

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 693

H.P. 513

House of Representatives, March 8, 1989

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Reference to the Committee on Business Legislation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

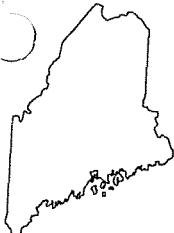
Presented by Representative ALLEN of Washington.

Cosponsored by Representative LIBBY of Kennebunk.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Reform the Maine Board of Professional Surveyors Law.



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

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

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

11 **Sec. 2. 32 MRSA, c. 24**, as amended, is repealed.

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

15 CHAPTER 119

17 PROFESSIONAL SURVEYORS

19 §13901. Definitions

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

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

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

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

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

35 5. Land surveyor-in-training. "Land surveyor-in-training"
37 means any person who has been licensed as such by the board.

39 6. Practice of land surveying. "Practice of land
41 surveying" means any service or work involving the application of
43 special knowledge of the principles of mathematics, the related
45 physical and applied sciences and the relevant requirements of
47 law for measuring and locating lines, angles, elevations, natural
49 and man-made features in the air, on the surface of the earth,
51 within underground workings and on the beds of bodies of water.
This shall be done for the purpose 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.

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

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

15 §13902. Board of Licensure for Professional Surveyors;
17 establishment; compensation

17 1. Establishment and membership. As established in Title
19 5, section 12004-A, the Board of Licensure for Professional
21 Surveyors shall exist within the Department of Professional and
23 Financial Regulation. The board shall consist of 7 members
25 appointed by the Governor, of which 5 shall be land surveyors and
27 2 shall be public members. Each member of the board must be a
citizen of the United States and a resident of this State, and
all land surveyor members must be licensed land surveyors and
must have been licensed as a land surveyor for not less than 10
years. A public member may not be or have been a professional
land surveyor.

29 2. Terms of appointment; removal. Appointments shall be
31 for 5-year terms, except that no more than one land surveyor
33 member's term may expire in any one calendar year and
35 appointments for terms of less than 5 years may be made in order
37 to comply with this limitation. No person may be eligible to
39 serve more than 2 full consecutive terms, provided that for this
41 purpose only a period actually served which exceeds 1/2 of the
43 5-year term shall be deemed a full term. Upon expiration of a
45 member's term, the member shall serve until that member's
47 successor is qualified and appointed. The successor's term shall
49 be 5 years from the date of that expiration, regardless of the
51 date of the appointment.

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

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

4. Meetings; officers; quorum; seal. The board shall meet
at least once a year to conduct its business and to elect its
officers. Additional meetings shall be held as necessary to
conduct the business of the board and may be convened at the call

1 of the chair or a majority of the board members.

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

7 **§13903. Board of Licensure of Professional Surveyors; powers and**
9 **duties**

11 1. Powers. The board shall administer and enforce this
13 chapter and evaluate the qualifications of applicants for
15 licensing. The board may examine witnesses and administer oaths
and shall investigate or cause to be investigated any complaints
made to it of any cases of noncompliance with or violations of
this chapter.

17 2. Rules. The board may, in accordance with procedures
19 established by the Maine Administrative Procedure Act, Title 5,
21 chapter 375, adopt such rules as may be reasonably necessary for
the proper performance of its duties and the administration of
this chapter.

23 3. Hearings. Hearings may be conducted by the board to
25 assist with investigations, to determine whether grounds exist
27 for nonrenewal, suspension, revocation or denial of a license, or
other disciplinary action as necessary to the fulfillment of its
responsibilities under this chapter.

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

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

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

45 7. Budget. The board shall submit to the commissioner its
47 budgetary requirements in the same manner as is provided in Title
49 5, section 1665.

51 **§13904. Licensing**

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

5 2. Individual licenses. Only an individual may be licensed
 under this chapter.

7
9 3. Penalty. A person who violates this section is guilty
 of a Class E crime.

11 §13905. Requirements for licensing

13 1. Surveyor-in-training licensing. An applicant for
15 licensing as a surveyor-in-training shall file a written
17 application on forms provided by the board, showing to the
 satisfaction of the board that the applicant meets the following
 requirements.

19 A. A graduate of land surveying curriculum of 4 years or
21 more approved by the board as being of satisfactory standing
23 shall be admitted to a written examination in the
25 fundamentals of land surveying. Upon passing the
 examination, the applicant shall be licensed as a
 surveyor-in-training, if the applicant is otherwise
 qualified.

27 B. A graduate of a related curriculum of 4 years or more,
29 which includes a minimum curriculum approved by the board,
31 and with a specific record of 2 years of combined office and
33 field experience in land surveying satisfactory to the board
35 shall be admitted to a written examination in the
 fundamentals of land surveying. Upon passing the
 examination, the applicant shall be licensed as a
 surveyor-in-training, if the applicant is otherwise
 qualified.

37 C. A graduate of a land surveying curriculum of 2 years or
39 more approved by the board as being of satisfactory standing
41 and with a specific record of 2 years of combined office and
43 field experience in land surveying satisfactory to the board
45 shall be admitted to a written examination in the
 fundamentals of land surveying. Upon passing the
 examination, the applicant shall be licensed as a
 surveyor-in-training, if the applicant is otherwise
 qualified.

47 D. A person with education in the form of a minimum
49 curriculum approved by the board and with a specific record
51 of 8 years of combined office and field experience in land
 surveying satisfactory to the board shall be admitted to a
 written examination in the fundamentals of land surveying.

1 E. A person holding a license as a surveyor-in-training
3 issued on comparable qualifications from a state, territory
5 or possession of the United States with experience
7 satisfactory to the board shall be given comity
9 consideration. The applicant may be required to take such
11 examinations as the board determines necessary to determine
13 the applicant's qualifications.

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

25 2. Professional surveyor's licensing. An applicant for
27 licensing as a professional surveyor shall file a written
29 application on forms provided by the board, showing to the
31 satisfaction of the board that the applicant meets the following
33 requirements.

35 A. A surveyor-in-training with a specific record of an
37 additional 4 years of combined office and field experience
39 satisfactory to the board in land surveying of which a
41 minimum of 3 years of progressive experience has been on
43 land surveying projects under the supervision of a
45 professional surveyor shall be admitted to a written
47 examination in the principles and practice of land
49 surveying. Upon passing the examination, the applicant
51 shall be granted a license to practice land surveying in
this State, provided the applicant is otherwise qualified.

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

C. Persons registered on the effective date of this section
shall be allowed to continue to practice land surveying
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.

§13906. Examinations

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

The passing grade on any examination shall be established by
the board. A candidate failing one examination may apply for

1 reexamination, which may be granted upon payment of a fee
3 established by the board.

5 **§13907. License; seals; stamps**

7 The board shall issue a license, upon payment of a license
9 fee as provided in this chapter, to any applicant who, in the
11 opinion of the board, has satisfactorily met the requirements of
13 this chapter. The license shall authorize the practice of "land
15 surveying."

17 The issuance of a license by the board shall be evidence
19 that the person named in the license is entitled to all the
21 rights and privileges of a licensed professional surveyor or
23 surveyor-in-training while the license remains unrevoked or
25 unexpired.

27 Each applicant upon licensing shall obtain a seal of the
29 design authorized by the board, bearing the licensee's name and
31 the legend "licensed professional surveyor."

33 All plans, descriptions, reports, maps, plats or other
35 drawings issued by a licensed professional surveyor shall be
37 stamped with the respective seal and signature, as prescribed in
39 the rules of the board, during the life of the licensee's
41 license. If an item bearing the seal of a professional surveyor
43 is altered, the altering professional surveyor shall affix to the
45 item that altering surveyor's seal, the notation "altered by"
47 followed by the signature of that altering surveyor, the date of
49 the alteration and a specific description of the alteration. No
51 official of this State, or of any city, county, town or village
in the State, charged with the enforcement of laws, rules,
ordinances or regulations may accept or approve any plans or
other documents, prepared within the meaning and intent of this
chapter, that are not stamped and sealed by the licensed
professional surveyor under whose direct supervision they were
completed.

39 **§13908. Term of license**

41 1. Biennial renewal. Licenses shall expire on the last day
43 of December or such other time as the commissioner designates.
45 The department shall mail renewal notices to all licensees at
47 least one month in advance of the date of expiration.

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

1
2. Exemptions from expiration and renewal fees. Any person
3 holding a valid license under this chapter on the date of
4 entering employment in the Armed Forces of the United States
5 during a period of war or employment in any wartime service
6 outside the continental United States or any of its allied
7 nations, shall be exempt, for the duration of that employment,
8 from the payment of all renewal fees and that person's license
9 shall remain in effect until the next regular expiration date
10 following the termination of that employment.

11 **§13909. Disciplinary actions**

12
13 1. Complaints. The board may, upon receipt of a written,
14 signed complaint or upon its own motion, investigate and conduct
15 a hearing on the violation of any provision of this chapter or
16 any rule adopted by the board by any person.

17
18 2. Enforcement powers. The board may take one or more of
19 the following actions:

20
21 A. Require applicants for license renewal to present
22 evidence of satisfactory completion of continuing
23 professional education in accordance with the board's rules;

24
25 B. Request an informal conference with a licensee if, in
26 the opinion of the board, the factual basis of a complaint
27 is or may be true and may be of sufficient gravity to
28 warrant further action;

29
30 C. Issue a warning, censure or reprimand to a licensee or
31 suspend a licensee's license for up to 90 days and, in
32 addition to or in lieu of such warning, censure, reprimand
33 or suspension, impose a civil penalty of up to \$1,500 for
34 each violation of the applicable laws, rules or terms of
35 licensure within the board's jurisdiction;

36
37 D. Execute a consent agreement with the consent of the
38 licensee and the licensing board, to resolve any complaint
39 or investigation without further proceedings. Any remedy
40 that is otherwise available by law, even if only in the
41 jurisdiction of the Administrative Court, may be achieved by
42 consent agreement, including temporary or permanent
43 surrender of the occupational license. A consent agreement
44 is not subject to review or appeal. A consent agreement is
45 enforceable by an action in Superior Court;

46
47 E. Assess reimbursements against licensees found to have
48 violated one or more laws or rules enforced by the board for
49 the actual expenses incurred by the board or its agents for
50 investigations or enforcement activities undertaken. Any
51

1 such reimbursement shall be deposited in the board's fund to
3 further carry out the activities of the board; and

5 F. Refuse to renew a license. The board shall hold an
7 adjudicatory hearing at the written request of any person
9 who is denied a license without a hearing for any reason
11 other than failure to pay a required fee, provided the
13 request for hearing is received by the board within 30 days
15 of the applicant's receipt of written notice of the denial
of application, the reasons for denial and the right of the
applicant to request a hearing. Hearings shall be conducted
in conformity with the Maine Administrative Procedure Act,
Title 5, chapter 375. To the extent applicable, the board
may subpoena witnesses, records and documents in any hearing
it conducts.

17 3. Disciplinary actions; grounds. The following are
19 grounds for disciplinary action:

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

25 B. Engaging in unprofessional conduct. A licensee engages
27 in unprofessional conduct if the licensee violates any
standard of professional behavior which reflects negligence,
incompetency or misconduct in the practice of land surveying;

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

37 D. Any violation of this chapter or rules adopted by the
board.

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

45 §13910. Fees

47 1. Amount. Application for licensure shall be on forms
49 prescribed and furnished by the board, to be signed and sworn to
51 by the applicant. The application shall contain statements made
under oath, showing the applicant's education, a detailed summary
of the applicant's technical experience and other pertinent
information. Applications shall be filed with the secretary of
the board. An application fee and an examination fee may be

1 established by the board in amounts which are reasonable and
2 necessary for their respective purposes.

3
4 A. The licensure and renewal fees for professional
5 surveyors shall be established by the board in an amount not
6 to exceed \$200 biennially.

7
8 B. The license and renewal fees for surveyors-in-training
9 shall be established by the board in an amount not to exceed
10 \$100 biennially.

11
12 2. Deposit of fees. All fees received by the board shall
13 be paid to the Treasurer of State to be used for carrying out
14 this chapter. Any balance of fees shall not lapse, but shall be
15 carried forward as a continuing account to be expended for the
16 same purposes in the following years.

17
18 §13911. Firms, partnerships, corporations and joint stock
19 associations.

20
21 A firm, copartnership, corporation or joint stock
22 association may practice, or offer to practice, land surveying in
23 this State provided that the practice of land surveying is
24 performed by land surveyors licensed in this State.

25
26 §13912. Exemptions

27
28 This chapter may not be construed to prevent the practice by:

29
30 1. Other professions. Any person licensed in this State
31 under any other provision of law from engaging in the practice
32 for which the person is licensed;

33
34 2. United States government employees. Officers and
35 employees of the Government of the United States while engaged
36 within this State in the practice of land surveying for the
37 United States Government; or

38
39 3. Interstate commerce corporation employees. An officer
40 or employee of a corporation engaged in interstate commerce as
41 defined in the Act of Congress entitled "An Act to Regulate
42 Commerce" approved February 4, 1887, as amended, or in interstate
43 communication as defined in the Act of Congress entitled
44 "Communications Act of 1934" approved June 9, 1934, while working
45 solely as an employee of such corporation, provided an officer or
46 employee of such a corporation customarily in responsible charge
47 of the surveying work of such a corporation within this State
48 shall be licensed under this chapter.

49
50 Sec. 4. Allocation. The following funds are allocated from
51 Other Special Revenue funds to carry out the purposes of this Act.

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1989-90

1990-91

**PROFESSIONAL AND FINANCIAL
REGULATION, DEPARTMENT OF**

**Board of Licensure for
Professional Surveyors**

Positions	(1)	(1)
Personal Services	\$23,500	\$25,000

STATEMENT OF FACT

This bill will bring the State Board of Registration for Land Surveyors, renamed the Board of Licensure for Professional Surveyors, under the jurisdiction of the Department of Professional and Financial Regulation. The bill redefines and clarifies the purpose of the board, establishes a uniform procedure for the processing of complaints, updates provisions to regulate the profession of professional surveying as it exists today and increases the maximum fee that professional surveyors can be charged for licensure from \$60 to \$100 annually.