

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1447

S. P. 550

In Senate, March 8, 1967

Referred to Committee on Legal Affairs. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Sewall of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT Providing for the Registration of Land Surveyors.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 32, c. 24, additional. Title 32 of the Revised Statutes is amended by adding a new chapter 24, to read as follows:

CHAPTER 24

LAND SURVEYORS

SUBCHAPTER I

GENERAL PROVISIONS

§ 1661. Purpose

In order to safeguard life, health and property, any person offering to practice land surveying shall be required to submit evidence that he is qualified to so practice and shall be registered as provided.

It shall be unlawful for any person to offer to practice land surveying in the State, as defined in this chapter, or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a land surveyor, unless he has been duly registered as a land surveyor or exempted under this chapter. Admission to practice land surveying shall be determined upon the basis of personal qualifications.

§ 1662. Definitions

As used in this chapter, unless a difference meaning is plainly required by the context:

1. Land surveying. The term "land surveying" shall mean and include assuming responsible charge of or executing, or both, surveying of areas for correct determination, description and conveyancing; establishing corners, monuments, lines, boundaries and elevations and examination of land records; planning and platting of land parcels, including the functions of topography, subdivisions, grading, road layout and locating drainage points; defining and locating of corners, monuments, lines, boundaries and elevations of land after they have been established; and preparing maps, accurate records and descriptions thereof.

A person shall be deemed to practice or offer to practice land surveying, within the meaning and intent of this chapter, who engages in land surveying, or who by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself to be a land surveyor, or who represents himself as qualified to perform land surveying.

2. Land surveyor. The term "land surveyor" shall mean a person who, by reason of his knowledge of mathematics, the physical sciences and the rules of evidence and boundary law, acquired by education and practical experience, is qualified to engage in the practice of land surveying as defined.

3. Land surveyor-in-training. The term "land surveyor-in-training" shall mean a person who has been certified as such by the board and whose name has been entered with the board as a land surveyor-in-training.

§ 1663. Other legally recognized professions not affected

This chapter shall not be construed to affect or prevent the practice of any other legally recognized profession.

§ 1664. Public works

Any department or political subdivision of the State may engage in construction of any public work involving land surveying without procuring the services of a registered land surveyor, provided the contemplated expenditure for the completed project does not exceed \$5,000.

§ 1665. Exemptions

The following persons shall be exempt under this chapter:

1. Limited practice by nonresident. A person not a resident of and having no established place of business in this State, practicing or offering to practice herein land surveying when such practice does not exceed in the aggregate more than 30 days in any calendar year, provided such person is legally qualified by registration to practice the said profession in his state of residence or business in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter.

2. Certain employees. Any employee or subordinate of a person holding a certificate of registration under this chapter, or an employee of a person exempted from registration by this subsection and subsection 1, provided his practice does not include responsible charge of land surveying.

3. United States Government employees. Officers and employees of the Government of the United States while engaged within this State in the practice of land surveying for said government.

4. Interstate commerce corporation employee. An officer or employee of a corporation engaged in interstate commerce as defined in the Act of Congress entitled "An Act to Regulate Commerce" approved February 4, 1887, as amended, or in interstate communication as defined in the Act of Congress entitled "Communications Act of 1934" approved June 9, 1934, while working solely as an employee of such corporation, provided an officer or employee of such corporation customarily in responsible charge of the surveying work of such corporation within this State shall be a registrant under this chapter.

§ 1666. Violations

Any person who shall offer to practice land surveying in this State without being registered or exempted in accordance with this chapter, or any person presenting or attempting to use as his own the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked certificate of registration or any person who shall violate any of the provisions of this chapter as they relate to the practice of land surveying shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500, or by imprisonment for not more than 3 months, or by both.

It shall be the duty of all duly constituted law enforcement officers of the State or any political subdivision thereof to enforce this chapter and to prosecute any persons violating the same. The Attorney General or his assistant shall act as legal advisor of the board and render such legal assistance as may be necessary in carrying out this chapter.

SUBCHAPTER II

STATE BOARD OF REGISTRATION

§ 1671. Appointment; terms

The State Board of Registration for Land Surveyors, in this chapter called the "board," is established and shall administer this chapter. The board shall consist of 5 land surveyors, who shall be appointed by the Governor, with the advice and consent of the Council, from persons who shall have the qualifications required by section 1672.

On the expiration of the term of any member, the Governor shall, in the manner provided, appoint for a term of 5 years a registered land surveyor having the qualifications required by section 1672 to take the place of the member whose term on said board is about to expire. Each member shall hold office until the expiration of the term for which he is appointed or until his successor shall have been duly appointed and shall have qualified. Initial appointments shall be for terms of 1, 2, 3, 4 and 5 years respectively.

§ 1672. Qualifications

Each member of the board shall be a citizen of the United States and a resident of this State, and all appointed members shall have been engaged in the practice of the profession of land surveying for at least 10 years and shall have been in responsible charge of land surveying work. Responsible charge of teaching land surveying may be construed as responsible charge of land surveying work.

§ 1673. Compensation and expenses

No member of the board, except as provided in section 1677, shall receive any compensation for his services as a member of the board, but shall be reimbursed for all actual traveling and incidental expenses necessarily incurred in carrying out this chapter. No clerical expenses shall be allowed any member of the board except as provided in section 1677.

§ 1674. Removal, vacancies

The Governor, with the advice and consent of the Council, may remove any member of the board for misconduct, incompetency, neglect of duty or for any other sufficient cause. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the Governor as provided in section 1671.

§ 1675. Organization and meetings

The board shall hold at least 2 regular meetings each year. Special meetings shall be held at such time as the bylaws of the board may provide. Notice of all meetings shall be given in such manner as the bylaws may provide.

The board shall elect or appoint annually a chairman, a vice-chairman and a secretary. A quorum of the board shall consist of not less than 3 members.

§ 1676. Powers

The board shall have the power to make all bylaws and rules, not inconsistent with this chapter, which may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall adopt and have an official seal.

In administering this chapter, the board may, under the hand of its chairman and the seal of the board, subpoena witnesses and compel their attendance, and may require the production of books, records, papers and documents, in a case involving the revocation of certificates of registration as a land surveyor or a certificate as a land surveyor-in-training or a case of practicing or offering to practice land surveying without registration.

Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued or shall refuse to testify or produce any books, papers or documents, the board may present its complaint to the Superior Court, setting forth the facts and thereupon such court shall, in a proper case, issue its subpoena to such person, requiring his attendance before such court and there to testify or to

produce such books, papers and documents as may be deemed necessary and pertinent by the court. Any person failing or refusing to obey the subpoena or order of the said court may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the court.

§ 1677. Receipts and disbursements

The secretary of the board shall receive and account for all moneys derived under this chapter and shall pay the same to the Treasurer of State, who shall keep such moneys in a separate fund to be known as the "Land Surveyors Fund." The secretary of the board shall receive a salary and allowance for clerical hire as recommended by the board, in addition to the expenses provided for in section 1673.

The board may make other expenditures from this fund, upon itemized vouchers approved by the chairman of the board, which in the opinion of the board are reasonably necessary for the proper performance of its duties under this chapter.

§ 1678. Records and reports

The board shall keep a record of its proceedings and a register of all applications for certificates as land surveyor-in-training, and a register of all applications for certificates as land surveyors, which register shall show:

1. Name, age, residence. The name, age and residence of each applicant;
2. Date of application. The date of application;
3. Place of business. The place of business of such applicant;
4. Qualifications. His educational and other qualifications;
5. Examination. Whether or not an examination was required;
6. Rejection. Whether the applicant was rejected;
7. Certificate. Whether a certificate as land surveyor-in-training or a certificate as registered land surveyor was granted;
8. Date of board's action. The date of the action of the board; and
9. Other information. Such other information as may be deemed necessary by the board.

The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

Not later than August 1st of each year, the board shall submit to the Governor a report of its transactions of the preceding fiscal year ending June 30th and shall transmit to him a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

§ 1679. Rosters of land surveyors

Rosters showing the names and places of business of all registered land surveyors shall be prepared by the secretary of the board during the month of January of each year. Copies of these rosters shall be mailed to each person so registered, placed on file with the Secretary of State and clerk of courts and register of deeds of each county and furnished to the public upon request.

SUBCHAPTER III REGISTRATION

§ 1681. Qualifications

To be eligible for registration as a land surveyor, an applicant must show, to the satisfaction of the board, that he is a person of good character and reputation; and shall submit, with his application for registration as a land surveyor, references furnished from 5 persons having personal knowledge of work done by the applicant, at least 2 of whom shall have professional knowledge of his work.

The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a land surveyor:

1. Registration by endorsement. A person holding a certificate of registration to engage in the practice of land surveying issued to him on the basis of a written examination by proper authority of a state, territory, possession of the United States, the District of Columbia or of any foreign country, based on requirements and qualifications, as shown by his application which, in the opinion of the board, are equal to or higher than the requirements of this chapter, may be registered at the discretion of the board.

2. Education, experience and examination. A person who has completed a surveying curriculum approved by the board, followed by at least 3 years of land surveying experience of a character satisfactory to the board; and who shall have passed a written examination designed by the board to show that he is qualified to practice land surveying, shall be granted a certificate of registration in this State, provided he is otherwise qualified.

3. Experience and examination. An applicant having 5 years or more of active experience in land surveying of a character satisfactory to the board, and who shall have passed a written examination designed by the board to show that he is qualified to practice land surveying, shall be granted a certificate of registration in this State, provided he is otherwise qualified.

§ 1682. Qualifications as a land surveyor-in-training

As a land surveyor-in-training, the following shall be considered as minimum evidence that the applicant is qualified for certification as a land surveyor-in-training:

1. Certification by endorsement. A person holding a certificate as a land surveyor-in-training, issued to him by proper authority of a state, territory or possession of the United States, the District of Columbia or of any foreign

country, who, in the opinion of the board, meets the requirements of this chapter and provided he submits evidence satisfactory to the board that issuance of such certificate was made under qualifications substantially equivalent to those specified in this chapter for such certification, may, upon application, be certified or enrolled as a land surveyor-in-training.

2. Experience and examination. A person who has completed a surveying curriculum approved by the board or who has had experience satisfactory to the board and who has passed the board's written examination in fundamentals of land surveying shall be certified, or enrolled, as a land surveyor-in-training, if he is otherwise qualified.

3. Land surveyor-in-training certification. The certification or enrollment of a land surveyor-in-training shall be valid for a period of 5 years.

§ 1683. Registration of a land surveyor

Any person eligible for registration who, within 2 years after the effective date of this Act, files with his application for registration as a land surveyor his affidavit stating that he has engaged in land surveying prior to the effective date of this Act, and includes in the affidavit evidence of his land surveying experience satisfactory to the board, may, upon payment of the total fee, be eligible for registration as a land surveyor, without written examination, and may be registered by the board provided he is otherwise qualified. Any person applying for registration under this section shall submit, with his application, references as stated in section 1681.

§ 1684. Registration although not practicing

Any person having the necessary qualifications prescribed in this chapter to entitle him to registration shall be eligible for such registration though he may not be practicing land surveying at the time of making his application.

§ 1685. Application and fees

Application for registration or certification shall be on forms prescribed and furnished by the board, to be signed and sworn to by the applicant. They shall contain statements made under oath, showing the applicant's education, a detailed summary of his technical experience and other pertinent information, and shall contain references as set forth in section 1681, none of whom may be members of the board. Applications shall be filed with the secretary of the board.

1. Land surveyor. The registration fee for land surveyors shall be established by the board in an amount not to exceed \$25, $\frac{1}{2}$ of which shall accompany the application, except for registration under section 1683, in which case the fee shall be not more than \$10 and shall all accompany the application.

2. Land surveyor-in-training. The fee for land surveyor-in-training certification or enrollment shall be established by the board in an amount not to exceed $\frac{1}{2}$ of the registration fee for land surveyors, and shall accompany the application. The fee paid by an applicant for certification or enrollment as a land surveyor-in-training shall be credited as the initial payment if and when application is made for registration as a land surveyor.

If the board denies the issuance of a certificate to any applicant, the fee paid shall be retained as an application fee.

§ 1686. Examinations

Written examinations shall be held at such times and places as the board shall determine.

The passing grade on any examination shall not be less than 70%. A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board. Any candidate for registration having an average grade of less than 50% may not apply for reexamination for one year.

§ 1687. Certificates; seals

The board shall issue a certificate of registration, upon payment of registration fee as provided in this chapter, to any applicant who, in the opinion of the board, has satisfactorily met the requirements of this chapter. The certificate shall authorize the practice of "land surveying."

Certificates of registration shall show the full name of the registrant, shall have a serial number and shall be signed by the chairman and the secretary of the board under seal of the board.

The issuance of a certificate of registration by the board shall be evidence that the person named therein is entitled to all the rights and privileges of a registered land surveyor or land surveyor-in-training while the said certificate remains unrevoked or unexpired.

Each registrant upon registration may obtain a seal of the design authorized by the board, bearing the registrant's name and the legend "registered land surveyor."

Plans, descriptions, reports, all maps, plats or other drawings issued by a registered land surveyor shall be stamped with the said respective seal, as prescribed in the rules of the board, during the life of the registrant's certificate, but it shall be unlawful for anyone to stamp or seal any document with said respective seal after the certificate of the registrant named thereon has expired or has been suspended or revoked, unless said certificate shall have been renewed or reissued.

It shall be unlawful for a registered land surveyor to offer for filing or recording to the register of deeds of any county or any proper public authority any map, plat, survey or other document within the definition of land surveying, which does not have thereon the personal signature and seal of a registered land surveyor under whose direction the map, plat, survey, plan, description, report or other document was prepared.

§ 1688. Revocation and reissuance

The board shall have the power to revoke the certificate of a registered land surveyor or of a land surveyor-in-training who is found guilty of;

1. Fraud or deceit. The practice of any fraud or deceit in obtaining a certificate of registration as land surveyor or a certificate as a land surveyor-in-training.

2. Negligence, misconduct, etc. Any gross negligence, incompetency or misconduct in the practice of land surveying as a registered land surveyor or as a land surveyor-in-training.

Any person may prefer charges of fraud, deceit, gross negligence, incompetency or misconduct against any registered land surveyor or any land surveyor-in-training. Such charges shall be in writing, and shall be sworn to by the person making them and shall be filed with the secretary of the board.

All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within 3 months after the date on which they shall have been preferred.

The time and place for said hearing shall be fixed by the board and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or sent by registered mail to the last known address of such registrant, at least 30 days before the date set for the hearing. At any hearing, the accused land surveyor or land surveyor-in-training shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him and to produce evidence and witnesses in his own defense.

If, after such hearing, 4 or more members of the board vote in favor of finding the accused guilty, the board shall suspend or revoke the certificate of registration of such registered land surveyor or certificate of such land surveyor-in-training.

The board, for reasons it may deem sufficient, may reissue a certificate of registration as a land surveyor or a certificate of registration as a land surveyor-in-training to any person whose certificate has been revoked, provided 3 or more members of the board vote in favor of such reissuance. A new certificate of registration as a land surveyor or a certificate as a land surveyor-in-training to replace any certificate revoked, lost, destroyed or mutilated may be issued, subject to the rules of the board, and a charge set by the board shall be made for such issuance.

§ 1689. Expiration and renewals

Certificates of registration for land surveyors shall expire on the last day of December following their issuance or renewal and shall be come invalid on that date unless renewed. Renewal may be effected at any time during the month of December by the payment of the fee designated by the board, not to exceed \$5.

§ 1690. Exemptions from expiration and renewal fees

Any person holding a valid certificate of registration under this chapter on the date of entering employment in the Armed Forces of the United States during a period of war or employment in any wartime service outside of continental United States, governmental or otherwise, under the United States or any of its allied nations, shall be exempt, for the duration of such employment, from

the payment of all renewal fees and his certificate of registration shall remain in full force and effect until the next regular date following the termination of of such employment.

§ 1691. Firms, partnerships, corporations and joint stock associations

A firm, copartnership, corporation or joint stock association may practice, or offer to practice, land surveying in this State provided such practice of land surveying is carried on by land surveyors registered in this State.

Sec. 2. R. S., T. 5, § 151, amended. The first sentence of section 151 of Title 5 of the Revised Statutes is amended to read as follows:

All money received by the Treasurer of State from the Board of Registration in Medicine, the Board of Examiners in Physical Therapy, the Board of Examiners of Psychologists, the State Board of Nursing, the Board of Examiners of Applicants for Admission to the Bar, the Board of Accountancy, the Board of Veterinary Examiners, the Board of Osteopathic Examination and Registration, the Board of Examiners of Funeral Directors and Embalmers, the State Board of Registration and Examination in Optometry, the Board of Dental Examiners, the State Board of Registration for Professional Engineers, the State Board of Architects, the Electricians' Examining Board, the Oil Burner Men's Licensing Board, the State Board of Barbers, State Board of Hairdressers, **State Board of Registration for Land Surveyors**, the Examiners of Podiatrists, the Board of Chiropractic Examination and Registration and the Board of Commissioners of the Profession of Pharmacy shall constitute a fund, which shall be a continuous carrying account for the payment of the compensation and expenses of the members, the expenses of the board and for executing the law relating to each board respectively, and so much thereof as may be required is appropriated for said purposes.