

SB 460

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SECRETARY OF STATE
WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 2004

ENROLLED

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 460

(By Senator BOWMAN, ET AL)

PASSED MARCH 13, 2004

In Effect 90 DAYS FROM Passage

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 460

(SENATORS BOWMAN, BAILEY, JENKINS, SNYDER,
WHITE AND SMITH, *original sponsors*)

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT 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 and §30-13A-18 of the code of West Virginia, 1931, as amended; and to amend said code by adding thereto nineteen new sections, designated §30-13A-19, §30-13A-20, §30-13A-21, §30-13A-22, §30-13A-23, §30-13A-24, §30-13A-25, §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 §34-13-37, all relating to regulating surveyors and underground surveyors; definitions; establishing licensure and endorsement requirements; restructuring and renaming the board; and providing a civil cause of action and criminal penalties.

Be it enacted by the Legislature of West Virginia:

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 and §30-13A-18 of the code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto nineteen new sections, designated §30-13A-19, §30-13A-20, §30-13A-21, §30-13A-22, §30-13A-23, §30-13A-24, §30-13A-25, §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, all to read as follows:

ARTICLE 13A. PROFESSIONAL SURVEYORS.

§30-13A-1. Legislative findings; license required to practice.

1 The practice of surveying and underground surveying
2 involves special knowledge in mathematics and physical
3 and applied sciences and specific knowledge in the princi-
4 ples and methods of surveying and underground surveying,
5 which knowledge can only be acquired through education
6 and practical experience in surveying and underground
7 surveying. Land surveying and underground surveying
8 involve precise practices and should only be performed by
9 a person who has specific training in surveying or under-
10 ground surveying.

11 Therefore, the Legislature finds that to protect the
12 public interest and to provide for the regulation of survey-
13 ing and underground surveying in this state, a person must
14 have a license, as provided in this article, to practice as a
15 surveyor in the state of West Virginia and a person must
16 have a surveyor's license and an endorsement, as provided
17 in this article, to practice as an underground surveyor in
18 the state of West Virginia.

§30-13A-2. Short title.

1 This article shall be known and may be cited as the
2 "West Virginia Professional Surveyors Act".

§30-13A-3. Definitions.

1 As used in this article, the following words and terms
2 have the following meanings, unless the context clearly
3 indicates otherwise:

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

8 (b) "Board" means the West Virginia board of profes-
9 sional surveyors.

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

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

17 (e) "Certificate" means a document issued by the board.

18 (f) "Certificate holder" means a person holding a certifi-
19 cate issued by the board.

20 (g) "Certificate of authorization" means a certificate
21 issued under the provisions of this article to a firm provid-
22 ing surveying or underground surveying services.

23 (h) "Construction survey" means the laying of stakes for
24 a construction project.

25 (i) "Direct supervision" means the responsible licensee
26 or endorsee is in direct control of all field and office
27 surveying operations: *Provided*, That direct control does
28 not necessarily require the actual physical presence of the
29 responsible licensee or endorsee at the site of the survey,
30 nor prohibit the responsible licensee or endorsee from
31 maintaining simultaneous direct supervision of more than
32 one survey.

33 (j) "Endorsee" means a person holding an endorsement
34 to practice underground surveying issued under the
35 provisions of this article.

36 (k) "Endorsement" means an endorsement to practice
37 underground surveying issued under the provisions of this
38 article.

39 (l) "Firm" means any non-governmental business entity,
40 including an individual, partnership or corporation,
41 providing surveying or underground surveying services.

42 (m) "Geodetic control survey" means a survey involving
43 the precise measurement of points on the earth's surface
44 which form the framework or control for a large map or
45 project.

46 (n) "Geographic information system" means a system of
47 hardware, software and procedures designed to support
48 the capture and management of spatially referenced
49 information.

50 (o) "Global positioning system survey" means any
51 measurement of elevations or positions either absolute or
52 relative which utilizes the observation of artificial satel-
53 lites.

54 (p) "Hydrographic survey" means a survey that measures
55 and determines the topographic features of water bodies
56 and the adjacent land areas, including the width, depth
57 and course of water bodies and other relative features.

58 (q) "Inactive" means the status granted by the board to
59 a licensee or endorsee.

60 (r) "Description of survey", under this article only,
61 means a description established by a survey describing the
62 physical location of land or the associated effects on the
63 land.

64 (s) "License" means a surveying license issued under the
65 provisions of this article.

66 (t) "Licensee" means a person holding a surveying
67 license issued under the provisions of this article.

68 (u) "Metes and bounds" means a description where the
69 land or the associated effects on the land have been
70 measured by starting at a known point and describing, in
71 sequence, the lines by direction and distance forming the
72 boundaries of the land or a defined area relative to the
73 physical land features, associated effects or structural
74 improvements on the land.

75 (v) "Monument" means a permanent marker, either
76 boundary or nonboundary, used to establish corners or
77 mark boundary lines of a parcel of land or reference the
78 geospatial relationship of other objects.

79 (w) "Mortgage/loan inspection survey" means a survey
80 in which property lines and corner have not been estab-
81 lished.

82 (x) "Oil or gas well survey" means a survey and plat of
83 a proposed oil or gas well, including the location of the
84 well, the surface or mineral tract on which the well is
85 located, the physical features surrounding the well. An oil
86 or gas well survey must be performed in accordance with
87 other provisions of this code affecting oil and gas well
88 surveys.

89 (y) "Partition survey" means a survey where the bound-
90 ary lines of a newly created parcel of land are established
91 and the new corners are monumented.

92 (z) "Photogrammetry" means the use of aerial photogra-
93 phy, other imagery and surveying principles to prepare
94 scaled maps or other survey products reflecting the
95 contours, features and fixed works of the earth's surface.

96 (aa) "Practice of surveying" means providing profes-
97 sional surveying services, including consulting, investigat-
98 ing, expert testimony, evaluating, planning, mapping and
99 surveying.

100 (bb) "Responsible charge" means direct control and
101 surveying work under the direct supervision of a licensee
102 or person authorized in another state or country to engage
103 in the practice of surveying.

104 (cc) "Retracement survey" means a survey where the
105 boundary lines and corners of a parcel of land are reestab-
106 lished from an existing legal or deed description.

107 (dd) "Strip" means a description of an area by reference
108 to an alignment, usually a right-of-way or an easement,
109 stating the number of feet on each side of the alignment,
110 the relative position of the alignment, a reference to the
111 measurements and monuments where the alignment
112 crosses a parcel of land and the source of title for each
113 parcel of land the alignment crosses.

114 (ee) "Subdivision" means the division of a lot, tract or
115 parcel of land into two or more lots, tracts or parcels of
116 land.

117 (ff) "Surface mine survey" means a survey of the surface
118 mine permit area, including the location of the surface
119 mine, the surface or mineral tracts on which the surface
120 mine is located, the physical features surrounding the
121 surface mine, all creeks or streams near the surface mine
122 and any other identifying characteristics of the land to
123 specify the location of the surface mine permit area. A
124 surface mine survey must be performed in accordance with
125 other provisions of this code affecting surface mine
126 surveys.

127 (gg) "Survey" or "land survey" means to measure a
128 parcel of land and ascertain its boundaries, corners and
129 contents or make any other authoritative measurements.
130 A survey can be any of the following, but not limited to:

131 (1) The performance of a boundary, cadastral, construc-
132 tion, geodetic control, hydrographic, land, mortgage/loan
133 inspection, oil or gas well, partition, photogrammetry,

134 retracement, subdivision or surface mine survey by a
135 licensed surveyor;

136 (2) The location, relocation, establishment, reestablish-
137 ment, laying out or retracement of any property line or
138 boundary of any parcel of land or of any road or utility
139 right-of-way, easement, strip or alignment or elevation of
140 any fixed works by a licensed surveyor; or

141 (3) The performance of an underground survey by an
142 endorsed underground surveyor.

143 (hh) "Surveying" or "land surveying" means providing,
144 or offering to provide, professional services using such
145 sciences as mathematics, geodesy, and photogrammetry,
146 and involving both: (1) The making of geometric measure-
147 ments and gathering related information pertaining to the
148 physical or legal features of the earth, improvements on
149 the earth, the space above, on or below the earth; and (2)
150 providing, utilizing or developing the same into survey
151 products such as graphics, data, maps, plans, reports,
152 descriptions or projects. Professional services include acts
153 of consultation, investigation, testimony evaluation, expert
154 technical testimony, planning, mapping, assembling and
155 interpreting gathered measurements and information
156 related to any one or more of the following:

157 (A) Determining by measurement the configuration or
158 contour of the earth's surface or the position of fixed
159 objects thereon.

160 (B) Determining by performing geodetic surveys the size
161 and shape of the earth or the position of any point on the
162 earth.

163 (C) Determining the position for any survey control
164 monument or reference point.

165 (D) Creating, preparing or modifying electronic, comput-
166 erized or other data relative to the performance of the

167 activities in the above-described paragraphs (A) through
168 (C), inclusive, of this subdivision.

169 (E) Locating, relocating, establishing, reestablishing or
170 retracing property lines or boundaries of any tract of land,
171 road, right-of-way or easement.

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

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

176 (H) Determining, by the use of principles of surveying,
177 the position for any boundary or nonboundary survey
178 monument or reference point; or establishing or replacing
179 any such monument or reference point.

180 (I) Creating, preparing or modifying electronic or
181 computerized or other data relative to the performance of
182 the activities in the above-described paragraphs (E)
183 through (H), inclusive, of this subdivision.

184 Any person who engages in surveying, who by verbal
185 claim, sign, advertisement, letterhead, card or in any other
186 way represents themselves to be a professional surveyor,
187 or who implies through the use of some other title that
188 they are able to perform, or who does perform, any survey-
189 ing service or work or any other service designated by the
190 practitioner which is recognized as surveying, is practic-
191 ing, or offering to practice, surveying within the meaning
192 and intent of this article.

193 (ii) "Surveyor", "professional surveyor" or "land sur-
194 veyor" means a person licensed to practice surveying
195 under the provisions of this article.

196 (jj) "Surveyor, retired", "professional surveyor, retired"
197 or "land surveyor, retired" means a licensed surveyor no
198 longer practicing surveying or underground surveying,
199 who has chosen to retire and has been granted the honor-
200 ific title of "Professional Surveyor, Retired".

201 (kk) "Surveyor-in-charge" means a licensee or endorsee
202 designated by a firm to oversee the surveying activities
203 and practices of the firm.

204 (ll) "Surveyor intern" means a person who has passed an
205 examination covering the fundamentals of land surveying.

206 (mm) "Underground survey" means a survey that
207 includes the measurement of underground mine workings
208 and surface features relevant to the underground mine, the
209 placing of survey points (spads) for mining direction, the
210 performance of horizontal and vertical control surveys to
211 determine the contours of a mine, the horizontal and
212 vertical location of mine features, and the preparation of
213 maps, reports and documents, including mine progress
214 maps and mine ventilation maps. An underground mine
215 survey must be performed in accordance with other
216 provisions of this code affecting underground mine
217 surveys.

218 (nn) "Underground surveyor" means a person endorsed
219 to practice underground surveying.

§30-13A-4. Board of surveyors.

1 (a) The "West Virginia board of examiners of land
2 surveyors" is hereby continued and commencing the first
3 day of July, two thousand four, and shall be known as the
4 "West Virginia Board of Professional Surveyors".

5 (b) To be effective on the first day of July, two thousand
6 four, the governor shall appoint, by and with the advice
7 and consent of the Senate, one person who is a licensed
8 professional surveyor and has practiced surveying for at
9 least five years, for a term of three years, to replace the
10 member of the board whose term expires on the first day
11 of July, two thousand four.

12 (c) To be effective on the first day of July, two thousand
13 five, the governor shall appoint, by and with the advice
14 and consent of the Senate:

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

19 (2) One person who is an endorsed underground surveyor
20 with at least ten years of experience for a term of four
21 years; and

22 (3) One citizen member who is not licensed, endorsed or
23 certified under the provisions of this article and does not
24 perform any services related to the practice licensed,
25 endorsed or certified under the provisions of this article
26 for a term of three years.

27 (d) To be effective on the first day of July, two thousand
28 six, the governor shall appoint, by and with the advice and
29 consent of the Senate, one person who is a licensed profes-
30 sional surveyor with at least ten years of experience for a
31 term of four years to replace the member of the board
32 whose term expires on the first day of July, two thousand
33 six.

34 (e) After the initial appointment term, the board term
35 shall be for four years.

36 (f) Commencing with the board terms beginning the first
37 day of July, two thousand five, the board shall consist of
38 the following five members:

39 (1) Two licensed professional surveyors with at least ten
40 years of experience in land surveying;

41 (2) One person who has a license in another field of
42 practice other than surveying and also who has a surveyor
43 license by examination and has practiced surveying for at
44 least ten years;

45 (3) One endorsed underground surveyor who has prac-
46 ticed underground surveying for at least five years; and

47 (4) One citizen member who is not licensed, endorsed or
48 certified under the provisions of this article and does not
49 perform any services related to the practice licensed,
50 endorsed or certified under the provisions of this article.

51 (g) Each licensed or endorsed member of the board, at
52 the time of his or her appointment, must have held a
53 license or endorsement in this state for a period of not less
54 than three years immediately preceding the appointment
55 and each member must be a resident of this state during
56 the appointment term. Members must represent the three
57 congressional districts of the state.

58 (h) No member may serve more than two consecutive full
59 terms and any member having served two full terms may
60 not be appointed for one year after completion of his or
61 her second full term. A member shall continue to serve
62 until his or her successor has been appointed and quali-
63 fied. Any member currently serving on the board on the
64 effective date of this article may be reappointed in accor-
65 dance with the provisions of this section.

66 (i) The governor may remove any member from the board
67 for neglect of duty, incompetency or official misconduct.

68 (j) Any member of the board immediately and automati-
69 cally forfeits his or her membership if he or she has his or
70 her license or endorsement to practice suspended or
71 revoked by the board, is convicted of a felony under the
72 laws of any state or the United States or becomes a
73 nonresident of this state.

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

76 (l) Each member of the board shall receive compensation
77 and expense reimbursement in accordance with section
78 eleven, article one of this chapter.

79 (m) A majority of the members of the board shall consti-
80 tute a quorum.

81 (n) The board must hold at least one annual meeting.
82 Other meetings shall be held at the call of the chairperson,
83 or upon the written request of two members, at such time
84 and 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
2 article one of this chapter and also the following powers
3 and duties:

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

6 (2) Set the requirements for a license, endorsement,
7 certificate, surveyor-in-charge and certificate of authori-
8 zation;

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

13 (4) Examine the qualifications of any applicant for a
14 license, endorsement, or certificate;

15 (5) Establish procedures for persons who have begun one
16 of the education, experience or examination requirements
17 for licensure, stated in subdivision (1), subsection (a),
18 section eight of this article, and has not completed the
19 requirements prior to the thirty-first day of December, two
20 thousand four;

21 (6) Prepare, conduct, administer and grade written, oral
22 or written and oral examinations and reexaminations for
23 a license, endorsement or certificate;

24 (7) Determine the passing grade for the examinations;

25 (8) Administer, or contract with third parties to adminis-
26 ter, the examinations and reexaminations required under
27 the provisions of this article;

28 (9) Maintain records of the examinations and reexamina-
29 tions the board or a third party administers, including the
30 number of persons taking the examination or reexamina-
31 tion and the pass and fail rate;

32 (10) Maintain an accurate registry of names and ad-
33 dresses of all licensees, endorsees and certificate holders;

34 (11) Maintain an accurate registry of names and ad-
35 dresses of firms holding a certificate of authorization;

36 (12) Establish the standards for surveys, surveying and
37 underground surveying;

38 (13) Define, by legislative rule, the fees charged under
39 the provisions of this article;

40 (14) Issue, renew, deny, suspend, revoke or reinstate
41 licenses, endorsements and certificates and discipline such
42 persons;

43 (15) Issue, renew, deny, suspend, revoke or reinstate
44 certificates of authorization and discipline such firms;

45 (16) Establish, by legislative rule, and implement the
46 continuing education requirements for licensees and
47 endorsees;

48 (17) Sue and be sued in its official name as an agency of
49 this state;

50 (18) Set the job requirements for investigators and
51 employees necessary to enforce the provisions of this
52 article;

53 (19) Hire, fix the compensation of and discharge investi-
54 gators and the employees necessary to enforce the provi-
55 sions of this article;

56 (20) Investigate alleged violations of the provisions of
57 this article, the rules promulgated hereunder, and orders
58 and final decisions of the board;

59 (21) Conduct hearings upon charges calling for discipline
60 of a licensee, endorsee or certificate holder, or revocation
61 or suspension of a license, endorsement, certificate or
62 certificate of authorization;

63 (22) Set disciplinary action and issue orders;

64 (23) Propose rules in accordance with the provisions of
65 article three, chapter twenty-nine-a of this code to imple-
66 ment the provisions of this article; and

67 (24) Take all other actions necessary and proper to
68 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
4 this article including:

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

8 (2) Setting the procedure for examinations and reexami-
9 nations;

10 (3) Establishing requirements for third parties to admin-
11 ister examinations and reexaminations;

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

15 (5) Setting a schedule of fees and rates for nonrenewal;

16 (6) Establishing and implementing requirements for
17 continuing education for licensees and endorsees;

18 (7) Evaluating the curriculum, experience and the
19 instructional hours required for a license, endorsement and
20 certificate;

21 (8) Denying, suspending, revoking, reinstating or limit-
22 ing the practice of a licensee, endorsee, certificate holder
23 or a holder of a certificate of authorization;

24 (9) Establishing electronic signature requirements; and

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

27 (b) All rules in effect on the effective date of this article
28 shall remain in effect until they are amended, modified,
29 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 sepa-
3 rate special revenue fund in the state treasury designated
4 the "board of examiners of land surveyors fund", which
5 fund is hereby continued. Commencing on the first day of
6 July, two thousand four, the "board of examiners of land
7 surveyors fund" shall be designated the "board of profes-
8 sional surveyors fund". The fund shall be used by the
9 board for the administration of this article. Except as may
10 be provided in section eleven, article one of this chapter,
11 the board shall retain the amounts in the special revenue
12 fund from year to year. No compensation or expense
13 incurred under this article is a charge against the general
14 revenue fund.

15 (b) Any amounts received as fines imposed pursuant to
16 this article shall be deposited into the general revenue
17 fund of the state treasury.

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

1 (a) Before a person may apply for a surveying license to
2 practice under the provisions of this article, the person
3 must have completed one of the following educational,
4 experience and examination requirements:

5 (1) Prior to the thirty-first day of December, two thou-
6 sand four, has completed or is in the process of completing
7 one of the following education, experience and examina-
8 tion requirements:

9 (A) Is a graduate of a surveying curriculum of two
10 scholastic years, has six years or more of experience in
11 surveying under the direct supervision of a licensee or a
12 person authorized in another state or country to engage in
13 the practice of surveying, has passed the examination
14 prescribed by the board, which examination shall cover
15 the basic subject matter of land surveying and land
16 surveying skills and techniques, and has passed the West
17 Virginia examination;

18 (B) Is not a graduate of a surveying curriculum, has eight
19 years or more of experience in surveying under the direct
20 supervision of a licensee or a person authorized in another
21 state or country to engage in the practice of surveying, has
22 passed the examination prescribed by the board, which
23 examination shall cover the basic subject matter of land
24 surveying and land surveying skills and techniques, and
25 has passed the West Virginia examination;

26 (C) Is a graduate of a surveying curriculum of two or
27 more years, has passed the surveyor-in-training (SIT)
28 examination which must have included an eight-hour
29 portion of fundamentals in science, mathematics and
30 surveying, has six years or more of experience in surveying
31 under the direct supervision of a licensee or a person
32 authorized in another state or country to engage in the
33 practice of surveying, and has passed the examination
34 prescribed by the board, which examination consists of
35 principles and practices of land surveying, and has passed
36 the West Virginia examination; or

37 (D) Prior to the thirty-first day of December, two
38 thousand four, if a person has begun one of the education,
39 experience or examination requirements, stated in this
40 subdivision, and has not completed the requirements prior

41 to the thirty-first day of December, two thousand four,
42 then the person must notify the board that he or she will
43 be making application under this subdivision and comply
44 with the procedures prescribed by the board; or

45 (2) On and after the first day of January, two thousand
46 five, has completed one of the following education,
47 experience and examination requirements:

48 (A) Has a four-year degree or a bachelor degree in
49 surveying approved by the board, which degree must
50 include a minimum of thirty hours of surveying or survey-
51 ing related courses, has passed an examination in the
52 fundamentals of land surveying, has two years or more of
53 experience in surveying in responsible charge, has passed
54 an examination in the principles and practice of land
55 surveying and has passed the West Virginia examination;

56 (B) Has a four-year degree or a bachelor degree, has
57 completed a minimum of thirty hours of surveying or
58 surveying related courses, has passed an examination in
59 the fundamentals of land surveying, has four years or more
60 of experience in surveying, including two years of experi-
61 ence in responsible charge under the direct supervision of
62 a licensee or a person authorized in another state or
63 country to engage in the practice of surveying, has passed
64 an examination in the principles and practice of land
65 surveying, and has passed the West Virginia examination;

66 (C) Has a two-year degree or an associate degree in
67 surveying or a related field approved by the board, which
68 degree must include a minimum of thirty hours of survey-
69 ing or surveying related courses, has passed an examina-
70 tion in the fundamentals of land surveying, has four years
71 or more of experience in surveying, including two years of
72 experience in responsible charge under the direct supervi-
73 sion of a licensee or a person authorized in another state or
74 country to engage in the practice of surveying and has
75 passed an examination in the principles and practice of

76 land surveying, and has passed the West Virginia examina-
77 tion; or

78 (D) Is not a graduate of a surveying curriculum, has
79 completed the national society of professional surveyors
80 survey technician program, has obtained a level IV certifi-
81 cation, issued by the national society of professional
82 surveyors, with a total of five and one-half years of
83 experience in surveying under the direct supervision of a
84 licensee or a person authorized in another state or country
85 to engage in the practice of surveying, has passed an
86 examination in the fundamentals of land surveying, has
87 four additional years of experience in surveying, including
88 two years of responsible charge under the direct supervi-
89 sion of a licensee or a person authorized in another state or
90 country to engage in the practice of surveying, and has
91 passed an examination in the principles and practice of
92 land surveying, and has passed the West Virginia examina-
93 tion: *Provided*, That the person intending to apply for the
94 license pursuant to the provisions of this subdivision so
95 notifies the board before the first day of January two
96 thousand five.

97 (b) A person graduating from a two-year or four-year
98 approved surveying degree program with a grade point
99 average of 3.0 or higher is permitted to take the examina-
100 tion in the fundamentals of land surveying during his or
101 her final semester.

102 (c) A person must pass the examination in the fundamen-
103 tals of land surveying and complete the work experience
104 before he or she is allowed to take the examination in the
105 principles and practice of land surveying and the West
106 Virginia examination.

107 (d) The examination in the fundamentals of land survey-
108 ing, the examination in the principles and practice of land
109 surveying, and the West Virginia examination shall each
110 be held at least once each year at the time and place
111 determined by the board. A person who fails to pass all or

112 any part of an examination may apply for reexamination,
113 as prescribed by the board, and shall furnish additional
114 information and fees as required by the board.

§30-13A-9. 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-in-training recognized by the board prior
15 to the first day of July, two thousand four, shall for all
16 purposes be considered a surveyor intern under this
17 section.

18 (c) A surveyor intern must pass the principles and
19 practice of land surveying examination and the West
20 Virginia examination within ten years of passing the
21 fundamentals of land surveying examination. If the
22 examinations are not passed within ten years, then the
23 surveyor intern must retake the fundamentals of land
24 surveying examination.

§30-13A-10. Surveying license requirements.

1 (a) The board shall issue a surveying license to practice
2 under the provisions of this article to an applicant who
3 meets the following requirements:

- 4 (1) Is of good moral character;
 - 5 (2) Is at least eighteen years of age;
 - 6 (3) Is a citizen of the United States or is eligible for
7 employment in the United States;
 - 8 (4) Holds a high school diploma or its equivalent;
 - 9 (5) Has not been convicted of a crime involving moral
10 turpitude; and
 - 11 (6) Has completed all of one of the education, experience
12 and examination requirements set out in section eight of
13 this article.
- 14 (b) An application for a surveying license shall be made
15 on forms provided by the board and include the following:
- 16 (1) Name and address of the applicant;
 - 17 (2) Applicant's education and experience;
 - 18 (3) Location and date of passage of all the examinations;
 - 19 (4) Names of five persons for reference, at least three of
20 whom shall be licensees or persons authorized in another
21 state or country to engage in the practice of surveying, and
22 who have knowledge of the applicant's work; and
 - 23 (5) Any other information the board prescribes.
- 24 (c) An applicant shall pay all the applicable fees.
- 25 (d) A license to practice land surveying issued by the
26 board prior to the first day of July, two thousand four,
27 shall for all purposes be considered a license issued under
28 this section: *Provided*, That a person holding a license to
29 practice land surveying issued prior to the first day of
30 July, two thousand four, must renew the license pursuant
31 to the provisions of section thirteen of this article.

§30-13A-11. Underground surveying endorsement requirements.

- 1 (a) The board shall issue an endorsement to practice
2 underground surveying under the provisions of this article
3 to an applicant who meets the following requirements:

4 (1) Is a licensed surveyor;

5 (2) Has three years or more experience in underground
6 surveying under the direct supervision of an endorsee or a
7 person authorized in another state or country to engage in
8 the practice of underground surveying; and

9 (3) Has passed an examination as prescribed by the
10 board.

11 (b) An application for an underground surveying en-
12 dorsement shall be made on forms provided by the board
13 and include the following:

14 (1) Name and address of the applicant;

15 (2) Applicant's underground surveying experience;

16 (3) Names of three persons for reference, all three of
17 whom shall be endorsees or persons authorized in another
18 state or country to engage in the practice of underground
19 surveying, and who have knowledge of the applicant's
20 work; and

21 (4) Any other information the board prescribes.

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

23 (d) The examination for underground surveying shall be
24 held at least once each year at the time and place deter-
25 mined by the board. An applicant who fails to pass all or
26 any part of the examination may apply for reexamination,
27 as prescribed by the board, at any time and shall furnish
28 additional information and fees as required by the board.

29 (e) A license to practice underground surveying issued by
30 the board prior to the first day of July, two thousand four,
31 shall for all purposes be considered an endorsement issued
32 under this section: *Provided*, That a person holding a
33 license to practice underground surveying issued prior to
34 the first day of July, two thousand four, must renew and

35 then receive an endorsement pursuant to the provisions of
36 section thirteen of this article.

**§30-13A-12. License, endorsement and certificate from another
state; license, endorsement and certificate to
practice in this state.**

1 The board may issue a license, endorsement or certificate
2 to practice surveying or underground surveying in this
3 state to an applicant of good moral character who holds a
4 valid license, endorsement, certificate, registration or
5 other authorization to practice surveying or underground
6 surveying from another state if the applicant demonstrates
7 that:

8 (1) He or she holds a license, endorsement, certificate,
9 registration or other authorization to practice surveying or
10 underground surveying in another state which was granted
11 after completion of educational requirements substantially
12 equivalent to those required in this state;

13 (2) He or she holds a license, endorsement, certificate,
14 registration or other authorization to practice surveying or
15 underground surveying in another state which was granted
16 after completion of experience requirements substantially
17 equivalent to those required in this state;

18 (3) He or she holds a license, endorsement, certificate,
19 registration or other authorization to practice surveying or
20 underground surveying in another state which was granted
21 after passing, in that or another state, examinations that
22 are substantially equivalent to the examinations required
23 in this state and has passed the West Virginia examination;

24 (4) He or she is not currently being investigated by a
25 disciplinary authority of another state, does not have
26 charges pending against his or her license, endorsement,
27 certificate, registration or other authorization to practice
28 surveying or underground surveying and has never had a
29 license, endorsement, certificate, registration or other

30 authorization to practice surveying or underground
31 surveying revoked;

32 (5) He or she has not previously failed an examination
33 for licensure, endorsement or certification in this state;

34 (6) He or she has paid all the applicable fees; and

35 (7) Has completed such other action as required by the
36 board.

§30-13A-13. License and endorsement renewal requirements.

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

5 (b) At least thirty days prior to the first day of July,
6 either annually or biennially, the secretary-treasurer of the
7 board shall mail to every licensee and endorsee a notice of
8 renewal, an application for renewal and the amount of the
9 renewal fee.

10 (c) The board shall charge a fee for each renewal of a
11 license or endorsement and a late fee for any renewal not
12 paid in a timely manner.

13 (d) The board shall require as a condition for the renewal
14 of a license or endorsement that each licensee or endorsee
15 participate in continuing education.

§30-13A-14. Inactive license and endorsement requirements.

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

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

7 (c) When an inactive licensee or endorsee wants to return
8 to active practice, he or she must complete all the continu-
9 ing education requirements and pay all the applicable fees
10 as set by rule.

§30-13A-15. Expired license and endorsement requirements.

1 (a) If a license or endorsement is not renewed when due,
2 then the board shall automatically place the licensee or
3 endorsee on expired status.

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

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

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

§30-13A-16. Retired license and endorsement requirements.

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

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

**§30-13A-17. Requirements for when a person fails an examina-
tion.**

1 (a) Any person failing any of the examinations for
2 surveying or underground surveying shall not be permitted

3 to work as a licensed surveyor or underground surveyor
4 under the provisions of this article until the person has
5 passed all the examinations.

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

10 (c) A person who has passed the fundamentals of land
11 surveying examination, but failed the principles and
12 practice examination or West Virginia examination may
13 only work as a surveyor intern under the direct supervision
14 of a licensee or a person authorized in another state or
15 country to engage in the practice of surveying until he or
16 she passes all of the examinations.

17 (d) Any person failing the examination for underground
18 surveying shall not be permitted to work as an endorsed
19 underground surveyor under the provisions of this article
20 until the person has passed the examination. This subsec-
21 tion does not preclude the person from practicing as a
22 licensed surveyor.

§30-13A-18. Display of license, endorsement or certificate.

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

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

§30-13A-19. Signature and seal or stamp.

1 (a) Each licensee must have a seal or a stamp, authorized
2 by the board, which seal or stamp shall include the li-
3 censee's name and license number and the words "Profes-
4 sional Surveyor".

5 (b) Each endorsee must have a seal or a stamp, autho-
6 rized by the board, which seal or stamp shall include the
7 endorsee's name and endorsement license number and the
8 words "Professional Surveyor SU".

9 (c) All final survey documents prepared by a licensee or
10 an endorsee shall be signed and stamped with the li-
11 censee's or the endorsee's seal or stamp, or an electronic
12 signature, seal or stamp may be affixed.

13 (d) It is unlawful for a person who is not licensed or not
14 endorsed to affix a signature and stamp or seal on a
15 document.

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

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

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

6 (1) Practices surveying or underground surveying in
7 West Virginia;

8 (2) Provides proof that the firm has employed a sur-
9 veyor-in-charge;

10 (3) Has paid all applicable fees; and

11 (4) Completes such other requirements as specified by
12 the board.

§30-13A-21. Certificate of authorization renewal requirements.

1 (a) A firm wanting to continue in active practice shall,
2 annually or biennially upon or before the first day of
3 January, renew its certificate of authorization and pay a
4 renewal fee.

5 (b) At least thirty days prior to the first day of January,
6 either annually or biennially, the secretary-treasurer of the

7 board shall mail to every certificate of authorization
8 holder a notice of renewal, an application for renewal and
9 the amount of the renewal fee.

10 (c) The board shall charge a fee for each renewal of a
11 certificate of authorization and a late fee for any renewal
12 not paid in a timely manner.

§30-13A-22. Display of certificate of authorization.

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

4 (b) A firm shall conspicuously display its certificate of
5 authorization at its principal place of practice.

§30-13A-23. Surveyor-in-charge requirements.

1 (a) A firm with a certificate of authorization practicing
2 surveying or underground surveying in West Virginia must
3 operate all surveying or underground surveying activities
4 under the supervision and management of a surveyor-in-
5 charge who shall be a licensee or endorsee who is licensed
6 or endorsed in this state.

7 (b) The designated surveyor-in-charge is responsible for
8 the surveying or underground surveying work in this state
9 provided by the firm.

10 (c) A licensee or endorsee cannot be designated as a
11 surveyor-in-charge for more than one firm without
12 approval of the board.

13 (d) A licensee or endorsee who performs part-time or
14 consulting surveying or underground surveying services
15 for a firm cannot be designated as a surveyor-in-charge for
16 that firm unless the licensee or endorsee is an officer, a
17 majority interest holder or owner of the firm.

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

19 (1) Renewal of the certificate of authorization;

20 (2) Notification to the board of any change in the
21 surveyor-in-charge;

22 (3) Supervising the firm's employees, including licensees,
23 endorsees, certificate holders and other personnel provid-
24 ing surveying or underground surveying services in this
25 state; and

26 (4) Ensuring that the policies of the firm adhere to the
27 provisions of this article.

28 (f) The board may authorize a licensee or endorsee to
29 supervise the work of an individual that is not an em-
30 ployee of the licensee or endorsee, nor is employed by the
31 same firm as the licensee or endorsee. The potential
32 supervisor must apply to the board for this authorization.

§30-13A-24. Requirements for recording documents.

1 (a) No survey document intended to be used in the
2 transfer of real property, prepared by a licensee or en-
3 dorsee, shall be filed with any county clerk or accepted by
4 any public official of this state unless the licensee's or
5 endorsee's signature and seal or stamp have been affixed
6 thereto, except that any document, plan, map, drawing,
7 exhibit, sketch or pictorial representation prepared by a
8 person exempted from the regulation and licensing
9 requirements of this article as provided in section thirty-
10 six of this article shall not be required to have the signa-
11 ture and seal affixed thereto.

12 (b) If a survey document, prepared by a licensee or
13 endorsee, has been altered from its original form, it shall
14 not be filed with any county clerk or accepted by any
15 public official of this state, until the original licensee or
16 endorsee has initialed the changes, except that any docu-
17 ment, plan, map, drawing, exhibit, sketch or pictorial
18 representation altered by a person exempted from the
19 regulation and licensing requirements of this article as
20 provided in section thirty-six of this article shall require
21 that the person who made the alteration initial the
22 changes.

§30-13A-25. Delivery of plat and description; recordation.

1 (a) When a licensee or endorsee prepares a boundary
2 survey, he or she shall make a plat of the land and provide
3 a description of survey of the land. The licensee or en-
4 dorsee shall give a copy of the plat and the description of
5 survey to the client.

6 (b) If the title to the land that was surveyed is conveyed
7 and the instrument conveying the title uses the description
8 of survey, the plat shall be recorded simultaneously with
9 the instrument, except when a plat has already been
10 recorded and a reference to the recordation of the plat is
11 given instead.

§30-13A-26. Minimum standards for boundary surveys.

1 (a) 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. Further, the purpose is to protect the inhabit-
5 ants of this state from dishonest or incompetent surveying
6 and generally to protect the public welfare.

7 (b) The client discussion prior to the survey shall cover
8 the purpose of the survey, the scope of services, including
9 the time for completion of the survey, disputes with
10 adjoining, fees and all pertinent details of the contract.

11 (c) The record search shall include the record description
12 based on current and prior deeds, conveyance from
13 common grantor, or if necessary, the original survey or
14 grant. It shall 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 shall be retained as a permanent record.

18 (d) A licensee, endorsee, an exempt person under section
19 thirty-six of this article or persons under the direct
20 supervision of a licensee, endorsee or exempt person shall
21 physically go to the land and perform the survey.

22 (e) The field survey shall consist of the following:

23 (1) A field search for controlling evidence;

24 (2) A discussion of evidence with the owner or client;

25 (3) A reasonable attempt at notifying the adjoining;

26 (4) A reasonable attempt of talking to the adjoining or
27 others having knowledge of the boundaries; and

28 (5) The location of evidence by appropriate methods and
29 procedures.

30 (f) The surveyor shall use methods and equipment
31 suitable for the purpose of the survey and the field notes
32 shall be retained as a permanent record.

33 (g) Distance shall be reported in feet or meters, or parts
34 thereof, and angles or directions shall be reported in
35 degrees or parts thereof. The observations shall be mea-
36 sured to a precision that will produce the desired level of
37 accuracy. The area of the tract being surveyed shall be
38 measured and reported to a precision consistent with the
39 purpose of the survey. All measuring devices shall be
40 checked periodically for accuracy and condition.

41 (h) Monumentation is required for all new or reestab-
42 lished corners, or reference monument for inaccessible
43 corners, and is encouraged at intervisible points between
44 corners. Set monuments shall be made of durable material
45 and set firmly in the ground. Pipes shall have a minimum
46 inside diameter of one inch, while rebars shall have a
47 minimum outside diameter of five-eighths inch and both
48 shall have a minimum length of thirty inches. Other
49 markers shall have a minimum cross-sectional area of one-
50 half square inch and shall be made of durable material,
51 identifiable and unique. Natural objects chosen for
52 corners shall be durable, unique and easily identifiable.

53 (i) All rebars, pipes and other markers, except natural
54 objects, shall have caps bearing the surveyor's license
55 number or company name.

56 (j) A plat shall be prepared for all boundary or partition
57 surveys, unless specifically prohibited by the client in the
58 contract. The plat shall show the results of the field
59 survey and be provided to the client. Plats shall be to a
60 scale large enough to show significant details.

61 (k) The following information shall be shown on plats,
62 when applicable:

63 (1) A north arrow and a basis of bearings;

64 (2) The date of the survey;

65 (3) The measured length and direction of each boundary
66 line by distance, bearing and quadrant: *Provided*, That in
67 the case of a strip survey the station and offset method
68 may be utilized to describe the strip.

69 (4) General location information;

70 (5) Ties to significant objects;

71 (6) The evidence of possession on or near the property
72 line;

73 (7) The description of all corners or reference monu-
74 ments, including whether the corners were found (fd) or
75 set;

76 (8) The outlined area of the property and all significant
77 parts, including streets, alleys and nonlotted areas of a
78 subdivision;

79 (9) The ares, acreage or square footage of the property;

80 (10) Any overlaps and gaps in record lines, former deed
81 or grant lines, as needed;

82 (11) The subdivision name, lot, block and plat reference;

83 (12) The tax map and parcel number, if available, of all
84 the tracts shown on the plat;

85 (13) The name of the current or past owners of the
86 subject property, or both;

87 (14) The name of the adjoining landowners;

88 (15) The current conveyance reference for the subject
89 property;

90 (16) The current conveyance reference for the adjoining
91 landowners;

92 (17) The name and location of any creeks, rivers or roads
93 near the property to help locate the property;

94 (18) The plat's title for reference when recording;

95 (19) The district or municipality, county and state where
96 the property is located; and

97 (20) The name, address, license number, signature and
98 seal of the surveyor.

99 (l) A description of survey shall be prepared for all
100 boundary, partition and retracement surveys, except
101 mortgage inspection surveys, and be provided to the client.

102 (m) The following shall be included in a description of
103 survey, when applicable:

104 (1) A metes and bounds description, or strip description,
105 if applicable, of the property;

106 (2) The point of beginning;

107 (3) The description of monumentation at each corner and
108 objects encountered along the line, including the adjoining
109 landowners;

110 (4) The length and direction of each line;

111 (5) The radius, chord bearing and distance of a curved
112 boundary line;

113 (6) The lot and block numbers for newly platted parti-
114 tions or subdivisions;

115 (7) The acreage or square footage of the property;

116 (8) The watershed or topographic location where the
117 property is located;

118 (9) A reference to the conveyance by which the current
119 owner claims title, including the grantor, grantee, date and
120 recording reference;

121 (10) A reference to the accompanying plat;

122 (11) The district or municipality, county and state where
123 the property is located; and

124 (12) The name of the individual preparing the descrip-
125 tion of the survey.

126 (n) The report of survey shall be used when the plat and
127 the description of survey do not adequately address all
128 matters considered by the surveyor in performing the
129 survey and should be provided to the client with the plat
130 and the description of survey.

131 (o) The report of survey shall include all unusual circum-
132 stances surrounding the survey, with weight being given to
133 conflicting evidence and encroachments, overlaps or gaps
134 and how they were resolved and the names of adjoining
135 contacted and the information they supplied.

136 (p) A mortgage/loan inspection survey in which bound-
137 aries on a property have not been surveyed in accordance
138 with the methods set forth by the board, then the plat must
139 be stamped "a mortgage inspection survey only, not a
140 boundary survey". The surveyor must notify a landowner
141 or other person commissioning their services if a survey or
142 an inspection was performed.

**§30-13A-27. "West Virginia Coordinate Systems"; definition;
plane coordinates, limitations of use.**

1 (a) The systems of plane coordinates which have been
2 established by the national ocean survey/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 the state of West Virginia are hereafter to
7 be known and designated as the "West Virginia Coordinate
8 System of 1927" and the "West Virginia Coordinate
9 System of 1983".

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

12 The area now included in the following counties shall
13 constitute the north zone: Barbour, Berkeley, Brooke,
14 Doddridge, Grant, Hampshire, Hancock, Hardy, Harrison,
15 Jefferson, Marion, Marshall, Mineral, Monongalia, Mor-
16 gan, Ohio, Pleasants, Preston, Ritchie, Taylor, Tucker,
17 Tyler, Wetzel, Wirt and Wood.

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

25 (c) As established for use in the north zone, the West
26 Virginia coordinate system of 1927 or the West Virginia
27 coordinate system of 1983 shall be named and in any land
28 description in which it is used it shall be designated the
29 "West Virginia Coordinate System of 1927 North Zone" or
30 "West Virginia Coordinate System of 1983 North Zone".

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

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

50 These coordinates shall be made to depend upon and
51 conform to plane rectangular coordinate values for the
52 monumented points of the north American horizontal
53 geodetic control network as published by the national
54 ocean survey/national geodetic survey (formerly the
55 United States coast and geodetic survey), or its successors,
56 and whose plane coordinates have been computed on the
57 system defined by this section. Any such station may be
58 used for establishing a survey connection to either West
59 Virginia coordinate system.

60 (e) For purposes of describing the location of any survey
61 station or land boundary corner in the state of West
62 Virginia, it shall be considered a complete, legal and
63 satisfactory description of such location to give the
64 position of said survey station or land boundary corner on
65 the system of plane coordinates defined in this section.
66 Nothing contained in this section shall require a purchaser
67 or mortgagee of real property to rely wholly on a land
68 description, any part of which depends exclusively upon
69 either West Virginia coordinate system.

70 (f) When any tract of land to be defined by a single
71 description extends from one into the other of the coordi-
72 nate zones specified in this section, the position of all
73 points on its boundaries may refer to either of the two

74 zones. The zone which is being used specifically shall be
75 named in the description.

76 (g) (1) For purposes of more precisely defining the West
77 Virginia coordinate system of 1927, the following defini-
78 tion by the United States coast and geodetic survey (now
79 national ocean survey/national geodetic survey) is
80 adopted:

81 The "West Virginia Coordinate System of 1927 North
82 Zone" is a Lambert conformal conic projection of the
83 Clarke Spheroid of 1866, having standard parallels at
84 north latitudes 39 degrees and 00 minutes and 40 degrees
85 and 15 minutes, along which parallels the scale shall be
86 exact. The origin of coordinates is at the intersection of
87 the meridian 79 degrees 30 minutes west of Greenwich and
88 the parallel 38 degrees 30 minutes north latitude. This
89 origin is given the coordinates: $x = 2,000,000$ feet and $y =$
90 0 feet.

91 The "West Virginia Coordinate System of 1927 South
92 Zone" is a Lambert conformal conic projection of the
93 Clarke Spheroid of 1866, having standard parallels at
94 north latitudes 37 degrees 29 minutes and 38 degrees 53
95 minutes, along which parallels the scale shall be exact.
96 The origin of coordinates is at the intersection of the
97 meridian 81 degrees 00 minutes west of Greenwich and the
98 parallel 37 degrees 00 minutes north latitude. This origin
99 is given the coordinates: $x = 2,000,000$ feet and $y = 0$ feet.

100 (2) For purposes of more precisely defining the West
101 Virginia coordinate system of 1983, the following defini-
102 tion by the national ocean survey/national geodetic survey
103 is adopted:

104 The "West Virginia Coordinate System of 1983 North
105 Zone" is a Lambert conformal conic projection of the
106 north American datum of 1983, having standard parallels
107 at north latitudes 39 degrees and 00 minutes and 40
108 degrees and 15 minutes, along which parallels the scale

109 shall be exact. The origin of coordinates is at the intersec-
110 tion of the meridian 79 degrees 30 minutes west of Green-
111 wich and the parallel 38 degrees 30 minutes north latitude.
112 This origin is given the coordinates: $x = 600,000$ meters
113 and $y = 0$ meters.

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

124 (h) No coordinates based on the West Virginia coordinate
125 system, purporting to define the position of a point on a
126 land boundary, shall be presented to be recorded in any
127 public records or deed records unless such point is based
128 on a public or private monumented horizontal control
129 station established in conformity with the standards of
130 accuracy and specifications for first order or better
131 geodetic surveying as prepared and published by the
132 federal geodetic control committee (FGCC) of the United
133 States department of commerce. Standards and specifica-
134 tions of the FGCC or its successor in force on date of said
135 survey shall apply. The publishing of the existing control
136 stations, or the acceptance with intent to publish the
137 newly established control stations, by the national ocean
138 survey/national geodetic survey will constitute evidence of
139 adherence to the FGCC specifications. The limitations
140 specified in this section, may be modified by a duly
141 authorized state agency to meet local conditions.

142 (i) The use of the term "West Virginia Coordinate System
143 of 1927 North or South Zone" or "West Virginia Coordi-
144 nate System of 1983 North or South Zone" on any map,
145 report or survey or other document shall be limited to

146 coordinates based on the West Virginia coordinate system
147 as defined in this section.

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

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

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

153 (3) The coordinate values used to compute the corner
154 positions.

155 (k) Nothing in this section shall prevent the recordation
156 in any public record of any deed, map, plat, survey,
157 description or of any other document or writing of what-
158 ever nature which would otherwise constitute a recordable
159 instrument or document even though the same is not based
160 upon or done in conformity with the West Virginia coordi-
161 nate system established by this section, nor shall such
162 nonconformity with such system invalidate any deed, map,
163 plat, survey, description or other document which is
164 otherwise proper.

§30-13A-28. Complaints; investigations.

1 (a) The board may, on its own motion, conduct an
2 investigation to determine whether there are any grounds
3 for disciplinary action against a licensee, endorsee,
4 certificate holder or certificate of authorization holder.
5 The board shall, upon the verified written complaint of
6 any person, conduct an investigation to determine whether
7 there are any grounds for disciplinary action against a
8 licensee, endorsee, certificate holder or certificate of
9 authorization holder.

10 (b) Upon receipt of a written complaint filed against any
11 licensee, endorsee, certificate holder or certificate of
12 authorization holder, the board shall provide a copy of the
13 complaint to the licensee, endorsee, certificate holder or
14 certificate of authorization holder.

15 (c) If the board finds, upon investigation, that probable
16 cause exists that the licensee, endorsee, certificate holder
17 or certificate of authorization holder has violated any
18 provision of this article or the rules promulgated hereun-
19 der, then the board shall serve the licensee, endorsee,
20 certificate holder or certificate of authorization holder
21 with a written statement of charges and a notice specify-
22 ing the date, time and place of the hearing. The hearing
23 shall be held in accordance with the provisions of this
24 article.

**§30-13A-29. Refusal to issue or renew, suspension or revocation;
disciplinary action.**

1 (a) The board may refuse to issue, refuse to renew,
2 suspend, revoke or limit any licensee, endorsee, certificate
3 holder or certificate of authorization holder, or practice
4 privilege of a licensee, endorsee, certificate holder or
5 certificate of authorization holder and may take disciplin-
6 ary action against a licensee, endorsee, certificate holder
7 or certificate of authorization holder who, after notice and
8 a hearing, has been adjudged by the board as unqualified
9 for any of the following reasons:

10 (1) Fraud or deceit in obtaining or maintaining a license,
11 endorsement, certificate or certificate of authorization;

12 (2) Failure by any licensee, endorsee, certificate holder or
13 certificate of authorization holder to maintain compliance
14 with the requirements for the issuance or renewal of a
15 license, endorsement, certificate or certificate of authori-
16 zation;

17 (3) Dishonesty, fraud, professional negligence in the
18 performance of land surveying or underground surveying
19 services, or a willful departure from the accepted stan-
20 dards of surveying and the professional conduct of survey-
21 ors;

22 (4) Violation of any provision of this article, any rule
23 promulgated hereunder, any professional standard or rule
24 of professional conduct;

25 (5) Failure to comply with the provisions of this article
26 any rule promulgated hereunder, or any order or final
27 decision of the board;

28 (6) Failure to respond to a request or action of the board;

29 (7) Has been convicted of a crime involving moral
30 turpitude;

31 (8) Conviction of a felony or a crime involving dishonesty
32 or fraud under the laws of the United States or this state,
33 or conviction of any similar crime under the laws of any
34 other state, if the underlying act or omission involved
35 would have constituted a crime under the laws of this
36 state;

37 (9) Any conduct adversely affecting the licensee's,
38 endorsee's, certificate holder's or certificate of authoriza-
39 tion holder's fitness to perform surveying or underground
40 surveying services; or

41 (10) Knowingly using any false or deceptive statements
42 in advertising.

43 (b) If the board suspends, revokes, refuses to issue,
44 refuses to renew or limits any license, endorsement,
45 certificate, certificate of authorization or practice privi-
46 lege, the board shall make and enter an order to that effect
47 and give written notice of the order to the person by
48 certified mail, return receipt requested, which order shall
49 include a statement of the charges setting forth the reasons
50 for the action, and notice of the date, time and place of the
51 hearing. If a license, endorsement, certificate or certificate
52 of authorization is ordered suspended or revoked, then the
53 licensee, endorsee, certificate holder or certificate of
54 authorization holder shall, within twenty days after
55 receipt of the order, return the license, endorsement,
56 certificate or certificate of authorization to the board. The
57 hearing shall be held in accordance with the provisions of
58 this article.

59 (c) Disciplinary action includes, but is not limited to, a
60 reprimand, censure, probation, administrative fines, and
61 mandatory attendance at continuing education seminars.

§30-13A-30. Hearing and judicial review.

1 (a) Any person adversely affected by an order entered by
2 the board is entitled to a hearing. A hearing on a state-
3 ment of the charges shall be held in accordance with the
4 provisions for hearings set forth in section eight, article
5 one of this chapter and the procedures specified by the
6 board by rule.

7 (b) Any licensee, endorsee, certificate holder or certifi-
8 cate of authorization holder, adversely affected by any
9 decision of the board entered after a hearing, may obtain
10 judicial review of the decision in accordance with section
11 four, article five, chapter twenty-nine-a of this code and
12 may appeal any ruling resulting from judicial review in
13 accordance with article five, chapter twenty-nine-a of this
14 code.

§30-13A-31. Reinstatement.

1 If the board has suspended, revoked or refused to renew
2 a license, endorsement, certificate or certificate of authori-
3 zation, the licensee, endorsee, certificate holder or certifi-
4 cate of authorization holder shall be afforded an opportu-
5 nity to demonstrate his, her or its qualifications to resume
6 practice. The application for reinstatement shall be in
7 writing and subject to the procedures specified by the
8 board.

§30-13A-32. Unlawful acts.

1 (a) It is unlawful for any person to practice or offer to
2 practice surveying or underground surveying in this state
3 without a license or endorsement issued under the provi-
4 sions of this article, or advertise or use any title or descrip-
5 tion tending to convey the impression that they are a
6 licensed surveyor or an endorsed underground surveyor,

7 unless such person has been duly licensed or endorsed
8 under the provisions of this article.

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

§30-13A-33. Injunctions.

1 (a) When, by reason of an investigation under this article
2 or otherwise, the board or any other interested person
3 believes that a person has violated or is about to violate
4 any provision of this article, any rule promulgated hereun-
5 der, any order of the board or any final decision of the
6 board, the board or any other interested person may apply
7 to any court of competent jurisdiction for an injunction
8 against such person enjoining such person from the
9 violation. Upon a showing that the person has engaged in
10 or is about to engage in any prohibited act or practice, an
11 injunction, restraining order or other appropriate order
12 may be granted by the court without bond.

13 (b) The board may fine and issue cease and desist orders
14 against individuals or firms found to be in violation of the
15 provisions of this article or any rule adopted thereunder.

16 (c) A cause of action by the board may be brought in the
17 circuit court of the county where the board's office is
18 located or in the circuit court of the county where the
19 cause of action took place.

§30-13A-34. 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
3 has knowingly violated the provisions of this article, the

4 board may bring its information to the attention of the
5 relevant county prosecuting attorney or other appropriate
6 law-enforcement officer who may cause appropriate
7 criminal proceedings to be brought.

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

§30-13A-35. Single act evidence of practice.

1 In any action brought or in any proceeding initiated
2 under this article, evidence of the commission of a single
3 act prohibited by this article is sufficient to justify a
4 penalty, injunction, restraining order or conviction
5 without evidence of a general course of conduct.

§30-13A-36. Exemption from licensing and regulation.

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

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

11 (2) Any employee or officer of the United States, this
12 state or any political subdivision thereof, or their agents,
13 when such employee is engaged in the practice of land
14 surveying exclusively for such governmental unit.

15 (b) The minimum standards for boundary surveys
16 contained in section twenty-six of this article apply,
17 notwithstanding the exemptions provided by this section.

§30-13A-37. Continuation of board.

1 The West Virginia board of professional surveyors shall
2 continue to exist, pursuant to the provisions of article ten,
3 chapter four of this code, until the first day of July, two
4 thousand six, unless sooner terminated, continued or
5 reestablished pursuant to the provisions of that article.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within is approved this the 6th
Day of April, 2004.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR
DATE 3.31.04
TIME 10.45 AM