

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0085/P1dn
TKK:cjs:ph

July 31, 2009

Representative Clark;

This substitute amendment to 2009 Assembly Bill 271 differs substantially from that bill. Specifically, there are substantial changes to the definition of the practice of professional land surveying and to the exemptions from licensure for persons preparing certain maps and working with geographic information systems and land information systems.

In addition, I have made a number of changes in the substitute amendment to the use of defined terms. For example, in this draft I replace, within chapter 443, a dozen or more inaccurate references to "land surveying," which is no longer a defined term, and substitute the term, "practice of professional land surveying." (See, for example, changes to ss. 443.06 and 443.14 (8)). I have also made a number of changes to the use of the term, "professional land surveyor," where that term is used in connection with the word, "licensed." Because a professional land surveyor is defined under the substitute amendment (and also under AB 271) as a person who is licensed or permitted under chapter 443, the use of the word licensed is in some cases unnecessary. In some cases, I simply eliminated the word, licensed. (See, for example, s. 443.12 (1)). Finally, in some places I have substituted "license to engage in the practice of professional land surveying" for "land surveyor's certificate." (See, for example, s. 443.06 (2) (am), (bm), and (cm)).

Please carefully review this substitute amendment to be sure that I have accomplished your intent. Please contact me with any questions or concerns you might have or if you wish to make any changes to the draft.

I have several questions related to the drafting instructions, provided by e-mail from your office on July 17, 2009. These drafting instructions were included in a memorandum prepared by Attorney William O'Connor. I have other questions that arose as I incorporated changes that we discussed in a meeting on July 7, 2009. With the exception of the following, the questions are embedded in the draft itself.

The drafting instructions from Attorney O'Connor explain that certain changes to proposed s. 443.01 (6s) (a) 5. are "intended to specify that only statutory "official maps" and statutory surveys do require licensure as a professional land surveyor." These drafting instructions directed me to "amend proposed s. 443.05 (6s) (a) 5. to reference maps that require signature and seal of a surveyor under the statutes" and identified

maps and plats prepared under chapters 62 (official maps), 70 (assessor's plats), 157 (cemetery plats), 236 (subdivisions and certified survey maps), 703 (condominiums), and 707 (time share ownership) of the statutes.

Perhaps I am misunderstanding the drafting instructions or the realities of the practice of professional land surveyors, but in my review of these chapters, only chapter 157 contains provisions that specifically require a plat or map of cemetery land to bear the signature and seal of a surveyor. Section 70.27, stats., when read together with s. 59.43 (8), stats., requires that an assessor's plat bear the signature and seal of a professional land surveyor because s. 70.27, stats., requires the assessor's plat, once prepared, to be recorded, and s. 59.43 (8), stats., prohibits the register of deeds from recording any plat, map, or other document identified in the definition of the practice of professional land surveying unless it bears the signature and seal of a professional land surveyor. However, while the remainder of the chapters identified by Attorney O'Connor do contain provisions dealing with maps and plats, under current law the maps and plats identified within those chapters must only bear the signature and seal of a professional land surveyor if those maps or plats are to be recorded with the register of deeds, as specified under s. 59.43 (8), stats.

Is it your intent to require that the maps, plats, and other documents identified in the drafting instructions prepared by Attorney O'Connor must bear the signature and seal of the professional land surveyor even if the particular maps, plats, or documents are not to be recorded with the county register of deeds? If so, I believe I will need to amend the provisions of those chapters that relate to maps and plats in order to clarify that point. But, then, perhaps this is common practice already?

I look forward to working with you on the next draft.

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