

HOUSE BILL No. 5406

January 24, 1990, Introduced by Rep. Griffin and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend sections 2201, 2202, 2204, 2205, 2209, 2210, and 2211 of Act No. 299 of the Public Acts of 1980, entitled "Occupational code," section 2204 as amended by Act No. 83 of the Public Acts of 1981 and sections 2205 and 2209 as amended by Act No. 463 of the Public Acts of 1988, being sections 339.2201, 339.2202, 339.2204, 339.2205, 339.2209, 339.2210, and 339.2211 of the Michigan Compiled Laws; to add section 2212; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2201, 2202, 2204, 2205, 2209, 2210, and
2 2211 of Act No. 299 of the Public Acts of 1980, section 2204 as
3 amended by Act No. 83 of the Public Acts of 1981 and sections
4 2205 and 2209 as amended by Act No. 463 of the Public Acts of
5 1988, being sections 339.2201, 339.2202, 339.2204, 339.2205,

1 339.2209, 339.2210, and 339.2211 of the Michigan Compiled Laws,
2 are amended and section 2212 is added to read as follows:

3 Sec. 2201. As used in this article:

4 (a) "Landscape architect" means a person ~~qualified to~~ WHO
5 ENGAGES IN OR OFFERS TO ENGAGE IN THE practice OF landscape
6 architecture. ~~as provided in this article.~~

7 (b) "Practice of landscape architecture" means ~~—~~ THE
8 APPLICATION OF A KNOWLEDGE OF THE NATURAL SCIENCES, SOCIAL
9 SCIENCES, AND RELATED PHYSICAL SCIENCES AND THE PRINCIPLES OF
10 LANDSCAPE ARCHITECTURE ACQUIRED BY PROFESSIONAL EDUCATION AND
11 PRACTICAL EXPERIENCE TO SERVICE IN CONNECTION WITH THE DEVELOP-
12 MENT OF LAND AREAS WHERE THE DOMINANT PURPOSE OF THAT SERVICE IS
13 THE PRESERVATION, ENHANCEMENT, OR DETERMINATION OF ITS NATURAL
14 FEATURES, SUCH AS GROUND COVER AND PLANTING, NATURALISTIC AND
15 AESTHETIC VALUES, THE SETTINGS, APPROACHES, OR ENVIRONMENT FOR
16 STRUCTURES OR OTHER IMPROVEMENTS, AND THE CONSIDERATION OF LAND
17 SURFACE PROBLEMS RELATING TO EROSION, NATURAL DRAINAGE, AND HAZ-
18 ARDOUS CONDITIONS RELATIVE TO LAND AREAS. THE PRACTICE INCLUDES
19 THE PREPARATION OF TECHNICAL CONSTRUCTION DOCUMENTS AND THE
20 ARRANGEMENT OF TANGIBLE OBJECTS AND INCIDENTAL FEATURES BUT DOES
21 NOT INCLUDE THE DESIGN OF STRUCTURES WITH SEPARATE AND
22 SELF-CONTAINED PURPOSES AND LAND DEVELOPMENT ACTIVITIES AS ORDI-
23 NARILY INCLUDED IN THE PRACTICES OF PROFESSIONAL ENGINEERING,
24 ARCHITECTURE, OR LAND SURVEYING AS DEFINED IN ARTICLE 20.

25 ~~(i) The performance of professional services such as con-~~
26 ~~sultation, investigation, research, planning, design, or~~
27 ~~responsible field observation in connection with the development~~

~~1 of land areas where, and to the extent that the dominant purpose
2 of the services is the preservation, enhancement, or determina-
3 tion of proper land uses, natural land resources, ground cover
4 and planting, naturalistic and aesthetic values, the settings and
5 approaches to structures or other improvements, natural drainage,
6 and the consideration and determination of inherent problems of
7 the land relating to erosion, use and stress, blight, or other
8 hazards.~~

~~9 (ii) The location and arrangement of tangible objects and
10 features incidental and necessary to the purposes outlined in
11 this article.~~

12 (C) "SITE APPURTENANCE" MEANS A DECK, PATIO, WALK, FENCE,
13 GARDEN STRUCTURE, POOL, OR SIMILAR FEATURE OF A LANDSCAPE NOT
14 INTENDED FOR HABITATION.

15 (D) "SUPERVISION" MEANS THE OVERSEEING OF, OR PARTICIPATION
16 IN, THE WORK OF ANOTHER INDIVIDUAL BY A LICENSEE UNDER CIRCUM-
17 STANCES WHERE, AT A MINIMUM, ALL OF THE FOLLOWING CONDITIONS
18 EXIST:

19 (i) THE LICENSEE IS AVAILABLE ON A CONTINUOUS BASIS FOR
20 DIRECT COMMUNICATION WITH THE SUPERVISED INDIVIDUAL.

21 (ii) THE LICENSEE IS AVAILABLE ON A CONTINUOUS BASIS TO
22 REVIEW THE ACTIVITIES OF, PROVIDE CONSULTATION TO, REVIEW THE
23 RECORDS OF, AND EDUCATE THE SUPERVISED INDIVIDUAL IN THE PER-
24 FORMANCE OF HIS OR HER ACTIVITIES.

25 (iii) THE LICENSEE PROVIDES TO THE SUPERVISED INDIVIDUAL
26 PREDETERMINED OPERATING POLICIES AND PROCEDURES.

1 Sec. 2202. (1) ~~This article shall not preclude a~~
2 ~~registered landscape architect from performing any of the~~
3 ~~services described in section 2201(b)(i) in connection with the~~
4 ~~settings, approaches, or environment for buildings, structures,~~
5 ~~or facilities.~~ A PERSON SHALL NOT ENGAGE IN OR OFFER TO ENGAGE
6 IN THE PRACTICE OF LANDSCAPE ARCHITECTURE, WITH OR WITHOUT COM-
7 PENSATION, UNLESS THE PERSON IS LICENSED UNDER THIS ARTICLE, IS
8 UNDER THE SUPERVISION OF A LICENSEE, OR IS EXEMPT FROM LICENSURE
9 UNDER SUBSECTION (4).

10 (2) ~~This article shall not be construed as authorizing a~~
11 ~~landscape architect to engage in the practice of architecture,~~
12 ~~engineering, or land surveying as defined in article 20.~~ A
13 LICENSE UNDER THIS ARTICLE SHALL BE ISSUED ONLY TO AN INDIVIDUAL
14 AND NOT TO A BUSINESS ENTITY. A PERSON SHALL NOT USE THE TERMS
15 "LANDSCAPE ARCHITECT", "LANDSCAPE ARCHITECTURE", "LANDSCAPE
16 ARCHITECTURAL", "R.L.A.", OR "L.L.A." OR A SIMILAR TERM, SUCH AS
17 "LANDSCAPE DESIGNER", WHICH TENDS IN ANY WAY TO CONNOTE QUALIFI-
18 CATION OR LICENSURE UNDER THIS ARTICLE WITHOUT POSSESSING A
19 LICENSE ISSUED PURSUANT TO THIS ARTICLE. A SOLE PROPRIETORSHIP,
20 PARTNERSHIP, ASSOCIATION, CORPORATION, OR OTHER LEGAL ENTITY
21 SHALL NOT USE THESE TERMS OR SIMILAR TERMS IN A FIRM NAME OR
22 DESCRIPTION UNLESS AN INDIVIDUAL LICENSED PURSUANT TO THIS ARTI-
23 CLE IS AN OFFICER, PRINCIPAL, OR EMPLOYEE OF THE ENTITY AND IS
24 AVAILABLE TO PERFORM THE ACTIVITIES FOR WHICH LICENSURE IS
25 REQUIRED UNDER THIS ARTICLE.

26 (3) THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

1 (A) AN INDIVIDUAL LICENSED PURSUANT TO ARTICLE 20 AS AN
2 ARCHITECT, PROFESSIONAL ENGINEER, OR LAND SURVEYOR, AN INDIVIDUAL
3 LICENSED UNDER ARTICLE 24 AS A RESIDENTIAL BUILDER OR A RESIDEN-
4 TIAL MAINTENANCE AND ALTERATION CONTRACTOR, OR AN INDIVIDUAL REG-
5 ISTERED UNDER ARTICLE 21 AS A FORESTER WHEN ENGAGED IN ACTIVITIES
6 WITHIN THE SCOPE OF HIS OR HER PRACTICE UNDER THIS ACT.

7 (B) AN OWNER OF A 1-FAMILY OR 2-FAMILY RESIDENCE IN REGARD
8 TO THE OWNER'S OWN WORK ON THAT RESIDENCE.

9 (C) AN INDIVIDUAL LICENSED OR REGISTERED AS A LANDSCAPE
10 ARCHITECT IN ANOTHER STATE OR JURISDICTION WHILE IN THIS STATE TO
11 PRESENT A PROPOSAL FOR PROFESSIONAL SERVICES.

12 (D) A PERSON OFFERING SERVICES AS A LANDSCAPE GARDENER,
13 LANDSCAPE CONTRACTOR, OR LANDSCAPE NURSERY OPERATOR, WHERE THE
14 SERVICES RENDERED ARE LIMITED TO ANY OR ALL OF THE FOLLOWING:

15 (i) THE GROWING OF PLANTS.

16 (ii) ASSISTING A CUSTOMER IN SELECTING APPROPRIATE PLANTS
17 FOR A SPECIFIC USE OR IN CHOOSING A SPECIMEN FROM AMONG SEVERAL
18 PLANTS OFFERED FOR SALE.

19 (iii) THE ACTUAL PHYSICAL INSTALLATION OF PLANTS OR THE CARE
20 AND MAINTENANCE OF PLANTS.

21 (iv) THE DEVELOPMENT OF A PLAN DESIGNATING THE PLACEMENT AND
22 SELECTION OF PLANTS.

23 (v) THE CONSTRUCTION OF A SITE APPURTENANCE.

24 (vi) THE DESIGN OF A SITE APPURTENANCE FOR A 1-FAMILY OR
25 2-FAMILY RESIDENCE AND THE DEVELOPMENT OF A PLAN FOR THE LOCATION
26 OF THE SITE APPURTENANCE EXCEPT WHERE SUCH A DESIGN OR PLAN IS

1 REQUIRED, BY AN AUTHORIZED BUILDING OFFICIAL, TO BE PREPARED BY
2 AN INDIVIDUAL LICENSED UNDER THIS ARTICLE OR ARTICLE 20.

3 Sec. 2204. (1) ~~An applicant for registration as a land-~~
4 ~~scape architect shall be of good moral character and shall pass a~~
5 ~~written examination developed by the department and the board.~~
6 ~~In addition, each applicant shall have had not less than 7 years~~
7 ~~of training and experience in the actual practice of landscape~~
8 ~~architecture. Satisfactory completion of each year up to 5 years~~
9 ~~of an accredited course in landscape architecture in an accredi-~~
10 ~~ted school shall be considered as equivalent to a year of~~
11 ~~experience.~~ THE DEPARTMENT SHALL ISSUE A LICENSE AS A LANDSCAPE
12 ARCHITECT TO AN INDIVIDUAL WHO MEETS ALL OF THE FOLLOWING
13 CONDITIONS:

14 (A) IS AT LEAST 18 YEARS OF AGE.

15 (B) IS OF GOOD MORAL CHARACTER.

16 (C) HAS A BACCALAUREATE OR ADVANCED DEGREE FROM AN ACCREDI-
17 TED PROGRAM OF STUDY IN LANDSCAPE ARCHITECTURE OR HAS AT LEAST A
18 BACCALAUREATE DEGREE IN A RELATED FIELD AND HAS COMPLETED COURSES
19 IN LANDSCAPE ARCHITECTURE ACCEPTABLE TO THE BOARD.

20 (D) HAS COMPLETED AT LEAST 3 YEARS OF PROFESSIONAL
21 EXPERIENCE IN LANDSCAPE ARCHITECTURE SATISFACTORY TO THE BOARD.
22 THE BOARD SHALL GRANT 1 YEAR OF PROFESSIONAL EXPERIENCE CREDIT
23 FOR THE COMPLETION OF AN ADVANCED DEGREE IN LANDSCAPE
24 ARCHITECTURE.

25 (E) HAS PASSED AN EXAMINATION DEVELOPED AND GIVEN BY THE
26 DEPARTMENT AND THE BOARD. THE DEPARTMENT AND THE BOARD MAY
27 UTILIZE AN EXAMINATION DEVELOPED AND GIVEN BY ANOTHER PERSON

1 WHICH MEETS STANDARDS ESTABLISHED IN RULES WHICH THE DEPARTMENT
2 AND BOARD MAY PROMULGATE RELATIVE TO THE REQUIREMENTS OF THIS
3 SUBDIVISION.

4 (2) AN APPLICANT SHALL COMPLETE ALL OF THE REQUIREMENTS FOR
5 LICENSURE WITHIN 10 YEARS AFTER RECEIPT OF THE APPLICATION BY THE
6 DEPARTMENT. IF THE REQUIREMENTS ARE NOT COMPLETED WITHIN THE
7 10-YEAR PERIOD, THE APPLICATION SHALL BE VOID.

8 Sec. 2205. (1) ~~All requirements for registration shall be~~
9 ~~completed within 10 years after receipt of the application by the~~
10 ~~department. If the requirements are not completed within the~~
11 ~~10 year period, the application shall be void.~~ THE BOARD MAY
12 PROMULGATE RULES RELATING TO CONTINUING EDUCATION REQUIREMENTS.

13 (2) THE BOARD MAY ADOPT A PROGRAM OF CONTINUING EDUCATION
14 ESTABLISHED BY ANOTHER PERSON IF IT DETERMINES THAT THE PROGRAM
15 MEETS THE STANDARDS ESTABLISHED IN THE RULES PROMULGATED UNDER
16 SUBSECTION (1).

17 (3) THE DEPARTMENT SHALL RENEW THE LICENSE OF A LANDSCAPE
18 ARCHITECT WHO SUBMITS EVIDENCE OF COMPLETION OF A PROGRAM OF CON-
19 TINUING PROFESSIONAL EDUCATION IF SUCH A PROGRAM IS REQUIRED.

20 Sec. 2209. (1) The department may issue a ~~registration~~
21 LICENSE without examination to an ~~applicant~~ INDIVIDUAL who is
22 ~~legally~~ registered or licensed as a landscape architect in any
23 other state or country ~~whose requirements for registration or~~
24 ~~licensure are at least substantially equivalent to the require-~~
25 ~~ments of this state~~ IF THE APPLICANT MEETS EITHER OF THE
26 FOLLOWING:

1 (A) THE REQUIREMENTS WHICH WERE IN EFFECT IN THIS STATE AT
2 THE TIME HE OR SHE OBTAINED HIS OR HER FIRST LICENSE OR
3 REGISTRATION AS A LANDSCAPE ARCHITECT.

4 (B) THE REQUIREMENTS IN EFFECT AT THE TIME OF HIS OR HER
5 APPLICATION FOR LICENSURE IN THIS STATE.

6 (2) THE BOARD AND DEPARTMENT MAY REQUIRE THE APPLICANT
7 APPLYING FOR LICENSURE UNDER THIS SECTION TO SIT FOR AN EXAMINA-
8 TION ON THE CONDITIONS OF PRACTICE IN THIS STATE.

9 Sec. 2210. (1) ~~Each landscape architect shall have a seal,~~
10 ~~approved by the department and the board, which shall contain the~~
11 ~~name of the landscape architect, the serial number of his or her~~
12 ~~certificate of registration and the legend "landscape architect,~~
13 ~~state of Michigan" and other words or figures as the department~~
14 ~~considers necessary. Plans, specifications, and reports prepared~~
15 ~~by the landscape architect or under his or her supervision shall~~
16 ~~be stamped with his or her seal when filed with a public~~
17 ~~authority.~~ THE BOARD SHALL PROMULGATE RULES RELATING TO THE
18 STYLE AND FORM OF A SEAL.

19 (2) UPON BEING LICENSED, A LICENSEE SHALL OBTAIN A SEAL IN
20 THE FORM AND STYLE PRESCRIBED BY THE BOARD IN RULES PROMULGATED
21 PURSUANT TO SUBSECTION (1).

22 (3) THE LICENSEE SHALL ASSURE THAT HIS OR HER SEAL IS IN
23 CONFORMANCE WITH THE RULES PROMULGATED PURSUANT TO SUBSECTION (1)
24 EXCEPT THAT A LICENSEE MAY CONTINUE TO USE A SEAL WHICH WAS IN
25 USE ON OR BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
26 ADDED THIS SUBSECTION DESPITE ITS BEARING A LEGEND INDICATING
27 THAT THE INDIVIDUAL IS REGISTERED INSTEAD OF LICENSED.

1 (4) ~~(2) A landscape architect who indorses a document with~~
2 ~~his or her seal while his or her certificate of registration is~~
3 ~~not in full force and effect, or who indorses a document which~~
4 ~~the landscape architect did not actually prepare or supervise the~~
5 ~~preparation, is subject to the penalties prescribed in article~~
6 ~~6.~~ DOCUMENTS PREPARED BY A LICENSEE OR UNDER HIS OR HER SUPERVI-
7 SION SHALL BE SEALED WHEN THEY ARE FILED WITH A PUBLIC
8 AUTHORITY. A DOCUMENT SHALL NOT BE CONSIDERED PROPERLY SEALED
9 UNTIL THE SEAL IS ACCOMPANIED BY AN ORIGINAL SIGNATURE, THE
10 PRINTED NAME OF THE INDIVIDUAL LICENSEE, THE PRINTED NAME OF THE
11 LICENSEE'S FIRM, IF ANY, THE PRINTED ADDRESS OF THE LICENSEE, THE
12 LICENSE NUMBER, AND THE EXPIRATION DATE OF THE LICENSE.

13 (5) THE AFFIXATION OF A SEAL TO A DOCUMENT BY AN INDIVIDUAL
14 LICENSED UNDER THIS ARTICLE SIGNIFIES ALL OF THE FOLLOWING:

15 (A) THE INDIVIDUAL IS RESPONSIBLE FOR THE CONTENTS OF THE
16 DOCUMENT.

17 (B) THE INDIVIDUAL IS COMPETENT TO PREPARE THE DOCUMENT.

18 (C) THE INDIVIDUAL IS RESPONSIBLE FOR RESOLVING TECHNICAL
19 ISSUES OF ANALYSIS AND DESIGN.

20 (D) THE INDIVIDUAL IS THE ONE WHOSE PROFESSIONAL SKILL AND
21 JUDGMENT ARE EMBODIED IN THE DOCUMENT.

22 (E) THE INDIVIDUAL IS ACCOUNTABLE FOR THE WORK OF SUBORDI-
23 NATES AND FOR EXERCISING DIRECTION, CONTROL, RESTRAINT, AND GUID-
24 ANCE OVER THOSE SUBORDINATES.

25 (F) THE INDIVIDUAL HAS EXERCISED CONTROL AND DISCRETION OVER
26 THE INITIATION, CONTINUATION, SUSPENSION, AND TERMINATION OF THE
27 DOCUMENT AND CONTROLS THE ISSUANCE AND FILING OF THE DOCUMENT.

(G) THE INDIVIDUAL IS RESPONSIBLE FOR ADVISING THE CLIENT.

(H) THE INDIVIDUAL IS RESPONSIBLE FOR ENSURING THAT THE DOCUMENT COMPLIES WITH APPROPRIATE STANDARDS.

Sec. 2211. ~~A person shall not use or advertise any title or description tending to convey the impression that he or she is a landscape architect unless he or she is registered as provided in this article. This article does not restrict the use of the titles "landscape gardener", "landscape contractor", "landscape designer", or "landscape nursery man".~~ A PERSON WHO DOES ANY OF THE FOLLOWING SHALL BE SUBJECT TO THE PENALTIES IMPOSED IN ARTICLE 6:

(A) USES THE TERMS "LANDSCAPE" AND "ARCHITECT" OR "ARCHITECTURE" IN CONJUNCTION WITH ONE ANOTHER OR SIMILAR TERMS SUCH AS "LANDSCAPE DESIGNER" WHICH TEND TO IMPLY LICENSURE OR QUALIFICATION FOR LICENSURE UNDER THIS ARTICLE WITHOUT POSSESSING A LICENSE ISSUED UNDER THIS ARTICLE.

(B) PRESENTS OR ATTEMPTS TO USE AS THE PERSON'S OWN THE LICENSE OR SEAL OF ANOTHER PERSON.

(C) PERMITS ANOTHER PERSON TO USE, AS THAT PERSON'S OWN, THE LICENSE OR SEAL OF A PERSON LICENSED UNDER THIS ARTICLE.

(D) ENGAGES OR ATTEMPTS TO ENGAGE IN THE PRACTICE OF LANDSCAPE ARCHITECTURE OR AFFIXES A SEAL TO A DOCUMENT WHEN THE PERSON'S LICENSE IS SUSPENDED, REVOKED, EXPIRED, OR OTHERWISE NOT IN EFFECT.

(E) AFFIXES A LICENSEE'S SEAL TO A DOCUMENT WHICH WAS NOT PREPARED BY A LICENSEE OR PREPARED UNDER THE SUPERVISION OF A LICENSEE.

(F) SUBMITS A DOCUMENT TO A PUBLIC OFFICIAL OR PUBLIC

AUTHORITY OF THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE
WHICH DOES NOT BEAR 1 OR MORE SEALS OF A LICENSEE.

(G) ALLOWS A PERSON NOT LICENSED, UNDER THE SUPERVISION OF A
LICENSEE, OR EXEMPT FROM LICENSURE UNDER THIS ARTICLE TO ENGAGE
IN THE PRACTICE OF LANDSCAPE ARCHITECTURE IN THIS STATE.

SEC. 2212. (1) THE DEPARTMENT SHALL ALLOW AN INDIVIDUAL WHO
HAS APPLIED FOR REGISTRATION AS A LANDSCAPE ARCHITECT BEFORE THE
EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION TO
QUALIFY FOR LICENSURE UNDER THE STANDARDS THAT WERE IN EFFECT AT
THE TIME OF THAT INDIVIDUAL'S APPLICATION. UPON SUCCESSFUL COM-
PLETION OF THOSE REQUIREMENTS, THE DEPARTMENT SHALL ISSUE A
LICENSE AS A LANDSCAPE ARCHITECT TO SUCH AN INDIVIDUAL.

(2) THE DEPARTMENT SHALL ISSUE A LICENSE TO AN INDIVIDUAL
REGISTERED UNDER THIS ARTICLE ON THE EFFECTIVE DATE OF THE AMEN-
DATORY ACT THAT ADDED THIS SECTION UPON THE EXPIRATION OF THE
INDIVIDUAL'S REGISTRATION.

Section 2. Section 2208 of Act No. 299 of the Public Acts
of 1980, being section 339.2208 of the Michigan Compiled Laws, is
repealed.

Section 3. This amendatory act shall not take effect unless
Senate Bill No. ____ or House Bill No. ____ (request
no. 03442'89 a *) of the 85th Legislature is enacted into law.