

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

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Legislative Document

No. 1267

H.P. 906

House of Representatives, March 28, 2013

An Act To Recodify the Land Surveyor Licensing Laws

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative HERBIG of Belfast.
Cosponsored by Senator CUSHING of Penobscot and
Representative: CAMPBELL of Newfield.

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

2 **Sec. 1. 5 MRSA §12004-A, sub-§21**, as amended by PL 1989, c. 346, §1, is
3 further amended to read:

4 **21.**

5 Board of Licensure for \$35/Day 32 MRSA ~~§13902~~
6 Professional Land Surveyors §18211

7 **Sec. 2. 17 MRSA §2511, sub-§1, ¶A**, as enacted by PL 2003, c. 550, §1, is
8 amended to read:

9 A. "Established property line" means a line demarcated by monuments, signs,
10 markings, pins, reference points or other markers that denotes a change in ownership
11 between abutting properties. These established property line markers must have been
12 placed upon mutual agreement of the abutting landowners, based on historical
13 physical evidence of a preexisting boundary line, or by a licensed professional
14 surveyor pursuant to Title 32, chapter ~~121~~ 141.

15 **Sec. 3. 30-A MRSA §4403, sub-§3, ¶D**, as enacted by PL 1995, c. 93, §1, is
16 amended to read:

17 D. The municipal reviewing authority may not accept or approve final plans or final
18 documents prepared within the meaning and intent of Title 32, chapter ~~121~~ 141 that
19 are not sealed and signed by the professional land surveyor under whose responsible
20 charge they were completed, as provided in Title 32, section ~~13907~~ 18226.

21 **Sec. 4. 32 MRSA c. 121**, as amended, is repealed.

22 **Sec. 5. 32 MRSA c. 141** is enacted to read:

23 **CHAPTER 141**

24 **PROFESSIONAL LAND SURVEYORS**

25 **SUBCHAPTER 1**

26 **GENERAL PROVISIONS**

27 **§18201. Definitions**

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

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

31 **2. Commissioner.** "Commissioner" means the Commissioner of Professional and
32 Financial Regulation.

1 **3. Department.** "Department" means the Department of Professional and Financial
2 Regulation.

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

13 A person practices or offers to practice land surveying within the meaning and intent of
14 this chapter if that person engages in land surveying or by verbal claim, sign,
15 advertisement, letterhead, card or in any other way makes a representation that the person
16 is a professional land surveyor or makes a representation that the person is able to
17 perform or does perform any land surveying service or work or any other service
18 designated by the practitioner that is recognized as land surveying.

19 **5. Land surveyor-in-training.** "Land surveyor-in-training" means a person licensed
20 under this chapter to practice land surveying under the responsible charge of a
21 professional land surveyor.

22 **6. Person.** "Person" means an individual.

23 **7. Professional land surveyor.** "Professional land surveyor" means a person
24 licensed under this chapter to practice land surveying.

25 **8. Responsible charge.** "Responsible charge" means direct control and personal
26 supervision of land surveying.

27 **§18202. License required**

28 Except as provided in section 18203, it is unlawful for a person to practice land
29 surveying or advertise or offer to practice land surveying without a license issued under
30 this chapter.

31 **§18203. Exemptions**

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

33 **1. Other professions.** A person licensed in this State under any other provision of
34 law from engaging in the practice for which the person is licensed;

35 **2. Federal Government employees.** An officer or employee of the Federal
36 Government while engaged within this State in the practice of land surveying for the
37 Federal Government;

- 1 A. Hold a bachelor's degree or higher from a program that includes a minimum
2 surveying core curriculum approved by the board;
- 3 B. Hold an associate's degree from a program that includes a minimum surveying
4 core curriculum approved by the board and demonstrate 2 years of surveying
5 experience acceptable to the board;
- 6 C. Successfully complete a minimum surveying core curriculum approved by the
7 board and demonstrate 6 years of surveying experience acceptable to the board; or
- 8 D. Demonstrate 7 years of surveying experience acceptable to the board.

9 **§18224. Professional land surveyor**

10 1. Scope of practice. A professional land surveyor license entitles the holder to
11 perform land surveying services.

12 2. Professional qualifications. An applicant for a professional land surveyor license
13 must:

- 14 A. Be a land surveyor-in-training in this State or hold a license from another
15 jurisdiction with qualifications similar to those required for a land surveyor-in-
16 training under section 18223, and have a specific record of 2 additional years of
17 progressive combined office and field experience acceptable to the board; and
- 18 B. Successfully pass an examination approved by the board.

19 **§18225. Continuing education required for professional land surveyors**

20 As a prerequisite to renewal of a professional land surveyor license, the applicant
21 must complete continuing education as set forth by rules adopted by the board.

22 **§18226. Seals; stamps**

23 1. Seal; design; final documents; alteration; official notice. A professional land
24 surveyor shall obtain a seal of the design authorized by the board by rule.

25 A. All final documents, including plans, descriptions, reports, maps, plats or other
26 drawings must be signed and sealed by the issuing professional land surveyor, as
27 prescribed in the rules of the board.

28 B. If an item bearing the seal of a professional land surveyor is altered, the altering
29 professional land surveyor's seal and signature must be affixed with the notation
30 "altered by," the date and a specific description of the alteration.

31 C. An official of this State, or of any city, county, town or village in the State,
32 charged with the enforcement of laws, rules, ordinances or regulations may not
33 accept or approve any plans or other documents prepared within the meaning and
34 intent of this chapter that are not sealed and signed by the professional land surveyor
35 under whose responsible charge they were completed.

1 **§18227. Applicants licensed in another jurisdiction**

2 An applicant who is licensed, in good standing, under the laws of another jurisdiction
3 may qualify for licensure under this chapter by submitting evidence satisfactory to the
4 board that the applicant has met all of the qualifications for licensure equivalent to those
5 set forth by this chapter for that level of licensure. The applicant may be required to take
6 examinations as the board determines necessary to determine the applicant's
7 qualifications.

8 **§18228. Renewal**

9 A license expires on the date set by the commissioner pursuant to Title 10, section
10 8003, subsection 4 for the licensing period for which the license was issued. A renewal
11 license is issued for each ensuing licensing period in the absence of any reason or
12 condition that might warrant the refusal to grant a license, upon receipt by the board of
13 the written request of the applicant and the fee for the license as set under section 18229
14 and upon the applicant's presenting evidence of compliance with the requirements of
15 section 18225.

16 Licenses may be renewed up to 90 days after the date of expiration upon payment of
17 a late fee as set under section 18229 in addition to the renewal fee as set under section
18 18229. A person who submits an application for renewal more than 90 days after the
19 licensure renewal date is subject to all requirements governing new applicants under this
20 chapter, including a late fee, renewal fee and additional late fee as set under section
21 18229, except that the board may waive examination, giving due consideration to the
22 protection of the public.

23 **§18229. Fees**

24 The Director of the Office of Professional and Occupational Regulation within the
25 Department of Professional and Financial Regulation may establish by rule fees for
26 purposes authorized under this chapter in amounts that are reasonable and necessary for
27 their respective purposes, except that the fee for any one purpose may not exceed \$350.
28 Rules adopted pursuant to this section are routine technical rules as defined in Title 5,
29 chapter 375, subchapter 2-A.

30 **SUBCHAPTER 4**

31 **RIGHT OF ENTRY**

32 **§18231. Right of entry for professional land surveyor performing land surveying**
33 **services**

34 When performing land surveying services at the request of a landowner or person
35 with an interest in real estate, a professional land surveyor and the surveyor's assistant
36 may, without the consent of the owner or person in possession, enter upon or cross any
37 lands necessary to perform land surveying services.

38 **1. No authority to intentionally damage or move object.** Nothing in this section
39 may be construed as giving authority or license to a professional land surveyor or the

1 surveyor's assistant to intentionally destroy, injure, damage or move any object, chattel or
2 item on the lands of another without the permission of the owner.

3 **2. Civil liability for actual damage.** This section may not be construed to remove
4 civil liability for actual damage to land, chattel, crops or personal property.

5 **3. No authority to enter building used as residence or for storage.** This section
6 may not be construed to give a professional land surveyor or the surveyor's assistant the
7 authority to enter any building or structure used as a residence or for storage.

8 **4. Reasonable effort to notify landowners.** A professional land surveyor shall
9 make reasonable effort to notify a landowner upon whose land it is necessary for the
10 professional land surveyor to enter or cross. Notice provided as follows meets the
11 requirement of this subsection:

12 A. Written notice delivered by hand to the landowner or to the residence of the
13 landowner upon whose land the surveyor may enter or cross, delivered at least 24
14 hours prior to the surveyor's entering the land; or

15 B. Written notice mailed by first class mail to the landowner upon whose land the
16 surveyor may enter or cross, postmarked at least 5 days prior to the surveyor's
17 entering the land. The surveyor may rely on the address of the landowner as
18 contained in the municipal property tax records or their equivalent.

19 **5. Owner or occupant of land; duty of care; liability.** The duty of care an owner
20 or occupant of land owes to the professional land surveyor and the surveyor's assistant is
21 the same as that owed a trespasser.

22 **6. Professional land surveyor and assistant identification.** A professional land
23 surveyor and the surveyor's assistant shall carry means of proper identification as to their
24 licensure or employment and shall display this identification to anyone requesting
25 identification.

26 **7. Compliance with safety regulations.** A professional land surveyor and the
27 surveyor's assistant shall comply with all federal and state safety rules and regulations
28 that apply to the land that they enter or cross pursuant to this section.

29 **Sec. 6. Effective date.** This Act takes effect January 1, 2014.

30 **SUMMARY**

31 This bill is a recodification of the existing licensing law for professional land
32 surveyors. A recodification reorganizes existing provisions for purposes of clarity and
33 efficiency. The only new provisions permit a land surveyor-in-training from another
34 jurisdiction to qualify for a similar license in Maine and it replaces the current statutory
35 requirement for continuing education with authority for the Board of Licensure for
36 Professional Land Surveyors to adopt continuing education standards by rule.