

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

# A Bill

HOUSE BILL 2030

5 By: Representative Perry  
6

## For An Act To Be Entitled

8 AN ACT TO ESTABLISH CONSISTENCY IN THE LAWS  
9 CONCERNING SURVEYORS; AND FOR OTHER PURPOSES.  
10

### Subtitle

11 TO ESTABLISH CONSISTENCY IN THE LAWS  
12 CONCERNING SURVEYORS.  
13

14  
15  
16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 SECTION 1. Arkansas Code § 17-48-101 is amended to read as follows:  
20 17-48-101. Definitions.

21 As used in this chapter:

22 (1)(A) "Firm" means ~~any~~ a form of business entity that offers  
23 professional surveying services of its licensed personnel to the public.

24 (B) "Firm" does not include an individual licensee  
25 operating under his or her name~~;~~;

26 (2)(A) "Land surveying" means ~~any~~ a service comprising the:

27 (i) Determination of the location of land boundaries  
28 and land boundary corners; and

29 (ii) Preparation of:

30 (a) Plats showing the shape and areas of  
31 tracts of land and their subdivision into smaller tracts;

32 (b) Plats showing the location of streets,  
33 roads, and rights-of-way of tracts to give access to smaller tracts; and

34 (c) Official plats, or maps, of land thereof  
35 in this state.

36 (B) "Land surveying" does not include the measure of



1 acreage of timber, cotton, rice, or other agricultural crops.

2 (C) A person practices or offers to practice land  
3 surveying ~~who~~ if the person:

4 (i) Engages in land surveying for others; or

5 (ii) By verbal claim, sign, letterhead, card,  
6 telephone listing, or in any other way represents himself or herself:

7 (a) To be a professional surveyor; or

8 (b) As able to perform land surveying in this  
9 state;

10 (3) "Metadata" means a description of the content, ancestry and  
11 source, quantity, database schema, and accuracy of digital map data;

12 (4) "Professional surveyor" means a person who by reason of  
13 special knowledge of mathematics, surveying principles and methods, and legal  
14 requirements that are acquired by education or practical experience is  
15 qualified to engage in the practice of land surveying and surveying  
16 measurement certification; ~~and~~

17 (5) "Responsible charge" means direct control of, supervision  
18 of, and legal responsibility for the surveying work performed; and

19 ~~(5)~~(6) "Surveying measurement certification" means providing the  
20 professional service of certification or sealing of maps, documents, digital  
21 files, or other data to verify ~~that~~ the maps, documents, digital files, or  
22 other data are authoritative professional determinations based on accepted  
23 methods and principles of surveying measurement or analysis representing or  
24 listing the following types of surveying measurements:

25 (A) The configuration or contour of the earth's surface or  
26 the position of fixed objects on the earth's surface;

27 (B) The position or elevation of ~~any a~~ a survey boundary, ~~or~~  
28 control monument, or reference point; and

29 (C) The alignment or elevation of ~~any a~~ a fixed ~~works~~ work  
30 embraced within the practice of professional engineering.

31 and

32  
33 SECTION 2. Arkansas Code § 17-48-203(d), concerning certification of  
34 surveyor interns, is amended to read as follows:

35 (d) Effective January 1, 2017, an applicant for licensure as a  
36 surveyor intern shall qualify under one (1) of the following ~~provisions~~:

1 (1)(A) A graduate holding or a student enrolled in the last year  
 2 of a program leading to a baccalaureate degree from a curriculum of four (4)  
 3 years or more ~~who that~~ has ~~completed~~ finished at least thirty (30) semester  
 4 credit hours, or the board-approved equivalent ~~approved by the board~~, in  
 5 courses approved by the board involving land surveying, mapping, and real  
 6 property ~~as approved by the board~~ shall be admitted to sit for a written  
 7 examination in a form approved by the board.

8 (B) An applicant who is ~~otherwise~~ qualified shall be  
 9 granted licensure as a surveyor intern ~~upon~~ on:

- 10 (i) ~~passing~~ Passing the written examination; and  
 11 (ii) Providing proof of graduation with a board-  
 12 approved baccalaureate degree; or

13 (2)(A) A graduate holding or student enrolled in the last year  
 14 of a program leading to an associate of science or an associate of applied  
 15 science degree in surveying ~~or an associate of applied science in surveying~~  
 16 ~~degree~~ from a program approved by the board ~~or its equivalent~~ shall be  
 17 admitted to sit for a written examination in a form approved by the board.

18 (B) An applicant who is ~~otherwise~~ qualified shall be  
 19 granted licensure as a surveyor intern ~~upon~~ on:

- 20 (i) ~~passing~~ Passing the written examination; and  
 21 (ii) Providing proof of graduation with a board-  
 22 approved associate of science or associate of applied science degree.

23  
 24 SECTION 3. Arkansas Code § 17-48-204(d), concerning reinstatement of a  
 25 surveyor license, is amended to read as follows:

26 (d) A professional surveyor or surveyor intern whose certificate of  
 27 licensure ~~has not been~~ is not renewed may have it reinstated by meeting ~~all~~  
 28 the requirements of the board including, depending on the time of nonrenewal  
 29 under the rules of the board. The requirements the board may consider are:

- 30 (1) Payment of fees and penalties;  
 31 (2) ~~Payment of applicable penalties;~~  
 32 ~~(3)~~ Demonstration of continuing professional competency; and  
 33 ~~(4)~~(3) Reexamination.

34  
 35 SECTION 4. Arkansas Code § 17-48-205 is amended to read as follows:  
 36 17-48-205. ~~Revocation~~ Administrative violations and penalties.

1           ~~The State Board of Licensure for Professional Engineers and~~  
 2 ~~Professional Surveyors shall revoke the license of a professional surveyor or~~  
 3 ~~surveyor intern if after a hearing the board finds that the professional~~  
 4 ~~surveyor or surveyor intern:~~

5           ~~(1) Secured his or her license through the practice of fraud or~~  
 6 ~~deceit or through false statements made in his or her application for his or~~  
 7 ~~her license in any document subsequently filed or in any oral testimony~~  
 8 ~~subsequently given in support of the applications;~~

9           ~~(2) Has been guilty of any gross negligence, incompetence, or~~  
 10 ~~misconduct in the practice of land surveying; or~~

11           ~~(3) Has been convicted of any felony or crime involving moral~~  
 12 ~~turpitude.~~

13           (a) The State Board of Licensure for Professional Engineers and  
 14 Professional Surveyors may suspend, revoke, or refuse to issue, restore, or  
 15 renew a certificate of licensure of, or place on probation, fine, reprimand a  
 16 professional surveyor who is:

17           (1) Found guilty of:

18           (A) Fraud or deceit in obtaining, attempting to obtain, or  
 19 renewing a certificate of licensure or certificate of authorization;

20           (B) Negligence, incompetency, or misconduct in the  
 21 practice of surveying;

22           (C) Failure to comply with this chapter, the rules of the  
 23 board, or an order of the board;

24           (D) Discipline by another state, territory, the District  
 25 of Columbia, a foreign, the United States Government, or any other  
 26 governmental agency, if at least one (1) of the grounds for discipline is the  
 27 same or substantially equivalent to those contained in this section;

28           (E) Failure within thirty (30) days to provide information  
 29 requested by the board as a result of a formal or informal complaint to the  
 30 board that would indicate a violation of this chapter;

31           (F) Knowingly making false statements or signing false  
 32 statements, certificates, or affidavits to induce payment;

33           (G) Aiding or assisting another person in violating this  
 34 chapter or the rules of the board;

35           (H) Violating a term of probation imposed by the board;

36           (I) Using a seal or practicing surveying while the

1 professional surveyor's license is suspended, revoked, non-renewed, or  
 2 inactive;

3 (J) Signing, affixing the professional surveyor's seal, or  
 4 permitting the professional surveyor's seal or signature to be affixed to an  
 5 instrument of practice that has not been prepared or completely checked by  
 6 the professional surveyor or under the professional surveyor's direct  
 7 supervision or control;

8 (J) Engaging in dishonorable, unethical, or unprofessional  
 9 conduct of character likely to deceive, defraud, or harm the public;

10 (K) Providing false testimony or information to the board;  
 11 or

12 (L) Habitual intoxication or addiction to the use of drugs  
 13 or alcohol;

14 (2) Found guilty of or enters a plea of guilty or nolo  
 15 contendere to:

16 (A) A felony;

17 (B) A crime of which an essential element is dishonesty;

18 or

19 (C) A crime that is directly related to the practice of  
 20 surveying, or

21 (3) Subject to disciplinary action by another state, territory,  
 22 the District of Columbia, a foreign country, the United States government, or  
 23 other governmental agency, if at least one (1) of the grounds for discipline  
 24 is the same or substantially equivalent to those contained in this section.

25 (b) The board may take the following action against a professional  
 26 surveyor:

27 (1) Suspend or revoke a certificate of licensure;

28 (2) Refuse to issue, restore, or renew a certificate of  
 29 licensure;

30 (3) Place on probation, impose a fine, or reprimand; or

31 (4) A combination of the above.

32 (c) A person that violates this chapter or a rule of the board shall  
 33 pay a civil penalty to the board of not more than five thousand dollars  
 34 (\$5,000) for each offense.

35 (d)(1) The board shall adopt rules of professional conduct under §17-  
 36 48-104 that are to be provided to an applicant for licensure.

1           (2) The board may amend these rules of professional conduct from  
 2 time to time and shall notify each licensee in writing of the amendments.

3           (e) The board may:

4                     (1) Revoke a certificate of authorization;

5                     (2) Suspend a certificate of authorization for a time not  
 6 exceeding two (2) years of a firm when one (1) or more of its officers or  
 7 directors have been found guilty of conduct that would authorize a revocation  
 8 or suspension of their certificates of licensure under this section;

9                     (3) Place a firm on probation for a period and subject to the  
 10 conditions as the board may specify; or

11                    (4) Levy a fine in an amount not more than five thousand dollars  
 12 (\$5,000) for each offense.

13           (f) The board may levy of a fine in an amount not more than five  
 14 thousand dollars (\$5,000) for each offense against non-licensees that violate  
 15 this chapter.

16  
 17           SECTION 5. Arkansas Code § 17-48-206 is amended to read as follows:

18           ~~17-48-206. Continuing education requirements.~~

19           ~~(a)(1)(A) After the expiration of the two-year period immediately~~  
 20 ~~following the effective date of the adoption of regulations by the State~~  
 21 ~~Board of Licensure for Professional Engineers and Professional Surveyors~~  
 22 ~~establishing requirements of continuing education, every application for~~  
 23 ~~renewal of a certificate of licensure under this section shall be accompanied~~  
 24 ~~or supported by such evidence as the board prescribes documenting the~~  
 25 ~~completion of fifteen (15) hours of acceptable continuing education, approved~~  
 26 ~~by the board, during the twelve-month period immediately preceding the date~~  
 27 ~~of application.~~

28                     ~~(B) Failure by an applicant to provide this evidence~~  
 29 ~~constitutes grounds for revocation, suspension, or refusal to renew the~~  
 30 ~~permit unless the board, in its discretion, determines the failure is due to~~  
 31 ~~reasonable cause or the applicant was not engaged in the practice of land~~  
 32 ~~surveying and maintained his or her initial certificate of licensure under §~~  
 33 ~~17-48-204(e).~~

34                     ~~(2)(A) In its discretion, the board may renew a certificate of~~  
 35 ~~licensure despite the failure to furnish evidence of satisfaction of~~  
 36 ~~requirements of continuing education and may issue a certificate of licensure~~

1 to an applicant who has previously maintained inactive status under § 17-48-  
 2 204(c) upon the condition that the applicant follow a particular program or  
 3 schedule of continuing education.

4 (B) In issuing rules, regulations, and individual orders  
 5 in respect to requirements of continuing education, in its discretion the  
 6 board:

7 (i) May, among other things, use and rely upon  
 8 guidelines and pronouncements of recognized educational and professional  
 9 associations;

10 (ii) May prescribe content, duration, and  
 11 organization of courses;

12 (iii) Shall take into account the accessibility to  
 13 applicants of such continuing education as it may require; and

14 (iv) May provide for relaxation or suspension of  
 15 requirements in regard to applicants who certify that they do not intend to  
 16 engage in the practice of land surveyors and for instances of individual  
 17 hardship.

18 (3) In its discretion, the board may exempt licensed  
 19 professional surveyors sixty (60) years of age or with twenty (20) or more  
 20 years' experience as practicing professional surveyors within this state from  
 21 the provisions of this subsection.

22 (b)(1) The board may prescribe regulations, procedures, and policies  
 23 in the manner and condition under which credit shall be given for  
 24 participation in a program of continuing education that the board may deem  
 25 necessary and appropriate to maintain the highest standard of proficiency in  
 26 the profession of land surveying.

27 (2) Examples of programs of continuing education that are  
 28 acceptable include, without limitation programs or seminars sponsored by  
 29 higher educational institutions, government agencies, professional  
 30 organizations of registered land surveyors, and related professions.

31 17-48-206. Continuing education requirements.

32 (a)(1) The State Board of Licensure for Professional Engineers and  
 33 Professional Surveyors shall issue rules establishing the continuing  
 34 education requirements for professional surveyors and surveyor-interns.

35 (2) The rules shall take into account the accessibility to  
 36 applicants of the board's continuing education requirements.

1           (3) The rules may:

2                   (A) Rely upon guidelines and pronouncements of recognized  
3 educational and professional associations;

4                   (B) Prescribe the content, duration, and organization of  
5 courses;

6                   (C) Provide for the relaxation or suspension of  
7 requirements for:

8                           (i) Applicants who certify that they do not intend  
9 to engage in the practice of surveying; and

10                           (ii) Instances of individual hardship;

11                   (D) Exempt from licensed continuing education requirements  
12 a professional surveyor sixty (60) years of age or older with twenty (20) or  
13 more years of experience as a practicing professional surveyor; and

14                           (E)(i) Prescribe the manner and condition under which  
15 credit shall be given for participation in a program of continuing education  
16 that the board considers necessary and appropriate to maintain competency in  
17 the practice of surveying.

18                           (ii) Examples of programs of continuing education  
19 that are acceptable include without limitation programs or seminars sponsored  
20 by higher educational institutions, government agencies, and professional  
21 surveying organizations and related professions.

22                   (b)(1) An application for renewal of a certificate of licensure shall  
23 be accompanied by evidence documenting the completion of acceptable  
24 continuing education credit during the previous renewal period.

25                   (2) Failure by an applicant to provide this evidence upon  
26 request by the board is grounds for disciplinary action unless the board  
27 determines the failure is due to a reasonable cause or the applicant was not  
28 engaged in the practice of surveying during the previous renewal period.

29                   (3) The board may renew a certificate of licensure despite an  
30 applicant's failure to furnish satisfactory evidence of meeting continuing  
31 education requirements and may issue a certificate of licensure to an  
32 applicant who has previously maintained inactive status under § 17-48-204(c)  
33 if the applicant follows a particular program or schedule of continuing  
34 education prescribed by the board.

35  
36           SECTION 6. Arkansas Code Title 17, Chapter 48, Subchapter 2 is amended



1 to add an additional section to read as follows:

2 17-48-208. Disciplinary action – Procedures.

3 (a) The rules promulgated by the State Board of Licensure for  
 4 Professional Engineers and Professional Surveyors for disciplinary procedures  
 5 shall be based on and consistent with the model rules of procedure of the  
 6 Attorney General.

7 (b) A charge, unless dismissed or settled informally, is to be heard  
 8 by the board within twelve (12) months after the date on which the charge was  
 9 submitted.

10 (c)(1) A fine or civil penalty not paid within fifty (50) days after  
 11 the order becomes final is a judgment.

12 (2) The order is to be filed as a judgment and executed in the  
 13 same manner as other judgments.

14 (d) The board, on petition of an individual licensee or firm holding a  
 15 certificate of authorization, may reissue a certificate of licensure or  
 16 authorization if a majority of the members of the board vote for the  
 17 issuance.

18  
 19 SECTION 7. Arkansas Code § 14-14-204(1)(B), concerning accompanying  
 20 documentation for alterations of county boundaries, is amended to read as  
 21 follows:

22 (B) The survey shall be performed by a ~~registered~~  
 23 professional surveyor ~~of the State of Arkansas~~ as defined in § 17-48-101; and  
 24

25 SECTION 8. Arkansas Code § 23-93-207(5)(B), concerning documents  
 26 required by Continuing Care Providers, is amended to read as follows:

27 (B) The map shall be drawn to scale, signed, and sealed by  
 28 a licensed professional engineer as defined in § 17-30-101 or a professional  
 29 surveyor as defined in § 17-48-101;  
 30  
 31

32 **APPROVED: 03/31/2011**