

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; amending the centerline method of description to include width; and clarifying that description requirement regarding easements and rights-of-way does not apply to certain leases.

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 required to describe the easement~~ are not subject to the

14 requirements of subsection (a) of this section but ~~shall~~ are
15 required to describe the land property on which the easement
16 or right-of-way will be situate by source of title or reference
17 to a tax map and parcel, recorded deed ~~recorded~~ or lease, plat
18 or survey ~~sufficient to reasonably identify and locate~~ which
19 sufficiently identifies and locates the property. ~~on which the~~
20 ~~easement or right-of-way is situate~~ *Provided, however,* That
21 ~~the easement or right-of-way is not invalid because of the~~
22 ~~failure of the easement or right-of-way to meet the~~
23 ~~requirements of this 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 to
31 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.