

CHAPTER 280

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 97-1217

BY REPRESENTATIVES Dyer and George;
also SENATORS B. Alexander and Tebedo.

AN ACT

CONCERNING REQUIREMENTS FOR PROFESSIONAL LAND SURVEYORS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-25-202 (6), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-25-202. Definitions. As used in this part 2, unless the context otherwise requires:

(6) (a) "Professional land surveying" means ~~any service or work, the adequate performance of which involves: The application of special knowledge of the principles of mathematics; the related physical and applied sciences; and the relevant requirements of law for measuring and locating points, lines, angles, elevations, and nonnatural features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water for determining relative position and areas as they pertain to the monumenting of property boundaries, condominium measurements, and for the platting and layout of lands and subdivisions thereof, including the topography, alignment, and grades of streets and for the preparation and perpetuation of maps, record plats, field note records, and property or legal descriptions that represent these surveys. Professional land surveying may also include other types of surveying.~~ THE APPLICATION OF SPECIAL KNOWLEDGE OF PRINCIPLES OF MATHEMATICS, METHODS OF MEASUREMENT, AND LAW FOR THE DETERMINATION AND PRESERVATION OF LAND BOUNDARIES. "PROFESSIONAL LAND SURVEYING" SPECIFICALLY INCLUDES:

(I) RESTORATION AND REHABILITATION OF CORNERS AND BOUNDARIES IN THE UNITED STATES PUBLIC LAND SURVEY SYSTEM;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(II) OBTAINING AND EVALUATING BOUNDARY EVIDENCE;

(III) DETERMINATION OF THE AREAS AND ELEVATIONS OF LAND PARCELS;

(IV) SUBDIVISION OF LAND PARCELS INTO SMALLER PARCELS AND LAYOUT OF ALIGNMENT AND GRADES FOR STREETS OR ROADS TO SERVE SUCH SMALLER PARCELS;

(V) MEASURING AND PLATTING UNDERGROUND MINE WORKINGS;

(VI) PREPARATION OF THE BOUNDARY CONTROL PORTIONS OF GEOGRAPHIC INFORMATION SYSTEMS AND LAND INFORMATION SYSTEMS EXCEPT AS ALLOWED OTHERWISE BY SECTION 38-51-109.3, C.R.S.;

(VII) ESTABLISHMENT, RESTORATION, AND REHABILITATION OF LAND SURVEY MONUMENTS AND BENCH MARKS;

(VIII) PREPARATION OF LAND SURVEY PLATS, CONDOMINIUM PLATS, MONUMENT RECORDS, AND SURVEY REPORTS;

(IX) SURVEYING, MONUMENTING, AND PLATTING OF EASEMENTS AND RIGHTS-OF-WAY;

(X) GEODETIC SURVEYING; AND

(XI) ANY OTHER ACTIVITIES INCIDENTAL TO AND NECESSARY FOR THE ADEQUATE PERFORMANCE OF THE SERVICES DESCRIBED IN THIS PARAGRAPH (a).

(b) An individual shall be construed as practicing or offering to practice "professional land surveying" within the meaning and intent of this part 2 if such individual engages therein or, by verbal claim, sign, letterhead, or card or in any other way holds himself or herself out to be a professional land surveyor or as being able to perform any professional land surveying service or if such individual does perform any professional land surveying service or work. ~~or any other service designated by the practitioner which is recognized as "professional land surveying".~~

(c) PROFESSIONAL LAND SURVEYING MAY INCLUDE OTHER TYPES OF SURVEYING.

SECTION 2. 12-25-209 (7), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-25-209. Disciplinary proceedings - injunctive relief procedure. (7) The board, the program administrator, or the administrative law judge may issue a subpoena compelling the attendance and testimony of witnesses and the production of books, papers, and records pursuant to an investigation or a hearing of the board. Any subpoena issued shall be served in the manner provided in the Colorado rules of civil procedure. THE REGISTRANT OR CERTIFICANT IN ANY ACTION BEFORE THE BOARD SHALL HAVE COMPARABLE RIGHTS OF SUBPOENA PURSUANT TO SECTION 24-4-105 (5), C.R.S. If any person refuses to obey any subpoena so issued or to testify or produce any books, papers, or documents, the board may petition the district court having jurisdiction, setting forth the facts, and thereupon such district court, in a proper case, shall issue its subpoena. Failure to obey the court's subpoena shall

constitute contempt of court and shall be punished as provided for in the Colorado rules of civil procedure.

SECTION 3. 12-25-209.5, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-25-209.5. Reconsideration and review of board actions. The board, on its own motion or upon application, at any time after the imposition of any discipline as provided in section 12-25-209, may reconsider its prior action and reinstate or restore such license or terminate probation or reduce the severity of its prior disciplinary action. The taking of any such further action, or the holding of a hearing with respect thereto, shall rest in the sole discretion of the board. THE REGISTRANT OR CERTIFICANT IN ANY ACTION BEFORE THE BOARD SHALL HAVE THE RIGHT TO APPEAL ANY DECISION OF THE BOARD TO A COURT OF COMPETENT JURISDICTION.

SECTION 4. 30-10-906 (3) (c), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

30-10-906. Disputed boundaries - notice - establishment of legal corner monument. (3) (c) Any corner monument established pursuant to this section shall be the true and legal monument defining the boundary corner as stated in the record of the survey; EXCEPT THAT ANY AFFECTED PARTY MAY APPEAL THE RESULT WITHIN SIX MONTHS AFTER THE DATE THE CORNER MONUMENT IS ESTABLISHED IN ACCORDANCE WITH ARTICLE 44 OF TITLE 38, C.R.S.

SECTION 5. Article 44 of title 38, Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

38-44-113. Establishment of boundary corner. THE ESTABLISHMENT OF A BOUNDARY CORNER THROUGH ACQUIESCENCE CONFIRMED BY A COURT OF COMPETENT JURISDICTION, OR BY WRITTEN AGREEMENT PURSUANT TO SECTION 38-44-112, SHALL NOT ALTER THE LOCATION OR VALIDITY OF ANY EXISTING OR PROPERLY RESTORED PUBLIC LAND SURVEY MONUMENT IN THE VICINITY. SUCH EXISTING OR PROPERLY RESTORED PUBLIC LAND SURVEY MONUMENT MAY BE USED TO CONTROL FUTURE LAND SURVEYS IN THE REGION WHEN SUCH SURVEYS ARE NOT RELATED TO THE BOUNDARY CORNER ESTABLISHED BY ACQUIESCENCE OR AGREEMENT.

SECTION 6. 38-50-101 (1) (c), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended to read:

38-50-101. Survey plat - records file and index system - informational purpose. (1) Survey plats required pursuant to section 38-51-107 and this section shall:

(c) Within ~~six~~ TWELVE months after the date the monument is accepted in the field BY A PROFESSIONAL LAND SURVEYOR PERFORMING A MONUMENTED LAND SURVEY or is set by a professional land surveyor, be deposited with the public office designated by the county commissioners.

SECTION 7. 38-51-102 (6) and (11), Colorado Revised Statutes, 1982 Repl.

Vol., as amended, are amended, and the said 38-51-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

38-51-102. Definitions. As used in this article, unless the context otherwise requires:

(6) "Control corner" means any land survey ~~monument~~ CORNER the position of which controls the location of the boundaries of a tract or parcel of land.

(6.3) "CORNER" MEANS A POINT OF REFERENCE DETERMINED BY THE SURVEYING PROCESS.

(11) "Land survey" means a series of observations and measurements made ~~by a professional land surveyor~~ pursuant to sections 38-51-103, 38-51-104, and 38-51-105 for the purpose of locating or restoring any real property boundary.

(12.3) "MONUMENT" MEANS THE OBJECT OR PHYSICAL STRUCTURE THAT MARKS THE CORNER POINT.

SECTION 8. 38-51-110 (3) (b), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended to read:

38-51-110. Violations. (3) (b) Any person whose registration is revoked pursuant to paragraph (a) of this subsection (3) shall be entitled to a hearing on such revocation pursuant to article 4 of title 24, C.R.S., AND MAY APPEAL ANY DECISION OF THE BOARD TO A COURT OF COMPETENT JURISDICTION.

SECTION 9. 38-53-103 (6) and (11), Colorado Revised Statutes, 1982 Repl. Vol., as amended, are amended, and the said 38-53-103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

38-53-103. Definitions. As used in this article, unless the context otherwise requires:

(6) "Control corner" means any land survey ~~monument~~ CORNER the position of which controls the location of the boundaries of a tract or parcel of land.

(6.3) "CORNER" MEANS A POINT OF REFERENCE DETERMINED BY THE SURVEYING PROCESS.

(11) "Land survey" means a series of observations and measurements made ~~by a professional land surveyor~~ pursuant to sections 38-51-103, 38-51-104, and 38-51-105 for the purpose of locating or restoring any real property boundary.

(12.3) "MONUMENT" MEANS THE OBJECT OR PHYSICAL STRUCTURE THAT MARKS THE CORNER POINT.

SECTION 10. 38-53-110 (3) (b), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended to read:

38-53-110. Violations. (3) (b) Any person whose registration is revoked pursuant to paragraph (a) of this subsection (3) shall be entitled to a hearing on such revocation, pursuant to article 4 of title 24, C.R.S., AND MAY APPEAL ANY DECISION OF THE BOARD TO A COURT OF COMPETENT JURISDICTION.

SECTION 11. Effective date. This act shall take effect July 1, 1997.

SECTION 12. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 4, 1997