

CHAPTER 95

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 10-1085

BY REPRESENTATIVE(S) Kerr J., Lambert, Fischer, Priola, Schafer S.;
also SENATOR(S) Tapia, Whitehead, Williams.

AN ACT

CONCERNING LAND SURVEYING, AND, IN CONNECTION THEREWITH, ALTERING LICENSURE CRITERIA FOR LAND SURVEYOR APPLICANTS AND SPECIFYING PROCEDURES FOR ISSUANCE OF A SURVEYOR'S AFFIDAVIT OF CORRECTION.

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

SECTION 1. 12-25-214 (1) (b), the introductory portion to 12-25-214 (2) (b), 12-25-214 (2) (b) (III) (A), and the introductory portion to 12-25-214 (4) (b), Colorado Revised Statutes, are amended, and the said 12-25-214 (2) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

12-25-214. Qualifications for professional land surveyor. (1) (b) In order to be admitted to the examination pursuant to paragraph (a) of this subsection (1), the applicant ~~must~~ SHALL be licensed in good standing in another jurisdiction requiring qualifications substantially equivalent to those currently required of applicants under this part 2 or, at the time of initial licensure in such jurisdiction, have met the requirements for licensure then in existence under Colorado law.

(2) (b) To be admitted to an examination pursuant to paragraph (a) of this subsection (2), the applicant ~~must~~ SHALL MEET THE REQUIREMENTS STATED IN AT LEAST ONE OF THE FOLLOWING:

(III) (A) Have graduated from a board-approved two-year surveying curriculum or from a four-year engineering curriculum ~~which~~ THAT included ~~the equivalent of twenty-four semester hours in~~ surveying course work as ~~approved~~ SPECIFIED by the board BY RULE; and

(IV) (A) HAVE OBTAINED A BACHELOR'S DEGREE IN A NONSURVEYING CURRICULUM;

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

(B) HAVE COMPLETED SURVEYING AND OTHER RELATED COURSE WORK, AS SPECIFIED BY THE BOARD BY RULE;

(C) HAVE SIX YEARS OF PROGRESSIVE LAND SURVEYING EXPERIENCE, OF WHICH FOUR YEARS SHALL HAVE BEEN UNDER THE SUPERVISION OF A PROFESSIONAL LAND SURVEYOR OR AN EXEMPTED FEDERAL EMPLOYEE AS DEFINED IN SECTION 12-25-203; AND

(D) HAVE BEEN ENROLLED AS A LAND SURVEYOR-INTERM IN THIS STATE.

(4)(b) In order to be admitted to an examination pursuant to paragraph (a) of this subsection (4), the applicant ~~must~~ SHALL:

SECTION 2. 12-25-214 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-25-214. Qualifications for professional land surveyor - repeal.

(4) (e) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2020.

SECTION 3. 30-10-906 (3) (c), Colorado Revised Statutes, 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, PURSUANT TO ARTICLE 44 OF TITLE 38, C.R.S., 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 4. 38-51-102, Colorado Revised Statutes, is 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:

(16.1) "PROFESSIONAL LAND SURVEYOR OF RECORD" MEANS THE PROFESSIONAL LAND SURVEYOR WHOSE SIGNATURE AND SEAL APPEAR ON AN ORIGINAL SUBDIVISION PLAT, LAND SURVEY PLAT, OR PARCEL DESCRIPTION CURRENTLY RECORDED IN THE OFFICE OF THE CLERK AND RECORDER IN WHICH THE SUBDIVISION PLAT, LAND SURVEY PLAT, OR PARCEL DESCRIPTION IS SITUATED.

(21) "SURVEYOR'S AFFIDAVIT OF CORRECTION" MEANS AN AFFIDAVIT PREPARED AND EXECUTED BY A PROFESSIONAL LAND SURVEYOR OF RECORD IN ACCORDANCE WITH SECTION 38-51-111.

SECTION 5. Article 51 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-51-111. Surveyor's affidavit of correction. (1) IF AN ERROR DESCRIBED IN SUBSECTION (2) OF THIS SECTION IS DISCOVERED ON ANY SUBDIVISION PLAT, LAND SURVEY PLAT, OR ANY OTHER SURVEY PLAT OR PARCEL DESCRIPTION DULY

RECORDED IN THE CLERK AND RECORDER'S OFFICE OF THE COUNTY IN WHICH THE SUBDIVISION, LAND, OR PARCEL IS SITUATED, THE PROFESSIONAL LAND SURVEYOR OF RECORD MAY PREPARE AND RECORD IN THAT CLERK AND RECORDER'S OFFICE A SURVEYOR'S AFFIDAVIT OF CORRECTION TO CORRECT THE ERROR.

(2) THE FOLLOWING ERRORS MAY BE CORRECTED BY A SURVEYOR'S AFFIDAVIT OF CORRECTION:

(a) ANY BEARING, DISTANCE, OR ELEVATION THAT HAS BEEN OMITTED OR LABELED INCORRECTLY;

(b) ANY TEXT THAT HAS BEEN MISSPELLED OR MISLABELED;

(c) ANY ERROR OR OMISSION, IF THE ERROR OR OMISSION IS ASCERTAINABLE FROM THE DATA SHOWN ON THE RECORDED PLAT OR PARCEL DESCRIPTION; OR

(d) AN ERROR WITHIN A PARCEL DESCRIPTION SHOWN ON A RECORDED PLAT.

(3) THE SURVEYOR'S AFFIDAVIT OF CORRECTION SHALL CONTAIN A REFERENCE TO THE RECORDING INFORMATION OF THE DOCUMENT BEING CORRECTED AND THE SIGNATURE AND SEAL OF THE PROFESSIONAL LAND SURVEYOR OF RECORD, AND SHALL NOT BE SUBJECT TO REVIEW BEFORE BEING RECORDED PURSUANT TO SUBSECTION (4) OF THIS SECTION. THE PROFESSIONAL LAND SURVEYOR OF RECORD SHALL SUBMIT A COPY OF THE SURVEYOR'S AFFIDAVIT OF CORRECTION TO THE APPROPRIATE REVIEWING AUTHORITY, CITING THE SPECIFIC PROVISION UNDER SUBSECTION (2) OF THIS SECTION THAT APPLIES TO THE ERROR BEING CORRECTED.

(4) THE CLERK AND RECORDER OF THE COUNTY IN WHICH A SURVEYOR'S AFFIDAVIT OF CORRECTION IS SUBMITTED FOR RECORDING SHALL RECORD THE AFFIDAVIT IN THE CLERK AND RECORDER'S OFFICE OF THE COUNTY IN WHICH THE PROPERTY LIES AND PROVIDE AT LEAST ONE OF THE FOLLOWING:

(a) A CLERK'S NOTE REFERRING TO THE SURVEYOR'S AFFIDAVIT OF CORRECTION UPON THE RECORDED PLAT OR PARCEL DESCRIPTION; OR

(b) AN ELECTRONIC REFERENCE TO THE SURVEYOR'S AFFIDAVIT OF CORRECTION FOR THE RECORDED PLAT OR PARCEL DESCRIPTION.

(5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PERMIT CHANGES IN COURSES, DISTANCES, OR ELEVATIONS FOR THE PURPOSE OF REDESIGNING ANY LOT, TRACT, OR PARCEL CONFIGURATIONS.

(6) A SURVEYOR'S AFFIDAVIT OF CORRECTION SHALL NOT BE RECORDED FOR A CORRECTION NOT LISTED IN SUBSECTION (2) OF THIS SECTION.

SECTION 6. 30-28-133 (9), Colorado Revised Statutes, is amended to read:

30-28-133. Subdivision regulations. (9) The subdivision regulations adopted under this section may provide that, without a hearing or compliance with any of the submission, referral, or review requirements in this section and section 30-28-136, the board of county commissioners may approve a correction plat if the sole purpose

of such correction plat is to correct one or more technical errors in an approved plat and where such correction plat is consistent with an approved preliminary plan. HOWEVER, IF THE TECHNICAL ERROR OR ERRORS OF AN APPROVED PLAT MEET THE DESCRIPTION OF ANY ERRORS UNDER SECTION 38-51-111 (2), C.R.S., A SURVEYOR'S AFFIDAVIT OF CORRECTION, AS DEFINED IN SECTION 38-51-102, C.R.S., SHALL BE PREPARED IN LIEU OF A CORRECTION PLAT.

SECTION 7. 38-35-109 (5) (b) (III), Colorado Revised Statutes, is amended to read:

38-35-109. Instrument may be recorded - validity of unrecorded instruments - liability for fraudulent documents. (5) (b) When recorded, an affidavit as described in paragraph (a) of this subsection (5), or a certified copy of such affidavit, shall constitute prima facie evidence of one or more of the following facts:

(III) If furnished by a ~~registered~~ PROFESSIONAL LAND SURVEYOR AS DEFINED IN SECTION 12-25-202, C.R.S., a ~~statement or survey~~ SURVEYOR'S AFFIDAVIT OF CORRECTION IN ACCORDANCE WITH SECTION 38-51-111 OR A LAND SURVEY PLAT IN ACCORDANCE WITH SECTION 38-51-106, that reconciles conflicts and ambiguities in descriptions of land in recorded instruments;

SECTION 8. 38-44-109, Colorado Revised Statutes, is amended to read:

38-44-109. Corners and boundaries established. The corners and boundaries finally established by the court in ~~such~~ proceedings UNDER THIS ARTICLE, or an appeal therefrom, shall be binding upon all the parties, their heirs and assigns, as the corners and boundaries ~~which~~ THAT have been lost, destroyed, or in dispute; but if it is found that the boundaries and corners alleged to have been recognized and acquiesced in for twenty years have been so recognized and acquiesced in, such recognized boundaries and corners shall be permanently established. THE COURT ORDER OR DECREE SHALL BE RECORDED IN THE GRANTOR-GRANTEE INDEX OF THE REAL PROPERTY RECORDS OF THE COUNTY OR COUNTIES IN WHICH THE LAND LIES.

SECTION 9. Act subject to petition - specified effective date - applicability. (1) (a) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that section 1 of this act shall take effect January 1, 2011.

(b) However, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date specified in subsection (1) (a) or on the date of the official declaration of the vote thereon by the governor, whichever is later.

(2) The provisions of this act shall apply to professional land surveyor licenses applied for and errors corrected on or after the applicable effective dates of this act.

Approved: April 15, 2010