

# MAINE STATE LEGISLATURE

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L.D. 693  
(Filing No. H-311 )

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
114TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 513, L.D. 693, Bill, "An Act to Reform the Maine Board of Professional Surveyors Law"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 5 MRSA §12004-A, sub-§21, as enacted by PL 1987, c. 786, §5, is amended to read:

21. ~~State-Board-of-Regis-~~ Expenses-Only 32 MRSA §1671  
~~tration Board of Licensure~~ \$35/Day §13902  
for Professional Land  
Surveyors

Sec. 2. 32 MRSA, c. 24, as amended, is repealed.

Sec. 3. 32 MRSA, c. 119 is enacted to read:

CHAPTER 119

PROFESSIONAL LAND SURVEYORS

§13901. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Board. "Board" means the Board of Licensure for Professional Land Surveyors.

2. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

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3. Department. "Department" means the Department of Professional and Financial Regulation.

4. Professional land surveyor. "Professional land surveyor" means any person who has been licensed as a professional land surveyor by the board.

5. Professional land surveyor-in-training. "Professional land surveyor-in-training" means any person who has been licensed as a professional land surveyor-in-training by the board.

6. Practice of land surveying. "Practice of land surveying" means any service or work involving the application of special knowledge of the rules of evidence and boundary laws, principles of mathematics and the related physical and applied sciences for measuring and locating lines, angles, elevations, natural and man-made features in the air, on the surface of the earth, within underground workings and on the beds of bodies of water. This service or work shall be for the purposes of determining areas and volumes, for the monumenting of property boundaries and for the platting and layout of lands and subdivisions of land, including topography, alignment and grades of streets and for the preparation and perpetuation of maps, record plats, field note records and property descriptions that represent these surveys.

A person shall be deemed to practice or offer to practice land surveying within the meaning and intent of this chapter if that person engages in land surveying or by verbal claim, sign, advertisement, letterhead, card or in any other way makes a representation that the person is a professional land surveyor or makes a representation that the person is able to perform or does perform any land surveying service or work or any other service designated by the practitioner that is recognized as land surveying.

7. Responsible charge. "Responsible charge" means direct control and personal supervision of land surveying.

§13902. Board of Licensure for Professional Land Surveyors: establishment; compensation

1. Establishment and membership. As established in Title 5, section 12004-A, the Board of Licensure for Professional Land Surveyors shall exist within the Department of Professional and Financial Regulation. The board shall consist of 7 members appointed by the Governor, of which 5 shall be professional land surveyors and 2 shall be public members. Each member of the board shall be a citizen of the United States and a resident of this State, and all land surveyor members shall be licensed professional land surveyors and shall have been licensed as

1 professional land surveyors for not less than 10 years. A public  
2 member may not be or have been a professional land surveyor.

3  
4 2. Terms of appointment; removal. Appointments shall be  
5 for 5-year terms, except that no more than one land surveyor  
6 member's term may expire in any one calendar year and  
7 appointments for terms of less than 5 years may be made in order  
8 to comply with this limitation. No person may be eligible to  
9 serve more than 2 full consecutive terms, provided that for this  
10 purpose only a period actually served which exceeds 1/2 of the  
11 5-year term shall be deemed a full term. Upon expiration of a  
12 member's term, the member shall serve until that member's  
13 successor is qualified and appointed. The successor's term shall  
14 be 5 years from the date of that expiration, regardless of the  
15 date of the appointment.

16  
17 The Governor may remove any member of the board for cause.  
18 Vacancies in the membership of the board shall be filled for the  
19 unexpired term by appointment by the Governor.

20  
21 3. Compensation. Members of the board shall be compensated  
22 as provided in Title 5, chapter 379.

23  
24 4. Meetings; officers; quorum; seal. The board shall meet  
25 at least once a year to conduct its business and to elect its  
26 officers. Additional meetings shall be held as necessary to  
27 conduct the business of the board and may be convened at the call  
28 of the chair or a majority of the board members.

29  
30 The board shall elect or appoint annually a chair, a vice-chair  
31 and a secretary. A quorum of the board shall consist of not less  
32 than 4 members. The board may adopt and have an official seal.

33 §13903. Board of Licensure of Professional Land Surveyors;  
34 powers and duties

35  
36 1. Powers. The board shall administer and enforce this  
37 chapter and evaluate the qualifications of applicants for  
38 licensing. The board may examine witnesses and administer oaths  
39 and shall investigate or cause to be investigated any complaints  
40 made to it of any cases of noncompliance with or violations of  
41 this chapter.

42  
43 2. Rules. The board may, in accordance with procedures  
44 established by the Maine Administrative Procedure Act, Title 5,  
45 chapter 375, adopt rules as may be reasonably necessary for the  
46 proper performance of its duties and the administration of this  
47 chapter.

48  
49 3. Hearings. Hearings may be conducted by the board to  
50 assist with investigations to determine whether grounds exist for  
51 nonrenewal, suspension, revocation or denial of a license, or

1 other disciplinary action as necessary to the fulfillment of its  
2 responsibilities under this chapter.

3  
4 4. Contracts. The board may enter into contracts to carry  
5 out its responsibilities under this chapter.

6  
7 5. Employees. With the advice of the board, the  
8 commissioner may appoint, subject to the Civil Service Law, such  
9 employees as may be necessary to carry out this chapter. Any  
10 person so employed shall be located in the department and under  
11 the administrative and supervisory direction of the commissioner.

12  
13 6. Records; report. The board shall keep records and  
14 minutes as are necessary to the ordinary dispatch of its  
15 functions. On or before August 1st of each year, the board shall  
16 submit to the commissioner, for the preceding year ending June  
17 30th, its annual report of its operations and financial position,  
18 together with comments and recommendations as the board deems  
19 essential.

20  
21 7. Budget. The board shall submit to the commissioner its  
22 budgetary requirements in the same manner as is provided in Title  
23 5, section 1665.

24 **§13904. Licensing**

25  
26  
27 1. License required. No person may practice land surveying  
28 or profess to be a professional land surveyor or professional  
29 land surveyor-in-training unless the person is licensed in  
30 accordance with this chapter.

31  
32 2. Individual licenses. Only an individual may be licensed  
33 under this chapter.

34  
35 3. Penalty. A person who violates this section is guilty  
36 of a Class E crime.

37 **§13905. Requirements for licensing**

38  
39  
40 1. Professional land surveyor-in-training licensing. An  
41 applicant for licensing as a professional land  
42 surveyor-in-training shall file a written application on forms  
43 provided by the board, showing to the satisfaction of the board  
44 that the applicant meets the following requirements.

45  
46 A. A college graduate with a baccalaureate degree, which  
47 shall include a minimum surveying core curriculum approved  
48 by the board, who has passed a written examination in the  
49 fundamentals of land surveying shall be licensed as a  
50 professional land surveyor-in-training, if the applicant is  
51 otherwise qualified.

1           B. A college graduate with an associate degree, which shall  
3           include a minimum surveying core curriculum approved by the  
5           board, who has had 2 years of surveying experience  
7           acceptable to the board and has passed a written examination  
          in the fundamentals of land surveying shall be licensed as a  
          professional land surveyor-in-training, if the applicant is  
          otherwise qualified.

9           C. A person who has completed a minimum surveying core  
11          curriculum approved by the board, has had 6 years of  
13          surveying experience acceptable to the board, and has passed  
15          a written examination in the fundamentals of land surveying  
          shall be licensed as a professional land  
          surveyor-in-training, if the applicant is otherwise  
          qualified.

17          D. A person who has had 7 years of surveying experience  
19          acceptable to the board and has passed a written examination  
21          in the fundamentals of land surveying shall be licensed as  
          a professional land surveyor-in-training, if the applicant  
          is otherwise qualified.

23          E. A person holding a license as a surveyor-in-training  
25          issued on comparable qualifications from a state, territory  
27          or possession of the United States with experience  
29          satisfactory to the board shall be given comity  
          consideration. The applicant may be required to take  
          examinations as the board determines necessary to determine  
          the applicant's qualifications.

31          F. Any person certified as a land surveyor-in-training on  
33          the effective date of this section shall be allowed to  
35          continue in that capacity until the certification is due for  
37          renewal. At that time and upon payment of the appropriate  
          fee, the person shall be granted a license as a professional  
          land surveyor-in-training, notwithstanding any other  
          requirement of this section.

39          G. Any person whose application for certification as a land  
41          surveyor-in-training has been received by the board before  
43          the effective date of this legislation shall come under the  
45          licensure provisions of the law then in effect. This  
          provision shall also include any person who had submitted  
          and had approved by the board in writing a minimum course of  
          study to satisfy the licensing requirements then in effect.

47          2. Professional land surveyor's licensing. An applicant  
49          for licensing as a professional land surveyor shall file a  
51          written application on forms provided by the board, showing to  
          the satisfaction of the board that the applicant meets the  
          following requirements.

1           A. A professional land surveyor-in-training with a specific  
3           record of 2 additional years of progressive combined office  
5           and field experience satisfactory to the board which shall  
7           have been under the supervision of a professional land  
9           surveyor shall be admitted to a written examination in the  
          principles and practice of land surveying. Upon passing the  
          examination, the applicant shall be granted a license to  
          practice land surveying in this State, provided the  
          applicant is otherwise qualified.

11           B. A person holding a license as a professional land  
13           surveyor issued on comparable qualifications from a state,  
15           territory or possession of the United States with experience  
17           satisfactory to the board shall be given comity  
          consideration. The applicant may be required to take  
          examinations as the board determines necessary to determine  
          the applicant's qualifications.

19           C. Persons registered on the effective date of this section  
21           shall be allowed to continue to practice land surveying  
23           until their registration is due for renewal. At that time,  
          they shall be granted a license to practice, notwithstanding  
          any other requirement of this section.

25           D. Any person whose application for registered land  
27           surveyor has been received by the department before the  
29           change in law becomes effective shall come under the  
31           licensure provisions of the law then in effect. This  
          provision shall also include any person who had submitted  
          and had approved by the board in writing a minimum course of  
          study to satisfy the licensing requirements then in effect.

33           §13906. Examinations

35           Written examinations shall be held at times and places as  
37           the board determines.

39           The passing grade on any examination shall be established by  
41           the board. A candidate failing one examination may apply for  
          reexamination, which may be granted upon payment of a fee  
          established by the board.

43           §13907. License; seals; stamps

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

51           The issuance of a license by the board shall be evidence  
          that the person named in the license is entitled to all the

1 rights and privileges of a licensed professional land surveyor or  
2 professional land surveyor-in-training while the license remains  
3 unrevoked or unexpired.

5 Each applicant upon licensing shall obtain a seal of the  
6 design authorized by the board, bearing the licensee's name and  
7 the legend "licensed professional land surveyor" or "professional  
8 land surveyor-in-training."

9  
10 All plans, descriptions, reports, maps, plats or other  
11 drawings issued by a licensed professional land surveyor or  
12 professional land surveyor-in-training shall be stamped with the  
13 respective seal and signature, as prescribed in the rules of the  
14 board, during the life of the licensee's license. If an item  
15 bearing the seal of a professional land surveyor or professional  
16 land surveyor-in-training is altered, the altering professional  
17 land surveyor or professional land surveyor-in-training shall  
18 affix to the item that altering surveyor's seal, the notation  
19 "altered by" followed by the signature of that altering surveyor,  
20 the date of the alteration and a specific description of the  
21 alteration. No official of this State, or of any city, county,  
22 town or village in the State, charged with the enforcement of  
23 laws, rules, ordinances or regulations may accept or approve any  
24 plans or other documents, prepared within the meaning and intent  
25 of this chapter, that are not stamped and sealed by the licensed  
26 professional land surveyor or professional land  
27 surveyor-in-training under whose direct supervision they were  
28 completed.

29 **§13908. Term of license**

30  
31  
32 1. Biennial renewal. Licenses shall expire on the last day  
33 of December or such other time as the commissioner designates.  
34 The department shall mail renewal notices to all licensees at  
35 least one month in advance of the date of expiration.

36  
37 Licenses may be renewed up to 90 days after the date of  
38 expiration upon payment of a late fee of \$10 in addition to the  
39 renewal fee. Any person who submits an application for renewal  
40 more than 90 days after the licensure renewal date shall be  
41 subject to all requirements governing new applicants under this  
42 chapter, except that the board may waive examination, giving due  
43 consideration to the protection of the public.

44  
45 2. Refusal to renew license. The board shall hold an  
46 adjudicatory hearing at the written request of any person who is  
47 denied a license without a hearing for any reason other than  
48 failure to pay a required fee, provided the request for hearing  
49 is received by the board within 30 days of the applicant's  
50 receipt of written notice of the denial and the right of the  
51 applicant to request a hearing. Hearings shall be conducted in  
conformity with the Maine Administrative Procedure Act, Title 5.



1 chapter 375. To the extent applicable, the board may subpoena  
2 witnesses, records and documents in any hearing it conducts.

3  
4 3. Exemptions from expiration and renewal fees. Any person  
5 holding a valid license under this chapter on the date of  
6 entering employment in the Armed Forces of the United States  
7 during a period of war or employment in any wartime service  
8 outside the continental United States or any of its allied  
9 nations shall be exempt, for the duration of that employment,  
10 from the payment of all renewal fees and that person's license  
11 shall remain in effect until the next regular expiration date  
12 following the termination of that employment.

13 §13909. Disciplinary actions

14  
15 1. Complaints. The board shall, upon receipt of a written,  
16 signed complaint within its jurisdiction or upon its own motion,  
17 investigate and conduct a hearing on the violation by any person  
18 of any provision of this chapter or any rule adopted by the board.

19  
20 2. Enforcement powers. The board may take one or more of  
21 the actions stipulated under Title 10, section 8003, subsection 5.

22  
23 3. Disciplinary actions; grounds. The following are  
24 grounds for disciplinary action:

25  
26 A. The practice of fraud or deceit in obtaining a license  
27 under this chapter or in connection with service rendered  
28 within the scope of the license issued;

29  
30 B. Engaging in unprofessional conduct. A licensee engages  
31 in unprofessional conduct if the licensee violates any  
32 standard of professional behavior that reflects negligence,  
33 incompetency or misconduct in the practice of land surveying;

34  
35 C. Subject to the limitations of Title 5, chapter 341,  
36 conviction of a crime which involves dishonesty or false  
37 statement or that relates directly to the practice for which  
38 the individual is licensed or convicted of any crime for  
39 which imprisonment for one year or more may be imposed; or

40  
41 D. Any violation of this chapter or rules adopted by the  
42 board.

43  
44 4. Reinstatement. An application for reinstatement may be  
45 made to the board after one year from the date of revocation of a  
46 license. The board may reissue a license provided that 4 or more  
47 members of the board vote in favor of reinstatement.

48 §13910. Fees

49  
50  
51

1           1. Amount. Application for licensure shall be on forms  
2           prescribed and furnished by the board, to be signed and sworn to  
3           by the applicant. The application shall contain statements made  
4           under oath, showing the applicant's education, a detailed summary  
5           of the applicant's technical experience and other pertinent  
6           information. Applications shall be filed with the secretary of  
7           the board. An application fee and an examination fee may be  
8           established by the board in amounts which are reasonable and  
9           necessary for their respective purposes.

11           A. The licensure and renewal fees for professional land  
12           surveyors shall be established by the board in an amount not  
13           to exceed \$200 biennially.

15           B. The license and renewal fees for professional land  
16           surveyors-in-training shall be established by the board in  
17           an amount not to exceed \$100 biennially.

19           2. Deposit of fees. All fees received by the board shall  
20           be paid to the Treasurer of State to be used for carrying out  
21           this chapter. Any balance of fees shall not lapse, but shall be  
22           carried forward as a continuing account to be expended for the  
23           same purposes in the following years.

25           §13911. Firms; partnerships; corporations; joint stock  
26           associations

27           A firm, partnership, corporation or joint stock association  
28           may practice, or offer to practice, land surveying in this State  
29           provided that the practice of land surveying is performed by the  
30           professional land surveyors licensed in this State.

33           §13912. Exemptions

35           This chapter may not be construed to prevent the practice by:

37           1. Other professions. Any person licensed in this State  
38           under any other provision of law from engaging in the practice  
39           for which the person is licensed;

41           2. Federal Government employees. Officers and employees of  
42           the Federal Government while engaged within this State in the  
43           practice of land surveying for the Federal Government; or

45           3. Interstate commerce corporation employees. An officer  
46           or employee of a corporation engaged in interstate commerce as  
47           defined in the Act of Congress entitled "An Act to Regulate  
48           Commerce" approved February 4, 1887, as amended, or in interstate  
49           communication as defined in the Act of Congress entitled  
50           "Communications Act of 1934" approved June 9, 1934, while working  
51           solely as an employee of that corporation, provided an officer or  
          employee of that corporation customarily in responsible charge

1 of the surveying work of that corporation within this State shall  
2 be licensed under this chapter.

3  
4 **Sec. 4. Transition provisions.** The following provisions shall  
5 apply to the transition required by this Act.

6  
7 1. All liabilities and assets shall transfer from the State  
8 Board of Registration for Land Surveyors to the Board of  
9 Licensure for Professional Land Surveyors and the Department of  
10 Professional and Financial Regulation.

11  
12 2. All rules and procedures currently in effect and  
13 operations pertaining to any unit and which are in compliance  
14 with the provisions of this Act shall remain in effect until  
15 rescinded or amended as provided by state law.

16  
17 3. Members of the State Board of Registration for Land  
18 Surveyors who have been appointed to terms extending beyond the  
19 effective date of this Act shall continue to serve in their  
20 appointed terms of office under the Board of Licensure for  
21 Professional Land Surveyors.

22  
23 **Sec. 5. Allocation.** The following funds are allocated from  
24 Other Special Revenue to carry out the purposes of this Act.

|    |                                    |                |                |
|----|------------------------------------|----------------|----------------|
|    |                                    | <b>1989-90</b> | <b>1990-91</b> |
| 25 |                                    |                |                |
| 26 |                                    |                |                |
| 27 | <b>PROFESSIONAL AND FINANCIAL</b>  |                |                |
| 28 | <b>REGULATION, DEPARTMENT OF</b>   |                |                |
| 29 |                                    |                |                |
| 30 | <b>Board of Licensure for</b>      |                |                |
| 31 | <b>Professional Land Surveyors</b> |                |                |
| 32 |                                    |                |                |
| 33 | Positions                          | (1)            | (1)            |
| 34 | Personal Services                  | \$23,500       | \$25,000       |
| 35 |                                    |                |                |
| 36 |                                    |                |                |

37  
38  
39 **FISCAL NOTE**

40 This bill allocates \$23,500 in fiscal year 1989-90 and  
41 \$25,000 in fiscal year 1990-91 from Other Special Revenue to the  
42 Board of Licensure for Professional Land Surveyors within the  
43 Department of Professional and Financial Regulation. This bill  
44 also authorizes fee increases which will increase dedicated  
45 revenue to the board by \$53,585 annually.  
46

47  
48  
49 **STATEMENT OF FACT**

50 This amendment reduces requirements for licensure when  
51 compared with the original bill, clarifies the definition of the

COMMITTEE AMENDMENT "A" to H.P. 513, L.D. 693

1 practice of land surveying by including in the definition the  
knowledge of rules and evidence of boundary laws and allows  
3 anyone who files an application prior to the effective date of  
the legislation to qualify under existing law, even though the  
5 application may not be considered until after the new law becomes  
effective.

Reported by the Committee on Business Legislation  
Reproduced and distributed under the direction of the Clerk of the  
House  
5/25/89 (Filing No. H-311)