

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 45

BY BUSINESS COMMITTEE

AN ACT

RELATING TO ENGINEERS AND SURVEYORS; AMENDING SECTION 54-1202, IDAHO CODE, TO DEFINE A TERM, TO REVISE DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1220, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DISCIPLINARY ACTIONS AND PROCEDURES; AMENDING SECTION 54-1221, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE REISSUANCE OF LICENSES, TO PROVIDE REQUIREMENTS RELATING TO THE REISSUANCE OF WALL CERTIFICATES AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 54-1228, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-1202, Idaho Code, be, and the same is hereby amended to read as follows:

54-1202. DEFINITIONS. As used in this chapter, unless the context or subject matter requires otherwise:

(1) "Benchmark" means a material object, natural or artificial, whose elevation is referenced to an adopted datum.

(2) "Board" means the Idaho board of licensure of professional engineers and professional land surveyors, hereinafter provided by this chapter.

(3) "Business entity" means a corporation, professional corporation, limited liability company, professional limited liability company, general partnership, limited partnership, limited liability partnership, professional limited liability partnership or any other form of business except a sole proprietorship.

(4) "Consulting engineer" means a professional engineer whose principal occupation is the independent practice of professional engineering; whose livelihood is obtained by offering engineering services to the public; who is devoid of public, commercial and product affiliation that might tend to infer a conflict of interest; and who is cognizant of his public and legal responsibilities, and is capable of discharging them.

(5) "Engineer" means a person who is qualified to practice engineering by reason of his special knowledge and use of mathematical, physical and engineering sciences, and the principles and methods of engineering analysis and design, acquired by professional education and engineering experience.

(6) "Engineer intern" means a person who has qualified for, taken and passed an examination in the fundamentals of engineering subjects as provided in this chapter.

(7) "Land survey" means measuring the field location of corners that:

(a) Determine the boundary or boundaries common to two (2) or more ownerships;

(b) Retrace or establish land boundaries;

(c) Retrace or establish boundary lines of public roads, streets, alleys or trails; or

(d) Plat lands and subdivisions thereof.

(8) "Land surveyor intern" means a person who has qualified for, taken and passed an examination in the fundamentals of surveying subjects as provided in this chapter.

(9) "Obliterated corner" means an existent corner where, at the corner's original position, there are no remaining traces of the monument or its accessories but whose position has been perpetuated, or the point for which may be recovered, by substantial evidence from the acts or reliable testimony of the interested landowners, competent surveyors, other qualified local authorities, witnesses or by some acceptable record evidence.

(10) "Professional engineer" means a person who has been duly licensed as a professional engineer by the board under this chapter.

~~(101)~~ "Professional engineering" and "practice of professional engineering" mean any service or creative work offered to or performed for the public for any project physically located in this state, such as consultation, investigation, evaluation, planning, designing, teaching upper division engineering design subjects, and responsible charge of observation of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects or to certify elevation information, wherein the public welfare or the safeguarding of life, health, or property is concerned or involved, when such service requires the application of engineering principles and data. A person shall be construed to practice or offer to practice professional engineering within the meaning and intent of this chapter who practices or offers to practice any of the branches of the profession of engineering for the public for any project physically located in this state 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 licensed under this chapter, or holds himself out as able to perform or who does perform for the public for any project physically located in this state, any engineering service or work or any other service designated by the practitioner which is the practice of professional engineering.

~~(112)~~ "Professional land surveying" and "practice of professional land surveying" mean responsible charge of land surveying to determine the correct boundary description, to establish or reestablish land boundaries, ~~or~~ to plat lands and subdivisions thereof or to certify elevation information. Any person shall be construed to practice or offer to practice professional land surveying who engages in professional land surveying, or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional land surveyor, or who represents himself as able to perform or who does perform any professional land surveying service or work or any other service designated by the practitioner which is professional land surveying.

~~(123)~~ "Professional land surveyor" means a person who is qualified by reason of his knowledge of the principles of land surveying acquired by education and practical experience to engage in the practice of professional

1 land surveying and who has been duly licensed as a professional land surveyor
2 by the board under this chapter.

3 (134) "Public" means any person, firm, corporation, partnership, com-
4 pany, government agency, institution or any other entity recognized by law.

5 (145) "Responsible charge" means the control and direction of engineer-
6 ing work, or the control and direction of land surveying work, requiring ini-
7 tiative, professional skill, independent judgment and professional knowl-
8 edge of the content of relevant documents during their preparation. Except
9 as allowed under section 54-1223, Idaho Code, reviewing, or reviewing and
10 correcting, documents after they have been prepared by others does not con-
11 stitute the exercise of responsible charge.

12 (156) "Rules of professional responsibility" means those rules, if any,
13 promulgated by the board, as authorized by the Idaho Code.

14 (167) "Signature" means either: an original handwritten message iden-
15 tification containing the name of the person who applied it; or a digital
16 signature which is an electronic authentication process attached to or logi-
17 cally associated with an electronic document. The digital signature must be
18 unique to the person using it; must be capable of verification; must be un-
19 der the sole control of the person using it; and must be linked to a document
20 in such a manner that the digital signature is invalidated if any data in the
21 document is changed.

22 (178) "Standard design plan" means a building, structure, equipment or
23 facility which is intended to be constructed or sited at multiple locations
24 and for which some or all of the plans must be prepared by a professional en-
25 gineer.

26 SECTION 2. That Section 54-1220, Idaho Code, be, and the same is hereby
27 amended to read as follows:

28 54-1220. DISCIPLINARY ACTION -- PROCEDURES. (1) Any affected party
29 may prefer charges of fraud, deceit, gross negligence, incompetence, mis-
30 conduct or violation of any provision of this chapter, or violation of any
31 of the rules promulgated by the board against any individual licensee or
32 certificate holder or against any business entity holding a certificate of
33 authorization or against a person applying for a license or against a busi-
34 ness entity applying for a certificate of authorization. Repeated acts of
35 negligence may be considered as a gross act for disciplinary action. Such
36 charges shall be in writing, and shall be sworn to by the person or persons
37 making them and shall be filed with the executive director of the board. The
38 executive director of the board shall be considered an affected party and may
39 be the person making and filing the charges.

40 (2) All charges, unless dismissed by the board as unfounded or ~~trivial~~
41 de minimis, or unless settled informally, shall be heard by the board within
42 six (6) months after the date they were received at the board office unless
43 such time is extended by the board for justifiable cause.

44 (3) Administrative proceedings shall be governed by the provisions of
45 chapter 52, title 67, Idaho Code.

46 (4) If, after an administrative hearing, the board votes in favor of
47 sustaining the charges, the board may, in its discretion, impose an admin-
48 istrative penalty, not to exceed five thousand dollars (\$5,000) for deposit
49 in the general fund of the state of Idaho. In addition, the board, in its

1 discretion, may admonish, reprimand, suspend, revoke, refuse to renew,
 2 refuse to grant, or any combination thereof, the individual's license or
 3 certificate or a business entity's certificate of authorization. The board
 4 may also, in its discretion, require the individual to practice under the
 5 supervision of another licensee, or require the individual to successfully
 6 complete continuing education courses as may be prescribed by the board.

7 (5) The board shall have jurisdiction over licensees whose licenses are
 8 not current provided the action relates to services performed when the li-
 9 cense was current and valid.

10 SECTION 3. That Section 54-1221, Idaho Code, be, and the same is hereby
 11 amended to read as follows:

12 54-1221. REISSUANCE OF LICENSES AND WALL CERTIFICATES. The board may,
 13 upon petition of an individual or a business entity and following a hearing,
 14 ~~may~~ reissue or reinstate a license or certificate or certificate of autho-
 15 rization, provided three (3) or more members of the board vote in favor of
 16 such reissuance or reinstatement. A new ~~license or wall~~ certificate ~~or cer-~~
 17 ~~tificate of authorization~~, to replace any ~~license or wall~~ certificate re-
 18 voked, lost, destroyed or mutilated, may be issued upon payment of such rea-
 19 sonable charge therefor as shall be fixed by the board to cover the estimated
 20 cost of such reissuance, but not exceeding ten dollars (\$10.00) in any case.

21 SECTION 4. That Section 54-1228, Idaho Code, be, and the same is hereby
 22 amended to read as follows:

23 54-1228. ADMINISTERING AND CERTIFICATION OF OATHS -- AUTHORITY OF
 24 PROFESSIONAL LAND SURVEYORS. Every professional land surveyor is authorized
 25 to administer and certify oaths, when it becomes necessary to take testimony
 26 to identify or establish old or ~~lost~~ obliterated corners, or to perpetuate a
 27 corner that is in a perishable condition, or whenever the importance of the
 28 land survey makes it desirable. A record of such oaths shall be kept as part
 29 of the field notes of the land survey.