

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-406
HOUSE BILL 1110

AN ACT AMENDING THE STATUTES RELATED TO LANDSCAPE ARCHITECTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 89A-1 reads as rewritten:

"§ 89A-1. Definitions.

The following definitions apply in this Chapter:

- (a)(1) ~~'Board' shall mean the Board. – The North Carolina Board of Landscape Architects, established by G.S. 89A-3. Architects.~~
- (b)(2) ~~'Landscape architect' shall mean a Landscape architect. – A person who, on the basis of demonstrated knowledge acquired by professional education or practical experience, or both, has been granted, and holds a current certificate entitling him or her to practice 'landscape architecture' and to use the title 'landscape architect' in North Carolina under the authority of this Chapter.~~
- (c)(3) ~~'Landscape architecture,' or the 'practice of landscape architecture' shall mean the Landscape architecture or the practice of landscape architecture. – The preparation of plans and specifications and supervising the execution of projects involving the arranging of land and the elements used thereon for public and private use and enjoyment, embracing drainage, soil conservation, grading and planting plans and erosion control, in accordance with the accepted professional standards of public health, safety and welfare."~~

Section 2. G.S. 89A-2 reads as rewritten:

"§ 89A-2. Use Practice of landscape architecture or use of title 'landscape architect' without registration prohibited; use of seal.

(a) ~~On and after January 1, 1970, no~~ No person shall use the designation 'landscape architect,' 'landscape architecture,' or 'landscape architectural,' or advertise any title or description tending to convey the impression that he or she is a landscape architect or shall engage in the practice of landscape architecture unless such the person is registered or has obtained a temporary permit as a landscape architect in the manner hereinafter provided and ~~shall thereafter comply thereafter complies~~ with the provisions of this Chapter. Every holder of a certificate shall display it in a conspicuous place in his or her principal office, place of business or employment.

(a1) No firm, partnership, or corporation shall engage in the practice of landscape architecture unless the firm, partnership, or corporation registered with the Board and has paid the fee required by G.S. 89A-6. All landscape architecture performed by a firm, partnership, or corporation shall be under the direct supervision of an individual who is registered under this Chapter.

(b) Nothing in this Chapter shall be construed as ~~authorizing (i) to authorize a landscape architect to engage in the practice of architecture, engineering-engineering, or land surveying, or (ii) to restrict from the practice of landscape architecture or otherwise affect the rights of any person licensed to practice architecture under Chapter 83A, or engineering or land surveying under Chapter 89C of the General Statutes; Statutes if the person does not use the title landscape architect, landscape architecture, or landscape architectural, or (iii) to restrict any person from engaging in the occupation of grading lands whether by hand tools or machinery, or (iv) to restrict the planting, maintaining-maintaining, or marketing of plants or plant materials: Provided, however, that no individual shall use the title 'landscape architect' unless he has complied with the provisions of this Chapter.~~ materials or the drafting of plans or specifications related to the location of plants on a site, (v) to require a certificate for the preparation, sale, or furnishing of plans, specifications and related data, or for the supervision of construction pursuant thereto, where the project involved is a single family residential site, or a residential, institutional, or commercial site of one acre or less, or the project involved is a site of more than one acre where only planting and mulching is required, or (vi) to prevent any individual from making plans or data for their own building site or for the supervision of construction pursuant thereto.

(c) Each landscape architect shall, upon registration, obtain a seal of the design authorized by the Board, bearing the name of the registrant, number of certificate and the legend 'N.C. Registered Landscape Architect'. Such seal may be used only while the registrant's certificate is in full force and effect.

Nothing in this Chapter shall be construed as authorizing the use or acceptance of the seal of a landscape architect ~~in lieu instead of or as a substitute for the seal of an architect, engineer-engineer, or land surveyor.~~"

Section 3. G.S. 89A-3 reads as rewritten:

"§ 89A-3. North Carolina Board of Landscape Architects; ~~appointments; powers.~~ appointments.

(a) There is created the North Carolina Board of Landscape Architects, consisting of seven members appointed by the Governor for four-year staggered terms. Five members of the Board shall have been engaged in the practice of landscape architecture in North Carolina at least five years at the time of their respective appointments. Two members of the Board shall not be landscape architects and shall represent the interest of the public at large. Each member shall hold office until the appointment and qualification of his or her successor. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term. No member shall serve more than two complete consecutive terms.

~~The Governor shall appoint the two public members not later than July 1, 1979, to serve four year terms.~~

The Board shall be subject to the provisions of Chapter 93B of the General Statutes.

(b) ~~The Board shall elect annually from its members a chairman-chair and a vice-chairman-vice-chair and shall hold such meetings during the year as it may determine to be necessary, one of which shall consist of the annual meeting. A quorum of the Board shall consist of not less than three members.~~

(b1) The members of the Board shall not be compensated. However, members shall be entitled to be reimbursed from Board funds for all proper traveling and incidental expenses incurred in carrying out the provisions of this Chapter.

~~(e) The Board shall have power to compel the attendance of witnesses, to administer oaths, and to take testimony and proofs of all matters within its jurisdiction. The Board shall have the power to make such rules not inconsistent with law as may be necessary in the performance of its duties.~~

~~(d) The Board shall elect a secretary, who may or may not be a member of the Board, and who shall hold office at the pleasure of the Board. The members of the Board shall not be compensated except that the secretary shall receive such salary as is fixed by the Board. The members of the Board shall, however, be entitled to be reimbursed from Board funds for all proper traveling and incidental expenses incurred in carrying out the provisions of this Chapter."~~

Section 4. Chapter 89A of the General Statutes is amended by adding a new section to read:

"§ 89A-3A. Board's powers and duties.

The Board shall have the following powers and duties:

- (1) Administer and enforce the provisions of this Chapter.
- (2) Adopt rules to administer and enforce the provisions of this Chapter.
- (3) Examine and determine the qualifications and fitness of applicants for registration and renewal of registration.
- (4) Determine the qualifications of firms, partnerships, or corporations applying for a certificate of registration.
- (5) Issue, renew, deny, suspend, or revoke certificates of registration and conduct any disciplinary actions authorized by this Chapter.
- (6) Establish and approve continuing education requirements for persons registered under this Chapter.
- (7) Receive and investigate complaints from members of the public.
- (8) Conduct investigations for the purpose of determining whether violations of this Chapter or grounds for disciplining registrants exist.
- (9) Conduct administrative hearings in accordance with Article 3 of Chapter 150B of the General Statutes.
- (10) Maintain a record of all proceedings conducted by the Board and make available to registrants and other concerned parties an annual report of all Board action.
- (11) Employ and fix the compensation of personnel that the Board determines is necessary to carry out the provisions of this Chapter and incur other expenses necessary to perform the duties of the Board.
- (12) Adopt and publish a code of professional conduct for all registrants.

(13) Adopt a seal containing the name of the Board for use on all certificates of registration and official reports issued by the Board."

Section 5. G.S. 89A-4 reads as rewritten:

"§ 89A-4. Application, examination, certificate.

(a) Any person hereafter desiring to be registered and licensed to use the title 'landscape architect' and to practice landscape architecture in the State, shall make a written application for examination to the Board, on a form prescribed by the Board, together with such evidence of his or her qualifications as may be prescribed by rules ~~and regulations~~ of the Board. Minimum qualifications under such rules shall require that the ~~applicant~~ applicant:

- (1) Shall be at least 18 years of age and age.
- (2) Shall be of good moral character; and that the applicant shall character.
- (3) Shall be a graduate of an a Landscape Architect's Accreditation Board (LAAB) accredited collegiate curriculum in landscape architecture as approved by the Board and Board.
- (4) Shall have at least one year's experience; four years' experience in landscape architecture.

~~(a1) in lieu of such graduation and experience~~ Notwithstanding the requirements of subdivisions (a)(3) and (4) of this section, any person who has had a minimum of seven—10 years of education and experience in landscape architecture, in any combination deemed suitable by the Board, may make application to the Board for examination.

(b) ~~If said the~~ application is satisfactory to the Board, and is accompanied by the fees required by this Chapter, then the applicant shall be entitled to an examination to determine his or her qualifications. If the result of the examination of any applicant shall be satisfactory to the Board, then the Board shall issue to the applicant a certificate to use the title 'landscape architect' and to practice landscape architecture in North Carolina. Examinations shall be held at least once a year at a time and place to be fixed by the Board which shall determine the subjects and scope of the examination. The Board may adopt rules for administering the examination in one or more parts at the same time or at different times.

(c) The Board, within its discretion, may issue ~~temporary permits pending examinations, or without examination may grant licenses,~~ licenses without examination and licenses by reciprocity, reciprocity or comity to persons holding a license or certificate in landscape architecture from any legally constituted board of examiners in another state or country whose registration requirements are deemed to be equal or equivalent to those of this State.

~~(d) Provided that his application and application fee be received by the Board prior to the first day of July, 1971, any applicant who presents evidence satisfactory to the Board that he was actively engaged in the practice of landscape architecture as herein defined, on or before July 1, 1968, shall be issued a certificate without the requirement for examination.~~

(e) The Board, within its discretion, may grant an honorific title license to persons who have held for a minimum of 20 years a license or certificate in landscape

architecture issued by the Board or a legally constituted board of examiners in another state or country whose registration requirements are equal or equivalent to those of this State. The honorific title license shall allow the person to use the title 'landscape architect emeritus', but the person shall not practice landscape architecture or provide expert testimony as a landscape architect in this State unless the person complies with the provisions of this Chapter. There shall be no fee charged for an honorific title license."

Section 6. G.S. 89A-5 reads as rewritten:

"§ 89A-5. Annual renewal of certificate.

Every registrant under this Chapter shall, on or before the first day of July in each year, obtain a renewal of a certificate for the ensuing year, by application, accompanied by the required fee; ~~and upon fee. Upon failure to renew, his-the~~ certificate shall be automatically ~~revoked; but such~~ revoked. The certificate may be renewed at any time within one year ~~upon payment of the prescribed renewal fee and penalty for late renewal, as provided by this Chapter, upon evidence satisfactory to the Board after its expiration if the applicant pays the required renewal fee and late renewal penalty, and the Board finds that the applicant has not used his or her certificate or title or engaged in the practice of landscape architecture~~ after notice of revocation and is otherwise eligible for registration under the provisions of this Chapter. When necessary to protect the public health, safety, or welfare, the Board shall require such evidence as it deems necessary to establish the continuing competency of licensees as a condition of license renewal."

Section 7. G.S. 89A-6 reads as rewritten:

"§ 89A-6. Fees.

Fees are to be determined by the Board, but shall not exceed the amounts specified herein, however; fees must reflect actual expenses of the Board.

Application	\$100.00
Examination	450.00
License by reciprocity <u>or comity</u>	250.00
Annual license renewal	100.00
Late renewal penalty	50.00
Reissue of certificate	25.00
Temporary permit	150.00
Corporate certificate	250.00

Fees shall be paid to the Board at the times specified by the Board."

Section 8. G.S. 89A-7 reads as rewritten:

"§ 89A-7. ~~Refusal, revocation or suspension of certificate.~~ Disciplinary actions.

~~The Board may, in accordance with the provisions of Chapter 150B of the General Statutes: (i) deny permission to take an examination duly applied for; (ii) deny license after examination for any cause other than failure to pass; (iii) withhold renewal of a license for cause; and (iv) suspend or revoke a license. Grounds for such action or actions shall be dishonest practice, unprofessional conduct, incompetence, conviction of a felony or addiction to habits of such character as to render him unfit to continue~~

professional practice. The procedure for all such actions shall be in accordance with the provisions of Chapter 150B of the General Statutes.

(a) The Board may deny or refuse to renew a certificate of registration, suspend, or revoke a certificate of registration if the registrant or applicant:

- (1) Obtains a certificate of registration by fraudulent misrepresentation.
- (2) Uses or attempts to use another's certificate of registration to practice landscape architecture.
- (3) Uses or attempts to use another's name for purposes of obtaining a certificate of registration or practicing landscape architecture.
- (4) Has demonstrated gross malpractice or gross incompetency as determined by the Board.
- (5) Has been convicted of or pled guilty or no contest to a crime that indicates that the person is unfit or incompetent to practice landscape architecture or that indicates the person has deceived or defrauded the public.
- (6) Has been declared mentally incompetent by a court of competent jurisdiction.
- (7) Has willfully violated any of the provisions of this Chapter or the Board's rules.

(b) The Board may require a registrant to take a written or oral examination if the Board finds evidence that the person is not competent to practice landscape architecture as defined in this Chapter.

(c) The Board may take any of the actions authorized in subsection (a) of this section against any firm, partnership, or corporation registered with the Board.

(d) In addition to taking any of the actions authorized in subsection (a) of this section, the Board may assess a civil penalty not in excess of two thousand dollars (\$2,000) for the violation of any section of this Chapter or the violation of any rules adopted by the Board. All civil penalties collected by the Board shall be remitted to the school fund of the county in which the violation occurred. Before imposing and assessing a civil penalty and fixing the amount thereof, the Board shall, as a part of its deliberations, take into consideration the following factors:

- (1) The nature, gravity, and persistence of the particular violation.
- (2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
- (3) Whether the violation was willful.
- (4) Any other factors that would tend to mitigate or aggravate the violations found to exist."

Section 9. G.S. 89A-8 reads as rewritten:

"§ 89A-8. Violation a misdemeanor; injunction to prevent violation.

(a) It shall be a ~~Class 1~~Class 2 misdemeanor for any person to use, or to hold himself or herself out as entitled to practice ~~under,~~under the title of landscape architect or landscape architecture or to practice landscape architecture unless he or she is duly registered under the provisions of this Chapter.

(b) The Board may appear in its own name in the courts of the State and apply for injunctions to prevent violations of this Chapter."

Section 10. Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-4.2G. Employment of attorney for the North Carolina Board of Landscape Architects.

The Attorney General shall assign an attorney on the Attorney General's staff to serve as advisor to the North Carolina Board of Landscape Architects. The attorney shall be subject to all provisions of Chapter 126 of the General Statutes relating to the State Personnel System. The attorney shall also perform additional duties that may be assigned by the Attorney General."

Section 11. This act becomes effective October 1, 1997.

In the General Assembly read three times and ratified this the 7th day of August, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 12:00 p.m. this 18th day of August, 1997