

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

4

HOUSE BILL 1110
Committee Substitute Favorable 5/28/97
Committee Substitute #2 Favorable 7/10/97
Fourth Edition Engrossed 7/15/97

Short Title: Landscape Architects.

(Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED
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~~

1 architecture. – The preparation of plans and specifications and
2 supervising the execution of projects involving the arranging of land
3 and the elements used thereon for public and private use and
4 enjoyment, embracing drainage, soil conservation, grading and
5 planting plans and erosion control, in accordance with the accepted
6 professional standards of public health, safety and welfare."

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

8 **"§ 89A-2. Use Practice of landscape architecture or use of title 'landscape architect'**
9 **without registration prohibited; use of seal.**

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

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

23 (b) Nothing in this Chapter shall be construed as ~~authorizing (i) to authorize a~~
24 landscape architect to engage in the practice of architecture, ~~engineering engineering,~~ or
25 land surveying, ~~nor (ii) to restrict from the practice of landscape architecture or otherwise~~
26 affect the rights of any person licensed to practice architecture under Chapter 83A, or
27 engineering or land surveying under Chapter 89C of the General Statutes; ~~Statutes if the~~
28 person does not use the title landscape architect, landscape architecture, or landscape
29 architectural, ~~or (iii) to restrict any person from engaging in the occupation of grading~~
30 lands whether by hand tools or machinery, ~~or (iv) to restrict the planting, maintaining~~
31 maintaining, or marketing of plants or plant materials: ~~Provided, however, that no individual~~
32 shall use the title 'landscape architect' unless he has complied with the provisions of this
33 Chapter. ~~materials or the drafting of plans or specifications related to the location of plants~~
34 on a site, (v) to require a certificate for the preparation, sale, or furnishing of plans,
35 specifications and related data, or for the supervision of construction pursuant thereto,
36 where the project involved is a single family residential site, or a residential, institutional,
37 or commercial site of one acre or less, or the project involved is a site of more than one
38 acre where only planting and mulching is required, or (vi) to prevent any individual from
39 making plans or data for their own building site or for the supervision of construction
40 pursuant thereto.

41 (c) Each landscape architect shall, upon registration, obtain a seal of the design
42 authorized by the Board, bearing the name of the registrant, number of certificate and the

1 legend 'N.C. Registered Landscape Architect'. Such seal may be used only while the
2 registrant's certificate is in full force and effect.

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

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

7 "**§ 89A-3. North Carolina Board of Landscape Architects; ~~appointments; powers.~~**
8 **appointments.**

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

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

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

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

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

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

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

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

40 "**§ 89A-3A. Board's powers and duties.**

41 The Board shall have the following powers and duties:

42 (1) Administer and enforce the provisions of this Chapter.

43 (2) Adopt rules to administer and enforce the provisions of this Chapter.

- 1 (3) Examine and determine the qualifications and fitness of applicants for
2 registration and renewal of registration.
- 3 (4) Determine the qualifications of firms, partnerships, or corporations
4 applying for a certificate of registration.
- 5 (5) Issue, renew, deny, suspend, or revoke certificates of registration and
6 conduct any disciplinary actions authorized by this Chapter.
- 7 (6) Establish and approve continuing education requirements for persons
8 registered under this Chapter.
- 9 (7) Receive and investigate complaints from members of the public.
- 10 (8) Conduct investigations for the purpose of determining whether
11 violations of this Chapter or grounds for disciplining registrants exist.
- 12 (9) Conduct administrative hearings in accordance with Article 3 of Chapter
13 150B of the General Statutes.
- 14 (10) Maintain a record of all proceedings conducted by the Board and make
15 available to registrants and other concerned parties an annual report of
16 all Board action.
- 17 (11) Employ and fix the compensation of personnel that the Board
18 determines is necessary to carry out the provisions of this Chapter and
19 incur other expenses necessary to perform the duties of the Board.
- 20 (12) Adopt and publish a code of professional conduct for all registrants.
- 21 (13) Adopt a seal containing the name of the Board for use on all certificates
22 of registration and official reports issued by the Board."

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

24 "**§ 89A-4. Application, examination, certificate.**

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

31 (1) Shall be at least 18 years of age and age.

32 (2) Shall be of good moral character; and that the applicant shall character.

33 (3) Shall be a graduate of ~~an~~ a Landscape Architect's Accreditation Board
34 (LAAB) accredited collegiate curriculum in landscape architecture as
35 approved by the ~~Board~~ and Board.

36 (4) Shall have at least ~~one year's~~ experience; ~~four years'~~ experience in
37 landscape architecture.

38 (a1) in lieu of such graduation and experience ~~Notwithstanding the requirements of~~
39 subdivisions (a)(3) and (4) of this section, any person who has had a minimum of ~~seven~~
40 10 years of education and experience in landscape architecture, in any combination
41 deemed suitable by the Board, may make application to the Board for examination.

42 (b) If ~~said~~ the application is satisfactory to the Board, and is accompanied by the
43 fees required by this Chapter, then the applicant shall be entitled to an examination to

1 determine his or her qualifications. If the result of the examination of any applicant shall
2 be satisfactory to the Board, then the Board shall issue to the applicant a certificate to use
3 the title 'landscape architect' and to practice landscape architecture in North Carolina.
4 Examinations shall be held at least once a year at a time and place to be fixed by the
5 Board which shall determine the subjects and scope of the examination. The Board may
6 adopt rules for administering the examination in one or more parts at the same time or at
7 different times.

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

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

19 (e) The Board, within its discretion, may grant an honorific title license to persons
20 who have held for a minimum of 20 years a license or certificate in landscape
21 architecture issued by the Board or a legally constituted board of examiners in another
22 state or country whose registration requirements are equal or equivalent to those of this
23 State. The honorific title license shall allow the person to use the title 'landscape
24 architect emeritus', but the person shall not practice landscape architecture or provide
25 expert testimony as a landscape architect in this State unless the person complies with the
26 provisions of this Chapter. There shall be no fee charged for an honorific title license."

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

28 **"§ 89A-5. Annual renewal of certificate.**

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

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

42 **"§ 89A-6. Fees.**

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

3 Application	\$100.00
4 Examination	450.00
5 License by reciprocity <u>or comity</u>	250.00
6 Annual license renewal	100.00
7 Late renewal penalty	50.00
8 Reissue of certificate	25.00
9 Temporary permit _____	150.00
10 Corporate certificate	250.00

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

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

13 "**§ 89A-7. Refusal, revocation or suspension of certificate. Disciplinary actions.**

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

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

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

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

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

1 (d) In addition to taking any of the actions authorized in subsection (a) of this
2 section, the Board may assess a civil penalty not in excess of two thousand dollars
3 (\$2,000) for the violation of any section of this Chapter or the violation of any rules
4 adopted by the Board. All civil penalties collected by the Board shall be remitted to the
5 school fund of the county in which the violation occurred. Before imposing and
6 assessing a civil penalty and fixing the amount thereof, the Board shall, as a part of its
7 deliberations, take into consideration the following factors:

8 (1) The nature, gravity, and persistence of the particular violation.

9 (2) The appropriateness of the imposition of a civil penalty when
10 considered alone or in combination with other punishment.

11 (3) Whether the violation was willful.

12 (4) Any other factors that would tend to mitigate or aggravate the violations
13 found to exist."

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

15 "**§ 89A-8. Violation a misdemeanor; injunction to prevent violation.**

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

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

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

24 "**§ 114-4.2G. Employment of attorney for the North Carolina Board of Landscape**
25 **Architects.**

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

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