

STATE OF MAINE

—
 IN THE YEAR OF OUR LORD
 TWO THOUSAND AND THIRTEEN

—
 H.P. 906 - L.D. 1267

An Act To Recodify the Land Surveyor Licensing Laws

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

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

21.

Board of Licensure for	\$35/Day	32 MRSA § 13902
Professional Land Surveyors		<u>§18211</u>

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

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

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

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

Sec. 4. 32 MRSA c. 121, as amended, is repealed.

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

CHAPTER 141

PROFESSIONAL LAND SURVEYORS

SUBCHAPTER 1

GENERAL PROVISIONS

§18201. 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.

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

4. Land surveying. "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 and 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 is 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 practices or offers 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.

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

6. Person. "Person" means an individual.

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

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

§18202. License required

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

§18203. Exemptions

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

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

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

3. Interstate commerce corporation employees. 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 that corporation, as long as an officer or employee of that corporation customarily in responsible charge of the surveying work of that corporation within this State is licensed under this chapter; or

4. Unlicensed person. A person working under the responsible charge of a professional land surveyor.

§18204. Penalties

1. Unlicensed practice. A person who violates section 18202 is subject to the provisions of Title 10, section 8003-C.

§18205. Civil actions

A person or entity may not bring or maintain any action in the courts of the State for the collection of compensation for land surveying services without first proving that the person performing the land surveying was properly licensed by the board at the time the cause of action arose.

SUBCHAPTER 2

BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS

§18211. Board of licensure for professional land surveyors

1. Establishment. The Board of Licensure for Professional Land Surveyors is established within the department pursuant to Title 5, section 12004-A, subsection 21 to carry out the purposes of this chapter.

2. Members. The board consists of 7 members appointed by the Governor. Each member must be a resident of this State. The board consists of:

A. Two public members as defined in Title 5, section 12004-A; and

B. Five members who hold valid professional land surveyor licenses and have been licensed as professional land surveyors for at least 10 years immediately prior to appointment to the board.

3. Terms; removal. Terms of the members of the board are for 5 years. Appointments of members must comply with Title 10, section 8009. Members may be removed by the Governor for cause.

4. Meetings; chair; quorum. The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Four members of the board constitute a quorum.

§18212. Rules

The board may establish guidelines and rules by which this chapter is administered, including adopting a code of conduct and standards of practice. Except where otherwise indicated, rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§18213. Duties and powers

The board shall administer and enforce this chapter and evaluate the qualifications of applicants for licensure.

§18214. Denial or refusal to renew license; disciplinary action

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for suspension or revocation in any state of a professional or occupational license, certification or registration for disciplinary reasons or rejection of any application for reasons related to untrustworthiness.

SUBCHAPTER 3

LICENSURE; SCOPE; ADMINISTRATION

§18221. General qualifications

An applicant for licensure under this chapter:

1. Application. Shall submit an application to the board together with the fee as set under section 18229; and

2. Age. Must be at least 18 years of age at the time of application.

§18222. License limited to persons

Only a person may be licensed under this chapter. A firm, company, partnership, limited liability company or corporation may practice or offer to practice land surveying as long as the practice of land surveying is performed by a professional land surveyor licensed in this State.

§18223. Land surveyor-in-training

1. Scope of practice. A land surveyor-in-training license entitles the holder to perform land surveying services under the responsible charge of a professional land surveyor.

2. Professional qualifications. Each applicant for a land surveyor-in-training license must pass an examination approved by the board and meet one of the following qualifications:

A. Hold a bachelor's degree or higher from a program that includes a minimum surveying core curriculum approved by the board;

B. Hold an associate's degree from a program that includes a minimum surveying core curriculum approved by the board and demonstrate 2 years of surveying experience acceptable to the board;

C. Successfully complete a minimum surveying core curriculum approved by the board and demonstrate 6 years of surveying experience acceptable to the board; or

D. Demonstrate 7 years of surveying experience acceptable to the board.

§18224. Professional land surveyor

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

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

A. Be a land surveyor-in-training in this State or hold a license from another jurisdiction with qualifications similar to those required for a land surveyor-in-training under section 18223, and have a specific record of 2 additional years of progressive combined office and field experience acceptable to the board; and

B. Successfully pass an examination approved by the board.

§18225. Continuing education required for professional land surveyors

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

§18226. Seals; stamps

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

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

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

C. An 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 not accept or approve any plans or other documents prepared within the meaning and intent of this chapter that are not sealed and signed by the professional land surveyor under whose responsible charge they were completed.

§18227. Applicants licensed in another jurisdiction

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

§18228. Renewal

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

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

§18229. Fees

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

SUBCHAPTER 4

RIGHT OF ENTRY

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

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

1. No authority to intentionally damage or move object. Nothing in this section may be construed as giving authority or license to a professional land surveyor or the surveyor's assistant to intentionally destroy, injure, damage or move any object, chattel or item on the lands of another without the permission of the owner.

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

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

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

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

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

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

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

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

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