

State of Wisconsin
2009 - 2010 LEGISLATURE

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2009 ASSEMBLY BILL 271

in 9/3/09
TODAY [9/14]
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1 **AN ACT to repeal** 443.01 (4), 443.06 (2) (a), 443.06 (2) (b), 443.06 (2) (c) and 443.06
2 (2) (e); **to amend** 15.405 (2) (intro.), (a) and (b), 26.09 (3) (b) 1., 30.11 (3), 30.13
3 (3) (a), 59.20 (2) (c), 59.43 (8), 59.45 (1) (a) 2., 59.45 (1) (b), 59.45 (3), 59.46, 59.73
4 (2), 59.74 (2) (b) 1., 59.74 (2) (c), 59.74 (2) (g), 59.74 (2) (h), 59.74 (2) (j), 59.75,
5 60.84 (1), 84.095 (5), 157.07 (1), 236.02 (2m), 236.15 (1) (a), 236.15 (1) (d), 236.15
6 (2), 236.16 (3) (title), 236.16 (4) (title), 236.20 (2) (g), 236.34 (1) (a), 440.03 (13)
7 (b) 34., 440.08 (2) (a) 39., chapter 443 (title), 443.01 (3), 443.02 (4), 443.06 (title),
8 443.06 (1) (title), 443.06 (1) (a), 443.06 (1) (b), 443.06 (2) (intro.), 443.06 (2) (am),
9 443.06 (2) (bm), 443.06 (2) (cm), 443.06 (2) (d), 443.06 (2) (em), 443.06 (3), 443.10
10 (title), 443.10 (2) (b), 443.10 (5), 443.12 (title), 443.12 (1), 443.12 (3), 443.14 (8)
11 (a), 443.14 (8) (b), 443.14 (8) (c), 443.14 (8) (d), 443.14 (9), 443.14 (11), 443.18
12 (2) (a), 443.18 (2) (b), 470.025 (7), 707.215 (5) (intro.), 709.02 (1), 709.07 and

1 893.37; and **to create** 16.967 (3) (f), 59.001 (2k), 93.75, 236.025, 236.20 (6),
 2 443.01 (1g), 443.01 (1r), 443.01 (3b), 443.01 (6s), 443.01 (7m), 443.135, 443.14
 3 (15), 443.14 (16), 895.477 and 943.13 (4m) (d) of the statutes; **relating to:**
 4 professional land surveyors, the practice of professional land surveying,
 5 surveying land abutting navigable waters, and granting rule-making
 6 authority.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, a person may not practice land surveying or represent that he or she is a land surveyor unless the land surveyor section (section) of the examining board of architects, landscape architects, professional engineers, designers and land surveyors (board) has issued a certificate of registration or permit to the person. "Land surveying" is defined as determining the location of land boundaries and boundary corners; preparing maps that show the shape and area of tracts of land or subdivisions or the layout of roads, streets, or rights-of-way; or preparing official plats or maps of land in this state.



This substitute amendment replaces "land surveying" with the term "practice of professional land surveying" and defines the term as any of the following:

1. Measuring or analyzing a tract of land to determine the location of its boundaries and boundary corners.

2. Designing or coordinating designs for the purpose of platting or subdividing land into smaller tracts.

3. Placing, replacing, restoring, or perpetuating monuments in or on the ground to evidence the location of a point that is necessary to describe the shape, area, and boundaries of one or more tracts of land or the subdivision or consolidation of one or more tracts of land or that is necessary to describe the boundaries of any of the following interests in real property: a) the layout and rights-of-way of roads or streets; b) air or property rights; or c) public or private easements.

4. Preparing maps that depict any interest in real property identified in item 3. for the purpose of establishing the boundaries of any such interest in real property.

x ~~official map~~ 5. Preparing any of the following: a) an official map of this state, including an  
 x ~~official map~~ established or amended by a city, established or amended by a village, or adopted by a town; b) an assessor's plat; c) a map or plat of cemetery lands; d) a subdivision plat, certified survey map, or correction instrument; e) a condominium plat or correction instrument; or f) a project and time-share plat.

6. Performing cartographic, construction, or geodetic surveying in connection with any of the practices specified in items 1. to 5.

The substitute amendment also replaces the certificate of registration requirement under current law with a licensure requirement. Therefore, under the substitute amendment with certain exceptions, a person may not engage in the

practice of professional land surveying or represent that he or she is a professional land surveyor unless the person is issued a license or permit by the section.

In addition, the substitute amendment changes the name of the section to the professional land surveyor section and changes the name of the board to the examining board of architects, landscape architects, professional engineers, designers and professional land surveyors. The substitute amendment also replaces various references under current law to "registered land surveyor" with "professional land surveyor."

"land surveyor" and "survey"

After July 1, 2018, the substitute amendment requires employees of this state and public utilities to obtain a license or permit to engage in the practice of professional land surveying. Such employees are exempt from the certificate of registration and permit requirements under current law.

The substitute amendment creates an exemption from licensure for employees of the Department of Agriculture, Trade and Consumer Protection (DATCP) who have been certified as provided under the substitute amendment and who are engaged in establishing the boundaries of easements acquired by DATCP under the Conservation Reserve Enhancement Program.

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The substitute amendment authorizes DATCP to establish by rule a program to train and certify its employees in certain practices related to identifying boundaries of tracts of land and interests in real property. DATCP must establish by rule accuracy standards for employees certified under the program to follow when conducting any of the practices for which training and certification is provided.

INSERT ANALYSIS A

in connection with

or the exercise of police powers by

The substitute amendment also exempts from licensure persons who prepare the following maps: a) a map used in connection with a regulatory program established by the state or a local unit of government; b) a map showing the boundaries or the shape and area of land designated as managed forest land by the Department of Natural Resources; and c) a map that identifies the boundaries or the shape and area of land or partial interests in real property for purposes unrelated to the transfer of interests in the land or partial interests in real property.

INSERT ANALYSIS B

The substitute amendment also exempts from licensure employees of state agencies and local units of government who operate a land information system (LIS) or geographic information system (GIS), provided that every product created by or hosted on the LIS or GIS includes the following disclaimer: "This product is for informational purposes only and may not be suitable for legal, engineering, or surveying purposes. This product does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries."

Under current law, for purposes of platting lands or preparing survey maps that involve ordinary high water marks (OHWMs), a professional surveyor may incorporate an ordinary high water mark that has been identified by the Department of Natural Resources or that has otherwise been identified by law or may approximate the ordinary high water mark. The substitute amendment requires

that explain

that statement be included on the face of a plat or map explaining that the land below the OHWM is subject to the public trust doctrine for navigable waters and that exposed land between the OHWM and the water's edge is to be used exclusively by the owner of the adjacent waterfront property, unless otherwise provided by law

of a navigable water

certain plats or maps

or by the owner's deed title

Finally, the substitute amendment exempts a professional land surveyor and an employee working under the direct supervision of the professional land surveyor from civil liability for trespass occurring during the practice of professional land surveying or damage caused as a result of the surveyor's approximation of an OHWM or of high and low water elevations, provided the action of the surveyor or his or her employee were in good faith and not reckless, wanton, or involving intentional misconduct.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.405 (2) (intro.), (a) and (b) of the statutes are amended to read:

2 15.405 (2) EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
3 PROFESSIONAL ENGINEERS, DESIGNERS, AND PROFESSIONAL LAND SURVEYORS. (intro.)

4 There is created an examining board of architects, landscape architects, professional
5 engineers, designers, and professional land surveyors in the department of
6 regulation and licensing. Any professional member appointed to the examining
7 board shall be registered or licensed to practice architecture, landscape architecture,
8 professional engineering, the design of engineering systems, or the practice of
9 professional land surveying under ch. 443. The examining board shall consist of the
10 following members appointed for 4-year terms: 3 architects, 3 landscape architects,
11 3 professional engineers, 3 designers, 3 professional land surveyors, and 10 public
12 members.

13 (a) In operation, the examining board shall be divided into an architect section,
14 a landscape architect section, an engineer section, a designer section, and a
15 professional land surveyor section. Each section shall consist of the 3 members of
16 the named profession appointed to the examining board and 2 public members
17 appointed to the section. The examining board shall elect its own officers, and shall
18 meet at least twice annually.

1 (b) All matters pertaining to passing upon the qualifications of applicants for
2 and the granting or revocation of registration or licensure, and all other matters of
3 interest to either the architect, landscape architect, engineer, designer, or
4 professional land surveyor section shall be acted upon solely by the interested
5 section.

6 SECTION 2. 16.967 (3) (f) of the statutes is created to read:

7 16.967 (3) (f) Ensure that state agencies and local governmental units with
8 land information responsibilities include on every product created by a land
9 information system or hosted on a land information system the following disclaimer:
10 "This product is for informational purposes only and may not be suitable for
11 legal, engineering, or surveying purposes. This product does not represent an
12 on-the-ground survey and represents only the approximate relative location of
13 property boundaries."

****NOTE: Is there a conflict between this provision governing disclaimers and the provision under s. 16.967 (7) (a) 1., which seems to refer to maps that would comply with accuracy standards established for professional land surveyors?

****NOTE: Is it possible that some of the documents "hosted by" a land information system would be maps and other documents prepared by professional land surveyors? If so, would the disclaimer need to appear on such maps and documents?

14 SECTION 3. 26.09 (3) (b) 1. of the statutes is amended to read:

15 26.09 (3) (b) 1. A court shall award damages that equal the stumpage value of
16 the raw forest products harvested if the person harvesting the raw forest products
17 or the person giving consent for the harvesting reasonably relied upon a recorded
18 survey that was done by a person who is ~~registered~~ licensed under ch. 443 as a
19 professional land surveyor or who is issued a permit to engage in the practice of
20 professional land surveying under s. 443.06 even if the recorded survey is
21 determined, after the harvesting, to be in error.

INSERT 5-7

1 **SECTION 4.** 30.11 (3) of the statutes is amended to read:

2 30.11 (3) HOW ESTABLISHED. Whenever any municipality proposes to establish
3 a bulkhead line or to reestablish an existing bulkhead line, the municipality shall
4 indicate both the existing shore and the proposed bulkhead line upon a map and shall
5 file with the department for its approval 6 copies of the map and 6 copies of the
6 ordinance establishing the bulkhead line. The map shall use a scale of not less than
7 100 feet to an inch or any other scale required by the department. The map and a
8 metes and bounds description of the bulkhead line shall be prepared by a
9 professional land surveyor registered in this state licensed under ch. 443. The
10 department may require the installation of permanent reference markers to the
11 bulkhead line. Upon approval by the department, the municipality shall deliver the
12 map, description, and ordinance to the office of the register of deeds of the county in
13 which the bulkhead line lies, to be recorded by the register of deeds.

14 **SECTION 5.** 30.13 (3) (a) of the statutes is amended to read:

15 30.13 (3) (a) Any municipality authorized by s. 30.11 to establish a bulkhead
16 line may also establish a pierhead line in the same manner as it is authorized to
17 establish a bulkhead line, except that a metes and bounds legal description is not
18 required nor is the map required to be prepared by a registered professional land
19 surveyor licensed under ch. 443 and except that if the municipality has created a
20 board of harbor commissioners the municipality must obtain the approval of the
21 board concerning the establishment of the pierhead line in addition to obtaining the
22 approval of the department.

23 **SECTION 6.** 59.001 (2k) of the statutes is created to read:

24 59.001 (2k) "Professional land surveyor" means a professional land surveyor
25 licensed under ch. 443.

1 **SECTION 7.** 59.20 (2) (c) of the statutes is amended to read:

2 59.20 (2) (c) In counties that elect a surveyor, the surveyor shall be a registered
3 professional land surveyor. In lieu of electing a surveyor in any county having a
4 population of less than 500,000, the board may, by resolution, designate that the
5 duties under ss. 59.45 (1) and 59.74 (2) be performed by any registered professional
6 land surveyor employed by the county. Any surveyor employed by a county having
7 a population of 500,000 or more shall be a professional land surveyor.

8 **SECTION 8.** 59.43 (8) of the statutes is amended to read:

9 59.43 (8) **REQUIRED SIGNATURE AND SEAL ON SURVEY DOCUMENT FOR FILING OR**
10 **RECORDING.** It is unlawful for the register of deeds of any county or any proper public
11 authority to file or record a map, plat, survey, or other document within the definition
12 of the practice of professional land surveying under s. 443.01 (6s), which does not
13 have impressed thereon, and affixed thereto, the personal signature and seal of a
14 registered professional land surveyor under whose responsible charge the map, plat,
15 survey, or other document was prepared. This subsection does not apply to any deed,
16 contract, or other recordable document prepared by an attorney, or to a
17 transportation project plat that conforms to s. 84.095 and that is prepared by a state
18 agency.

19 **SECTION 9.** 59.45 (1) (a) 2. of the statutes is amended to read:

20 59.45 (1) (a) 2. Make, personally or by a deputy, a record, in books or on
21 drawings and plats that are kept for that purpose, of all corners that are set and the
22 manner of fixing the corners and of all bearings and the distances of all courses run,
23 of each survey made personally, by deputies or by other professional land surveyors
24 and arrange or index the record so it is an ~~easy to use~~ easy-to-use reference and file
25 and preserve in the office the original field notes and calculation thereof. Within 60

1 days after completing any survey, the county surveyor shall make a true and correct
2 copy of the foregoing record, in record books or on reproducible papers to be furnished
3 by the county and kept in files in the office of the county surveyor to be provided by
4 the county. In a county with a population of 500,000 or more where there is no county
5 surveyor, a copy of the record shall also be filed in the office of the regional planning
6 commission which acts in the capacity of county surveyor for the county.

7 **SECTION 10.** 59.45 (1) (b) of the statutes is amended to read:

8 59.45 (1) (b) Surveys for individuals or corporations may be performed by any
9 professional land surveyor who is employed by the parties requiring the services,
10 providing that within 60 days after completing any survey the ^{professional} land surveyor files a
11 true and correct copy of the survey in the office of the county surveyor. In counties
12 with a population of 500,000 or more the copy shall be filed in the office of the register
13 of deeds and in the office of the regional planning commission which acts in the
14 capacity of county surveyor for the county.

15 **SECTION 11.** 59.45 (3) of the statutes is amended to read:

16 59.45 (3) SURVEYOR; FEES. In addition to the regular fees of professional land
17 surveyors that are received from the parties employing the county surveyor, the
18 county surveyor may receive a salary from the county.

19 **SECTION 12.** 59.46 of the statutes is amended to read:

20 **59.46 Penalty for nonfeasance.** Any county surveyor, any city, village, or
21 town engineer, or any professional land surveyor who fails or refuses to perform any
22 duty required of that person by law shall forfeit not less than \$25 nor more than \$50
23 for each such failure or refusal.

24 **SECTION 13.** 59.73 (2) of the statutes is amended to read:

① 59.73 (2) SUBDIVIDING SECTIONS. Whenever a ^{county} surveyor ^{or professional land surveyor} is required to subdivide
2 a section or smaller subdivision of land established by the United States survey, the
3 ^{county} surveyor ^{or professional land surveyor} shall proceed according to the statutes of the United States and the rules
4 and regulations made by the secretary of the interior in conformity to the federal
5 statutes. ~~While so engaged a surveyor and the surveyor's assistants shall not be~~
6 ~~liable as a trespasser and shall be liable only for any actual damage done to land or~~
7 ~~property.~~

8 SECTION 14. 59.74 (2) (b) 1. of the statutes is amended to read:

9 59.74 (2) (b) 1. Whenever it becomes necessary to destroy, remove, or cover up
10 in such a way that will make it inaccessible for use, any landmark, monument of
11 survey, or corner post within the meaning of this subsection, the person including
12 employees of governmental agencies who intend to commit such act shall serve
13 written notice at least 30 days prior to the act upon the county surveyor of the county
14 within which the landmark is located. Notice shall also be served upon the
15 municipality's engineer if the landmark is located within the corporate limits of a
16 municipality. The notice shall include a description of the landmark, monument of
17 survey, or corner post and the reason for removing or covering it. In this paragraph,
18 removal of a landmark includes the removal of railroad track by the owner of the
19 track. In a county having a population of less than 500,000 where there is no county
20 surveyor, notice shall be served upon the clerk. In a county with a population of
21 500,000 or more where there is no county surveyor, notice shall be served upon the
22 executive director of the regional planning commission which acts in the capacity of
23 county surveyor for the county. Notwithstanding par. (c), upon receipt of the notice
24 the clerk shall appoint a registered professional land surveyor to perform the duties
25 of a county surveyor under subd. 2.

1 **SECTION 15.** 59.74 (2) (c) of the statutes is amended to read:

2 59.74 (2) (c) In those counties where there are no county surveyors a petition
3 can be made to the board by any resident of this state requesting the board to appoint
4 a professional land surveyor to act in the capacity of the county surveyor. The board,
5 upon receipt of this petition, shall appoint a professional land surveyor to act in the
6 capacity of the county surveyor. In counties with a population of 500,000 or more,
7 the board may appoint a governmental agency to act in the capacity of county
8 surveyor.

9 **SECTION 16.** 59.74 (2) (g) of the statutes is amended to read:

10 59.74 (2) (g) Every professional land surveyor and every officer of the
11 department of natural resources and the district attorney shall enforce this
12 subsection.

13 **SECTION 17.** 59.74 (2) (h) of the statutes is amended to read:

14 59.74 (2) (h) Any registered professional land surveyor employed by the
15 department of transportation or by a county highway department, may, incident to
16 employment as such, assume and perform the duties and act in the capacity of the
17 county surveyor under this subsection with respect to preservation and perpetuation
18 of landmarks, witness monuments, and corner posts upon and along state trunk,
19 county trunk, and town highways. Upon completing a survey and perpetuating
20 landmarks and witness monuments under par. (b) 2., a professional land surveyor
21 employed by the state shall file the field notes and records in the district office or
22 main office of the department of transportation, and a professional land surveyor
23 employed by a county shall file the field notes and records in the office of the county
24 highway commissioner, open to inspection by the public, and in either case a true and
25 correct copy of the field notes and records shall be filed with the county surveyor. In

1 a county with a population of 500,000 or more where there is no county surveyor, a
2 copy of the field notes and records shall also be filed in the office of the regional
3 planning commission which acts in the capacity of county surveyor for the county.

4 **SECTION 18.** 59.74 (2) (j) of the statutes is amended to read:

5 59.74 (2) (j) The county surveyor may employ other professional land surveyors
6 to assist in this work and may accept reference checks for these corners from any
7 professional land surveyor.

8 **SECTION 19.** 59.75 of the statutes is amended to read:

9 **59.75 Certificates and records as evidence.** The certificate and also the
10 official record of the county surveyor when produced by the legal custodian thereof,
11 or any of the county surveyor's deputies, when duly signed by the county surveyor
12 in his or her official capacity, shall be admitted as evidence in any court within the
13 state, but the same may be explained or rebutted by other evidence. If any county
14 surveyor or any of his or her deputies are interested in any tract of land a survey of
15 which becomes necessary, such survey may be executed by any professional land
16 surveyor appointed by the board.

17 **SECTION 20.** 60.84 (1) of the statutes is amended to read:

18 60.84 (1) SURVEY, CONTRACT FOR. The town board may contract with the county
19 surveyor or any registered professional land surveyor licensed under ch. 443 to
20 survey all or some of the sections in the town and to erect monuments under this
21 section as directed by the board.

22 **SECTION 21.** 84.095 (5) of the statutes is amended to read:

23 84.095 (5) ~~SURVEYORS~~ ^{PROFESSIONAL LAND SURVEYOR'S} CERTIFICATE. A plat prepared for filing or recording under
24 this section shall include a certificate of a professional land surveyor registered
25 licensed under s. 443.06 that the plat is a correct representation of the project

INERT 11-22

1 described and that the identification and location of each parcel can be determined
2 from the plat. This subsection does not apply to plats prepared by the department.

X
6

3 SECTION 22. 93.75 of the statutes is created to read:

4 93.75 Training and certification. (1) Subject to sub. (2), the department
5 may by rule establish a training and certification program for employees of the
6 department that includes instruction in any of the following practices:

7 (a) Placing, replacing, restoring, or perpetuating monuments in or on the
8 ground to evidence the location of a point that is necessary to describe any of the
9 following:

10 1. The shape, area, and boundaries of one or more tracts of land.

****NOTE: The language of this subdivision differs from the language under the
definition of land surveying. Specifically, this subdivision does not include language
related to the subdivision or consolidation of one or more tracts of land. Okay?

11 2. The boundaries of any of the following interests in real property:

12 a. The layout and rights-of-way of roads or streets.

13 b. Air or property rights.

14 c. Public or private easements.

15 (b) Preparing maps that depict any interest in real property identified in par.

16 (a) for the purpose of establishing the boundaries of any such interest in real
17 property.

18 (2) If the department establishes by rule a training and certification program
19 under sub. (1), the department shall by rule establish accuracy standards for
20 employees certified under this section to follow when conducting any of the practices
21 described in sub. (1) (a) and (b).

INSERT 12-22

22 SECTION 23. 157.07 (1) of the statutes is amended to read:

1 157.07 (1) A cemetery authority shall cause to be surveyed and platted by a
 2 professional land surveyor registered in this state (licensed under ch. 443) those
 3 portions of the lands that are from time to time required for burial, into cemetery lots,
 4 drives and walks, and record a plat or map of the land in the office of the register of
 5 deeds. The plat or map may not be recorded unless laid out and platted to the
 6 satisfaction of the county board of the county, and the town board of the town in which
 7 the land is situated, or, if the land is situated within a 1st class city, then only by the
 8 common council of that city.

INVERT 13-9

9 **SECTION 24.** 236.02 (2m) of the statutes is amended to read:

10 236.02 (2m) "Correction instrument" means an instrument drafted by a
 11 licensed professional land surveyor (licensed under ch. 443) that complies with the
 12 requirements of s. 236.295, and that, upon recording, corrects a subdivision plat or
 13 a certified survey map.

INVERT 13-14

14 **SECTION 25.** 236.025 of the statutes is created to read:

15 **236.025 Ordinary high water marks.** (1) For purposes of ss. 236.15 (1) (a)
 16 and (d) and 236.20 (2) (g), a professional land surveyor (licensed under ch. 443) may
 17 do any of the following:

18 (a) Incorporate into a map, plat, or survey an ordinary high water mark that
 19 has been identified by the department of natural resources or otherwise identified
 20 pursuant to law.

21 (b) Approximate the ordinary high water mark and incorporate that mark into
 22 a map, plat, or survey.

23 (2) For purposes of sub. (1) (b), the location of the approximate ordinary high
 24 water mark shall be the point on the bank of a stream or on the shore of a lake up
 25 to which the presence and action of surface water is so continuous as to leave a

1 distinctive mark by erosion, destruction, prevention of terrestrial vegetation,
2 predominance of aquatic vegetation, or other easily recognized characteristic.

3 **SECTION 26.** 236.15 (1) (a) of the statutes is amended to read:

4 236.15 (1) (a) The external boundaries of a subdivision shall be monumented
5 in the field by monuments of concrete containing a ferrous rod one-fourth inch in
6 diameter or greater imbedded its full length, not less than 18 inches in length, not
7 less than 4 inches square or 5 inches in diameter, and marked on the top with a cross,
8 brass plug, iron rod, or other durable material securely embedded; or by iron rods or
9 pipes at least 18 inches long and 2 inches in diameter weighing not less than 3.65
10 pounds per lineal foot. Solid round or square iron bars of equal or greater length or
11 weight per foot may be used in lieu of pipes wherever pipes are specified in this
12 section. These monuments shall be placed at all corners, at each end of all curves,
13 at the point where a curve changes its radius, at all angle points in any line and at
14 all angle points along the meander line, said points to be not less than 20 feet back
15 from the identified or approximated ordinary high water mark of the lake or from the
16 ~~bank of the stream~~, except that when such corners or points fall within a street, or
17 proposed future street, the monuments shall be placed in the side line of the street.

18 **SECTION 27.** 236.15 (1) (d) of the statutes is amended to read:

19 236.15 (1) (d) The lines of lots, outlots, parks and public access and land
20 dedicated to the public that extend to lakes or streams shall be monumented in the
21 field by iron pipes at least 18 inches long and one inch in diameter weighing not less
22 than 1.13 pounds per lineal foot, or by round or square iron bars at least 18 inches
23 long and weighing not less than 1.13 pounds per lineal foot. These monuments shall
24 be placed at the point of intersection of the lake or stream lot line with a meander

Insert 14-2

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1 line established not less than 20 feet back from the identified or approximated
2 ordinary high water mark of the lake or from the bank of the stream.

3 SECTION 28. 236.15 (2) of the statutes is amended to read:

4 236.15 (2) ACCURACY OF SURVEY. The survey shall be performed by a
5 professional land surveyor registered in this state licensed under ch. 443, and if the
6 error in the latitude and departure closure of the survey or any part thereof is greater
7 than the ratio of one in 3,000, the plat may be rejected.

8 SECTION 29. 236.16 (3) (title) of the statutes is amended to read:

9 236.16 (3) (title) LAKE AND STREAM SHORE PLATS; PUBLIC ACCESS.

10 SECTION 30. 236.16 (4) (title) of the statutes is amended to read:

11 236.16 (4) (title) LAKE AND STREAM SHORE PLATS; LAND BETWEEN MEANDER LINE AND
12 WATER'S EDGE.

13 SECTION 31. 236.20 (2) (g) of the statutes is amended to read:

14 236.20 (2) (g) All lake or stream shore meander lines established by the
15 professional land surveyor in accordance with s. 236.15 (1) (d), the distances and bearings thereof, and
16 the distance between the point of intersection of such meander lines with lot lines
17 and the identified or approximated ordinary high water mark.

18 SECTION 32. 236.20 (6) of the statutes is created to read:

19 236.20 (6) PUBLIC TRUST INFORMATION. A final plat of a subdivision, or a certified
20 survey map of land, to which s. 236.16 (4) applies shall show on its face the following
21 statement:

22 "Any land below the ordinary high water mark of a navigable lake or stream is subject to the public trust in
23 navigable waters that is established under article IX, section 1, of the state
24 constitution. However, the owner of the real property that abuts such land has
25 exclusive use of that land when it is exposed, except as otherwise provided by law."

or by the owner's title

INSERT 16-1

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SECTION 33. 236.34 (1) (a) of the statutes is amended to read:

236.34 (1) (a) The survey shall be performed and the map prepared by a professional land surveyor registered in this state licensed under ch. 443. The error in the latitude and departure closure of the survey may not exceed the ratio of one in 3,000.

SECTION 34. 440.03 (13) (b) 34. of the statutes is amended to read:

440.03 (13) (b) 34. Land surveyor, professional.

SECTION 35. 440.08 (2) (a) 39. of the statutes, as affected by 2007 Wisconsin Act 20, is amended to read:

440.08 (2) (a) 39. Land surveyor, professional: February 1 of each even-numbered year.

SECTION 36. Chapter 443 (title) of the statutes is amended to read:

CHAPTER 443
EXAMINING BOARD OF ARCHITECTS,
LANDSCAPE ARCHITECTS,
PROFESSIONAL ENGINEERS,
DESIGNERS, AND PROFESSIONAL
LAND SURVEYORS

SECTION 37. 443.01 (1g) of the statutes is created to read: *and making maps of*

443.01 (1g) "Cartographic surveying" means collecting *topographic,* hydrographic, aerial, anthropologic, forensic, architectural, or mining data that depicts areas and physical features on, below, or above the surface of the earth.

SECTION 38. 443.01 (1r) of the statutes is created to read:

443.01 (1r) "Construction surveying" means surveying or mapping in support of infrastructure design, improvements related to private and public boundary lines,

INSERT 16-6

1 construction layout or historic preservation, and establishing any postconstruction
2 documentation related to such surveying or mapping.

3 **SECTION 39.** 443.01 (3) of the statutes is amended to read:

4 443.01 (3) "Examining board" means the examining board of architects,
5 landscape architects, professional engineers, designers, and professional land
6 surveyors.

7 **SECTION 40.** 443.01 (3b) of the statutes is created to read:

8 443.01 (3b) "Geodetic surveying" means surveying to determine the size and
9 shape of the earth or the precise positions of points on the surface of the earth.

10 **SECTION 41.** 443.01 (4) of the statutes is repealed.

11 **SECTION 42.** 443.01 (6s) of the statutes is created to read:

12 443.01 (6s) (a) Except as provided in par. (b), "practice of professional land
13 surveying" means any of the following:

14 1. Measuring or analyzing a tract of land to determine the location of its
15 boundaries and boundary corners.

16 2. Designing or coordinating designs for the purpose of platting or subdividing
17 land into smaller tracts.

18 3. Placing, replacing, restoring, or perpetuating monuments in or on the
19 ground to evidence the location of a point that is necessary to describe the shape,
20 area, and boundaries of one or more tracts of land or the subdivision or consolidation
21 of one or more tracts of land or to describe the boundaries of any of the following
22 interests in real property:

23 a. The layout and rights-of-way of roads or streets.

24 b. Air or property rights.

25 c. Public or private easements.

STET:
leave as
typed

1 4. Preparing maps that depict any interest in real property identified in subd.
2 3 for the purpose of establishing the boundaries of any such interest in real property.

3 5. Preparing any of the following:

****NOTE: The drafting instruction for this paragraph identifies 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. I eliminated the reference to "official plats" and instead identify, by statutory section or chapter, the plats referenced above. Okay?

4 a. An official map of this state, including an official map established or
5 amended under s. 62.23 (6), established or amended under the authority of s. 61.35,
6 or adopted under s. 60.61.

****NOTE: The definition of land surveying under current law includes the preparation of "official plats, or maps, of this state." As indicated in the previous NOTE, this draft eliminates from the definition of the practice of professional land surveying references to "official plats." I have the following questions about the new language regarding "official maps" in subdivision paragraph 5. a.:

1. Neither s. 62.23 (6), stats., s. 61.35, stats., nor s. 60.61 (2) (e), stats., specifically require that the official map of a city, village, or town be prepared by a professional land surveyor. Would you like to make that requirement more explicit by amending ss. 60.61 (2) (e) and 62.23 (6)?

2. Is it accurate to refer to an "official map of this state," or should this clause be eliminated from the draft? What does the phrase "official map of the state" mean? Does it include a map of all of the agricultural lands or forest lands or park lands in the state that is prepared by an agency? What about a map of all of the school districts in the state prepared by DPI? The state cartographer is authorized under s. 36.25 (12m) (e), stats., to "publish and distribute such special maps and map information as will promote the mapping of the state and preparation and use of maps by individuals, only to the extent, however, that such publication and distribution is not appropriately within the activities of any other state or commercial agency." Is a map prepared under this authority an "official map of the state?" Is the state cartographer necessarily a professional land surveyor? In sum, must any of the maps identified in this particular NOTE be prepared by a professional land surveyor?

7 b. An assessor's plat under s. 70.27.
8 c. A map or plat of cemetery lands under s. 157.07.
9 d. A subdivision plat, certified survey map, or correction instrument under ch.
10 236.
11 e. A condominium plat or correction instrument under ch. 703.

****NOTE: Must a removal instrument, as that term is defined in s. 703.02 (14g), stats., be prepared by a professional land surveyor?

1 f. A project and time-share plat under s. 707.215.

2 6. Performing cartographic, construction, or geodetic surveying in connection
3 with any of the practices specified in subds. 1. to 5.

4 (b) "Practice of professional land surveying" does not include the establishment
5 of an ordinary high water mark.

6 SECTION 43. 443.01 (7m) of the statutes is created to read:

7 443.01 (7m) "Professional land surveyor" means a person who, by reason of his
8 or her knowledge of law, mathematics, physical sciences, and measurement
9 techniques, acquired by education and practical experience, is granted a license or
10 permit to engage in the practice of professional land surveying under this chapter.

11 SECTION 44. 443.02 (4) of the statutes is amended to read:

12 443.02 (4) No person may engage in or offer to engage in the practice of
13 professional land surveying in this state or use or advertise any title or description
14 tending to convey the impression that the person is a professional land surveyor or
15 provide or offer to provide or hold himself or herself out as qualified to provide
16 consulting services related to the practice of professional land surveying unless the
17 person has been issued a certificate of registration or granted a license or permit to
18 engage in the practice of professional land surveying under this chapter.

for compensation

****NOTE: This s. 443.02 (4) has been amended to add language regarding performing "consultation services related to the practice of land surveying;" similar language had appeared as part of the definition of the practice of professional land surveying in 2009 AB 271. As amended, s. 443.02 (4) provides that no person may provide consultation services related to the practice of professional land surveying unless the person is licensed by the examining board. I moved the language to this particular section because, under 2009 AB 271, the language occurred in the definition of professional land surveying, resulting in a somewhat circular definition ("the practice of professional land surveying means . . . performing consultation services related to the" practice of professional land surveying).

However, moving the language to this s. 443.02 (4) does not entirely eliminate the problem with this language. The language itself is vague—what exactly are "consultation services related to the practice of professional land surveying?" Does that phrase include, for example, an architectural firm which has chosen to hire a professional land surveyor

as part of its staff? If so, then, regardless of whether the language appears in the definition or in s. 443.02 (4), the person who hires the professional land surveyor is now providing consultation services (in this case architectural consultation services) related to the practice of professional land surveying; thus, the person who hired the professional land surveyor may also be required to have a license issued by DRL. Is there a way to clarify what "consultation services" means?

1 SECTION 45. 443.06 (title) of the statutes is amended to read:

2 443.06 (title) **Registration Licensure requirements for professional**
3 **land surveyors.**

4 SECTION 46. 443.06 (1) (title) of the statutes is amended to read:

5 443.06 (1) (title) ~~REGISTRATION~~ LICENSURE, APPLICATION, QUALIFYING EXPERIENCE.

6 SECTION 47. 443.06 (1) (a) of the statutes is amended to read:

7 443.06 (1) (a) Application for ~~registration as a land surveyor~~ a license or a
8 permit to engage in the practice of professional land surveying shall be made to the
9 section under oath, on forms provided by the department, which shall require the
10 applicant to submit such information as the section deems necessary. The section
11 may require applicants to pass written or oral examinations or both. Applicants who
12 do not have an arrest or conviction record, subject to ss. 111.321, 111.322, and
13 111.335, shall be entitled to be ~~registered or issued a~~ granted a license or permit to
14 engage in the practice as of professional land surveyors surveying when satisfactory
15 evidence is submitted that the applicant has met one or more of the requirements of
16 sub. (2).

17 SECTION 48. 443.06 (1) (b) of the statutes is amended to read:

18 443.06 (1) (b) Each year, but not more than 4 years, of work or training
19 completed in a curriculum in the practice of professional land surveying approved by
20 the professional land surveyor section, or of responsible charge of ~~land surveying~~
21 teaching the practice of professional land surveying may be considered as equivalent
22 to one year of qualifying experience in ~~land surveying work~~ the practice of



1 professional land surveying, and each year, but not more than 4 years, completed in
2 a curriculum other than the practice of professional land surveying approved by the
3 ~~land surveyor~~ section, may be considered as equivalent to one-half year of qualifying
4 experience.

5 **SECTION 49.** 443.06 (2) (intro.) of the statutes is amended to read:

6 443.06 (2) REQUIREMENTS; ~~CERTIFICATE OF REGISTRATION~~ LICENSE. (intro.) The
7 section may grant a ~~certificate of registration as a~~ license to engage in the practice
8 of professional land surveyor surveying to any person who has submitted to it an
9 application, the required fees, and one or more of the following:

10 **SECTION 50.** 443.06 (2) (a) of the statutes is repealed.

11 **SECTION 51.** 443.06 (2) (am) of the statutes is amended to read:

12 443.06 (2) (am) Evidence satisfactory to the professional land surveyor section
13 that he or she has received a bachelor's degree in a course in the practice of
14 professional land surveying or a related field that has a duration of not less than 4
15 years and is approved by the ~~land surveyor~~ section, and that he or she has engaged
16 in the practice of professional land surveying for at least 2 years ~~of land surveying~~
17 and has demonstrated practice of satisfactory character that indicates that the
18 applicant is competent to engage in the practice of professional land surveying, if the
19 applicant has passed an oral and written or written examination administered by the
20 ~~land surveyor~~ section. This paragraph applies to actions of the ~~land surveyor~~ section
21 on applications for licenses to engage in the practice of professional land surveyors'
22 ~~certificates~~ surveying that are submitted to the ~~land surveyor~~ section after June 30,
23 2000.

24 **SECTION 52.** 443.06 (2) (b) of the statutes is repealed.

25 **SECTION 53.** 443.06 (2) (bm) of the statutes is amended to read:

1 443.06 (2) (bm) Evidence satisfactory to the professional land surveyor section
2 that he or she has received an associate degree in a course in the practice of
3 professional land surveying or a related field that has a duration of not less than 2
4 years and is approved by the ~~land surveyor~~ section, and that he or she has engaged
5 in the practice of professional land surveying for at least 4 years of land surveying
6 and has demonstrated practice of satisfactory character that indicates that the
7 applicant is competent to engage in the practice of professional land surveying, if the
8 applicant has passed an oral and written or written examination administered by the
9 ~~land surveyor~~ section. This paragraph applies to actions of the ~~land surveyor~~ section
10 on applications for licenses to engage in the practice of professional land surveyors'
11 ~~certificates~~ surveying that are submitted to the ~~land surveyor~~ section after June 30,
12 2000.

13 **SECTION 54.** 443.06 (2) (c) of the statutes is repealed.

14 **SECTION 55.** 443.06 (2) (cm) of the statutes is amended to read:

15 443.06 (2) (cm) Evidence satisfactory to the professional land surveyor section
16 that he or she has engaged in the practice of professional land surveying for at least
17 10 years of land surveying and has demonstrated practice of satisfactory character
18 that indicates that the applicant is competent to engage in the practice of licenses to
19 engage in the practice of professional land surveying, if the applicant has passed an
20 oral and written or written examination administered by the ~~land surveyor~~ section.
21 This paragraph applies to actions of the ~~land surveyor~~ section on applications for
22 licenses to engage in the practice of professional land surveyors' ~~certificates~~
23 surveying that are submitted to the ~~land surveyor~~ section after June 30, 2000.

24 **SECTION 56.** 443.06 (2) (d) of the statutes is amended to read:

1 443.06 (2) (d) An unexpired certificate of registration, certificate of
2 certification, or license as a land surveyor or to engage in the practice of professional
3 land surveying issued to the applicant by the proper authority in any state or
4 territory or possession of the United States or in any other country whose
5 requirements meet or exceed the requirement for ~~registration~~ licensure in this
6 subsection, if the applicant has passed an oral and written or written examination
7 administered by the professional land surveyor section.

8 **SECTION 57.** 443.06 (2) (e) of the statutes is repealed.

9 **SECTION 58.** 443.06 (2) (em) of the statutes is amended to read:

10 443.06 (2) (em) Evidence satisfactory to the professional land surveyor section
11 that he or she has completed an apprenticeship training course in the practice of
12 professional land surveying prescribed by the department of workforce development,
13 and has engaged in ~~a~~ the practice of professional land surveying for an additional
14 period of additional land surveying and has demonstrated practice of satisfactory
15 character that indicates that the applicant is competent to engage in the practice of
16 professional land surveying and that, when added to the period of the
17 apprenticeship, totals at least 8 years of ~~land surveying practice of professional land~~
18 surveying, if the applicant has passed an oral and written or written examination
19 administered by the ~~land surveyor~~ section. This paragraph applies to actions of the
20 ~~land surveyor~~ section on applications for licenses to engage in the practice of
21 professional land surveyors' ~~certificates~~ surveying that are submitted to the ~~land~~
22 ~~surveyor~~ section after June 30, 2000.

23 **SECTION 59.** 443.06 (3) of the statutes is amended to read:

24 443.06 (3) PERMIT TO PRACTICE. The examining board may grant a permit to
25 engage in the practice of professional land surveying during the time an application

1 is pending to a person who is not ~~registered~~ licensed in this state, if the person has
2 submitted an application for ~~registration~~ as a license to engage in the practice of
3 professional land surveyor surveying and paid the required fee and holds an
4 unexpired certificate of registration, certificate of certification, or license which in
5 the opinion of the examining board meets the requirements of sub. (2). The permit
6 shall be revocable by the section at its pleasure.

7 **SECTION 60.** 443.10 (title) of the statutes is amended to read:

8 **443.10 (title) Applications, certificates, licenses, rules, and roster.**

9 **SECTION 61.** 443.10 (2) (b) of the statutes, as affected by 2007 Wisconsin Act 20,
10 is amended to read:

11 443.10 (2) (b) The fees for examinations and ~~licenses~~ credentials, as defined in
12 s. 440.01 (2) (a), granted under this chapter are specified in s. 440.05, and the fee for
13 renewal of such ~~licenses~~ credentials is determined by the department under s. 440.03
14 (9) (a).

15 **SECTION 62.** 443.10 (5) of the statutes, as affected by 2007 Wisconsin Act 20,
16 is amended to read:

17 443.10 (5) FEES; RENEWALS. The professional land surveyor's surveyor section
18 shall grant a ~~certificate of registration as a~~ license to engage of the practice of
19 professional land surveyor surveying to any applicant who has met the applicable
20 requirements of this chapter. The renewal date for the ~~certificate~~ license is specified
21 under s. 440.08 (2) (a), and the renewal fee for the ~~certificate~~ license is determined
22 by the department under s. 440.03 (9) (a).

23 **SECTION 63.** 443.12 (title) of the statutes is amended to read:

24 **443.12 (title) Disciplinary proceedings against professional land**
25 **surveyors.**

1 SECTION 64. 443.12 (1) of the statutes is amended to read:

2 443.12 (1) The section may reprimand a professional land surveyor, or limit,
3 suspend, or revoke the ~~certificate of registration~~ license of any professional land
4 surveyor, for the practice of any fraud or deceit in obtaining the ~~certificate~~ license,
5 or any gross negligence, incompetence, or misconduct in the practice of professional
6 land surveying.

7 SECTION 65. 443.12 (3) of the statutes is amended to read:

8 443.12 (3) If after a hearing 3 members vote in favor of reprimand or limiting,
9 suspending, or revoking the ~~certificate of registration~~ license of a professional land
10 surveyor, the section shall notify the surveyor to that effect. The surveyor shall
11 return the ~~certificate~~ license to the examining board immediately on receipt of notice
12 of a revocation. The action of the section may be reviewed under ch. 227.

13 SECTION 66. 443.135 of the statutes is created to read:

14 **443.135 Cartographic, construction, and geodetic surveying;**
15 **preparation of maps.** Nothing in this chapter shall be construed to prohibit a
16 person who has not been granted a license or permit to engage in the practice of
17 professional land surveying under this chapter from doing any of the following:

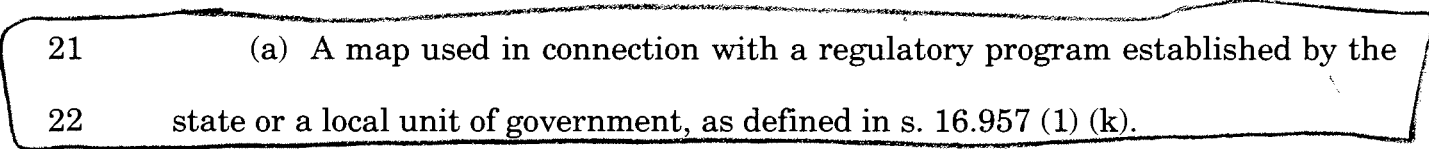
18 (1) Performing cartographic, construction, or geodetic surveying not in
19 connection with a practice specified in s. 443.01 (6s) (a) 1. to 5.

20 (2) Preparing any of the following:

21 (a) A map used in connection with a regulatory program established by the
22 state or a local unit of government, as defined in s. 16.957 (1) (k).

23 (b) A map showing the boundaries or the shape and area of one more tracts of
24 land subject to an order under s. 77.82 (8).

INSERT 25-21



INSERT 26-1

1 (c) A map that identifies or depicts the boundaries or the shape and area of one
2 or more tracts of land or one or more interests in real property for purposes unrelated
3 to the transfer of interests in the tracts of land or interests in real property.

****NOTE: The drafting instructions directed me to include language under this section 443.135 that exempts from licensure persons who create maps that "generally depict the boundary of an interest in property that is established by a legal description." Is it necessary that the interest in property be established by a legal description? If so, what do you mean by "legal description"? Do you mean a metes and bounds legal description? Must the legal description be incorporated onto the map somehow? Must the legal description itself be prepared by a professional land surveyor?

4 (d) A map having a purpose other than those specified in s. 443.01 (6s) (a) 4.
5 or 5.

****NOTE: Is this last, "catch-all" paragraph necessary?

6 SECTION 67. 443.14 (8) (a) of the statutes is amended to read:

7 443.14 (8) (a) An employee of a professional land surveyor ~~registered in this~~
8 ~~state or authorized to practice under a permit, while working~~ doing surveying work
9 under the supervision of the employer. Such exempt employee shall not be in
10 responsible charge of the practice of professional land surveying.

11 SECTION 68. 443.14 (8) (b) of the statutes is amended to read:

12 443.14 (8) (b) Officers and employees of the federal government while engaged
13 in the practice of professional land surveying for the federal government.

14 SECTION 69. 443.14 (8) (c) of the statutes is amended to read:

15 443.14 (8) (c) Employees of this state while engaged in the practice if
16 professional land surveying for the state. This paragraph does not apply after July
17 1, 2018.

18 SECTION 70. 443.14 (8) (d) of the statutes is amended to read:

1 443.14 (8) (d) Employees of public utilities regulated by the public service
2 commission while engaged in the practice of professional land surveying for such
3 utilities. This paragraph does not apply after July 1, 2018.

4 SECTION 71. 443.14 (9) of the statutes is amended to read:

5 443.14 (9) A license or permit shall not be required for an owner to survey his
6 or her own land for purposes other than for sale.

7 SECTION 72. 443.14 (11) of the statutes is amended to read:

8 443.14 (11) Any professional land surveyor registered licensed under s. 443.06
9 who is engaged in the planning, design, installation, or regulation of land and water
10 conservation activities under ch. 92 or s. 281.65.

11 SECTION 73. 443.14 (15) of the statutes is created to read:

12 443.14 (15) An employee of the department of agriculture, trade and consumer
13 protection certified under s. 93.75 who is engaged in determining the boundaries of
14 an easement to be acquired by that department under the conservation reserve
15 enhancement program under s. 93.70/ *and who complies with the requirements under
s. 93.70 (1m)*

****NOTE: This exemption limits the certified person's authority to determining the boundaries of easements to be acquired by DATCP under CREP, but the person's training under the certification program appears to be broader. Is that discrepancy intentional?

Should a person certified under s. 93.75 be authorized to determine the boundaries of easements to be acquired under the purchase of agricultural conservation easements (PACE) program created under s. 93.73, stats., by 2009 Wisconsin Act 28?

Would a person who prepares a map under either CREP or the new PACE program be exempt from licensure under proposed s. 443.135 (2) (a), which exempts from licensure a person who prepares "[a] map used in connection with a regulatory program established by the state or a local unit of government, as defined in s. 16.957 (1) (k)?" In other words, is this exception necessary given the language in proposed s. 443.135 (2) (a)? Is proposed s. 443.135 (2) (a) necessary?

16 SECTION 74. 443.14 (16) of the statutes is created to read:

17 (a) 443.14 (16) An employee of an agency, as defined in s. 16.967 (1) (a) or a local
18 governmental unit, as defined in s. 16.97 (7), who operates a land information

So 130 192(1)
described in par.
creates maps using
any of the

INSERT 28-3

1 system, as defined in s. 16.967 (1) (c), or a geographic information system, if any
 2 product hosted on the land information system or geographic information system or
 3 created by the employee ~~using the system includes the disclaimer required under s.~~
 4 ~~16.967 (3) (f).~~ *complies with the requirements*

****NOTE: Is the definition of agency at s. 16.967 (1) (a), stats., appropriate? That section reads as follows: "Agency' means an office, department, agency, institution of higher education, association, society or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority."

Note that authorities are not included within this definition of "agency." Is that okay?

****NOTE: Is the definition of "local governmental unit" at s. 16.97 (7), stats., appropriate? That section reads as follows: "Local governmental unit' means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, a combination or subunit of any of the foregoing or an instrumentality of the state and any of the foregoing."

****NOTE: Is it possible that some of the documents "hosted by" a land information system would be maps and other documents prepared by professional land surveyors? Is so, would the disclaimer need to appear on such maps and documents?

****NOTE: In discussions at "stakeholder" meetings held about this bill, it became clear that there is no uniform or uniformly accepted definition for a "geographic information system." However, the absence of a definition for geographic information system is awkward given that land information system is defined. Should the reference to the definition for land information system be eliminated?

Note also that, because land information system is a defined term and geographic information system is not, the language under this subsection is not identical to the disclaimer provision under s. 16.967 (3) (f). Proposed s. 16.967 (3) (f) only requires products created by or hosted on a land information system to contain the disclosure. Is that okay?

SECTION 75. 443.18 (2) (a) of the statutes is amended to read:

443.18 (2) (a) If it appears upon complaint to the examining board by any person, or is known to the examining board that any person who is neither registered nor exempt under this chapter nor the holder of an unexpired permit under s. 443.10 (1) (d) is practicing or offering to practice, ~~or is about to practice or to offer to practice,~~ architecture or professional engineering in this state, or is using the title "landscape architect" in this state, the examining board ~~or the attorney general, the department of regulation and licensing, the department of justice, or the district attorney of the~~

1 proper county may investigate and may, in addition to any other remedies, bring
2 action in the name and on behalf of ~~this~~ the state ~~against any such person~~ to enjoin
3 the person from practicing or offering to practice architecture or professional
4 engineering or from using the title "landscape architect".

5 SECTION 76. 443.18 (2) (b) of the statutes is amended to read:

6 443.18 (2) (b) If it appears upon complaint to the examining board by any
7 person, or is known to the ~~section~~ examining board that any person who is ~~not~~
8 authorized neither licensed nor permitted nor exempt under this chapter is
9 practicing engaged in or offering to engage in the practice of professional land
10 surveying in this state, the section examining board, the department of regulation
11 and licensing, the department of justice, or the district attorney of the proper county
12 may investigate and may, in addition to any other remedies, bring action in the name
13 and on behalf of the state to enjoin the person from practicing engaging in or offering
14 to engage in the practice of professional land surveying.

15 SECTION 77. 470.025 (7) of the statutes is amended to read:

16 470.025 (7) A professional land surveyor registered licensed under ch. 443 who
17 is engaged in the planning, design, installation, or regulation of land and water
18 conservation activities under ch. 92 or s. 281.65.

19 SECTION 78. 707.215 (5) (intro.) of the statutes is amended to read:

20 (5) PROFESSIONAL LAND SURVEYOR'S
~~SURVEYOR'S~~ CERTIFICATE. (intro.) A plat is sufficient for the purposes
21 of this chapter if attached to or included in the plat is a professional
22 land surveyor licensed to practice in this state under ch. 443, and the certificate
23 provides all of the following:

24 SECTION 79. 709.02 (1) of the statutes is amended to read:

INSERT 29-19 A, B, C, D, E

1 709.02 (1) In regard to transfers described in s. 709.01, the owner of the
2 property shall furnish, not later than 10 days after acceptance of a contract of sale
3 or option contract, to the prospective buyer of the property a completed copy of the
4 report under s. 709.03, subject to s. 709.035, except that the owner may substitute
5 for any entry information supplied by a licensed engineer, professional land surveyor
6 licensed under ch. 443, or structural pest control operator, or by an individual who
7 is a qualified 3rd party, as defined in 50443.001(7m), or by a contractor about matters
8 within the scope of the contractor's occupation if the information is in writing and
9 is furnished on time and if the entry to which it relates is identified, and except that
10 the owner may substitute for any entry information supplied by a public agency, as
11 defined in s. 66.0825 (3) (h). Information that substitutes for an entry on the report
12 under s. 709.03 and that is supplied by a person specified in this section may be
13 submitted and certified on a supplemental report prepared by the person, as long as
14 the information otherwise satisfies the requirements under this section. A
15 prospective buyer who does not receive a report within the 10 days may, within 2
16 business days after the end of that 10-day period, rescind the contract of sale or
17 option contract by delivering a written notice of rescision to the owner or to the owner's
18 agent.

****NOTE: This subsection refers to a professional land surveyor licensed under ch. 443; because that term is defined in ch. 443 to include persons who hold a permit as a professional land surveyor, this subsection would not authorize an owner to substitute information supplied by a person who is permitted, and not yet licensed, as a professional land surveyor. Is that your intent? See, also, s. 709.07, as amended below.

19 **SECTION 80.** 709.07 of the statutes is amended to read:

20 **709.07 Liability precluded.** An owner is not liable for an error or omission
21 in a report under s. 709.03 if the owner had no knowledge of that error or omission,
22 if the error or omission was based on information provided by a public agency, as

1 defined in s. 66.0825 (3) (h), or by a licensed engineer, professional land surveyor
2 licensed under ch. 443, structural pest control operator, or qualified 3rd party, as
3 defined in s. 452.23 (2) (b), or by a contractor about matters within the scope of the
4 contractor's occupation.

5 SECTION 81. 893.37 of the statutes is amended to read:

6 893.37 Survey. No action may be brought against an engineer or any
7 professional land surveyor licensed or permitted under ch. 443 to recover damages
8 for negligence, errors, or omission in the making of any survey nor for contribution
9 or indemnity related to such negligence, errors, or omissions more than 6 years after
10 the completion of a survey.

INSERT 31-12

11 SECTION 82. 895.477 of the statutes is created to read:

12 895.477 Civil liability exemption; professional land surveyors. (1) Any
13 professional land surveyor licensed under ch. 443 and any employee of a professional
14 land surveyor licensed under ch. 443 who is working under the direct supervision of
15 that professional land surveyor is immune from civil liability for all of the following:

16 (a) Trespass occurring during the practice of professional land surveying, as
17 defined in s. 443.01 (6s), if the surveyor or employee acted in good faith.

18 (b) Any damages caused as a result of the surveyor's approximation of an
19 ordinary high water mark of any lake or stream or his or her approximation of high
20 and low water elevations of any lake or stream if the surveyor was acting under ch.
21 236 and if the surveyor acted in good faith.

22 (2) (a) The immunity under sub. (1) does not extend to any professional land
23 surveyor or employee of the professional land surveyor whose actions involve
24 reckless, wanton, or intentional misconduct.

(3) (2) x

(3) (2) (1)

① (b) The immunity under sub. (1)⁽²⁾(a) does not extend to any actual damage done
2 to land or property resulting from the trespass.

***NOTE: Is it your intent that a person who is permitted as a professional land surveyor, but not yet licensed, will be able to avail him or herself of this liability exemption?

If so:

1. The term, "licensed" should be removed from s. 895.477 (1) (intro.). See, also, the reference to "professional land surveyor licensed under ch. 443" in s. 943.13 (4m) (d), as amended by this substitute amendment.

2. Is it your intent that an employee of a person who is permitted as a professional land surveyor, but not yet licensed, will be able to avail himself or herself of this liability exemption?

3 SECTION 83. 943.13 (4m) (d) of the statutes is created to read:

④ 943.13 (4m) (d) A professional land surveyor (licensed under ch. 443^{e; as defined in s. 443.01(7m);}) or an
5 employee of the professional land surveyor working under the direct supervision of
6 the professional land surveyor who qualifies for immunity under s. 895.477.

7 SECTION 84. Nonstatutory provisions.

8 (1) Notwithstanding section 443.02 (4) of the statutes, as affected by this act,
9 on the effective date of this subsection, a person who has been granted a certificate
10 of registration as a land surveyor under section 443.06 (2), 2007 stats., or a permit
11 to practice land surveying under section 443.06 (3), 2007 stats., is considered to be
12 granted a license to engage in the practice of professional land surveying under
13 section 443.06 (2) of the statutes, as affected by this act, or a permit to engage in the
14 practice of professional land surveying under section 443.06 (3) of the statutes, as
15 affected by this act, and the professional land surveyor section of the examining
16 board of architects, landscape architects, professional engineers, designers, and
17 professional land surveyors shall issue to the person, as appropriate, a license to
18 engage in the practice of professional land surveying under section 443.06 (2) of the

1 statutes, as affected by this act, or a permit to engage in the practice of professional
2 land surveying under section 443.06 (3) of the statutes, as affected by this act.

3 **SECTION 85. Initial applicability.**

4 (1) The treatment of sections 709.02 (1) and 709.07 of the statutes first applies
5 to original reports furnished on the effective date of this subsection.

6 (2) The treatment of sections 893.37, 895.477, and 943.13 (4m) (d) of the
7 statutes first applies to acts or omissions occurring on the effective date of this
8 subsection.

9 ~~#~~ (3) The treatment of section 236.02 (2m) of the statutes first applies to
10 correction instruments that are drafted on the effective date of this subsection.

11 ~~#~~ (4) The treatment of sections 236.15 (2) and 236.34 (1) (a) of the statutes first
12 applies to surveys that are performed on the effective date of this subsection.

13 (5) The treatment of section 707.215 (5) (intro.) of the statutes first applies to
14 certifications made on the effective date of this subsection.

15 ~~#~~ (6) The treatment of section 236.20 (6) of the statutes first applies to final plats,
16 and to certified survey maps, that are submitted for approval on the effective date
17 of this subsection.

18 **SECTION 86. Effective date.**

19 (1) This act takes effect on the first day of the 4th month beginning after
20 publication.

21 (END)

INSERT 33-4

INSERT 33-9

~~to be
deleted~~

INSERT 33-18A

MOVE -> -> -> -> -> -> ->

MOVE ->

33-10

1 **INSERT 28-3**

2 includes on the map the following or a substantially similar disclaimer:

3 “This map shows the approximate relative location of property boundaries but
4 was not prepared by a professional land surveyor. This map is provided for
5 informational purposes only and may not be sufficient or appropriate for legal,
6 engineering, or surveying purposes.” *↑ if prepared as described in para (a)*

7 (b) The following maps *(shall include the disclaimer described in par. (a):*

8 1. A map that depicts the boundary of an interest in property.

9 2. A map that will be recorded in the office of one or more county register^S/of
10 deeds.

11 **INSERT 29-19B** ✓

12 **SECTION 1.** 703.11 (2) (b) of the statutes is amended to read:

13 703.11 (2) (b) A survey of the property described in the declaration complying
14 with minimum standards for property surveys adopted by the examining board of
15 architects, landscape architects, professional engineers, designers and professional
16 land surveyors and showing the location of any unit or building located or to be
17 located on the property.

18 History: 1977 c. 407; 1983 a. 497; 1993 a. 463, 465, 491; 1997 a. 300, 333; 2003 a. 283; 2005 a. 9, 41.

18 **INSERT 29-19D** ✓

19 **SECTION 2.** 703.115 (1) (b) of the statutes is amended to read:

20 703.115 (1) (b) Provides that a condominium instrument may be rejected only
21 if it fails to comply with the applicable requirements of ss. 703.095, 703.11 (2) (a), (c)
22 and (d) and (3), 703.275 (5) and 703.28 (1m) or if the professional land surveyor’s
23 certificate under s. 703.11 (4) is not attached to or included in the condominium plat.

History: 1997 a. 333.

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INSERT X

#

(0) The treatment of section 157.07 (1) of the statutes first applies to lands surveyed and platted after the effective date of this subsection.

INSERT Y

#

(1) The treatment of section 236.32 (1) of the statutes first applies to the placement of monuments by a professional land surveyor, as defined under section 443.01 (7m) of the statutes, as affected by this act, after the effective date of this subsection.

on

created

on