

ENGROSSED

Senate Bill No. 129

(By Senator Sypolt)

[Introduced January 11, 2012; referred to
the Committee on the Judiciary.]

A BILL to amend and reenact §36-3-5a of the Code of West Virginia, 1931, as amended, relating to descriptions of easements and rights-of-way in deeds and similar instruments.

Be it enacted by the Legislature of West Virginia:

That §36-3-5a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. FORM AND EFFECT OF DEEDS AND CONTRACTS.

§36-3-5a. Easement and right-of-way; description of property; exception for certain public utility facilities and mineral leases.

- 1 (a) Any deed or instrument that initially grants or
- 2 reserves an easement or right-of-way shall describe the
- 3 easement or right-of-way by any of the following:

4 (1) Metes and bounds; ~~or by~~

5 (2) Specification of the centerline ~~of the easement or~~
6 ~~right-of-way, or by~~ and width;

7 (3) Station and offset; or

8 (4) Reference to an attached drawing or plat which may
9 not require a survey or instrument based on the use of the
10 global positioning system which may not require a survey.

11 ~~Provided, That~~

12 (b) Oil and gas, gas storage and mineral leases ~~shall not~~
13 ~~be~~ are not required to describe the easement or right-of-way
14 as provided in subsection (a) of this section, but ~~shall~~ are
15 required to describe the land on which the easement or
16 right-of-way will be ~~situate~~ situated by source of title or
17 reference to a tax map and parcel, recorded deed, recorded
18 lease, plat or survey sufficient to reasonably identify and
19 locate the property on which the easement or right-of-way is
20 ~~situate~~ situated. ~~Provided, however, That the easement or~~
21 ~~right-of-way is not invalid because of the failure of the~~
22 ~~easement or right-of-way to meet the requirements of this~~
23 ~~subsection.~~

24 ~~(b)~~ (c) This section does not apply to the construction of
25 a service extension from a main distribution system of a

26 public utility when ~~such~~ the service extension is located
27 entirely on, below or above the property to which the utility
28 service is to be provided.

29 ~~(c)~~ (d) The clerk of the county commission of any county
30 in which an easement or right-of-way is recorded pursuant
31 to this section ~~shall~~ may only accept for recordation ~~any a~~
32 document that complies with this section and that otherwise
33 complies with the requirements of article one, chapter thirty-
34 nine of this code, without need for a survey or certification
35 under section twelve, article thirteen-a, chapter thirty of this
36 code.