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An Act to provide for the regulation of certain businesses and professions in the Republic and for matters connected therewith.

Source: 31 TTC 1970 31 1TC 1980
 P.L. 1998-76
 P.L. 2001-36
 P.L. 2004-10

PART I - GENERAL PROVISIONS

§301. Short title.

This Chapter, may be cited as the “Land Surveyors Registration Act”. [31 TTC 1970, §1; 31 TTC 1980, §1, modified]

§302. Reference to land surveyors.

Where in any law of the Republic a reference is made to a surveyor as a registered surveyor, that reference shall be read as a reference to a registered land surveyor within the meaning of this Chapter. [31 TTC 1970, §2; 31 TTC 1980, §2, modified]

§303. “Practice of land surveying” defined.

The phrase “practice of land surveying” applies to a person who practices surveying within the meaning of this Chapter, either in a public or private capacity, and who does or offers to do any one or more of the following:

- (a) locates, relocates, establishes, reestablishes, or retraces any property line or boundary of any parcel of land or any road, right of way, easement, reserve, etc.;
- (b) makes any survey for the subdivision or re-subdivision of any tract of land;
- (c) by the use of the principles of land surveying, determines the position for any monument or reference point which marks a property line, boundary or corner, and sets, resets or replaces any such monument or reference point;
- (d) determines the configuration or contour of the earth’s surface or the position of fixed objects thereon or related thereto, by means of measuring lines and angles, and applying the principles of trigonometry;
- (e) practices geodetic or cadastral surveying;
- (f) determines the information shown or to be shown on any map or document prepared or furnished in connection with any one or more of the functions described in Paragraphs (a) through (e) of this Section;
- (g) indicates, in any capacity or in any manner, by the use of the title “land surveyor”, or by another title or representation, that he practices or offers to practice land surveying in any of its branches;
- (h) procures or offers to procure land surveying work for himself or others; or
- (i) manages, or conducts as manager, proprietor, or agent, any place of business from which land surveying work is solicited, performed or practiced. [31 TTC 1970, § 3; 31 TTC 1980, §3, modified]

§304. Application of Chapter.

This Chapter applies only to:

- (a) surveys of the boundaries of land, or surveys for the purpose of the establishment, reestablishment or determination of titles to land; and
- (b) any activity performed in relation to the practice of land surveying as defined in Section 303 of this Chapter. [31 TTC 1970, § 4 ; 31 TTC 1980, §4, modified]

§305. Administration of the Surveyor General.

The Minister of internal Affairs shall appoint the Surveyor General, subject to the qualifications of this Chapter, and the Surveyor General is charged with the general administration

and supervision of this Chapter. [31 TTC 1970, §5; 31 TTC 1980, §5, modified, amended in its entirety by P.L. 1998-76, §2.]

§306. *Reserved* [Section repealed by PL2004-10 all funds to be transferred to the Ministry of Internal Affairs Special Revenue Fund, established by the Ministry of Internal Affairs Special Revenue Fund Act, 2003.]

§307 Trainees or apprentices.

A registered land surveyor, who has a trainee, apprentice or cadet surveyor, shall permit the trainee, apprentice or cadet surveyor a reasonable time for the purpose of attending lectures or gaining practical experience which is included in the course of traineeship, apprenticeship or cadetship undertaken by the trainee, apprentice or cadet surveyor by arrangement with such registered land surveyor. [31 TTC 1970, §7; 31 TTC 1980, §7, modified]

§308. Prohibited practices.

(1) It shall be a misdemeanor punishable by a fine of not less than \$25 nor more than \$1,000, or imprisonment for not more than one year, or both, for any person to:

- (a) practice, or offer to practice, or hold himself out as entitled to practice, land surveying except when authorized by this Chapter;
- (b) use or attempt to use a certificate of registration that has expired or has been suspended or revoked;
- (c) present or use as his own the certificate of registration of another;
- (d) stamp or seal any document with the seal of a registrant after the certificate of the registrant has expired or has been suspended or revoked; or
- (e) otherwise violate any provision of this Chapter.

(2) It shall be a felony punishable by a fine of not more than \$5,000, or imprisonment for not more than three (3) years, or both, for any person to present any false or forged information or evidence applying for registration under this Chapter.

(3) In addition to any other remedy provided by law, upon request of the Board of Land Surveyor Examiners, an action may be filed in the name of the Government of the Marshall Islands in the High Court to restrain or enjoin the commission or continuance of any acts in violation of this Chapter. In any such proceeding it shall be unnecessary to allege or prove that an adequate remedy at law does not exist or that irreparable damage would result if the relief requested were not granted. [31 TTC 1970, §8; 31 TIC 1980, §8, modified]

PART II- BOARD OF EXAMINERS

§309. Establishment and Composition of the Board

(1) There is hereby established a Board of Land Surveyor Examiners (“the Board”) which shall consist of five (5) members appointed by the Cabinet. The Cabinet shall designate one of the members as Chairperson of the Board.

(2) Each member of the Board shall serve for a term of two (2) years, subject to renewal to such further term as the Cabinet may determine.

(3) Four of the members of the Board shall be qualified and experienced professionals in civil engineering, land surveying, architecture, or related fields, such as geology or geography. At least one of the members of the Board shall be a registered land surveyor in the Republic.

(4) In the absence or unavailability of a registered land surveyor who is a citizen of the Republic and ordinarily resident in the Republic, or a non-citizen who is domiciled or ordinarily resident in the Republic, to serve on the Board, the Cabinet may appoint a registered land surveyor from another country to serve on the Board for such term as the Cabinet may determine". [31 TIC 1970, §51, 31 TTC 1980, §51, modified, amended in its entirety by P.L. 1998-76, §2.][amended by P.L. 2001-36 §2(A) Oct. 18, 2001]

§310. Removal of members; vacancies.

The Cabinet may remove any member of the Board for misconduct, incompetency, neglect of duty, or for any other sufficient cause. Vacancies in the membership of the Board shall be filled by appointment by the Cabinet as provided in Section 309. [31 TTC 1970, § 52; 31 TTC 1980, §52, modified]

§311. Compensation of members.

Members of the Board shall be reimbursed for reasonable and necessary expenses incurred in the course of their official duties. [31 TIC 1970, §53; 31 TTC 1980, §53.]

§ 312. Clerical and logistic support by Division of Lands and Surveys.

The Division of Lands and Surveys shall provide the Board with necessary clerical personnel, office facilities and other logistic support. [31 TTC 1970, §54; 31 TTC 1980, §54.]

§313. Promulgation of rules and regulations.

(1) The Board is hereby authorized to make rules and regulations needed in performing its duties not inconsistent with law.

(2) Such rules and regulations shall be:

(a) subject to approval by the Cabinet: and

(b) promulgated in a government bulletin or land gazette or in a recognized newspaper or periodical circulating in the Republic or as otherwise provided by law. [31 TTC 1970, §55, 31 TTC 1980, §55, modified.]

§314. Meetings; quorum; vote required to arrive at decision.

The Board shall meet at such times and places as needed and appropriate. Three members shall constitute a quorum with one of the quorum members required to be a registered land surveyor. [31 TTC 1970, §56, 31 TTC 1980, §56; amended in its entirety by P.L. 1998-76, §2.]

§315. Records; list of registered surveyors.

The Board shall keep a complete record of all applications for registration together with the Board's action thereon and shall annually, during the month of July, prepare a list showing the names, places of business and residences of all registered land surveyors for publication. A copy of the list shall be filed with the Chief of Lands and Surveys. [31 TTC 1970, §57; 31 TTC 1980, §57.]

§316. Annual report.

The Board shall prepare a printed annual report of its activities for the past fiscal year, which shall be submitted to the Cabinet not later than the first day of September of each year. [31 TTC 1970, §58; 31 TTC 1980, §58, modified]

PART III - REGISTRATION

§ 317. Required.

(1) No person shall practice or offer to practice land surveying, or use in connection with his name, or otherwise use, assume, or advertise, any title or description to convey the impression that he is a land surveyor, unless such person has qualified as such by registration as a land surveyor or is otherwise exempt under this Chapter.

(2) A person shall be construed to practice or offer to practice land surveying within the meaning and intent of this Chapter who practices land surveying, or who by oral or written claim or sign, advertising, letterhead, card, or in any other way represents himself to be a land surveyor, or through the use of some other title implies that he is such, or who holds himself out as able to perform or who does perform any surveying service or work or any other professional service designated by him as land surveying or generally recognized as such. [31 TIC 1970, §101; 31 TTC 1980, §101, modified]

§318. Acts construed as practicing surveying.

A person shall be construed to practice or offer to practice land surveying within the meaning and intent of this Chapter when:

- (a) he practices land surveying;
- (b) by oral or written claim, or sign, advertising, letterhead, card or in any other way he represents himself to be a land surveyor, or through the use of some other title implies that he is such; or
- (c) he holds himself out as able to perform, or who does perform, any surveying, service or work or any other professional service designated by him as land surveying, or generally recognized as such. [31 TTC 1970, §102; 31 TTC 1980, §102, modified]

§319. Qualifications; residency; age; character; knowledge.

No person shall be eligible for registration as a land surveyor under this Chapter unless he:

- (a) is a resident of the Republic;
- (b) is more than twenty-one (21) years of age;
- (c) is of good character and repute; and
- (d) meets the professional qualifications prescribed by this Chapter.
- (e) The Cabinet, on the recommendation of the Board, may waive the residency requirement for registration for a specific applicant when it is in the best interests of the Republic. This type of registration may be terminated by the Cabinet by a formal sixty days notice. [31 77C 1970, §103; 31 TTC 1980, §103, modified; amended in its entirety by P.L. 1998-76, §2.]

§320. Qualifications for registration as a land surveyor.

The following shall be considered as minimum evidence that the applicant is qualified for registration as a land surveyor:

- (a) graduation from a two-year land surveying course from a university, college, institute or school approved by the Board as of satisfactory standing, and an additional one year of experience under the direct supervision of a registered land surveyor. The one year of experience shall be clearly demonstrated to satisfy the Board that the applicant is professionally qualified and competent. The applicant must also pass any examination

prescribed by the Board.

(b) Graduation from a four-year civil engineering or physical science course from a university, college, institute, or school approved by the Board as of satisfactory standing, and an additional two years of experience in land surveying under the direct supervision of a registered land surveyor. The two years of experience shall be clearly demonstrated to satisfy the Board that the applicant is professionally qualified and competent. The applicant must also pass any examination prescribed by the Board.

(c) Six years of experience in land surveying under the direct supervision of a registered land surveyor. The six (6) years of experience shall be clearly demonstrated to the Board to satisfy the Board that the applicant is professionally qualified and competent. The applicant must also pass any examination prescribed by the Board.” [31 TTC 1970, §104, 31 TTC 1980, §104, modified, amended in its entirety by P.L.1998-76, §.2.][amended by P.L. 2001-36 §2(B) Oct. 18, 2001]

§321. Same; credits for experience.

In considering the qualifications of applicants as to experience under Section 320 of this Chapter:

(a) teaching of land surveying in an approved curriculum in a university, college, or school approved by the Board as of satisfactory standing may be credited as experience;

(b) experience and training in the armed services of the United States in civil engineering or land surveying may be credited as experience;

(c) the satisfactory completion of each year of approved curriculum in a school or college approved by the Board as of satisfactory standing, without graduation, shall be considered as equivalent to a year of experience under Section 320(b) or (c) of this Chapter. Graduation in a curriculum other than land surveying from a college or university of recognized standing may be considered equivalent to two (2) years of experience under this Chapter; provided, however, that no applicant shall receive credit for more than four (4) years of experience because of undergraduate educational qualifications. [31 TTC 1970, §105; 31 TTC 1980, §105, modified.]

§322. Reciprocity.

(1) The Board may, upon application and payment of the fee required by Section 323 of this Chapter, issue a certificate of registration as a land surveyor, without oral or written examination, to any person who holds a current valid certificate of registration (or the equivalent thereof) issued as such by any state, territory or possession of the United States, or of any country, provided that the applicant’s qualifications meet the requirements of this Chapter.

(2) The Surveyor General may, with the consent of the Chief of Lands and Surveys, enter into a reciprocal agreement with surveyor’s registration boards or other competent authorities of a state or territory of the United States, or of any country.

(a) for the recognition of the status of a person authorized by that board or competent authority to practice as a land surveyor in a state or territory of the United States, or some other country, and for the registering of any such person as a registered land surveyor under this Chapter; and

(b) for the examination of a candidate who has served under a term of cadetship or apprenticeship to a licensed or registered land surveyor and whose articles have been

registered in the office of the Surveyor General. [31 TTC 1970, §106; 31 TTC 1980, §106, modified.]

§323. Applications.

(1) Application for registration shall be on forms prescribed and furnished by the Board and shall:

- (a) designate the registration applied for;
- (b) show the applicant's education and a detailed summary of his technical work;
- (c) furnish not less than five (5) references, at least three (3) of which shall be with regard to his technical work; and
- (d) set forth such other information as the Board may prescribe.

(2) Every application shall be accompanied by an application fee of ten dollars (\$10.00). No refund shall be made in the event registration is denied.

§324. Examinations.

(1) When oral or written examinations are required, they shall be held at such time and place as the Board shall determine.

(2) All examinations shall be prescribed by the Board, subject to the requirements of this Chapter and shall have for their scope the determination of the applicant's ability to practice land surveying. All examinations shall include the subjects of professional ethics and the provisions of this Chapter.

(3) The examination, in addition to other matters, shall cover the procedure and rules governing the survey of public lands as set forth in the "Manual of Surveying Instructions" issued by the Division of Lands and Surveys, Government of the Marshall Islands. [31 TTC 1970, §108; 31 TTC 1980, §108, modified]

§325. Certificate of registration; issuance; effect of issuance.

(1) The Board shall issue a certificate of registration to any applicant for registration as a land surveyor, who, having paid the application and registration fee, has satisfactorily met all the requirements of this Chapter. Certificates shall show the full name of the applicant, shall have a serial number, and shall be signed by the Chairman and the Secretary of the Board under seal of the Board.

(2) The certificate for a registered land surveyor shall authorize the "practice of land surveying".

(3) The certificate of registration, as issued by the Board, shall be prima facie evidence that the person named therein is a registered land surveyor entitled to all the rights and privileges of such while such certificate remains unrevoked or unexpired. [31 TTC 1970, §109; 31 TTC 1980, §109, modified]

§326. Same; expiration and renewal.

(1) Certificates of registration shall expire on the last day of the month of December following their issuance or renewal and become invalid at the end of such day unless renewed.

(2) It shall be the duty of the Board to notify every person registered under this Chapter of the date of expiration of his certificate of registration and the amount of the fee that shall be required for its renewal for one year. Such notice shall be mailed no later than the first of December. Renewal may be effected at any time during the month of December by payment of a renewal fee of \$5.

(3) The failure on the part of any registrant to renew his certificate annually in the month of December shall not deprive such person of the right of renewal, but the renewal fee to be paid after the month of December shall be increased by \$1 for each month or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed \$10. The failure of the Board to notify a registrant of the date of the expiration of his certificate, or the amount of the renewal fee, shall not extend the duration of the certificate of registration. [31 TTC 1970, §110; 31 TTC 1980, §110, modified.]

§327. Registered land surveyor's seal.

(1) Every registrant may, upon being issued a certificate of registration, obtain a seal of a design authorized by the Board, which shall bear the registrant's name and the legend "registered land surveyor", and shall provide space for stating the serial number and date of expiration of the certificate of registrations. Plans, specifications, plats and reports prepared by a registrant shall be stamped with such seal when filed with the Government of the Marshall Islands during the term of the registrant's registration, and shall also show the serial number and date of expiration of such certificate of registration.

(2) It shall be a misdemeanor for anyone to stamp or seal any documents with such seal after the certificate of registration of the person named thereon has expired or has been revoked, unless such certificate shall have been renewed and reissued. [31 TTC 1970, §111, 31 TTC 1980, §111, modified.]

§328. Suspension or revocation.

(1) The Board shall have the power, duty, and authority to investigate violations of this Chapter and may suspend or revoke a certificate of registration on any of the following grounds:

- (a) the registrant is practicing in violation of this Chapter;
- (b) the certificate of registration has been obtained or that the registrant has obtained such certificate by fraud or misrepresentation;
- (c) the certificate of registration was obtained by bribery or payment of any money except fees prescribed by this Chapter;
- (d) the registrant is falsely impersonating a practitioner or former practitioner or is practicing under an assumed or fictitious name;
- (e) the registrant has been convicted of an offense arising from or in connection with the practice of land surveying, or any offense involving moral turpitude, in which case a certified copy of the record of conviction shall be conclusive evidence thereof;
- (f) the registrant has violated any provision of this Chapter;
- (g) the registrant has aided and abetted in the practice of land surveying any person not duly authorized to practice land surveying except as provided under Section 333 1(c) of this Chapter;
- (h) the registrant has been guilty of fraud or deceit, or of gross negligence, incompetence, misconduct in the practice of land surveying; or
- (i) the registrant has permitted his seal to be affixed to any plans, specifications or drawings that were not prepared by him or under his personal supervision, or by his employee or subordinate.

(2) Proceedings under this Section may be initiated upon complaint by any person or by the Board. All charges shall be in writing and sworn to by the person making them. All charges, unless

dismissed by the Board as unfounded or trivial, shall be heard by the Board within three (3) months after the date on which they have been preferred. The time and place for such hearing shall be fixed by the Board, and a copy of the charges together with a notice of the time and place of hearing, shall be personally served upon or mailed to the last known address of such registrant at least thirty (30) days before the date fixed for the hearing. At any hearing, the registrant shall have the right to appear personally and have counsel, to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense. [31 TTC 1970, §112; 31 TTC 1980, §112, modified.]

§329. Re-issuance of certificates of registration.

(1) The Board for reasons it deems sufficient may reissue a certificate of registration to any person whose certificate has been revoked provided three (3) or more members of the Board vote in favor of such re-issuance.

(2) A new certificate of registration may be issued to any person whose certificate has been revoked, lost, destroyed, or mutilated, subject to the rules of the Board and upon payment of a fee of \$10. [31 TIC 1970, §113 31 TIC 1980, §113, modified]

§330. Application of Chapter to proprietorships, partnerships, and corporations.

(1) The practice of land surveying may be performed by employees of a proprietorship, partnership, or corporation engaged in construction, manufacturing, transportation, distribution, or communications insofar as such land surveying is involved in its operations, provided, that it is performed by, or under the supervision of, a land surveyor in responsible charge, registered under this Chapter.

(2) The practice or offer to practice land surveying for the public, as defined in Section 303 of this Chapter, by individuals registered under this Chapter through a corporation as officers, employees or agents, is permitted subject to the provisions of this Chapter, and provided that all personnel who act in its behalf as land surveyors in responsible charge are registered under this Chapter, or are persons lawfully practicing under Section 331 of this Chapter. In case this practice is done through a corporation organized after the effective date of this Chapter, it shall be required at all times that the president and a majority of the officers and directors are registered land surveyors, and further, that said corporation shall have been issued a certification of authorization by the Board as provided in this Chapter.

(3) A corporation desiring a certificate of authorization shall file with the Board an application, using a form provided by the Board, listing the names and addresses of all officers and board members of the corporation, and also, of the individual or individuals duly registered to practice land surveying who shall be in responsible charge, and other information required by the Board. The same form, giving the same information, must accompany the annual renewal fee. In the event there shall be a change in any of these persons during the year, such change shall be designated on the same form and filed with the Board within thirty (30) days after the effective date of said change. If all of the requirements of this Section are met, the Board may issue a certificate of authorization to such corporation.

(4) No corporation authorized to practice land surveying under this Chapter shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with the provisions of this Section, nor shall any individual practicing land surveying be relieved of responsibility for services performed by reason of his employment or relationship with

such corporation. All final drawings, specifications, plans, reports, or other papers or documents involving the practice of land surveying which shall have been prepared or approved for the use of such corporation, or for delivery by it to any person, or for public record, shall be dated and bear the signature and seal of the land surveyor who prepared or approved them. [31 TTC 1970, §114; 31 TTC 1980, §114. modified]

§331. Exemptions.

This Chapter shall not apply to:

(a) a person not a resident of and having no established place of business in the Republic, practicing or offering to practice land surveying in the Republic when such practice does not extend in the aggregate more than thirty (30) days in any calendar year; provided, that such person is legally qualified by registration to practice such profession in the country of his residence and in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this Chapter;

(b) a person not a resident of and having no established place of business in the Republic, or who has recently become a resident thereof, practicing or offering to practice land surveying in the Republic for more than thirty (30) days in any calendar year, if he has filed an application for a certificate of registration with the Board and has paid the required fee, such exemption to continue only for such time as the Board requires for the consideration of the application for registration; provided, that such person is legally qualified to practice such profession in the country of his residence and in which the requirements or qualifications for obtaining a certificate are not lower than those specified in this Chapter:

(c) an employee or subordinate of a person holding a certificate of registration under this Chapter or an employee or a person exempted from registration by Paragraphs (a) and (b) of this Section; provided, that the work of such employee or subordinate does not include final designs or decisions and is under the direct responsibility and supervision of a person holding a certificate of registration under this Chapter or a person exempted from registration by Paragraphs (a) and (b) of this Section;

(d) officers, employees or members of the armed forces of the United States, as long as their practice of land surveying is limited to that work specifically authorized by the armed forces; and

(e) the practice of any legally recognized profession other than that of land surveyor. [31 TTC 1970, §115; 31 TIC 1980, §115, modified]

PART IV - REGISTER

§332. Required; contents; prima facie evidence of status.

The Surveyor General shall record in a book to be kept for the purpose and to be known as the register of land surveyors the names and addresses of all registered land surveyors, together with the details and dates of the qualifications in respect of which they are registered by the Board of Land Surveying Examiners. Every entry in the register shall be signed by the Surveyor General. A copy of an entry in the register, purporting to be certified by the Surveyor General as a true copy, is prima facie evidence that the person named therein is a registered land surveyor. [31 TTC 1970, §151, 31 TTC 1980, §115, modified]

§333. Public inspection.

The register of land surveyors shall be opened to public inspection upon payment of a fee of \$1. [31 TTC 1970, §152, 31 TTC 1980, §152.]

§334. Alteration and amendment.

The Surveyor General shall from time to time make such alterations and amendments in the register as are necessary for the purpose of making the register an accurate record of the names, addresses and qualifications of registered land surveyors. [31 TTC 1970, §153, 31 TTC 1980, §153, modified.]

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