

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1140

Final Reading

Introduced by Mello, 5.

Read first time January 19, 2012

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to the Professional Landscape Architects Act; to
2 amend sections 81-8,184, 81-8,185, 81-8,186, 81-8,189,
3 81-8,190, 81-8,191.01, 81-8,192, 81-8,193, 81-8,195,
4 81-8,196, 81-8,197, 81-8,198, 81-8,199, 81-8,200,
5 81-8,200.01, 81-8,200.02, 81-8,201, 81-8,202, 81-8,203,
6 81-8,204, 81-8,205, 81-8,206, and 81-8,208, Reissue
7 Revised Statutes of Nebraska, and section 81-8,194,
8 Revised Statutes Cumulative Supplement, 2010; to
9 eliminate registration of professional landscape
10 architects; to license professional landscape architects;
11 to change provisions relating to the State Board of
12 Landscape Architects and licensure requirements and
13 examinations; to harmonize provisions; and to repeal the
14 original sections.

15 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-8,208, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~81-8,208~~ Sections 81-8,184 to ~~81-8,208~~81-8,206 and
4 section 1 of this act shall be known and may be cited as the
5 Professional Landscape Architects Act.

6 Sec. 2. Section 81-8,184, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 81-8,184 ~~As used in sections 81-8,184 to 81-8,208, For~~
9 purposes of the Professional Landscape Architects Act, unless the
10 context otherwise requires:

11 (1) Professional landscape architect ~~shall mean~~ means a
12 person, who, by reason of his or her knowledge acquired by
13 professional education or practical experience, or both, is qualified
14 to engage in the practice of professional landscape architecture as
15 provided in ~~sections 81-8,184 to 81-8,208; the act;~~

16 (2) ~~The practice~~ Practice of professional landscape
17 architecture ~~shall mean~~ means the performance of professional
18 services such as consultations, investigations, reconnaissance,
19 research, planning, design, or responsible supervision in connection
20 with projects involving the arranging of land and the elements
21 thereon for public and private use and enjoyment, including the
22 alignment of roadways and the location of buildings, service areas,
23 parking areas, walkways, steps, ramps, pools, and other structures,
24 and the grading of the land, surface and subsoil drainage, erosion
25 control, planting, reforestation, and the preservation of the natural

1 landscape and aesthetic values, in accordance with accepted
2 professional standards of public health, welfare, and safety. ~~This~~
3 ~~practice shall include~~ Practice of professional landscape
4 architecture includes the location and arrangement of such tangible
5 objects and features as are incidental and necessary to the purposes
6 outlined ~~herein~~ in this subdivision but ~~shall~~ does not include the
7 design of structures or facilities with separate and self-contained
8 purposes for habitation or industry, ~~or~~ the design of public streets
9 and highways, utilities, storm and sanitary sewers, and sewage
10 treatment facilities, ~~such as~~ which are ordinarily included in the
11 practice of engineering or architecture, or; ~~and shall not include~~
12 the making of land surveys or final land plats for official approval
13 or recording. Nothing contained in ~~sections 81-8,184 to 81-8,208~~ the
14 act shall preclude a duly licensed professional landscape architect
15 from performing any of the services ~~described in the first sentence~~
16 ~~of~~ defined as practice of professional landscape architecture in this
17 subdivision in connection with the settings, approaches, or
18 environment for buildings, structures, or facilities. Nothing
19 contained in ~~sections 81-8,184 to 81-8,208~~ the act shall be construed
20 as authorizing a professional landscape architect to engage in the
21 practice of architecture, engineering, or land surveying. Nothing ;
22 ~~Provided, that nothing in sections 81-8,184 to 81-8,208~~ the act shall
23 prohibit any ~~persons,~~ person, firm, or corporation, or their
24 officers, agents, or employees, from preparing planting plans for
25 plant materials in connection with the sale of nursery stock, plants,

1 trees, shrubs, flowers, sod, or other plant material, outdoor
2 decorative ornaments, seed, fertilizer, chemicals, gardening tools
3 and equipment, and related items of merchandise or the propagation,
4 planting, or growth of any indoor or outdoor plants; and

5 (3) Board ~~shall mean~~ means the State Board of Landscape
6 Architects created by the ~~provisions of sections 81-8,184 to~~
7 ~~81-8,208. act.~~

8 Sec. 3. Section 81-8,185, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 81-8,185 (1) No person shall engage in the practice of
11 professional landscape architecture or use or advertise any sign,
12 title, or description tending to imply or designate that such a
13 person is a professional landscape architect unless he or she is
14 ~~registered licensed~~ as such as provided in ~~sections 81-8,184 to~~
15 ~~81-8,208. the Professional Landscape Architects Act.~~ Every holder of
16 ~~a registration certificate licensee~~ shall display it his or her
17 certificate of licensure in a conspicuous place at his or her place
18 of business.

19 (2) Any person holding a certificate of registration
20 under the act as of the effective date of this act shall be deemed to
21 be duly licensed under the act until the expiration of such
22 certificate.

23 Sec. 4. Section 81-8,186, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 81-8,186 There is hereby created a State Board of

1 Landscape Architects consisting of six members who shall be appointed
2 by the Governor. Five members of the board shall be professional
3 landscape architects and one member shall be a layperson of the age
4 of legal majority, ~~who shall represent consumer viewpoints but shall~~
5 ~~not judge professional competency.~~ All members shall have been
6 residents of this state for at least one year immediately preceding
7 their appointments.

8 Sec. 5. Section 81-8,189, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 81-8,189 Members of the board shall serve without
11 compensation except that they shall ~~receive the~~ be reimbursed for
12 their actual and necessary travel and incidental expenses incurred in
13 the discharge of their duties ~~prescribed in sections 81-8,184 to~~
14 ~~81-8,208 pursuant to the Professional Landscape Architects Act as~~
15 provided in sections 81-1174 to 81-1177. ~~for state employees.~~

16 Sec. 6. Section 81-8,190, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 81-8,190 The board shall elect annually from its members
19 a ~~chairman~~ chairperson and a ~~vice-chairman.~~ vice-chairperson. The
20 board shall meet at least once a year at a time and place fixed by
21 the board. Three members shall constitute a quorum. The board ~~shall~~
22 ~~have power to~~ may employ such technical and clerical assistants and
23 incur such expense as may be necessary to properly carry out the
24 ~~provisions of sections 81-8,184 to 81-8,208.~~ Professional Landscape
25 Architects Act.

1 Sec. 7. Section 81-8,191.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-8,191.01 ~~The State Board of Landscape Architects shall~~
4 ~~have the power to~~ board may adopt and promulgate all ~~bylaws and rules~~
5 and regulations, ~~not inconsistent with law,~~ which are needed in
6 performing its duties. Such rules and regulations ~~shall include,~~ but
7 are not be limited to, a definition of conflict of interest for board
8 members and the appropriate procedure to follow when a conflict
9 arises. The rules and regulations or a code of professional conduct
10 developed by the board shall also include definitions of or a list of
11 specific practices which constitute fraud, deceit, gross negligence,
12 incompetence, or misconduct and the punishments for such practices
13 which shall be used as the basis to place a professional landscape
14 architect on probation or revoke or suspend a registration license
15 pursuant to section 81-8,202.

16 Sec. 8. Section 81-8,192, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 81-8,192 The board shall keep on file a record of all
19 certificates of registration licensure granted and shall make annual
20 revisions of such record as may be necessary. On or before January 31
21 of each year, the board shall file with the Secretary of State a
22 complete list of those registered licensed under the ~~provisions of~~
23 ~~sections 81-8,184 to 81-8,208~~ Professional Landscape Architects Act
24 with their addresses and the dates of ~~the certificate of~~
25 registration. ~~The list shall be printed and a copy mailed annually to~~

1 ~~every professional landscape architect registered under the~~
2 ~~provisions of sections 81-8,184 to 81-8,208 and practicing in~~
3 ~~Nebraska.~~ licensure.

4 Sec. 9. Section 81-8,193, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 81-8,193 The board shall adopt and have an official seal
7 which shall be affixed to all certificates of ~~registration~~ licensure
8 granted and may ~~make all bylaws and adopt and promulgate rules, not~~
9 ~~inconsistent with law, and regulations necessary for the proper~~
10 performance of its such duty.

11 Sec. 10. Section 81-8,194, Revised Statutes Cumulative
12 Supplement, 2010, is amended to read:

13 81-8,194 (1) The board shall establish fees of not less
14 than one hundred nor more than three hundred dollars for applications
15 for ~~registration,~~ licensure, ~~examinations,~~ certificates of
16 ~~registration,~~ licensure, ~~reciprocal registrations,~~ licenses, and
17 renewals based on the administration costs incurred by the board. The
18 board shall collect, ~~and account for, and remit~~ such fees ~~and pay the~~
19 ~~same into the state treasury and which, by to~~ the State Treasurer,
20 ~~shall be credited for credit~~ to the State Board of Landscape
21 Architects Cash Fund which is hereby created.

22 (2) Transfers may be made from the State Board of
23 Landscape Architects Cash Fund to the General Fund at the direction
24 of the Legislature. Any money in the State Board of Landscape
25 Architects Cash Fund available for investment shall be invested by

1 the state investment officer pursuant to the Nebraska Capital
2 Expansion Act and the Nebraska State Funds Investment Act.

3 Sec. 11. Section 81-8,195, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 81-8,195 Applications for ~~registration~~ licensure shall be
6 on forms prescribed and furnished by the board, and shall contain
7 statements made under oath, showing the applicant's education and a
8 detailed summary of his or her technical work. Applications for
9 ~~registration~~ licensure shall be accompanied by an application fee in
10 an amount determined by the board.

11 Sec. 12. Section 81-8,196, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 81-8,196 Each applicant for ~~registration~~ licensure as a
14 professional landscape architect shall complete an application ~~which~~
15 ~~includes his or her social security number and shall have that~~
16 includes the following requirements:

17 ~~(1) Graduation from a course of study in landscape~~
18 ~~architecture of four years or more in a school or college~~
19 ~~satisfactory to the board. In addition, the applicant shall also~~
20 ~~submit a specific record of four years or more of practical~~
21 ~~experience in landscape architecture which is of a grade and~~
22 ~~character satisfactory to the board. In lieu of graduation from a~~
23 ~~four year landscape architecture course in school or college, and the~~
24 ~~additional requirement for practical experience, there may be~~
25 ~~substituted evidence of at least eight years of practical experience~~

1 ~~which in the opinion of the board has prepared the applicant for~~
2 ~~examination and registration;~~

3 (1) Proof that the applicant has met the eligibility
4 standards set by the board in rules and regulations adopted and
5 promulgated by the board in consultation with the Council of
6 Landscape Architectural Registration Boards;

7 (2) Successful ~~passing~~ passage of a written, ~~oral,~~ or
8 ~~written and oral~~ electronic examination in landscape architecture
9 which is designed to determine the proficiency and qualifications to
10 engage in the practice of professional landscape architecture; and -
11 ~~No applicant shall be entitled to take this examination until the~~
12 ~~applicant's education, training or experience, or both training and~~
13 ~~experience, have met the requirements of the board;~~

14 (3) ~~Be at least twenty one years of age; and~~

15 ~~(4) Be~~ (3) That the applicant is of good character.

16 Sec. 13. Section 81-8,197, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 81-8,197 Examinations shall be ~~given at stated or called~~
19 ~~meetings of~~ administered by the board or the Council of Landscape
20 Architectural Registration Boards at times to be set by the board in
21 consultation with the council. ~~The board shall adopt and publish the~~
22 ~~rules and regulations for the scope of the examinations and methods~~
23 ~~of procedure. The board shall file a report after the close of each~~
24 ~~examination showing the action of the board upon each application and~~
25 ~~each applicant shall be notified of the result of his or her~~

1 ~~examination. An applicant who fails an examination may apply for one~~
2 ~~reexamination at the next examination conducted by the board without~~
3 ~~payment of an additional fee. Applications for reexamination after a~~
4 ~~period of one year or subsequent reexaminations may be granted upon~~
5 ~~payment of a fee in an amount determined by the board.~~

6 Sec. 14. Section 81-8,198, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 81-8,198 Each ~~registrant~~ licensee shall provide himself
9 or herself with a suitable seal with a uniform inscription thereon
10 formulated by the board with which he or she shall stamp all plans,
11 specifications, and reports prepared by him or her. The following
12 shall be stated on the seal: State of Nebraska, the licensee's name,
13 the license number, and Professional Landscape Architect. A
14 ~~certificate of registration as provided for in sections 81-8,184 to~~
15 ~~81-8,208~~ license shall be presumptive evidence that the person named
16 therein is legally ~~registered.~~ licensed.

17 Sec. 15. Section 81-8,199, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-8,199 The board shall issue a certificate of
20 ~~registration as a professional landscape architect~~ licensure to each
21 successful applicant upon payment of the annual fee. Each certificate
22 shall be signed by two members of the board under the seal of the
23 board. The certificate, ~~which~~ shall authorize the applicant to
24 practice professional landscape architecture, ~~as defined in sections~~
25 ~~81-8,184 to 81-8,208.~~

1 Sec. 16. Section 81-8,200, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-8,200 Certificates of ~~registration~~licensure shall
4 expire on the last day of December following their issuance or
5 renewal and shall become invalid on that date unless renewed before
6 the expiration date with the payment of a fee in an amount the board
7 shall determine. The board shall notify every ~~person registered under~~
8 ~~the provisions of sections 81-8,184 to 81-8,208~~ licensee of the
9 expiration date of his or her certificate and the amount of the
10 annual renewal fee at least one month in advance. The fee to be paid
11 for the renewal of a certificate after December 31 shall be increased
12 by ten percent for each month or fraction of a month such payment is
13 delayed, ~~;-except that;~~ the maximum fee for a delayed renewal shall
14 not exceed twice the amount of the original renewal fee and no
15 renewals shall be made after a lapse of one year ~~from~~after the
16 original expiration date thereof. Renewal fees shall not be required
17 while the professional landscape architect is on active duty with the
18 armed forces of the United States. Application for renewal of a
19 lapsed ~~registration~~license shall be in the same manner as provided
20 for an original application pursuant to section 81-8,196.

21 Sec. 17. Section 81-8,200.01, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 81-8,200.01 (1) ~~Beginning in 1986, as~~ As a condition for
24 renewal of a certificate of ~~registration~~licensure issued pursuant to
25 ~~sections 81-8,184 to 81-8,208,~~ the Professional Landscape Architects

1 ~~Act, a certificate holder—licensee~~ shall be required to successfully
2 complete fifteen hours of professional development within the
3 preceding calendar year.

4 (2) ~~The State Board of Landscape Architects board~~ shall
5 not renew the certificate of ~~registration—licensure~~ of any
6 ~~certificate holder—licensee~~ who has failed to complete the
7 professional development requirements pursuant to subsection (1) of
8 this section, unless he or she can show good cause why he or she was
9 unable to comply with such requirements. If the board determines that
10 good cause was shown, the board shall permit the ~~registered landscape~~
11 ~~architect—licensee~~ to make up all outstanding required hours of
12 professional development.

13 Sec. 18. Section 81-8,200.02, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 81-8,200.02 ~~The State Board of Landscape Architects board~~
16 shall adopt and promulgate ~~such administrative procedures and rules~~
17 and regulations as are necessary for the effective delivery and
18 ~~certification—licensure~~ of all programs of professional development
19 required in section 81-8,200.01.

20 Sec. 19. Section 81-8,201, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 81-8,201 The board may ~~certify for registration—license~~
23 without examination any applicant who is legally licensed or
24 registered as a professional landscape architect in any other state,
25 territory, or country whose requirements for licensure or

1 registration are at least substantially equivalent to or higher than
2 ~~the requirements of the provisions of sections 81-8,184 to 81-8,208~~
3 the Professional Landscape Architects Act and which extends the same
4 privileges of reciprocity to professional landscape architects
5 ~~registered-licensed~~ in this state and who has actively practiced for
6 at least one of the three years immediately preceding the application
7 for ~~registration-licensure~~ without examination. The application for
8 reciprocal ~~registration-licensure~~ shall be accompanied by a fee in an
9 amount the board shall determine.

10 Sec. 20. Section 81-8,202, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 81-8,202 The board ~~shall have the power~~ may by a four-
13 fifths vote of the entire board ~~to place a registered-licensed~~
14 professional landscape architect on probation or ~~to~~ revoke or suspend
15 the ~~certificate-license~~ of any professional landscape architect
16 ~~registered-licensed~~ under the Professional Landscape Architects Act
17 whom it finds guilty of (1) deceit in obtaining a ~~certificate,~~
18 license, (2) fraud, (3) gross negligence, (4) incompetency, or (5)
19 misconduct in the practice of professional landscape architecture.
20 Such person shall have the right to appeal the revocation or
21 suspension of his or her ~~certificate of registration,~~ license, and
22 the appeal shall be in accordance with the Administrative Procedure
23 Act.

24 Sec. 21. Section 81-8,203, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 81-8,203 Warrants for the payment of expenses and
2 ~~compensations~~ compensation provided by ~~sections 81-8,184 to 81-8,208~~
3 the Professional Landscape Architects Act shall be issued by the
4 Director of Administrative Services upon presentation of vouchers
5 drawn by the ~~chairman,~~ chairperson, but at no time shall the total
6 amount of warrants exceed the total amount of fees collected as
7 provided by the ~~provisions of sections 81-8,184 to 81-8,208.~~ act.

8 Sec. 22. Section 81-8,204, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 81-8,204 No person shall practice as a professional
11 landscape architect or in any manner designate himself or herself as
12 a professional landscape architect unless he or she has been issued a
13 certificate of ~~registration~~ licensure pursuant to ~~sections 81-8,184~~
14 ~~to 81-8,208.~~ the Professional Landscape Architects Act. If such
15 person does practice or attempt to practice under the designation of
16 professional landscape architect, he or she may be restrained under
17 permanent injunction.

18 Sec. 23. Section 81-8,205, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 81-8,205 Any person who violates ~~such~~ a permanent
21 injunction obtained pursuant to section 81-8,204, presents or
22 attempts to file as his or her own the certificate of ~~registration~~
23 licensure of another, ~~who shall give~~ gives false or forged evidence
24 of any kind to the board in obtaining a certificate of ~~registration,~~
25 ~~who~~ licensure, indorses any document which he or she did not actually

1 prepare or supervise the preparation thereof, ~~who shall falsely~~
2 ~~impersonate~~ impersonates another practitioner of like or different
3 name, or ~~who shall use~~ uses a revoked certificate of ~~registration~~
4 licensure shall be deemed guilty of a Class III misdemeanor.

5 Sec. 24. Section 81-8,206, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 81-8,206 The ~~provisions of sections 81-8,184 to 81-8,208~~
8 Professional Landscape Architects Act shall not apply to:

9 (1) Any person who is an employee of a ~~registered~~
10 licensed professional landscape architect and who performs landscape
11 architectural work under the direction and supervision of a
12 ~~registered licensed professional landscape architect~~, but such work
13 ~~shall does~~ not include responsible change of design or administration
14 of construction contracts;

15 (2) Any full-time employee who performs landscape
16 architectural work for his or her employer when all such work is in
17 connection with a facility owned or operated by the employer and when
18 such work does not endanger the public welfare, health, and safety,
19 and when the service is not offered to the public;

20 (3) Any architect or professional engineer, but such
21 architect or engineer may not use the title landscape architect or
22 professional landscape architect unless he or she is ~~registered~~
23 licensed pursuant to sections 81-8,184 to 81-8,208; the act; or

24 (4) Any person who seeks advice or help of any other
25 person in planning, planting, or maintaining the planting or

1 conservation work on any property he or she owns or controls or who
2 does such things himself or herself.

3 Sec. 25. Original sections 81-8,184, 81-8,185, 81-8,186,
4 81-8,189, 81-8,190, 81-8,191.01, 81-8,192, 81-8,193, 81-8,195,
5 81-8,196, 81-8,197, 81-8,198, 81-8,199, 81-8,200, 81-8,200.01,
6 81-8,200.02, 81-8,201, 81-8,202, 81-8,203, 81-8,204, 81-8,205,
7 81-8,206, and 81-8,208, Reissue Revised Statutes of Nebraska, and
8 section 81-8,194, Revised Statutes Cumulative Supplement, 2010, are
9 repealed.