to the survey should
9 cover the purpose of survey, scope of services, disputes
10 with adjoining, fees and contract.

11 (b) The record search should include the record de-
12 scription based on current and prior deeds, conveyance
13 from common grantor, or if necessary original survey or
14 grant. It should also include descriptions of adjoining
15 properties, other sources of information or resolution of
16 conflicts in descriptions. All records of information
17 sources used will be retained as a permanent record.

18 (c) The field survey will consist of a field search for
19 controlling evidence, a discussion of evidence with the
20 owner, adjoining or others having knowledge of the
21 boundaries and the location of evidence by traverse
22 methods. The surveyor will use methods and equipment
23 suitable for the purpose of the survey and the field notes
24 will be retained as a permanent record.

25 (d) Distance will be measured in feet or meters, or
26 fractions thereof, and angles will be measured in degrees
27 or parts thereof. These will be measured to a precision
28 that will produce the desired level of accuracy. Areas
29 will be measured to a precision consistent with the
30 purpose of the survey. All measuring devices will be
31 checked periodically for accuracy and condition.

32 (e) Monumentation is required for all new or reestab-
33 lished corners, or reference monument for inaccessible
34 corners, and is encouraged at intervisible points between
35 corners. Artificial or set monuments will be made of
36 durable ferrous material and set firmly in the ground.
37 Pipes will have a minimum inside diameter of one inch,
38 while rebars will have a minimum outside diameter of
39 one-half inch and both will have a minimum length of
40 thirty inches. Other markers shall have a minimum
41 cross-sectional area of three-tenths square inch and will
42 be of durable material, identifiable and unique. Natural
43 objects chosen for corners shall be durable, unique and
44 easily identifiable.

45 (f) A plat will be prepared for all boundary surveys,
46 shall show the results of the field survey and will be
47 delivered to the client. Plats will be to a scale large
48 enough to show significant details. Information on plats
49 will include when applicable north arrows and basis of
50 bearings, date of survey, measured length and direction
51 of each boundary line by distance, bearing and quadrant
52 and evidence of possession on or near the property line.

53 The description of all corners or reference monuments,
54 and whether found (fd) or set, area of the parcel and of
55 significant parts, including streets, alleys and nonlotted
56 area of subdivision, state, county and district or munici-
57 pality will be shown on the plat. The subdivision name,
58 lot, block and plat reference will also be shown on
59 subdivision or lot surveys.

60 The tax map, parcel number, name of current and/or
61 past owners for subject property and adjoiners, current

62 conveyance reference for subject property and adjoining
63 will be shown. Name, address, license number, signa-
64 ture, seal of surveyor, overlaps and gaps in record lines,
65 former deed or grant lines as needed, ties to significant
66 objects and general location information will also be
67 included.

68 (g) A description will be prepared for each boundary
69 survey and will include the state, county, district or
70 municipality and watershed or topographic location. Lot
71 and block numbers will be shown for new platted
72 subdivisions, but retracement surveys for lots and other
73 surveys will require a metes and bounds description.
74 The description will also include the point of beginning,
75 the description of monumentation at each corner and
76 objects encountered along the line, the length and
77 direction of each line, and the radius, chord bearing and
78 distance of a curved boundary.

79 The description will also show the intent with regard
80 to adjoiner, physical evidence or record monument along
81 the line. The area of the parcel, reference to plat and
82 surveyor preparing description and the reference to
83 conveyance by which the current owner claims title,
84 including grantor, grantee, date and place.

85 (h) The report of survey will be used when the plat and
86 description do not adequately address all matters
87 considered by the surveyor in performing the survey and
88 will be provided to the client with a plat and description.

89 The report will include all unusual circumstances
90 surrounding the survey, weight given to conflicting
91 evidence and encroachments, overlaps or gaps and how
92 they were resolved, and the names of adjoining contacted
93 and the information they supplied.

94 (i) A mortgage/loan inspection survey in which bound-
95 aries on a property have not been surveyed in accordance
96 with the methods set forth by the board, then the plat
97 must be stamped "a mortgage inspection survey only, not

98 a boundary survey". The surveyor must notify a land-
99 owner or other person commissioning their services if a
100 survey or an inspection was performed.

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

Randy Schooner
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1995.

Darrell Bell
.....
Clerk of the Senate

Donald L. Kapp
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Bill Clavin
.....
Speaker House of Delegates

The within *is approved* this the *24th*
day of *March*, 19*95*.

Garston Capner
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/95

Time 3:48 pm