

ENGROSSED LEGISLATIVE BILL 696

Introduced by Raybould, 28.

A BILL FOR AN ACT relating to the Professional Landscape Architects Act; to amend sections 81-8,184, 81-8,192, 81-8,196, 81-8,199, 81-8,200, 81-8,206, and 81-8,208, Reissue Revised Statutes of Nebraska; to define a term; to change, provide, and eliminate provisions relating to the State Board of Landscape Architects, the complete roster of professional landscape architects, applications for licensure, certificates of registration, certificates of licensure, and disciplinary actions; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 81-8,184, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,184 For purposes of the Professional Landscape Architects Act:

- (1) Board means the State Board of Landscape Architects;
- (2) Coordinating professional means a design professional who coordinates, as appropriate, the work of all design professionals involved in a project;
- (3) Design professional means a professional landscape architect, a licensed architect, or a professional engineer;
- (4) Direct supervision means having full professional knowledge and control over work that constitutes the practice of landscape architecture in accordance with the Professional Landscape Architects Act;
- (5) License means an authorization granted by the board to practice landscape architecture;
- (6) Practice of landscape architecture means the application of the principles of mathematical, physical, biological, and social sciences in consultation, evaluation, planning, design, including, but not limited to, the preparation, review and filing of plans, drawings, specifications, and other contract documents, and administration of contracts relative to projects

principally directed at the functional and aesthetic use and preservation of land in the performance of professional services. These professional services include, but are not limited to:

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

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

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

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

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

(f) Preservation and management of natural, cultural, historic, and aesthetic resources;

(g) Design of: Sites, landforms, water features, and water bodies; site grading; surface and subsurface drainage and management; sediment and erosion control; noninhabitable structures; park and recreation areas; site vehicular circulation systems, greenways, and streetscapes; equestrian, bicycle, and pedestrian circulation systems; and site lighting, irrigation, plantings, and related construction details and specifications; and

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

(7) Professional landscape architect or licensee means a person who is

licensed by the board to practice landscape architecture.

Sec. 2. Section 81-8,192, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,192 The board shall maintain and make available to the public a complete roster of each professional landscape architect that includes the name and last-known address of each professional landscape architect. The board may cause to be delivered a copy of such complete roster to any person upon request. The board may charge a fee in accordance with sections 84-712 to 84-712.09 to the requester of such a copy.

Sec. 3. Section 81-8,196, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) Applicants who hold a landscape architecture degree accredited by any of the following may sit for the Landscape Architect Registration Examination as administered by the Council of Landscape Architectural Registration Boards:

(a) The Landscape Architectural Accreditation Board or its equivalent as determined by the State Board of Landscape Architects; or

(b) The Canadian Society of Landscape Architects or its equivalent as determined by the State Board of Landscape Architects.

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

(a) Submission of an application accompanied by the fee established by the board, in accordance with subsection (1) of section 81-8,194;

(b) Graduation from a program accredited by any of the following:

(i) The Landscape Architectural Accreditation Board or its equivalent as determined by the State Board of Landscape Architects; or

(ii) The Canadian Society of Landscape Architects or its equivalent as determined by the State Board of Landscape Architects;

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

(d) A record of diversified post-degree experience directly related to landscape architecture under the direct supervision of a professional landscape architect in accordance with rules and regulations adopted and promulgated by the board.

(4) Upon application, an individual holding a license to practice landscape architecture issued by a proper authority of any jurisdiction recognized by the board, based on credentials that do not conflict with the Professional Landscape Architects Act, may be licensed as a professional landscape architect.

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

(6) Any examination material shall not be deemed a public record subject to disclosure pursuant to sections 84-712 to 84-712.09.

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

(8) Licensure shall be effective upon issuance.

Sec. 4. Section 81-8,199, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) The certificate of licensure shall be prima facie evidence that the

person is entitled to all rights, privileges, and responsibilities of a professional landscape architect while the certificate of licensure remains unrevoked and unexpired.

(3) The board may issue a new certificate of licensure to replace any lost, destroyed, or mutilated certificate of licensure or issue a duplicate of any active certificate of licensure upon request from the licensee. A fee not to exceed fifty dollars, in accordance with subsection (1) of section 81-8,194, may be charged for each such issuance.

(4) Any person holding a certificate of licensure under the Professional Landscape Architects Act as of the effective date of this act, shall be deemed to be duly licensed under the Professional Landscape Architects Act until the expiration of such certificate.

Sec. 5. Section 81-8,200, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,200 Certificates of licensure shall expire on a date established by the board and shall become invalid on that date unless renewed. The board shall notify every person licensed under the Professional Landscape Architects Act of the expiration date of his or her certificate of licensure and the amount of the fee, in accordance with subsection (1) of section 81-8,194, required for renewal. The notice shall be sent at least one month in advance of the date of the expiration. Valid certificates of licensure may be renewed prior to expiration upon application and payment of applicable fees. The fee to be paid on an expired certificate of licensure shall be increased by ten percent for each month or fraction of a month such payment is delayed, except that the maximum fee for a delayed renewal shall not exceed twice the amount of the original renewal fee and no renewals shall be made after one year after the expiration date, in accordance with subsection (1) of section 81-8,194. Expired licenses shall be renewed in accordance with the rules and regulations of the board. The board may require individual licensees to obtain professional development in accordance with the rules and regulations of the board.

Sec. 6. Section 81-8,206, Reissue Revised Statutes of Nebraska, is amended

to read:

81-8,206 (1) The Professional Landscape Architects Act shall not apply to:

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

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

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

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

(2) The Professional Landscape Architects Act shall not prohibit or require compliance with the act for any person who engages in the professional occupation of city, county, or city-county planning or a planning-related occupation to undertake the activities described in subdivisions (6)(a) through (f) of section 81-8,184, so long as such person does not use the title of landscape architect or professional landscape architect.

(3) The Professional Landscape Architects Act does not prohibit any person, officer, agent, or employee of any business entity with experience and qualifications from engaging in the occupation of growing or marketing nursery stock or to use the title landscape nurseryperson, landscape gardener, landscape designer, landscape contractor, or land developer, so long as no individual engages in the practice of landscape architecture or uses the title landscape architect or professional landscape architect unless he or she is

licensed as such under the Professional Landscape Architects Act.

(4) The Professional Landscape Architects Act does not prevent a vendor of goods, services, real estate, or materials, including nurserypersons, landscape nurserypersons, gardeners, landscape gardeners, landscape designers, general contractors registered under the Contractor Registration Act, landscape contractors, land developers, golf course architects, or golf course designers from providing drawings or graphic diagrams that are necessary for the proper layout or development of the vendor's goods, services, real estate, or materials for public or private land or arranging for the installation of the goods or materials. The Professional Landscape Architects Act also does not prevent a landscape designer or any person or firm registered under the Contractor Registration Act from engaging in, for a fee, the design of spaces utilizing plant materials and ancillary paving and building materials or arranging for or engaging in the installation of the materials.

Sec. 7. Section 81-8,208, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,208 (1) The board, after hearing and upon proof satisfactory to the board, may determine by a two-thirds majority vote that any person has violated the Professional Landscape Architects Act or any rule or regulation under the act.

(2) Upon a finding that a person has committed a violation, one or more of the following actions may be taken against such person upon a two-thirds majority vote of the board:

- (a) Issuance of a censure or reprimand;
- (b) Suspension of judgment;
- (c) Placement of the offender on probation;

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

- (e) Imposition of a civil penalty not to exceed ten thousand dollars for

each offense. The amount of the penalty shall be based on the severity of the violation;

(f) Entrance of an order of revocation or suspension of the certificate of licensure;

(g) Issuance of a cease and desist order;

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

(i) Dismissal of the action.

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

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

Sec. 8. Original sections 81-8,184, 81-8,192, 81-8,196, 81-8,199, 81-8,200, 81-8,206, and 81-8,208, Reissue Revised Statutes of Nebraska, are repealed.

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 696 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR