



PROFESSIONAL LAND SURVEYOR SECTION
Room 121C, 1400 East Washington Avenue, Madison
Contact: Brittany Lewin (608) 266-2112
April 9, 2015

The following agenda describes the issues that the Professional Land Surveyor Section plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Professional Land Surveyor Section.

AGENDA

9:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A) Adoption of Agenda (1-3)**
- B) Approval of the Minutes January 14, 2015 (4-6)**
- C) Administrative Updates**
- D) Legislative/Administrative Rule Matters – Discussion and Consideration**
 - 1. Review of Preliminary Rule Draft A-E 7, Relating to Minimum Survey Standards **(7-18)**
 - 2. Review of Preliminary Rule Draft A-E 1, 2, 6, 7, 8, 10, Relating to Professional Land Surveyor Licensure **(19-35)**
 - 3. Pending and Possible Rulemaking Projects
- E) Items Added After Preparation of Agenda:**
 - 1. Introductions, Announcements and Recognition
 - 2. Administrative Updates
 - 3. Education and Examination Matters
 - 4. Credentialing Matters
 - 5. Practice Matters
 - 6. Legislative/Administrative Rule Matters
 - 7. Liaison Reports
 - 8. Informational Items
 - 9. Disciplinary Matters
 - 10. Presentations of Petitions for Summary Suspension
 - 11. Presentation of Proposed Stipulations, Final Decisions and Orders
 - 12. Presentation of Proposed Decisions
 - 13. Presentation of Interim Orders
 - 14. Petitions for Re-Hearing
 - 15. Petitions for Assessments
 - 16. Petitions to Vacate Orders
 - 17. Petitions for Designation of Hearing Examiner
 - 18. Requests for Disciplinary Proceeding Presentations

19. Motions
20. Petitions
21. Speaking Engagement(s), Travel, or Public Relation Request(s)

F) Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (§ 19.85 (1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.).

G) Application Matters (36-37)

1. Jonathan Jacobs
2. Tyler D. Thiry
3. Jesse Zoltowski

H) Education and Examination Matters

1. Continuing Education Waiver Request – W.J.M. **(38-41)**

I) Case Closings

1. 14 LSR 012 G.A.M. **(42-45)**
2. 14 LSR 014 M.G.R. **(46-48)**

J) Proposed Stipulation and Final Decision and Order

1. 12 LSR 003 – Michael H. VanHenkelum **(49-56)**
2. 12 LSR 003 –Paul H. VanHenkelum **(57-65)**
3. 14 LSR 011 – Bruce W. Cecka **(66-71)**

K) Case Status Report (72)

L) Deliberation of Items Added After Preparation of the Agenda

1. Education and Examination Matters
2. Credentialing Matters
3. Disciplinary Matters
4. Monitoring Matters
5. Professional Assistance Procedure (PAP) Matters
6. Petitions for Summary Suspensions
7. Proposed Stipulations, Final Decisions and Order
8. Administrative Warnings
9. Proposed Decisions
10. Matters Relating to Costs
11. Case Closings
12. Petitions for Extension of Time
13. Proposed Interim Orders
14. Petitions for Assessments and Evaluations
15. Petitions to Vacate Orders
16. Remedial Education Cases
17. Motions
18. Petitions for Re-Hearing
19. Appearances from Requests Received or Renewed

M) Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

N) Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

ADJOURNMENT

**LAND SURVEYOR SECTION
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS
MEETING MINUTES
January 14, 2015**

PRESENT: Bruce Bowden, Matthew Janiak, Ruth G. Johnson (*via GoToMeeting*)

EXCUSED: Daniel Fedderly

STAFF: Brittany Lewin, Executive Director; Taylor Thompson, Bureau Assistant; and other Department staff

CALL TO ORDER

Matthew Janiak, Chair, called the meeting to order at 9:06 A.M. A quorum of three (3) members was confirmed.

ADOPTION OF AGENDA

MOTION: Bruce Bowden moved, seconded by Ruth G. Johnson, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Bruce Bowden moved, seconded by Ruth G. Johnson, to approve the minutes of November 14, 2014 as published. Motion carried unanimously.

ADMINISTRATIVE MATTERS

ELECTION OF SECTION OFFICERS

NOMINATION: Bruce Bowden nominated the 2014 slate of officers to continue in 2015. Nomination carried by unanimous consent.

2015 ELECTION RESULTS	
Section Chair	Matthew Janiak
Vice Chair	Daniel Fedderly
Secretary	Ruth G. Johnson

APPOINTMENT OF LIAISONS, ALTERNATES, AND DELEGATES

- 1. Credentialing Liaison: Bruce Bowden**
- 2. Rules Liaison: Matthew Janiak**
- 3. Monitoring Liaison: Daniel Fedderly**
- 4. Continuing Education Liaisons: Daniel Fedderly, Bruce Bowden**

5. **Travel Liaison:** **Matthew Janiak**
6. **Screening Panel:** **Ruth G. Johnson, Matthew Janiak**

DELEGATED AUTHORITY MOTIONS

MOTION: Bruce Bowden moved, seconded by Ruth G. Johnson, that, in order to facilitate the completion of assignments between meetings, the Section delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Section, to appoint liaisons to the Department to act in urgent matters, make appointments to vacant liaison, panel and committee positions, and to act when knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

MOTION: Bruce Bowden moved, seconded by Ruth G. Johnson, to delegate authority to the Chair or chief presiding officer, or longest serving member of the Section, by order of succession, to sign documents on behalf of the Section. In order to carry out duties of the Section, the Chair, chief presiding officer, or longest serving member of the Section, has the ability to delegate this signature authority for purposes of facilitating the completion of assignments during or between meetings. The Chair, chief presiding officer, or longest serving member of the Section delegates the authority to Executive Director or designee to sign the name of any Section member on documents as necessary and appropriate. Motion carried unanimously.

MOTION: Ruth G. Johnson moved, seconded by Bruce Bowden, to delegate authority to the Credentialing Liaison(s) to address all issues related to credentialing matters. Motion carried unanimously.

MOTION: Ruth G. Johnson moved, seconded by Bruce Bowden, to adopt the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today's agenda packet. Motion carried unanimously.

LEGISLATION/ADMINISTRATIVE RULE MATTERS

REVIEW AND DISCUSSION OF A-E 1, 2, 6, 7, 8, 10 LAND SURVEYOR PROFESSIONAL LICENSURE

MOTION: Bruce Bowden moved, seconded by Ruth G. Johnson, to approve the revisions to A-E 1, 2, 6, 7, 8, 10 relating to professional land surveyor licensure for posting of EIA comments and submission to the Clearinghouse. Motion carried unanimously.

SPEAKING ENGAGEMENTS, TRAVEL OR PUBLIC RELATIONS REQUESTS

NCEES CENTRAL/NORTHEAST ZONE JOINT INTERIM MEETING

MOTION: Bruce Bowden moved, seconded by Ruth G. Johnson, to designate Matthew Janiak to attend the NCEES Central/Northeast Zone Joint Interim Meeting on April 30 – May 2, 2015, in Hershey, Pennsylvania. Motion carried unanimously.

NCEES 2015 ANNUAL MEETING

MOTION: Bruce Bowden moved, seconded by Ruth G. Johnson, to designate Matthew Janiak to attend the NCEES 2015 Annual Meeting on August 19 – 22, 2015, in Williamsburg, Virginia. Motion carried unanimously.

MOTION: Matthew Janiak moved, seconded by Ruth G. Johnson, to authorize Bruce Bowden to give an update at WSLs Annual Conference on January 21-23, 2015, in Wisconsin Dells, WI. Motion carried unanimously.

CLOSED SESSION

MOTION: Ruth G. Johnson moved, seconded by Bruce Bowden, to convene to Closed Session to deliberate on cases following hearing (§ 19.85(1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 440.205, Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.). The Chair read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Bruce Bowden – yes; Matthew Janiak – yes; Ruth G. Johnson – yes. Motion carried unanimously.

The Board convened into Closed Session at 3:10 P.M.

RECONVENE TO OPEN SESSION

MOTION: Ruth G. Johnson moved, seconded by Bruce Bowden, to reconvene in Open Session at 3:14 P.M. Motion carried unanimously.

ADJOURNMENT

MOTION: Ruth G. Johnson moved, seconded by Bruce Bowden, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 3:14 P.M.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Katie Paff Administrative Rules Coordinator		2) Date When Request Submitted: 3/11/2015 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Professional Land Surveyor Section			
4) Meeting Date: 4/9/2015	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Review the Preliminary Rule Draft for A-E 7 relating to minimum survey standards.	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: None	
10) Describe the issue and action that should be addressed: The Board will review and authorize a member of the Section to approve A-E 7 relating to minimum survey standards for posting for Economic Impact Analysis comments and submission to the Legislative Clearinghouse.			
11) Authorization			
Kathleen Paff		3/11/2015	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS
PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : EXAMINING BOARD OF
EXAMINING BOARD OF ARCHITECTS, : ARCHITECTS, LANDSCAPE
LANDSCAPE ARCHITECTS, : ARCHITECTS PROFESSIONAL
PROFESSIONAL ENGINEERS, : ENGINEERS, DESIGNERS, AND
DESIGNERS, AND LAND SURVEYORS : LAND SURVEYORS ADOPTING
: RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Land Surveyors propose an order to repeal A-E 7.01 (2) (d) and (e); to amend A-E 7.01 (2) (a), 7.06 (2), (3), and (5), 7.07, and 7.08 (1), (1) (c), (3) (e) and (g); to repeal and recreate A-E 7.02, 7.03, 7.04, and 7.05 relating to minimum survey standards.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

s. 443.015 (2), Stats.

Statutory authority:

ss. 15.08 (5) (b), 227.11 (2) (a), and 443.015 (2), Stats.

Explanation of agency authority:

Pursuant to ss. 15.08 (5) (b), and 227.11 (2) (a), Stats, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Land Surveyors is generally empowered to promulgate rules that will provide guidance within the profession and interpret the statutes it enforces or administers. Section 443.015 (2), Stats., allows each section to draft rules that govern the professional conduct of licensees under its authority. These proposed rules address the conduct of professional land surveyors in the creation of minimum standards for property surveys. Therefore, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Land Surveyors is authorized both generally and specifically to promulgate these proposed rules.

Related statute or rule:

Wisconsin Administrative Code Chapter A-E 7

Plain language analysis:

This proposed rule seeks to clarify various provisions of Wisconsin Administrative Code Chapter A-E 7, which sets forth the minimum standards of land surveyor’s practice and to resolve inconsistencies between the rules in chapter A-E 7 and current practice within the profession. This rule will identify the information that should be included in maps and reports regarding the legal descriptions of property surveyed.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois:

The Minimum Standards of Practice for land surveyors identifies the types of surveys land surveyors may conduct such as a boundary survey, condominium survey, subdivision survey, mortgage inspection, and topographic survey. It also lists the required information that should be found on the plat (map). The minimum standards are binding on every land surveyor in the state except in the case of federal, state or local laws that may be more stringent. When special conditions exist, it must be noted on the plat (68 Ill Admin Code 1270.56).

Iowa:

The Minimum Standards for Property Surveys for land surveyors found in the Iowa Code are very similar to the current Wisconsin rules. It covers the same topics as the Wisconsin rules such as scope, definition, boundary location, descriptions, maps, measurements, and monuments and nearly mirrors the language. The scope of the rules encompasses each professional land surveyor and all of the property surveys performed in the state, except those done for acquisition plats (Iowa Admin. Code r. 193C-11.1).

Michigan:

Michigan does not set forth minimum standards for property surveys. Instead, Michigan Administrative Code requires land surveyors to draft complete and accurate plats, plans, drawings, and specifications. The information contained on a survey must include the following: “a drawing that includes the graphical and numerical scale used, a north arrow, identification of all government corners and related witnesses, a description in

compliance with state statute, [and a] statement of the manner of bearing determination.” (Mich. Admin. Code r. 339.17403).

Minnesota:

Minnesota does not set forth a minimum standard for property surveys in a manner similar to Illinois and Iowa. Instead, Minnesota identifies the requirements for plats (maps), and covers such topics as boundaries, mathematical data, easements and water boundaries. The statute further requires land surveyors to certify that they have surveyed a property or directly supervised a person who surveyed the property (Minn. Stat. s. 505.021).

Summary of factual data and analytical methodologies:

The Professional Land Surveyor Section reviewed and updated the minimum survey standards. Adjacent states’ statutes and administrative rules were also reviewed. The Section ensures the accuracy, integrity, objectivity and consistency of data was used in preparing the proposed rule and related analysis.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The rule will be posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units, and individuals, for a period of 14 days.

Fiscal Estimate and Economic Impact Analysis:

~~The Fiscal Estimate and Economic Impact Analysis are attached.~~

The Department will solicit information and advice from businesses, local government units and individuals in order to prepare the Economic Impact Analysis.

Effect on small business:

These proposed rules do not have a negative economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Katie Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4472; email at Kathleen.Paff@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Katie Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Kathleen.Paff@wisconsin.gov. ~~Comments must be received on or before * to be included in the record of rule-making proceedings.~~

TEXT OF RULE

SECTION 1. A-E 7.01 (2) (a) is amended to read:

A-E 7.01 (2) (a) A note which states that an agreement to exclude work from the requirements of this chapter has been made and a list of those exclusions and the names of the parties making the agreement along with the signature of each party.

SECTION 2. A-E 7.01 (2) (d) and (e) are repealed.

SECTION 3. A-E 7.02 is repealed and recreated to read:

A-E 7.02 Definitions. For the purposes of this chapter:

(1) “Property survey” means any land surveying which includes describing, monumenting, or locating the boundary line or lines or corners of land surveyed, or mapping one or more lines or parcels of land. The term includes the restoration or perpetuation of a U.S. public survey corner.

(2) “Relative positional precision” means the length of the semi-major axis, expressed in feet or meters, of the error ellipse representing the uncertainty due to random errors in measurements in the location of the monument, or witness, marking any corner of the surveyed property at the 95 percent confidence level, 2 standard deviations; and is estimated by the results of a correctly weighted least squares adjustment of the survey.

(3) “Survey report” means a report that may be prepared when there is an existing map recorded or filed within 2 years of its certification of the map and no new monuments are established in the survey. A survey report shall include the purpose of the survey, information concerning the documents that were examined for the survey, the measurements that were made to verify the locations of the monuments found, and a copy of the map that was recorded or filed. The survey report shall be in compliance with all sections of this chapter except A-E 7.05 (1), (2), (3) and (4).

SECTION 4. A-E 7.03, 7.04, and 7.05 are repealed and recreated to read:

A-E 7.03 Boundary location. Every property survey shall be made in accordance with the records of the register of deeds as nearly as is practicable. The

surveyor shall acquire data necessary to retrace record title boundaries such as deeds, surveys, maps, certificates of title, highway, and center line or right-of-way lines and other boundary line locations.

The professional land surveyor shall make field measurements necessary for the location of the parcel and shall analyze the data and make a careful determination of the position of the boundaries of the parcel being surveyed. The professional land surveyor shall set monuments marking the corners of the parcel unless monuments already exist at the corners.

7.04 Descriptions. Descriptions defining land boundaries created by a land surveyor for conveyance or to more accurately delineate land boundaries describe (describe what), or for other purposes shall be complete, providing unequivocal identification of lines or boundaries. The description shall contain necessary references to adjoining together with data and dimensions sufficient to enable the description to be mapped and retraced and shall describe the land surveyed by government lot, recorded private claim, quarter-quarter section, section, township, range and county. The forms of descriptions of property shall be one of the following:

(1) By metes and bounds commencing with a monument at a section corner or quarter section corner of the quarter section that it is in and not the center of the section or commencing with a monument at the end of a boundary line of a recorded private claim or federal reservation in which the land is located.

(2) By land boundaries being surveyed as a platted lot or outlot in a recorded subdivision or recorded addition to a recorded subdivision, the lots or outlots in that plat shall be described by the name of the plat and the lot or outlot and the block in the plat for all purposes.

(3) By land boundaries being surveyed as an existing lot, outlot or parcel, on a recorded certified survey map, the survey shall be described by lot, outlot or parcel number and certified map number for all purposes.

(4) By the parcel described as an aliquot part of a section subdivision from the public land system, the existing legal description is acceptable.

7.05 Maps. A map shall be drawn for every property survey, unless a survey report is filed as provided in A-E 7.02 (1), showing information developed by the survey. The map shall:

(1) Be drawn on media with the minimum size of 8 ½ x 11 inches and to a commonly accepted scale which shall be clearly stated and graphically illustrated by a bar scale on each map sheet containing a graphical depiction of the survey unless otherwise required by law. (This may conflict with statutory requirements. See s. 707.215, Stats. May need to go back to original language.)

(2) Be referenced as provided in s. 59.73 (1), Stats. along with a north arrow and reference to a monumented line.

(3) Show the length and bearing of the boundaries of the parcels surveyed. Where the boundary lines show bearings, lengths or locations which vary from those recorded in deeds, abutting plats, or other instruments, there shall be the following note placed along such line, “recorded as (show recorded bearing, length or location)”. Curve data shall be shown by any 3 of the following: central angle, radius, long chord bearing and length, and arc length.

(4) Describe all monuments or witness corners, intended to represent or reference corners of the survey, shall be shown and described as to size, shape, material, and their positions noted in relation to the survey corners and used for determining the location of the parcel and show by bearing and distance the relationship to the surveyed parcel and indicate whether such monuments were found or placed with all legend for all symbols and abbreviations used on the map.

(5) Show visible physical evidence of possession, encroachments, or occupation each way from the exterior lines of the survey shall be shown and dimensioned and show visible evidence of structures, improvements, rights-of-way, and easements.

(6) Show surveyed parcel bounded by water or inaccessible areas, the part shall be enclosed by a meander line showing complete data along all lines extending beyond the enclosure. The true boundary shall be clearly indicated on the map.

(7) Identify the professional land surveyor’s business name and address, the person or entity for whom the survey was made, completion date of the filed work, and description of the parcel as provided in s. A-E 7.04.

(8) Bear the stamp or seal, name and business address and signature of the professional land surveyor under whose direction and control the survey was made with a statement certifying that the survey complies with this chapter and is correct to the best of the professional land surveyor’s knowledge and belief.

(9) Be filed as required by s. **59.45 (1), Stat.**, on media or electronically if acceptable by the county.

(10) Identify boundary lines on the survey. Boundary lines shall be clearly differentiated from other lines on the map.

(11) Coordinate values when shown on the face of the map they shall comply with and be subject to the provisions of s. 236.18, Stats., and include coordinate system, datum and adjustment.

SECTION 5. A-E 7.06 (2), (3), and (5), and 7.07 are amended to read:

A-E 7.06 (2) The A minimum accuracy of linear measurements between points shall be better than 1 part in 3,000 on all property lines of boundary or interior the survey.

~~(3) In a closed traverse the sum of the measured angles shall agree with the theoretical sum by a difference not greater than 30 seconds per angle, or the sum of the total angles may not differ from the theoretical sum by more than 120 seconds, whichever is smaller.~~ The maximum allowable relative positional precision for a survey is plus or minus 2 cm (0.07 feet) plus 50 parts per million, based on the direct distance between the two corners being tested. It is recognized that in certain circumstances, the size or configuration of the surveyed property, or the relief, vegetation or improvements on the surveyed property will result in survey measurements for which the maximum allowable relative positional precision may be exceeded.

(5) Bearings or angles on any property survey map shall be shown to at least the nearest 30 seconds. Distances shall be shown to the nearest 1/100th foot.

7.07 Monuments. The type and position of monuments to be set on any survey shall be according to s. 236.15 (1) (b), Stats., unless determined by the nature of the survey, the permanency required, the nature of the terrain, the cadastral features involved, and the availability of material. Coordinate values are not acceptable in lieu of monuments.

SECTION 6. A-E 7.08 (1), (1) (c), and (3) (e) and (g) are amended to read:

A-E 7.08 (1) WHEN MONUMENT RECORD REQUIRED. A U.S. public land survey monument record shall be prepared and filed with the county ~~surveyor's office~~ survey records as part of any land survey within 60 days of setting or accepting the corner which includes or requires the perpetuation, restoration, ~~reestablishment~~ or use of a U.S. public land survey corner, and,

(1) (c) The witness ties or U.S. public land survey monument referenced in an existing U.S. public land survey monument record have been destroyed or disturbed except where the witness ties and the U.S. public land survey monument referenced in an existing U.S. public land survey monument record have been found and verified and a note stating this has been placed on the property survey.

(3) (e) A description of any material discrepancy between the location of the corner monument as restored ~~or reestablished~~ and the monument location of that corner as previously ~~restored or reestablished~~ established.

(3) (g) Whether the corner was determined ~~reestablished~~ through lost-corner-proportionate methods.

SECTION 7. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Chairperson
Examining Board of Architects, Landscape
Architects, Professional Engineers,
Designers, and Professional Land Surveyors

CHAPTER 707

TIME-SHARE OWNERSHIP

	SUBCHAPTER I		
	GENERAL PROVISIONS		
707.02	Definitions.	707.34	Tort and contract liability.
707.03	Status of time-share estates.	707.35	Insurance; repair or replacement of damaged property.
707.05	Variation by agreement.	707.36	Disposition of surplus funds.
707.06	Unconscionable contract.	707.37	Assessments for time-share expenses; lien.
707.07	Obligation of good faith.	707.38	Blanket encumbrances; liens.
707.09	Conflicts with other laws.	707.39	Initiative, referendum and recall.
707.10	Zoning and other regulation of time-share projects.		
707.11	Securities law; applicability.		
	SUBCHAPTER II		
	CREATION, TERMINATION AND INCIDENTS OF TIME-SHARE OWNERSHIP		
707.20	Time shares in projects.	707.40	Applicability; exemptions.
707.21	Time-share instrument.	707.41	Time-share disclosure statement.
707.215	Project and time-share property plat.	707.42	Exchange or reciprocal program; additional requirements.
707.22	Allocation of time-share liability and voting rights.	707.43	Multilocation developer; additional requirements.
707.23	Partition.	707.44	Conversion building; additional requirements.
707.24	Termination of time shares.	707.45	Amendments to statement.
707.25	Use for sales purposes.	707.46	Contract; minimum requirements.
707.26	Rights of secured lenders.	707.47	Purchaser's right to cancel.
707.28	Foreclosure of time-share estates and licenses.	707.48	Resales of time shares.
	SUBCHAPTER III	707.49	Deposits; escrow requirement.
	MANAGEMENT OF TIME-SHARE PROPERTY	707.50	Conversion building; tenants' rights.
707.30	Managing entity; association of unit owners.	707.51	Protection of campground interests.
707.31	Transfer of special developer rights.	707.52	Campgrounds; breach by member.
707.32	Termination of contracts and leases of developer.	707.53	Warranties.
707.33	Upkeep of units.	707.54	Labeling of promotional material.
		707.55	Prohibited advertising and sales practices.
		707.56	Developer's obligation to complete improvements.
		707.57	Remedies and penalties.
		707.58	Applicability to existing time shares.
		707.59	Time-share units not within state.

SUBCHAPTER I

GENERAL PROVISIONS

707.02 Definitions. In this chapter:

(1) "Affiliate of a developer" means any person who controls, is controlled by or is under common control with a developer.

(2) "Association" means the association organized under s. 707.30 (2).

(4) "Campground" means real property that is available for use by campground members under a campground contract and is intended for camping or outdoor recreation, including the use of campsites and campground amenities by campground members, but does not include a manufactured and mobile home community as defined in s. 66.0435 (1) (cg).

(5) "Campground amenity" means a major recreational building or recreational facility at a campground, including a swimming pool, ski hill, marina, pier, tennis court, utility-serviced campsite, clubhouse, trading post or grocery store; but does not include an individual campsite or general campsite location, any minor recreational building or facility, horseshoe pit or other minor game or athletic court, or a nonrecreational building or facility, including a restroom, road, dump station or pumphouse.

(6) "Campground contract" means an agreement entered into within this state evidencing a campground member's ownership of a time-share easement in a campground.

(7) "Campground member" means a person who enters into a campground contract with a campground operator, or a transferee of a person who enters into a campground contract with a campground operator.

(8) "Campground operator" means a developer who is the owner or operator of a campground for which campground contracts are offered or sold.

(9) "Closing" means:

(a) With respect to time-share estates, conveyance of legal or equitable title to the time share by delivery of a deed or contract to purchase to the purchaser.

(b) With respect to time-share easements, delivery by all parties of the documents necessary to vest in the purchaser the rights to access and use of the time-share unit.

(9m) "Controls" or "controlled by" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, by common management or otherwise, including any of the following, unless the powers are held solely as security for an obligation and are not exercised:

(a) Owning or controlling more than 20% of the voting interest in a person.

(b) Controlling the election of a majority of the directors of a person.

(c) Contributing more than 20% of the capital of a person.

(10) "Conversion building" means a building that at any time before the disposition of any time share was occupied wholly or partially by persons other than purchasers and persons who occupied with the consent of purchasers.

(11) "Developer" means any person who offers to dispose of, or disposes of, an interest in a time share not previously disposed of or succeeds to any special developer right under s. 707.31.

(12) "Dispose" or "disposition" means a voluntary transfer of any legal or equitable interest in a time share, excluding the transfer or release of a security interest.

(13) "Dues payment" means the periodic fee paid by a campground member, other than the sales payment, for the purpose of using a campground, excluding fees charged for specific goods or services provided, such as campsite reservations, daily campsite rentals, equipment rentals or meals.

707.09 Conflicts with other laws. If a conflict exists between this chapter and ch. 703, the provisions of this chapter prevail.

History: 1987 a. 399.

707.10 Zoning and other regulation of time-share projects. (1) LIMITATIONS; LAND USE REGULATION. No zoning or other land use ordinance or regulation may prohibit time-share projects or impose any requirements upon a time-share project which it does not impose upon a physically identical development under a different form of ownership. No provision of a state or local building code may be applied differently to an improvement to real property in a time-share project than would be applied to a similar improvement under a different form of ownership.

(2) LIMITATIONS; OTHER REGULATIONS. No county, city or other jurisdiction, other than the state, may impose a burden or restriction on a time-share project that is not imposed on all other property of similar character not part of a time-share project.

History: 1987 a. 399.

707.11 Securities law; applicability. A time share created and marketed in accordance with this chapter is not a security under ch. 551 if a developer complies with ss. 707.38 (1m) and 707.49.

History: 1987 a. 399.

SUBCHAPTER II

CREATION, TERMINATION AND INCIDENTS OF TIME-SHARE OWNERSHIP

707.20 Time shares in projects. (1) If all of the documents constituting a project instrument are recorded after June 1, 1988, time shares may not be created in any unit in the project unless expressly permitted by the project instrument, including an amendment to the project instrument under sub. (2).

(2) An amendment to a project instrument adopted under s. 707.39 (5) or (6) which is recorded after June 1, 1988, may not permit the creation of time shares unless the owner of each unit in the project, and the record owners of liens on each unit in the project, consent to the amendment.

History: 1987 a. 399.

707.21 Time-share instrument. (1) CONTENTS. Except as provided in sub. (2), more than 12 time shares may be created in a single time-share property only by recording under sub. (3) a time-share instrument containing or providing for all of the following:

(a) A sufficient description of the time-share property and the name or other identification of the project, if any, within which the time-share property is located.

(b) A copy of or reference to a recorded project and time-share property plat required under s. 707.215.

(c) The name of the county or counties in which the time-share property is located.

(d) Identification of time periods by letter, name or number.

(e) The time-share liability and any voting rights assigned to each time share.

(em) A method for allocating real property taxes among the time-share owners and a method of giving notice to the time-share owners of an assessment and the amount of the property taxes, as required under s. 70.095.

(f) If additional units may become part of the time-share property, the method of doing so and the formula for allocation and reallocation of the time-share liabilities and any voting rights.

(g) The method of designating the insurance trustee required under s. 707.35 (4).

(h) Allocation of time for maintenance of the time-share units.

(i) Provisions for management by a managing entity or by the time-share owners.

(2) EXCEPTION FOR CERTAIN EASEMENTS OR LICENSES. If a time-share easement or a time-share license applies to units in more than one time-share property, the time-share instrument creating the time-share easement or the time-share license need not contain or provide for the matters specified in sub. (1) (a) to (h).

(3) RECORDING. Before the sale of any time share in a time-share property for which a time-share instrument is required under sub. (1), the developer shall record the time-share instrument and all amendments of the time-share instrument with the register of deeds of every county in which any portion of the time-share property is located. The time-share instrument shall be indexed in the name of the time-share property and the developer, and the index shall identify time-share estate owners and all transferees of time-share estates. Subsequent instruments affecting the title to a time-share unit which is physically located entirely within a single county shall be recorded only in that county, even if the common elements are not physically located entirely within that county. Subsequent amendments shall be indexed under the name of the developer.

History: 1987 a. 399; 2007 a. 18.

707.215 Project and time-share property plat.

(1) RECORDING REQUIREMENT. When a time-share instrument is recorded under s. 707.21 (3), the developer shall file for record a plat, as described in sub. (2), of the time-share property and the project, if any, within which the time-share property is located, except that if a plat of the project was previously recorded the developer need only file the information necessary to update the recorded plat.

(2) REQUIRED CONTENTS. A plat filed for recording under sub. (1) may consist of one or more sheets, shall be produced on media that is acceptable to the register of deeds, and shall contain at least all of the following:

(a) On each sheet of the plat, the name of the project and time-share property and the county in which the project and time-share property are located. If there is more than one sheet, each sheet shall be consecutively numbered and show the relation of that sheet number to the total number of sheets.

(b) A survey of the project and time-share property complying with minimum standards for property surveys adopted by the examining board, as defined in s. 443.01 (3), and showing the location of any time-share unit, unit or other building located or to be located on the property.

(c) Diagrammatic floor plans of each building located or to be located on the property which show the approximate dimensions, floor area and location of each time-share unit and unit in a building. Common elements shall be shown graphically to the extent feasible.

(3) FORM OF MAPS AND PLANS. All survey maps and floor plans submitted for recording shall be legibly prepared with a binding margin of one inch on all sides on durable white media that is 14 inches in length and 22 inches in width, or on other media that is acceptable to the register of deeds, with a permanent nonfading black image. The maps and plans shall be drawn to a convenient scale.

(4) DESIGNATION OF TIME-SHARE UNITS AND UNITS. Every time-share unit and unit shall be designated on the plat by number or other appropriate designation.

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

(a) That the plat is a correct representation of the project and the time-share property.

707.215 TIME-SHARE OWNERSHIP

Updated 13–14 Wis. Stats. 4

(b) The identification and location of each time–share unit and each unit and the common elements can be determined from the plat.

(6) **NONAPPLICABILITY.** Chapter 236 does not apply to plats required under this section.

History: 1987 a. 399; 2005 a. 41; 2013 a. 358.

707.22 Allocation of time–share liability and voting rights. (1) **ALLOCATION OF EXPENSES.** The time–share instrument shall state the amount of, or formula used to determine, any time–share liability.

(2) **ALLOCATION OF VOTING RIGHTS.** (a) If the time–share instrument provides for voting, it shall allocate votes to each time–share unit and to each time share under par. (b), but shall not allocate votes to any other property or person.

(b) The number of votes allocated to each time share shall be equal for all time shares or proportionate to each time share’s value, as estimated by the developer, time–share liability or time–share unit size. The time–share instrument may specify matters as to which the votes shall be equal and other matters as to which votes shall be proportionate.

(3) **ALTERING ALLOCATION.** Except as otherwise provided under s. 707.21 (1) (f), the votes and time–share liability may not be altered without the unanimous consent of all time–share owners entitled to vote and voting either at a meeting or in an initiative or referendum in which at least 80% of the votes allocated to time shares are cast.

(4) **SUM OF EXPENSES.** Except for minor variations due to rounding, the sum of the time–share liabilities assigned to all time shares shall equal one, if stated as fractions, or 100% if stated as percentages. If a discrepancy occurs between the time–share liability or votes allocated to a time share and the result derived from the application of the formulas, the allocated time–share liability or vote prevails.

History: 1987 a. 399.

707.23 Partition. Notwithstanding ch. 842, no action for partition of a time–share unit may be maintained except as permitted by the time–share instrument or under s. 707.24 (3) (b).

History: 1987 a. 399.

707.24 Termination of time shares. (1) **TERMINATION BY AGREEMENT.** All time shares in a time–share property may be terminated only by agreement of the time–share owners having at least 80% of the time shares, except that the time–share instrument may require approval by a greater majority.

(2) **RECORDING OF AGREEMENT.** (a) An agreement to terminate all time shares in a time–share property shall be evidenced by a termination agreement which meets the requirements of s. 706.05 (2) for recording, is signed by each of the time–share owners who agree to termination under sub. (1) and provides that the agreement will be void unless the agreement is recorded before a specified date.

(b) A termination agreement shall be recorded in the office of the register of deeds of each county in which a portion of the time–share property is located and shall be effective only upon recordation.

(3) **AGREEMENT WITHOUT SALES CONTRACT.** (a) Unless the termination agreement sets forth a sales contract described in sub. (4), title to an estate or interest in each time–share unit, equal to the sum of the time shares in the time–share unit, shall vest upon termination in the time–share owners of the time–share unit in proportion to their respective interests under sub. (6m) or (7), and liens on the time shares shall shift accordingly to encumber those interests.

(b) Upon termination, an owner of an estate or interest in a time–share unit under par. (a) may maintain an action for partition under ch. 842.

(4) **AGREEMENT WITH SALES CONTRACT.** If the termination agreement sets forth the material terms of a contract or proposed contract under which an estate or interest in each time–share unit, equal to the sum of the time shares in the time–share unit, is to be sold and designates a trustee to effect the sale, title to that estate or interest shall vest upon termination in the trustee for the benefit of the time–share owners, to be transferred under the contract. Proceeds of the sale shall be distributed to time–share owners and lienholders under sub. (6).

(5) **RIGHTS AND LIABILITIES AFTER TERMINATION.** Except as otherwise specified in the termination agreement, if the former time–share owners or their trustee holds title to the estate or interest equal to the sum of the time shares, each former time–share owner and the time–share owner’s successors in interest have the same rights with respect to occupancy in the former time–share unit that the former time–share owner would have had if termination had not occurred, together with the same liabilities and other obligations imposed under this chapter or the time–share instrument.

(6) **DISTRIBUTION OF PROCEEDS.** After termination of all time shares in a time–share property and adequate provision for the payment of the claims of the creditors for time–share expenses, the proceeds shall be distributed to the former time–share owners and their successors in interest in proportion to their interests as determined under sub. (6m) or (7). The distribution shall consist of the proceeds of any sale under this section and the proceeds of any personalty or other funds held for the use and benefit of the former time–share owners. After termination, creditors of the association holding liens perfected against the time–share property before the termination may enforce those liens in the same manner as any other lienholder. All other creditors of the association shall be treated as if they had liens on time–share property which were perfected immediately before termination.

(6m) **INTERESTS SPECIFIED.** The time–share instrument may specify the respective fractional or percentage interest in the estate or interest in each time–share unit equal to the sum of the time shares in the time–share unit that will be owned by each former time–share owner.

(7) **APPRAISALS.** (a) If the specification under sub. (6m) is not made, an appraisal under par. (b) of the fair market value of each time share shall be made not more than 180 days before the termination by one or more impartial qualified appraisers, selected either by the trustee designated in the termination agreement or by the managing entity if no trustee is designated.

(b) The appraisal shall state the corresponding fractional or percentage interests calculated in proportion to those values and shall be made in accordance with all of the following:

1. If the termination agreement sets forth a sales contract described in sub. (4), each time share conferring a right of occupancy during a limited number of time periods shall be appraised as if the time until the date specified for the conveyance of the property had already elapsed.

2. If the termination agreement does not set forth a sales contract described in sub. (4), each time share conferring a right of occupancy during a limited number of time periods shall be appraised as if the date specified under sub. (2) had already elapsed.

3. The interest of each time–share owner is the value of the time share divided by the sum of the values of all time shares in the unit or units to which the time share applies.

(c) A notice stating all values and corresponding interests determined under par. (b) and the return address of the sender shall be sent by certified or registered mail by the managing entity or by the trustee designated in the termination agreement to all time–share owners.

(d) The appraisal governs the magnitude of each interest unless at least 25% of the time–share owners deliver, within 60 days after the notices required under par. (c) are mailed, written disapprovals

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Katie Paff Administrative Rules Coordinator		2) Date When Request Submitted: 3/11/2015 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Professional Land Surveyor Section			
4) Meeting Date: 4/9/2015	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Review of Preliminary Rule Draft of A-E 1, 2, 6, 7, 8, and 10 relating to professional land surveyor licensure	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: None	
10) Describe the issue and action that should be addressed: The Section will review and approve or authorize a member of the Section to approve the Preliminary Rule Draft of A-E 1, 2, 6, 7, 8, and 10 relating to professional land surveyor licensure for posting for Economic Impact Analysis comments and submission to the Legislative Clearinghouse.			
11) Authorization			
Kathleen Paff		3/11/2015	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : EXAMINING BOARD OF
EXAMINING BOARD OF : ARCHITECTS, LANDSCAPE
ARCHITECTS, LANDSCAPE : ARCHITECTS, PROFESSIONAL
ARCHITECTS, PROFESSIONAL : ENGINEERS DESIGNERS AND
ENGINEERS, DESIGNERS AND : LAND SURVEYORS
LAND SURVEYORS : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors to repeal A-E 6.07, 8.07 (2) (Note), and 10.04 (2) (d) and to amend A-E 1.02 (1), 2.01, 2.02 (1), (4), and (6), 2.03 (1) (a) and (b) and (2) (d), Chapter 6 (title), 6.01 (intro.), 6.02 (title), 6.03, 6.04 (title) and (1) (intro.), (a), and (b), and (2) (a) and (b), 6.05 (1) and (2) (b), 6.05 (10), 6.06 (intro.), 7.01 (2) (intro.), 7.03, 7.05 (6), 7.08 (1) (b), (3) (b) and (i), 8.02, 8.03 (1), (3) (intro.) and (a), 8.03 (5) (c) 4. and 5., 8.04 (intro.), (1), and (3), 8.05 (1) (intro.), (a), and (c), and (2), 8.06 (intro.), (2), and (3), 8.07 (intro.), (1), and (2), 8.08 (intro.), (3), and (4), 8.09 (intro.), (1), and (2), 8.10 (2) and (3), 8.11 (intro.) and (1) to (4), Chapter 10 (title), 10.01, 10.02 (2) to (4), 10.03 (1) (a), (b) (intro.) and 3., 10.03 (2) (b) to (d) and (g), and (4), 10.04 (1) (a) and (c), (2) (intro.) and (e), (3), and (4), 10.05 (1) to (5), 10.06 (intro.), 10.07 (1) and (2) (d), and 10.08 relating to land surveyor professional licensure.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Section 443.02 (4), and 443.06, Stats.

Statutory authority:

15.08 (5) (b), 227.11 (2) (a), Stats.

Explanation of agency authority:

Examining boards are authorized by s.15.08 (5) (b), Stats., to promulgate rules that will provide guidance within the trade or profession to which it pertains. Section 227.11 (2) (a), Stats., authorizes examining board to promulgate rules that interpret any statute it

enforces or administers. The Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Professional Land Surveyors seek to promulgate rules that will provide guidance within the profession on the transition from registered land surveyors to licensed land surveyors.

Related statute or rule:

None.

Plain language analysis:

This proposed rule seeks to carry out the legislative intent of 2013 Wisconsin Act 358. The Act transformed land surveyor registration to land surveyor licensure and eliminated both the permit to practice land surveying for applicants with pending applications for registration and the apprenticeship pathway to registration. The Act also replaced the terms land surveyor, registered land surveyor, and surveyor with the term professional land surveyor. The proposed rule updates administrative rules in chs. A-E 1 to 10 to reflect these changes.

Summary of, and comparison with, existing or proposed federal regulation:

None

Comparison with rules in adjacent states:

Illinois: Illinois designates land surveyors as professional land surveyors. A person seeking licensure as a professional land surveyor by examination in Illinois must apply in writing on Department approved forms, must not have violated any provision of the Illinois Professional Land Surveyor Act of 1989, must be of good ethical character, must have been licensed as a land-surveyor in training, must have at least 4 years of responsible charge experience in land surveying after having passed the examination for licensure as a surveyor-in-training, must have a baccalaureate degree in land surveying, or a related science, from an accredited college or university, and must have passed an examination authorized by the Department to determine his or her fitness to receive a license as a professional land surveyor. 225 ICLS 330/12.

Iowa: Iowa does not designate land surveyors as professional land surveyors. Persons seeking a license as a land surveyor in Iowa must satisfy the education plus experience requirements as follows: graduation from a course of two years or more in mathematics, physical sciences, mapping and surveying, or engineering in a school or college and six years of practical experience, successfully complete the Fundamentals of Land Surveying examination, successfully complete the Principles and Practice of Land Surveying examination, complete a statement of approximately 200 words describing a significant project on which the applicant worked, provide references for applicants that must meet an experience requirement prior to taking an examination. 193C IAC 5.1 (2015).

Michigan: Michigan designates land surveyors as professional surveyors. The requirements for licensure include: passing the land surveying fundamentals examination and the professional practice examination, “or provide proof of qualification to practice land surveying acceptable to the department and the board.” MCLS §339.2004 (3). For admission to the professional surveying fundamentals examination applicants must provide, “an affidavit stating that a degree acceptable to the board shall be completed not later than 6 months after the date of the examination.” MCLS §339.2005 (3). Admission to the professional practice examination requires all of the following: “[d]ocumentation of not less than 8 years of professional experience in professional surveying satisfactory to the board of professional surveyors, including not more than 5 years of education. Evidence of completion of a degree in professional surveying or a related degree with professional surveying courses acceptable to the board of professional surveyors. Not less than 5 references, 3 of which shall be from licensed professional surveyors who have personal knowledge of the applicant's professional experience.

Minnesota: Minnesota does not designate land surveyors as professional land surveyors. Minnesota’s requirements for licensure include: educational requirements experience requirements and passing the professional examination.

Summary of factual data and analytical methodologies:

This proposed rule seeks to carry out the legislative intent of 2013 Wisconsin Act 358. Adjacent states’ statutes and administrative rules were also reviewed. The Section ensures the accuracy, integrity, objectivity and consistency of data was used in preparing the proposed rule and related analysis.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The rule will be posted for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government units, and individuals, for a period of 14 days.

Fiscal Estimate and Economic Impact Analysis:

~~The Fiscal Estimate and Economic Impact Analysis are attached.~~

The Department will solicit information and advice from businesses, local government units and individuals in order to prepare the Economic Impact Analysis.

Effect on small business:

These proposed rules do not have a negative economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Katie Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4472; email at Kathleen.Paff@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Katie Paff, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Kathleen.Paff@wisconsin.gov. ~~Comments must be received on or before * to be included in the record of rule-making proceedings.~~

TEXT OF RULE

SECTION 1. A-E 1.02 (1) is amended to read:

A-E 1.02 (1) “Board” or “joint board” means the examining board of architects, landscape architects, professional engineers, designers and professional land surveyors.

SECTION 2. A-E 2.01 is amended to read:

A-E 2.01 Purpose. The purpose of rules in this chapter is to specify general requirements and procedures which apply to persons credentialed by any section of the board. Requirements specific to architects, landscape architects, professional engineers, designers or professional land surveyors are specified in chs. A-E 3, 4, 5, 6, 7, 9, 10, 11, 12, and 13. Rules of professional conduct for all registrants or permit holders are specified in ch. A-E 8.

SECTION 3. A-E 2.02 (1), (4), and (6) are amended to read:

A-E 2.02 (1) Each architect, landscape architect, professional engineer, designer and professional land surveyor shall obtain a seal that complies with board specifications for registration seals. The overall diameter may not be less than 15/8 inches nor more than 2 inches. Each seal shall include the registrant's name, registration or permit number and city.

(4) Each sheet of plans, drawings, documents, specifications and reports for architectural, landscape architectural, professional engineering, design or professional land surveying practice shall be signed, sealed and dated by the registrant or permit holder who prepared, or directed and controlled preparation of, the written material, except as specified in sub. (5).

(6) Any addition, deletion or other revision to each sheet of plans, drawings, documents, specifications and reports for architectural, landscape architectural, professional engineering, design or professional land surveying practice which affects public health and safety or any state or local code requirements may not be made unless signed, sealed and dated by the registrant or permit holder who made or directed and controlled the making of the revision.

SECTION 4. A-E 2.03 (1) (a) and (b) and (2) (d) are amended to read:

A-E 2.03 (1) (a) "Firm" means any sole proprietorship, partnership or corporation located in Wisconsin which provides or offers to provide architectural, landscape architectural, professional engineering, design or professional land surveying services to the public.

(b) "Resident" means a currently-registered architect, landscape architect, professional engineer, designer or professional land surveyor who spends the majority of his or her working schedule in one firm location and who is in charge of and responsible for the type of services offered or provided from that location.

(2) (d) A resident professional land surveyor in each separate business location which provides or offers to provide professional land surveying services.

SECTION 5. Chapter A-E 6 (title) is amended to read:

PROFESSIONAL LAND SURVEYOR LICENSURE

SECTION 6. A-E 6.01 (intro) is amended to read:

A-E 6.01 Authority and purpose. The rules in this chapter are adopted under authority in ss. 15.08 (5) (b), 227.11, ~~443.01 (4)~~ 443.01 (6s) and 443.06, Stats. The purpose of rules in this chapter is to interpret basic education, experience and examination requirements for ~~registration~~ licensure as a professional land surveyor as specified in s. 443.06, Stats.

SECTION 7. A-E 6.02 (title) is amended to read:

A-E 6.02 Application for ~~registration~~ licensure.

SECTION 8. A-E 6.03 is amended to read:

A-E 6.03 Land surveying experience. (1) To qualify as "practice in professional land surveying work of a satisfactory character which indicates that the applicant is competent to be placed in responsible charge of such work" under s. 443.06, Stats., the experience of an applicant shall be in areas of professional land surveying practice designated under pars. (a) and (b), or other areas which, in the opinion of the board, provide the applicant with knowledge of practice of land surveying at least

equivalent to that which is generally acquired by experience in the areas listed. An applicant need not have experience in all areas listed below. However, all applicants shall have experience in the areas listed in par. (a) 1. and 2. Academic coursework which provides the applicant with knowledge and skills in some areas of practice listed in pars. (a) and (b) may be claimed as equivalent to experience.

SECTION 9. A-E 6.04 (title), (1) (intro.), (a), and (b), and (2) (a) and (b) are amended to read:

A-E 6.04 Educational requirements for professional land surveyors. (1) To meet the educational requirements of ~~s. 443.06 (2) (a)~~ and s. 443.06 (bm), Stats., an applicant for registration as a professional land surveyor shall have satisfactorily completed at least 60 semester credits in a civil engineering or land surveying curriculum including no less than 12 semester credits in professional land surveying which shall be in the following categories of study:

(a) No less than 8 of the 12 credits may be in courses concentrating on the legal principles of professional land surveying and the technical aspects of professional land surveying. These courses shall include areas of study such as research of public and private records, principles of evidence and the interpretation of written documents used in boundary determination, the study of the legal elements of professional land surveying including those involving resurveys, boundary disputes, defective descriptions, riparian rights and adverse possession, the study of the professional and judicial functions of a professional land surveyor, the study of surveying methods for measuring distance and angular values, note keeping, computation and writing descriptions and the study of the Wisconsin Statutes and local ordinances relating to the preparation of subdivision maps and plats.

(b) No more than 4 credits may be in courses related to professional land surveying such as "engineering surveying," "municipal surveying," "route surveying," "highway surveying," "topographic surveying," "geodetic surveying," "photogrammetry," "cartography," "construction surveying," "air photo interpretation," "artillery surveying," "geographic information systems," "land information systems" and remote sensing systems."

(2) To meet the educational requirements of s. 443.06 (2) (am), Stats., an applicant for registration as a professional land surveyor shall have done either of the following:

(a) Received a bachelor's degree in a course of study in professional land surveying of not less than 4 years duration from a college or university accredited by a regional accrediting agency approved by the state where the college or university is located.

(b) Received a bachelor's degree in civil engineering of not less than 4 years duration from a college or university accredited by a regional accrediting agency

approved by the state where the college or university is located. The curriculum shall include no less than 16 of 24 semester credits in courses concentrating on the legal principles of professional land surveying and the technical aspects of professional land surveying. These courses shall include areas of study such as research of public and private records, principles of evidence and the interpretation of written documents used in boundary determination, the study of the legal elements of professional land surveying including those involving resurveys, boundary disputes, defective descriptions, riparian rights and adverse possession, the study of the professional and judicial functions of a professional land surveyor, the study of surveying methods for measuring distance and angular values, note keeping, computation and writing descriptions and the study of the Wisconsin statutes and local ordinances relating to the preparation of subdivision maps and plats, other land divisions and real property creation. The applicant may be allowed to receive up to 8 credits in certain other courses relating to surveying. These courses may include "engineering surveying," "municipal surveying," "route surveying," "highway surveying," "topographic surveying," "geodetic surveying," "photogrammetry," "cartography," "construction surveying," "air photo interpretation," "artillery surveying," "geographic information systems," "land information systems" and "remote sensing systems."

SECTION 10. A-E 6.05 (1) and (2) (b) are amended to read:

A-E 6.05 (1) LAND SURVEYOR EXAMINATION REQUIRED. Applicants for ~~registration~~ licensure as a professional land surveyor shall take and pass an examination. The examination parts are the national fundamentals of surveying examination, the national principles and practice of surveying examination and the state jurisdictional examination, which is relative to Wisconsin specific practice. Each of the 3 required examinations is scored separately.

(2) (b) The national principles and practice examination and the state jurisdictional examination require an ability to apply principles and judgment to problems involving the U.S. system of public land surveys, Wisconsin plane coordinate surveys, the relocation of lost and obliterated corners, the legal essentials of resurveys, disputed boundaries, defective deed descriptions, riparian rights, adverse possession, the Wisconsin statutes relating to land surveying including the preparation and filing of plats, the writing and interpreting of land descriptions, the technical essentials of professional land surveying and subdivision of lands including practical problems requiring a knowledge of the basic theory and fundamental concepts of field astronomy, geometry of curves, topography and photogrammetry.

SECTION 11. A-E 6.05 (10) is amended to read:

A-E 6.05 (10) CHEATING. Any applicant for ~~registration~~ licensure who receives aid or cheats in any other manner in connection with the examination shall be barred from completing the examination or shall not be given a passing grade, or both.

SECTION 12. A-E 6.06 (intro.) is amended to read:

A-E 6.06 Application contents. An application for ~~registration~~ licensure shall include all of the following:

SECTION 13. A-E 6.07 is repealed.

SECTION 14. A-E 7.01 (2) (intro.) is amended to read:

A-E 7.01 (2) The professional land surveyor and his or her client or employer may agree in a signed statement to exclude any professional land surveying work from the requirements of this chapter except the preparation of a U.S. public land survey monument record and a map of work performed. The map prepared by the professional land surveyor for the client or employer shall include:

SECTION 15. A-E 7.03 is amended to read:

A-E 7.03 Boundary location. Every property survey shall be made in accordance with the records of the register of deeds as nearly as is practicable. The professional land surveyor shall acquire data necessary to retrace record title boundaries such as deeds, maps, certificates of title and center line and other boundary line locations. The professional land surveyor shall analyze the data and make a careful determination of the position of the boundaries of the parcel being surveyed. The professional land surveyor shall make a field survey, traversing and connecting monuments necessary for location of the parcel and coordinate the facts of the survey with the analysis. The professional land surveyor shall set monuments marking the corners of the parcel unless monuments already exist at the corners.

SECTION 16. A-E 7.05 (6) is amended to read:

A-E 7.05 (6) Bear the stamp or seal and signature of the professional land surveyor under whose direction and control the survey was made with a statement certifying that the survey is correct to the best of the surveyor's knowledge and belief.

SECTION 17. A-E 7.08 (1) (b), (3) (b) and (i) are amended to read:

A-E 7.08 (1) (b) The professional land surveyor who performs the survey accepts a location for the U.S. public land survey corner which differs from that shown on a U.S. public land survey monument record filed in the office of the county surveyor or register of deeds for the county in which the corner is located; or,

(3) (b) A description of any record evidence, monument evidence, occupational evidence, testimonial evidence or any other material evidence considered by the professional land surveyor, and whether the monument was found or placed.

(3) (i) The stamp and signature or seal and signature of the professional land surveyor under whose direction and control the corner location was determined and a

statement certifying that the U.S. public land survey monument record is correct and complete to the best of his or her knowledge and belief.

SECTION 18. A-E 8.02 is amended to read:

A-E 8.02 Intent. The intent of the examining board in adopting this chapter is to establish rules of professional conduct for the professions of architecture, landscape architecture, professional engineering, designing and professional land surveying. A violation of any standard specified in this chapter may result in disciplinary action under ss. 443.11 to 443.13, Stats.

SECTION 19. A-E 8.03 (1), (3) (intro.), and (3) (a) are amended to read:

A-E 8.03 (1) "Gross negligence in the practice of architecture, landscape architecture, professional engineering, designing or professional land surveying" means the performance of professional services by an architect, landscape architect, professional engineer, designer or professional land surveyor which does not comply with an acceptable standard of practice that has a significant relationship to the protection of health, safety or public welfare and is performed in a manner indicating that the professional knew or should have known, but acted with indifference to or disregard of, the accepted standard of practice.

(3) "Misconduct in the practice of architecture, landscape architecture, professional engineering, designing or professional land surveying" means an act performed by an architect, landscape architect, professional engineer, designer or professional land surveyor in the course of the profession which jeopardizes the interest of the public, including any of the following:

(3) (a) Violation of federal or state laws, local ordinances or administrative rules relating to the practice of architecture, landscape architecture, professional engineering, designing or professional land surveying.

SECTION 20. A-E 8.03 (5) (c) 4. and 5. are amended to read:

A-E 8.03 (5) (c) 4. Mere assumption by an architect, landscape architect, professional engineer, designer or professional land surveyor of responsibility for work without having control of the work.

5. Assuming charge, control or direct supervision of work in which the architect, landscape architect, professional engineer, designer or professional land surveyor does not have technical proficiency.

SECTION 21. A-E 8.04 (intro.), (1), and (3) are amended to read:

A-E 8.04 Offers to perform services shall be truthful. When offering to perform professional services, an architect, landscape architect, professional engineer, designer or professional land surveyor:

(1) Shall accurately and truthfully represent to a prospective client or employer the capabilities and qualifications which the registrant or licensee has to perform the services to be rendered.

(3) May not offer to perform, nor perform, services which the registrant or licensee is not qualified to perform by education or experience without retaining the services of another who is qualified.

SECTION 22. A-E 8.05 (1) (intro.), (1) (a), (1) (c) and (2) are amended to read:

A-E 8.05 Conflicts of Interest. (1) An architect, landscape architect, professional engineer, designer or professional land surveyor:

(1) (a) Shall avoid conflicts of interest. If an unavoidable conflict of interest arises, the registrant or licensee shall immediately inform the client or employer of all the circumstances which may interfere with or impair the ~~registrant's~~ registrant or licensee's obligation to provide professional services. Under these circumstances a registrant or licensee may not proceed to provide professional services without the full approval and consent of the client or employer.

(c) May not agree to perform professional services for a client or employer if the registrant or licensee has a significant financial or other interest which would impair or interfere with the ~~registrant's~~ registrant or licensee's responsibility to faithfully discharge professional services on behalf of the client or employer.

(2) Nothing in these rules limits a ~~registrant's~~ registrant or a licensee's professional responsibility to an owner of a project when the registrant or licensee is employed by a person or firm under contract to construct and furnish design services for that project.

SECTION 23. A-E 8.06 (intro.), (2), and (3) are amended to read:

A-E 8.06 Professional obligations. An architect, landscape architect, professional engineer, designer or professional land surveyor:

(2) May not evade the professional or contractual responsibility which the registrant or licensee has to a client or employer.

(3) May not enter into an agreement which provides that a person not legally and actually qualified to perform professional services has control over the ~~registrant's~~ registrant or licensee's judgment as related to public health, safety or welfare.

SECTION 24. A-E 8.07 (intro.), (1), and (2) are amended to read:

A-E 8.07 Unauthorized practice. An architect, landscape architect, professional engineer, designer, or professional land surveyor:

(1) Shall assist in enforcing laws which prohibit the unlicensed practice of architecture, landscape architecture, professional engineering, designing, and professional land surveying by reporting violations to the board.

(2) May not delegate professional responsibility to unlicensed persons and may not otherwise aid or abet the unlicensed practice of architecture, landscape architecture, professional engineering, designing, or professional land surveying.

SECTION 25. A-E 8.07 (2) (Note) is repealed.

SECTION 26. A-E 8.08 (intro.), (3), and (4) are amended to read:

A-E 8.08 Maintenance of professional standards. An architect, landscape architect, professional engineer, designer or professional land surveyor:

(3) Shall respond in a timely manner to a request by the board, a section of the board or the department for information in conjunction with an investigation of a complaint filed against a registrant or licensee. There is a rebuttable presumption that a registrant or licensee who takes longer than 30 days to respond to a request for information has not acted in a timely manner.

(4) Shall notify the department in writing if the registrant or licensee has been disciplined for unprofessional conduct in other states where the registrant or licensee holds a credential or has violated federal or state laws, local ordinances or administrative rules, not otherwise reportable under s. SPS 4.09 (2), which are related to the practice of an architect, landscape architect, professional engineer, designer or professional land surveyor. The notification shall be submitted within 48 hours of the disciplinary finding or violation of law and shall include copies of the findings, judgments and orders so that the department may determine whether the circumstances are substantially related to the practice of the registrant or licensee.

SECTION 27. A-E 8.09 (intro.), (1), and (2) are amended to read:

A-E 8.09 Adherence to statutes and rules. An architect, landscape architect, professional engineer, designer or professional land surveyor:

(1) Shall comply with the requirements in ch. 443, Stats., rules in this chapter and all other federal, state and local codes which relate to the practice of architecture, landscape architecture, professional engineering, designing and professional land surveying.

(2) May not engage in conduct that may adversely affect his or her fitness to practice architecture, landscape architecture, professional engineering, designing or professional land surveying.

SECTION 28. A-E 8.10 (2) and (3) are amended to read:

A-E 8.10 (2) No professional land surveyor may sign, seal or stamp any maps, plats, charts, or reports for professional land surveying practice which are not prepared by the professional land surveyor or under his or her personal direction and control.

(3) No architect, landscape architect, professional engineer, designer or professional land surveyor shall allow work performed by him or her or under his or her personal direction and control to be signed, sealed or stamped by another except that an architect, landscape architect, professional engineer, designer or professional land surveyor working under the personal direction and control of another registrant or licensee may allow that registrant or licensee to sign and seal or stamp the work.

SECTION 29. A-E 8.11 (intro.), and (1) to (4) are amended to read:

A-E 8.11 Suspension of registration; effect. Any registrant or licensee whose registration or license has been suspended is prohibited during the term of the suspension from engaging in any of the following:

(1) Offering to perform any service which requires registration or licensure.

(2) Performing any professional service which requires registration or licensure.

(3) Signing or sealing plans, specifications, reports, maps, plats, or charts prepared for the practice of architecture, landscape architecture, professional engineering, designing or professional land surveying.

(4) Entering into contracts the performance of which require registration or licensure.

SECTION 30. Chapter A-E 10 (title) is amended to read:

CONTINUING EDUCATION FOR
PROFESSIONAL LAND SURVEYORS

SECTION 31. A-E 10.01 is amended to read:

A-E 10.01 Authority and purpose. The rules in this chapter are adopted under the authority in ss. 15.08 (5) (b), 227.11 (2) and 443.015, Stats., and govern biennial continuing education of professional land ~~surveyor registrants~~ surveyors.

SECTION 32. A-E 10.02 (2) to (4) are amended to read:

A-E 10.02 (2) "Continuing education" means the planned, professional development activities designed to contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the ~~registrant~~ licensee in the practice of professional land surveying and for improvement of the safety and welfare of the public.

(3) "Professional development activities" means organized educational programs on topics related to the practice or theory of professional land surveying and which foster the enhancement of general or specialized knowledge, practice and values of professional land surveying.

(4) "Professional development hour" or "PDH", unless specified otherwise, means 50 minutes of instruction or participation spent by the ~~registrant~~ licensee in actual attendance or completion of an approved educational activity.

SECTION 33. A-E 10.03 (1) (a), (b) (intro.) and 3. are amended to read:

A-E 10.03 (1) (a) Beginning in the February 2012 biennial registration period, unless granted a waiver under s. A-E 10.07, every ~~registrant~~ licensee shall complete at least 20 hours of approved professional development hours or equivalent continuing education hours, pertinent to the practice of professional land surveying, except that between initial ~~registration licensure~~ and the first renewal period, a new ~~registrant~~ licensee shall not be required to comply with the continuing education requirements for the first renewal of ~~registration licensure~~.

(b) During each biennial registration period, the ~~registrant~~ licensee shall complete a minimum of 2 professional development hours of the total number required in each of the following categories:

(b) 3. Programs, courses or activities in the area of professional land surveying or related sciences.

SECTION 34. A-E 10.03 (2) (b) to (d), (g) and (4) are amended to read:

A-E 10.03 (2) (b) Successful completion of a college or university course in the area of professional land surveying, related sciences or surveying ethics. One semester credit hour of course work is equivalent to 20 professional development hours and one quarter credit hour of course work is equivalent to 13.5 professional development hours.

(2) (c) Successful completion of professional land surveying courses or programs offering professional development hours on professional land surveying topics.

(2) (d) Active participation and successful completion of professional land surveying programs, seminars, tutorials, workshops, short courses or in-house courses.

(2) (g) Authoring professional land surveying related papers or articles that appear in circulated journals or trade magazines. Credit is earned in the biennium of publication. A maximum of 5 professional development hours per renewal will be awarded for this activity.

(4) A professional land surveyor who fails to meet the continuing education or professional development hours by the renewal date, as specified in s. 440.08 (2) (a) 39., Stats., may not engage in the practice of professional land surveying until the ~~registration~~ licensure is renewed based upon proof of compliance with the continuing education requirements.

SECTION 35. A-E 10.04 (1) (a) and (c), (2) (intro.) and (e), (3), and (4) are amended to read:

A-E 10.04 (1) (a) The program includes instruction in an organized method of learning contributing directly to the professional competency of the ~~registrant~~ licensee and pertains to subject matters which integrally relate to the practice of the profession.

(1) (c) The program provides proof of attendance by the ~~registrants~~ licensee and fulfills pre-established goals and objectives.

(2) The professional land surveyor section may approve providers for continuing education programs including the following:

(2) (e) Colleges, universities or other educational institutions approved by the professional land surveyor section.

(3) An advisory committee selected by the professional land surveyor section will make recommendations as to approval of courses, credit, PDH value for courses and other methods of earning credit.

(4) Credit for college or technical school courses approved by the professional land surveyor section shall be based upon course credit established by the college or technical school.

SECTION 36. A-E 10.04 (2) (d) is repealed.

SECTION 37. A-E 10.05 (1) to (5) is amended to read:

A-E 10.05 (1) Each ~~registrant~~ licensee shall certify on the renewal application full compliance with the continuing education requirements set forth in this chapter.

(2) The professional land surveyor section may conduct a random audit of its ~~registrants~~ licensees on a biennial basis for compliance with these requirements. It is the responsibility of each ~~registrant~~ licensee to retain or otherwise produce evidence of compliance.

(3) The professional land surveyor section may require additional evidence demonstrating compliance with the continuing education requirements, including a certificate of attendance or documentation of completion or credit for the courses completed.

(4) If there appears to be a lack of compliance with the continuing education or professional development requirements, the professional land surveyor section shall notify a ~~registrant~~ licensee in writing and request submission of evidence of compliance within 30 days of the notice.

(5) The professional land surveyor section may require a ~~registrant~~ licensee to appear for an interview to address any deficiency or lack of compliance with the continuing education or professional development requirements.

SECTION 38. A-E 10.06 (intro.) is amended to read:

A-E 10.06 Recordkeeping. It shall be the responsibility of the ~~registrant~~ licensee to maintain records of continuing education or professional development hours for at least 2 bienniums from the date the certificate or statement of attendance is signed. The recordkeeping shall include all of the following:

SECTION 39. A-E 10.07 (1) and (2) (d) are amended to read:

A-E 10.07 (1) A renewal applicant seeking renewal of ~~registration~~ licensure without having fully complied with the continuing education requirements shall file a renewal application along with the required fee, and a statement setting forth the facts concerning non-compliance and requesting a waiver of the requirements. The request for waiver shall be made prior to the renewal date. Extreme hardship shall be determined on an individual basis by the professional land surveyor section. If the professional land surveyor section finds from the affidavit or any other evidence submitted that extreme hardship has been shown, the professional land surveyor section shall waive enforcement of the continuing education requirements for the applicable renewal period.

(2) (d) A retirement from the occupation of professional land surveying whereby the renewal applicant no longer ~~receives remuneration from providing~~ provides professional land surveying services.

SECTION 40. A-E 10.08 is amended to read:

A-E 10.08 Comity. An applicant for registration from another state who applies for registration to practice professional land surveying under s. A-E 6.06, shall submit proof of completion of continuing education obtained in another jurisdiction within the 2 years prior to application.

SECTION 41. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Board Chairperson
Examining Board of Architects, Landscape
Architects, Professional Engineers,
Designers and Land Surveyors