

1 ENGROSSED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 71**

5 (By Senators Sypolt, McCabe and Williams)

6 \_\_\_\_\_  
7 [Originating in the Committee on the Judiciary;  
8 reported February 20, 2013.]  
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11  
12 A BILL to amend and reenact §36-3-5a of the Code of West Virginia,  
13 1931, as amended, relating to descriptions of easements and  
14 rights-of-way in deeds and similar instruments; and amending  
15 the centerline method of description to include width after a  
16 certain date.

17 *Be it enacted by the Legislature of West Virginia:*

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

20 **ARTICLE 3. FORM AND EFFECT OF DEEDS AND CONTRACTS.**

21 **§36-3-5a. Easement and right-of-way; description of property;**  
22 **exception for certain public utility facilities and**  
23 **mineral leases.**

24 (a) Any deed or instrument that initially grants or reserves

1 an easement or right-of-way shall describe the easement or right-  
2 of-way by any of the following:

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

4 ~~Specification of the centerline of the easement or right-of-~~  
5 ~~way, or by~~ (2) Specification of centerline: *Provided*, That any deed  
6 or instrument, executed on or after September 1, 2013, that  
7 initially grants or reserves an easement or right-of-way using the  
8 centerline method must also include the width;

9 (3) Station and offset; or

10 (4) Reference to an attached drawing or plat which may not  
11 require a survey or instrument based on the use of the global  
12 positioning system which may not require a survey. ~~*Provided*, That~~

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

22 ~~(b)~~ (c) This section does not apply to the construction of a  
23 service extension from a main distribution system of a public  
24 utility when ~~such~~ the service extension is located entirely on,

1 below or above the property to which the utility service is to be  
2 provided.

3       ~~(c)~~ (d) The clerk of the county commission of any county in  
4 which an easement or right-of-way is recorded pursuant to this  
5 section ~~shall~~ may only accept for recordation ~~any~~ a document that  
6 complies with this section and that otherwise complies with the  
7 requirements of article one, chapter thirty-nine of this code,  
8 without need for a survey or certification under section twelve,  
9 article thirteen-a, chapter thirty of this code.