



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2013 Wisconsin Act 358
[2013 Assembly Bill 506]

**Practice of Professional
Land Surveying**

2013 Wisconsin Act 358 makes various changes relating to the practice of professional land surveying.

Definitions of “Practice of Professional Land Surveying” and “Professional Land Surveyor”

Throughout the statutes, the Act replaces the terms “land surveying,” “land surveyor,” “surveyor,” and “registered land surveyor” with the terms “practice of professional land surveying” and “professional land surveyor.” The Act creates new definitions for the terms “practice of professional land surveying” and “professional land surveyor.” Under the Act, “practice of professional land surveying” means any of the following activities:

- Any service comprising the establishment or reestablishment of the boundaries of one or more tracts of land or the boundaries of the following types of interests in real property: the rights-of-way of roads or streets; air or subsurface property rights; and public or private easements.
- Designing or coordinating designs for the purpose of platting or subdividing land into smaller tracts.
- Placing, replacing, restoring, or perpetuating monuments in or on the ground to evidence the location of a point that is necessary to establish boundaries of one or more tracts of land or the subdivision or consolidation of one or more tracts of land or to describe the boundaries of any type of interest in real property described above.
- Preparing maps that depict any type of interest in real property described above for the purpose of establishing the boundaries of any such interest in real property.
- Preparing specified types of official maps and plats.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

- Performing construction surveying or geodetic surveying in connection with any of the practices listed above.

The Act defines “professional land surveyor” to mean a person who, by reason of his or her knowledge of law, mathematics, physical sciences, and measurement techniques, acquired by education and practical experience, is granted a license to engage in the practice of professional land surveying.

The Act also changes the name of the relevant examining board and the relevant section of that board to refer to “professional land surveyors.”

License Requirement for Professional Land Surveyors

Under prior law, certain functions were required to be conducted by a person who had obtained a certificate of registration as a land surveyor. The Act replaces the requirement to obtain a certificate of registration with a licensure requirement.

The Act also modifies certain options for obtaining a professional land surveyor license. Under prior law, a person could obtain a certificate of registration as a land surveyor by demonstrating one of nine types of qualifications. Under the Act, a person may become licensed as a professional land surveyor by passing an examination and demonstrating one of the following four types of qualifications: a bachelor’s degree and two years of experience; an associate degree and four years of experience; 10 years of experience; or an equivalent license or certification issued by another state or territory. However, any person who held a certificate of registration as a land surveyor under prior law is automatically granted a license to engage in the practice of professional land surveying under the Act.

In addition, the Act authorizes the Department of Safety and Professional Services (DSPS) and the examining board that administers the licensing of professional land surveyors to investigate and bring actions against persons who engage in the practice of professional land surveying without a license. Consistent with prior law, the Department of Justice (DOJ) and the relevant district attorney also remain authorized to take such actions under the Act.

Exceptions From the General Professional Land Surveyor Licensing Requirements

The Act modifies several exceptions from the professional land surveyor licensing requirements. First, prior law exempted employees of public utilities regulated by the Public Service Commission (PSC) from the requirement to register as a land surveyor. The Act removes that general exemption but exempts employees of the following entities, if the employees are engaged in specified professional land surveying practices:

- Providers of broadcast services.
- Providers of cable services.
- Commercial mobile radio service providers.
- Public utilities.
- Telecommunications providers.

- Video service providers.
- Cooperative associations organized for the purpose of producing or furnishing heat, light, power, or water to their members only.¹

Under the Act, an employee or contractor of any of the entities listed above may perform the following services on behalf of the entity without being subject to licensing requirements for professional land surveyors:

- The establishment of boundaries for public or private easements.
- Placing, replacing, restoring, or perpetuating monuments.
- Preparing maps that depict interests in real property.
- Performing construction surveying or geodetic surveying.

Second, the Act removes a general exemption for state employees but adds a more specific exception from the professional land surveying licensing requirements for certain state employees. Specifically, the Act exempts employees and agents of the following agencies who create geographic information systems (GIS) maps within the scope of their employment: the Department of Natural Resources (DNR), the Department of Agriculture, Trade and Consumer Protection (DATCP), the Department of Transportation (DOT), the PSC, the Board of Commissioners of Public Lands, and the Department of Military Affairs.

Third, the Act creates an exemption from the licensure requirement for utilizing photogrammetry or remote sensing techniques or performing topographic surveying, construction surveying, or geodetic surveying for purposes other than a boundary establishment or reestablishment specified in the definition of practice of professional land surveying.

Fourth, the Act exempts a person who performs certain services related to natural resources management if a map that is prepared as a part of those services contains the following statement: “this map is not a survey of the actual boundary of any property this map depicts.”² The Act also exempts a person who prepares a map that depicts temporary trails, easements, or other uses of lands if the map contains that statement.

Finally, the Act removes an exemption from the licensure requirement for officers and employees of the federal government.

Requirements for Preparation by a Professional Land Surveyor

The Act makes several changes to requirements that certain documents be prepared by a licensed professional land surveyor. First, the Act requires that a tax assessor’s plat be prepared by a licensed professional land surveyor.

¹ In order for the exemption to apply, the utilities listed must fit within the relevant definitions provided in s. 196.01, Stats., or, with respect to cooperative associations, be organized under ch. 185, Stats.

² For purposes of that exemption, the Act defines “natural resources management” to include the management of state lands, the control of invasive species, the cultivation or harvesting of raw forest products, the management of county forests, and the practice of forestry.

Second, under prior law, certain transportation project plats were exempt from a general requirement that any map, plat, survey, or other document within the definition of land surveying must bear a registered land surveyor's signature and seal. The Act removes that exemption.

In addition, the Act exempts certain orders under the forest croplands and managed forest law, including any map or other document filed with such an order, from the general requirement that any map, plat, survey, or other document within the definition of the practice of professional land surveying must bear a licensed land surveyor's signature and seal.

Procedures for Plat Approval

The Act modifies the process for approving subdivision plats to allow for the use of electronic copies and to provide for more coordination of the review process by DOA. It authorizes a subdivider, when submitting a final plat to a municipality, planning commission, or other entity with approval authority over the plat, to submit either an electronic copy of the plat or a copy of the plat that is capable of legible reproduction. Under the Act, approval of plats by such entities may be based on an electronic copy or a copy that is capable of legible reproduction.

After a final plat is submitted to local approving authorities, prior law required a subdivider to send copies of the plat to certain state and county agencies. Under the Act, a subdivider must send a copy of the plat to DOA, and DOA must transmit copies of the plat to the state and county agencies authorized to object to the plat. The Act allows such copies to be in an electronic format.

The Act also makes retroactive a provision of prior law, retained by the Act, that restricts a municipality from requiring any security from a subdivider that does not relate to the phase of the project currently under construction. Under the Act, the restriction applies to all preliminary and final plats, regardless of whether submitted for approval before, on, or after the date that the Act takes effect.

Format of Plats

The Act makes the following changes relating to the format and notation of plats:

- Allows several types of maps and plats to be produced on media that is acceptable to the register of deeds, rather than in a format specified by statute, before they may be recorded.³
- Changes formatting requirements for various types of plats to allow for a one-inch margin on all sides. Under prior law, a different sized margin was required on the left side of certain types of plats.
- Requires subdivision plats to mark roads and streets that are dedicated to public use as dedicated to the public.

³ These include property tax assessor plats; subdivision plats; certified survey maps; cemetery plats; condominium plats; and time-share plats.

- On plats showing circular curves, requires the tangent bearing to be shown for each end of the main chord for all **nontangent** circular lines. Under prior law, the tangent bearing was required to be shown for all circular lines.
- In addition to various other types of boundary lines authorized to be used as reference points under prior law, allows the location of a subdivision to be indicated by bearing and distance from a boundary line of a government lot monumented in the original survey or resurvey of Wisconsin.
- Requires a final plat that includes land abutting a lake or navigable stream to include a statement indicating that the land below the ordinary high water mark of a lake or navigable stream is subject to the Public Trust Doctrine.

Placement of Monuments for Subdivision Plats

The Act expands a provision of prior law to require, if practicable, monuments to be placed in the side line of a street if they would otherwise need to be placed in a subdivision street. Prior law required such side line placement only along the external boundaries of a subdivision.

In addition, the Act allows monuments for subdivision plats to be placed in reference to an ordinary high water mark that is determined or approximated as described above. Under prior law, monuments were required to be placed in reference to the actual ordinary high water mark of a lake or stream bank.

Certificates Accompanying a Plat

With respect to a surveyor's certificate accompanying a plat, prior law allowed the description of land surveyed to omit a metes-and-bounds description for a plat or map that had previously been tied to a corner marked and established by the U.S. Public Land Survey. Under the Act, a metes-and-bounds description may be omitted if the map or plat was previously tied to the monumented line of a quarter section, government lot, recorded private claim, or federal reservation.

Penalties for Violations Involving the Placement of Monuments

Under prior law, retained by the Act, penalties of a \$250 fine or no more than one year in county jail may be imposed for certain violations involving the placement and replacement of surveying monuments. The Act specifies that each monument for which a violation is found constitutes a separate violation for which such penalties may be imposed.

Use of Certified Survey Maps to Grant Easements

The Act expressly authorizes the use of survey maps to grant easements to the public or private owners. Prior law authorized the use of survey maps to dedicate streets and other public areas but did not expressly authorize the use of such maps for granting public and private easements.

Timeline for Recording Certified Survey Maps

Prior law required a certified survey map that had been approved by one or more local governments to be recorded within six months of the date of the last approval of the map and within 24 months of the first approval of the map. The Act extends that timeline to require certified survey maps to be recorded within 12 months of the last approval by a local unit of government and within 36 months of the first approval.

Procedure for Vacating a Survey Map

The Act creates a procedure for vacating a subdivision survey map in circuit court. Under the Act, the circuit court of the county in which parcels of land on a survey map are located may vacate a survey map. The application to vacate the map may be made by either of the following:

- The owner of any lot or outlot in the land that is the subject of the survey map.
- The county board, if the county has acquired an interest by tax deed in any lot or outlot in the land that is the subject of the survey map.

Platting of Shore Land and Navigable Waters

The Act authorizes a professional land surveyor to incorporate an existing determination of ordinary high water mark made by the DNR or to approximate an ordinary high water mark when preparing a lake or stream shore plat. The location of an approximate ordinary high water mark must be the point on the bank or a navigable perennial stream or on the shore of a lake up to which the presence and action of surface water is so continuous as to leave a distinctive mark by erosion, destruction, prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics. In addition, a map or plat that shows an approximate high water mark shall state on its face that the mark is for reference only.

In addition, the Act makes various provisions relating to platting of land containing lakes or streams applicable to navigable streams rather than all streams.

The Act also specifies that, unless a local ordinance provides otherwise, the presence of a navigable stream does not, in and of itself, divide a parcel into two lots if the same person holds title to the property on both sides of the stream.⁴

Requirements Applicable to Land Surveying Conducted for Towns

The Act makes two changes specific to land surveying conducted for a town. First, for surveying done for a town by a county surveyor or a professional land surveyor, the Act replaces a requirement to prepare a certificate with a requirement to prepare a U.S. Public Land Survey monument record. Second, regarding the establishment of corners in surveying

⁴ That provision of the Act codifies the holding of the Wisconsin Supreme Court in *FAS, LCC v. Town of Bass Lake*, 2007 WI 73.

conducted for towns, the Act allows for an equivalent monument agreed upon by all parties to the surveying contract.

Requirement Applicable to Milwaukee County

The Act requires any surveyor employed by a county having a population of 500,000 or more (currently only Milwaukee County) to be a professional land surveyor.

Effective date: The Act takes effect on August 1, 2014.

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