

45:8-44.1 to 45:8-44.5

LEGISLATIVE HISTORY CHECKLIST

NJSA: 45:8-44.1 to 45:8-44.5 (Land surveyors -- permit entry onto property of third party)

LAWS OF: 1983

CHAPTER: 460

Bill No: A75

Sponsor(s): Albohn

Date Introduced: Pre-filed

Committee: **Assembly:** Municipal Government

Senate: Labor, Industry and Professions

Amended during passage: YES **Amendments denoted by asterisks**
According to Governor's recommendations

Date of Passage: **Assembly:** November 15, 1982 Re-enacted 12/8/83

Senate: June 23, 1983 Re-enacted 1/9/84

Date of Approval: January 12, 1983

Following statements are attached if available:

Sponsor statement: YES

Committee statement: **Assembly** YES

Senate YES

Fiscal Note: NO

Veto Message: YES

Message on Signing: NO

Following were printed:

Reports: NO

Hearings: NO

DEPOSITORY COPY
Do Not Remove From Library

LAW LIBRARY COPY
DO NOT REMOVE

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 75

LAW LIBRARY COPY
DO NOT REMOVESTATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Assemblyman ALBOHN

AN ACT authorizing ****[licensed professional engineers and]****
 licensed professional land surveyors to enter lands of third
 parties under certain circumstances.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
 2 *of New Jersey:*

1 1. A person licensed to practice ****[professional engineering**
 2 **or]**** land surveying as provided in P. L. 1938, c. 342 (C. 45:8-27
 3 et seq.) and any of his agents, servants or employees under his
 4 direction who are necessary to make a land survey shall have the
 5 authority to go on, over and upon lands of others during reason-
 6 able hours when necessary to make land surveys if:

7 ****[a. The licensed professional engineer or the licensed profes-**
 8 **sional land surveyor **[has]***, *having* made a reasonable attempt**
 9 **to notify the owner of the land or, in the case of a lease, the lessee**
 10 **thereof, of his desire to enter on, over and upon the owner's or**
 11 **lessee's land to make a land survey **[and]***,* has failed in that**
 12 **attempt and has, therewith, given written notice, 7 days prior to**
 13 **such proposed entry, to the municipal police department of the**
 14 **municipality in which such land is located of his intention to so**
 15 **enter, containing his name, address, and telephone number and the**
 16 **date, time and location of such proposed entry; and,]****

16A ****a. *The licensed professional land surveyor has made a reason-***
 16B ***able attempt, as defined in this section, to notify the owner of the***
 16C ***land and, in the case of a lease, the lessee thereof, of his desire to***
 16D ***enter on, over and upon the owner's or lessee's land to make a***
 16E ***land survey and, the attempt having failed, the licensed profes-***

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
 is not enacted and is intended to be omitted in the law.**

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Assembly committee amendments adopted June 17, 1982.**

****—Assembly amendments adopted in accordance with Governor's recom-
 mendations November 21, 1983.**

16f sional land surveyor has given written notice, seven days prior
 16g to the proposed entry, to the municipal police department of the
 16h municipality in which the land is located of his intention to enter,
 16i containing the names, addresses, and telephone numbers of those
 16j who propose to enter the land and the date, time, duration, and
 16k location of the proposed entry; and,**

17 b. The land or any part thereof, to which entry is sought, is not
 18 enclosed by a constructed or natural barrier which is at least 6
 19 feet in height or is not posted with signs or notices which prohibit
 20 trespassing and contain the name and address of the owner or
 21 lessee of the land**[.]** **,****

22 ***c. As used in this section, a "reasonable attempt" to notify an*
 23 *owner or lessee means: an attempt to seek acknowledgment of the*
 24 *owner of the land and, in the case of a lease, the lessee thereof, by*
 25 *certified mail, return receipt requested, the attempt to be made a*
 26 *second time if unsuccessful the first time and a third time if unsuc-*
 27 *cessful the second time, each attempt to be made on a separate*
 28 *business day.***

29 **2.* Any entry under the right granted in this *[section]* *act**
 30 *shall not constitute trespass nor shall **[the licensed professional*
 31 *engineer or]** the licensed professional land surveyor or his*
 32 *agents, servants or employees be liable to arrest or civil action by*
 33 *reason of the entry.*

1 **[2.]* *3.* Nothing in this act shall be construed as given **[the*
 2 *licensed professional engineer or]** the licensed professional land*
 3 *surveyor or his agents, servants or employees any right to destroy,*
 4 *injure or damage the land or any person or property on the land of*
 5 *another. A **[licensed professional engineer or]** licensed pro-*
 6 *fessional land surveyor or his agents, servants or employees shall*
 7 *be liable for any such destruction, injury or damage which he is*
 8 *found to have caused to such persons, property or land.*

1 **[3.]* *4.* Neither the owner of the land nor the lessee thereof*
 2 *shall be liable to **[a licensed professional engineer or]** a*
 3 *licensed professional land surveyor or his agents, servants or*
 4 *employees or any other person for any destruction, injury or*
 5 *damage, which was not willfully or maliciously done by the owner*
 6 *or lessee, to property or persons resulting from the **[licensed*
 7 *professional engineer or]** licensed professional land surveyor*
 8 *or his agents, servants or employees going on, over and upon such*
 9 *lands under the provisions of this act.*

1 **5. This act shall not apply to lands traversed by an operating*
 2 *railroad.**

1 **[4.]* *6.* This act shall take effect immediately.*

1 2. Nothing in this act shall be construed as given the licensed
 2 professional engineer or the licensed professional land surveyor
 3 or his agents, servants or employees any right to destroy, injure
 4 or damage the land or any person or property on the land of
 5 another. A licensed professional engineer or licensed professional
 6 land surveyor or his agents, servants or employees shall be liable
 7 for any such destruction, injury or damage which he is found to
 8 have caused to such persons, property or land.

1 3. Neither the owner of the land nor the lessee thereof shall be
 2 liable to a licensed professional engineer or a licensed professional
 3 land surveyor or his agents, servants or employees or any other
 4 person for any destruction, injury or damage, which was not
 5 willfully or maliciously done by the owner or lessee, to property
 6 or persons resulting from the licensed professional engineer or
 7 licensed professional land surveyor or his agents, servants or
 8 employees going on, over and upon such lands under the provisions
 9 of this act.

1 4. This act shall take effect immediately.

SPONSOR'S STATEMENT

This bill provides that a licensed engineer or land surveyor and his employees may go on the lands of others during reasonable hours to make a land survey under the following circumstances. The engineer or land surveyor must attempt to contact the owner or lessee of the land to request permission to enter the land. If he fails in his attempt to contact the owner or lessee, he must then give 7 days' written notice of the proposed entry to the municipal police before he or his employees may enter. However, if, in addition, the land is enclosed by a constructed or natural barrier 6 feet or over in height or is posted with notices which prohibit trespassing and have the name and address of the owner or lessee of the land thereon, the engineer or land surveyor or his employees would not be allowed to enter unless he receives permission from the owner or lessee.

If the engineer or land surveyor complies with the foregoing requirements, he and his employees would not be liable to arrest or civil action for trespass.

An engineer, land surveyor or employee who enters lands under the provisions of this bill would be liable for any injury or damage which he is found to have caused during the entry. The bill further provides that the owner or lessee of the land which is entered would not be liable for any injury or damage, which was not willfully or maliciously caused by the owner or lessee, to the engineer or land surveyor, his employees or equipment during the entry.

A75(1982)

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 75

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 20, 1982

Assembly Bill No. 75 would permit licensed professional engineers, land surveyors, and their employees to enter on the lands of third parties to make land surveys under certain circumstances.

Under the provisions of the bill, professional engineers, land surveyors, and their employees would be permitted to enter on the lands of third parties during reasonable hours to make land surveys if:

a. Having failed in attempting to notify the owner or lessee of the land, the licensed professional engineer or land surveyor has given written notice, 7 days prior to his proposed entry, to the police department of the municipality of his intention to enter the land to make a survey; and,

b. The land he seeks to enter is not enclosed by a constructed or natural barrier of at least 6 feet in height or is not posted with signs or notices which prohibit trespassing and contain the name and address of the owner or lessee of the land.

Any professional engineer, land surveyor, or employee entering land pursuant to the provisions of this act shall not be liable to charges of trespass, arrest or civil action for that entry.

The bill also provides that any professional engineer, surveyor, or employee who enters land under the provisions of this bill is liable for any injury or damage he may cause during his entry.

The bill further provides that the owner or lessee of the land entered is not liable for any injury or damage which may occur to the professional engineer, land surveyor, employee, or any of their equipment, unless such injury or damage was willfully or maliciously caused by the owner or lessee.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 75

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: JANUARY 20, 1983

This bill provides that licensed engineers, licensed land surveyors and their employees may enter the lands of others during reasonable hours to make land surveys under certain circumstances.

The engineer or land surveyor must attempt to contact the owner or lessee of the land to request permission to enter the land. If he fails in his attempt to contact the owner or lessee, he and his employees may enter the land if:

a. He has given written notice, seven days prior to his proposed entry, to the municipal police of his intention to enter the land to make a survey; and,

b. The land he seeks to enter is not enclosed by a constructed or natural barrier of at least six feet in height or is not posted with signs or notices which prohibit trespassing and contain the name and address of the owner or lessee of the land.

An engineer, land surveyor or employee who enters land pursuant to the provisions of this bill would not be liable to charges of trespass, arrest or civil action for that entry.

An engineer, land surveyor or employee who enters land under the provisions of this bill would be liable for any injury or damage to persons or property which he may cause during his entry. The bill further provides that the owner or lessee of the land entered is not liable for any injury or damage which may occur to the engineer, land surveyor, employee, or any of their equipment, unless the injury or damage was willfully or maliciously caused by the owner or lessee.

The provisions of this bill would not apply to railroad right-of-ways.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

September 6, 1983

ASSEMBLY BILL NO. 75 (OCR)

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14 of the Constitution, I herewith return Assembly Bill No. 75 (OCR) with my recommendations for reconsideration.

This bill would permit licensed professional engineers, land surveyors, and their employees to enter on the lands of third parties to make land surveys under certain circumstances.

While the object of this legislation is to facilitate entry onto property for the legitimate purpose of making a land survey, it should be noted that only a land surveyor and not a professional engineer engages in the practice of land surveying. Accordingly, I believe that only a land surveyor and agents, servants or employees under his direction who are necessary to make a land survey should have the authority to enter lands of another during reasonable hours when necessary to make a land survey.

I also believe that certain safeguards, in addition to those already in the legislation, ought to be added to protect the legitimate interests of property owners whose lands would become subject to entry. In its current form, the legislation does not state with precision what steps should be taken before a surveyor notifies the local police department of his intention to enter the property. Direct attempts to contact the property owner and if there be one, the lessee, through certified mail ought to be required before the land surveyor advises the local police department that he has been unsuccessful in locating the owner.

Additionally, the names and addresses of each of the persons who intends to enter the property should be filed with the local police department.

Accordingly, I herewith return Assembly Bill No. 75 (OCR) and recommend that it be amended as follows:

Page 1, Title: After "authorizing" delete "licensed professional engineers and"

Page 1, Section 1, line 1: Delete "professional engineering or"

Page 1, Section 1, lines 7-16: Delete in entirety and insert:

"a. The licensed professional land surveyor has made a reasonable attempt, as defined in this section, to notify the owner of the land and, in the case of a lease, the lessee thereof, of his desire to enter on, over and upon the owner's or lessee's land to make a

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

2

land survey and, the attempt having failed, the licensed professional land surveyor has given written notice, 7 days prior to the proposed entry, to the municipal police department of the municipality in which the land is located of his intention to enter, containing the names, addresses, and telephone numbers of those who propose to enter the land and the date, time, duration, and location of the proposed entry; and,"

Page 1, Section 1, line 21: Delete "." insert ";"

Page 1, Section 1, after line 21: Insert new subsection c as follows:

"c. As used in this section, a "reasonable attempt" to notify an owner or lessee means: an attempt to seek acknowledgment of the owner of the land and, in the case of a lease, the lessee thereof, by certified mail, return receipt requested, the attempt to be made a second time if unsuccessful the first time and a third time if unsuccessful the second time, each attempt to be made on a separate business day."

Page 2, Section 2, lines 23 and 24: After "nor shall" delete "the licensed professional engineer or"

Page 2, Section 3, lines 1 and 2: After "given" delete "the licensed professional engineer or"

Page 2, Section 3, line 5: After "A" delete "licensed professional engineer or"

Page 2, Section 4, line 2: After "to" delete "a licensed professional engineer or"

Page 2, Section 4, line 6: After "the" delete "licensed professional engineer or"

Respectfully,

/s/ Thomas H. Kean
GOVERNOR

Attest:

/s/ W. Cary Edwards
Chief Counsel