

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 526

SPONSOR: Regulated Industries Committee and Senator Campbell

SUBJECT: Land Surveying and Mapping

DATE: January 8, 2002      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vaccaro	Caldwell	RI	Favorable/CS
2.	_____	_____	JU	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This bill substantially revises the regulatory provisions of ch. 472, F.S., governing the practice of land surveying and mapping, as follows:

- Provides additional exemptions from regulation;
- Provides additional definitions;
- Provides that the Board of Professional Surveyors and Mappers shall adopt rules relating to the use of professional titles by retired surveyors and mappers;
- Eliminates certain prerequisites for taking the licensure examination;
- Eliminates provisions relating to the approval of training provided by the United States Government;
- Modifies requirements for licensure by endorsement;
- Revises provisions authorizing surveyors and mappers to enter the land of third parties and providing liability standards for entry;
- Prohibits persons who are not registered to practice surveying and mapping from offering to practice surveying and mapping and from using related professional titles;
- Revises disciplinary grounds and eliminates the Board of Professional Surveyors and Mappers' authority to specify what acts constitute violations; and
- Eliminates the requirement that the Department of Business and Professional Regulation reissue the license of a disciplined surveyor and mapper upon board certification of the licensee's compliance with the terms and conditions of a final order.

This bill substantially amends the following sections of the Florida Statutes: 472.003, 472.005, 472.008 472.013, 472.015, 472.029, 472.031, and 472.033.

## II. Present Situation:

### 1. Exemptions

Section 472.003, F.S., exempts specific individuals from regulation under ch. 472, F.S., including: (a) any surveyor and mapper employed by the United States Government when engaged in work solely for the United States Government; (b) a registered professional engineer who takes on contracts for surveying and mapping incidental to his or her practice of engineering and delegates the work to a registered professional surveyor and mapper; (c) licensed contractors and engineers performing construction layout from boundary, horizontal and vertical controls established by a registered professional surveyor and mapper; and (d) persons employed by county property appraisers, and persons employed by the Department of Revenue, to prepare maps for property appraisals.

### 2. Definitions

Section 472.005, F.S., sets forth several definitions applicable to ch. 472, F.S.

### 3. Rulemaking Authority

Section 472.008, F.S., authorizes the Board of Professional Surveyors and Mappers (board) to adopt rules to implement the provisions of ch. 472, F.S., conferring duties upon it.

### 4. Examination

Section 472.015(1), F.S., requires the board to certify any applicant who satisfies the requirements of s. 472.013, F.S. and passes the Florida licensing examination. Section 472.013(2), F.S., entitles an applicant to take the licensure exam if he or she is of good moral character and meets certain educational and work experience requirements. Prior to July 1, 1999, an applicant was entitled to take the examination if:

- (a) the applicant was a graduate of an approved course of study in surveying and mapping that included at least 32 semester hours in that area of study from a college or university recognized by the board, and the applicant had four or more years of experience as a subordinate to a professional surveyor and mapper;
- (b) the applicant was a graduate of a four-year course of study, other than surveying and mapping, at an accredited college or university that included at least 25 semester hours related to surveying and mapping or related fields, and the applicant had six or more years of experience as a subordinate to a professional surveyor and mapper;
- (c) the applicant successfully completed a 32-semester-hour course of study in surveying and mapping from an accredited college or university and had six or more years of experience as a subordinate to a professional surveyor and mapper;
- (d) the applicant successfully graduated high school and had eight or more years of experience as a subordinate to a professional surveyor and mapper; or
- (e) the applicant was enrolled on October 1, 1988, in a four-year course of study in surveying and mapping from a college or university recognized by the board, and prior to October 1, 1991, completed 32 semester hours of study in that area and had six or more years of experience as a subordinate to a professional surveyor and mapper.

Subsections (c) and (d) expired pursuant to their own terms on July 1, 1999 and were subsequently repealed during the 2000 Legislative Session. *See* ch. 2000-157, L.O.F. and ch. 2000-332, L.O.F.

Section 472.013(4), F.S., requires the board to adopt rules providing for review and approval of schools and colleges, including military schools and training and apprenticeship programs operated by the United States Government, and the course of study in surveying and mapping in such schools, colleges and programs.

### **5. Licensure by Endorsement**

Section 472.015(3), F.S., requires the board to certify as qualified for licensure by endorsement an applicant who:

- (a) qualifies to take the examination as set forth in s. 472.013, F.S., passes a national, regional, state, or territorial license substantially equivalent to the Florida examination, and meets the experience requirements set forth in s. 472.013, F.S.; or
- (b) holds a valid license from another state if the criteria for issuance was substantially the same as the criteria required in Florida at the time of issuance.

### **6. Entry Upon Third-Party Lands**

Section 479.029, F.S., authorizes surveyors and mappers to enter upon the lands of others when necessary to make surveys or maps and authorizes them to bring their agents and employees as necessary to make surveys and maps. Such entry does not constitute trespass, nor are the entrants subject to arrest or civil action for such entry; however, the entrants may not destroy, injure, damage, or move anything upon the land without the owner's permission.

### **7. Prohibitions**

Section 472.031(1), F.S., prohibits the practice of surveying and mapping and prohibits the use of the title "registered surveyor and mapper," unless such person is a registered surveyor and mapper pursuant to ss. 472.001-472.037, F.S. A person who violates s. 472.031, F.S., is guilty of a misdemeanor of the first degree. *See* s. 472.031(2), F.S.

### **8. Disciplinary Proceedings**

Section 472.033(1), F.S., sets forth acts that constitute grounds for disciplinary action by the board, which include being found guilty, regardless of adjudication, of a crime directly related to the practice of surveying and mapping. Section 472.033(2), F.S., requires the board to specify by rule the acts or omissions that constitute violations under subsection (1). Section 472.033(4), F.S., requires the department to reissue the license of a disciplined surveyor and mapper upon certification by the board that he or she has complied with the terms and conditions set forth in the final order that imposed the disciplinary action.

## **III. Effect of Proposed Changes:**

**Section 1** creates subsection (5) of s. 472.003, F.S., to expand licensure exemptions to include employees of governmental units, employees of employee leasing companies, and employees of surveyors and mappers, when those employees are subordinates of a licensed surveyor and mapper who is in responsible charge of the employee.

**Section 2** creates subsections (9) through (13) of s. 472.005, F.S., to define the following terms: "employee," "subordinate," "monument," "legal entity," and "retired professional surveyor and mapper."

**Section 3** makes a technical change to subsection (1) of s. 472.008, F.S., and creates subsection (2) of s. 472.008, F.S., providing that the board shall adopt rules governing the use of professional titles by retired surveyors and mappers.

**Section 4** deletes paragraph (c) of subsection (2) of s. 427.013, F.S. (formerly s. 472.013(2)(e), F.S.), to conform with the July 1, 1999, repeals discussed earlier. As such, the bill clarifies that the surveying and mapping licensure examination is limited to applicants who have graduated from a four-year college or university program. The bill also eliminates the provision in subsection (4) that requires the board to adopt rules that provides for review and approval of military schools and training and apprenticeship programs operated by the United States Government.

**Section 5** amends paragraph (a) of subsection (3) of s. 472.015, F.S. The purpose of the amendment is to recognize those applicants who were licensed in other states prior to July 1, 1999, without having earned a college degree. The bill provides for licensure by endorsement if the applicant holds a valid license to practice surveying and mapping issued before July 1, 1999, and the applicant has passed a national, regional, state, or territorial licensure exam that is substantially equivalent to the Florida examination. The applicant must also have eight or more years of experience as a subordinate to a surveyor and mapper, six years of which indicates that the applicant was in responsible charge of the accuracy and correctness of the mapping and surveying performed. The bill also amend s. 472.015, F.S., to require that all applicants for endorsement pass an examination on Florida laws and rules prior to licensure.

**Section 6** amends s. 479.029, F.S., to expand the list of individuals who may enter the lands of third parties to include subordinates of surveyors and mappers and expands the purpose for entry to include locating and setting monuments. In order to avoid liability for arrest and civil action, entrants are required to comply with federal, state, and local regulations pertaining to premises security, agricultural protection, and other health and safety requirements. The bill also prohibits the entrant's ability to make any physical improvements upon a landowner's property without the owner's permission. The bill provides that a landowner is not liable to any third party for civil or criminal acts or damages that result from the negligence or intentional conduct of a surveyor and mapper. Finally, the bill sets forth the standard of care that a landowner owes to licensees entering the property. If a landowner is given at least 72 hours written notice, the duty of care owed is that due a licensee. If no such notice is given, the duty of care owed is that due an unforeseen trespasser.

**Section 7** amends subsection (1) of s. 472.031, F.S., to prohibit persons who are not registered to practice surveying and mapping from offering to practice such profession and prohibits them from using the title "registered surveyor and mapper," or certain related titles and combinations thereof. This section also makes a technical change to subsection (2) of s. 472.031, F.S.

**Section 8** amends subsection (1) of s. 472.033, F.S., to include within those acts that constitute grounds for discipline by the board, a plea of nolo contendere to a crime related to surveying and mapping, regardless of adjudication. The bill also deletes subsection (2) to eliminate the board's authority to specify by rule acts or omissions that constitute a violation of subsection (1). Finally, the bill deletes subsection (4) to eliminate the mandate imposed upon the department to reissue

the license of a disciplined surveyor and mapper who complies with all terms and conditions of the final order that imposed such disciplinary action.

**Section 9** provides that the bill takes effect on July 1, 2002.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

Section 472.029, F.S., provides for entry upon lands by a licensee, his or her agents, employees, and subordinates. The bill, however, only establishes a landowner's duty of care owed to the licensee, not the other entrants.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.