

E N G R O S S E D

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 71

(By Senators Sypolt, McCabe and Williams)

[Originating in the Committee on the Judiciary;
reported February 20, 2013.]

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; and amending the centerline method of description to include width after a certain date.

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 ~~Specification of the centerline of the easement or right-~~

6 ~~of-way, or by~~ (2) Specification of centerline: *Provided, That*

7 any deed or instrument, executed on or after September 1,

8 2013, that initially grants or reserves an easement or

9 right-of-way using the centerline method must also include

10 the width;

11 (3) Station and offset; or

12 (4) Reference to an attached drawing or plat which may

13 not require a survey or instrument based on the use of the

14 global positioning system which may not require a survey.

15 *Provided, That*

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

26 ~~(b)~~ **(c)** This section does not apply to the construction of
27 a service extension from a main distribution system of a
28 public utility when ~~such~~ the service extension is located
29 entirely on, below or above the property to which the utility
30 service is to be provided.

31 ~~(c)~~ **(d)** The clerk of the county commission of any county
32 in which an easement or right-of-way is recorded pursuant to
33 this section ~~shall~~ may only accept for recordation ~~any~~ a
34 document that complies with this section and that otherwise

35 complies with the requirements of article one, chapter thirty-
36 nine of this code, without need for a survey or certification
37 under section twelve, article thirteen-a, chapter thirty of this
38 code.