

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 71**

5 (SENATORS SYPOLT, MCCABE AND WILLIAMS, *original sponsors*)

6 _____
7 [Passed April 11, 2013; in effect ninety days from passage.]
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11 AN ACT to amend and reenact §36-3-5a of the Code of West Virginia,
12 1931, as amended, relating to descriptions of easements and
13 rights-of-way in deeds and similar instruments; and amending
14 the centerline method of description to include width after a
15 certain date.

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

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

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

20 **§36-3-5a. Easement and right-of-way; description of property;**
21 **exception for certain public utility facilities and**
22 **mineral leases.**

23 (a) Any deed or instrument that initially grants or reserves
24 an easement or right-of-way shall describe the easement or right-

1 of-way by any of the following:

2 (1) Metes and bounds;

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

7 (3) Station and offset; or

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

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

20 (c) This section does not apply to the construction of a
21 service extension from a main distribution system of a public
22 utility when the service extension is located entirely on, below or
23 above the property to which the utility service is to be provided.

24 (d) The clerk of the county commission of any county in which

1 an easement or right-of-way is recorded pursuant to this section
2 may only accept for recordation a document that complies with this
3 section and that otherwise complies with the requirements of
4 article one, chapter thirty-nine of this code, without need for a
5 survey or certification under section two-a, article one, chapter
6 thirty-nine of this code.