S T A T E O F N E W Y O R K

S. 4603 A. 7110

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

April 13, 2011

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

IN ASSEMBLY -- Introduced by M. of A. GLICK -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to the practice of land surveying

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 7203 of the education law, as added by chapter 987 of the laws of 1971, is amended to read as follows:

S 7203. Definition of practice of land surveying. 1. The practice of the profession of land surveying is defined as practicing that branch of the engineering profession and applied mathematics which includes [the measuring and plotting of the dimensions and areas of any portion of the earth, including all naturally placed and man- or machine-made structures and objects thereon, the lengths and directions of boundary lines, the contour of the surface and] the application of rules and regulations in accordance with local requirements incidental to subdivisions for the correct determination, description, conveying and recording thereof or for the establishment or reestablishment thereof, PROVIDING OR OFFERING TO PROVIDE PROFESSIONAL SERVICES UTILIZING SUCH SCIENCES AS MATHEMATICS, GEODESY, AND PHOTOGRAMMETRY, DEFINED AS THE SCIENCE OR ART OF OBTAINING RELIABLE MEASUREMENTS THROUGH THE USE OF AERIAL PHOTOGRAPHY AND/OR OTHER ACTIVE OR PASSIVE SENSOR-BASED REMOTE SENSING TECHNOLOGIES, INVOLVING BOTH A. THE MAKING OF GEOMETRIC MEASUREMENTS AND GATHERING RELATED INFORMATION PERTAINING TO THE PHYSICAL OR LEGAL FEATURES ON THE EARTH, IMPROVEMENTS ON THE EARTH, THE SPACE ABOVE, ON OR BELOW THE EARTH AND B. PROVIDING, UTILIZING OR DEVELOPING THE SAME INTO SURVEY PRODUCTS SUCH AS GRAPHICS, DATA, MAPS, PLANS, REPORTS, SPECIFICATIONS, DESCRIPTIONS, AND PROJECTS, INCLUDING THOSE IN FURTHERANCE OF THE SAFEGUARDING OF LIFE, HEALTH, SAFETY, WELFARE AND PROPERTY OF THE PUBLIC.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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2. PROFESSIONAL SERVICES INCLUDE, BUT ARE NOT LIMITED TO, ACTS OF CONSULTATION, INVESTIGATION, EVALUATION, PROVIDING EXPERT TESTIMONY, PLANNING, MAPPING, ASSEMBLING, ESTIMATING, DEIGNING, SUPERVISION, AND INTERPRETING GATHERED MEASUREMENTS AND INFORMATION RELATED TO ANY ONE OR MORE OF THE FOLLOWING:

A. DETERMINING, BY MEASUREMENT, THE ACTUAL OR PROPOSED 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 RELATED TO THE EARTH. A GEODETIC SURVEY BEING DEFINED AS THE SCIENCE OF MEASURING THE EARTH OR LARGE PORTIONS OF ITS SURFACE; THE DETERMINATION OF THE EARTH'S FIGURE AND SIZE.

C. LOCATING, RELOCATING, ESTABLISHING, REESTABLISHING, OR RETRACING PROPERTY LINES OR BOUNDARIES OF ANY TRACT OR TRACTS OF LAND, ROAD, RIGHT OF WAY, OR EASEMENT.

D. MAKING ANY SURVEY FOR A SINGLE LOT OR PLOT OR FOR THE DIVISION, SUBDIVISION OR CONSULTATION OF ANY TRACT OR TRACTS OF LAND.

E. LOCATING OR LAYING OUT ALIGNMENTS, POSITIONS OR ELEVATIONS FOR THE CONSTRUCTION OF FIXED WORKS.

F. DETERMINING, BY THE USE OF PRINCIPLES OF SURVEYING, THE POSITION FOR ANY SURVEY MONUMENT (BOUNDARY OR NON-BOUNDARY) OR REFERENCE POINT; ESTABLISHING OR REPLACING ANY SUCH MONUMENT OR REFERENCE POINT.

G. CREATING, PREPARING OR MODIFYING ELECTRONIC, COMPUTERIZED OR OTHER DATA, RELATIVE TO THE PERFORMANCE OF THE ACTIVITIES IN THE ABOVE DESCRIBED PARAGRAPHS A THROUGH F OF THIS SUBDIVISION.

3. NOTHING IN THIS ARTICLE SHALL REMOVE ANY PREVIOUSLY GRANTED LEGAL OR REGULATORY RIGHTS OR BE CONSTRUED AS PROHIBITING A LICENSED LAND SURVEYOR FROM PROVIDING SERVICES FOR LAND PLANNING, LAND USE, LAND DEVELOPMENT AND/OR ENVIRONMENTAL STUDIES RELATED THERETO AND THE RECORDING OR FILING OF DOCUMENTS WITH GOVERNMENTAL BODIES OR AGENCIES.

S 2. Subdivision 2 of section 7206-a of the education law, as amended by chapter 32 of the laws of 1981, is amended to read as follows:

2. In lieu of the degree and experience requirements specified in [subparagraphs (2)] PARAGRAPHS TWO and [(3)] THREE of subdivision one of this section, AN ASSOCIATES DEGREE AND eight years of practical experience in work satisfactory to the board may be accepted, provided that each full year of college study in engineering or land surveying satisfactory to the department may at the discretion of the board be accepted in lieu of one year of the required eight years of experience.

S 3. Section 7208 of the education law is amended by adding two new subdivisions q and r to read as follows:

Q. THE MAKING OF MEASUREMENTS UTILIZING THE SCIENCE OF PHOTOGRAMMETRY, DEFINED AS THE SCIENCE OR ART OF OBTAINING RELIABLE MEASUREMENTS THROUGH THE USE OF AERIAL PHOTOGRAPHY AND/OR OTHER ACTIVE OR PASSIVE SENSOR-BASED REMOTE SENSING TECHNOLOGIES, EXCEPT THAT ANY GEODETIC SURVEY TO ESTABLISH CONTROL POINTS NECESSARY TO DERIVE ACCURATE MEASUREMENTS FROM THE IMAGERY MUST BE MADE BY A LICENSED LAND SURVEYOR. ANY DETERMINATION OF TOPOGRAPHY OR CONTOURS, OR DEPICTION OF PHYSICAL IMPROVEMENTS, UTILIZING PHOTOGRAMMETRIC METHODS OR OTHER REMOTE SENSING TECHNOLOGY BY PERSONS NOT LICENSED AS A LAND SURVEYOR PURSUANT TO THIS ARTICLE, SHALL NOT ESTABLISH ANY BOUNDARY MONUMENTATION OR BOUNDARY METES AND BOUNDS, NOR PROVIDE ANY MEASUREMENT SHOWING THE RELATIONSHIP OF ANY PHYSICAL IMPROVEMENTS TO ANY PROPERTY LINE OR BOUNDARY AND ALL SUCH PRODUCTS RELIANT THEREON MUST INCLUDE A NOTIFICATION THAT STATES, "THIS WAS NOT PREPARED UNDER THE DIRECT SUPERVISION OF A LICENSED LAND

SURVEYOR AND SHALL NOT BE RELIED UPON TO ESTABLISH BOUNDARY MONUMENTS OR BOUNDARY METES AND BOUNDS."

R. THE FOLLOWING ITEMS ARE NOT TO BE INCLUDED AS EXCLUSIVE ACTIVITIES WITHIN THE DEFINITION OF SURVEYING:

1. THE CREATION OF GENERAL MAPS:

(A) PREPARED BY PRIVATE FIRMS OR GOVERNMENT AGENCIES FOR USE AS GUIDES TO MOTORISTS, BOATERS, AVIATORS OR PEDESTRIANS;

(B) PREPARED FOR PUBLICATION IN A GAZETTEER OR ATLAS AS AN EDUCATIONAL TOOL OR REFERENCE PUBLICATION;

(C) PREPARED FOR OR BY EDUCATION INSTITUTIONS FOR USE IN THE CURRICULUM OF ANY COURSE OR STUDY;

(D) PRODUCED BY AN ELECTRONIC OR PRINT MEDIA FIRM AS AN ILLUSTRATIVE GUIDE TO THE GEOGRAPHIC LOCATION OF ANY EVENT; OR

(E) PREPARED BY LAY PERSONS FOR CONVERSATIONAL OR ILLUSTRATIVE PURPOSES. THIS INCLUDES ADVERTISING MATERIAL AND USERS GUIDES.

2. THE TRANSCRIPTION OF PREVIOUSLY GEO-REFERENCED DATA INTO A GIS OR LIS BY MANUAL OR ELECTRONIC MEANS, AND THE MAINTENANCE THEREOF, PROVIDED THE DATA ARE CLEARLY NOT INTENDED TO INDICATE THE AUTHORITATIVE LOCATION OF PROPERTY BOUNDARIES, THE PRECISE DEFINITION OF THE SHAPE OR CONTOUR OF THE EARTH, AND/OR THE PRECISE LOCATION OF FIXED WORKS OF HUMANS.

3. THE TRANSCRIPTION OF PUBLIC RECORD DATA, WITHOUT MODIFICATION EXCEPT FOR GRAPHICAL PURPOSES, INTO A GIS OR LIS-BASED CADASTRE (TAX MAPS AND ASSOCIATED RECORDS) BY MANUAL OR ELECTRONIC MEANS, AND THE MAINTENANCE OF THAT CADASTRE, PROVIDED THE DATA ARE CLEARLY NOT INTENDED TO AUTHORITATIVELY REPRESENT PROPERTY BOUNDARIES. THIS INCLUDES TAX MAPS AND ZONING MAPS.

4. THE PREPARATION OF ANY DOCUMENT BY ANY FEDERAL GOVERNMENT AGENCY THAT DOES NOT DEFINE REAL PROPERTY BOUNDARIES. THIS INCLUDES CIVILIAN AND MILITARY VERSIONS OF QUADRANGLE TOPOGRAPHIC MAPS, MILITARY MAPS, SATELLITE IMAGERY, AND OTHER SUCH DOCUMENTS.

5. THE INCORPORATION OR USE OF DOCUMENTS OR DATABASES PREPARED BY ANY FEDERAL AGENCY INTO A GIS/LIS, INCLUDING BUT NOT LIMITED TO, FEDERAL CENSUS AND DEMOGRAPHIC DATA, QUADRANGLE TOPOGRAPHIC MAPS AND MILITARY MAPS.

6. INVENTORY MAPS AND DATABASES CREATED BY ANY ORGANIZATION, IN EITHER HARDCOPY OR ELECTRONIC FORM, OF PHYSICAL FEATURES, FACILITIES OR INFRASTRUCTURE THAT ARE WHOLLY CONTAINED WITHIN PROPERTIES TO WHICH THEY HAVE RIGHTS OR FOR WHICH THEY HAVE MANAGEMENT RESPONSIBILITY. THE DISTRIBUTION OF THESE MAPS AND/OR DATABASES OUTSIDE THE ORGANIZATION MUST CONTAIN APPROPRIATE METADATA DESCRIBING, AT A MINIMUM, THE ACCURACY, METHOD OF COMPILATION, DATA SOURCE OR SOURCES AND DATE OR DATES, AND DISCLAIMERS OF USE CLEARLY INDICATING THAT THE DATA ARE NOT INTENDED TO BE USED AS A SURVEY PRODUCT.

7. MAPS AND DATABASES DEPICTING THE DISTRIBUTION OF NATURAL RESOURCES OR PHENOMENA PREPARED BY FORESTERS, GEOLOGISTS, SOIL SCIENTISTS, GEOPHYSICISTS, BIOLOGISTS, ARCHEOLOGISTS, HISTORIANS, OR OTHER PERSONS QUALIFIED TO DOCUMENT SUCH DATA.

8. MAPS AND GEO-REFERENCED DATABASES DEPICTING PHYSICAL FEATURES AND EVENTS PREPARED BY ANY GOVERNMENT AGENCY WHERE THE ACCESS TO THAT DATA IS RESTRICTED BY STATUTE. THIS INCLUDES GEO-REFERENCED DATA GENERATED BY LAW ENFORCEMENT AGENCIES INVOLVING CRIME STATISTICS AND CRIMINAL ACTIVITIES.

S 4. This act shall take effect on the first of September next succeeding the date on which it shall have become a law; provided, however, that section two of this act shall take effect on the one hundred eightieth day after this act shall have become a law.