

Form #3

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Secretary, West Virginia State Board
of Examiners of Land Surveyors

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: August 1, 2003

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No) WV State Board of Examiners of Land Surveyors
P. O. Box 390
Flatwoods, WV 26621-0390

LEGISLATIVE RULE TITLE: Mandatory Continuing Education for Land Surveyors

1. Authorizing statute(s) citation 30-1-7a and 30-13A-4

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
July 2, 2003

b. What other notice, including advertising, did you give of the hearing?

c. Date of Public Hearing(s) *or* Public Comment Period ended:
August 1, 2003

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached x No comments received

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 1, 2003

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Leon K. Spencer, Secretary
WV State Board of Examiners of Land Surveyors
P. O. Box 390
Flatwoods, WV 26652-0390

phone: 304-765-0315
fax: 304-765-3016
e-mail: wvbels@mail.state.wv.us

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached

One comment was received as a result of notices that were mailed to all licensees about the comment period and the proposed revision to the Series 2 rule.

The comment is attached.

Response: Home study or a relative form thereof is already partially prepared and considered by the Board for specified use to fulfill the ethics and minimum standards requirement.

RECEIVED

JUL 31 2003

WV SBELS

CHAIRMAN
Gregory A. Smith

SECRETARY
Leon K. Spencer

MEMBER
Marshall W. Robinson

STATE OF WEST VIRGINIA
STATE BOARD OF EXAMINERS OF LAND SURVEYORS
2298 Sutton Lane, P. O. Box 390, Flatwoods, West Virginia 26621-0390
Telephone (304) 765-0315 Fax (304) 765-0316
wvsbels@mail.state.wv.us



GEORGE T. LUCAS, II LLS WV 153, 530 Hazel Avenue, Perth Amboy, NJ
Tel 732/442-4373 Fax 732/826-8148 08861
July 18, 2003

Re: Proposed Legislative Rule Changes

Dear Professional Surveyor:

This is in follow up to the Board's letter that accompanied your license renewal application. In that letter the Board conveyed its plans to modify its Series I rules governing land surveying in West Virginia. The proposed modifications would (1) change the time period for the Certificates of Authorization from a fiscal year to a calendar year basis; grant the Board authority to increase the renewal fees from \$50 to \$100; and eliminate the exemption for firms of 3 people or less; (2) implement the provisions of S.B. 381, which added professional surveyors to the professions that may form professional limited liability companies; and (3) preclude applicant's access to and review of any licensing examination pursuant to policy of the National Council of Examiners for Engineering and Surveying.

Additionally, the Board proposed a modification to the Series 2 rules that mandates continuing education for land surveyors. That modification would remove an exemption for non-resident licensees so that all licensees would be required to obtain the minimum technical standards and ethics courses mandated in 3.2.

Excerpted copies of the proposed revisions are enclosed; the full text of the rules may be reviewed at www.wvsos.com, or you may request a copy by calling the Board office.

Proposed modifications for both rules have been filed with the Secretary of State's office and written comments may be submitted to the Board Secretary at the above address until August 1, 2003 at 8 a.m. Any comments received after the deadline will not be considered.

Sincerely,

Gregory A. Smith
Gregory A. Smith
Chairman

Leon K. Spencer
Leon K. Spencer
Secretary

Marshall W. Robinson
Marshall W. Robinson
Member

Enclosure

REPLY: 7/31/03

Rules/PS proposed rule changes.doc

Gentlemen: I just received this notice, in fact just seconds ago. 2:00 PM 7/31/03.

I must comment, particularly to the "series 2 rules concerning minimum technical standards continuing education. Licensees residing in another state should be given equal credit for ALL courses taken in their home state as long as that state (in my case New Jersey has approved continuing education, as does NJ.

At the very least, home study courses (for the particular courses "technical standards and ethics" must be accepted. I can't believe that the intentions were for out-of state licensees have to travel to West Virginia for those certain courses.

I'm proud of my WV license and want to keep it as a full active license, but I may be forced to take the option as a retiree and accept the no-fee renewal. I'm almost 62 years old and I am able to collect social security, I meet all other requirements.

Please reconsider the method for obtaining the standards and ethics credits.

Thank you. George T. Lucas, II LLS 153
fax 732/826-8146 tel 732/442-4373

George T. Lucas II

West Virginia State Board of Examiners of Land Surveyors

Summary of Proposed Revisions, Title 23, Series 2

This rule provides for the mandatory continuing education for land surveyors. The proposed modification would remove an exemption for non-resident licensees so that all licensees would be required to obtain the minimum technical standards and ethics courses mandated in 3.2.

West Virginia State Board of Examiners of Land Surveyors

Statement of Circumstances, Title 23, Series 2

The proposed modification would remove an exemption for non-resident licensees so that all licensees would be required to obtain the minimum technical standards and ethics courses mandated in 3.2.

While the Board would not view ethics courses for surveyors as jurisdictional, the Board does require approval of ethics courses that would fulfill this requirement. With regard to minimum standards, however, the Board requires the courses to be on WV minimum standards set out in Chapter 30-13A-18 of the State code along with other relative sections referenced thereto. Laws in WV are jurisdictional; therefore, each practicing professional needs to be fully aware of what's required.

To date, this Board has never denied approval of PDH/continuing education courses sponsored or approved by other state surveying boards.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 23-2 Mandatory Continuing Education for Land Surveyors

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: WV State Board of Examiners of Land Surveyors

Address: P. O. Box 390

Flatwoods, WV 26621-0390

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	N/A	N/A	N/A	N/A	N/A
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:
None

3. Objectives of These Rules:
Removes an exemption for non-resident licensees so that all licensees would be required to obtain the minimum technical standards and ethics courses mandated in 3.2.

Rule Title: 23-2 Mandatory Continuing Education for Land Surveyors

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

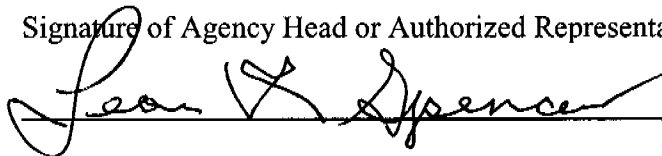
None

C. Economic Impact on Citizens/Public at Large.

None

Date: 8-1-03

Signature of Agency Head or Authorized Representative:



FILED

TITLE 23
LEGISLATIVE RULE
BOARD OF EXAMINERS OF LAND SURVEYORS

2003 AUG -1 P 5:48

SERIES 2
MANDATORY CONTINUING EDUCATION FOR LAND SURVEYORS

OFFICE WEST VIRGINIA
SECRETARY OF STATE**§23-2-1. General.**

1.1. Scope. -- This rule specifies continuing education requirements that are prerequisite to license renewal for land surveyors.

1.2. Authority. -- W. Va. Code §§30-1-7a and 30-13A-4.

1.3. Filing Date. --

1.4. Effective Date. --

§23-2-2. Definitions.

2.1. Terms Defined -- As used in this rule, the following terms have the following meanings unless the context or subject matter clearly requires a different interpretation:

2.1.1. "Dual licensee" means a person who is licensed as both a land surveyor and another related professional. The term "licensee" includes dual licensees.

2.1.2. "Continuing professional competency" means competency to engage in the practice of land surveying demonstrated by the completion of continuing education activities that meet the requirements established in this rule.

2.1.3. "Professional development hour" or "PDH" means fifty minutes of instruction or presentation that meets the requirements established in this rule. PDH units are the common denominator for other units of credit.

2.1.4. "Continuing education unit" or "CEU" means the nationally recognized and uniform unit of measure of the International Association for Continuing Education and

Training (IACET) awarded for ten contact hours of continuing education and training. For continuing professional competency activities that fully follow the requirements of the IACET, one CEU is equivalent to ten PDHs.

2.1.5. "College/Unit Semester/Quarter Hour" means credit for successful completion of college or university courses accredited by the Accreditation Board for Engineering and Technology (ABET) or successful completion of other college or university courses related to the practice of land surveying and approved by the Board.

2.1.6. "Course or Activity" means any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice as determined by the Board. Qualifying courses or activities may include correspondence, televised, videotaped, Internet, and other short courses and tutorials; seminars, in-house courses and workshops; and professional or technical presentations made at meetings, conventions, or conferences.

§23-2-3. Continuing Professional Competency Requirements.

3.1. Every licensee, as a prerequisite to license renewal, shall acquire eight PDH units for each renewal period year, except that through the end of the first year that mandatory continuing education is in effect, ending June 30, 2002, the requirement is four PDH units. If a licensee exceeds the annual requirement in any renewal period, a maximum of eight PDH units may be carried forward into the subsequent renewal period.

3.2. Every four years, as a part of the required 32 PDH Units, a licensee shall complete:

3.2.1. A minimum of two PDH units on minimum technical standards, in courses or activities sponsored or approved by the Board; and

3.2.2. A minimum of two PDH units on professional ethics for land surveyors at a seminar sponsored or approved by the board.

3.3. A licensee may earn PDH units as follows:

3.3.1. College/Unit Semester/Quarter Hour credit. One semester hour of acceptable university or college credit is equivalent to forty-five (45) PDH units. One quarter hour of acceptable university or college credit is equivalent to thirty (30) PDH units.

3.3.2. Successful completion of continuing education courses. Credit is based on actual instructional time. For continuing education courses that fully follow the requirements of the International Association for Continuing Education and Training (IACET), one CEU is equivalent to ten PDH units.

3.3.3. Successful completion of qualifying courses or activities. Credit for attendance is based on actual instructional or presentation time.

3.3.4. Teaching, instructing or presenting in qualifying courses, seminars and presentations. A teacher, instructor, or presenter may claim credit at twice the number of hours permitted for participants. Credit is available only the first time a course or seminar is taught or a presentation is made, unless the subject matter is revised and substantially updated. This credit does not apply to full-time faculty.

3.6. When a person whose license to practice land surveying is inactive, expired or under suspension seeks reinstatement of a license, the person seeking reinstatement shall acquire all delinquent professional development hours for up to two years as a prerequisite to reinstatement of the license. If the Board has imposed conditions

3.3.5. Authoring published papers, articles, or books related to the practice or history of land surveying. Credit is limited to the lesser of actual preparation time or ten PDH units for each paper, article or book.

3.3.6. Active participation as an officer or committee member in professional or technical societies after completion of each year of service. A maximum of two PDH units may be claimed in any reporting period for each organization on which the licensee serves.

3.3.7. Attendance at local chapter meetings of professional or technical societies. Credit is limited to one PDH unit for each meeting the licensee attended.

3.3.8. Patents. A licensee may claim credit for ten PDH units for inventions related to the engineering or land surveying professions after a patent is issued and the licensee submits details to the board.

3.4. The Board has final authority with respect to approval of courses, seminars and presentations; credits; PDH value for courses; and determination of whether a college or university course, continuing education course or other course or activity is reasonably related to the practice of land surveying.

3.5. A dual licensee may claim PDH units for college or university courses, continuing education courses or other courses or activities that also satisfy continuing education requirements for licensure in any other related professions, when the course or activity is reasonably related to the practice of land surveying as determined by the Board.

for reinstatement including the earning of a number of professional development hours, the Board may require the applicant for reinstatement to earn additional PDH units and meet all other conditions for reinstatement prior to reinstating the license.

§23-2-4. Reporting and Record Keeping.

4.1. A licensee shall complete, sign and submit on forms prescribed or accepted by the board, together with the application for renewal of a license and the required renewal fee, information certifying that he or she has acquired the required professional development hours. Maintaining records to be used to support credits claimed is the responsibility of the licensee. A licensee shall maintain records of compliance with the provisions of this rule for a period of four years and the Board may request copies of the records for audit verification purposes. Acceptable records may include, but are not limited to:

4.1.1. A log showing the type of activity claimed, the sponsoring organization, the activity's location, the activity's duration, the instructor's or speaker's name, and the PDH units earned;

4.1.2. Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; or

4.1.3. Records as maintained by the Professional Development Registry for Engineers and Surveyors (PDRES) or other similar repositories.

§23-2-5. Exemptions.

5.1. The following licensees are not subject to the requirements of subsections 3.1 and 3.2 of this rule and may be exempt from mandatory continuing education:

5.1.1. New licensees by way of examination are exempt for their first renewal period;

5.1.2. A licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a year is exempt from

2.1. The staff of the Board shall scan all forms certifying acquisition of required professional development hours in order to detect obvious errors including errors in listing activities and

obtaining the professional development hours required during that year;

5.1.3. A licensee experiencing physical disability, illness, or other extenuating circumstances may submit supporting documentation to the board and request exemption for the renewal year in which the disability, illness, or extenuating circumstance occurs. Upon review of the circumstances and approval by the board, the licensee is exempt;

5.1.4. A licensee is exempt for any renewal year in which he or she is employed as a professional land surveyor and is assigned to duty outside of the United States for a period exceeding one hundred twenty (120) consecutive days during that year;

5.1.5. A licensee who lists his or her occupation as "Retired" on the Board approved renewal form and who further certifies that he or she is no longer receiving any remuneration from providing professional land surveying services is exempt from the professional development hours required. In the event a retired licensee elects to return to the active practice of land surveying, the licensee shall acquire professional development hours for each year exempted up to two years prior to returning to active practice; and

5.1.6. A nonresident licensee, who otherwise meets all renewal requirements and is licensed in any other state or jurisdiction approved and listed by the Board that has continuing professional competency requirements which the licensee has met, may certify compliance with the continuing professional competency requirements of the other jurisdiction in lieu of compliance with the provisions of subsection 3.1 and ~~3.2~~ of this rule.

§23-2-6. Review and Audit Processes.

PDH units, carryover errors, and omitted signatures. The Board may return forms containing obvious and significant errors to licensees for correction or explanation.

2.2. For each annual renewal period, the Board shall select on a random basis not less than five percent of renewal applications for audit. The Board shall request each selected licensee to furnish evidence of attendance at the listed activities, unless evidence satisfactory to the Board is already in the possession of the Board. Upon receipt of the requested records, the Board may request the licensee to furnish further evidence necessary to satisfy the Board that the licensee has complied with the continuing professional competency requirements of this rule.