

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

A Bill

HOUSE BILL 1781

5 By: Representative Branscum
6

For An Act To Be Entitled

8 AN ACT TO PROVIDE NOTICE OF LAND SURVEYS TO ADJOINING
9 LANDOWNERS; TO PROVIDE PENALTIES FOR THE FAILURE TO
10 GIVE NOTICE; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO PROVIDE NOTICE OF LAND SURVEYS TO
14 ADJOINING LANDOWNERS AND TO PROVIDE
15 PENALTIES FOR THE FAILURE TO GIVE NOTICE.
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Title 17, Chapter 48, Subchapter 3 is amended
22 to read as follows:

23 17-48-301. Purpose.

24 (a) The purpose of this subchapter is to:

25 (1)(A) ~~enable surveyors~~ Enable a surveyor to have access to
26 survey monuments, triangulation stations, traverse stations, leveling
27 stations, section corners, quarter-section corners and sixteenth-section
28 corners, locations, and other evidence needed in conducting or preparing for
29 surveys or in preserving such monuments, triangulation stations, traverse
30 stations, leveling stations, section corners, quarter-section corners and
31 sixteenth-section corners, locations, or other evidence.

32 (B) It is particularly recognized that at times it is
33 necessary for a surveyor to tread on property not in his or her survey
34 contract because the boundaries and corners of any parcel of land are
35 necessarily also those of adjoining parcels and because the location of
36 boundaries and corners often are affected by the location of some that are



1 remote and not adjoining; and

2 (2)(A) Provide adjoining landowners the simplest form of advance
 3 notice of a survey and an opportunity to provide the surveyor relevant
 4 information concerning the survey, including without limitation information
 5 concerning the location of monuments, landmarks, and boundary lines.

6 (B) It is particularly recognized that adjoining
 7 landowners may be:

8 (i) A valuable source of specific and historic
 9 information in conducting a survey; and

10 (ii) Damaged or otherwise negatively impacted by an
 11 inaccurate survey that could have been avoided if the landowner was given
 12 notice and an opportunity to consult the surveyor before the land survey.

13
 14 17-48-302. ~~Definition~~ Definitions.

15 As used in this subchapter,:

16 (1) "Adjoining landowner" means the owner of real property that
 17 borders the real property being surveyed; and

18 (2) ~~"surveyor"~~ "Surveyor" means a person:

19 ~~(1)(A)~~ Who is a registered surveyor licensed to practice
 20 in the State of Arkansas by permanent registration number or by special
 21 permit;

22 ~~(2)(B)~~ Employed in surveying by the United States
 23 Government, by the State of Arkansas, or by a local government agency; and

24 ~~(3)(C)~~ Who is under the direct supervision of or is
 25 employed by a person who is a surveyor under subdivision ~~(1) or (2)~~ (2)(A) or
 26 (2)(B) of this section.

27
 28 17-48-303. Notice - Right to enter - Immunity from arrest -
 29 Identification.

30 (a) ~~Surveyors~~ A surveyor shall:

31 (1)(A) Five (5) days before conducting a survey notify each
 32 adjoining landowner by personal delivery or posting on the front door of the
 33 adjoining landowner's residence that a survey of adjacent property will be
 34 conducted on or after a date no earlier than twenty (20) days from the date
 35 of the notice.

36 (B) The notice shall include:

1 (i) A description and street address of the property
 2 to be surveyed; and

3 (ii) The name of the surveyor, and an address and
 4 phone number where the surveyor or a representative of the surveyor can be
 5 reached to discuss the survey during regular business hours; and

6 (2) After complying with subdivision (a)(1) of this section,
 7 ~~have~~ has the right to enter on public or private land or waters, except
 8 buildings, in the lawful pursuit of ~~their occupations~~ surveying and shall be
 9 immune from arrest for trespass when performing ~~their~~ the duties ~~as~~
 10 prescribed ~~in~~ by this subchapter.

11 (b)(1) Where practical, ~~surveyors~~ a surveyor shall announce ~~and~~
 12 ~~identify themselves~~ the surveyor's identity and ~~their~~ intentions before
 13 entering upon private property.

14 (2) ~~Surveyors will~~ A surveyor shall:

15 (A) carry means of Carry proper identification ~~as to their~~
 16 of the surveyor's registration ~~or~~ and employment; and

17 (B) will display Display the identification ~~to anyone~~
 18 ~~requesting it~~ upon request by any person.

19 (3) ~~Surveyors~~ A surveyor shall not use the privilege granted
 20 ~~herein~~ in this subchapter to extend ~~that~~ a point of entry as determined by
 21 actual survey requirements.

22
 23 17-48-304. Liability.

24 (a) ~~Surveyors~~ A surveyor shall be personally liable for any damage
 25 caused to:

26 (1) private Private property when exercising entry under this
 27 subchapter; and

28 (2) An adjoining landowner who was prevented by the actions of
 29 the surveyor from exercising the adjoining landowner's rights under this
 30 subchapter.

31 (b) ~~Surveyors~~ A surveyor shall forfeit any and all ~~claim~~ claims for
 32 damage or personal injury against the landowner while on ~~such~~ the landowner's
 33 lands or waters unless the damage or injury is caused by the intentional
 34 tortious conduct of the landowner or ~~his or her~~ the landowner's agent.