

MAINE STATE LEGISLATURE

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Legislative Document

No. 1205

H. P. 1641

House of Representatives, March 14, 1951

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

HARVEY R. PEASE, Clerk

Presented by Mr. Albert of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

AN ACT to Regulate the Practice of Land Surveying.

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

Sec. 1. R. S., c. 73-B, additional. The revised statutes are hereby amended by adding thereto a new chapter to be numbered 73-B, to read as follows:

'CHAPTER 73-B.

REGISTRATION OF PROFESSIONAL LAND SURVEYORS.

Sec. 1. General provisions. In order to safeguard real property and the rights pertinent thereto, any person practicing or offering to practice the profession of land surveying, shall be required to submit evidence as hereinafter provided, and it shall be unlawful for any person to practice or offer to practice the profession of land surveying in the state, 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 professional land surveyor, unless such person has been duly registered or exempted under the provisions of this chapter.

Sec. 2. Definitions. As used in this chapter, unless a different meaning clearly appears from the context:

I. The term "professional land surveyor" shall mean a person who, by reason of his knowledge of mathematics and the principles of land surveying, acquired by professional education and practical experience, is qualified to engage in land surveying as hereinafter defined.

II. The term "practice of professional land surveying" shall be held to mean the practice of that branch of civil engineering known as land surveying, by any person who surveys areas for the correct determination and description, and for conveyancing, or for the establishment or re-establishment of land boundaries and the plotting of lands and subdivisions thereof.

III. The term "board" shall mean the state board of registration for professional land surveyors provided for by this chapter.

Sec. 3. State board of registration for professional land surveyors; appointment of members; terms. The state board of registration for professional land surveyors shall administer the provisions of this chapter. The board shall consist of 5 professional land surveyors, who shall be appointed by the governor with the advice and consent of the council, from among nominees recommended by representative groups of land surveyors in the state, and who shall have the qualifications required by section 4.

On the expiration of the term of any member, the governor shall in the manner hereinbefore provided, appoint for a term of 5 years a registered professional land surveyor, having the qualifications required by section 4, 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 such member is appointed or until a successor shall have been duly appointed and shall have qualified.

Sec. 4. Qualifications of members of board. Each member of the board shall be a citizen of the United States and a resident of this state, and shall have been engaged in the practice of the profession of land surveying for at least 5 years, and shall have been in responsible charge of surveying work for at least 3 years. Responsible teaching of land surveying may be construed as responsible charge of surveying work.

Sec. 5. Compensation and expenses of board members. No members of the board, except as provided in section 9, 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 the provisions of this chapter. No clerical expenses shall be allowed any member of the board except as provided in section 9.

Sec. 6. Removal of members of board; 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 3.

Sec. 7. Organization and meetings of the board. The board shall hold at least 2 regular meetings each year. Special meetings shall be held as such time as the by-laws of the board may provide. Notice of all meetings shall be given in such manner as the by-laws may provide.

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

Sec. 8. Powers of the board. The board shall have the power to make all by-laws and rules, not inconsistent with the provisions of this chapter and the constitution and laws of this state, 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 carrying into effect the provisions of this chapter, the board may, under the hand of its chairman and the seal of the board, subpoena witnesses and compel their attendance, and also may require the production of books, papers and documents in a case involving the revocation of registration or practicing or offering to practice 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 petition 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 document, 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.

Sec. 9. Receipts and disbursements. The secretary of the board shall receive and account for all moneys derived under the provisions of this chapter, and shall pay the same, as provided by law, to the treasurer of

state, who shall keep such moneys in a separate fund to be known as the "professional 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 5. 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 the provisions of this chapter.

Sec. 10. Records and reports. The board shall keep a record of its proceedings and a register of all applications for registration, which register shall show:

- I. The name, age and residence of each applicant;
- II. The date of the application;
- III. The place of business of such applicant;
- IV. His educational and other qualifications;
- V. Whether or not an examination was required;
- VI. Whether the applicant was rejected;
- VII. Whether a certificate of registration was granted;
- VIII. The date of the action of the board; and
- IX. 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 year ending June 30 and shall also transmit to him a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

Sec. 11. Roster of registered land surveyors. A roster showing the names and places of business of all registered professional land surveyors shall be prepared by the secretary of the board during the month of January of each year. Copies of this roster shall be mailed to each person so

registered, placed on file with the secretary of state and the clerk of courts of each county, and furnished to the public on request.

Sec. 12. General requirements for registration. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional land surveyor, to wit:

I. The satisfactory completion of approved courses in surveying as offered by a school or college approved by the board as of satisfactory standing, and a specific record of an additional 2 years or more of active practice in land surveying, and indicating that the applicant is competent to be placed in responsible charge of such work; or

II.

A. Successfully passing a written and oral examination designed to show knowledge and skill approximating that obtained through satisfactory completion of approved courses in surveying, and a specific record of 4 years or more in active practice in land surveying, and indicating that the applicant is competent to be placed in responsible charge of such work.

B. No person shall be eligible for registration as a professional land surveyor who, in the opinion of the board, is not of good character and reputation.

C. Each year of teaching of surveying in a school or college approved by the board as of satisfactory standing, may be considered as a year of active practice in surveying work.

D. The board shall issue certificates of registration only to those applicants who meet the requirements of this section or of section 21.

E. At any time before 2 years after this chapter shall become effective, upon application therefor and payment of the registration fees specified herein, the board shall issue a certificate of registration without oral or written examination to any professional land surveyor who shall submit under oath evidence satisfactory to the board that he is of good character, has been a resident of the state for at least 1 year immediately preceding the date of his application and was practicing land surveying at the time this chapter became effective, and has had responsible charge of work of a character satisfactory to the board. After this chapter shall have been in effect 1 year, the board shall issue certificates of registration only as provided for hereinbefore.

F. 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 his profession at the time of making his application.

Sec. 13. Applications and registration fees. Applications for registration shall be on forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and detail summary of his technical work, and shall contain not less than 5 references, of whom 3 or more shall be land surveyors having personal knowledge of his land surveying experience.

The registration fee for professional land surveyors shall be \$10, \$5 of which shall accompany application, the remaining \$5 to be paid upon issuance of certificate, except that the latter \$5 shall be remitted where the applicant has paid a registration fee as a registered professional civil engineer in this state.

Should the board deny the issuance of a certificate of registration to any applicant the initial fee deposited shall be retained as an application fee.

Sec. 14. Examinations. When oral or written examinations are required they shall be held at such time and place as the board shall determine, except that, upon written request by an applicant, a special examination shall be held within 90 days after receipt of such request by the board. The scope of the examinations and the methods of procedure shall be prescribed by the board to determine the applicant's ability to practice the profession of land surveying to insure the rights of the public as hereinbefore recited. Examinations shall be given for the purpose of determining the qualifications of applicants for registration in professional land surveying. A notification of the result of the examination shall be mailed to each candidate within 30 days after taking such examination. A candidate failing on examination may apply for re-examination at the expiration of 6 months and will be re-examined without payment of additional fee. Subsequent examination will be granted upon payment of a fee to be determined by the board.

Sec. 15. Certificates; seals. The board shall issue a certificate of registration upon payment of registration fee as provided for in this chapter, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter. The certificate shall authorize the practice of "professional 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 this board shall be evidence that the person named therein is entitled to all the rights and privileges of a registered professional land surveyor, 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 professional land surveyor." Plans, specifications, plats and reports issued by a registrant shall be stamped with the said 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 seal after the certificate of the registrant named thereon has expired or has been revoked, unless said certificate shall have been renewed or reissued.

Sec. 16. Expiration and renewals. Certificates of registration shall expire on the last day of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify every person registered under the provisions of this chapter, of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for 1 year; such notice shall be mailed at least 1 day in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of December by the payment of a fee designated by the board but which shall not exceed \$3, nor be less than \$1. The failure on the part of any registrant to renew his certificate annually in the month of December as required above shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased 10% for each month or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the normal renewal fee.

Sec. 17. Exemptions from expiration and renewal fees. Any person holding a valid certificate of registration under the provisions of this chapter on the date of entering employment in the armed forces of the government of the United States during a period of war, or employment in any war time 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 renewal date following the termination of such employment.

Sec. 18. Forms, partnerships, corporations, and joint stock associations.

A firm, copartnership, corporation or joint stock association may engage in the practice of professional land surveying in this state, provided only such practice is carried on by professional land surveyors registered in this state.

Sec. 19. Public works. Any department of this state or any of its political subdivisions, any county, city, town, township or plantation may engage in any public work involving professional land surveying without procuring the services of a registered professional land surveyor, provided that the contemplated expenditure of the completed project does not exceed \$500.

Sec. 20. Exemptions. The following persons shall be exempt from the provisions of this chapter, to wit:

I. A person not a resident of and having no established place of business in this state, practicing or offering to practice herein the profession of land surveying when such practice does not exceed in the aggregate more than 10 days in any calendar year; provided such person is legally qualified by registration to practice the said profession in his own state or county in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter.

II. A person not a resident of and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice herein for more than 10 days in any calendar year the profession of land surveying, if he shall have filed with the board an application for a certificate of registration and shall have paid the fee required by this chapter. Such exemption shall continue only for such time as the board requires for the consideration of the application for registration; provided that such a person is legally qualified to practice said profession in his own state or county in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter.

III. An employee or a subordinate of a person holding a certificate of registration under the provisions of this chapter or an employee of a person exempted from registration by subsections I and II of this section; provided his practice does not include responsible charge or design or supervision.

IV. Officers and employees of the government of the United States while engaged within this state in the practice of the profession of land surveying for said government.

V. 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 19, 1934, while working solely as an employee of such corporation; provided that an officer or employee of such corporation customarily in responsible charge of the engineering work of such corporation within this state shall be a registrant under the provisions of this chapter.

Sec. 21. Reciprocity. The board may, upon application therefor and the payment of a fee of \$10, issue a certificate of registration as a professional land surveyor to any person who holds a certificate of qualification or registration issued to him by proper authority of any state or territory or possession of the United States, or any country, provided that the requirements for registration of professional land surveyor under which said certificate of qualification or registration was issued do not conflict with the provisions of this chapter and are of a standard not lower than that specified in section 12.

Sec. 22. Revocations and reissuances of certificates. The board shall have the power to revoke the certificate of registration of any registrant who is found guilty of:

- I. The practice of any fraud or deceit in obtaining a certificate of registration;
- II. Any gross negligence, incompetency, or misconduct in the practice of professional land surveying as a registered professional land surveyor.

Any person may prefer charges of fraud, deceit, gross negligence, incompetency or misconduct against any registrant. 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 mailed to the last known address of such registrant, at least 30 days before the date fixed for the hearing. At any hearing, the accused registrant 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 revoke the certificate of registration of such registered professional land surveyor.

The board, for reasons it may deem sufficient, may re-issue a certificate of registration to any person whose certificate has been revoked, providing 3 or more members of the board vote in favor of such re-issuance. A new certificate of registration, to replace any certificate revoked, lost, destroyed or mutilated, may be issued, subject to the rules of the board, and a charge of \$3 shall be made for such issuance.

Sec. 23. Violations and penalties. Any person who shall practice, or offer to practice, the profession of land surveying in this state without being registered or exempted in accordance with the provisions of 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, shall be guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment for not more than 3 months, or by both such fine and imprisonment.

It shall be the duty of all duly constituted officers of the law of this state or any political subdivision thereof to enforce the provisions of this chapter and to prosecute any person violating same. The attorney general of the state or his assistant shall act as legal adviser of the board and render such legal assistance as may be necessary in carrying out the provisions of this chapter.

Sec. 24. Other legally recognized professions not affected. The provisions of this chapter shall not be construed to affect or prevent the practice of any other legally recognized profession.'

Sec. 2. R. S., c. 15, § 27, amended. The 1st sentence of section 27 of chapter 15 of the revised statutes, as amended, is hereby further amended to read as follows:

'All money received by the treasurer of state from the board of registration in medicine, the board of registration of nurses, 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 registration for professional land surveyors**, the state board of architects, the state board of barbers and hairdressers, the examiners of podiatrists, the board of chiropractic examination and registration and the board of commissioners 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 provisions of law relating to each board respectively, and so much thereof as may be required is appropriated for said purposes.'