

AN ACT

Providing for and regulating the licensing of landscape architects; fixing fees; creating the State Board of Landscape Architects; imposing powers and duties on the Department of State, the Commissioner of Professional and Occupational Affairs and the board; and prescribing unlawful acts and penalties.

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Section 1. Short Title.--This act shall be known and may be cited as the "Landscape Architects' Registration Law."

Section 2. Definitions.--As used in this act:

(1) "Board" means the State Board of Landscape Architects. ((1) amended Mar. 7, 1984, P.L.129, No.24)

(2) "Department" means the Department of State, acting by and through the Commissioner of Professional and Occupational Affairs.

(3) "Landscape architect" means a person who engages or offers to engage in the practice of landscape architecture in this Commonwealth under the authority of this act. ((3) amended June 17, 1982, P.L.527, No.151)

(4) "Practice of landscape architecture" means the performance of professional services such as consultation, investigation, research, planning, design, preparation of drawings and specifications, or responsible observation of construction in connection with the development of land areas where, and to the extent that, the dominant purpose of such services is the preservation, enhancement or determination of proper land uses, natural land features, planting, naturalistic and aesthetic values, the settings and approaches to structures or other circulation improvements, the shaping and contouring of land and water forms, the setting of grades and determining

drainage and providing for storm water management and determination of environmental impacts and problems of land including erosion and sedimentation, blight and other hazards. This practice shall include the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined herein and as may be prescribed by local or Commonwealth authorities but shall not include the design of structures or facilities as are ordinarily included in the practice of engineering or architecture and shall not include the making of land surveys. This provision shall not be construed to prohibit those engaged in nursery occupations or as gardeners or landscape contractors from preparing planting plans and items incidental thereto. ((4) amended June 17, 1982, P.L.527, No.151)

(5) "Responsible charge" means such degree of competence and accountability gained by technical education or experience of a grade and character as is sufficient to qualify a person to personally and independently engage in and be entrusted with the work involved in the practice of landscape architecture.

(6) "C.L.A.R.B." means the Council of Landscape Architectural Registration Boards, a national coordinating body serving to promote high standards of landscape architectural practice, foster the enactment of uniform laws; equalize and improve the standards for examination, compile, maintain, and transmit professional records to member boards and recommend registration for landscape architects meeting its standards for interstate and foreign registration. ((6) added June 17, 1982, P.L.527, No.151)

(7) "Planting design" means the design, planning, location and arrangements of plantings or other ornamental features. ((7) added June 17, 1982, P.L.527, No.151)

Section 2.1. Board Established; Terms of Office; Qualifications of Members; Compensation; Attendance.--The State Board of Landscape Architects is hereby established and shall consist of the Commissioner of Professional and Occupational Affairs, the Director of the Bureau of Consumer Protection in the Office of Attorney General, or his designee, and seven persons appointed by the Governor with the advice and consent of the Senate. Two of the members of the board appointed by the Governor with the advice and consent of the Senate shall represent the public at large and shall be appointed for terms of three years. The remaining members of the board appointed by the Governor, not less than four of whom shall be landscape architects and not less than one of whom shall be a landscape nurseryman, shall be appointed for terms of three years. One member shall be elected chairman and one shall be elected secretary. The members of the board shall hold office until their successors are appointed and qualified but not longer than six months beyond the three-year period. In the event that any of said members shall die or resign during his term of office, his successor shall be appointed in the same way and with the same qualifications as set forth in this section and shall hold

office for the unexpired term. The professional and public members shall receive sixty dollars (\$60) for each day they attend meetings of the board. Members shall receive, in addition, the amount of reasonable travel, hotel and other necessary expenses incurred in performing their duties to the board. A member who fails to attend three consecutive meetings shall forfeit his seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of an immediate family member. Five members of the board shall constitute a quorum.

(2.1 added Mar. 7, 1984, P.L.129, No.24)

Section 3. Registration License Required to Practice Landscape Architecture.--In order to safeguard life, health or property and to promote the general welfare, a person practicing or offering to practice landscape architecture, privately or in public service, shall be required to submit evidence that he is qualified to practice and shall become registered as hereinafter provided. It shall be unlawful for a person to practice landscape architecture or to use the term or title "landscape architect" unless duly licensed under the provisions of this act.

(3 amended June 17, 1982, P.L.527, No.151)

Section 4. Powers and Duties of the State Board of Landscape Architects.--The board shall have power and its duty shall be:

(1) To provide for and regulate the licensing of qualified landscape architects and to issue, upon passing the examination required by the board, except as otherwise provided herein, a license to practice landscape architecture to any applicant who meets the requirements of this act.

(2) Cause to be administered, the C.L.A.R.B. Uniform National Examination, or such other examination, as may be approved by the board at least once each year; to provide the subjects, character, manner, time and place of examinations for licenses to practice landscape architecture and the filing of applications for the examinations; to make written reports of the examination, which reports shall be preserved in the department for a period of not less than three years; and to issue licenses and certificates to such persons as successfully pass the examinations, and to collect appropriate fees for such examinations.

(3) To permit, subject to the provisions of this section and the rules and regulations of the board promulgated thereunder prescribing the qualifications for a landscape architect license, the practice of landscape architecture in the Commonwealth under a landscape architect license issued under the laws of any other state which maintains a system and standards of qualifications at least equal to those required in Pennsylvania, upon payment of the current fee established by the board and upon submission of evidence satisfactory to the board.

(3.1) To exempt from examination an applicant who holds a license or certificate to practice landscape architecture issued

to him by another state which maintains a system and standards of qualifications and administers the C.L.A.R.B. Uniform Examination.

(4) To suspend or revoke the license and registration of any registered landscape architect who is found guilty by the board of gross negligence, incompetence or misconduct in the practice of landscape architecture, and to reinstate suspended licenses, registrations and certificates in any cases where the department shall determine the same to be just and proper.

Before any formal action is taken by the board, the applicant or licensee shall be provided with an opportunity for a hearing. All hearings held before the board shall be held in accordance with the general laws and regulations applicable to administrative hearings.

(4.1) Unless ordered to do so by a court, the board shall not reinstate the license, registration or certificate of a person to practice as a registered landscape architect which has been revoked and such person shall be required to apply for a license, registration or certificate in accordance with section 6, if he desires to practice at any time after such revocation.

(5) To provide for, regulate and require all persons licensed and registered in accordance with the provisions of this act to register biennially with the board; to prescribe the form of such registration; to require as a condition precedent to such biennial registration the payment of biennial registration fees as shall be fixed by this act, and to issue biennial registration to such persons, and suspend or revoke the license or registration of such persons who fail, refuse or neglect to register within such time as the board shall prescribe by its rules and regulations.

(6.1) To submit annually, to the Professional Licensure Committee of the House and the Consumer Protection and Professional Licensure Committee of the Senate, a description of the types of complaints received, status reports of the cases, board action which has been taken and length of time from the initial complaint to final board resolution.

(7) To administer and enforce the laws of the Commonwealth relating to the practice of landscape architecture and instruct and require its agents to bring prosecutions for unauthorized and unlawful practices.

(8) To keep minutes and records for all its transactions and proceedings. Copies thereof duly certified shall be received in evidence in all courts and elsewhere.

(9) To adopt, promulgate and enforce such administrative rules and regulations not inconsistent with this act as are deemed necessary and proper by the board to carry into effect the powers conferred by this act. Only in the absence of disapproval shall the board proceed with the adoption of the rule, regulation or amendment in accordance with section 202 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

(10) To submit annually to the department, an estimate of

the financial requirements of the board for its administrative, investigative, legal and miscellaneous expenses.

(11) To submit annually to the House and Senate Appropriations Committees, fifteen days after the Governor has submitted his budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the department.

(4 amended Mar. 7, 1984, P.L.129, No.24)

Section 5. Fees.--(a) All fees required under the provisions of this act shall be fixed by the board by regulation and shall be subject to review in accordance with the act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory Review Act." If the revenues generated by fees, fines and civil penalties imposed in accordance with the provisions of this act are not sufficient to match expenditures over a two-year period, the board shall increase those fees by regulation, subject to review in accordance with the "Regulatory Review Act," such that the projected revenues will meet or exceed projected expenditures.

(b) If the Bureau of Professional and Occupational Affairs determines that the fees established by the board are inadequate to meet the minimum enforcement efforts required, then the bureau, after consultation with the board, shall increase the fees by regulation, subject to review in accordance with the "Regulatory Review Act," such that adequate revenues are raised to meet the required enforcement effort.

(5 amended Mar. 7, 1984, P.L.129, No.24)

Section 6. Application for License; Qualifications and Experience Requirements of Applicants.--(a) A person desiring to be registered and licensed to practice landscape architecture and to use the title "landscape architect" in this Commonwealth shall, except as herein provided in this act, make written application for examination to the board, together with such evidence of qualifications as may be prescribed by the rules and regulations of the board.

(b) Each applicant shall be of good moral character and shall not have had an application, license or certificate to engage in the practice of landscape architecture refused, suspended or revoked by a state of the United States; and (i) has, before admission to the examination, completed the course of study in, and has been graduated with a degree, from a college or school of landscape architecture approved by the board; (ii) shall submit, before admission to the examination, evidence of at least two years practical experience in landscape architectural work of a grade and character satisfactory to the board as determined by a notarized application questionnaire. An approved year of study in the approved college or school of landscape architecture may be accepted in lieu of one year of experience and the applicant shall submit evidence of sufficient additional acceptable experience of at least six years of combined education and experience; or (iii) in lieu of graduation from an approved college or school of landscape

architecture and the practical experience in addition thereto, an applicant may be admitted to the examination upon presenting evidence of at least eight years of actual, practical experience in landscape architectural work of a grade and character satisfactory to the board.

(c) The board may register and license without written examination a person who holds an unexpired license or certification of registration issued by proper authority of another state or foreign country in which the requirements and qualifications to engage in the practice of landscape architecture were at the time of initial issuance of a license or certificate of registration at least equal to the standards of this Commonwealth existing at that time. ((c) amended July 17, 2009, P.L.94, No.24)

(6 amended Mar. 7, 1984, P.L.129, No.24)

Section 7. Investigation of Applications; Determination of Competency of Applicants.--The board shall investigate the allegations contained in any application for licensure under this act in order to determine the truth of the allegations and to determine the competency of any person applying for licensure to assume responsible charge of the work involved in the practice of landscape architecture, such competency to be determined by the grade and character of the landscape architecture work actually performed. Landscape architecture work performed under the supervision of a registered landscape architect shall be given full credit. Whenever the board determines otherwise than by examination that an applicant has not produced sufficient evidence to show that he is competent to be placed in responsible charge and shall refuse to examine or to license such applicant, it shall set forth in writing its findings and the reasons for its conclusions and furnish a copy thereof to the applicant.

Section 8. Exemption from Licensure and Registration.--This act shall not be construed to require licensure and registration in the following cases:

(1) The practice of landscape architecture by any person who acts under the supervision of a registered landscape architect or by an employe of a person lawfully engaged in the practice of landscape architecture and who in either event does not assume responsible charge of design or supervision;

(2) The practice of landscape architecture not exceeding thirty days in the aggregate in one calendar year by a nonresident not having a place of business in this Commonwealth if the person is legally qualified to engage in the practice of landscape architecture in the state or territory of his residence if the standards of the state or territory are at least equal to the standards of this Commonwealth;

(3) The practice of architecture by a duly registered architect and the doing of landscape architectural service as is incidental to his architectural services; ((3) amended June 17, 1982, P.L.527, No.151)

(4) The practice of engineering or land surveying by a duly

registered professional engineer or land surveyor and the doing of such landscape architectural service as is incidental to his engineering or land surveying services; ((4) amended June 17, 1982, P.L.527, No.151)

(5) The practice of landscape architecture by officers and employes of the United States Government, so long as the services are rendered within the scope of government employment; ((5) amended Mar. 7, 1984, P.L.129, No.24)

(6) The practice of planning as customarily done by community and regional planners;

(7) The practice of any agriculturists, horticulturists, foresters, garden or land caretakers, home builders and graders, or cultivators of land;

(8) The practice of any nurseryman, landscape nurseryman, gardener or landscape gardener, general or landscape contractor as that practice pertains to planting design and its incidental items. ((8) amended June 17, 1982, P.L.527, No.151)

Section 9. Seal of Registrants.--(a) Each person registered under this act shall obtain a seal of a design authorized by the board, which shall bear the registrant's name and number and the legend "Registered Landscape Architect." The seal or a facsimile imprint of same shall be stamped on all plans, specifications, plates and reports issued by a landscape architect.

(b) It shall be unlawful for any person to use the seal during the period the license or registration of the holder thereof has been suspended or revoked or to use a seal of any design not approved by the board.

Section 9.1. Continuing Education Required.--(a) The board shall adopt, promulgate and enforce regulations consistent with the provisions of this act establishing requirements of continuing education to be met by individuals licensed as landscape architects under this act as a condition for renewal of their licenses. The board may waive all or part of the continuing education requirement for a landscape architect who shows evidence, to the board's satisfaction, that he was unable to complete the requirements due to illness, emergency or hardship. These regulations shall include any fees necessary for the board to carry out its responsibilities under this section.

(b) Beginning with the license period designated by the board, each person licensed under this act shall be required to obtain twenty-four hours of mandatory continuing education during each two-year license period. A licensed landscape architect who wishes to activate a license which has been placed on inactive status shall be required to document twenty-four hours of continuing education.((b) amended July 17, 2009, P.L.94, No.24)

(c) All courses, materials, locations and instructors shall be approved by the board. No credit shall be given for any course in office management.

(d) The board shall initiate the promulgation of regulations to carry out the provisions of this section within six months of the effective date of this section.

(e) The board shall inform licensees of the continuing education requirement prior to the renewal period when continuing education is required.

(9.1 added Dec. 7, 1994, P.L.774, No.107)

Section 10. Actions of the Board.--All actions of the Board pursuant to this act which result in a refusal to issue a license for reasons other than failure to pass a written examination required by this act or action which suspends or revokes a license shall be subject to the right of notice, hearing and adjudication and the right of appeal therefrom in accordance with the act of June 4, 1945 (P.L.1388), known as the "Administrative Agency Law."

Section 11. Penalties.--(a) Whoever practices landscape architecture or holds himself out to be a landscape architect without being licensed and registered as required by this act, or shall present or attempt to use as his own the license or certificate of registration of another, or shall give any false or forged evidence of any kind to the board or to any member thereof in order to obtain a license or registration as a landscape architect, or shall use any expired, suspended or revoked certificate of registration, or shall use the term "architect" instead of the term "landscape architect" or shall otherwise violate the provisions of this act, shall be guilty of a summary offense and upon conviction thereof, shall be sentenced to pay a fine not exceeding three hundred dollars (\$300) or undergo imprisonment not exceeding ninety days, or both.

(b) In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law, or by a vote of the majority of the duly qualified and confirmed membership or a minimum of four members, whichever is greater, may levy a civil penalty of up to one thousand dollars (\$1,000) on any current licensee who violates any provision of this act or on any person who practices landscape architecture without being properly licensed to do so under this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(c) All fines and civil penalties imposed in accordance with this section shall be paid into the Professional Licensure Augmentation Account.

(11 amended Mar. 7, 1984, P.L.129, No.24)

Compiler's Note: Section 3 of Act 25 of 2009, which amended section 5 of the act July 2, 1993 (P.L.345, No.49), provided that section 11(b) is repealed insofar as it is inconsistent with the amendment of section 5.

Section 12. Construction of Act.--This act shall not be construed to limit the power and duty of the Department of Public Instruction to determine, value, standardize and regulate

the preliminary education, both secondary and collegiate, of those to be hereafter licensed or registered to practice as landscape architects in this Commonwealth to the same extent as such department exercises such powers and duties with respect to other professions.

Section 13. Appropriations.--All fees collected under the provisions of this act during the fiscal year beginning July 1, 1965, are hereby specifically appropriated to the Department of State for the use of the board in carrying out the provisions of this act.

Section 14. This act shall take effect immediately.

APPENDIX

Supplementary Provisions of Amendatory Statutes

1984, MARCH 7, P.L.129, NO.24

Section 6. This act, with respect to the State Board of Landscape Architects, shall constitute the legislation required to reestablish an agency under the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Compiler's Note: Act 24 added or amended sections 2, 2.1, 4, 5, 6, 8 and 11 of Act 535.

Section 8. The presently confirmed members of the existing State Board of Landscape Architects, as of March 31, 1984, shall continue to serve as board members until their present terms of office expire.

Section 9. Each rule and regulation of the board in effect on March 31, 1984, shall remain in effect after such date until repealed or amended by the board.