

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 788

Introduced by Cook, 13.

Read first time January 07, 2016

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to the Professional Landscape Architects Act;
2 to amend sections 81-8,183.01, 81-8,184, 81-8,186, 81-8,190,
3 81-8,191, 81-8,191.01, 81-8,192, 81-8,194, 81-8,196, 81-8,198,
4 81-8,199, 81-8,200, 81-8,202, 81-8,204, 81-8,205, and 81-8,206,
5 Reissue Revised Statutes of Nebraska; to change and eliminate
6 provisions relating to licensure and regulation of professional
7 landscape architects; to provide and change penalties; to harmonize
8 provisions; to repeal the original sections; and to outright repeal
9 sections 81-8,184.01, 81-8,185, 81-8,187, 81-8,188, 81-8,195,
10 81-8,197, 81-8,200.01, 81-8,200.02, 81-8,201, and 81-8,203, Reissue
11 Revised Statutes of Nebraska.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-8,183.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-8,183.01 Sections 81-8,183.01 to 81-8,206 and sections 2, 17, 18,
4 and 20 to 22 of this act shall be known and may be cited as the
5 Professional Landscape Architects Act.

6 Sec. 2. To protect public health, safety, and welfare, the
7 Professional Landscape Architects Act regulates the title and practice of
8 landscape architecture in the State of Nebraska. No person may engage in
9 the practice of landscape architecture, use the designation of
10 professional landscape architect, landscape architect, or any derivative
11 thereof, or advertise any title or description tending to convey the
12 impression that he or she is a professional landscape architect, unless
13 the person is authorized in the manner provided in the act and complies
14 with all provisions of the act. The practice of landscape architecture is
15 a privilege granted by the board, based on the qualifications of the
16 individual, and evidenced by a license.

17 Sec. 3. Section 81-8,184, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 81-8,184 For purposes of the Professional Landscape Architects Act,
20 ~~unless the context otherwise requires:~~

21 (1) Board means the State Board of Landscape Architects;

22 (2) Coordinating professional means a design professional who
23 coordinates, as appropriate, the work of all design professionals
24 involved in a project;

25 (3) Design professional means a professional landscape architect, a
26 licensed architect, or a professional engineer;

27 (4) Landscape architect intern means an individual who has been duly
28 enrolled as a landscape architect intern by the board;

29 (5) License means an authorization granted by the board to practice
30 landscape architecture;

31 ~~(1) Professional landscape architect means a person who, by reason~~

1 ~~of his or her knowledge acquired by professional education or practical~~
2 ~~experience, or both, is qualified to engage in the practice of~~
3 ~~professional landscape architecture as provided in the act;~~

4 (6 2) Practice of professional landscape architecture means the
5 application of the principles of mathematical, physical, biological, and
6 social sciences in consultation, evaluation, planning, design, including,
7 but not limited to, the preparation, review and filing of plans,
8 drawings, specifications, and other contract documents, and
9 administration of contracts relative to projects principally directed at
10 the functional and aesthetic use and preservation of land in the
11 performance of professional services. These professional services
12 include, but are not limited to:

13 (a) Investigation, selection, and allocation of land and natural
14 resources for appropriate uses;

15 (b) Development of feasibility and site selection studies to govern
16 the planning, design, and management of the land;

17 (c) Preparation, review, and analysis of land-use master, site, and
18 comprehensive development plans and preliminary subdivision plans;

19 (d) Determining the location and siting of improvements, including
20 buildings, site features, access, and environs for the improvements;

21 (e) Collaboration with architects, professional engineers, and
22 registered land surveyors in the design of streets, highways, bridges,
23 buildings, and structures with respect to the functional and aesthetic
24 requirements of the area in which such facilities are to be placed;

25 (f) Design of: Sites, landforms, water features, and water bodies;
26 site grading; surface and subsurface drainage and management; sediment
27 and erosion control; non-inhabitable structures; park and recreation
28 areas; site vehicular circulation systems, greenways, and streetscapes;
29 equestrian, bicycle, and pedestrian circulation systems; site lighting,
30 irrigation, plantings, and related construction details and
31 specifications;

1 (g) Preservation and management of natural, cultural, historic, and
2 aesthetic resources; and

3 (h) Location and arrangement of such tangible objects and features
4 as are incidental and necessary to the purposes outlined in this section.
5 Practice of landscape architecture does not include the design of
6 structures or facilities with separate and self-contained purposes for
7 habitation or industry, or the design of streets and highways, utilities,
8 storm and sanitary sewers, and water and sewage treatment facilities,
9 such as are exclusive to the practice of engineering, architecture, or
10 land surveying; and

11 (7) Professional landscape architect or licensee means a person who
12 is licensed by the board to practice landscape architecture. performance
13 of professional services such as consultations, investigations,
14 reconnaissance, research, planning, design, or responsible supervision in
15 connection with projects involving the arranging of land and the elements
16 thereon for public and private use and enjoyment, including the alignment
17 of roadways and the location of buildings, service areas, parking areas,
18 walkways, steps, ramps, pools, and other structures, and the grading of
19 the land, surface and subsoil drainage, erosion control, planting,
20 reforestation, and the preservation of the natural landscape and
21 aesthetic values, in accordance with accepted professional standards of
22 public health, welfare, and safety. Practice of professional landscape
23 architecture includes the location and arrangement of such tangible
24 objects and features as are incidental and necessary to the purposes
25 outlined in this subdivision but does not include the design of
26 structures or facilities with separate and self-contained purposes for
27 habitation or industry, the design of public streets and highways,
28 utilities, storm and sanitary sewers, and sewage treatment facilities
29 which are ordinarily included in the practice of engineering or
30 architecture, or the making of land surveys or final land plats for
31 official approval or recording. Nothing contained in the act shall

1 ~~preclude a duly licensed professional landscape architect from performing~~
2 ~~any of the services defined as practice of professional landscape~~
3 ~~architecture in this subdivision in connection with the settings,~~
4 ~~approaches, or environment for buildings, structures, or facilities.~~
5 ~~Nothing contained in the act shall be construed as authorizing a~~
6 ~~professional landscape architect to engage in the practice of~~
7 ~~architecture, engineering, or land surveying. Nothing in the act shall~~
8 ~~prohibit any person, firm, or corporation or their officers, agents, or~~
9 ~~employees from preparing planting plans for plant materials in connection~~
10 ~~with the sale of nursery stock, plants, trees, shrubs, flowers, sod, or~~
11 ~~other plant material, outdoor decorative ornaments, seed, fertilizer,~~
12 ~~chemicals, gardening tools and equipment, and related items of~~
13 ~~merchandise or the propagation, planting, or growth of any indoor or~~
14 ~~outdoor plants; and~~

15 ~~(3) Board means the State Board of Landscape Architects created by~~
16 ~~the act.~~

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

19 81-8,186 (1) There is hereby created a State Board of Landscape
20 Architects consisting of six members who shall be appointed by the
21 Governor. Five members of the board shall be professional landscape
22 architects and one member shall be a member of the public. ~~layperson of~~
23 ~~the age of legal majority. All members shall have been residents of this~~
24 ~~state for at least one year immediately preceding their appointments.~~

25 (2) Each member shall be a citizen of the United States and shall
26 have been a resident of the State of Nebraska for at least one year
27 immediately preceding appointment.

28 (3) Each professional landscape architect member shall have been
29 engaged in the active practice of landscape architecture for at least
30 five years at the time of his or her appointment and shall be a
31 professional landscape architect in this state.

1 (4) The term of office of the members appointed to the board shall
2 be for five years. A member shall hold office after the expiration of his
3 or her term until his or her successor is duly appointed and qualified.
4 Vacancies in the membership of the board, however created, shall be
5 filled for the unexpired term by appointment by the Governor. The
6 Governor may remove any member of the board for misconduct, incompetency,
7 or neglect of duty.

8 Sec. 5. Section 81-8,190, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 81-8,190 The board shall elect annually from its members a
11 chairperson and a vice-chairperson. The board shall meet at least once a
12 year at a time and place fixed by the board. Three members shall
13 constitute a quorum. The board may employ such technical and clerical
14 assistants and incur such expense as may be necessary to properly carry
15 out the Professional Landscape Architects Act. The office of the board
16 shall be located in Lincoln, Nebraska.

17 Sec. 6. Section 81-8,191, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 81-8,191 The board and any committee of the board is entitled to the
20 services of the Attorney General in the connection with the affairs of
21 the board and may compel the attendance of witnesses, administer oaths,
22 and take testimony and proofs concerning all matters within its
23 jurisdiction. The Attorney General shall act as legal advisor to the
24 board and render such legal assistance as may be necessary in carrying
25 out the Professional Landscape Architects Act. The board may expend funds
26 to promote licensure of professional landscape architects in this state
27 subject to section 84-733 shall be entitled to the counsel and to the
28 services of the Attorney General and shall have power to compel the
29 attendance of witnesses, pay witness fees and mileage as provided in
30 section 81-1176 for state employees, and may take testimony and proofs
31 and may administer oaths concerning any matter within its jurisdiction.

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

3 81-8,191.01 The board may adopt and promulgate rules and regulations
4 to carry out the Professional Landscape Architects Act which are needed
5 in performing its duties. Such rules and regulations may include, but are
6 not be limited to, a definition of conflict of interest for board members
7 and the appropriate procedure to follow when a conflict arises. The rules
8 and regulations or a code of professional conduct developed by the board
9 shall also include definitions of or a list of specific practices which
10 constitute fraud, deceit, gross negligence, incompetence, or misconduct
11 and the punishments for such practices which shall be used as the basis
12 to place a professional landscape architect on probation, or revoke or
13 suspend a license, or impose a penalty pursuant to section 81-8,205 and
14 sections 17 and 18 of this act pursuant to section 81-8,202.

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

17 81-8,192 The board shall maintain and make available to the public
18 a complete roster of each professional landscape architect showing his or
19 her name and last-known address. The board shall file the roster with the
20 Secretary of State annually and may distribute a copy to each
21 professional landscape architect as well as county and municipal
22 officials.

23 ~~The board shall keep on file a record of all certificates of~~
24 ~~licensure granted and shall make annual revisions of such record as may~~
25 ~~be necessary. On or before January 31 of each year, the board shall file~~
26 ~~with the Secretary of State a complete list of those licensed under the~~
27 ~~Professional Landscape Architects Act with their addresses and the dates~~
28 ~~of licensure.~~

29 Sec. 9. Section 81-8,194, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 81-8,194 (1) The board shall establish fees of no not less than one

1 ~~hundred nor~~ more than three hundred dollars for applications, initial
2 certificates of licensure and renewals, and landscape architect intern
3 enrollments and renewals. The board may levy and collect fees for
4 services related to the Professional Landscape Architects Act for
5 licensure, examinations, certificates of licensure, reciprocal licenses,
6 and renewals based on the administration costs incurred by the board. The
7 board shall collect, account for, and remit such fees to the State
8 Treasurer for credit to the State Board of Landscape Architects Cash Fund
9 which is hereby created. All fees are nonrefundable.

10 (2) Transfers may be made from the State Board of Landscape
11 Architects Cash Fund to the General Fund at the direction of the
12 Legislature. Any money in the State Board of Landscape Architects Cash
13 Fund available for investment shall be invested by the state investment
14 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
15 State Funds Investment Act.

16 (3) Warrants for the payment of expenses and compensation as
17 provided for in the Professional Landscape Architects Act shall be issued
18 by the Director of Administrative Services and paid by the State
19 Treasurer out of the State Board of Landscape Architects Cash Fund upon
20 presentation of vouchers regularly drawn by the chairperson of the board
21 and approved by the board. At no time shall the total amount of warrants
22 exceed the total amount of fees collected under the act and credited to
23 the fund.

24 Sec. 10. Section 81-8,196, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 81-8,196 (1) Applications for licensure as a professional landscape
27 architect shall be on forms prescribed and furnished by the State Board
28 of Landscape Architects.

29 (2) Applicants who hold a landscape architecture degree accredited
30 by the Landscape Architectural Accreditation Board or its equivalent as
31 determined by the board may sit for the Landscape Architect Registration

1 Examination as administered by the Council of Landscape Architectural
2 Registration Boards.

3 (3) The following shall be considered as the minimum evidence
4 satisfactory to the State Board of Landscape Architects that an applicant
5 is eligible for initial licensure, upon application, as a professional
6 landscape architect:

7 (a) Submission of an application accompanied by the fee established
8 by the board;

9 (b) Submission of a council record maintained by the Council of
10 Landscape Architectural Registration Boards;

11 (c) Graduation from a program accredited by the Landscape
12 Architectural Accreditation Board or its equivalent as determined by the
13 State Board of Landscape Architects;

14 (d) Passage of an examination on technical and professional subjects
15 as prescribed by the board or its equivalent as determined by the board;

16 (e) A record of three years or more of diversified post-degree
17 experience directly related to landscape architecture under the direct
18 supervision of a professional landscape architect or equivalent
19 experience as determined by the board; and

20 (f) Demonstration of good reputation and character.

21 (4) An individual holding a license to practice landscape
22 architecture issued by a proper authority of any jurisdiction recognized
23 by the board, based on credentials that do not conflict with subsection
24 (3) of this section and other provisions of the Professional Landscape
25 Architects Act, may, upon application, be licensed as a professional
26 landscape architect after demonstration of good reputation and character.

27 (5) An individual who has been licensed to practice landscape
28 architecture for fifteen years or more in one or more jurisdictions
29 recognized by the board and who has practiced landscape architecture in
30 compliance with the licensing laws in the jurisdiction where his or her
31 landscape architecture practice has occurred since initial licensure may,

1 upon application, be licensed as a professional landscape architect after
2 demonstration of good reputation and character.

3 (6) The board may accept the verified information contained in a
4 valid council record issued by the Council of Landscape Architectural
5 Registration Boards in lieu of the same information that is required on
6 the form prescribed by the board.

7 (7) Examination materials shall not be considered public records.

8 (8) The board may adopt the examinations and grading procedures of
9 the Council of Landscape Architectural Registration Boards. The board may
10 also adopt guidelines published from time to time by the council.

11 (9) Licensure shall be effective upon issuance.

12 ~~Each applicant for licensure as a professional landscape architect~~
13 ~~shall complete an application that includes the following requirements:~~

14 ~~(1) Proof that the applicant has met the eligibility standards set~~
15 ~~by the board in rules and regulations adopted and promulgated by the~~
16 ~~board in consultation with the Council of Landscape Architectural~~
17 ~~Registration Boards;~~

18 ~~(2) Successful passage of a written or electronic examination in~~
19 ~~landscape architecture which is designed to determine the proficiency and~~
20 ~~qualifications to engage in the practice of professional landscape~~
21 ~~architecture; and~~

22 ~~(3) That the applicant is of good character.~~

23 Sec. 11. Section 81-8,198, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 81-8,198 (1) Each licensee shall provide himself or herself with a
26 suitable seal with a uniform inscription thereon formulated by the board
27 with which he or she shall stamp all plans, specifications, and reports
28 prepared by him or her when required. The following shall be stated on
29 the seal: State of Nebraska, the licensee's name, the license number, and
30 Professional Landscape Architect. A license shall be presumptive evidence
31 that the person named therein is legally licensed.

1 (2) Whenever the seal is applied, the licensee's signature shall be
2 across the seal. The board may adopt and promulgate rules and regulations
3 for application of the seal.

4 (3) The seal and date of its placement shall be on all technical
5 submissions and calculations whenever presented to a client or any public
6 or governmental agency. It shall be unlawful for a licensee to affix his
7 or her seal and signature or to permit his or her seal and signature to
8 be affixed to any document after the expiration of the certificate of
9 licensure or for the purpose of aiding or abetting any other person to
10 evade or attempt to evade the Professional Landscape Architects Act.

11 (4) The seal and date shall be placed on final plans and
12 specifications and reports as required in such a manner that the seal,
13 signature, and date will be reproduced and be in compliance with rules
14 and regulations of the board if any. The application of the licensee's
15 seal shall constitute certification that the work was done in accordance
16 with the act.

17 (5) A landscape architect shall undertake to perform professional
18 services only when the landscape architect is qualified by education,
19 training, and experience in the specific technical areas involved.

20 Sec. 12. Section 81-8,199, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 81-8,199 (1) The board shall issue to any applicant who has met the
23 requirements of the Professional Landscape Architects Act a certificate
24 of licensure giving the licensee proper authority to carry out the
25 prerogatives of the act. The certificate of licensure shall carry the
26 designation professional landscape architect. The certificate of
27 licensure shall give the full name of the licensee and license number and
28 shall be signed by two members of the board.

29 (2) The certificate of licensure shall be prima facie evidence that
30 the person is entitled to all rights, privileges, and responsibilities of
31 a professional landscape architect while the certificate of licensure

1 remains unrevoked and unexpired.

2 (3) The board may issue a new certificate of licensure to replace
3 any lost, destroyed, or mutilated certificate of licensure or issue a
4 duplicate of any active certificate of licensure upon request from the
5 licensee. A fee not to exceed fifty dollars may be charged for each such
6 issuance.

7 (4) Any person holding a certificate of registration under the act
8 as of the effective date of this act shall be deemed to be duly licensed
9 under the act until the expiration of such certificate.

10 ~~The board shall issue a certificate of licensure to each successful~~
11 ~~applicant upon payment of the annual fee. Each certificate shall be~~
12 ~~signed by two members of the board under the seal of the board. The~~
13 ~~certificate shall authorize the applicant to practice professional~~
14 ~~landscape architecture.~~

15 Sec. 13. Section 81-8,200, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 81-8,200 Certificates of licensure shall expire on a date
18 established by the board and shall become invalid on that date unless
19 renewed. In 2017, a licensee whose last name begins with a letter between
20 the letters "A" through "L" may renew his or her certificate of licensure
21 for one year and a licensee whose last name begins with a letter between
22 the letters "M" and "Z" may renew his or her certificate of licensure for
23 two years. Each subsequent renewal shall be for a two-year period. The
24 board shall notify every person licensed under the Professional Landscape
25 Architects Act of the expiration date of his or her certificate of
26 licensure and the amount of the fee required for renewal. The notice
27 shall be sent at least one month in advance of the date of the
28 expiration. Valid certificates of licensure may be renewed prior to
29 expiration upon application and payment of applicable fees. The fee to be
30 paid on an expired certificate of licensure the last day of December
31 following their issuance or renewal and shall become invalid on that date

1 ~~unless renewed before the expiration date with the payment of a fee in an~~
2 ~~amount the board shall determine. The board shall notify every licensee~~
3 ~~of the expiration date of his or her certificate and the amount of the~~
4 ~~annual renewal fee at least one month in advance. The fee to be paid for~~
5 ~~the renewal of a certificate after December 31 shall be increased by ten~~
6 ~~percent for each month or fraction of a month such payment is delayed,~~
7 ~~except that the maximum fee for a delayed renewal shall not exceed twice~~
8 ~~the amount of the original renewal fee and no renewals shall be made~~
9 ~~after one year after the expiration date. The board may require~~
10 ~~individual licensees to obtain professional development as a condition of~~
11 ~~license renewal. The board may adopt and promulgate rules and regulations~~
12 ~~for the effective delivery of professional development. Expired~~
13 ~~certificates may be renewed in accordance with the rules and regulations~~
14 ~~of the board a lapse of one year after the original expiration date~~
15 ~~thereof. Renewal fees shall not be required while the professional~~
16 ~~landscape architect is on active duty with the armed forces of the United~~
17 ~~States. Application for renewal of a lapsed license shall be in the same~~
18 ~~manner as provided for an original application pursuant to section~~
19 ~~81-8,196.~~

20 Sec. 14. Section 81-8,202, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 81-8,202 The board shall enforce the Professional Landscape
23 Architects Act and rules and regulations under the act, including
24 enforcement against any unlicensed person. If any person refuses to obey
25 any decision or order of the board, the board, or upon request of the
26 board, the Attorney General or the appropriate county attorney shall file
27 an action for the enforcement of the decision or order, including
28 injunctive relief, in the district court. After a hearing, the court
29 shall order enforcement of the decision or order, or any part thereof, if
30 legally and properly made by the board and, if appropriate, injunctive
31 relief.

1 ~~The board may by a four-fifths vote of the entire board place a~~
2 ~~licensed professional landscape architect on probation or revoke or~~
3 ~~suspend the license of any professional landscape architect licensed~~
4 ~~under the Professional Landscape Architects Act whom it finds guilty of~~
5 ~~(1) deceit in obtaining a license, (2) fraud, (3) gross negligence, (4)~~
6 ~~incompetency, or (5) misconduct in the practice of professional landscape~~
7 ~~architecture. Such person shall have the right to appeal the revocation~~
8 ~~or suspension of his or her license, and the appeal shall be in~~
9 ~~accordance with the Administrative Procedure Act.~~

10 Sec. 15. Section 81-8,204, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 81-8,204 Except as provided in section 81-8,206, an individual
13 shall not directly or indirectly engage in the practice of landscape
14 architecture in this state or use the title of professional landscape
15 architect or display or use any words, letters, figures, titles, sign,
16 card, advertisement, or other symbol or device indicating or tending to
17 indicate that he or she is a professional landscape architect or is
18 practicing landscape architecture unless he or she is licensed under the
19 Professional Landscape Architects Act. A licensee shall not aid or abet
20 any person not licensed under the act in the practice of landscape
21 architecture.

22 ~~No person shall practice as a professional landscape architect or in~~
23 ~~any manner designate himself or herself as a professional landscape~~
24 ~~architect unless he or she has been issued a certificate of licensure~~
25 ~~pursuant to the Professional Landscape Architects Act. If such person~~
26 ~~does practice or attempt to practice under the designation of~~
27 ~~professional landscape architect, he or she may be restrained under~~
28 ~~permanent injunction.~~

29 Sec. 16. Section 81-8,205, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 81-8,205 (1) It is unlawful for any person to:

1 (a) Practice or offer to practice landscape architecture in this
2 state without being licensed in accordance with the Professional
3 Landscape Architects Act unless such practice or offer to practice is
4 otherwise exempt under the act;

5 (b) Knowingly and intentionally employ or retain a person to
6 practice landscape architecture in this state who is not licensed in
7 accordance with the act unless otherwise exempt under the act;

8 (c) Advertise any title or description tending to convey the
9 impression that he or she is a professional landscape architect unless
10 the person is duly licensed or exempt from licensure under the act;

11 (d) Present or attempt to use the certificate of licensure or the
12 seal of another person;

13 (e) Give any false or forged evidence of any kind to the board or to
14 any member of the board in obtaining or attempting to obtain a
15 certificate of licensure;

16 (f) Falsely impersonate any other licensee of like or different
17 name;

18 (g) Attempt to use an expired, suspended, revoked, or nonexistent
19 certificate of licensure or attempt to engage in the practice or offer to
20 practice landscape architecture when not qualified;

21 (h) Falsely claim that he or she is licensed or authorized under the
22 act; or

23 (i) Violate the act.

24 (2) Any person who performs any of the actions in this section is
25 guilty of a Class I misdemeanor for the first offense and a Class IV
26 felony for the second or any subsequent offense.

27 ~~Any person who violates a permanent injunction obtained pursuant to~~
28 ~~section 81-8,204, presents or attempts to file as his or her own the~~
29 ~~certificate of licensure of another, gives false or forged evidence of~~
30 ~~any kind to the board in obtaining a certificate of licensure, indorses~~
31 ~~any document which he or she did not actually prepare or supervise the~~

1 ~~preparation thereof, falsely impersonates another practitioner of like or~~
2 ~~different name, or uses a revoked certificate of licensure shall be~~
3 ~~deemed guilty of a Class III misdemeanor.~~

4 Sec. 17. A complaint against any person involving any matter coming
5 within the jurisdiction of the board shall be in writing and shall be
6 filed with the board. The complaint, at the discretion of the board,
7 shall be heard within a reasonable time in accordance with the rules and
8 regulations and may be heard through the use of a hearing officer. The
9 accused shall have the right to appear personally with or without
10 counsel, to cross-examine adverse witnesses, and to produce evidence and
11 witnesses in his or her defense. The board shall set the time and place
12 of the hearing and shall cause a copy of the complaint, together with a
13 notice of the time and place fixed for the hearing, to be sent by
14 registered mail to the accused, at his or her last-known mailing address
15 known to the board, at least thirty days before the hearing. If, after
16 the hearing, the board finds the accused has violated the Professional
17 Landscape Architects Act or any rules or regulations adopted and
18 promulgated under the act, it may issue any order or take any action
19 described in section 18 of this act. If the board finds no violation, it
20 shall enter an order dismissing the complaint. If the order revokes,
21 suspends, or cancels a license, the board shall notify, in writing, the
22 licensee and the Secretary of State. The board may reissue a license that
23 has been revoked. An application for the reissuance of a license shall be
24 made in such a manner as the board directs and shall be accompanied by a
25 fee established by the board.

26 Sec. 18. (1) The board, after hearing and upon proof satisfactory
27 to the board, may determine by two-thirds majority vote that any person
28 has violated the Professional Landscape Architects Act or any rule or
29 regulation under the act.

30 (2) Upon a finding that a person has committed a violation, one or
31 more of the following actions may be taken against such person upon a

1 two-thirds majority vote of the board:

2 (a) Issuance of censure or reprimand;

3 (b) Suspension of judgment;

4 (c) Placement of offender on probation;

5 (d) Placement of a limitation or limitations on a licensee and upon
6 the privilege of a licensee to engage in the practice of landscape
7 architecture to the extent, scope, or type of landscape architecture
8 practice for such time and under such conditions as are found necessary
9 and proper;

10 (e) Imposition of a civil penalty not to exceed ten thousand dollars
11 for each offense. The amount of the penalty shall be based on the
12 severity of the violation;

13 (f) Entrance of an order of revocation, suspension, or cancellation
14 of the certificate of licensure;

15 (g) Issuance of a cease and desist order;

16 (h) Imposition of costs as in an ordinary civil action in the
17 district court, which may include reasonable attorney's fees and hearing
18 officer fees incurred by the board and the expenses of any investigation
19 undertaken by the board; or

20 (i) Dismissal of the action.

21 (3) The board may take into account suitable evidence of reform when
22 determining appropriate action.

23 (4) Civil penalties collected under subdivision (2)(e) of this
24 section shall be remitted to the State Treasurer for distribution in
25 accordance with Article VII, section 5, of the Constitution of Nebraska.
26 All costs collected under subdivision (2)(h) of this section shall be
27 remitted to the State Treasurer for credit to the State Board of
28 Landscape Architects Cash Fund.

29 Sec. 19. Section 81-8,206, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 81-8,206 (1) The Professional Landscape Architects Act shall not

1 apply to:

2 (a) Any employee of a professional landscape architect who performs
3 landscape architecture services under the direction and supervision of
4 the professional landscape architect. These services do not include
5 responsible charge of design or the administration of construction
6 contracts;

7 (b) Any employee who performs landscape architecture services for
8 his or her employer when all such services are completed for a facility
9 owned or operated by the employer and when such services are not offered
10 to the public and do not endanger the public health, safety, and welfare;

11 (c) The practice by a qualified member of another legally recognized
12 profession who is otherwise licensed or certified by this state to
13 perform services consistent with the laws of this state and the training
14 and the code of ethics of the respective profession if such qualified
15 member does not represent himself or herself to be a professional
16 landscape architect; or

17 (d) Any person who seeks advice or help of any other person in
18 planning, planting, or maintaining the planting or conservation work on
19 any property he or she owns or controls or who does such things himself
20 or herself.

21 (2) The Professional Landscape Architects Act does not prohibit any
22 person, officer, agent, or employee of any business entity with
23 experience and qualifications from engaging in the occupation of growing
24 or marketing nursery stock or to use the title landscape nurseryperson,
25 landscape gardener, landscape designer, landscape contractor, or land
26 developer, so long as no individual engages in the practice of landscape
27 architecture or uses the title landscape architect or professional
28 landscape architect unless he or she is licensed as such under the
29 Professional Landscape Architects Act.

30 (3) The Professional Landscape Architects Act does not prevent a
31 vendor of goods, services, or materials, including nurserypersons,

1 landscape nurserypersons, gardeners, landscape gardeners, landscape
2 designers, general or landscape contractors, land developers, or golf
3 course architects or golf course designers from providing drawings or
4 graphic diagrams that are necessary for the proper layout of the vendor's
5 goods and materials for public or private land or arranging for the
6 installation of the goods or materials. The act also does not prevent a
7 landscape designer from engaging in, for a fee, the design of spaces
8 utilizing plant materials and ancillary paving and building materials or
9 arranging for the installation of the materials.

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

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

20 ~~(3) Any architect or professional engineer, but such architect or~~
21 ~~engineer may not use the title landscape architect or professional~~
22 ~~landscape architect unless he or she is licensed pursuant to the act; or~~

23 ~~(4) Any person who seeks advice or help of any other person in~~
24 ~~planning, planting, or maintaining the planting or conservation work on~~
25 ~~any property he or she owns or controls or who does such things himself~~
26 ~~or herself.~~

27 Sec. 20. (1) The following shall be considered as the minimum
28 evidence satisfactory to the board that an applicant is eligible for
29 enrollment as a landscape architect intern:

30 (a) Graduation from a program accredited by the Landscape
31 Architectural Accreditation Board or its equivalent as determined by the

1 State Board of Landscape Architects;

2 (b) Submission of a council record maintained by the Council of
3 Landscape Architectural Registration Boards;

4 (c) Perform services under the direct supervision of a design
5 professional;

6 (d) Submission of an application accompanied by a fee established by
7 the board; and

8 (e) Demonstration of good reputation and character.

9 (2) The board shall issue a certificate of enrollment to each
10 successful applicant which indicates his or her name has been recorded as
11 such with the board. Each certificate shall include the full name of the
12 landscape architect intern, carry the designation landscape architect
13 intern, and be signed by the chairperson of the board. The certificate
14 does not authorize the applicant to practice as a landscape architect.

15 (3) The board may issue a new landscape architect intern certificate
16 to replace any lost, destroyed, or mutilated certificate or issue a
17 duplicate of an active certificate upon request from the landscape
18 architect intern. A fee not to exceed fifty dollars may be charged for
19 each such issuance.

20 Sec. 21. A certificate of enrollment as a landscape architect
21 intern expires two years after the date of issuance or renewal and
22 becomes invalid on that date unless renewed before the expiration date
23 with the payment of a fee as determined by the board. The board shall
24 notify every person enrolled under the Professional Landscape Architects
25 Act of the date of expiration of the certificate of enrollment and the
26 amount of the fee required for renewal. The notice shall be sent at least
27 one month in advance of the date of the expiration. Expired certificates
28 may be renewed in accordance with the rules and regulations of the board.
29 A certificate may be renewed for up to six years total after initial
30 issuance. After such time, a new application must be submitted in
31 accordance with the rules and regulations of the board. If a certificate

1 is not renewed within twelve months after expiration, a new application
2 and fee shall be required.

3 Sec. 22. (1) Landscape architecture design projects involving more
4 than one design professional shall have a designated coordinating
5 professional for the entire project. The coordinating professional may,
6 but need not, provide professional services on the project. The
7 coordinating professional shall apply his or her seal in accordance with
8 the Engineers and Architects Regulation Act or the Professional Landscape
9 Architects Act to the cover sheet of all documents and denote the seal as
10 that of the coordinating professional.

11 (2) The coordinating professional shall be responsible for reviewing
12 and coordinating technical documents prepared by any other design
13 professional for compatibility with the design of the project.

14 Sec. 23. Original sections 81-8,183.01, 81-8,184, 81-8,186,
15 81-8,190, 81-8,191, 81-8,191.01, 81-8,192, 81-8,194, 81-8,196, 81-8,198,
16 81-8,199, 81-8,200, 81-8,202, 81-8,204, 81-8,205, and 81-8,206, Reissue
17 Revised Statutes of Nebraska, are repealed.

18 Sec. 24. The following sections are outright repealed: Sections
19 81-8,184.01, 81-8,185, 81-8,187, 81-8,188, 81-8,195, 81-8,197,
20 81-8,200.01, 81-8,200.02, 81-8,201, and 81-8,203, Reissue Revised
21 Statutes of Nebraska.