

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.)

Prepared By: Judiciary Committee

BILL: CS/SB 2050

SPONSOR: Judiciary Committee and Senator Aronberg

SUBJECT: Land Surveying and Mapping

DATE: April 28, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sumner</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/2 amendments</u>
2.	<u>Sumner</u>	<u>Maclure</u>	<u>JU</u>	<u>Fav/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The committee substitute (CS) provide that an applicant shall be entitled to take the licensure examination if the applicant received a degree in surveying and mapping of four years or more in a surveying and mapping degree program from a college or university recognized by the board and has a specific experience record of four or more years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping.

The CS requires surveyors and mappers taking the licensure exam in Florida to complete a minimum of 25 semester hours from a college or university approved by the Board of Professional Surveyors and Mappers (board).

The CS allows photogrammetrists (surveyors who make maps from aerial photographs) to qualify for licensure as a surveyor and mapper in Florida if they meet certain educational criteria approved by the board. It requires that the applicant must have applied to the Department of Business and Professional Regulation (department) for licensure on or before July 1, 2007.

The CS revises liability of surveyor and mapper partnership and partners providing that they shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity.

It provides that business entities other than a partnership shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by an employee under the direct supervision and control while rendering professional services on behalf of the business organization.

It provides that a shareholder's or owner of a business organization's personal liability, in their capacity as a shareholder or owner shall be no greater than that of a shareholder-employee of a corporation.

It provides that a business organization shall be liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on its behalf in the rendering of professional services.

The CS deletes the provision that a corporation and stockholders, who are surveyors and mappers, or partnerships, and all partners, shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, officers, or partners while acting in a professional capacity.

It conforms the chapter terminology to "photogrammetrist," which is the latest terminology for a photogrammetric mapper.

This CS substantially amends sections of the Florida Statutes: 472.005, 472.007, 472.013, 472.015, and 472.021.

II. Present Situation:

Section 472.013, F.S., provides that surveyors and mappers who wish to take the licensure exam must be of good moral character and meet the following requirements:

- The applicant is a graduate of an approved course of study in surveying and mapping from a college and university approved by the board and four years of experience subordinate to a professional surveyor and mapper. The course of study must include 32 semester hours of study in surveying and mapping.¹
- The applicant is a graduate of a four year course of study, other than surveying and mapping at an accredited college or university. The applicant must have a specific experience record of six or more years as a subordinate to a registered surveyor and mapper in the active practice of surveying and mapping. Five of the six years are required to be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed.²

The course of study in disciplines other than surveying and mapping must have included no fewer than 32 hours of study or its academic equivalent, 25 semester hours of which shall be in surveying and mapping subjects or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences. Work experience acquired as a part of the education requirement shall not be construed as experience in responsible charge.

¹ Section 472.013(2)(a), F.S.

² Section 472.013(2)(b), F.S.

On March 11, 2005, the Fifth District Court of Appeal held that that the interpretation by the board of s. 472.013(2)(a), F.S., required a four-year degree was unreasonable when read in comparison to the requirements set forth in s. 472.013(2)(b), F.S.³ Section 472.013(2)(a), F.S., requires that the applicant be a graduate of an approved course of study in surveying and mapping from a college or university recognized by the board. The court states that an “approved course of study,” as stated by the board, could be from colleges that offer degrees other than four-year degrees.

Section 472.015, F.S., in part, sets for the criteria for licensure by endorsement for practicing out of state surveyors and mappers. The board is required to certify an applicant for licensure, if the surveyor or mapper held a valid license from another state prior to July 1, 1999, passed a national, regional, state or territorial licensing examination that is substantially equivalent to the examination required by the s. 472.013, F.S., and has eight years experience, six years which must have been as a person in responsible charge of the accuracy and correctness of the surveying and mapping work performed. The section also provides that the person can also hold a license from another state or territory that has substantially the same as the licensure criteria that existed in Florida at the time the license was issued.

The Florida Surveying and Mapping Society (FSMS) states that the licensure by endorsement requirements places a barrier to qualified practicing photogrammetrists from other areas of the country by requiring each applicant to work under a licensed photogrammetrist for six years.

According to the FSMS, Florida was the first state to require professional licensure for photogrammetrists. The society states that while many Florida photogrammetrists took advantage of the grandfathering period, those practicing outside of the state did not. However, photogrammetrists are not defined by statute.

Section 472.005, F.S., defines “photogrammetric mapper” as any person who engages in the practice of surveying and mapping using aerial or terrestrial photography or other sources of images.

Section 472.021(3), F.S., provides for the following liability provisions:

(3) The fact that any registered surveyor and mapper practices through a corporation or partnership shall not relieve the registrant from personal liability for negligence, misconduct, or wrongful acts committed by him or her. Corporations and stockholders who are surveyors and mappers, or partnerships, and all partners, shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, officers, or partners while acting in a professional capacity.

Section 481.319(6), F.S., regarding the certificate of authorization for corporations and partnerships practicing landscape architecture has the following language regarding liability:

³ *Osorio v. Board of Professional Surveyors and Mappers*, 2005 WL 56735 (Fla. 5th DCA, 2005).

(6) The fact that registered landscape architects practice landscape architecture through a corporation or partnership as provided in this section shall not relieve any landscape architect from personal liability for his or her professional acts.

The certification of partnerships and corporations for the practice of architecture under s. 481.219(11), F.S., has the following liability provisions:

(11) No corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section. However, the architect who signs and seals the construction documents and instruments of service shall be liable for the professional services performed, and the interior designer who signs and seals the interior design drawings, plans, or specifications shall be liable for the professional services performed.

No other similar language appears to exist in the statutes governing professions under the Department of Business and Professional Regulation.

III. Effect of Proposed Changes:

Sections 1 and 2 amend the definition in s. 472.005(8), F.S., and s. 472.007, F.S., by conforming the chapter terminology to “photogrammetrist,” which is the latest terminology for a photogrammetric mapper.

Section 3 amends s. 472.013(2)(a), F.S., to provide that an applicant shall be entitled to take the licensure examination if the applicant received a degree in surveying and mapping of four years or more in a surveying and mapping degree program from a college or university recognized by the board and has a specific experience record of four or more years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping.

It amends s. 472.013(2)(b), F.S., to provide that a surveyor and mapper applicant must have completed a minimum of 25 semester hours from a college or university approved by the board. It provides that any of the required 25 semester hours of study completed not as a part of the four-year course of study shall be approved at the discretion of the board.

The FMSA states that this revision will allow qualified applicants, who often discover surveying as a career after they enter the workforce in another field, to take the required 25 semester hours of college courses without acquiring a second degree.

Section 4 creates a subsection of s. 472.015(3)(a)3., F.S., to provide that the board of surveyors and mappers shall certify for endorsement an applicant for licensure who:

- is a practicing photogrammetrist who holds the Certified Photogrammetrist designation of the American Society for Photogrammetry and Remote Sensing and held such designation on or before July 1, 2005;
- is a graduate of a four-year course of study at an accredited college or university; and

- has a specific experience record of six or more years as a subordinate to a Certified Photogrammetrist of the American Society for Photogrammetry and Remote Sensing in the active practice of surveying and mapping, five years of which shall be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed.

The committee substitute provides that the course of study must have included not fewer than 32 semester hours of study or its academic equivalent. The applicant must have completed a minimum of 25 semester hours from a college or university approved by the board in surveying and mapping subject or in any combination of courses:

- in civil engineering
- surveying
- mapping
- mathematics
- photogrammetry
- forestry or
- land law and the physical sciences.

Any of the required 25 semester hours of study completed not as a part of the four-year course of study shall be approved at the discretion of the board. Work experience acquired as a part of the education requirement shall not be construed as experience in responsible charge and the applicant must have applied to the department for licensure on or before July 1, 2007.

According to the FSMA, these changes address the issue that photogrammetry is a new phenomenon in the United States and is being promoted across the country, but to date only a handful of states require licensure for the profession. As a result, the FSMA states, it is practically impossible for practicing photogrammetrists to work under the direction of a state licensed professional.

Section 5 amends s. 472.021, F.S., to provide that surveyor and mapper partnerships and all partners shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity.

It provides that any officer, agent, or employee of a business organization other than a partnership shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by him or her or committed by any person under his or her direct supervision and control while rendering professional services on behalf of the business organization. Business organization is not defined in ch. 472, F.S.

It provides that the personal liability of a shareholder or owner of a business organization, in his or her capacity as shareholder or owner, shall be no greater than that of a shareholder-employee of a corporation incorporated under ch. 607, F.S. The business organization shall be liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on its behalf in the rendering of professional services

According to the FSMA, these changes make the scope of the surveyor's professional liability consistent with that of other professionals operating in professional corporations or partnerships.

The language is identical to the language in s. 471.023(3), F.S., for certification of business organizations practicing engineering. Business organization is defined in this section as a partnership, corporation, business trust, or other legal entity.

The CS deletes the provision that provided that corporation and stockholders who are surveyors and mappers, or partnerships, and all partners, shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, officers, or partners while acting in a professional capacity.

Section 6 provides an effective date of July 1, 2005.

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:

According to the department, the committee substitute will have a minimal impact on the number of new licensees. The department estimates that the amendments to s. 472.013, F.S., will permit the board to approve applicants that would not qualify for examination under the existing statute, resulting in a minimal increase in the number of examination candidates and therefore licensees. The estimate would add between 10-15 additional endorsement applicants per year. There are currently between 350-400 examination and endorsement applicants.

The department estimates that the requirements and time limitation imposed by the amendments to s. 472.015, F.S., will result in a minimal increase of between 5-10 additional applicants per year.

The department states that no fiscal impact will result to the amendments of s. 472.021, F.S.

VI. Technical Deficiencies:

Business organization is referred to in section 5, but is not defined in the committee substitute or in ch. 472, F.S. Section 472.021, F.S., currently refers only to corporations and partnerships.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
