

2 **ESSB 6266** - H COMM AMD **ADOPTED 2-28-96**
3 By Committee on Law & Justice

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5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** The purpose of this chapter is to provide
8 alternative procedures for fixing boundary points or lines when they
9 cannot be determined from the existing public record and landmarks or
10 are otherwise in dispute. This chapter does not impair, modify, or
11 supplant any other remedy available at law or equity.

12 NEW SECTION. **Sec. 2.** As used in this chapter, "surveyor" means
13 every person authorized to practice the profession of land surveying
14 under the provisions of chapter 18.43 RCW.

15 NEW SECTION. **Sec. 3.** Whenever a point or line determining the
16 boundary between two or more parcels of real property cannot be
17 identified from the existing public record, monuments, and landmarks,
18 or is in dispute, the landowners affected by the determination of the
19 point or line may resolve any dispute and fix the boundary point or
20 line by one of the following procedures:

21 (1) If all of the affected landowners agree to a description and
22 marking of a point or line determining a boundary, they shall document
23 the agreement in a written instrument, using appropriate legal
24 descriptions and including a survey map, filed in accordance with
25 chapter 58.09 RCW. The written instrument shall be signed and
26 acknowledged by each party in the manner required for a conveyance of
27 real property. The agreement is binding upon the parties, their
28 successors, assigns, heirs and devisees and runs with the land. The
29 agreement shall be recorded with the real estate records in the county
30 or counties in which the affected parcels of real estate or any portion
31 of them is located;

32 (2) If all of the affected landowners cannot agree to a point or
33 line determining the boundary between two or more parcels of real
34 estate, any one of them may bring suit for determination as provided in
35 RCW 58.04.020.

1 NEW SECTION. **Sec. 4.** Any surveyor authorized by the court and the
2 surveyor's employees may, without liability for trespass, enter upon
3 any land or waters and remain there while performing the duties as
4 required in sections 1 through 4 of this act. The persons named in
5 this section may, without liability for trespass, investigate,
6 construct, or place a monument or reference monuments for the position
7 of any land boundary mark or general land office corner or mark and
8 subdivisional corners thereof. Persons entering lands under the
9 authority of sections 1 through 4 of this act must exercise due care
10 not to damage property while on land or waters performing their duties,
11 and are liable for property damage, if any, caused by their negligence
12 or willful misconduct. Where practical, the persons named in this
13 section must announce and identify themselves and their intention
14 before entering upon private property in the performance of their
15 duties.

16 NEW SECTION. **Sec. 5.** A person who intentionally disturbs a survey
17 monument placed by a surveyor in the performance of the surveyor's
18 duties is guilty of a gross misdemeanor and is liable for the cost of
19 the reestablishment.

20 NEW SECTION. **Sec. 6.** RCW 58.04.010 and 1895 c 77 s 9 are each
21 repealed.

22 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act are each
23 added to chapter 58.04 RCW.

24 **Sec. 8.** RCW 58.04.020 and 1886 p 104 s 1 are each amended to read
25 as follows:

26 (1) Whenever the boundaries of lands between two or more adjoining
27 proprietors (~~shall~~) have been lost, or by time, accident or any other
28 cause, (~~shall~~) have become obscure, or uncertain, and the adjoining
29 proprietors cannot agree to establish the same, one or more of (~~said~~)
30 the adjoining proprietors may bring (~~his~~) a civil action in equity,
31 in the superior court, for the county in which such lands, or part of
32 them are situated, and (~~such~~) that superior court, as a court of
33 equity, may upon (~~such~~) the complaint, order such lost or uncertain
34 boundaries to be erected and established and properly marked.

1 (2) The superior court may order the parties to utilize mediation
2 before the civil action is allowed to proceed."

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6 On page 1, line 2 of the title, after "boundaries;" strike the
7 remainder of the title and insert "amending RCW 58.04.020; adding new
8 sections to chapter 58.04 RCW; repealing RCW 58.04.010; and prescribing
9 penalties."

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