

No. 1984-24

AN ACT

HB 1565

Amending the act of January 24, 1966 (1965 P.L.1527, No.535), entitled "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," reestablishing and continuing the State Board of Landscape Architects; increasing per diem reimbursement for board members; providing for removal from the board for nonattendance at meetings; removing the requirement that the board keep a list of all licensed landscape architects; requiring the board to furnish the General Assembly with status reports of pending formal complaints; reducing the experience requirement of applicants; further providing for exemptions from licensing; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2(1) of the act of January 24, 1966 (1965 P.L.1527, No.535), known as the Landscape Architects' Registration Law, added June 17, 1982 (P.L.527, No.151), is amended to read:

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

(1) "Board" means the State Board of Landscape Architects [which shall consist of seven persons appointed by the Governor which shall aid and assist in the administration of this act. Two members of the board shall represent the public at large. The remaining members of the board, 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 and one of whom shall be elected chairman and one of whom 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. The Commissioner of Professional and Occupational Affairs shall be an ex officio member of the board. The members shall receive thirty dollars (\$30) per diem for each day actually engaged in attendance at meetings of the board. The members shall also receive the amount of actual traveling, hotel and other necessary expenses incurred in the performance of their duties].

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Section 2. The act is amended by adding a section to read:

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.

Section 3. Section 4 of the act, amended June 17, 1982 (P.L.527, No.151) and repealed in part December 9, 1982 (P.L.1023, No.238), is amended to read:

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) To keep a roster showing the names and addresses of the places of business of all registered landscape architects licensed under this act and registered by the department. Copies of the roster and rules and regulations shall be made available.]

(6.1) To submit annually, to the Professional Licensure Committee of the House and the Consumer Protection¹ 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.

¹ "Affairs" in enrolled bill.

(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.

Section 4. Section 5 of the act, amended June 17, 1982 (P.L.527, No.151), is amended to read:

Section 5. Fees.—[The board shall establish through its rules and regulations the examination fees, reexamination fees, license fees and license renewal fees and any other fees applicable to the licensure of landscape architects.] *(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.

Section 5. Sections 6, 8(5) and 11 of the act, amended June 17, 1982 (P.L.527, No.151), are amended to read:

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 (i) 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; or (ii) **[a person possessed of long established and recognized standing in the landscape architectural field, with a record of not less than twenty-five years' experience in landscape architecture, of which at least fifteen years has been in responsible charge of landscape architectural work or teaching. An applicant may make application, pay the required registration fees and be issued a certificate of registration as a landscape architect upon an oral examination and after approval of the majority of the board. In situations provided for in this subsection the board may, in cases of question, offer the applicant the opportunity to take the written examination]** *an applicant who has ten years of active experience as a landscape architect and is a graduate of an approved institution, or who has fifteen years of active experience even though not a graduate of an approved institution, if in the opinion of the board the experience is of such grade and character as to fit the person to assume responsible charge of work involved in the practice of landscape architecture.*

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

* * *

(5) The practice of landscape architecture by officers and employes of the United States Government, **[the State or its political subdivisions]** so long as the services are rendered within the scope of government employment;

* * *

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.

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.

Section 7. All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

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.

Section 10. This act shall take effect April 1, 1984.

APPROVED—The 7th day of March, A. D. 1984.

DICK THORNBURGH