

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 71**

4 (By Senators Sypolt, McCabe and Williams)

5 _____
6 [Originating in the Committee on the Judiciary;

7 reported February 20, 2013.]
8 _____

9
10
11 A BILL 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; amending the
14 centerline method of description to include width; and
15 clarifying that description requirement regarding easements
16 and rights-of-way does not apply to certain leases.

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

6 (3) Station and offset; or

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

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

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

1 provided.

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