

CHAPTER 30

ARTICLE 13A. LAND SURVEYORS.

§30-13A-1. Legislative findings; license required to practice.

The practice of surveying and underground surveying involves special knowledge in mathematics and physical and applied sciences and specific knowledge in the principles and methods of surveying and underground surveying, which knowledge can only be acquired through education and practical experience in surveying and underground surveying. Land surveying and underground surveying involve precise practices and should only be performed by a person who has specific training in surveying or underground surveying.

Therefore, the Legislature finds that to protect the public interest and to provide for the regulation of surveying and underground surveying in this state, a person must have a license, as provided in this article, to practice as a surveyor in the state of West Virginia and a person must have a surveyor's license and an endorsement, as provided in this article, to practice as an underground surveyor in the state of West Virginia.

§30-13A-2. Short title.

This article shall be known and may be cited as the "West Virginia Professional Surveyors Act."

§30-13A-3. Definitions.

As used in this article, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

- (a) "Applicant" means a person making application for a license, endorsement or certificate, or a firm making application for a certificate of authorization, under the provisions of this article.
- (b) "Board" means the West Virginia board of professional surveyors.
- (c) "Boundary survey" means a survey in which property lines and corners of a parcel of land have been established by a survey and a description of survey has been written and a plat has been prepared for the property.
- (d) "Cadastral survey" means a survey representing the ownership, relative positions and dimensions of land, objects and estates.
- (e) "Certificate" means a document issued by the board.
- (f) "Certificate holder" means a person holding a certificate issued by the board.
- (g) "Certificate of authorization" means a certificate issued under the provisions of this article to a firm providing surveying or underground surveying services.
- (h) "Construction survey" means the laying of stakes for a construction project.
- (i) "Direct supervision" means the responsible licensee or endorsee is in direct control of all field and office surveying operations: *Provided*, That direct control does not necessarily require the actual physical presence of the responsible licensee or endorsee at the site of the survey, nor prohibit the responsible licensee or endorsee from maintaining simultaneous direct supervision of more than one survey.
- (j) "Endorsee" means a person holding an endorsement to practice underground surveying issued under the provisions of this article.
- (k) "Endorsement" means an endorsement to practice underground surveying issued under the provisions of this article.
- (l) "Firm" means any nongovernmental business entity, including an individual, partnership or corporation, providing surveying or underground surveying services.
- (m) "Geodetic control survey" means a survey involving the precise measurement of points on the earth's surface which form the framework or control for a large map or project.

- (n) "Geographic information system" means a system of hardware, software and procedures designed to support the capture and management of spatially referenced information.
- (o) "Global positioning system survey" means any measurement of elevations or positions either absolute or relative which utilizes the observation of artificial satellites.
- (p) "Hydrographic survey" means a survey that measures and determines the topographic features of water bodies and the adjacent land areas, including the width, depth and course of water bodies and other relative features.
- (q) "Inactive" means the status granted by the board to a licensee or endorsee.
- (r) "Description of survey", under this article only, means a description established by a survey describing the physical location of land or the associated effects on the land.
- (s) "License" means a surveying license issued under the provisions of this article.
- (t) "Licensee" means a person holding a surveying license issued under the provisions of this article.
- (u) "Metes and bounds" means a description where the land or the associated effects on the land have been measured by starting at a known point and describing, in sequence, the lines by direction and distance forming the boundaries of the land or a defined area relative to the physical land features, associated effects or structural improvements on the land.
- (v) "Monument" means a permanent marker, either boundary or nonboundary, used to establish corners or mark boundary lines of a parcel of land or reference the geospatial relationship of other objects.
- (w) "Mortgage/loan inspection survey" means a survey in which property lines and corner have not been established.
- (x) "Oil or gas well survey" means a survey and plat of a proposed oil or gas well, including the location of the well, the surface or mineral tract on which the well is located and the physical features surrounding the well. An oil or gas well survey must be performed in accordance with other provisions of this code affecting oil and gas well surveys.
- (y) "Partition survey" means a survey where the boundary lines of a newly created parcel of land are established and the new corners are monumented.
- (z) "Photogrammetry" means the use of aerial photography, other imagery and surveying principles to prepare scaled maps or other survey products reflecting the contours, features and fixed works of the earth's surface.
- (aa) "Practice of surveying" means providing professional surveying services, including consulting, investigating, expert testimony, evaluating, planning, mapping and surveying.
- (bb) "Responsible charge" means direct control and surveying work under the direct supervision of a licensee or person authorized in another state or country to engage in the practice of surveying.
- (cc) "Retracement survey" means a survey where the boundary lines and corners of a parcel of land are reestablished from an existing legal or deed description.
- (dd) "Strip" means a description of an area by reference to an alignment, usually a right-of-way or an easement, stating the number of feet on each side of the alignment, the relative position of the alignment, a reference to the measurements and monuments where the alignment crosses a parcel of land and the source of title for each parcel of land the alignment crosses.
- (ee) "Subdivision" means the division of a lot, tract or parcel of land into two or more lots, tracts or parcels of land.
- (ff) "Surface mine survey" means a survey of the surface mine permit area, including the location of the surface mine, the surface or mineral tracts on which the surface mine is located, the physical features surrounding the surface mine, all creeks or streams near the surface mine and any other identifying characteristics of the land to specify the location of the surface mine permit area. A surface mine survey must be performed in accordance with other provisions of this code affecting surface mine surveys.
- (gg) "Survey" or "land survey" means to measure a parcel of land and ascertain its boundaries, corners and contents or make any other authoritative measurements. A survey can be any of the following, but

not limited to:

(1) The performance of a boundary, cadastral, construction, geodetic control, hydrographic, land, mortgage/loan inspection, oil or gas well, partition, photogrammetry, retracement, subdivision or surface mine survey by a licensed surveyor;

(2) The location, relocation, establishment, reestablishment, laying out or retracement of any property line or boundary of any parcel of land or of any road or utility right-of-way, easement, strip or alignment or elevation of any fixed works by a licensed surveyor; or

(3) The performance of an underground survey by an endorsed underground surveyor.

(hh) "Surveying" or "land surveying" means providing, or offering to provide, professional services using such sciences as mathematics, geodesy, and photogrammetry, and involving both: (1) The making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth, improvements on the earth, the space above, on or below the earth; and (2) providing, utilizing or developing the same into survey products such as graphics, data, maps, plans, reports, descriptions or projects. Professional services include acts of consultation, investigation, testimony evaluation, expert technical testimony, planning, mapping, assembling and interpreting gathered measurements and information related to any one or more of the following:

(A) Determining by measurement the configuration or contour of the earth's surface or the position of fixed objects thereon.

(B) Determining by performing geodetic surveys the size and shape of the earth or the position of any point on the earth.

(C) Determining the position for any survey control monument or reference point.

(D) Creating, preparing or modifying electronic, computerized or other data relative to the performance of the activities in the above-described paragraphs (A) through (C), inclusive, of this subdivision.

(E) Locating, relocating, establishing, reestablishing or retracing property lines or boundaries of any tract of land, road, right-of-way or easement.

(F) Making any survey for the division, subdivision, or consolidation of any tract or tracts of land.

(G) Locating or laying out alignments, positions or elevations for the construction of fixed works.

(H) Determining, by the use of principles of surveying, the position for any boundary or nonboundary survey monument or reference point; or establishing or replacing any such monument or reference point.

(I) Creating, preparing or modifying electronic or computerized or other data relative to the performance of the activities in the above-described paragraphs (E) through (H), inclusive, of this subdivision.

Any person who engages in surveying, who by verbal claim, sign, advertisement, letterhead, card or in any other way represents themselves to be a professional surveyor, or who implies through the use of some other title that they are able to perform, or who does perform, any surveying service or work or any other service designated by the practitioner which is recognized as surveying, is practicing, or offering to practice, surveying within the meaning and intent of this article.

(ii) "Surveyor", "professional surveyor" or "land surveyor" means a person licensed to practice surveying under the provisions of this article.

(jj) "Surveyor, retired", "professional surveyor, retired" or "land surveyor, retired" means a licensed surveyor no longer practicing surveying or underground surveying, who has chosen to retire and has been granted the honorific title of "Professional Surveyor, Retired".

(kk) "Surveyor-in-charge" means a licensee or endorsee designated by a firm to oversee the surveying activities and practices of the firm.

(ll) "Surveyor intern" means a person who has passed an examination covering the fundamentals of land surveying.

(mm) "Underground survey" means a survey that includes the measurement of underground mine workings and surface features relevant to the underground mine, the placing of survey points (spads)

for mining direction, the performance of horizontal and vertical control surveys to determine the contours of a mine, the horizontal and vertical location of mine features, and the preparation of maps, reports and documents, including mine progress maps and mine ventilation maps. An underground mine survey must be performed in accordance with other provisions of this code affecting underground mine surveys.

(nn) "Underground surveyor" means a person endorsed to practice underground surveying.

§30-13A-4. Board of surveyors.

(a) The "West Virginia board of examiners of land surveyors" is hereby continued and commencing the first day of July, two thousand four, and shall be known as the "West Virginia Board of Professional Surveyors."

(b) To be effective on the first day of July, two thousand four, the governor shall appoint, by and with the advice and consent of the Senate, one person who is a licensed professional surveyor and has practiced surveying for at least five years, for a term of three years, to replace the member of the board whose term expires on the first day of July, two thousand four.

(c) To be effective on the first day of July, two thousand five, the governor shall appoint, by and with the advice and consent of the Senate:

(1) One person who has a license in another field of practice other than surveying and also has a surveyor license by examination and has practiced surveying for at least ten years for a term of four years;

(2) One person who is an endorsed underground surveyor with at least ten years of experience for a term of four years; and

(3) One citizen member who is not licensed, endorsed or certified under the provisions of this article and does not perform any services related to the practice licensed, endorsed or certified under the provisions of this article for a term of three years.

(d) To be effective on the first day of July, two thousand six, the governor shall appoint, by and with the advice and consent of the Senate, one person who is a licensed professional surveyor with at least ten years of experience for a term of four years to replace the member of the board whose term expires on the first day of July, two thousand six.

(e) After the initial appointment term, the board term shall be for four years.

(f) Commencing with the board terms beginning the first day of July, two thousand five, the board shall consist of the following five members:

(1) Two licensed professional surveyors with at least ten years of experience in land surveying;

(2) One person who has a license in another field of practice other than surveying and also who has a surveyor license by examination and has practiced surveying for at least ten years;

(3) One endorsed underground surveyor who has practiced underground surveying for at least five years; and

(4) One citizen member who is not licensed, endorsed or certified under the provisions of this article and does not perform any services related to the practice licensed, endorsed or certified under the provisions of this article.

(g) Each licensed or endorsed member of the board, at the time of his or her appointment, must have held a license or endorsement in this state for a period of not less than three years immediately preceding the appointment and each member must be a resident of this state during the appointment term. Members must represent the three congressional districts of the state.

(h) No member may serve more than two consecutive full terms and any member having served two full terms may not be appointed for one year after completion of his or her second full term. A member shall continue to serve until his or her successor has been appointed and qualified. Any member currently serving on the board on the effective date of this article may be reappointed in accordance with the provisions of this section.

- (i) The governor may remove any member from the board for neglect of duty, incompetency or official misconduct.
- (j) Any member of the board immediately and automatically forfeits his or her membership if he or she has his or her license or endorsement to practice suspended or revoked by the board, is convicted of a felony under the laws of any state or the United States or becomes a nonresident of this state.
- (k) The board shall designate one of its members as chairperson and one member as secretary-treasurer.
- (l) Each member of the board shall receive compensation and expense reimbursement in accordance with section eleven, article one of this chapter.
- (m) A majority of the members of the board shall constitute a quorum.
- (n) The board must hold at least one annual meeting. Other meetings shall be held at the call of the chairperson, or upon the written request of two members, at such time and place as designated in the call or request.

§30-13A-5. Powers and duties of the board.

The board has all the powers and duties set forth in article one of this chapter and also the following powers and duties:

- (1) Hold meetings, conduct hearings and administer examinations and reexaminations;
- (2) Set the requirements for a license, endorsement, certificate, surveyor-in-charge and certificate of authorization;
- (3) Establish qualifications for licensure and procedures for submitting, approving and disapproving applications for a license, endorsement certificate and certificate of authorization;
- (4) Examine the qualifications of any applicant for a license, endorsement, or certificate;
- (5) Establish procedures for persons who have begun one of the education, experience or examination requirements for licensure, stated in subdivision (1), subsection (a), section eight of this article, and has not completed the requirements prior to the thirty-first day of December, two thousand four;
- (6) Prepare, conduct, administer and grade written, oral or written and oral examinations and reexaminations for a license, endorsement or certificate;
- (7) Determine the passing grade for the examinations;
- (8) Administer, or contract with third parties to administer, the examinations and reexaminations required under the provisions of this article;
- (9) Maintain records of the examinations and reexaminations the board or a third party administers, including the number of persons taking the examination or reexamination and the pass and fail rate;
- (10) Maintain an accurate registry of names and addresses of all licensees, endorsees and certificate holders;
- (11) Maintain an accurate registry of names and addresses of firms holding a certificate of authorization;
- (12) Establish the standards for surveys, surveying and underground surveying;
- (13) Define, by legislative rule, the fees charged under the provisions of this article;
- (14) Issue, renew, deny, suspend, revoke or reinstate licenses, endorsements and certificates and discipline such persons;
- (15) Issue, renew, deny, suspend, revoke or reinstate certificates of authorization and discipline such firms;
- (16) Establish, by legislative rule, and implement the continuing education requirements for licensees and endorsees;
- (17) Sue and be sued in its official name as an agency of this state;
- (18) Set the job requirements for investigators and employees necessary to enforce the provisions of this article;
- (19) Hire, fix the compensation of and discharge investigators and the employees necessary to enforce

the provisions of this article;

(20) Investigate alleged violations of the provisions of this article, the rules promulgated hereunder, and orders and final decisions of the board;

(21) Conduct hearings upon charges calling for discipline of a licensee, endorsee or certificate holder, or revocation or suspension of a license, endorsement, certificate or certificate of authorization;

(22) Set disciplinary action and issue orders;

(23) Propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article; and

(24) Take all other actions necessary and proper to effectuate the purposes of this article.

§30-13A-6. Rule-making authority.

(a) The board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article including:

(1) Setting the standards and requirements for licensure, endorsement, certification, surveyor-in-charge and certificate of authorization;

(2) Setting the procedure for examinations and reexaminations;

(3) Establishing requirements for third parties to administer examinations and reexaminations;

(4) Establishing procedures for the issuance and renewal of a license, endorsement, certificate and certificate of authorization;

(5) Setting a schedule of fees and rates for nonrenewal;

(6) Establishing and implementing requirements for continuing education for licensees and endorsees;

(7) Evaluating the curriculum, experience and the instructional hours required for a license, endorsement and certificate;

(8) Denying, suspending, revoking, reinstating or limiting the practice of a licensee, endorsee, certificate holder or a holder of a certificate of authorization;

(9) Establishing electronic signature requirements; and

(10) Proposing any other rules or taking other action necessary to effectuate the provisions of this article.

(b) All rules in effect on the effective date of this article shall remain in effect until they are amended, modified, repealed or replaced.

§30-13A-7. Fees; special revenue account; administrative fines.

(a) All fees and other moneys, except administrative fines, received by the board shall be deposited in a separate special revenue fund in the state treasury designated the "board of examiners of land surveyors fund", which fund is hereby continued. Commencing on the first day of July, two thousand four, the "board of examiners of land surveyors fund" shall be designated the "board of professional surveyors fund". The fund shall be used by the board for the administration of this article. Except as may be provided in section eleven, article one of this chapter, the board shall retain the amounts in the special revenue fund from year to year. No compensation or expense incurred under this article is a charge against the general revenue fund.

(b) Any amounts received as fines imposed pursuant to this article shall be deposited into the general revenue fund of the state treasury.

§30-13A-8. Education, experience and examination requirements for a surveying license.

(a) Before a person may apply for a surveying license to practice under the provisions of this article,

the person must have completed one of the following educational, experience and examination requirements:

(1) Prior to the thirty-first day of December, two thousand four, has completed or is in the process of completing one of the following education, experience and examination requirements:

(A) Is a graduate of a surveying curriculum of two scholastic years, has six years or more of experience in surveying under the direct supervision of a licensee or a person authorized in another state or country to engage in the practice of surveying, has passed the examination prescribed by the board, which examination shall cover the basic subject matter of land surveying and land surveying skills and techniques, and has passed the West Virginia examination;

(B) Is not a graduate of a surveying curriculum, has eight years or more of experience in surveying under the direct supervision of a licensee or a person authorized in another state or country to engage in the practice of surveying, has passed the examination prescribed by the board, which examination shall cover the basic subject matter of land surveying and land surveying skills and techniques, and has passed the West Virginia examination;

(C) Is a graduate of a surveying curriculum of two or more years, has passed the surveyor-in-training (SIT) examination which must have included an eight-hour portion of fundamentals in science, mathematics and surveying, has six years or more of experience in surveying under the direct supervision of a licensee or a person authorized in another state or country to engage in the practice of surveying, and has passed the examination prescribed by the board, which examination consists of principles and practices of land surveying and has passed the West Virginia examination; or

(D) Prior to the thirty-first day of December, two thousand four, if a person has begun one of the education, experience or examination requirements, stated in this subdivision, and has not completed the requirements prior to the thirty-first day of December, two thousand four, then the person must notify the board that he or she will be making application under this subdivision and comply with the procedures prescribed by the board; or

(2) On and after the first day of January, two thousand five, has completed one of the following education, experience and examination requirements:

(A) Has a four-year degree or a bachelor degree in surveying approved by the board, which degree must include a minimum of thirty hours of surveying or surveying-related courses, has passed an examination in the fundamentals of land surveying, has two years or more of experience in surveying in responsible charge, has passed an examination in the principles and practice of land surveying and has passed the West Virginia examination;

(B) Has a four-year degree or a bachelor degree, has completed a minimum of thirty hours of surveying or surveying-related courses, has passed an examination in the fundamentals of land surveying, has four years or more of experience in surveying, including two years of experience in responsible charge under the direct supervision of a licensee or a person authorized in another state or country to engage in the practice of surveying, has passed an examination in the principles and practice of land surveying and has passed the West Virginia examination;

(C) Has a two-year degree or an associate degree in surveying or a related field approved by the board, which degree must include a minimum of thirty hours of surveying or surveying-related courses, has passed an examination in the fundamentals of land surveying, has four years or more of experience in surveying, including two years of experience in responsible charge under the direct supervision of a licensee or a person authorized in another state or country to engage in the practice of surveying, has passed an examination in the principles and practice of land surveying and has passed the West Virginia examination; or

(D) Is not a graduate of a surveying curriculum, has completed the national society of professional surveyors survey technician program, has obtained a level IV certification, issued by the national society of professional surveyors, with a total of five and one-half years of experience in surveying under the direct supervision of a licensee or a person authorized in another state or country to engage

in the practice of surveying, has passed an examination in the fundamentals of land surveying, has four additional years of experience in surveying, including two years of responsible charge under the direct supervision of a licensee or a person authorized in another state or country to engage in the practice of surveying, has passed an examination in the principles and practice of land surveying and has passed the West Virginia examination: *Provided*, That the person intending to apply for the license pursuant to the provisions of this subdivision so notifies the board before the first day of January, two thousand five.

(b) A person graduating from a two-year or four-year approved surveying degree program with a grade point average of 3.0 or higher is permitted to take the examination in the fundamentals of land surveying during his or her final semester.

(c) A person must pass the examination in the fundamentals of land surveying and complete the work experience before he or she is allowed to take the examination in the principles and practice of land surveying and the West Virginia examination.

(d) The examination in the fundamentals of land surveying, the examination in the principles and practice of land surveying and the West Virginia examination shall each be held at least once each year at the time and place determined by the board. A person who fails to pass all or any part of an examination may apply for reexamination, as prescribed by the board, and shall furnish additional information and fees as required by the board.

§30-13A-9. Surveyor intern requirements.

(a) To be recognized as a surveyor intern by the board, a person must meet the following requirements:

- (1) Is of good moral character;
- (2) Is at least eighteen years of age;
- (3) Is a citizen of the United States or is eligible for employment in the United States;
- (4) Holds a high school diploma or its equivalent;
- (5) Has not been convicted of a crime involving moral turpitude;
- (6) Has completed one of the education requirements set out in section eight of this article; and
- (7) Has passed an examination in the fundamentals of land surveying.

(b) A surveyor-in-training recognized by the board prior to the first day of July, two thousand four, shall for all purposes be considered a surveyor intern under this section.

(c) A surveyor intern must pass the principles and practice of land surveying examination and the West Virginia examination within ten years of passing the fundamentals of land surveying examination. If the examinations are not passed within ten years, then the surveyor intern must retake the fundamentals of land surveying examination.

§30-13A-10. Surveying license requirements.

(a) The board shall issue a surveying license to practice under the provisions of this article to an applicant who meets the following requirements:

- (1) Is of good moral character;
- (2) Is at least eighteen years of age;
- (3) Is a citizen of the United States or is eligible for employment in the United States;
- (4) Holds a high school diploma or its equivalent;
- (5) Has not been convicted of a crime involving moral turpitude; and
- (6) Has completed all of one of the education, experience and examination requirements set out in section eight of this article.

(b) An application for a surveying license shall be made on forms provided by the board and include the following:

- (1) Name and address of the applicant;
- (2) Applicant's education and experience;

- (3) Location and date of passage of all the examinations;
 - (4) Names of five persons for reference, at least three of whom shall be licensees or persons authorized in another state or country to engage in the practice of surveying, and who have knowledge of the applicant's work; and
 - (5) Any other information the board prescribes.
- (c) An applicant shall pay all the applicable fees.
- (d) A license to practice land surveying issued by the board prior to the first day of July, two thousand four, shall for all purposes be considered a license issued under this section: *Provided*, That a person holding a license to practice land surveying issued prior to the first day of July, two thousand four, must renew the license pursuant to the provisions of section thirteen of this article.

§30-13A-11. Underground surveying endorsement requirements.

- (a) The board shall issue an endorsement to practice underground surveying under the provisions of this article to an applicant who meets the following requirements:
- (1) Is a licensed surveyor;
 - (2) Has three years or more experience in underground surveying under the direct supervision of an endorsee or a person authorized in another state or country to engage in the practice of underground surveying; and
 - (3) Has passed an examination as prescribed by the board.
- (b) An application for an underground surveying endorsement shall be made on forms provided by the board and include the following:
- (1) Name and address of the applicant;
 - (2) Applicant's underground surveying experience;
 - (3) Names of three persons for reference, all three of whom shall be endorsees or persons authorized in another state or country to engage in the practice of underground surveying, and who have knowledge of the applicant's work; and
 - (4) Any other information the board prescribes.
- (c) An applicant shall pay all the applicable fees.
- (d) The examination for underground surveying shall be held at least once each year at the time and place determined by the board. An applicant who fails to pass all or any part of the examination may apply for reexamination, as prescribed by the board, at any time and shall furnish additional information and fees as required by the board.
- (e) A license to practice underground surveying issued by the board prior to the first day of July, two thousand four, shall for all purposes be considered an endorsement issued under this section: *Provided*, That a person holding a license to practice underground surveying issued prior to the first day of July, two thousand four, must renew and then receive an endorsement pursuant to the provisions of section thirteen of this article.

§30-13A-12. License, endorsement and certificate from another state; license, endorsement and certificate to practice in this state.

The board may issue a license, endorsement or certificate to practice surveying or underground surveying in this state to an applicant of good moral character who holds a valid license, endorsement, certificate, registration or other authorization to practice surveying or underground surveying from another state if the applicant demonstrates that:

- (1) He or she holds a license, endorsement, certificate, registration or other authorization to practice surveying or underground surveying in another state which was granted after completion of

educational requirements substantially equivalent to those required in this state;

(2) He or she holds a license, endorsement, certificate, registration or other authorization to practice surveying or underground surveying in another state which was granted after completion of experience requirements substantially equivalent to those required in this state;

(3) He or she holds a license, endorsement, certificate, registration or other authorization to practice surveying or underground surveying in another state which was granted after passing, in that or another state, examinations that are substantially equivalent to the examinations required in this state and has passed the West Virginia examination;

(4) He or she is not currently being investigated by a disciplinary authority of another state, does not have charges pending against his or her license, endorsement, certificate, registration or other authorization to practice surveying or underground surveying and has never had a license, endorsement, certificate, registration or other authorization to practice surveying or underground surveying revoked;

(5) He or she has not previously failed an examination for licensure, endorsement or certification in this state;

(6) He or she has paid all the applicable fees; and

(7) Has completed such other action as required by the board.

§30-13A-13. License and endorsement renewal requirements.

(a) A licensee or endorsee wanting to continue in active practice shall, annually or biennially upon or before the first day of July, renew his or her license or endorsement and pay a renewal fee.

(b) At least thirty days prior to the first day of July, either annually or biennially, the secretary-treasurer of the board shall mail to every licensee and endorsee a notice of renewal, an application for renewal and the amount of the renewal fee.

(c) The board shall charge a fee for each renewal of a license or endorsement and a late fee for any renewal not paid in a timely manner.

(d) The board shall require as a condition for the renewal of a license or endorsement that each licensee or endorsee participate in continuing education.

§30-13A-14. Inactive license and endorsement requirements.

(a) A licensee or endorsee who does not want to continue in active practice shall notify the board in writing and be granted inactive status.

(b) A person granted inactive status shall pay an inactive fee and is exempt from the continuing education requirements and cannot practice in this state.

(c) When an inactive licensee or endorsee wants to return to active practice, he or she must complete all the continuing education requirements and pay all the applicable fees as set by rule.

§30-13A-15. Expired license and endorsement requirements.

(a) If a license or endorsement is not renewed when due, then the board shall automatically place the licensee or endorsee on expired status.

(b) The fee for a person on expired status shall increase at a rate, determined by the board, for each month or fraction thereof that the renewal fee is not paid, up to a maximum of thirty-six months.

(c) Within thirty-six months of being placed on expired status, if a licensee or endorsee wants to return to active practice, he or she must complete all the continuing education requirements and pay all the applicable fees as set by rule.

(d) After thirty-six months of being placed on expired status, a license or endorsement cannot be renewed. A person whose license or endorsement has expired must reapply for a new license or endorsement.

§30-13A-16. Retired license and endorsement requirements.

- (a) A licensee or endorsee who does not want to continue practicing surveying or underground surveying and who has chosen to retire shall notify the board in writing and be granted retired status.
- (b) A person granted retired status shall be given the honorific title of "Professional Surveyor, Retired" and cannot practice in this state.

§30-13A-17. Requirements for when a person fails an examination.

- (a) Any person failing any of the examinations for surveying or underground surveying shall not be permitted to work as a licensed surveyor or underground surveyor under the provisions of this article until the person has passed all the examinations.
- (b) A person failing the fundamentals of land surveying examination may still gain experience as required in section eight of this article until he or she passes the examination.
- (c) A person who has passed the fundamentals of land surveying examination, but failed the principles and practice examination or West Virginia examination may only work as a surveyor intern under the direct supervision of a licensee or a person authorized in another state or country to engage in the practice of surveying until he or she passes all of the examinations.
- (d) Any person failing the examination for underground surveying shall not be permitted to work as an endorsed underground surveyor under the provisions of this article until the person has passed the examination. This subsection does not preclude the person from practicing as a licensed surveyor.

§30-13A-18. Display of license, endorsement or certificate.

- (a) The board shall prescribe the form for a license, endorsement and certificate and may issue a duplicate license, endorsement and certificate upon payment of a fee.
- (b) A licensee, endorsee and a certificate holder shall conspicuously display his or her license, endorsement or certificate at his or her principal place of practice.

§30-13A-19. Signature and seal or stamp.

- (a) Each licensee must have a seal or a stamp, authorized by the board, which seal or stamp shall include the licensee's name and license number and the words "Professional Surveyor".
- (b) Each endorsee must have a seal or a stamp, authorized by the board, which seal or stamp shall include the endorsee's name and endorsement license number and the words "Professional Surveyor SU".
- (c) All final survey documents prepared by a licensee or an endorsee shall be signed and stamped with the licensee's or the endorsee's seal or stamp, or an electronic signature, seal or stamp may be affixed.
- (d) It is unlawful for a person who is not licensed or not endorsed to affix a signature and stamp or seal on a document.

§30-13A-20. Certificate of authorization requirements.

- (a) Each firm practicing surveying or underground surveying in West Virginia shall have a certificate of authorization.
- (b) The board shall issue a certificate of authorization to a firm that:
 - (1) Practices surveying or underground surveying in West Virginia;
 - (2) Provides proof that the firm has employed a surveyor-in-charge;
 - (3) Has paid all applicable fees; and
 - (4) Completes such other requirements as specified by the board.

§30-13A-21. Certificate of authorization renewal requirements.

- (a) A firm wanting to continue in active practice shall, annually or biennially upon or before the first day of January, renew its certificate of authorization and pay a renewal fee.

(b) At least thirty days prior to the first day of January, either annually or biennially, the secretary-treasurer of the board shall mail to every certificate of authorization holder a notice of renewal, an application for renewal and the amount of the renewal fee.

(c) The board shall charge a fee for each renewal of a certificate of authorization and a late fee for any renewal not paid in a timely manner.

§30-13A-22. Display of certificate of authorization.

(a) The board shall prescribe the form for a certificate of authorization and may issue a duplicate certificate of authorization upon payment of a fee.

(b) A firm shall conspicuously display its certificate of authorization at its principal place of practice.

§30-13A-23. Surveyor-in-charge requirements.

(a) A firm with a certificate of authorization practicing surveying or underground surveying in West Virginia must operate all surveying or underground surveying activities under the supervision and management of a surveyor-in-charge who shall be a licensee or endorsee who is licensed or endorsed in this state.

(b) The designated surveyor-in-charge is responsible for the surveying or underground surveying work in this state provided by the firm.

(c) A licensee or endorsee cannot be designated as a surveyor-in-charge for more than one firm without approval of the board.

(d) A licensee or endorsee who performs part-time or consulting surveying or underground surveying services for a firm cannot be designated as a surveyor-in-charge for that firm unless the licensee or endorsee is an officer, a majority interest holder or owner of the firm.

(e) The responsibilities of a surveyor-in-charge include:

(1) Renewal of the certificate of authorization;

(2) Notification to the board of any change in the surveyor-in-charge;

(3) Supervising the firm's employees, including licensees, endorsees, certificate holders and other personnel providing surveying or underground surveying services in this state; and

(4) Ensuring that the policies of the firm adhere to the provisions of this article.

(f) The board may authorize a licensee or endorsee to supervise the work of an individual that is not an employee of the licensee or endorsee, nor is employed by the same firm as the licensee or endorsee.

The potential supervisor must apply to the board for this authorization.

§30-13A-24. Requirements for recording documents.

(a) No survey document intended to be used in the transfer of real property, prepared by a licensee or endorsee, shall be filed with any county clerk or accepted by any public official of this state unless the licensee's or endorsee's signature and seal or stamp have been affixed thereto, except that any document, plan, map, drawing, exhibit, sketch or pictorial representation prepared by a person exempted from the regulation and licensing requirements of this article as provided in section thirty-six of this article shall not be required to have the signature and seal affixed thereto.

(b) If a survey document, prepared by a licensee or endorsee, has been altered from its original form, it shall not be filed with any county clerk or accepted by any public official of this state, until the original licensee or endorsee has initialed the changes, except that any document, plan, map, drawing, exhibit, sketch or pictorial representation altered by a person exempted from the regulation and licensing requirements of this article as provided in section thirty-six of this article shall require that the person who made the alteration initial the changes.

§30-13A-25. Delivery of plat and description; recordation.

(a) When a licensee or endorsee prepares a boundary survey, he or she shall make a plat of the land and

provide a description of survey of the land. The licensee or endorsee shall give a copy of the plat and the description of survey to the client.

(b) If the title to the land that was surveyed is conveyed and the instrument conveying the title uses the description of survey, the plat shall be recorded simultaneously with the instrument, except when a plat has already been recorded and a reference to the recordation of the plat is given instead.

§30-13A-26. Minimum standards for boundary surveys.

(a) The purpose of these standards is to establish minimum technical criteria to govern the performance of surveyors when more stringent specifications are not required. Further, the purpose is to protect the inhabitants of this state from dishonest or incompetent surveying and generally to protect the public welfare.

(b) The client discussion prior to the survey shall cover the purpose of the survey, the scope of services, including the time for completion of the survey, disputes with adjoining, fees and all pertinent details of the contract.

(c) The record search shall include the record description based on current and prior deeds, conveyance from common grantor, or if necessary, the original survey or grant. It shall also include descriptions of adjoining properties, other sources of information or resolution of conflicts in descriptions. All records of information sources used shall be retained as a permanent record.

(d) A licensee, endorsee, an exempt person under section thirty-six of this article or persons under the direct supervision of a licensee, endorsee or exempt person shall physically go to the land and perform the survey.

(e) The field survey shall consist of the following:

(1) A field search for controlling evidence;

(2) A discussion of evidence with the owner or client;

(3) A reasonable attempt at notifying the adjoining;

(4) A reasonable attempt of talking to the adjoining or others having knowledge of the boundaries; and

(5) The location of evidence by appropriate methods and procedures.

(f) The surveyor shall use methods and equipment suitable for the purpose of the survey and the field notes shall be retained as a permanent record.

(g) Distance shall be reported in feet or meters, or parts thereof, and angles or directions shall be reported in degrees or parts thereof. The observations shall be measured to a precision that will produce the desired level of accuracy. The area of the tract being surveyed shall be measured and reported to a precision consistent with the purpose of the survey. All measuring devices shall be checked periodically for accuracy and condition.

(h) Monumentation is required for all new or reestablished corners, or reference monument for inaccessible corners, and is encouraged at intervisible points between corners. Set monuments shall be made of durable material and set firmly in the ground. Pipes shall have a minimum inside diameter of one inch, while rebars shall have a minimum outside diameter of five-eighths inch and both shall have a minimum length of thirty inches. Other markers shall have a minimum cross-sectional area of one-half square inch and shall be made of durable material, identifiable and unique. Natural objects chosen for corners shall be durable, unique and easily identifiable.

(i) All rebars, pipes and other markers, except natural objects, shall have caps bearing the surveyor's license number or company name.

(j) A plat shall be prepared for all boundary or partition surveys, unless specifically prohibited by the client in the contract. The plat shall show the results of the field survey and be provided to the client. Plats shall be to a scale large enough to show significant details.

(k) The following information shall be shown on plats, when applicable:

(1) A north arrow and a basis of bearings;

(2) The date of the survey;

- (3) The measured length and direction of each boundary line by distance, bearing and quadrant: *Provided*, That in the case of a strip survey the station and offset method may be utilized to describe the strip;
 - (4) General location information;
 - (5) Ties to significant objects;
 - (6) The evidence of possession on or near the property line;
 - (7) The description of all corners or reference monuments, including whether the corners were found (fd) or set;
 - (8) The outlined area of the property and all significant parts, including streets, alleys and nonlotted areas of a subdivision;
 - (9) The acres, acreage or square footage of the property;
 - (10) Any overlaps and gaps in record lines, former deed or grant lines, as needed;
 - (11) The subdivision name, lot, block and plat reference;
 - (12) The tax map and parcel number, if available, of all the tracts shown on the plat;
 - (13) The name of the current or past owners of the subject property, or both;
 - (14) The name of the adjoining landowners;
 - (15) The current conveyance reference for the subject property;
 - (16) The current conveyance reference for the adjoining landowners;
 - (17) The name and location of any creeks, rivers or roads near the property to help locate the property;
 - (18) The plat's title for reference when recording;
 - (19) The district or municipality, county and state where the property is located; and
 - (20) The name, address, license number, signature and seal of the surveyor.
- (l) A description of survey shall be prepared for all boundary, partition and retracement surveys, except mortgage inspection surveys, and be provided to the client.
- (m) The following shall be included in a description of survey, when applicable:
- (1) A metes and bounds description, or strip description, if applicable, of the property;
 - (2) The point of beginning;
 - (3) The description of monumentation at each corner and objects encountered along the line, including the adjoining landowners;
 - (4) The length and direction of each line;
 - (5) The radius, chord bearing and distance of a curved boundary line;
 - (6) The lot and block numbers for newly platted partitions or subdivisions;
 - (7) The acreage or square footage of the property;
 - (8) The watershed or topographic location where the property is located;
 - (9) A reference to the conveyance by which the current owner claims title, including the grantor, grantee, date and recording reference;
 - (10) A reference to the accompanying plat;
 - (11) The district or municipality, county and state where the property is located; and
 - (12) The name of the individual preparing the description of the survey.
- (n) The report of survey shall be used when the plat and the description of survey do not adequately address all matters considered by the surveyor in performing the survey and should be provided to the client with the plat and the description of survey.
- (o) The report of survey shall include all unusual circumstances surrounding the survey, with weight being given to conflicting evidence and encroachments, overlaps or gaps and how they were resolved and the names of adjoining parties contacted and the information they supplied.
- (p) A mortgage/loan inspection survey in which boundaries on a property have not been surveyed in accordance with the methods set forth by the board, then the plat must be stamped "a mortgage inspection survey only, not a boundary survey". The surveyor must notify a landowner or other person commissioning their services if a survey or an inspection was performed.

§30-13A-27. "West Virginia Coordinate Systems"; definition; plane coordinates, limitations of use.

(a) The systems of plane coordinates which have been established by the national ocean survey/national geodetic survey (formerly the United States coast and geodetic survey) or its successors for defining and stating the geographic position or locations of points on the surface of the earth within the state of West Virginia are hereafter to be known and designated as the "West Virginia Coordinate System of 1927" and the "West Virginia Coordinate System of 1983."

(b) For the purpose of the use of this system the state is divided into a "North Zone" and a "South Zone."

The area now included in the following counties shall constitute the north zone: Barbour, Berkeley, Brooke, Doddridge, Grant, Hampshire, Hancock, Hardy, Harrison, Jefferson, Marion, Marshall, Mineral, Monongalia, Morgan, Ohio, Pleasants, Preston, Ritchie, Taylor, Tucker, Tyler, Wetzel, Wirt and Wood.

The area now included in the following counties shall constitute the south zone: Boone, Braxton, Cabell, Calhoun, Clay, Fayette, Gilmer, Greenbrier, Jackson, Kanawha, Lewis, Lincoln, Logan, McDowell, Mason, Mercer, Mingo, Monroe, Nicholas, Pendleton, Pocahontas, Putnam, Raleigh, Randolph, Roane, Summers, Upshur, Wayne, Webster and Wyoming.

(c) As established for use in the north zone, the West Virginia coordinate system of 1927 or the West Virginia coordinate system of 1983 shall be named and in any land description in which it is used it shall be designated the "West Virginia Coordinate System of 1927 North Zone" or "West Virginia Coordinate System of 1983 North Zone."

As established for use in the south zone, the West Virginia coordinate system of 1927 or the West Virginia coordinate system of 1983 shall be named and in any land description in which it is used it shall be designated the "West Virginia Coordinate System of 1927 South Zone" or "West Virginia Coordinate System of 1983 South Zone."

(d) The plane coordinate values for a point on the earth's surface, used to express the geographic position or location of such point in the appropriate zone of this system, shall consist of two distances, expressed in U.S. survey feet and decimals of a foot when using the West Virginia coordinate system of 1927 and determined in meters and decimals when using the West Virginia coordinate system of 1983, but which may be converted to and expressed in feet and decimals of a foot. One of these distances, to be known as the "x-coordinate", shall give the position in an east-and-west direction. The other, to be known as the "y-coordinate", shall give the position in a north-and-south direction.

These coordinates shall be made to depend upon and conform to plane rectangular coordinate values for the monumented points of the north American horizontal geodetic control network as published by the national ocean survey/national geodetic survey (formerly the United States coast and geodetic survey), or its successors, and whose plane coordinates have been computed on the system defined by this section. Any such station may be used for establishing a survey connection to either West Virginia coordinate system.

(e) For purposes of describing the location of any survey station or land boundary corner in the state of West Virginia, it shall be considered a complete, legal and satisfactory description of such location to give the position of said survey station or land boundary corner on the system of plane coordinates defined in this section. Nothing contained in this section shall require a purchaser or mortgagee of real property to rely wholly on a land description, any part of which depends exclusively upon either West Virginia coordinate system.

(f) When any tract of land to be defined by a single description extends from one into the other of the coordinate zones specified in this section, the position of all points on its boundaries may refer to either of the two zones. The zone which is being used specifically shall be named in the description.

(g)(1) For purposes of more precisely defining the West Virginia coordinate system of 1927, the

following definition by the United States coast and geodetic survey (now national ocean survey/national geodetic survey) is adopted:

The "West Virginia Coordinate System of 1927 North Zone" is a Lambert conformal conic projection of the Clarke Spheroid of 1866, having standard parallels at north latitudes 39 degrees and 00 minutes and 40 degrees and 15 minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 79 degrees 30 minutes west of Greenwich and the parallel 38 degrees 30 minutes north latitude. This origin is given the coordinates: $x = 2,000,000$ feet and $y = 0$ feet.

The "West Virginia Coordinate System of 1927 South Zone" is a Lambert conformal conic projection of the Clarke Spheroid of 1866, having standard parallels at north latitudes 37 degrees 29 minutes and 38 degrees 53 minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 81 degrees 00 minutes west of Greenwich and the parallel 37 degrees 00 minutes north latitude. This origin is given the coordinates: $x = 2,000,000$ feet and $y = 0$ feet.

(2) For purposes of more precisely defining the West Virginia coordinate system of 1983, the following definition by the national ocean survey/national geodetic survey is adopted:

The "West Virginia Coordinate System of 1983 North Zone" is a Lambert conformal conic projection of the north American datum of 1983, having standard parallels at north latitudes 39 degrees and 00 minutes and 40 degrees and 15 minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 79 degrees 30 minutes west of Greenwich and the parallel 38 degrees 30 minutes north latitude. This origin is given the coordinates: $x = 600,000$ meters and $y = 0$ meters.

The "West Virginia Coordinate System of 1983 South Zone" is a Lambert conformal conic projection of the north American datum of 1983, having standard parallels at north latitudes 37 degrees 29 minutes and 38 degrees 53 minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 81 degrees 00 minutes west of Greenwich and the parallel 37 degrees 00 minutes north latitude. This origin is given the coordinates: $x = 600,000$ meters and $y = 0$ meters.

(h) No coordinates based on the West Virginia coordinate system, purporting to define the position of a point on a land boundary, shall be presented to be recorded in any public records or deed records unless such point is based on a public or private monumented horizontal control station established in conformity with the standards of accuracy and specifications for first order or better geodetic surveying as prepared and published by the federal geodetic control committee (FGCC) of the United States department of commerce. Standards and specifications of the FGCC or its successor in force on date of said survey shall apply. The publishing of the existing control stations, or the acceptance with intent to publish the newly established control stations, by the national ocean survey/national geodetic survey will constitute evidence of adherence to the FGCC specifications. The limitations specified in this section may be modified by a duly authorized state agency to meet local conditions.

(i) The use of the term "West Virginia Coordinate System of 1927 North or South Zone" or "West Virginia Coordinate System of 1983 North or South Zone" on any map, report or survey or other document shall be limited to coordinates based on the West Virginia coordinate system as defined in this section.

(j) A plat and a description of survey must show the basis of control identified by the following:

- (1) The monument name or the point identifier on which the survey is based;
- (2) The order of accuracy of the base monument; and
- (3) The coordinate values used to compute the corner positions.

(k) Nothing in this section shall prevent the recordation in any public record of any deed, map, plat, survey, description or of any other document or writing of whatever nature which would otherwise constitute a recordable instrument or document even though the same is not based upon or done in conformity with the West Virginia coordinate system established by this section, nor shall such

nonconformity with such system invalidate any deed, map, plat, survey, description or other document which is otherwise proper.

§30-13A-28. Complaints; investigations.

(a) The board may, on its own motion, conduct an investigation to determine whether there are any grounds for disciplinary action against a licensee, endorsee, certificate holder or certificate of authorization holder. The board shall, upon the verified written complaint of any person, conduct an investigation to determine whether there are any grounds for disciplinary action against a licensee, endorsee, certificate holder or certificate of authorization holder.

(b) Upon receipt of a written complaint filed against any licensee, endorsee, certificate holder or certificate of authorization holder, the board shall provide a copy of the complaint to the licensee, endorsee, certificate holder or certificate of authorization holder.

(c) If the board finds, upon investigation, that probable cause exists that the licensee, endorsee, certificate holder or certificate of authorization holder has violated any provision of this article or the rules promulgated hereunder, then the board shall serve the licensee, endorsee, certificate holder or certificate of authorization holder with a written statement of charges and a notice specifying the date, time and place of the hearing. The hearing shall be held in accordance with the provisions of this article.

§30-13A-29. Refusal to issue or renew, suspension or revocation; disciplinary action.

(a) The board may refuse to issue, refuse to renew, suspend, revoke or limit any licensee, endorsee, certificate holder or certificate of authorization holder, or practice privilege of a licensee, endorsee, certificate holder or certificate of authorization holder, and may take disciplinary action against a licensee, endorsee, certificate holder or certificate of authorization holder who, after notice and a hearing, has been adjudged by the board as unqualified for any of the following reasons:

(1) Fraud or deceit in obtaining or maintaining a license, endorsement, certificate or certificate of authorization;

(2) Failure by any licensee, endorsee, certificate holder or certificate of authorization holder to maintain compliance with the requirements for the issuance or renewal of a license, endorsement, certificate or certificate of authorization;

(3) Dishonesty, fraud, professional negligence in the performance of land surveying or underground surveying services, or a willful departure from the accepted standards of surveying and the professional conduct of surveyors;

(4) Violation of any provision of this article, any rule promulgated hereunder, any professional standard or rule of professional conduct;

(5) Failure to comply with the provisions of this article, any rule promulgated hereunder or any order or final decision of the board;

(6) Failure to respond to a request or action of the board;

(7) Has been convicted of a crime involving moral turpitude;

(8) Conviction of a felony or a crime involving dishonesty or fraud under the laws of the United States or this state, or conviction of any similar crime under the laws of any other state, if the underlying act or omission involved would have constituted a crime under the laws of this state;

(9) Any conduct adversely affecting the licensee's, endorsee's, certificate holder's or certificate of authorization holder's fitness to perform surveying or underground surveying services; or

(10) Knowingly using any false or deceptive statements in advertising.

(b) If the board suspends, revokes, refuses to issue, refuses to renew or limits any license, endorsement, certificate, certificate of authorization or practice privilege, the board shall make and enter an order to that effect and give written notice of the order to the person by certified mail, return

receipt requested, which order shall include a statement of the charges setting forth the reasons for the action, and notice of the date, time and place of the hearing. If a license, endorsement, certificate or certificate of authorization is ordered suspended or revoked, then the licensee, endorsee, certificate holder or certificate of authorization holder shall, within twenty days after receipt of the order, return the license, endorsement, certificate or certificate of authorization to the board. The hearing shall be held in accordance with the provisions of this article.

(c) Disciplinary action includes, but is not limited to, a reprimand, censure, probation, administrative fines, and mandatory attendance at continuing education seminars.

§30-13A-30. Hearing and judicial review.

(a) Any person adversely affected by an order entered by the board is entitled to a hearing. A hearing on a statement of the charges shall be held in accordance with the provisions for hearings set forth in section eight, article one of this chapter and the procedures specified by the board by rule.

(b) Any licensee, endorsee, certificate holder or certificate of authorization holder, adversely affected by any decision of the board entered after a hearing, may obtain judicial review of the decision in accordance with section four, article five, chapter twenty-nine-a of this code and may appeal any ruling resulting from judicial review in accordance with article five, chapter twenty-nine-a of this code.

§30-13A-31. Reinstatement.

If the board has suspended, revoked or refused to renew a license, endorsement, certificate or certificate of authorization, the licensee, endorsee, certificate holder or certificate of authorization holder shall be afforded an opportunity to demonstrate his, her or its qualifications to resume practice. The application for reinstatement shall be in writing and subject to the procedures specified by the board.

§30-13A-32. Unlawful acts.

(a) It is unlawful for any person to practice or offer to practice surveying or underground surveying in this state without a license or endorsement issued under the provisions of this article, or advertise or use any title or description tending to convey the impression that they are a licensed surveyor or an endorsed underground surveyor, unless such person has been duly licensed or endorsed under the provisions of this article.

(b) It is unlawful for any firm to practice or offer to practice surveying or underground surveying in this state without a certificate of authorization issued under the provisions of this article, or advertise or use any title or description tending to convey the impression that it is a surveying or underground surveying firm, unless such firm has been issued a certificate of authorization under the provisions of this article.

§30-13A-33. Injunctions.

(a) When, by reason of an investigation under this article or otherwise, the board or any other interested person believes that a person has violated or is about to violate any provision of this article, any rule promulgated hereunder, any order of the board or any final decision of the board, the board or any other interested person may apply to any court of competent jurisdiction for an injunction against such person enjoining such person from the violation. Upon a showing that the person has engaged in or is about to engage in any prohibited act or practice, an injunction, restraining order or other appropriate order may be granted by the court without bond.

(b) The board may fine and issue cease and desist orders against individuals or firms found to be in violation of the provisions of this article or any rule adopted thereunder.

(c) A cause of action by the board may be brought in the circuit court of the county where the board's office is located or in the circuit court of the county where the cause of action took place.

§30-13A-34. Criminal proceedings; penalties.

(a) When, as a result of an investigation under this article or otherwise, the board has reason to believe that a person has knowingly violated the provisions of this article, the board may bring its information to the attention of the relevant county prosecuting attorney or other appropriate law-enforcement officer who may cause appropriate criminal proceedings to be brought.

(b) If a court of law finds that a person knowingly violated any provision of this article, any rule promulgated hereunder, any order of the board or any final decision of the board, then the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined no less than one hundred dollars and no more than one thousand dollars for each violation, confinement in a regional correctional facility for up to thirty days for each violation, or both fined and confined.

§30-13A-35. Single act evidence of practice.

In any action brought or in any proceeding initiated under this article, evidence of the commission of a single act prohibited by this article is sufficient to justify a penalty, injunction, restraining order or conviction without evidence of a general course of conduct.

§30-13A-36. Exemption from licensing and regulation.

(a) The following persons are exempt from licensing and regulation under the provisions of this article:

(1) Any employee or agent of a person, firm, association or corporation, when such employee or agent is engaged in the practice of land surveying exclusively for the person, firm, association or corporation by which employed, or, if a corporation, its parents, affiliates or subsidiaries, and such person, firm, association or corporation does not hold himself, herself or itself out to the public as being engaged in the business of land surveying.

(2) Any employee or officer of the United States, this state or any political subdivision thereof, or their agents, when such employee is engaged in the practice of land surveying exclusively for such governmental unit.

(b) The minimum standards for boundary surveys contained in section twenty-six of this article apply, notwithstanding the exemptions provided by this section.

§30-13A-37. Continuation of board.

The West Virginia board of professional surveyors shall continue to exist, pursuant to the provisions of article ten, chapter four of this code, until the first day of July, two thousand six, unless sooner terminated, continued or reestablished pursuant to the provisions of that article.