

No. 2006-72

AN ACT

HB 496

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

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

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

§ 3312. Destruction of a survey monument.

(a) Offense defined.—

(1) A person commits a summary offense if he intentionally cuts, injures, damages, destroys, defaces or removes any survey monument or marker, other than a natural object such as a tree or stream.

(2) A person commits a misdemeanor of the second degree if he willfully or maliciously cuts, injures, damages, destroys, defaces or removes any survey monument or marker in order to call into question a boundary line.

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

(c) Affirmative defense.—It is an affirmative defense to any prosecution for an offense under this section that the survey monument or marker was improperly placed by a professional land surveyor.

(d) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

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

“Survey monument or marker.” Any object adopted or placed by a professional land surveyor to define the boundaries of a property, including, but not limited to, natural objects such as trees or streams, or artificial monuments such as iron pins, concrete monuments, set stones or party walls. The phrase does not include a wooden stake placed by a professional land surveyor as a temporary marker or placeholder.

Section 2. Section 5537 of Title 42 is amended to read:

§ 5537. Land surveying.

All actions to recover any or all damages against any person engaged in the practice of land surveying occurring as the result of any deficiency,

defect, omission, error or miscalculation shall be commenced within [21] 12 years from the time the services are performed. Any such action not commenced within this [21-year] 12-year period shall be forever barred. The cause of action in such cases shall accrue when the services are performed. Furthermore, any action shall be commenced within four years from the time that such cause of action was discovered, but no later than during this [21-year] 12-year limitation period. In any event, no action shall be commenced after the [21] 12 years from the time that the services are performed. The term "practice of land surveying" shall be the same as defined under the act of May 23, 1945 (P.L.913, No.367), known as the [Professional Engineers] *Engineer, Land Surveyor and Geologist* Registration Law.

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

APPROVED—The 7th day of July, A.D. 2006.

EDWARD G. RENDELL