

SENATE BILL 476

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2003 Regular Session
3r2181
CF 3r1059

By: **Senator Colburn**

Introduced and read first time: January 31, 2003

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Board for Professional Land Surveyors**

3 FOR the purpose of repealing the authority of the State Board for Professional Land
4 Surveyors to issue certain limited and temporary licenses to practice land
5 surveying; eliminating a certain waiting period and right to a conference after
6 failing a licensing examination a certain number of times; altering certain
7 reexamination application requirements; repealing certain provisions related to
8 the procedures of the Board; granting the Board authority to issue certain
9 retired status licenses; and generally relating to the practice of professional land
10 surveying.

11 BY repealing and reenacting, with amendments,
12 Article - Business Occupations and Professions
13 Section 15-308, 15-309, 15-318, 15-319, 15-320, and 15-321
14 Annotated Code of Maryland
15 (2000 Replacement Volume and 2002 Supplement)

16 BY repealing
17 Article - Business Occupations and Professions
18 Section 15-316 and 15-317
19 Annotated Code of Maryland
20 (2000 Replacement Volume and 2002 Supplement)

21 BY adding to
22 Article - Business Occupations and Professions
23 Section 15-316
24 Annotated Code of Maryland
25 (2000 Replacement Volume and 2002 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Business Occupations and Professions**

2 15-308.

3 (a) (1) If an applicant fails an examination given under this subtitle, the
4 Board shall mail notice of the failure to the applicant.

5 (2) The notice required under this subsection shall be mailed to the
6 address that the applicant last gave to the Board.

7 (b) (1) Subject to this subsection, an applicant who fails an examination
8 may review the applicant's answers and model answers to the examination.

9 (2) To conduct a review under this subsection, an applicant shall submit
10 a written request to the Board within 60 days after the date on which the Board mails
11 notice of the applicant's failure.

12 (3) An applicant who does not request review in accordance with
13 paragraph (2) of this subsection waives the right to review under this subsection.

14 (c) The Board shall confirm the test score of any applicant who fails an
15 examination given under this subtitle if the applicant submits a written request to
16 the Board.

17 [(d) (1) Subject to this subsection, an applicant who fails an examination 3
18 times may have a conference with a member of the Board.

19 (2) To have a conference under this subsection, an applicant shall submit
20 a written request to the Board within 45 days after the date on which the Board mails
21 notice of the applicant's 3rd failure.

22 (3) An applicant who does not request a conference in accordance with
23 paragraph (2) of this subsection waives the right to have a conference under this
24 subsection.]

25 15-309.

26 (a) Subject to this section, if an applicant fails an examination given under
27 this subtitle, the applicant may retake the examination.

28 (b) Except as provided in subsection (c) of this section, an applicant for
29 reexamination shall:

30 (1) submit to the Board a request for reexamination on the form that the
31 Board provides; and

32 (2) pay to the Board or the Board's designee a reexamination fee set by
33 the Board in § 15-306(a)(2) of this subtitle.

34 (c) An applicant, for a professional land surveyor license, who fails 2
35 reexaminations given under this section may take the examination again only [on a

1 new application for a license that is submitted to the Board at least 2 years after the
2 applicant last failed a reexamination] IF THE APPLICANT SUBMITS TO THE BOARD:

3 (1) A REQUEST FOR REEXAMINATION ON THE FORM PROVIDED BY THE
4 BOARD; AND

5 (2) THE APPROPRIATE DOCUMENTATION INDICATING THE APPLICANT'S
6 UPDATED WORK EXPERIENCE REQUIRED BY THE BOARD.

7 (d) (1) A reexamination fee paid under subsection (b)(2) of this section is not
8 refundable.

9 (2) If an applicant does not take the reexamination that the applicant
10 asked to take, the Board shall credit that fee toward any reexamination that the
11 applicant later takes.

12 [15-316.

13 (a) The Board may issue a limited license to practice land surveying on a
14 specific job to any applicant who:

15 (1) is licensed to practice land surveying in another state;

16 (2) is not a resident of this State;

17 (3) does not have a place of business in this State;

18 (4) submits to the Board an application on the form that the Board
19 provides; and

20 (5) pays to the Board an application fee of \$25.

21 (b) While a limited license is in effect, it authorizes the licensee to practice
22 land surveying only for the specific job for which the limited license is issued, as set
23 forth in the limited license.

24 (c) (1) The Board shall set the term for each limited license issued under
25 this section and state the term in the limited license.

26 (2) The term for a limited license may not be set for more than 1 year.

27 (3) A limited license becomes effective and expires on the dates set by the
28 Board.

29 (d) (1) An individual may not hold more than 1 limited license at the same
30 time.

31 (2) For a 1-year period after the applicant's last limited license expired,
32 the Board may not issue a new limited license to an applicant.

1 (e) If a limited license holder's license from the other state expires or is
2 suspended or revoked, the limited license terminates automatically and
3 immediately.]

4 [15-317.

5 (a) The Board may issue a temporary license to practice land surveying to any
6 applicant who:

- 7 (1) is licensed to practice land surveying in another state;
- 8 (2) is not a resident of this State;
- 9 (3) does not have a place of business in this State;
- 10 (4) submits to the Board an application on the form that the Board
11 provides; and
- 12 (5) pays to the Board an application fee of \$25.

13 (b) The purpose of a temporary license is to allow an individual to practice
14 land surveying while the individual applies for a license to practice land surveying
15 and the Board considers that application.

16 (c) (1) Unless the holder of a temporary license applies, in accordance with §
17 15-306 of this subtitle, for a license to practice land surveying within 30 days after
18 the issuance of the temporary license, it expires 30 days after the date of issuance.

19 (2) Subject to paragraph (3) of this subsection, if the holder of a
20 temporary license applies for a license to practice land surveying, the temporary
21 license expires on the date that the Board acts on the application.

22 (3) In no event is a temporary license effective for more than 1 year from
23 the date of its issuance.

24 (d) If a temporary license holder's license from the other state expires or is
25 suspended or revoked, the temporary license terminates automatically and
26 immediately.]

27 15-316.

28 (A) THE BOARD MAY ISSUE A RETIRED STATUS LICENSE TO AN INDIVIDUAL
29 WHO:

30 (1) IS CURRENTLY LICENSED IN MARYLAND AS A PROFESSIONAL LAND
31 SURVEYOR OR A PROPERTY LINE SURVEYOR;

32 (2) HAS BEEN EITHER LICENSED AS A PROFESSIONAL LAND SURVEYOR
33 OR A PROPERTY LINE SURVEYOR OR WAS AUTHORIZED TO PRACTICE LAND
34 SURVEYING OR PROPERTY LINE SURVEYING UNDER §15-303 OF THIS SUBTITLE FOR
35 AT LEAST 25 YEARS, OF WHICH 5 YEARS WERE IN MARYLAND;

1 (3) IS NOT THE SUBJECT OF A PENDING DISCIPLINARY ACTION RELATED
2 TO THE PRACTICE OF LAND SURVEYING OR PROPERTY LINE SURVEYING IN THIS OR
3 ANOTHER STATE;

4 (4) SUBMITS TO THE BOARD AN APPLICATION ON THE FORM PROVIDED
5 BY THE BOARD; AND

6 (5) PAYS TO THE BOARD A FEE, AS SET BY THE BOARD.

7 (B) (1) THE HOLDER OF A RETIRED STATUS LICENSE ISSUED UNDER THIS
8 SECTION MAY NOT ENGAGE IN THE PRACTICE OF PROFESSIONAL LAND SURVEYING
9 OR PROPERTY LINE SURVEYING.

10 (2) THE HOLDER OF A PROFESSIONAL LAND SURVEYOR RETIRED
11 STATUS LICENSE MAY USE THE DESIGNATION OF "RETIRED PROFESSIONAL LAND
12 SURVEYOR".

13 (3) THE HOLDER OF A PROPERTY LINE SURVEYOR RETIRED STATUS
14 LICENSE MAY USE THE DESIGNATION OF "RETIRED PROPERTY LINE SURVEYOR".

15 (C) THE BOARD MAY REACTIVATE THE LICENSE OF A RETIRED STATUS
16 LICENSE IF THAT INDIVIDUAL:

17 (1) SUBMITS TO THE BOARD AN APPLICATION FOR REACTIVATION ON
18 THE FORM APPROVED BY THE BOARD;

19 (2) MEETS ALL CONTINUING COMPETENCY REQUIREMENTS, NOT
20 EXCEEDING 48 CREDIT HOURS, THAT WOULD HAVE BEEN REQUIRED FOR RENEWAL
21 OF A LICENSE UNDER §15-314 OF THIS SUBTITLE IF THE LICENSEE HAD NOT BEEN
22 PLACED ON RETIRED STATUS;

23 (3) PAYS TO THE BOARD A REACTIVATION FEE AS SET BY THE BOARD;
24 AND

25 (4) IS NOT THE SUBJECT OF A PENDING DISCIPLINARY ACTION RELATED
26 TO THE PRACTICE OF LAND SURVEYING OR PROPERTY LINE SURVEYING IN THIS OR
27 ANY OTHER STATE.

28 [15-318.] 15-317.

29 (a) (1) Subject to the hearing provisions of [§ 15-320] § 15-319 of this
30 subtitle, the Board, on the affirmative vote of a majority of its members then serving,
31 may deny a license to any applicant, reprimand any licensee, or suspend or revoke a
32 license if:

33 (i) the applicant or licensee fraudulently or deceptively obtains,
34 renews, or attempts to obtain or renew a license or permit for the applicant or licensee
35 or for another;

1 (ii) the applicant or licensee fraudulently or deceptively uses a
2 license;

3 (iii) under the laws of the United States or of any state, the
4 applicant or licensee is convicted of:

5 1. a felony; or

6 2. a misdemeanor that is directly related to the fitness and
7 qualification of the applicant or licensee to practice land surveying or property line
8 surveying;

9 (iv) the applicant or licensee is guilty of gross negligence,
10 incompetence, or misconduct while practicing land surveying or property line
11 surveying;

12 (v) the applicant or licensee knowingly violates any provision of the
13 code of ethics adopted by the Board;

14 (vi) the applicant or licensee knowingly violates any provision of
15 this title; or

16 (vii) the applicant or licensee has had a license to practice land
17 surveying or property line surveying in another state revoked or suspended by the
18 other state for a cause that would justify revocation or suspension under this title,
19 except for the failure to pay a license or license renewal fee.

20 (2) (i) Instead of or in addition to reprimanding a licensee or
21 suspending or revoking a license under this subsection, the Board may impose a
22 penalty not exceeding \$5,000 for each violation.

23 (ii) To determine the amount of the penalty imposed under this
24 subsection, the Board shall consider:

25 1. the seriousness of the violation;

26 2. the harm caused by the violation;

27 3. the good faith of the licensee; and

28 4. any history of previous violations by the licensee.

29 (3) The Board shall pay any penalty collected under this subsection into
30 the General Fund of the State.

31 (b) The Board shall consider the following facts in the granting, denial,
32 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
33 applicant or licensee is convicted of a felony or misdemeanor described in subsection
34 (a)(1)(iii) of this section:

35 (1) the nature of the crime;

1 (2) the relationship of the crime to the activities authorized by the
2 license;

3 (3) with respect to a felony, the relevance of the conviction to the fitness
4 and qualification of the applicant or licensee to practice land surveying or property
5 line surveying;

6 (4) the length of time since the conviction; and

7 (5) the behavior and activities of the applicant or licensee before and
8 after the conviction.

9 [15-319.] 15-318.

10 (a) Subject to the provisions of this section, the Board shall commence
11 proceedings under [§ 15-318] § 15-317 of this subtitle on a complaint made to the
12 Board by a member or any other person.

13 (b) (1) A complaint shall:

14 (i) be in writing;

15 (ii) state specifically the facts on which the complaint is based; and

16 (iii) be submitted to the secretary of the Board.

17 (2) If the complaint is made by any person other than a member of the
18 Board, the complaint shall be made under oath by the person who submits the
19 complaint.

20 (c) If the Board finds that a complaint alleges facts that are adequate grounds
21 for action under [§ 15-318] § 15-317 of this subtitle, the Board shall act on the
22 complaint as provided under [§ 15-320] § 15-319 of this subtitle. If the Board does not
23 make that finding, it shall dismiss the complaint.

24 [15-320.] 15-319.

25 (a) (1) Except as otherwise provided in § 10-226 of the State Government
26 Article, before the Board takes any final action under [§ 15-318] § 15-317 of this
27 subtitle, it shall give the individual against whom the action is contemplated an
28 opportunity for a hearing before the Board.

29 (2) A hearing shall be set down within a reasonable time, not exceeding 6
30 months, after the Board has brought charges against the licensee.

31 (b) The Board shall give notice and hold the hearing in accordance with Title
32 10, Subtitle 2 of the State Government Article.

33 (c) The Board may administer oaths in connection with any proceeding under
34 this section.

1 (d) At least 30 days before the hearing, the hearing notice and a copy of the
2 complaint shall be:

3 (1) served personally on the individual; or

4 (2) mailed to the last known address of the individual.

5 (e) The individual may be represented at the hearing by counsel.

6 (f) If, after due notice, the individual against whom the action is
7 contemplated fails or refuses to appear, nevertheless the Board may hear and
8 determine the matter.

9 [15-321.] 15-320.

10 (a) Subject to any regulation that the Board adopts, it may reinstate a license
11 that has been revoked.

12 (b) A license may be reinstated under this section only on:

13 (1) the affirmative vote of a majority of the members of the Board then
14 serving; and

15 (2) payment to the Board of a reinstatement fee of \$100.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2003.