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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2003

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS – LAND SURVEYORS

Introduced By: Senator John A. Celona

Date Introduced: February 13, 2003

Referred To: Senate Commerce, Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-8.1-2, 5-8.1-5, 5-8.1-8, 5-8.1-13 and 5-8.1-17 of the General
2 Laws in Chapter 5-8.1 entitled "Land Surveyors" are hereby amended to read as follows:

3 **5-8.1-2. Definitions.** -- The following definitions apply in the interpretation of the
4 provisions of this chapter, unless the context requires another meaning:

5 (1) "ABET" means the accreditation board for engineering and technology.

6 (2) "Accredited program" means an approved program or course of study currently
7 accredited and subject to review by the accepted national organization ABET (land surveying)
8 and any other similar school or course of study which fulfills equivalent requirements which the
9 board approves.

10 (3) "Applicant" means an individual who has submitted an application for registration to
11 practice land surveying as a surveyor-in-training, and/or a certification of authorization.

12 (4) "Board of land surveyors", "board of professional land surveyors" or "board" means
13 the board of registration for professional land surveyors, as subsequently provided by this
14 chapter.

15 (5) "Candidate" means a person who has the qualifications prerequisite by statute and
16 board regulation for admission to examination and who has filed with the board an application for
17 registration accompanied by the required examination fee.

18 (6) "Certificate of registration" means a certificate issued by the board of professional
19 land surveyors to a person to engage in the profession regulated by the board.

1 (7) "Land surveyor-in-training" means a person who has qualified for, taken and passed
2 an examination in the fundamentals of land surveying.

3 (8) "NCEES" means the National Council of Examiners for Engineering and Surveying.

4 (9) "Part-time" means any type of employment or work engagement that requires less
5 than twenty (20) hours of labor per week.

6 (10) "Practice of land surveying" means any service or work, the adequate performance
7 of which involves the application of special knowledge of the principles of mathematics, the
8 related physical and applied sciences and the relevant requirements of law for adequate evidence
9 to perform the act of measuring and locating lines, angles, elevations, natural and manmade
10 features in the air, on the surface of the earth, within underground workings, and on the beds of
11 bodies of water for the purpose of determining areas and volumes, for the monumenting of
12 property boundaries and for the platting and layout of lands and their subdivisions, including the
13 topography, alignment, and grades of streets and for the preparation of maps, record plats, field
14 note records and property descriptions that represent these surveys.

15 (11) "Practice or offer to practice" means a person who engages in land surveying, or
16 who by verbal claim, sign, letterhead, card or in any other way represents himself/herself to be a
17 professional land surveyor.

18 (12) "Principal" means an individual who is a registered professional land surveyor and
19 who is an officer, shareholder, director, partner, member, manager or owner of that organization
20 and who is in responsible charge of an organization's professional practice for which he or she is
21 registered.

22 (13) "Professional land surveyor" means a person who has been duly registered as a
23 professional land surveyor by the board established under this chapter, and who is a professional
24 specialist in the technique of measuring land, educated in the basic principles of mathematics, the
25 related physical and applied sciences and the relevant requirements of law for adequate evidence
26 and all to surveying of real property and engaged in the practice of land surveying as defined in
27 this section.

28 (14) "Registrant" means an individual who has been issued a certificate of registration by
29 the board of professional land surveyors.

30 (15) "Registrant's seal" means an emblem of a type, shape, and size and as specified by
31 the board of registration of professional land surveyors for use by an individual registrant to
32 stamp legal descriptions final drawings, specifications, and reports.

33 (16) "Responsible charge" means direct control and personal supervision of the work
34 performed. No person may serve in responsible charge of land surveying work done in Rhode

1 Island unless that person is registered as a professional land surveyor by the board.

2 (17) "Rules and regulations" means that document of the same title as amended from
3 time to time that has been duly adopted by the board of professional land surveyors and which
4 prescribes the manner in which that board administers its affairs and establishes rules of conduct,
5 procedures, and standards for adherence by all persons registered by the board, filed with the
6 secretary of state in accordance with the provisions of sections 42-35-3(a) and 42-35-4(b), and
7 this chapter.

8 (18) "Experience" means combined office and field work in land surveying satisfactory
9 to the board, including any work which is performed under the direct control and personal
10 supervision of a professional land surveyor.

11 (19) "Related curriculum" means an educational program of sufficient length and
12 academic quality and content to satisfy the board.

13 **5-8.1-5. Board of registration for professional land surveyors -- Membership,**

14 **appointments, terms, and vacancies.** -- (a) The board of land surveyors consists of five (5)
15 professional land surveyors only one of whom may also be a professional engineer and all of
16 whom are registered in the state. Each member of the board must be a qualified elector of this
17 state for three (3) years prior to appointment. Each member been engaged in the lawful practice
18 of land surveying for at least seven (7) years and shall have been in responsible charge of
19 surveying work for at least five (5) years.

20 (b) Each member of the board is appointed by the governor, within sixty (60) days of the
21 enactment of this chapter, for staggered terms, to serve a term of five (5) years or until his or her
22 successor is appointed and qualified; however, in the original appointments under this section:

23 (1) One member is appointed for a period of one year,

24 (2) One member is appointed for a period of two (2) years,

25 (3) One member is appointed for a period of three (3) years,

26 (4) One member is appointed for a period of four (4) years and

27 (5) One member is appointed for a period of five (5) years.

28 (c) No member of the board of land surveyors shall be associated in the practice of
29 surveying either individually or as a member of a ~~firm~~, partnership, limited liability partnership,
30 ~~or corporation, or limited liability company~~ with any other member of the board.

31 (d) Vacancies in the membership of the board of land surveyors are filled for any
32 unexpired terms by appointment of the governor.

33 (e) A member appointed for a full term is not eligible for more than two (2) consecutive
34 terms.

1 (f) The governor may remove any member of the board of land surveyors for
2 misconduct, incompetency, neglect of duty, or for any sufficient cause, in the manner prescribed
3 by law for removal of state officials.

4 (g) Each member of the board of land surveyors receives a certificate of his or her
5 appointment from the governor and files with the secretary of state his or her written oath or
6 affirmation for the faithful discharge of his or her official duties.

7 (h) Within thirty (30) days of the appointment of the board, the director or his or her
8 designee shall summon the members of the board to organize and elect a chairperson, vice-
9 chairperson and secretary from the appointed members.

10 **5-8.1-8. Board of registration for professional land surveyors – Records and**
11 **reports.** -- (a) The board of land surveyors shall keep a record of its proceedings and of all
12 applications for registration, which applications shall show:

- 13 (1) Name, date of birth, and last known address of each applicant;
- 14 (2) Date of the application;
- 15 (3) The last known place of business of the applicant;
- 16 (4) The education, experience and other qualifications of the applicant;
- 17 (5) The type of examination administered;
- 18 (6) Whether or not the applicant was accepted or rejected;
- 19 (7) Whether or not a certificate of registration was granted;
- 20 (8) The date of action of the board; and
- 21 (9) Any other information that the board deems appropriate.

22 (b) Board records and papers of the following classes are of a confidential nature and are
23 not public records:

- 24 (1) Examination material for examinations not yet given;
- 25 (2) File records of examination problem solutions;
- 26 (3) Letters of inquiry and references concerning applicants;
- 27 (4) Completed board inquiry forms concerning applicants;
- 28 (5) Investigatory files where any investigation is still pending; and
- 29 (6) All other materials of like nature.

30 (c) The record of the board of land surveyors is prima facie evidence of the proceedings
31 of the board and a certified transcript by the board is admissible in evidence with the same force
32 and effect as if the original were produced.

33 (d) A complete roster showing the names and last known addresses of all registered
34 professional land surveyors and surveyors in training and any ~~corporation~~ sole proprietorship.

1 partnership, ~~or sole proprietorship~~ limited liability partnership, corporation or limited liability
2 company receiving a certificate of authorization is compiled by the board of land surveyors once
3 each year, or at intervals as established by board regulations. Copies of this roster are placed on
4 file with the secretary of state and may be mailed to each person listed in the roster and in
5 addition may be distributed or sold to the public.

6 **5-8.1-13. Board of registration for professional land surveyors -- Permitted**
7 **practices.** -- (a) Exemption clause. - This chapter is not construed to prevent or to affect:

8 (1) Employees and subordinates. The work of an employee or subordinate of a person
9 holding a certificate of registration under this chapter; provided, that the work does not include
10 final land surveying work or decisions and is done under the direct supervision of, or checked by,
11 a person holding a certificate of registration issued under this chapter.

12 (2) Federal employees. The practice by officers and employees of the government of the
13 United States while engaged within this state in the practice of land surveying for the government
14 on property owned by the federal government; provided, that no right to practice land surveying
15 accrues to those persons as to any other land surveying work. The right to registration after
16 government employment is not granted except under the provisions prescribed under section 5-
17 8.1-11.

18 (3) Other professions. The practice of engineering, architecture, or landscape
19 architecture.

20 (b) ~~Corporate, partnership and sole~~ Sole proprietorship, partnership, limited liability
21 partnership, corporate and limited liability company practice. - (1) The practice or offer to
22 practice land surveying as defined by this chapter by ~~a corporation, partnership, or sole~~
23 proprietorship, partnership, limited liability partnership, corporation or limited liability company,
24 subsequently referred to as the "firm", through individuals is permitted; provided, that the
25 individuals are in direct control of that practice; exercise personal supervision of all personnel
26 who act in behalf of the firm in professional and technical matters; and, are registered under the
27 provisions of this chapter; and provided, further, that the firm has been issued a certificate of
28 authorization by the board of land surveyors.

29 (2) Within one year after enactment of this chapter every firm must obtain a certificate of
30 authorization from the board and those individuals in direct control of the practice and who
31 exercise direct supervision of all personnel who act in behalf of the firm in professional and
32 technical matters must be registered with the board. The certificate of authorization is issued by
33 the board upon satisfaction of the provisions of this chapter and the payment of an annual fee not
34 to exceed fifty dollars (\$50.00).

1 (3) It is the intent of the board of registration to establish that the professional land
2 surveyor is responsible for land surveying services.

3 (4) Every firm desiring a certificate of authorization must file with the board an
4 application for the certificate on a form provided by the board. A separate form provided by the
5 board is to be filed with each renewal of the certificate of authorization and within thirty (30)
6 days of the time any information previously filed with the board has changed, is no longer true or
7 valid, or has been revised for any reason. If in its judgment, the information contained on the
8 application and renewal form is satisfactory and complete, the board issues a certificate of
9 authorization for the firm to practice land surveying in this state.

10 (5) No firm that has been granted a certificate of authorization by the board of land
11 surveyors is relieved of responsibility for the conduct or acts of its agents, employees, ~~officers, or~~
12 partners (if a partnership or a limited liability partnership), officers or directors (if a corporation),
13 or members or managers (if a limited liability company) because of its compliance with the
14 provisions of this section. No individual practicing land surveying under the provisions of this
15 chapter is relieved of responsibility for land surveying services performed by reason of his or her
16 employment or other relationship with a firm holding a certificate of authorization as
17 subsequently described.

18 (6) A land surveyor may not, for the purposes of this section, be designated as being in
19 responsible charge on more than two (2) certificates of authorization.

20 (7) Certificates of authorization are renewed as previously provided for certificates of
21 registration in section 5-8.1-11.

22 (8) ~~Corporations organized under the provisions of chapter 5.1 of title 7 entitled~~
23 ~~"Professional Service Corporations"~~ Limited liability partnerships, corporations and limited
24 liability companies shall submit a copy of their articles of incorporation, articles of organization
25 or certificate of registration in order to obtain a certificate of authorization from the board of land
26 surveyors.

27 (9) Corporations other than those organized under chapter 5.1 of title 7, partnerships and
28 sole proprietorships practicing in this state prior to the date of the enactment of this chapter shall
29 fully comply with the provisions of this section within one year of the date of that enactment.

30 (10) Effective one year from July 1, 1990, the secretary of state shall not issue a
31 certificate of incorporation or certificate of organization or certificate of registration to any
32 applicant, or a registration as a foreign corporation, limited liability partnership or limited liability
33 company, to any firm, which includes among the objectives for which it is being established any
34 of the words "surveyor", "surveying" or any modification or derivation of those words, unless the

1 board of land surveyors has issued for the applicant a certificate of authorization or a letter
2 indicating the eligibility of the applicant to receive the certificate. The firm applying shall supply
3 the certificate or letter from the board with its application for incorporation or registration as a
4 foreign corporation, limited liability partnership or limited liability company.

5 (c) Land surveyor previously registered. Each land surveyor holding a certificate of
6 registration and each land surveyor-in-training under the laws of this state as previously in effect
7 is deemed registered as a land surveyor or land surveyor-in-training as appropriate under this
8 chapter.

9 (d) This section does not exempt the political subdivisions of the state, such as county,
10 city, or town, or legally constituted boards, districts, or commissions, from obtaining a certificate
11 of authorization from the board of registration when applicable.

12 **5-8.1-17. Board of registration for professional land surveyors -- Violations and**

13 **penalties --Injunctions.** -- (a) No individual shall: (1) practice or offer to practice land surveying
14 in this state; (2) use any title, sign, card, or device implying that the individual is a land surveyor
15 or is competent to practice land surveying in this state; (3) use in connection with his or her name
16 or otherwise any title or description conveying or tending to convey the impression that the
17 individual is a land surveyor or is competent to practice land surveying in this state; or (4) use or
18 display any words, letters, figures, seals, or advertisements indicating that the individual is a land
19 surveyor or is competent to practice land surveying in this state, unless that individual holds a
20 currently valid certificate issued pursuant to this chapter or is specifically exempted from the
21 certificate requirement under the provisions of this chapter.

22 (b) It shall be the duty of all duly constituted officers of this state and all political
23 subdivisions of the state to enforce the provisions of this chapter and to prosecute any persons
24 violating those provisions.

25 (c) No sole proprietorship, partnership, ~~or~~ limited liability partnership, corporation or
26 limited liability company shall: (1) practice or offer to practice land surveying in this state; (2)
27 use any title, sign, card, or device implying that the sole proprietorship, partnership, ~~or~~ limited
28 liability partnership, corporation or limited liability company is competent to practice land
29 surveying in this state; (3) use in connection with its name or otherwise any title or description
30 conveying or tending to convey the impression that the entity is a land surveying firm or is
31 competent to practice land surveying in this state; or (4) use or display any words, letters, figures,
32 seals, or advertisements indicating that the entity is a land surveying firm or is competent to
33 practice land surveying in this state, unless that sole proprietorship, partnership, ~~or~~ limited
34 liability partnership, corporation or limited liability company complies with the requirements of

1 this chapter.

2 (d) Any individual, sole proprietorship, partnership, ~~or~~ limited liability partnership,
3 corporation or limited liability company which: (1) violates subsection (a) or (c) of this section;
4 (2) presents or attempts to use the certificate of registration/authorization of another; (3) gives any
5 false or forged evidence of any kind to the board or to any member of the board in obtaining or
6 attempting to obtain a certificate of registration/authorization; (4) falsely impersonates any other
7 registrant whether of a like or different name; (5) uses or attempts to use an expired, revoked, or
8 nonexistent certificate of registration/authorization; (6) falsely claims to be registered under this
9 chapter; or (7) otherwise violates any provision of this chapter, shall be guilty of a misdemeanor,
10 and upon conviction by a court of competent jurisdiction shall be sentenced to: (i) pay a fine of
11 not more than one thousand dollars (\$1,000) for the first offense and a fine of not less than one
12 thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000) for each subsequent
13 offense or imprisonment for not more than one year, or both; (ii) in the court's discretion and
14 upon good cause shown reimburse the board for any and all fees, expenses, and costs incurred by
15 the board in connection with the proceedings, including attorneys' fees, which amounts shall be
16 deposited as general revenues; and (3) be subject to, in the board's discretion, public censure or
17 reprimand.

18 (e) The board has the power to institute injunction proceedings in superior court to
19 prevent violations of subsection (a) or (c) of this section or violations of section 58.1-1. In
20 injunction proceedings, the board is not required to prove that an adequate remedy at law does not
21 exist, or that substantial or irreparable damage would result from continued violations. The
22 superior court, in its discretion and in addition to any injunctive relief granted to the board, may
23 order that any person or entity in violation of this section shall: (1) upon good cause shown
24 reimburse the board for any and all fees, expenses, and costs incurred by the board in connection
25 with the proceedings, including attorneys fees, which amounts shall be deposited as general
26 revenues; and/or (ii) be subject to public censure or reprimand.

27 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO BUSINESSES AND PROFESSIONS – LAND SURVEYORS

1 This act would provide that limited liability partnerships and limited liability companies,
2 in addition to corporations, partnerships and sole proprietorships, may engage in the practice of
3 land surveying.

4 This act would take effect upon passage.

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