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WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2003



ENROLLED

House Bill No. 2802

(By Delegates Staton, Palumbo, Hrutkay and R. Thompson)



Passed March 8, 2003

In Effect Ninety Days from Passage

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H. B. 2802

(BY DELEGATES STATON, PALUMBO, HRUTKAY AND R. THOMPSON)

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AN ACT to amend article three, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nine; and to amend article three, chapter thirty-six of said code, by adding thereto a new section, designated section five-a, all relating to the description of property required to create an easement or right-of-way by deed or other legal instrument; providing that a description of the easement be filed with the deed or other instrument executing the easement; excludes specified easements and right-of-ways from this requirement; and exempts certain documents from survey and certification filing requirements.

Be it enacted by the Legislature of West Virginia:

That article three, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section nine; and that article three, chapter thirty-six of said code be amended by adding thereto a new section, designated section five-a, all to read as follows:

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 3. DUTIES AND PRIVILEGES OF PUBLIC UTILITIES SUBJECT TO REGULATIONS OF COMMISSION.

§24-3-9. Easement and right-of-way.

1 A public utility may not acquire an easement or right-of-
2 way unless the deed or other instrument granting or reserving
3 the easement or right-of-way describes the property in accor-
4 dance with the requirements of section five-a, article three,
5 chapter thirty-six of this code.

CHAPTER 36. ESTATES AND PROPERTY.

ARTICLE 3. FORM AND EFFECT OF DEEDS AND CONTRACTS.

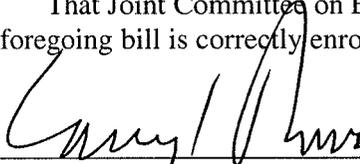
§36-3-5a. Easement and right-of-way; description of property; exception for certain public utility facilities.

1 (a) Any deed or instrument that initially grants or reserves
2 an easement or right-of-way shall describe the easement or
3 right-of-way by metes and bounds, or by specification of the
4 centerline of the easement or right-of-way, or by station and
5 offset, or by reference to an attached drawing or plat which may
6 not require a survey, or instrument based on the use of the
7 global positioning system which may not require a survey, or
8 by source of title and reference to the most recent deed suffi-
9 cient to reasonably identify and locate the easement or right-of-
10 way on the property: *Provided*, That the easement or right-of-
11 way is not invalid because of the failure of the easement or
12 right-of-way to meet the requirements of this subsection.

13 (b) This section does not apply to the construction of a
14 service extension from a main distribution system of a public
15 utility when such service extension is located entirely on,
16 below, or above the property to which the utility service is to be
17 provided.

18 (c) The clerk of the county commission of any county in
19 which an easement or right-of-way is recorded pursuant to this
20 section shall only accept for recordation any document that
21 complies with this section and that otherwise complies with the
22 requirements of article one, chapter thirty-nine of this code,
23 without need for a survey or certification under section twelve,
24 article thirteen-a, chapter thirty of this code.

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



Chairman Senate Committee



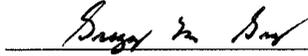
Chairman House Committee

Originating in the House.

In effect ninety days from passage



Clerk of the Senate



Clerk of the House of Delegates

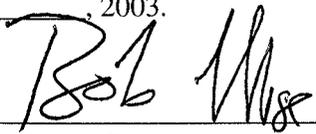


President of the Senate



Speaker of the House of Delegates

The within is approved this the 2nd
day of April, 2003.



Governor

PRESENTED TO THE
GOVERNOR

Date 3/24/03

Time 10:45h