

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 752

By: Hobson

COMMITTEE SUBSTITUTE

An Act relating to land surveying; amending 59 O.S. 1991, Sections 475.2, as amended by Section 2, Chapter 165, O.S.L. 1992, and 475.20, as last amended by Section 508, Chapter 133, O.S.L. 1997 (59 O.S. Supp. 1998, Sections 475.2 and 475.20), which relate to land surveying and the State Board of Professional Engineers and Land Surveyors; clarifying language; eliminating gender references; modifying definitions; excluding agents of purchasers of land surveying services from definition; making certain crimes misdemeanors; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1991, Section 475.2, as amended by Section 2, Chapter 165, O.S.L. 1992 (59 O.S. Supp. 1998, Section 475.2), is amended to read as follows:

Section 475.2 As used in Section 475.1 et seq. of this title:

1. "Engineer" means a person who, by reason of special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to engage in the practice of engineering;
2. "Professional engineer" means a person who has been duly registered and licensed as a professional engineer as provided in Section 475.1 et seq. of this title;
3. "Engineer intern" means a person who complies with the requirements for education and experience and has passed an

examination in the fundamental engineering subjects, as provided in Section 475.1 et seq. of this title;

4. "Practice of engineering" means any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, planning the engineering use of land and water, teaching of advanced engineering subjects or courses related thereto, engineering research, engineering surveys, engineering studies, and the inspection or review of construction for the purposes of assuring compliance with drawings and specifications; any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, chemical, environmental, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services.

Engineering surveys include all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered projects, but exclude the surveying of real property for the establishment of land boundaries, rights-of-way, easements and the dependent or independent surveys or resurveys of the public land survey system.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of Section 475.1 et seq. of this title, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself to be a

professional engineer, or through the use of some other title implies that he is a professional engineer or that he is registered under Section 475.1 et seq. of this title; or who holds himself out as able to perform, or who does perform any engineering service or work or any other service designated by the practitioner which is recognized as engineering;

5. "Land surveyor" means a person who, by reason of special knowledge in the technique of measuring land and use of the basic principles of mathematics, the related physical and applied sciences and the relevant requirements of law for adequate evidence and all requisite to surveying of real property, acquired by education and experience, is qualified to engage in the practice of land surveying;

6. "Professional land surveyor" means a person who has been duly registered and licensed as a professional land surveyor as provided in Section 475.1 et seq. of this title;

7. "Land surveyor intern" means a person who complies with the requirements for education and experience, and has passed an examination in the fundamental land surveying subjects, as provided in Section 475.1 et seq. of this title;

8. a. "Practice of 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 adequate evidence of land boundaries, to the act of measuring, locating, or establishing lines, angles, elevations, natural and man-made features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water for the purpose of determining areas and volumes, geodetic positions, and the design, establishment, and

administration of land and geographic information systems, and the collection, storage, analysis and management of data within those systems; for the monumenting of property and land boundaries and for the platting and layout of lands and subdivisions thereof, including the topography; and for the preparation and perpetuation of maps, record plats, field note records, and property descriptions that represent these surveys.

b. A person shall be construed to practice or offer to practice land surveying, within the meaning and intent of Section 475.1 et seq. of this title, who practices any branch of the profession of land surveying or who, by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself or herself to be a professional land surveyor or through the use of some other title implies that he or she is a professional land surveyor or that he or she is registered under Section 475.1 et seq. of this title or holds himself or herself out as able to perform or who does perform any land surveying service or work ~~or any other service designated by the practitioner which is recognized as land surveying~~ for which a license is required.

c. A person shall not be construed to practice or offer to practice land surveying, within the meaning and intent of Section 475.1 et seq. of this title, who merely acts as an agent of a purchaser of land surveying services. Agents of a purchaser of land surveying services include, but are not limited to, real estate agents and brokers, title companies, attorneys providing title examination services, and

persons who or firms that coordinate the acquisition and use of land surveying services. The coordination of land surveying services includes, but is not limited to; sales and marketing of services, discussion of requirements of land surveys, contracting to furnish land surveys, review of land surveys, the requesting of revisions of land surveys, and making any and all modifications to surveys with the written consent of the land surveyor, and furnishing final revised copies to the land surveyor showing all revisions, the distribution of land surveys, and receiving payment for such services. These actions do not constitute the practice of land surveying, and do not violate any part of Section 475.1 through 475.22a of this title or the Bylaws and Rules of the Oklahoma State Board of Registration for Professional Engineers and Land Surveyors;

9. "Board" means the State Board of Registration for Professional Engineers and Land Surveyors;

10. "Responsible charge" means direct control and personal supervision of engineering work or land surveying;

11. "Rules of professional conduct for professional engineers and land surveyors" means those rules promulgated by the Board; and

12. "Firm" means a corporation, partnership, co-partnership, joint stock association or private practitioner employing others.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 475.20, as last amended by Section 508, Chapter 133, O.S.L. 1997 (59 O.S. Supp. 1998, Section 475.20), is amended to read as follows:

Section 475.20 A. Criminal penalties:

Any person or entity who shall practice, or offer to practice, engineering or land surveying in this state without being registered by the State Board of Professional Engineers and Land Surveyors in

accordance with the provisions of ~~this act~~ Section 475.1 et seq. of this title, or any person, firm, partnership, organization, association, corporation or other entity using or employing the words "engineer" or "engineering" or "land surveyor" or "land surveying" or any modification or derivative thereof in its name or form of business or activity except as authorized in Section 475.1 et seq. of this title, or any person presenting or attempting to use the certificate of registration or the seal of another, or any person who shall give false or forged evidence of any kind to the Board or to any member thereof in obtaining or attempting to obtain a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired, suspended ~~or~~, revoked, or nonexistent certificate of registration, or who shall practice or offer to practice when not qualified, or any person who falsely claims ~~that he is~~ to be registered under Section 475.1 et seq. of this title, or any person who shall violate any of the provisions of Section 475.1 et seq. of this title, shall be guilty of a ~~felony~~, ~~upon conviction thereof.~~ ~~Each violation of any provision of Section 475.1 et seq. of this title shall constitute a separate offense.~~ ~~The fine for a violation of this section shall be~~ misdemeanor, punishable by a fine of not less than Two Hundred Fifty Dollars (\$250.00), nor more than Two Thousand Dollars (\$2,000.00).

B. Administrative penalties:

1. Any person or entity who has been determined by the Board to have violated any provision of Section 475.1 et seq. of this title, or any rule, regulation or order issued pursuant to such provisions, may be liable for an administrative penalty of not more than Two Hundred Fifty Dollars (\$250.00) for each day that the violation continues. The maximum administrative penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations.

2. The amount of the penalty shall be assessed by the Board pursuant to the provisions of subsection 1 of this section, after notice and hearing. In determining the amount of the penalty, the Board shall include, but not be limited to consideration of the nature, circumstances and gravity of the violation, and with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of Section 475.1 et seq. of this title. All monies collected from ~~such~~ administrative penalties shall be deposited with the State Treasurer and placed in the "Professional Engineers and Land Surveyors Fund".

3. Any certificate of registration or certificate of authorization holder may elect to surrender the certificate of registration or certificate of authorization in lieu of ~~said~~ a fine, but shall be permanently barred from obtaining a reissuance of the certificate of registration or certificate of authorization.

C. Legal Counsel:

The Attorney General of this state or ~~his~~ an assistant shall act as legal advisor to the Board and render such legal assistance as may be necessary in carrying out the provisions of Section 475.1 et seq. of this title. The Board may employ counsel and necessary assistance to aid in the enforcement of such provisions, and the compensation and expenses therefor shall be paid from funds of the Board.

SECTION 3. This act shall become effective November 1, 1999.

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