State of West Virginia

Certificate

I, Natalie E. Tennant, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 30, CHAPTER 13A, WHICH WAS COMPLETELY REWRITTEN IN 2010 AND CONTAINED IN THE 2011 SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.

Given under my hand and the Great Seal of the State of West Virginia on

March 21, 2012

Natalie E Tennant

Secretary of State

CHAPTER 30, PROFESSIONS AND OCCUPATIONS

ARTICLE 13A. LAND SURVEYORS.

SECTION

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§ 30-13A-1. Unlawful acts.

(a) It is unlawful for any person to practice or offer to practice surveying in this state without a license issued under the provisions of this article, or advertise or use any title or description tending to convey the impression that they are a surveyor, unless such person has been licensed under the provisions of this article.

(b) It is unlawful for any firm to practice or offer to practice surveying in this state without a certificate of authorization issued under the provisions of this article, or advertise or use any title or description tending to convey the impression that it is a surveying firm, unless such firm has been issued a certificate of authorization under the provisions of this article.

§ 30-13A-2. Applicable law.

The practice of surveying and the West Virginia Board of Professional Surveyors are subject to the provisions of article one of this chapter, the provisions of this article and the board's rules.

§ 30-13A-3. Definitions.

As used in this article, the following words and terms have the following meanings:

(a) "Applicant" means a person making application for a license or a firm making application for a certificate of authorization, under the provisions of this article.

(b) "Board" means the West Virginia Board of Professional Surveyors.

(c) "Boundary survey" means a survey, in which property lines and corners of a parcel of land have been established by a survey and a description of survey has been written and a plat has been prepared for the property.

(d) "Cadastral survey" means a survey representing the ownership, relative positions and dimensions of land, objects and estates.

(e) "Certificate holder" means a firm holding a certificate of authorization issued by the board.

(f) "Certificate of authorization" means a certificate issued under the provisions of this article to a firm providing surveying services.

(g) "Construction survey" means the laying of stakes for a construction project.

(h) "Direct supervision" means the responsible licensee is in direct control of all field and office surveying operations. Direct control does not necessarily require the actual physical presence of the responsible licensee at the site of the survey, nor prohibit the responsible licensee from maintaining simultaneous direct supervision of more than one survey.

(i) "Endorsee" means a person holding an endorsement to practice in a specialized field of surveying issued by the board under the provisions of this article.

(j) "Endorsement" means an authorization, in addition to a professional surveyor license, to practice in a specialized field of surveying issued by the board.

(k) "Firm" means any nongovernmental business entity, including an individual, association, partnership or corporation, providing surveying services.

(l)"Geodetic control survey" means a survey involving the precise measurement of points on the earth's surface which form the framework or control for a large map or project.

(m) "Geographic information system (GIS)" means a system of hardware, software and procedures designed to support the capture and management of spatially referenced information.

(n) "Hydrographic survey" means a survey that measures and determines the topographic features of water bodies and the adjacent land areas, including the width, depth and course of water bodies and other relative features.

(o) "Inactive" means the status granted by the board to a licensee or endorsee.

(p) "Land information system (LIS)" means a system of hardware, software and procedures designed to support the capture and management of spatially referenced information.

(q) "License" means a surveying license issued under the provisions of this article.

(r) "Licensee" means a person holding a surveying license issued under the provisions of this article.

(s) "Metes and bounds" means a description where the land or the associated effects on the land have been measured by starting at a known point and describing, in sequence, the lines by direction and distance forming the boundaries of the land or a defined area relative to the physical land features, associated effects or structural improvements on the land.

(t) "Monument" means a permanent marker, either boundary or nonboundary, used to establish corners or mark boundary lines of a parcel of land or reference the geospatial relationship of other objects.

(u) "Mortgage/loan inspection survey" means a survey in which property lines and corners have not been established.

(v) "Oil or gas well survey" means a survey and plat of a proposed oil or gas well, including the location of the well, the surface or mineral tract on which the well is located, the physical features surrounding the well, all creeks or streams near the well and any other identifying characteristics of the land to specify the location of the well. An oil or gas well survey must be performed in accordance with other provisions of this code affecting oil and gas well surveys.

(w) "Partition survey" means a survey where the boundary lines of a newly created parcel of land are established and the new corners are monumented.

(x) "Photogrammetry" means the use of aerial photography, other imagery and surveying principles to prepare scaled maps or other survey products reflecting the contours, features and fixed works of the earth's surface.

(y) "Practice of surveying" means providing professional surveying services, including consulting, investigating, expert testimony, evaluating, planning, mapping and surveying.

(z) "Responsible charge" means direct control of surveying work under the direct supervision of a licensee or person authorized in another state or country to engage in the practice of surveying.

(aa) "Retracement survey" means a survey where the boundary lines and corners of a parcel of land are reestablished from an existing legal or deed description.

(bb) "Strip" means a description of an area by reference to an alignment, usually a right-of-way or an easement, stating the number of feet on each side of the alignment, the relative position of the alignment, a reference to the measurements and monuments where the alignment crosses a parcel of land and the source of title for each parcel of land the alignment crosses.

(cc) "Subdivision" means the division of a lot, tract or parcel of land into two or more lots, tracts or parcels of land.

(dd) "Surface mine survey" means a survey of the surface mine permit area, including the location of the surface mine, the surface or mineral tracts on which the surface mine is located, the physical features surrounding the surface mine, all creeks or streams near the surface mine and any other identifying characteristics of the land to specify the location of the surface mine permit area. A surface mine survey must be performed in accordance with other provisions of this code affecting surface mine surveys.

(ee) "Survey" or "land survey" means to measure a parcel of land and ascertain its boundaries, corners and contents or make any other authoritative measurements.

(ff) "Surveying" or "land surveying" means providing, or offering to provide, professional services using such sciences as mathematics, geodesy, and photogrammetry, and involving both:

(1) The making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth, improvements on the earth, the space above, on or

below the earth; and

(2) Providing, utilizing or developing the same into survey products such as graphics, data, maps, plans, reports, descriptions or projects. Professional services include acts of consultation, investigation, testimony evaluation, expert technical testimony, planning, mapping, assembling and interpreting gathered measurements and information related to any one or more of the following:

(A) Determining by measurement the configuration or contour of the earth's surface or the position of fixed objects thereon.

(B) Determining by performing geodetic surveys the size and shape of the earth or the position of any point on the earth.

(C) Determining the position for any survey control monument or reference point.

(D) Creating, preparing or modifying electronic, computerized or other data relative to the performance of the activities in the above-described paragraphs (A) through (C), inclusive, of this subdivision.

(E) Locating, relocating, establishing, reestablishing or retracing property lines or boundaries of any tract of land, road, right-of-way or easement.

(F) Making any survey for the division, subdivision, or consolidation of any tract or tracts of land.

(G) Locating or laying out alignments, positions or elevations for the construction of fixed works.

(H) Determining, by the use of principles of surveying, the position for any boundary or nonboundary survey monument or reference point, or establishing or replacing any such monument or reference point.

(I) Creating, preparing or modifying electronic or computerized or other data relative to the performance of the activities in the above-described paragraphs (E) through (H), inclusive, of this subdivision.

(3) Any person who engages in surveying, who by verbal claim, sign, advertisement, letterhead, card or in any other way represents themselves to be a professional surveyor, or who implies through the use of some other title that they are able to perform, or who does perform, any surveying service or work or any other service designated by the practitioner which is recognized as surveying, is practicing, or offering to practice, surveying within the meaning and intent of this article.

(gg) "Surveyor", "professional surveyor" or "land surveyor" means a person licensed to practice surveying under the provisions of this article.

(hh) "Surveyor, retired", "professional surveyor, retired" or "land surveyor, retired" means a licensed surveyor no longer practicing surveying, who has chosen to retire and has been granted the honorific title of "Professional Surveyor, Retired".

(ii) "Surveyor-in-charge" means a licensee designated by a firm to oversee the surveying activities and practices of the firm.

(jj) "Surveyor intern" means a person who has passed an examination covering the fundamentals of land surveying.

(kk) "Underground survey" means a survey that includes the measurement of underground mine workings and surface features relevant to the underground mine, the placing of survey points (spads) for mining direction, the performance of horizontal and vertical control surveys to determine the contours of a mine, the horizontal and vertical location of mine features, and the preparation of maps, reports and documents, including mine progress maps and mine ventilation maps. An underground mine survey must be performed in accordance with other provisions of this code affecting underground mine surveys.

§ 30-13A-4. Board of Professional Surveyors.

(a) The "West Virginia Board of Professional Surveyors" is continued. Any member of the board, except the endorsed underground surveyor member, in office on July 1, 2010, may continue to serve until his or her successor has been appointed and qualified.

(b) Prior to July 1, 2010, the Governor, by and with the advice and consent of the Senate, shall appoint one licensed professional surveyor with at least ten years of experience in land surveying to replace the endorsed underground surveyor.

(c) Commencing July 1, 2010, the board shall consist of the following five members with staggered terms:

(1) Three licensed professional surveyors with at least ten years of experience in land surveying;

(2) One person who has a license in another field of practice other than surveying and also who has a surveyor license by examination and has practiced surveying for at least ten years; and

(3) One citizen member who is not regulated under the provisions of this article and does not perform any services related to the practice of surveying under the provisions of this article.

(d) Each licensed member of the board, at the time of his or her appointment, must have held a license in this state for a period of not less than three years immediately preceding the appointment.

(e) Each member must be appointed by the Governor, by and with the advice and consent of the Senate, and must be a resident of this state during the appointment term.

(f) The term of each board member is four years.

(g) No member may serve more than two consecutive full terms and any member having served two full terms may not be appointed for one year after completion of his or her second full term. A member shall continue to serve until his or her successor has been appointed and qualified.

(h) The Governor may remove any member from the board for neglect of duty, incompetency or official misconduct.

(i) A licensed member of the board immediately and automatically forfeits membership to the board if his or her license to practice is suspended or revoked.

(j) A member of the board immediately and automatically forfeits membership to the board if he or she is convicted of a felony under the laws of any jurisdiction or becomes a nonresident of this state.

(k) The board shall designate one of its members as chairperson and one member as secretary-treasurer.

(l) Each member of the board is entitled to receive compensation and expense reimbursement in accordance with section eleven, article one of this chapter.

(m) A majority of the members of the board shall constitute a quorum.

(n) The board shall hold at least one annual meeting. Other meetings shall be held at the call of the chairperson, or upon the written request of two members, at such time and place as designated in the call or request.

§ 30-13A-5. Powers and duties of the board.

The board has all the powers and duties set forth in article one of this chapter and also the following powers and duties:

(1) Hold meetings, conduct hearings and administer examinations and reexaminations;

(2) Set the requirements for a license, endorsement, surveyor-in-charge and certificate of authorization;

(3) Establish qualifications for licensure and procedures for submitting, approving and disapproving applications for a license, endorsement and certificate of authorization;

(4) Examine the qualifications of any applicant for a license and endorsement;

(5) Prepare, conduct, administer and grade examinations and reexaminations required under the provisions of this article;

(6) Determine the passing grade for the examinations and reexaminations required under the provisions of this article;

(7) Administer, or contract with third parties to administer, the examinations and reexaminations required under the provisions of this article;

(8) Maintain records of the examinations and reexaminations the board or a third party administers, including the number of persons taking the examination or reexamination and the pass and fail rate;

(9) Maintain an accurate registry of names and addresses of all licensees and endorsees;

(10) Maintain an accurate registry of names and addresses of firms holding a certificate of authorization;

(11) Establish the standards for surveys;

(12) Define the fees charged under the provisions of this article;

(13) Issue, renew, deny, suspend, revoke or reinstate licenses and endorsements, and discipline such persons;

(14) Issue, renew, deny, suspend, revoke or reinstate certificates of authorization and discipline such firms;

(15) Establish and implement the continuing education requirements for licensees and endorsees;

(16) Sue and be sued in its official name as an agency of this state;

(17) Hire, set the job requirements for, fix the compensation of and discharge investigators and the employees necessary to enforce the provisions of this article;

(18) Investigate alleged violations of the provisions of this article, the rules promulgated hereunder, and orders and final decisions of the board;

(19) Conduct hearings upon charges calling for discipline of a licensee, endorsee or certificate holder, or revocation or suspension of a license, endorsement or certificate of authorization;

(20) Set disciplinary action and issue orders;

(21) Propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article; and

(22) Take all other actions necessary and proper to effectuate the purposes of this article.

§ 30-13A-6. Rule-making authority.

(a) The board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article, including:

(1) Setting the standards and requirements for licensure, endorsement, surveyor-in-charge and certificate of authorization;

(2) Setting the procedure for examinations and reexaminations;

(3) Establishing requirements for third parties to administer examinations and reexaminations;

(4) Establishing procedures for the issuance and renewal of a license, endorsement and certificate of authorization;

(5) Setting a schedule of fees;

(6) Establishing and implementing requirements for continuing education for licensees and endorsees;

(7) Evaluating the curriculum, experience and the instructional hours required for a license and endorsement;

(8) Denying, suspending, revoking, reinstating or limiting the practice of a licensee, endorsee or certificate holder;

(9) Establishing electronic signature requirements;

(10) Establishing minimum standards for surveys;

(11) Establishing a process to record plats;

(12) Establishing seal and document certification standards; and

(13) Proposing any other rules or taking other action necessary to effectuate the provisions of this article.

(b) All rules in effect on July 1, 2010, shall remain in effect until they are amended, modified, repealed or replaced.

§ 30-13A-7. Fees; special revenue account; administrative fines.

(a) All fees and other moneys, except administrative fines, received by the board shall be deposited in a separate special revenue fund in the State Treasury designated the "Board of Professional Surveyors Fund" which fund is continued. The fund shall be used by the board for the administration of this article. Except as may be provided in section eleven, article one of this chapter, the board shall retain the amounts in the special revenue fund from year to year. No compensation or expense incurred under this article is a charge against the General Revenue Fund.

(b) Any amounts received as fines imposed pursuant to this article shall be deposited into the General Revenue Fund of the State Treasury.

§ 30-13A-8. Education, experience and examination requirements for a surveying license.

(a) Before a person may apply for a surveying license, the person must have completed one of the following educational, experience and examination requirements:

(1) Has a four-year degree or a bachelor degree in surveying approved by the board, which degree must include a minimum of thirty hours of surveying or surveying-related courses, has passed an examination in the fundamentals of land surveying, has two years or more of experience in surveying in responsible charge, has passed an examination in the principles and practice of land surveying and has passed the West Virginia examination;

(2) Has a four-year degree or a bachelor degree, has completed a minimum of thirty hours of surveying or surveying-related courses, has passed an examination in the fundamentals of land surveying, has four years or more of experience in surveying, including two years of experience in responsible charge under the direct supervision of a licensee or a person authorized in another jurisdiction to engage in the practice of surveying, has passed an examination in the principles and practice of land surveying and has passed the West Virginia examination; or

(3) Has a two-year degree or an associate degree in surveying or a related field approved by the board, which degree must include a minimum of thirty hours of surveying or surveying-related courses, has passed an examination in the fundamentals of land surveying, has four years or more of experience in surveying, including two years of experience in responsible charge under the direct supervision of a licensee or a person authorized in another state or country to engage in the practice of surveying, has passed an examination in the principles and practice of land surveying and has passed the West Virginia examination.

(b) A person graduating from a two-year or four-year approved surveying degree program with a grade point average of 3.0 or higher is permitted to take the examination in the fundamentals of land surveying during his or her final semester.

(c) A person must pass the examination in the fundamentals of land surveying and complete the work experience before he or she is allowed to take the examination in the principles and practice of land surveying and the West Virginia examination.

(d) The examination in the fundamentals of land surveying, the examination in the principles and practice of land surveying and the West Virginia examination shall each be held at least once each year at the time and place determined by the board. A person who fails to pass all or any part of an examination may apply for reexamination, as prescribed by the board, and shall furnish additional information and fees as required by the board.

(e) A person who began the education, experience or examination requirements and were approved by the board prior to December 31, 2004, have until December 31, 2012, to complete such requirements for licensure.

§ 30-13A-9. Surveying license requirements.

(a) The board shall issue a surveying license to an applicant who meets the following requirements:

(1) Is of good moral character;

(2) Is at least eighteen years of age;

(3) Is a citizen of the United States or is eligible for employment in the United States;

(4) Holds a high school diploma or its equivalent;

(5) Has not been convicted of a crime involving moral turpitude; and

(6) Has completed all of one of the education, experience and examination requirements set out in section eight of this article.

(b) An application for a surveying license shall be made on forms provided by the board and include the following:

(1) Name and address of the applicant;

(2) Applicant's education and experience;

(3) Location and date of passage of all the examinations;

(4) Names of five persons for reference, at least three of whom shall be licensees or persons authorized in another jurisdiction to engage in the practice of surveying, and who have knowledge of the applicant's work; and

(5) Any other information the board prescribes.

(c) An applicant shall pay all the applicable fees.

(d) A license to practice surveying issued by the board prior to July 1, 2010, shall for all purposes be considered a license issued under this article: *Provided*, That a person holding a license to practice surveying issued by the board prior to July 1, 2010, must renew the license pursuant to the provisions of this article.

§ 30-13A-10. Scope of Practice.

(a) A licensee may measure a parcel of land and ascertain its boundaries, corners and contents or make any other authoritative measurements. The practice of surveying can be any of the following, but not limited to:

(1) The performance of a boundary, cadastral, construction, geodetic control, hydrographic, land, mortgage/loan inspection, oil or gas well, partition, photogrammetry, retracement, subdivision or surface mine survey; or

(2) The location, relocation, establishment, reestablishment, laying out or retracement of any property line or boundary of any parcel of land or of any road or utility right-of-way, easement, strip or alignment or elevation of any fixed works by a licensed surveyor.

(b) Activities that must be performed under the responsible charge of a professional surveyor, unless specifically exempted in subsection (c) of this section, include, but are not limited to, the following:

(1) The creation of maps and georeferenced databases representing authoritative locations for boundaries, the location of fixed works, or topography;

(2) Maps and georeferenced databases prepared by any person, firm, or government agency where that data is provided to the public as a survey product;

(3) Original data acquisition, or the resolution of conflicts between multiple data sources, when used for the authoritative location of features within the following data themes: geodetic control, orthoimagery, elevation and hydrographic, fixed works, private and public boundaries, and cadastral information;

(4) Certification of positional accuracy of maps or measured survey data;

(5) Adjustment or authoritative interpretation of raw survey data;

(6) Geographic Information System (GIS) - based parcel or cadastral mapping used for authoritative boundary definition purposes wherein land title or development rights for individual parcels are, or may be, affected;

(7) Authoritative interpretation of maps, deeds, or other land title documents to resolve conflicting data elements;

(8) Acquisition of field data required to authoritatively position fixed works or cadastral data relative to geodetic control; and

(9) Analysis, adjustment or transformation of cadastral data of the parcel layer(s) with respect to the geodetic control layer within a GIS resulting in the affirmation of positional accuracy.

(c) The following items are not included as activities within the practice of surveying:

(1) The creation of general maps:

(A) Prepared by private firms or government agencies for use as guides to motorists, boaters, aviators, or pedestrians;

(B) Prepared for publication in a gazetteer or atlas as an educational tool or reference publication;

(C) Prepared for or by education institutions for use in the curriculum of any course of study;

(D) Produced by any electronic or print media firm as an illustrative guide to the geographic location of any event; or

(E) Prepared by laypersons for conversational or illustrative purposes. This includes advertising material and users guides.

(2) The transcription of previously georeferenced data into a GIS or LIS by manual or electronic means, and the maintenance thereof, provided the data are clearly not intended to indicate the authoritative location of property boundaries, the precise definition of the shape or contour of the earth, and/or the precise location of fixed works of humans.

(3) The transcription of public record data, without modification except for graphical purposes, into a GIS- or LIS-based cadastre (tax maps and associated records) by manual or electronic means, and the maintenance of that cadastre, provided the data are clearly not intended to authoritatively represent property boundaries. This includes tax maps and zoning maps.

(4) The preparation of any document by any federal government agency that does not define real property boundaries. This includes civilian and military versions of quadrangle topographic maps, military maps, satellite imagery, and other such documents.

(5) The incorporation or use of documents or databases prepared by any federal agency into a GIS/LIS, including but not limited to federal census and demographic data, quadrangle topographic maps, and military maps.

(6) Inventory maps and databases created by any organization, in either hard-copy or electronic form, of physical features, facilities, or infrastructure that are wholly contained within properties to which they have rights or for which they have management responsibility. The distribution of these maps and/or databases outside the organization must contain appropriate metadata describing, at a minimum, the accuracy, method of compilation, data source(s) and date(s), and disclaimers of use clearly indicating that the data are not intended to be used as a survey product.

(7) Maps and databases depicting the distribution of natural resources or phenomena prepared by foresters, geologists, soil scientists, geophysicists, biologists, archeologists, historians, or other persons qualified to document such data.

(8) Maps and georeferenced databases depicting physical features and events prepared by any government agency where the access to that data is restricted by statute. This includes georeferenced data generated by law enforcement agencies involving crime statistics and criminal activities.

§ 30-13A-11. Exemptions from licensing.

(a) The following persons are exempt from licensure under the provisions of this article:

(1) Any employee of a person or firm, when such employee is engaged in the practice of land surveying exclusively for the person or firm, by which employed, or, if a corporation, its parents, affiliates or subsidiaries, and such person, firm, association or corporation does not hold himself, herself or itself out to the public as being engaged in the business of land surveying.

(2) Any employee or officer of the United States, this state or any political subdivision thereof, or their agents, when such employee is engaged in the practice of land surveying exclusively for such governmental unit: *Provided,* That each county surveyor of lands first elected or first appointed after January 1, 2013, pursuant to section 1, article IX of the West Virginia Constitution, shall be a surveyor licensed pursuant to the provisions of this article and such licensee shall be in good standing.

(b) The minimum standards for surveys, established by the board, apply notwithstanding the exemptions provided by this section.

§ 30-13A-12. Surveyor intern requirements.

(a) To be recognized as a surveyor intern by the board, a person must meet the following requirements:

(1) Is of good moral character;

(2) Is at least eighteen years of age;

(3) Is a citizen of the United States or is eligible for employment in the United States;

(4) Holds a high school diploma or its equivalent;

(5) Has not been convicted of a crime involving moral turpitude;

(6) Has completed one of the education requirements set out in section eight of this article; and (7) Has passed an examination in the fundamentals of land surveying.

(b) A surveyor intern must pass the principles and practice of land surveying examination and the West Virginia examination within ten years of passing the fundamentals of land surveying examination. If the examinations are not passed within ten years, then the surveyor intern must retake the fundamentals of land surveying examination.

§ 30-13A-13. License from another state.

The board may issue a license to practice surveying in this state to an applicant of good moral character who holds a valid license or other authorization to practice surveying from another state if the applicant demonstrates that:

(1) He or she or she holds a license or other authorization to practice surveying in another state which was granted after completion of educational, experience and examinations requirements substantially equivalent to those required in this state;

(2) He or she is not currently being investigated by a disciplinary authority of another state, does not have charges pending against his or her license or other authorization to practice surveying and has never had a license or other authorization to practice surveying revoked;

(3) He or she has not previously failed an examination for licensure in this state;

(4) He or she has paid all the applicable fees; and

(5) Has completed such other action as required by the board.

§ 30-13A-14. License, endorsement and certificate of authorization renewal requirements.

(a) A licensee or endorsee wanting to continue in active practice shall, annually or biennially, on or before July 1, renew his or her license or endorsement and pay a renewal fee.

(b) A certificate holder wanting to continue in active practice shall, annually or biennially, on or before January 1, renew the certificate and pay a renewal fee.

(c) The board shall charge a fee for each a renewal and a late fee for any renewal not paid by the due date.

(d) The board shall require as a condition of renewal that each licensee or endorsee complete continuing education.

(e) The board may deny an application for renewal for any reason which would justify the denial of an original application for a license, endorsement or certificate of authorization.

(f) The board may authorize the waiving of the renewal fee of a licensee or endorsee during the period when he or she is on active duty with any branch of the armed services.

§ 30-13A-15. Inactive license requirements.

(a) A licensee who does not want to continue in active practice shall notify the board in writing and be granted inactive status.

(b) A person granted inactive status shall pay an inactive fee and is exempt from the continuing education requirements and cannot practice in this state.

(c) When an inactive licensee wants to return to active practice, he or she must complete all the continuing education requirements and pay all the applicable fees as determined by the board.

§ 30-13A-16. Delinquent and expired license requirements.

(a) If a license is not renewed when due, then the board shall automatically place the licensee on delinquent status.

(b) The fee for a person on delinquent status shall increase at a rate, determined by the board, for each month or fraction thereof that the renewal fee is not paid, up to a maximum of thirty-six months.

(c) Within thirty-six months of being placed on delinquent status, if a licensee wants to return to active practice, he or she must complete all the continuing education requirements and pay all the applicable fees as determined by the board.

(d) After thirty-six months of being placed on delinquent status, a license is automatically placed on expired status and cannot be renewed. A person whose license has expired must reapply for a new license.

§ 30-13A-17. Retired license requirements.

(a) A licensee who does not want to continue practicing surveying and who has chosen to retire shall notify the board in writing and may be granted retired status.

(b) A person granted retired status shall be given the honorific title of "Professional Surveyor, Retired" and cannot practice in this state.

§ 30-13A-18. Requirements for when a person fails an examination.

(a) Any person failing any of the examinations for surveying is not permitted to work as a licensed surveyor under the provisions of this article until the person has passed all the examinations.

(b) A person failing the fundamentals of land surveying examination may still gain experience as required in section eight of this article until he or she passes the examination.

(c) A person who has passed the fundamentals of land surveying examination, but failed the principles and practice examination or West Virginia examination may only work as a surveyor intern under the direct supervision of a licensee or a person authorized in another jurisdiction to engage in the practice of surveying until he or she passes all of the examinations.

§ 30-13A-19. Display of license, endorsement and certificate of authorization.

(a) The board shall prescribe the form for a license, endorsement and certificate of authorization and may issue a duplicate license, endorsement and certificate of authorization upon payment of a fee.

(b) A licensee, endorsee and certificate holder shall conspicuously display his or her license, endorsement or certificate of authorization at his or her principal place of practice.

§ 30-13A-20. Certificate of authorization requirements.

(a) Each firm practicing surveying in West Virginia shall have a certificate of authorization.

(b) The board shall issue a certificate of authorization to a firm that:

(1) Practices surveying in West Virginia;

(2) Provides proof that the firm has employed a surveyor-in-charge;

(3) Has paid all applicable fees; and

(4) Completes such other requirements as specified by the board.

§ 30-13A-21. Surveyor-in-charge requirements.

(a) A firm practicing surveying must operate all surveying activities under the supervision and management of a surveyor-in-charge who shall be a licensee who is licensed in this state.

(b) The designated surveyor-in-charge is responsible for the surveying work in this state provided by the firm.

(c) A licensee cannot be designated as a surveyor-in-charge for more than one firm without approval of the board.

(d) A licensee who performs part-time or consulting surveying services for a firm cannot be designated as a surveyor-in-charge for that firm unless the licensee is an officer, a majority interest holder or owner of the firm.

(e) The responsibilities of a surveyor-in-charge include:

(1) Renewal of the certificate of authorization;

(2) Notification to the board of any change in the surveyor-in-charge;

(3) Supervising the firm's employees, including licensees, and other personnel providing surveying services in this state; and

(4) Ensuring that the policies of the firm adhere to the provisions of this article.

(f) The board may authorize a licensee to supervise the work of an individual that is not an employee of the licensee, nor is employed by the same firm as the licensee. The potential supervisor must apply to the board for this authorization.

§ 30-13A-22. Complaints; investigations; due process procedure; grounds for disciplinary action.

(a) The board may upon its own motion based on credible information, and shall upon the written complaint of any person, cause an investigation to be made to determine whether grounds exist for disciplinary action under this article.

(b) Upon initiation or receipt of the complaint, the board shall provide a copy of the complaint to the licensee or certificate holder.

(c) After reviewing any information obtained through an investigation, the board shall determine if probable cause exists that the licensee or certificate holder has violated this article.

(d) Upon a finding that probable cause exists that the licensee or certificate holder has violated this article, the board may enter into a consent decree or hold a hearing for the suspension or revocation of the license or certificate of authorization or the imposition of sanctions against the licensee or certificate holder. Any hearing shall be held in accordance with the provisions of this article.

(e) Any member of the board or the executive secretary of the board may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person regulated by the article.

(f) Any member of the board or its executive secretary may sign a consent decree or other legal document on behalf of the board.

(g) The board may, after notice and opportunity for hearing, deny or refuse to renew, suspend, restrict or revoke the license or certificate of authorization of, or impose probationary conditions upon or take disciplinary action against, any licensee or certificate holder for any of the following reasons once a violation has been proven by a preponderance of the evidence:

(1) Obtaining a license or certificate of authorization by fraud, misrepresentation or concealment of material facts;

(2) Being convicted of a felony or other crime involving moral turpitude;

(3) Being guilty of unprofessional conduct which placed the public at risk;

(4) Intentional violation of a lawful order or legislative rule of the board;

(5) Having had a license or other authorization to practice revoked or suspended, or other disciplinary action taken by the proper authorities of another jurisdiction;

(6) Aiding or abetting unlicensed practice; or

(7) Engaging in an act while acting in a professional capacity which has endangered or is likely to endanger the health, welfare or safety of the public.

(h) For the purposes of subsection [g] of this section, disciplinary action may include:
(1) Reprimand;
(2) Probation;
(3) Restrictions;
(4) Administrative fine, not to exceed $1,000 per day per violation;
(5) Mandatory attendance at continuing education seminars or other training;
(6) Practicing under supervision or other restriction; or
(7) Requiring the licensee or certificate holder to report to the board for periodic interviews for a specified period of time.

(i) In addition to any other sanction imposed, the board may require a licensee or certificate holder to pay the costs of the proceeding.

§ 30-13A-23. Procedures for hearing.

(a) Hearings are governed by the provisions of section eight, article one of this chapter.

(b) The board may conduct the hearing or elect to have an administrative law judge conduct the hearing.

(c) If the hearing is conducted by an administrative law judge, at the conclusion of a hearing he or she shall prepare a proposed written order containing findings of fact and conclusions of law. The proposed order may contain proposed disciplinary actions if the board so directs. The board may accept, reject or modify the decision of the administrative law judge.

(d) Any member or the executive secretary of the board has the authority to administer oaths, examine any person under oath and issue subpoenas and subpoenas duces tecum.

(e) If, after a hearing, the board determines the licensee or certificate holder has violated provisions of this article, a formal written decision shall be prepared which contains findings of fact, conclusions of law and a specific description of the disciplinary actions imposed.

§ 30-13A-24. Judicial review.

Any licensee or certificate holder adversely affected by a decision of the board entered after a hearing may obtain judicial review of the decision in accordance with section four, article five, chapter twenty-nine-a of this code, and may appeal any ruling resulting from judicial review in accordance with article six, chapter twenty-nine-a of this code.

§ 30-13A-25. Criminal proceedings; penalties.

(a) When, as a result of an investigation under this article or otherwise, the board has reason to believe that a person has knowingly violated the provisions of this article, the board may bring its information to the attention of the appropriate law-enforcement officer who may cause appropriate criminal proceedings to be brought.

(b) If a court of law finds that a person knowingly violated this article, any order of the board or any final decision of the board, then the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined no less than one hundred dollars and no more than one thousand dollars for each violation, confinement in a regional correctional facility for up to thirty days for each violation, or both fined and confined.

§§ 30-13A-26 to 30-13A-37. Repealed.