

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 496 Session of
2005

INTRODUCED BY CORNELL, WALKO, RUBLEY, REICHLEY, PHILLIPS,
O'NEILL, NAILOR, STERN, GEIST, SOLOBAY, THOMAS, J. EVANS,
BUNT, CALTAGIRONE, GINGRICH, GRELL, WATSON, E. Z. TAYLOR,
PICKETT, HARPER, HESS, J. TAYLOR, GOODMAN AND DENLINGER,
FEBRUARY 14, 2005

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
NOVEMBER 21, 2005

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, providing for the offense of the destruction of a
4 survey monument; further providing for actions relating to
5 land surveying; and making an editorial change.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Title 18 of the Pennsylvania Consolidated
9 Statutes is amended by adding a section to read:

10 § 3311. Destruction of a survey monument.

11 (a) Offense defined.--A person commits a summary offense if
12 he intentionally cuts, injures, damages, destroys, defaces or
13 removes any survey monument or marker. A person commits a
14 misdemeanor of the second degree if he willfully or maliciously
15 cuts, injures, damages, destroys, defaces or removes any survey
16 monument or marker in order to call into question a boundary
17 line.

1 (b) Restitution.--Any person convicted of violating this
2 section shall, in addition to any other penalty imposed, be
3 liable for the cost of the reestablishment of permanent survey
4 monuments or markers by a professional land surveyor and all
5 reasonable attorney fees.

6 (C) AFFIRMATIVE DEFENSE.--IT IS AN AFFIRMATIVE DEFENSE TO <—
7 ANY PROSECUTION FOR AN OFFENSE UNDER THIS SECTION THAT THE
8 SURVEY MONUMENT OR MARKER WAS IMPROPERLY PLACED BY A
9 PROFESSIONAL LAND SURVEYOR.

10 ~~(e)~~ (D) Definitions.--As used in this section, the following <—
11 words and phrases shall have the meanings given to them in this
12 subsection:

13 "Professional land surveyor." As defined under the act of
14 May 23, 1945 (P.L.913, No.367), known as the Engineer, Land
15 Surveyor and Geologist Registration Law.

16 "Survey monument or marker." Any object adopted or placed by
17 a professional land surveyor to define the boundaries of a
18 property, including, but not limited to, natural objects such as
19 trees or streams, or artificial monuments such as iron pins,
20 concrete monuments, set stones or party walls.

21 Section 2. Section 5537 of Title 42 is amended to read:
22 § 5537. Land surveying.

23 All actions to recover any or all damages against any person
24 engaged in the practice of land surveying occurring as the
25 result of any deficiency, defect, omission, error or
26 miscalculation shall be commenced within [21] 12 years from the
27 time the services are performed. Any such action not commenced
28 within this [21-year] 12-year period shall be forever barred.

29 The cause of action in such cases shall accrue when the services
30 are performed. Furthermore, any action shall be commenced within

1 four years from the time that such cause of action was
2 discovered, but no later than during this [21-year] 12-year
3 limitation period. In any event, no action shall be commenced
4 after the [21] 12 years from the time that the services are
5 performed. The term "practice of land surveying" shall be the
6 same as defined under the act of May 23, 1945 (P.L.913, No.367),
7 known as the [Professional Engineers] Engineer, Land Surveyor
8 and Geologist Registration Law.

9 Section 3. This act shall take effect in 60 days.