

HB 4450

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**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2010



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 4450**

(By Delegates Fragale, Boggs, Hartman, Hatfield,  
Morgan, Stephens and T. Walker)



Passed March 12, 2010

In Effect Ninety Days From Passage

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COMMITTEE SUBSTITUTE

OFFICE OF THE  
SECRETARY OF STATE

FOR

## **H. B. 4450**

(BY DELEGATES FRAGALE, BOGGS, HARTMAN, HATFIELD,  
MORGAN, STEPHENS AND T. WALKER)

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[Passed March 12, 2010; in effect ninety days from passage]

AN ACT to repeal §30-13A-26, §30-13A-27, §30-13A-28, §30-13A-29, §30-13A-30, §30-13A-31, §30-13A-32, §30-13A-33, §30-13A-34, §30-13A-35, §30-13A-36 and §30-13A-37 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated, §1-1-5; to amend said code by adding thereto a new section, designated, §7-2-8; to amend and reenact §30-13A-1, §30-13A-2, §30-13A-3, §30-13A-4, §30-13A-5, §30-13A-6, §30-13A-7, §30-13A-8, §30-13A-9, §30-13A-10, §30-13A-11, §30-13A-12, §30-13A-13, §30-13A-14, §30-13A-15, §30-13A-16, §30-13A-17, §30-13A-18, §30-13A-19, §30-13A-20, §30-13A-21, §30-13A-22, §30-13A-23, §30-13A-24 and §30-13A-25 of said code; and to amend and reenact §39-1-2a of said code, all relating to surveys; moving the West Virginia coordinate systems to another chapter of the code; requiring a license to practice surveying; requiring a certificate of authorization for a firm to practice surveying; updating definitions; continuing the Board of Professional Surveyors; changing the board composition; clarifying the powers and duties of the board; clarifying rule-

making authority; continuing a special revenue account; clarifying the education and experience requirements for licensure; licensing requirements; establishing scope of practice; providing exceptions from licensure; clarifying surveyor intern requirements; licensing requirements for persons licensed in another state; renewal requirements; clarifying inactive license requirements; clarifying procedures for delinquent and expired licenses; clarifying retired license requirements; clarifying procedures for when a person fails an examination; requiring display of a license, endorsement and certification of authorization; clarifying certification of authorization requirements; clarifying requirements for a surveyor-in-charge; providing a due process procedure, grounds for disciplinary action, hearing procedures, judicial review appeals of decisions and cause for initiation of criminal proceedings; clarifying criminal penalties; and updating requirements to record a survey.

*Be it enacted by the Legislature of West Virginia:*

That §30-13A-26, §30-13A-27, §30-13A-28, §30-13A-29, §30-13A-30, §30-13A-31, §30-13A-32, §30-13A-33, §30-13A-34, §30-13A-35, §30-13A-36 and §30-13A-37 of the Code of West Virginia, 1931, as amended, be repealed; to amend said code by adding thereto a new section, designated, §1-1-5; to amend said code by adding thereto a new section, designated, §7-2-8; that §30-13A-1, §30-13A-2, §30-13A-3, §30-13A-4, §30-13A-5, §30-13A-6, §30-13A-7, §30-13A-8, §30-13A-9, §30-13A-10, §30-13A-11, §30-13A-12, §30-13A-13, §30-13A-14, §30-13A-15, §30-13A-16, §30-13A-17, §30-13A-18, §30-13A-19, §30-13A-20, §30-13A-21, §30-13A-22, §30-13A-23, §30-13A-24 and §30-13A-25 of said code be amended and reenacted; and that §39-1-2a of said code be amended and reenacted, all to read as follows:

## **CHAPTER 1. THE STATE AND ITS SUBDIVISIONS.**

**ARTICLE 1. LIMITS AND JURISDICTION.**

**§1-1-5. West Virginia coordinate systems; definition; plane coordinates, limitations of use; conversion factor for meters to feet.**

1 (a) The systems of plane coordinates which have been  
2 established by the National Ocean Service/National Geodetic  
3 Survey (formerly the United States Coast and Geodetic  
4 Survey) or its successors for defining and stating the  
5 geographic position or locations of points on the surface of  
6 the earth within West Virginia are to be known and  
7 designated as the West Virginia Coordinate System of 1927  
8 and the West Virginia Coordinate System of 1983.

9 (b) For the purpose of the use of this system the state is  
10 divided into a North Zone and a South Zone.

11 The area now included in the following counties is the  
12 North Zone: Barbour, Berkeley, Brooke, Doddridge, Grant,  
13 Hampshire, Hancock, Hardy, Harrison, Jefferson, Marion,  
14 Marshall, Mineral, Monongalia, Morgan, Ohio, Pleasants,  
15 Preston, Ritchie, Taylor, Tucker, Tyler, Wetzel, Wirt and  
16 Wood.

17 The area now included in the following counties is the  
18 South Zone: Boone, Braxton, Cabell, Calhoun, Clay, Fayette,  
19 Gilmer, Greenbrier, Jackson, Kanawha, Lewis, Lincoln,  
20 Logan, McDowell, Mason, Mercer, Mingo, Monroe,  
21 Nicholas, Pendleton, Pocahontas, Putnam, Raleigh,  
22 Randolph, Roane, Summers, Upshur, Wayne, Webster and  
23 Wyoming.

24 (c) As established for use in the North Zone, the West  
25 Virginia Coordinate System of 1927 or the West Virginia  
26 Coordinate System of 1983 shall be named and in any land

27 description in which it is used it shall be designated the West  
28 Virginia Coordinate System of 1927 North Zone or West  
29 Virginia Coordinate System of 1983 North Zone.

30 As established for use in the South Zone, the West  
31 Virginia Coordinate System of 1927 or the West Virginia  
32 Coordinate System of 1983 shall be named and in any land  
33 description in which it is used it shall be designated the West  
34 Virginia Coordinate System of 1927 South Zone or West  
35 Virginia Coordinate System of 1983 South Zone.

36 (d) The plane coordinate values for a point on the earth's  
37 surface, used to express the geographic position or location  
38 of the point in the appropriate zone of this system, shall  
39 consist of two distances, expressed in U. S. Survey feet and  
40 decimals of a foot when using the West Virginia Coordinate  
41 System of 1927 and determined in meters and decimals when  
42 using the West Virginia Coordinate System of 1983, but  
43 which may be converted to and expressed in feet and  
44 decimals of a foot. One of these distances, to be known as  
45 the x-coordinate, shall give the position in an east-and-west  
46 direction. The other, to be known as the y-coordinate, shall  
47 give the position in a north-and-south direction.

48 These coordinates shall be made to depend upon and  
49 conform to plane rectangular coordinate values for the  
50 monumented points of the North American Horizontal  
51 Geodetic Control Network as published by the National  
52 Ocean Service/National Geodetic Survey (formerly the  
53 United States Coast and Geodetic Survey) or its successors  
54 and whose plane coordinates have been computed on the  
55 system defined by this section. Any such station may be used  
56 for establishing a survey connection to either West Virginia  
57 Coordinate System.

58 (e) For purposes of describing the location of any survey  
59 station or land boundary corner in the State of West Virginia,

60 it shall be considered a complete, legal and satisfactory  
61 description of the location to give the position of the survey  
62 station or land boundary corner on the system of plane  
63 coordinates defined in this section. Nothing contained in this  
64 section requires a purchaser or mortgagee of real property to  
65 rely wholly on a land description, any part of which depends  
66 exclusively upon either West Virginia Coordinate System.

67 (f) When any tract of land to be defined by a single  
68 description extends from one into the other of the coordinate  
69 zones specified in this section, the position of all points on its  
70 boundaries may refer to either of the two zones. The zone  
71 which is being used specifically shall be named in the  
72 description.

73 (g) (1) For purposes of more precisely defining the West  
74 Virginia Coordinate System of 1927, the following definition  
75 by the United States Coast and Geodetic Survey (now  
76 National Ocean Service/National Geodetic Survey) is  
77 adopted:

78 The West Virginia Coordinate System of 1927 North  
79 Zone is a Lambert conformal conic projection of the Clarke  
80 Spheroid of 1866, having standard parallels at north latitudes  
81 39 degrees and 00 minutes and 40 degrees and 15 minutes,  
82 along which parallels the scale shall be exact. The origin of  
83 coordinates is at the intersection of the meridian 79 degrees  
84 30 minutes west of Greenwich and the parallel 38 degrees 30  
85 minutes north latitude. This origin is given the coordinates:  
86  $x = 2,000,000$  feet and  $y = 0$  feet.

87 The West Virginia Coordinate System of 1927 South  
88 Zone is a Lambert conformal conic projection of the Clarke  
89 Spheroid of 1866, having standard parallels at north latitudes  
90 37 degrees 29 minutes and 38 degrees 53 minutes, along  
91 which parallels the scale shall be exact. The origin of

92 coordinates is at the intersection of the meridian 81 degrees  
93 00 minutes west of Greenwich and the parallel 37 degrees 00  
94 minutes north latitude. This origin is given the coordinates:  
95  $x = 2,000,000$  feet and  $y = 0$  feet.

96 (2) For purposes of more precisely defining the West  
97 Virginia Coordinate System of 1983, the following definition  
98 by the National Ocean Service/National Geodetic Survey is  
99 adopted:

100 The West Virginia Coordinate System of 1983 North  
101 Zone is a Lambert conformal conic projection of the North  
102 American Datum of 1983, having standard parallels at north  
103 latitudes 39 degrees and 00 minutes and 40 degrees and 15  
104 minutes, along which parallels the scale shall be exact. The  
105 origin of coordinates is at the intersection of the meridian 79  
106 degrees 30 minutes west of Greenwich and the parallel 38  
107 degrees 30 minutes north latitude. This origin is given the  
108 coordinates:  $x = 600,000$  meters and  $y = 0$  meters.

109 The West Virginia Coordinate System of 1983 South  
110 Zone is a Lambert conformal conic projection of the North  
111 American Datum of 1983, having standard parallels at north  
112 latitudes 37 degrees 29 minutes and 38 degrees 53 minutes,  
113 along which parallels the scale shall be exact. The origin of  
114 coordinates is at the intersection of the meridian 81 degrees  
115 00 minutes west of Greenwich and the parallel 37 degrees 00  
116 minutes north latitude. This origin is given the coordinates:  
117  $x = 600,000$  meters and  $y = 0$  meters.

118 (h) No coordinates based on the West Virginia  
119 Coordinate System, purporting to define the position of a  
120 point on a land boundary, may be presented to be recorded in  
121 any public records or deed records unless the point is based  
122 on a public or private monumented horizontal control station  
123 established in conformity with the standards of accuracy and

124 specifications for first order or better geodetic surveying as  
125 prepared and published by the Federal Geodetic Control  
126 Committee of the United States Department of Commerce.  
127 Standards and specifications of the Federal Geodetic Control  
128 Committee or its successor in force on the date of the survey  
129 apply. The publishing of the existing control stations, or the  
130 acceptance with intent to publish the newly established  
131 control stations, by the National Ocean Service/National  
132 Geodetic Survey is evidence of adherence to the Federal  
133 Geodetic Control Committee specifications. The limitations  
134 specified in this section may be modified by a duly  
135 authorized state agency to meet local conditions.

136 (i) The use of the term "West Virginia Coordinate System  
137 of 1927 North or South Zone" or "West Virginia Coordinate  
138 System of 1983 North or South Zone" on any map, report or  
139 survey or other document shall be limited to coordinates  
140 based on the West Virginia Coordinate System as defined in  
141 this section.

142 (j) A plat and a description of survey must show the basis  
143 of control identified by the following:

144 (1) The monument name or the point identifier on which  
145 the survey is based;

146 (2) The order of accuracy of the base monument; and

147 (3) The coordinate values used to compute the corner  
148 positions.

149 (k) Nothing in this section prevents the recordation in any  
150 public record of any deed, map, plat, survey, description or  
151 of any other document or writing of whatever nature which  
152 would otherwise constitute a recordable instrument or  
153 document even though the same is not based upon or done in

154 conformity with the West Virginia Coordinate System  
155 established by this section, nor does nonconformity with the  
156 system invalidate any deed, map, plat, survey, description or  
157 other document which is otherwise proper.

158 (l) For purpose of this section a foot equals a United  
159 States Survey foot. The associated factor of one meter equals  
160 39.37/12 feet shall be used in any conversion necessitated by  
161 changing values from meters to feet.

## **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

### **ARTICLE 2. COUNTY AND DISTRICT BOUNDARIES; CHANGE OF COUNTY SEAT AND NAMES OF UNINCORPORATED TOWNS AND OF DISTRICTS; COUNTY SURVEYOR.**

#### **§7-2-8. License required for county surveyor.**

1 Each county surveyor of lands first elected or first  
2 appointed after January 1, 2013, pursuant to section 1, article  
3 IX of the West Virginia Constitution, shall be a surveyor  
4 licensed pursuant to article thirteen-a, chapter thirty of this  
5 code and such licensee shall be in good standing.

## **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

### **ARTICLE 13A. LAND SURVEYORS.**

#### **§30-13A-1. Unlawful acts.**

1 (a) It is unlawful for any person to practice or offer to  
2 practice surveying in this state without a license issued under  
3 the provisions of this article, or advertise or use any title or  
4 description tending to convey the impression that they are a

5 surveyor, unless such person has been licensed under the  
6 provisions of this article.

7 (b) It is unlawful for any firm to practice or offer to  
8 practice surveying in this state without a certificate of  
9 authorization issued under the provisions of this article, or  
10 advertise or use any title or description tending to convey the  
11 impression that it is a surveying firm, unless such firm has  
12 been issued a certificate of authorization under the provisions  
13 of this article.

**§30-13A-2. Applicable law.**

1 The practice of surveying and the West Virginia Board of  
2 Professional Surveyors are subject to the provisions of article  
3 one of this chapter, the provisions of this article and the  
4 board's rules.

**§30-13A-3. Definitions.**

1 As used in this article, the following words and terms  
2 have the following meanings:

3 (a) "Applicant" means a person making application for a  
4 license or a firm making application for a certificate of  
5 authorization, under the provisions of this article.

6 (b) "Board" means the West Virginia Board of  
7 Professional Surveyors.

8 (c) "Boundary survey" means a survey, in which property  
9 lines and corners of a parcel of land have been established by  
10 a survey and a description of survey has been written and a  
11 plat has been prepared for the property.

12 (d) "Cadastral survey" means a survey representing the  
13 ownership, relative positions and dimensions of land, objects  
14 and estates.

15 (e) "Certificate holder" means a firm holding a certificate  
16 of authorization issued by the board.

17 (f) "Certificate of authorization" means a certificate  
18 issued under the provisions of this article to a firm providing  
19 surveying services.

20 (g) "Construction survey" means the laying of stakes for  
21 a construction project.

22 (h) "Direct supervision" means the responsible licensee  
23 is in direct control of all field and office surveying  
24 operations. Direct control does not necessarily require the  
25 actual physical presence of the responsible licensee at the site  
26 of the survey, nor prohibit the responsible licensee from  
27 maintaining simultaneous direct supervision of more than one  
28 survey.

29 (i) "Endorsee" means a person holding an endorsement to  
30 practice in a specialized field of surveying issued by the  
31 board under the provisions of this article.

32 (j) "Endorsement" means an authorization, in addition to  
33 a professional surveyor license, to practice in a specialized  
34 field of surveying issued by the board.

35 (k) "Firm" means any nongovernmental business entity,  
36 including an individual, association, partnership or  
37 corporation, providing surveying services.

38 (l) "Geodetic control survey" means a survey involving the  
39 precise measurement of points on the earth's surface which form  
40 the framework or control for a large map or project.

41 (m) "Geographic information system (GIS)" means a  
42 system of hardware, software and procedures designed to  
43 support the capture and management of spatially referenced  
44 information.

45 (n) "Hydrographic survey" means a survey that measures  
46 and determines the topographic features of water bodies and  
47 the adjacent land areas, including the width, depth and course  
48 of water bodies and other relative features.

49 (o) "Inactive" means the status granted by the board to a  
50 licensee or endorsee.

51 (p) "Land information system (LIS)" means a system of  
52 hardware, software and procedures designed to support the  
53 capture and management of spatially referenced information.

54 (q) "License" means a surveying license issued under the  
55 provisions of this article.

56 (r) "Licensee" means a person holding a surveying  
57 license issued under the provisions of this article.

58 (s) "Metes and bounds" means a description where the  
59 land or the associated effects on the land have been measured  
60 by starting at a known point and describing, in sequence, the  
61 lines by direction and distance forming the boundaries of the  
62 land or a defined area relative to the physical land features,  
63 associated effects or structural improvements on the land.

64 (t) "Monument" means a permanent marker, either  
65 boundary or nonboundary, used to establish corners or mark  
66 boundary lines of a parcel of land or reference the geospatial  
67 relationship of other objects.

68 (u) "Mortgage/loan inspection survey" means a survey in  
69 which property lines and corners have not been established.

70 (v) "Oil or gas well survey" means a survey and plat of a  
71 proposed oil or gas well, including the location of the well,  
72 the surface or mineral tract on which the well is located, the  
73 physical features surrounding the well, all creeks or streams  
74 near the well and any other identifying characteristics of the  
75 land to specify the location of the well. An oil or gas well  
76 survey must be performed in accordance with other  
77 provisions of this code affecting oil and gas well surveys.

78 (w) "Partition survey" means a survey where the  
79 boundary lines of a newly created parcel of land are  
80 established and the new corners are monumented.

81 (x) "Photogrammetry" means the use of aerial  
82 photography, other imagery and surveying principles to  
83 prepare scaled maps or other survey products reflecting the  
84 contours, features and fixed works of the earth's surface.

85 (y) "Practice of surveying" means providing professional  
86 surveying services, including consulting, investigating, expert  
87 testimony, evaluating, planning, mapping and surveying.

88 (z) "Responsible charge" means direct control of  
89 surveying work under the direct supervision of a licensee or  
90 person authorized in another state or country to engage in the  
91 practice of surveying.

92 (aa) "Retracement survey" means a survey where the  
93 boundary lines and corners of a parcel of land are  
94 reestablished from an existing legal or deed description.

95 (bb) "Strip" means a description of an area by reference  
96 to an alignment, usually a right-of-way or an easement,  
97 stating the number of feet on each side of the alignment, the  
98 relative position of the alignment, a reference to the  
99 measurements and monuments where the alignment crosses

100 a parcel of land and the source of title for each parcel of land  
101 the alignment crosses.

102 (cc) "Subdivision" means the division of a lot, tract or  
103 parcel of land into two or more lots, tracts or parcels of land.

104 (dd) "Surface mine survey" means a survey of the surface  
105 mine permit area, including the location of the surface mine,  
106 the surface or mineral tracts on which the surface mine is  
107 located, the physical features surrounding the surface mine,  
108 all creeks or streams near the surface mine and any other  
109 identifying characteristics of the land to specify the location  
110 of the surface mine permit area. A surface mine survey must  
111 be performed in accordance with other provisions of this  
112 code affecting surface mine surveys.

113 (ee) "Survey" or "land survey" means to measure a parcel  
114 of land and ascertain its boundaries, corners and contents or  
115 make any other authoritative measurements.

116 (ff) "Surveying" or "land surveying" means providing, or  
117 offering to provide, professional services using such sciences  
118 as mathematics, geodesy, and photogrammetry, and  
119 involving both:

120 (1) The making of geometric measurements and  
121 gathering related information pertaining to the physical or  
122 legal features of the earth, improvements on the earth, the  
123 space above, on or below the earth; and

124 (2) Providing, utilizing or developing the same into  
125 survey products such as graphics, data, maps, plans, reports,  
126 descriptions or projects. Professional services include acts of  
127 consultation, investigation, testimony evaluation, expert  
128 technical testimony, planning, mapping, assembling and  
129 interpreting gathered measurements and information related  
130 to any one or more of the following:

131 (A) Determining by measurement the configuration or  
132 contour of the earth's surface or the position of fixed objects  
133 thereon.

134 (B) Determining by performing geodetic surveys the size  
135 and shape of the earth or the position of any point on the  
136 earth.

137 (C) Determining the position for any survey control  
138 monument or reference point.

139 (D) Creating, preparing or modifying electronic,  
140 computerized or other data relative to the performance of the  
141 activities in the above-described paragraphs (A) through (C),  
142 inclusive, of this subdivision.

143 (E) Locating, relocating, establishing, reestablishing or  
144 retracing property lines or boundaries of any tract of land,  
145 road, right-of-way or easement.

146 (F) Making any survey for the division, subdivision, or  
147 consolidation of any tract or tracts of land.

148 (G) Locating or laying out alignments, positions or  
149 elevations for the construction of fixed works.

150 (H) Determining, by the use of principles of surveying,  
151 the position for any boundary or nonboundary survey  
152 monument or reference point, or establishing or replacing any  
153 such monument or reference point.

154 (I) Creating, preparing or modifying electronic or  
155 computerized or other data relative to the performance of the  
156 activities in the above-described paragraphs (E) through (H),  
157 inclusive, of this subdivision.

158 (3) Any person who engages in surveying, who by verbal  
159 claim, sign, advertisement, letterhead, card or in any other  
160 way represents themselves to be a professional surveyor, or  
161 who implies through the use of some other title that they are  
162 able to perform, or who does perform, any surveying service  
163 or work or any other service designated by the practitioner  
164 which is recognized as surveying, is practicing, or offering to  
165 practice, surveying within the meaning and intent of this  
166 article.

167 (gg) "Surveyor", "professional surveyor" or "land  
168 surveyor" means a person licensed to practice surveying  
169 under the provisions of this article.

170 (hh) "Surveyor, retired", "professional surveyor, retired"  
171 or "land surveyor, retired" means a licensed surveyor no  
172 longer practicing surveying, who has chosen to retire and has  
173 been granted the honorific title of "Professional Surveyor,  
174 Retired".

175 (ii) "Surveyor-in-charge" means a licensee designated by  
176 a firm to oversee the surveying activities and practices of the  
177 firm.

178 (jj) "Surveyor intern" means a person who has passed an  
179 examination covering the fundamentals of land surveying.

180 (kk) "Underground survey" means a survey that includes  
181 the measurement of underground mine workings and surface  
182 features relevant to the underground mine, the placing of  
183 survey points (spads) for mining direction, the performance  
184 of horizontal and vertical control surveys to determine the  
185 contours of a mine, the horizontal and vertical location of  
186 mine features, and the preparation of maps, reports and  
187 documents, including mine progress maps and mine  
188 ventilation maps. An underground mine survey must be

189 performed in accordance with other provisions of this code  
190 affecting underground mine surveys.

**§30-13A-4. Board of Professional Surveyors.**

1 (a) The "West Virginia Board of Professional Surveyors"  
2 is continued. Any member of the board, except the endorsed  
3 underground surveyor member, in office on July 1, 2010,  
4 may continue to serve until his or her successor has been  
5 appointed and qualified.

6 (b) Prior to July 1, 2010, the Governor, by and with the  
7 advice and consent of the Senate, shall appoint one licensed  
8 professional surveyor with at least ten years of experience in  
9 land surveying to replace the endorsed underground  
10 surveyor.

11 (c) Commencing July 1, 2010, the board shall consist of  
12 the following five members with staggered terms:

13 (1) Three licensed professional surveyors with at least ten  
14 years of experience in land surveying;

15 (2) One person who has a license in another field of  
16 practice other than surveying and also who has a surveyor  
17 license by examination and has practiced surveying for at  
18 least ten years; and

19 (3) One citizen member who is not regulated under the  
20 provisions of this article and does not perform any services  
21 related to the practice of surveying under the provisions of  
22 this article.

23 (d) Each licensed member of the board, at the time of his  
24 or her appointment, must have held a license in this state for  
25 a period of not less than three years immediately preceding  
26 the appointment.

27 (e) Each member must be appointed by the Governor, by  
28 and with the advice and consent of the Senate, and must be a  
29 resident of this state during the appointment term.

30 (f) The term of each board member is four years.

31 (g) No member may serve more than two consecutive full  
32 terms and any member having served two full terms may not  
33 be appointed for one year after completion of his or her  
34 second full term. A member shall continue to serve until his  
35 or her successor has been appointed and qualified.

36 (h) The Governor may remove any member from the  
37 board for neglect of duty, incompetency or official  
38 misconduct.

39 (i) A licensed member of the board immediately and  
40 automatically forfeits membership to the board if his or her  
41 license to practice is suspended or revoked.

42 (j) A member of the board immediately and automatically  
43 forfeits membership to the board if he or she is convicted of  
44 a felony under the laws of any jurisdiction or becomes a  
45 nonresident of this state.

46 (k) The board shall designate one of its members as  
47 chairperson and one member as secretary-treasurer.

48 (l) Each member of the board is entitled to receive  
49 compensation and expense reimbursement in accordance with  
50 section eleven, article one of this chapter.

51 (m) A majority of the members of the board shall  
52 constitute a quorum.

53 (n) The board shall hold at least one annual meeting.  
54 Other meetings shall be held at the call of the chairperson, or

55 upon the written request of two members, at such time and  
56 place as designated in the call or request.

**§30-13A-5. Powers and duties of the board.**

1 The board has all the powers and duties set forth in article  
2 one of this chapter and also the following powers and duties:

3 (1) Hold meetings, conduct hearings and administer  
4 examinations and reexaminations;

5 (2) Set the requirements for a license, endorsement,  
6 surveyor-in-charge and certificate of authorization;

7 (3) Establish qualifications for licensure and procedures  
8 for submitting, approving and disapproving applications for  
9 a license, endorsement and certificate of authorization;

10 (4) Examine the qualifications of any applicant for a  
11 license and endorsement;

12 (5) Prepare, conduct, administer and grade examinations  
13 and reexaminations required under the provisions of this  
14 article;

15 (6) Determine the passing grade for the examinations and  
16 reexaminations required under the provisions of this article;

17 (7) Administer, or contract with third parties to  
18 administer, the examinations and reexaminations required  
19 under the provisions of this article;

20 (8) Maintain records of the examinations and  
21 reexaminations the board or a third party administers,  
22 including the number of persons taking the examination or  
23 reexamination and the pass and fail rate;

24 (9) Maintain an accurate registry of names and addresses  
25 of all licensees and endorsees;

26 (10) Maintain an accurate registry of names and  
27 addresses of firms holding a certificate of authorization;

28 (11) Establish the standards for surveys;

29 (12) Define the fees charged under the provisions of this  
30 article;

31 (13) Issue, renew, deny, suspend, revoke or reinstate  
32 licenses and endorsements, and discipline such persons;

33 (14) Issue, renew, deny, suspend, revoke or reinstate  
34 certificates of authorization and discipline such firms;

35 (15) Establish and implement the continuing education  
36 requirements for licensees and endorsees;

37 (16) Sue and be sued in its official name as an agency of  
38 this state;

39 (17) Hire, set the job requirements for, fix the  
40 compensation of and discharge investigators and the  
41 employees necessary to enforce the provisions of this article;

42 (18) Investigate alleged violations of the provisions of  
43 this article, the rules promulgated hereunder, and orders and  
44 final decisions of the board;

45 (19) Conduct hearings upon charges calling for discipline  
46 of a licensee, endorsee or certificate holder, or revocation or  
47 suspension of a license, endorsement or certificate of  
48 authorization;

49 (20) Set disciplinary action and issue orders;

50 (21) Propose rules in accordance with the provisions of  
51 article three, chapter twenty-nine-a of this code to implement  
52 the provisions of this article; and

53 (22) Take all other actions necessary and proper to  
54 effectuate the purposes of this article.

**§30-13A-6. Rule-making authority.**

1 (a) The board shall propose rules for legislative approval  
2 in accordance with the provisions of article three, chapter  
3 twenty-nine-a of this code to implement the provisions of this  
4 article, including:

5 (1) Setting the standards and requirements for licensure,  
6 endorsement, surveyor-in-charge and certificate of authorization;

7 (2) Setting the procedure for examinations and  
8 reexaminations;

9 (3) Establishing requirements for third parties to  
10 administer examinations and reexaminations;

11 (4) Establishing procedures for the issuance and renewal  
12 of a license, endorsement and certificate of authorization;

13 (5) Setting a schedule of fees;

14 (6) Establishing and implementing requirements for  
15 continuing education for licensees and endorsees;

16 (7) Evaluating the curriculum, experience and the  
17 instructional hours required for a license and endorsement;

18 (8) Denying, suspending, revoking, reinstating or limiting  
19 the practice of a licensee, endorsee or certificate holder;

20 (9) Establishing electronic signature requirements;

21 (10) Establishing minimum standards for surveys;

22 (11) Establishing a process to record plats;

23 (12) Establishing seal and document certification  
24 standards; and

25 (13) Proposing any other rules or taking other action  
26 necessary to effectuate the provisions of this article.

27 (b) All rules in effect on July 1, 2010, shall remain in  
28 effect until they are amended, modified, repealed or replaced.

**§30-13A-7. Fees; special revenue account; administrative fines.**

1 (a) All fees and other moneys, except administrative  
2 fines, received by the board shall be deposited in a separate  
3 special revenue fund in the State Treasury designated the  
4 "Board of Professional Surveyors Fund" which fund is  
5 continued. The fund shall be used by the board for the  
6 administration of this article. Except as may be provided in  
7 section eleven, article one of this chapter, the board shall  
8 retain the amounts in the special revenue fund from year to  
9 year. No compensation or expense incurred under this article  
10 is a charge against the General Revenue Fund.

11 (b) Any amounts received as fines imposed pursuant to  
12 this article shall be deposited into the General Revenue Fund  
13 of the State Treasury.

**§30-13A-8. Education, experience and examination requirements for  
a surveying license.**

1 (a) Before a person may apply for a surveying license, the  
2 person must have completed one of the following  
3 educational, experience and examination requirements:

4 (1) Has a four-year degree or a bachelor degree in  
5 surveying approved by the board, which degree must include  
6 a minimum of thirty hours of surveying or surveying-related  
7 courses, has passed an examination in the fundamentals of  
8 land surveying, has two years or more of experience in  
9 surveying in responsible charge, has passed an examination  
10 in the principles and practice of land surveying and has  
11 passed the West Virginia examination;

12 (2) Has a four-year degree or a bachelor degree, has  
13 completed a minimum of thirty hours of surveying or  
14 surveying-related courses, has passed an examination in the  
15 fundamentals of land surveying, has four years or more of  
16 experience in surveying, including two years of experience in  
17 responsible charge under the direct supervision of a licensee  
18 or a person authorized in another jurisdiction to engage in the  
19 practice of surveying, has passed an examination in the  
20 principles and practice of land surveying and has passed the  
21 West Virginia examination; or

22 (3) Has a two-year degree or an associate degree in  
23 surveying or a related field approved by the board, which  
24 degree must include a minimum of thirty hours of surveying  
25 or surveying-related courses, has passed an examination in  
26 the fundamentals of land surveying, has four years or more  
27 of experience in surveying, including two years of experience  
28 in responsible charge under the direct supervision of a  
29 licensee or a person authorized in another state or country to  
30 engage in the practice of surveying, has passed an  
31 examination in the principles and practice of land surveying  
32 and has passed the West Virginia examination.

33 (b) A person graduating from a two-year or four-year  
34 approved surveying degree program with a grade point  
35 average of 3.0 or higher is permitted to take the examination  
36 in the fundamentals of land surveying during his or her final  
37 semester.

38 (c) A person must pass the examination in the  
39 fundamentals of land surveying and complete the work  
40 experience before he or she is allowed to take the  
41 examination in the principles and practice of land surveying  
42 and the West Virginia examination.

43 (d) The examination in the fundamentals of land  
44 surveying, the examination in the principles and practice of  
45 land surveying and the West Virginia examination shall each  
46 be held at least once each year at the time and place  
47 determined by the board. A person who fails to pass all or  
48 any part of an examination may apply for reexamination, as  
49 prescribed by the board, and shall furnish additional  
50 information and fees as required by the board.

51 (e) A person who began the education, experience or  
52 examination requirements and were approved by the board  
53 prior to December 31, 2004, have until December 31, 2012,  
54 to complete such requirements for licensure.

**§30-13A-9. Surveying license requirements.**

1 (a) The board shall issue a surveying license to an  
2 applicant who meets the following requirements:

3 (1) Is of good moral character;

4 (2) Is at least eighteen years of age;

5 (3) Is a citizen of the United States or is eligible for  
6 employment in the United States;

7 (4) Holds a high school diploma or its equivalent;

8 (5) Has not been convicted of a crime involving moral  
9 turpitude; and

10 (6) Has completed all of one of the education, experience  
11 and examination requirements set out in section eight of this  
12 article.

13 (b) An application for a surveying license shall be made  
14 on forms provided by the board and include the following:

15 (1) Name and address of the applicant;

16 (2) Applicant's education and experience;

17 (3) Location and date of passage of all the examinations;

18 (4) Names of five persons for reference, at least three of  
19 whom shall be licensees or persons authorized in another  
20 jurisdiction to engage in the practice of surveying, and who  
21 have knowledge of the applicant's work; and

22 (5) Any other information the board prescribes.

23 (c) An applicant shall pay all the applicable fees.

24 (d) A license to practice surveying issued by the board  
25 prior to July 1, 2010, shall for all purposes be considered a  
26 license issued under this article: *Provided*, That a person  
27 holding a license to practice surveying issued by the board  
28 prior to July 1, 2010, must renew the license pursuant to the  
29 provisions of this article.

### **§30-13A-10. Scope of Practice.**

1 (a) A licensee may measure a parcel of land and ascertain  
2 its boundaries, corners and contents or make any other  
3 authoritative measurements. The practice of surveying can  
4 be any of the following, but not limited to:

5 (1) The performance of a boundary, cadastral,  
6 construction, geodetic control, hydrographic, land,

7 mortgage/loan inspection, oil or gas well, partition,  
8 photogrammetry, retracement, subdivision or surface mine  
9 survey; or

10 (2) The location, relocation, establishment, reestablishment,  
11 laying out or retracement of any property line or boundary of  
12 any parcel of land or of any road or utility right-of-way,  
13 easement, strip or alignment or elevation of any fixed works  
14 by a licensed surveyor.

15 (b) Activities that must be performed under the  
16 responsible charge of a professional surveyor, unless  
17 specifically exempted in subsection (c) of this section,  
18 include, but are not limited to, the following:

19 (1) The creation of maps and georeferenced databases  
20 representing authoritative locations for boundaries, the  
21 location of fixed works, or topography;

22 (2) Maps and georeferenced databases prepared by any  
23 person, firm, or government agency where that data is  
24 provided to the public as a survey product;

25 (3) Original data acquisition, or the resolution of conflicts  
26 between multiple data sources, when used for the  
27 authoritative location of features within the following data  
28 themes: geodetic control, orthoimagery, elevation and  
29 hydrographic, fixed works, private and public boundaries,  
30 and cadastral information;

31 (4) Certification of positional accuracy of maps or  
32 measured survey data;

33 (5) Adjustment or authoritative interpretation of raw  
34 survey data;

35 (6) Geographic Information System (GIS) - based parcel  
36 or cadastral mapping used for authoritative boundary  
37 definition purposes wherein land title or development rights  
38 for individual parcels are, or may be, affected;

39 (7) Authoritative interpretation of maps, deeds, or other  
40 land title documents to resolve conflicting data elements;

41 (8) Acquisition of field data required to authoritatively  
42 position fixed works or cadastral data relative to geodetic  
43 control; and

44 (9) Analysis, adjustment or transformation of cadastral  
45 data of the parcel layer(s) with respect to the geodetic control  
46 layer within a GIS resulting in the affirmation of positional  
47 accuracy.

48 (c) The following items are not included as activities  
49 within the practice of surveying:

50 (1) The creation of general maps:

51 (A) Prepared by private firms or government agencies for  
52 use as guides to motorists, boaters, aviators, or pedestrians;

53 (B) Prepared for publication in a gazetteer or atlas as an  
54 educational tool or reference publication;

55 (C) Prepared for or by education institutions for use in the  
56 curriculum of any course of study;

57 (D) Produced by any electronic or print media firm as an  
58 illustrative guide to the geographic location of any event; or

59 (E) Prepared by laypersons for conversational or  
60 illustrative purposes. This includes advertising material and  
61 users guides.

62 (2) The transcription of previously georeferenced data  
63 into a GIS or LIS by manual or electronic means, and the  
64 maintenance thereof, provided the data are clearly not  
65 intended to indicate the authoritative location of property  
66 boundaries, the precise definition of the shape or contour of  
67 the earth, and/or the precise location of fixed works of  
68 humans.

69 (3) The transcription of public record data, without  
70 modification except for graphical purposes, into a GIS- or  
71 LIS-based cadastre (tax maps and associated records) by  
72 manual or electronic means, and the maintenance of that  
73 cadastre, provided the data are clearly not intended to  
74 authoritatively represent property boundaries. This includes  
75 tax maps and zoning maps.

76 (4) The preparation of any document by any federal  
77 government agency that does not define real property  
78 boundaries. This includes civilian and military versions of  
79 quadrangle topographic maps, military maps, satellite  
80 imagery, and other such documents.

81 (5) The incorporation or use of documents or databases  
82 prepared by any federal agency into a GIS/LIS, including but  
83 not limited to federal census and demographic data,  
84 quadrangle topographic maps, and military maps.

85 (6) Inventory maps and databases created by any  
86 organization, in either hard-copy or electronic form, of  
87 physical features, facilities, or infrastructure that are wholly  
88 contained within properties to which they have rights or for  
89 which they have management responsibility. The distribution  
90 of these maps and/or databases outside the organization must  
91 contain appropriate metadata describing, at a minimum, the  
92 accuracy, method of compilation, data source(s) and date(s),  
93 and disclaimers of use clearly indicating that the data are not  
94 intended to be used as a survey product.

95 (7) Maps and databases depicting the distribution of  
96 natural resources or phenomena prepared by foresters,  
97 geologists, soil scientists, geophysicists, biologists,  
98 archeologists, historians, or other persons qualified to  
99 document such data.

100 (8) Maps and georeferenced databases depicting physical  
101 features and events prepared by any government agency  
102 where the access to that data is restricted by statute. This  
103 includes georeferenced data generated by law enforcement  
104 agencies involving crime statistics and criminal activities.

**§30-13A-11. Exemptions from licensing.**

1 (a) The following persons are exempt from licensure  
2 under the provisions of this article:

3 (1) Any employee of a person or firm, when such  
4 employee is engaged in the practice of land surveying  
5 exclusively for the person or firm, by which employed, or, if  
6 a corporation, its parents, affiliates or subsidiaries, and such  
7 person, firm, association or corporation does not hold  
8 himself, herself or itself out to the public as being engaged in  
9 the business of land surveying.

10 (2) Any employee or officer of the United States, this  
11 state or any political subdivision thereof, or their agents,  
12 when such employee is engaged in the practice of land  
13 surveying exclusively for such governmental unit: *Provided,*  
14 That each county surveyor of lands first elected or first  
15 appointed after January 1, 2013, pursuant to section 1, article  
16 IX of the West Virginia Constitution, shall be a surveyor  
17 licensed pursuant to the provisions of this article and such  
18 licensee shall be in good standing.

19 (b) The minimum standards for surveys, established by  
20 the board, apply notwithstanding the exemptions provided by  
21 this section.

**§30-13A-12. Surveyor intern requirements.**

1 (a) To be recognized as a surveyor intern by the board, a  
2 person must meet the following requirements:

3 (1) Is of good moral character;

4 (2) Is at least eighteen years of age;

5 (3) Is a citizen of the United States or is eligible for  
6 employment in the United States;

7 (4) Holds a high school diploma or its equivalent;

8 (5) Has not been convicted of a crime involving moral  
9 turpitude;

10 (6) Has completed one of the education requirements set  
11 out in section eight of this article; and

12 (7) Has passed an examination in the fundamentals of  
13 land surveying.

14 (b) A surveyor intern must pass the principles and  
15 practice of land surveying examination and the West Virginia  
16 examination within ten years of passing the fundamentals of  
17 land surveying examination. If the examinations are not  
18 passed within ten years, then the surveyor intern must retake  
19 the fundamentals of land surveying examination.

**§30-13A-13. License from another state.**

1 The board may issue a license to practice surveying in  
2 this state to an applicant of good moral character who holds

3 a valid license or other authorization to practice surveying  
4 from another state if the applicant demonstrates that:

5 (1) He or she or she holds a license or other authorization  
6 to practice surveying in another state which was granted after  
7 completion of educational, experience and examinations  
8 requirements substantially equivalent to those required in this  
9 state;

10 (2) He or she is not currently being investigated by a  
11 disciplinary authority of another state, does not have charges  
12 pending against his or her license or other authorization to  
13 practice surveying and has never had a license or other  
14 authorization to practice surveying revoked;

15 (3) He or she has not previously failed an examination for  
16 licensure in this state;

17 (4) He or she has paid all the applicable fees; and

18 (5) Has completed such other action as required by the  
19 board.

**§30-13A-14. License, endorsement and certificate of authorization  
renewal requirements.**

1 (a) A licensee or endorsee wanting to continue in active  
2 practice shall, annually or biennially, on or before July 1,  
3 renew his or her license or endorsement and pay a renewal  
4 fee.

5 (b) A certificate holder wanting to continue in active  
6 practice shall, annually or biennially, on or before January 1,  
7 renew the certificate and pay a renewal fee.

8 (c) The board shall charge a fee for each a renewal and a  
9 late fee for any renewal not paid by the due date.

10 (d) The board shall require as a condition of renewal that  
11 each licensee or endorsee complete continuing education.

12 (e) The board may deny an application for renewal for  
13 any reason which would justify the denial of an original  
14 application for a license, endorsement or certificate of  
15 authorization.

16 (f) The board may authorize the waiving of the renewal  
17 fee of a licensee or endorsee during the period when he or she  
18 is on active duty with any branch of the armed services.

**§30-13A-15. Inactive license requirements.**

1 (a) A licensee who does not want to continue in active  
2 practice shall notify the board in writing and be granted  
3 inactive status.

4 (b) A person granted inactive status shall pay an inactive  
5 fee and is exempt from the continuing education  
6 requirements and cannot practice in this state.

7 (c) When an inactive licensee wants to return to active  
8 practice, he or she must complete all the continuing education  
9 requirements and pay all the applicable fees as determined by  
10 the board.

**§30-13A-16. Delinquent and expired license requirements.**

1 (a) If a license is not renewed when due, then the board  
2 shall automatically place the licensee on delinquent status.

3 (b) The fee for a person on delinquent status shall  
4 increase at a rate, determined by the board, for each month or  
5 fraction thereof that the renewal fee is not paid, up to a  
6 maximum of thirty-six months.

7 (c) Within thirty-six months of being placed on  
8 delinquent status, if a licensee wants to return to active  
9 practice, he or she must complete all the continuing education  
10 requirements and pay all the applicable fees as determined by  
11 the board.

12 (d) After thirty-six months of being placed on delinquent  
13 status, a license is automatically placed on expired status and  
14 cannot be renewed. A person whose license has expired must  
15 reapply for a new license.

**§30-13A-17. Retired license requirements.**

1 (a) A licensee who does not want to continue practicing  
2 surveying and who has chosen to retire shall notify the board  
3 in writing and may be granted retired status.

4 (b) A person granted retired status shall be given the  
5 honorific title of "Professional Surveyor, Retired" and cannot  
6 practice in this state.

**§30-13A-18. Requirements for when a person fails an examination.**

1 (a) Any person failing any of the examinations for  
2 surveying is not permitted to work as a licensed surveyor  
3 under the provisions of this article until the person has passed  
4 all the examinations.

5 (b) A person failing the fundamentals of land surveying  
6 examination may still gain experience as required in section  
7 eight of this article until he or she passes the examination.

8 (c) A person who has passed the fundamentals of land  
9 surveying examination, but failed the principles and practice  
10 examination or West Virginia examination may only work as  
11 a surveyor intern under the direct supervision of a licensee or

12 a person authorized in another jurisdiction to engage in the  
13 practice of surveying until he or she passes all of the  
14 examinations.

**§30-13A-19. Display of license, endorsement and certificate of authorization.**

1 (a) The board shall prescribe the form for a license,  
2 endorsement and certificate of authorization and may issue a  
3 duplicate license, endorsement and certificate of  
4 authorization upon payment of a fee.

5 (b) A licensee, endorsee and certificate holder shall  
6 conspicuously display his or her license, endorsement or  
7 certificate of authorization at his or her principal place of  
8 practice.

**§30-13A-20. Certificate of authorization requirements.**

1 (a) Each firm practicing surveying in West Virginia shall  
2 have a certificate of authorization.

3 (b) The board shall issue a certificate of authorization to  
4 a firm that:

5 (1) Practices surveying in West Virginia;

6 (2) Provides proof that the firm has employed a surveyor-  
7 in-charge;

8 (3) Has paid all applicable fees; and

9 (4) Completes such other requirements as specified by the  
10 board.

**§30-13A-21. Surveyor-in-charge requirements.**

1 (a) A firm practicing surveying must operate all  
2 surveying activities under the supervision and management  
3 of a surveyor-in-charge who shall be a licensee who is  
4 licensed in this state.

5 (b) The designated surveyor-in-charge is responsible for  
6 the surveying work in this state provided by the firm.

7 (c) A licensee cannot be designated as a surveyor-in-  
8 charge for more than one firm without approval of the board.

9 (d) A licensee who performs part-time or consulting  
10 surveying services for a firm cannot be designated as a  
11 surveyor-in-charge for that firm unless the licensee is an  
12 officer, a majority interest holder or owner of the firm.

13 (e) The responsibilities of a surveyor-in-charge include:

14 (1) Renewal of the certificate of authorization;

15 (2) Notification to the board of any change in the  
16 surveyor-in-charge;

17 (3) Supervising the firm's employees, including  
18 licensees, and other personnel providing surveying services  
19 in this state; and

20 (4) Ensuring that the policies of the firm adhere to the  
21 provisions of this article.

22 (f) The board may authorize a licensee to supervise the  
23 work of an individual that is not an employee of the licensee,  
24 nor is employed by the same firm as the licensee. The  
25 potential supervisor must apply to the board for this  
26 authorization.

**§30-13A-22. Complaints; investigations; due process procedure; grounds for disciplinary action.**

1 (a) The board may upon its own motion based on credible  
2 information, and shall upon the written complaint of any  
3 person, cause an investigation to be made to determine  
4 whether grounds exist for disciplinary action under this  
5 article.

6 (b) Upon initiation or receipt of the complaint, the board  
7 shall provide a copy of the complaint to the licensee or  
8 certificate holder.

9 (c) After reviewing any information obtained through an  
10 investigation, the board shall determine if probable cause  
11 exists that the licensee or certificate holder has violated this  
12 article.

13 (d) Upon a finding that probable cause exists that the  
14 licensee or certificate holder has violated this article, the  
15 board may enter into a consent decree or hold a hearing for  
16 the suspension or revocation of the license or certificate of  
17 authorization or the imposition of sanctions against the  
18 licensee or certificate holder. Any hearing shall be held in  
19 accordance with the provisions of this article.

20 (e) Any member of the board or the executive secretary  
21 of the board may issue subpoenas and subpoenas duces  
22 tecum to obtain testimony and documents to aid in the  
23 investigation of allegations against any person regulated by  
24 the article.

25 (f) Any member of the board or its executive secretary  
26 may sign a consent decree or other legal document on behalf  
27 of the board.

28 (g) The board may, after notice and opportunity for  
29 hearing, deny or refuse to renew, suspend, restrict or revoke

30 the license or certificate of authorization of, or impose  
31 probationary conditions upon or take disciplinary action  
32 against, any licensee or certificate holder for any of the  
33 following reasons once a violation has been proven by a  
34 preponderance of the evidence:

35 (1) Obtaining a license or certificate of authorization by  
36 fraud, misrepresentation or concealment of material facts;

37 (2) Being convicted of a felony or other crime involving  
38 moral turpitude;

39 (3) Being guilty of unprofessional conduct which placed  
40 the public at risk;

41 (4) Intentional violation of a lawful order or legislative  
42 rule of the board;

43 (5) Having had a license or other authorization to practice  
44 revoked or suspended, or other disciplinary action taken by  
45 the proper authorities of another jurisdiction;

46 (6) Aiding or abetting unlicensed practice; or

47 (7) Engaging in an act while acting in a professional  
48 capacity which has endangered or is likely to endanger the  
49 health, welfare or safety of the public.

50 (h) For the purposes of subsection (g) of this section,  
51 disciplinary action may include:

52 (1) Reprimand;

53 (2) Probation;

54 (3) Restrictions;

55 (4) Administrative fine, not to exceed \$1,000 per day per  
56 violation;

57 (5) Mandatory attendance at continuing education  
58 seminars or other training;

59 (6) Practicing under supervision or other restriction; or

60 (7) Requiring the licensee or certificate holder to report  
61 to the board for periodic interviews for a specified period of  
62 time.

63 (i) In addition to any other sanction imposed, the board  
64 may require a licensee or certificate holder to pay the costs of  
65 the proceeding.

**§30-13A-23. Procedures for hearing.**

1 (a) Hearings are governed by the provisions of section  
2 eight, article one of this chapter.

3 (b) The board may conduct the hearing or elect to have an  
4 administrative law judge conduct the hearing.

5 (c) If the hearing is conducted by an administrative law  
6 judge, at the conclusion of a hearing he or she shall prepare  
7 a proposed written order containing findings of fact and  
8 conclusions of law. The proposed order may contain  
9 proposed disciplinary actions if the board so directs. The  
10 board may accept, reject or modify the decision of the  
11 administrative law judge.

12 (d) Any member or the executive secretary of the board  
13 has the authority to administer oaths, examine any person  
14 under oath and issue subpoenas and subpoenas duces tecum.

15 (e) If, after a hearing, the board determines the licensee  
16 or certificate holder has violated provisions of this article, a

17 formal written decision shall be prepared which contains  
18 findings of fact, conclusions of law and a specific description  
19 of the disciplinary actions imposed.

**§30-13A-24. Judicial review.**

1 Any licensee or certificate holder adversely affected by  
2 a decision of the board entered after a hearing may obtain  
3 judicial review of the decision in accordance with section  
4 four, article five, chapter twenty-nine-a of this code, and may  
5 appeal any ruling resulting from judicial review in  
6 accordance with article six, chapter twenty-nine-a of this  
7 code.

**§30-13A-25. Criminal proceedings; penalties.**

1 (a) When, as a result of an investigation under this article  
2 or otherwise, the board has reason to believe that a person has  
3 knowingly violated the provisions of this article, the board  
4 may bring its information to the attention of the appropriate  
5 law-enforcement officer who may cause appropriate criminal  
6 proceedings to be brought.

7 (b) If a court of law finds that a person knowingly  
8 violated this article, any order of the board or any final  
9 decision of the board, then the person is guilty of a  
10 misdemeanor and, upon conviction thereof, shall be fined no  
11 less than one hundred dollars and no more than one thousand  
12 dollars for each violation, confinement in a regional  
13 correctional facility for up to thirty days for each violation, or  
14 both fined and confined.

**CHAPTER 39. RECORDS AND PAPERS.**

**ARTICLE 1. AUTHENTICATION AND RECORD OF WRITINGS.**

**§39-1-2a. Other requirements for admission to record of certain instruments.**

1 (a) In addition to the other requirements prescribed by  
2 law, no instrument by which the title to real estate or personal  
3 property, or any interest therein or lien thereon, is conveyed,  
4 created, encumbered, assigned or otherwise disposed of, shall  
5 be recorded or admitted to record, or filed by the county clerk  
6 unless the name of the person who, and governmental  
7 agency, if any, which, prepared such instrument appears at  
8 the conclusion of such instrument and such name is either  
9 printed, typewritten, stamped, or signed in a legible manner:  
10 *Provided*, That the recording or filing of any instrument in  
11 violation of the provisions of this section shall not invalidate  
12 or cloud the title passing by or under such instrument or  
13 affect the validity of such instrument in any respect whatever,  
14 and such recorded or filed instrument shall constitute notice  
15 with like effect as if such instrument fully complied with the  
16 provisions of this section. An instrument will be in  
17 compliance with this section if it contains a statement in the  
18 following form: "This instrument was prepared by (name)".

19 (b) This section does not apply to any instrument  
20 executed prior to the effective date hereof; to any decree,  
21 order, judgment or writ of any court; to any will or death  
22 certificate; to any financing, continuation or termination  
23 statement permitted to be filed under chapter forty-six of this  
24 code; or to any instrument executed or acknowledged outside  
25 of this state.

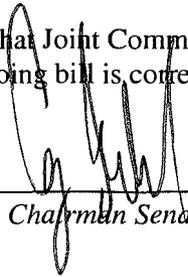
26 (c) A survey document intended to be used in the transfer  
27 of real property, prepared by a licensed surveyor, and filed  
28 with a county clerk or accepted by a public official of this  
29 state shall have the licensed surveyor's signature and seal or  
30 stamp affixed thereto.

31 (d) If a survey document, prepared by a licensed  
32 surveyor, has been altered from its original form, it shall not  
33 be filed with a county clerk or accepted by a public official  
34 of this state, until the original licensed surveyor has initialed  
35 the changes.

36 (e) A document, plan, map, drawing, exhibit, sketch or  
37 pictorial representation prepared by a person exempted under  
38 the provisions of thirteen-a, chapter thirty of this code, is not  
39 required to have the signature and seal affixed thereto.

40 (f) A document, plan, map, drawing, exhibit, sketch or  
41 pictorial representation altered by a person not licensed under  
42 the provisions of article thirteen-a, chapter thirty of this code,  
43 shall have the alteration initialed by a surveyor licensed  
44 under the provisions of article thirteen-a, chapter thirty of this  
45 code.

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

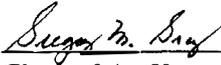
  
\_\_\_\_\_  
Chairman Senate Committee

  
\_\_\_\_\_  
Chairman House Committee

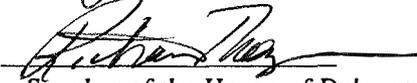
Originating in the House.

In effect ninety days from passage.

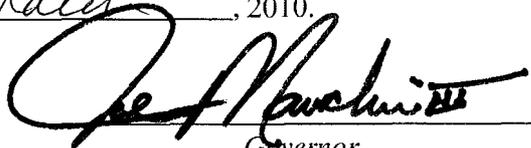
  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within wappind this the 23rd  
day of May, 2010.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 18 2010

Time 3:08 p