



Ohio Legislative Service Commission

Final Analysis

Bethany Boyd

Am. S.B. 68

130th General Assembly
(As Passed by the General Assembly)

Sens. Schaffer, Bacon, Burke, Coley, Eklund, Faber, Hite, Hughes, Oelslager, Patton

Reps. Hackett, Brown, Blair, Buchy, Grossman, Hayes, McClain, Stebelton, Young, Batchelder

Effective date: Emergency, December 19, 2013

ACT SUMMARY

Architects Board

- Eliminates the process for reinstatement of certificates issued by the Architects Board.
- Allows the Architects Board to deny renewal of, revoke, or suspend certificates without an adjudication hearing when a hearing is not timely requested.

Ohio Landscape Architects Board

- Renames the State Board of Landscape Architect Examiners as the Ohio Landscape Architects Board.
- States that any person registered under the Landscape Architects Law can be designated or known as a professional landscape architect or registered landscape architect, along with the existing title of landscape architect.
- Requires a person to be registered under the Landscape Architects Law before using the new titles of professional landscape architect or registered landscape architect on signs or certain materials, or before assuming a title or using certain statements to indicate or imply that the person is a landscape architect, professional landscape architect, or registered landscape architect.

* This version updates the list of sponsors.

- Adds use of the titles of professional landscape architect and registered landscape architect to the specification that the Landscape Architects Law does not affect the right of an individual to engage in the occupation of growing or marketing nursery stock.
- Allows an identifying stamp to be obtained by a registered professional landscape architect or landscape architect.
- Prohibits a firm, partnership, association, limited liability company, or corporation, except for a nonprofit membership corporation, from using a name including "professional landscape architect," "registered landscape architect," or any modification or derivation of those words, unless all information required under the Landscape Architects Law is filed.
- Permits the Ohio Landscape Architects Board to authorize any person to use the title "emeritus landscape architect."
- Permits the Board's designee, in addition to the Board, to hold examinations and to register qualified applicants.
- Allows the Board to require an applicant licensed in another state or country to hold a current council record issued by the Council of Landscape Architectural Registration Boards.
- Modifies the certificate issuance and registration procedures to practice landscape architecture.
- Eliminates the Board's authority to establish a fee for taking or retaking the examination for registration as a landscape architect.
- Removes the limitation that a registration suspension may not exceed one year.
- Revises the authority to fine violators of the Landscape Architects Law.
- Modifies the list of reasons for which the Board may discipline an applicant, registrant, certificate holder, or other person.
- Repeals a provision related to notice of a hearing and provides that administrative procedures of the Board must be governed by the Administrative Procedure Act.
- Provides, if a person fails to request a hearing within 30 days after the person is notified, that the Board can take disciplinary action against a person without holding an adjudication hearing.



- Repeals a provision related to reinstatement of a registration or certificate of authorization that requires the Board to not renew or reissue such a license without an examination, or renew or reissue such a certificate without reapplication to the Board.
- Allows the Board's designee to present violations of the Landscape Architects Law to the county prosecuting attorney.
- Specifies and makes modifications to prohibitions under the Landscape Architects Law.

Expenditures

- Removes the requirement that all expenditures of the Architects Board and Ohio Landscape Architects Board must be paid by vouchers approved by the Secretary or Executive Secretary of the Architects Board, or both, as authorized by the Board.

Interim replacement of elected subdivision officers

- Revises the appointment of an interim replacement upon the suspension of an elected officer of a political subdivision.

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CONTENT AND OPERATION

Architects Board

Revocation or suspension of certificate

Generally, the Architects Board, by three concurring votes, may deny renewal of, revoke, or suspend any certificate of qualification to practice architecture, or any certificate of authorization to provide architectural services, that is issued or renewed under ongoing law, if proof satisfactory to the Board is presented in certain cases.

The act eliminates the authority for, at any time after the expiration of six months from the date a certificate is revoked or suspended, an individual, a firm, a partnership, an association, or a corporation to apply for reinstatement of the certificate. The act further removes the authority of the Board to restore the certificate, at its discretion, upon showing that all loss caused by the individual, firm, partnership, association, or corporation whose certificate has been revoked or suspended has been fully satisfied and that all conditions imposed by the revocation or suspension decision have been complied with, and all costs incurred by the Board as a result of the case at issue have been paid.¹

Adjudication hearing

Under the act, if a person fails to request a hearing within 30 days after the date the Architects Board, under the Administrative Procedure Act, notifies the person of the Board's intent to deny renewal of, revoke, or suspend any certificate of qualification to practice architecture, or any certificate of authorization to provide architectural services, the Board, by a majority vote of a quorum of the Board members, may take the action against the person without holding an adjudication hearing.²

Name change fixes

In 2008, S.B. 225 of the 127th General Assembly changed the name of the State Board of Examiners of Architects to the Architects Board. The act modifies current law accordingly to reflect that name change.³

¹ R.C. 4703.15(A).

² R.C. 4703.15(C).

³ R.C. 119.06, 4703.071, and 4703.31.



Ohio Landscape Architects Board

Name change

The act changes the name of the State Board of Landscape Architect Examiners to the Ohio Landscape Architects Board.⁴

Landscape architect, professional landscape architect, and registered landscape architect

The act adds the titles of "professional landscape architect" and "registered landscape architect" to the titles that may be used by a person who is registered as provided in the Landscape Architects Law. Prior to the act, only "landscape architect" was recognized as a title. The act states that any person registered under the Landscape Architects Law may be designated or known as a landscape architect, professional landscape architect, or registered landscape architect.⁵

The act prohibits a person from using either of the new titles, or from using any title, sign, card, or device indicating, or tending to indicate, or represent in any manner that the person is a professional landscape architect, or registered landscape architect, unless the person is registered under the Landscape Architects Law. Also, the act prohibits a person from assuming a title or using any abbreviation, words, letters, or figures to indicate or imply that the person is a landscape architect, professional landscape architect, or registered landscape architect, unless the person is registered under the Landscape Architects Law.⁶

The act adds use of the titles of professional landscape architect and registered landscape architect to the current law specification that the Landscape Architects Law does not affect the right of an individual to engage in the occupation of growing or marketing nursery stock or to use the title "nurseryperson," "landscape nurseryperson," "gardener," "landscape gardener," "landscape designer," "general contractor," "landscape contractor," "land developer," "golf course architect," or "golf course designer," if the individual does not engage in the practice of landscape architecture. But no individual may practice landscape architecture or use the title "landscape architect," "professional

⁴ R.C. 119.06, 4703.30 to 4703.33, 4703.331, 4703.34 to 4703.38, 4703.41, 4703.44, 4703.46, 4703.49, 4703.50, 4703.52, and 4703.53.

⁵ R.C. 4703.30 and 4703.32.

⁶ R.C. 4703.32(A).



landscape architect," or "registered landscape architect," unless the person has complied with the Landscape Architects Law.⁷

The act further adds that a professional landscape architect or landscape architect, upon registration by the Board, may obtain a stamp of the design authorized by the Board, bearing the name of the registrant, date of registration, number of the certificate, and the legend "registered landscape architect," "professional landscape architect," or "landscape architect."⁸

Similarly, no firm, partnership, association, limited liability company, or corporation is permitted to provide landscape architectural services, hold itself out to the public as providing landscape architectural services, or use a name including the word "landscape architect," "professional landscape architect," or "registered landscape architect" or any modification or derivation of those words, unless the firm, partnership, association, limited liability company, or corporation files with the Board all information required to be filed under the Landscape Architects Law and otherwise complies with all requirements of that Law. However, a nonprofit membership corporation may use a name, including the word "landscape architect," "professional landscape architect," or "registered landscape architect" or any modification or derivation of those words, without complying with this provision. Prior to the act, the same prohibition and the same permission was granted only as to "landscape architect."⁹

Emeritus landscape architect

The act permits the Ohio Landscape Architects Board to authorize any person to use the title "emeritus landscape architect." An emeritus landscape architect is an individual who has been registered to practice landscape architecture in Ohio for at least ten years, is fully retired from the practice of landscape architecture, and is at least 65 years old. An emeritus landscape architect is exempt from the continuing education and fee requirements of the Landscape Architects Law.¹⁰

Examinations

The act authorizes a designee of the Board to hold examinations not less than once annually and to register as a landscape architect each applicant who demonstrates

⁷ R.C. 4703.32(D).

⁸ R.C. 4703.32(F).

⁹ R.C. 4703.331(B).

¹⁰ R.C. 4703.32(B).



to the satisfaction of the Board that the applicant has met all the requirements to become registered. Prior to the act, only the Board could hold the examinations and register qualified applicants.¹¹

Reciprocity

The act includes, in the Ohio Landscape Architects Board's power to register landscape architects registered or licensed in another state or country, that the Board may require such an applicant to hold a current council record issued by the Council of Landscape Architectural Registration Boards. Continuing law provides that the Board may require the applicant to hold a current certificate of good standing issued by the Council.¹²

Certificate of qualification

The act changes, from October 31 of odd-numbered years to December 31 of even-numbered years, the biennial expiration date of certificates of authorization to practice landscape architecture as a landscape architect. It specifies an expiration date of December 31, 2016, in the case of individuals who already held certificates, or whose applications for registration were pending, on the act's effective date (December 19, 2013).¹³

Examination fees

The act eliminates the Board's authority to establish a fee for taking or retaking the examination for registration as a landscape architect. The eliminated law had authorized the Board to set the fee at an amount adequate to cover the expenses of procuring and grading the examination plus a fee for retaking all or parts of the examination.¹⁴

Disciplinary actions; hearings

Suspension length

In relation to the Board's authority to suspend a landscape architect's registration, the act removes the limitation that a suspension may not exceed one year.

¹¹ R.C. 4703.33(B).

¹² R.C. 4703.35.

¹³ R.C. 4703.36(B); Section 3.

¹⁴ R.C. 4703.37(C)(1).



Fines

The act adds to the Board's powers the authority to fine a person when the registrant, holder of a certificate of authorization, or other person does any of the actions for which the Board currently may otherwise discipline applicants, registrants, or certificate holders.¹⁵

Other disciplinary actions

The act adds to the list of actions for which the Board may discipline an applicant, registrant, certificate holder, or other person (in regard to the fining authority) when the applicant, registrant, certificate holder, or other person has obtained or attempted to obtain registration or a certificate of authorization by false oath or affirmation, or has failed to comply with any disciplinary sanction issued by the Board.

Continuing law also permits a disciplinary action by the Board if a registrant, applicant, or certificate holder does any of the following:

(1) Has obtained or attempted to obtain registration or a certificate of authorization by fraud or material misrepresentation;

(2) Is impersonating or has attempted to impersonate a landscape architect or a former landscape architect;

(3) Is found by the Board to have been guilty of fraud, deceit, or gross negligence in the practice of landscape architecture or in providing landscape architectural services;

(4) Has affixed the registrant's or certificate holder's signature to plans, drawings, specifications, or other professional documents that have not been prepared by the registrant or certificate holder or under the registrant's or certificate holder's immediate and responsible direction, or has permitted the registrant's or certificate holder's name to be used for the purpose of assisting any individual, not a landscape architect, to evade the Landscape Architects Law;

(5) Fails the required examination;

¹⁵ R.C. 4703.41.



(6) Is found by the Board to have violated any rule governing the standards for education, experience, services, conduct, and practice or any rule adopted by the Board under the Landscape Architects Law.¹⁶

Administrative hearings

The act repeals a provision prohibiting the Board from refusing to renew a registration or certificate of authorization, or from suspending or revoking a registration or certificate, without at least 20 days' notice to the applicant, registered landscape architect, or other interested party, who is entitled to a hearing by the Board under the Administrative Procedure Act. The repealed provision required that at least ten days before the hearing date, the Board notify the applicant, registered landscape architect, or other interested party of the nature of the matters to be presented at the hearing. And, within 30 days after the hearing, the Board had to give notice of its final decision.¹⁷

Under continuing law, the Board's administrative procedures are governed by the Administrative Procedure Act. Under the law, the Board's authorized representatives can administer oaths, take depositions, and issue subpoenas to compel attendance of witnesses and production of books, papers, records, memoranda, or other information necessary to carry out the Landscape Architects Law. Under prior law, unless otherwise provided in the repealed provision, the President of the Board and the President's authorized representatives could take these actions.¹⁸

The act further provides that if a person fails to request a hearing within 30 days after the date the Board, in accordance with the Administrative Procedure Act, notifies the person of its intent to take a disciplinary action against the person, the Board, by a majority vote of a quorum of its members, can take the action without holding an adjudication hearing.¹⁹

Renewing revoked registration

The act repeals a law that prohibited the Board, after revoking a registration or certificate of authorization for gross negligence in the practice of landscape architecture or providing fraudulent, deceitful, or grossly negligent landscape architectural services, from renewing or reissuing such a license without an examination, or renewing or reissuing such a certificate without reapplication to the Board. Under the repealed

¹⁶ R.C. 4703.41 and 4703.99(B).

¹⁷ R.C. 4703.42 (repealed).

¹⁸ R.C. 4703.44.

¹⁹ R.C. 4703.44.



provision, the individual whose registration was revoked or the corporation, firm, partnership, or association whose certificate of authorization was revoked could file a new application for an examination or for a certificate of authorization with the Board. And, upon showing that all loss caused by the gross negligence for which the license or certificate was revoked had been fully satisfied and that all conditions imposed by the decision of revocation had been complied with, the Board could, at its discretion, issue a new license or certificate.²⁰

Criminal offenses and penalties

Continuing law requires that the prosecuting attorney in each of the counties must prosecute by court action all violations of the Landscape Architects Law occurring in the prosecuting attorney's jurisdiction as may be presented for prosecution by the Board. The act adds that the Board's designee may present violations to the county prosecuting attorney.²¹

The act prohibits a person from doing any of the following:

- (1) Obtaining or attempting to obtain registration or a certificate of authorization by fraud or material misrepresentation or by false oath or affirmation;
- (2) Impersonating or attempting to impersonate a landscape architect or former landscape architect;
- (3) Recklessly engaging in fraud, deceit, or gross negligence in the practice of landscape architecture or in providing landscape architectural services.

The act also prohibits a registrant or certificate holder from (1) affixing the registrant's or certificate holder's signature to plans, drawings, specifications, or other professional documents that have not been prepared by the registrant or certificate holder or under the registrant's or certificate holder's immediate and responsible direction, and (2) permitting the registrant's or certificate holder's name to be used for the purpose of assisting any individual, not a landscape architect, to evade the Landscape Architects Law.²²

²⁰ R.C. 4703.43 (repealed).

²¹ R.C. 4703.49.

²² R.C. 4703.411.



Under the act, whoever violates the above provisions is guilty of a third degree misdemeanor; for each subsequent offense such person is guilty of a first degree misdemeanor.²³

The act removes the current law authority that stated that whoever violated the Landscape Architects Law had to be fined not less than \$50 nor more than \$200 for the first offense; for each subsequent offense such person had to be fined not less than \$200 nor more than \$500. The act instead limits these fines to violations of the provision related to the prohibitions against practicing landscape architecture or using the titles related to that practice without complying with the Landscape Architects Law.²⁴

The act repeals a provision that prohibited a person from doing either of the following: (1) obtaining or attempting to obtain registration as a landscape architect or a certificate of authorization by fraud or material misrepresentation or (2) willfully making a false oath or affirmation.²⁵ Similar provisions are recodified in the act as explained above; however, the making of a false oath or affirmation no longer needs to be willful under the act.

Expenditures of Architects Board and Ohio Landscape Architects Board

The act removes the requirement that all expenditures of the Architects Board and Ohio Landscape Architects Board must be paid by vouchers approved by the Secretary or Executive Secretary of the Architects Board, or both, as authorized by the Board.²⁶

Interim replacement of elected subdivision officers

Under continuing law, when an elected officer of a political subdivision is charged with a felony, the officer can be suspended from office. The suspension continues until the officer pleads guilty to or is found guilty of the felony. The act clarifies that the following occurrences also terminate the suspension: (1) the officer is reinstated to office by a court appeal, (2) all charges are disposed of by dismissal or by a finding of not guilty, or (3) a successor is elected and qualified to serve the next succeeding term of the officer's office. (These elements, which end a suspension, are spelled out at one place in continuing law, but previously were not carried forward into the provision being explained.)

²³ R.C. 4703.99(A).

²⁴ R.C. 4703.99(B).

²⁵ R.C. 4703.45 (repealed).

²⁶ R.C. 4703.50.



Under former law, for the duration of an elected subdivision officer's suspension, a replacement official was appointed or elected to perform the official's duties in the manner provided by law for filling a vacancy in that office. The act requires, instead, that for the duration of the officer's suspension, an interim replacement official must be appointed by (1) the county central committee of the political party that nominated the suspended officer, if the suspended officer is an elected county officer, or (2) by the probate judge of the court of common pleas, if the suspended officer is an elected officer of a municipal corporation, township, school district, or other political subdivision. The act also requires that the interim replacement official give bond and take the oath of office. If the office becomes vacant during the period of an officer's suspension, an officer must be appointed or elected to fill the vacancy as provided by law. If a regular election is to occur during the period of suspension, an officer must be elected as provided by law.²⁷

HISTORY

ACTION	DATE
Introduced	03-12-13
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²⁷ R.C. 3.16(E).

