

SENATE BILL No. 644

December 4, 1991, Introduced by Senator FAXON and referred to the Committee on State Affairs and Military/Veteran Affairs.

A bill to amend sections 2201, 2202, 2204, 2205, 2209, 2210, and 2211 of Act No. 299 of the Public Acts of 1980, entitled as amended

"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

1 1988, being sections 339.2201, 339.2202, 339.2204, 339.2205,
2 339.2209, 339.2210, and 339.2211 of the Michigan Compiled Laws,
3 are amended and section 2212 is added to read as follows:

4 Sec. 2201. As used in this article:

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

8 (b) "Practice of landscape architecture" means ~~—~~ THE
9 APPLICATION OF A KNOWLEDGE OF THE NATURAL SCIENCES, SOCIAL
10 SCIENCES, AND RELATED PHYSICAL SCIENCES AND THE PRINCIPLES OF
11 LANDSCAPE ARCHITECTURE ACQUIRED BY PROFESSIONAL EDUCATION AND
12 PRACTICAL EXPERIENCE TO SERVICE IN CONNECTION WITH THE DEVELOP-
13 MENT OF LAND AREAS WHERE THE DOMINANT PURPOSE OF THAT SERVICE IS
14 THE PRESERVATION, ENHANCEMENT, OR DETERMINATION OF NATURAL LAND
15 FEATURES, GROUND COVER AND PLANTING, NATURALISTIC AND AESTHETIC
16 VALUES, THE SETTINGS, APPROACHES, OR ENVIRONMENT FOR STRUCTURES
17 OR OTHER IMPROVEMENTS, AND THE CONSIDERATION OF LAND SURFACE
18 PROBLEMS RELATING TO EROSION AND NATURAL DRAINAGE. THE PRACTICE
19 OF LANDSCAPE ARCHITECTURE INCLUDES THE ARRANGEMENT OF TANGIBLE
20 OBJECTS AND INCIDENTAL FEATURES BUT DOES NOT INCLUDE EITHER OF
21 THE FOLLOWING:

22 (i) THE DESIGN OF STRUCTURES WITH SEPARATE AND
23 SELF-CONTAINED PURPOSES AS ORDINARILY INCLUDED IN THE PRACTICES
24 OF PROFESSIONAL ENGINEERING OR ARCHITECTURE.

25 (ii) THE PREPARATION OF BOUNDARY SURVEYS OR LAND PLATS AS
26 ORDINARILY INCLUDED IN THE PRACTICE OF LAND SURVEYING.

1 ~~(i) The performance of professional services such as~~
2 ~~consultation, investigation, research, planning, design, or~~
3 ~~responsible field observation in connection with the development~~
4 ~~of land areas where, and to the extent that the dominant purpose~~
5 ~~of the services is the preservation, enhancement, or determina-~~
6 ~~tion of proper land uses, natural land resources, ground cover~~
7 ~~and planting, naturalistic and aesthetic values, the settings and~~
8 ~~approaches to structures or other improvements, natural drainage,~~
9 ~~and the consideration and determination of inherent problems of~~
10 ~~the land relating to erosion, use and stress, blight, or other~~
11 ~~hazards.~~

12 ~~(ii) The location and arrangement of tangible objects and~~
13 ~~features incidental and necessary to the purposes outlined in~~
14 ~~this article.~~

15 (C) "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) A PERSON WHO, ON THE EFFECTIVE DATE OF THE AMENDATORY
27 ACT THAT ADDED THIS SUBSECTION, IS USING THE TITLE "LANDSCAPE

1 DESIGNER" IN THE NAME OF A BUSINESS SHALL BE PERMITTED TO
2 CONTINUE TO USE THAT TITLE IN THE BUSINESS NAME, BUT SHALL NOT
3 USE THAT TITLE AS A DESCRIPTION OF AN INDIVIDUAL.

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

5 (A) AN INDIVIDUAL LICENSED PURSUANT TO ARTICLE 20 AS AN
6 ARCHITECT, PROFESSIONAL ENGINEER, OR LAND SURVEYOR WHEN PRACTIC-
7 ING WITHIN THE SCOPE OF HIS OR HER LICENSE.

8 (B) AN OWNER OF 1-FAMILY OR 2-FAMILY RESIDENTIAL PROPERTY IN
9 REGARD TO WORK ON THE OWNER'S OWN PROPERTY.

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

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

16 (i) THE GROWING OF PLANTS.

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

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

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

24 (v) THE DESIGN OF APPURTENANCES FOR A 1-FAMILY OR 2-FAMILY
25 RESIDENCE SUCH AS DECKS, PATIOS, WALKS, FENCES, GARDEN STRUC-
26 TURES, AND POOLS, AND THE DEVELOPMENT OF A PLAN FOR THE LOCATION
27 OF THESE APPURTENANCES.

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

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

12 (B) IS OF GOOD MORAL CHARACTER.

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

17 (D) HAS COMPLETED AT LEAST 3 YEARS OF PROFESSIONAL
18 EXPERIENCE IN LANDSCAPE ARCHITECTURE SATISFACTORY TO THE BOARD.
19 ONE YEAR OF PROFESSIONAL EXPERIENCE CREDIT SHALL BE GRANTED FOR
20 COMPLETING AN ADVANCED DEGREE IN LANDSCAPE ARCHITECTURE.

21 (E) HAS PASSED AN EXAMINATION DEVELOPED AND GIVEN BY THE
22 DEPARTMENT AND THE BOARD. THE DEPARTMENT AND THE BOARD MAY UTI-
23 LIZE AN EXAMINATION DEVELOPED AND GIVEN BY ANOTHER PERSON WHICH
24 MEETS STANDARDS ESTABLISHED IN RULES WHICH THE DEPARTMENT AND
25 BOARD MAY PROMULGATE RELATIVE TO THE REQUIREMENTS OF THIS
26 SUBDIVISION.

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

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

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

14 (3) THE DEPARTMENT SHALL RENEW THE LICENSE OF A LANDSCAPE
15 ARCHITECT WHO SUBMITS EVIDENCE OF COMPLETION OF A PROGRAM OF CON-
16 TINUING PROFESSIONAL EDUCATION IF SUCH A PROGRAM IS REQUIRED AND
17 IF THE APPLICANT IS OTHERWISE QUALIFIED FOR RENEWAL OF HIS OR HER
18 LICENSE.

19 Sec. 2209. (1) ~~The~~ SUBJECT TO SUBSECTION (2), THE depart-
20 ment may issue a ~~registration~~ LICENSE without examination to an
21 ~~applicant~~ INDIVIDUAL who is ~~legally~~ registered or licensed as
22 a landscape architect in any other state or country ~~whose~~
23 ~~requirements for registration or licensure are at least substan-~~
24 ~~tially equivalent to the requirements of this state~~ IF THE
25 APPLICANT MEETS EITHER OF THE 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 DEPARTMENT MAY REQUIRE THE APPLICANT APPLYING FOR
7 LICENSURE UNDER THIS SECTION TO SIT FOR AN EXAMINATION ON THE
8 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 EXCEPT THAT A LICENSEE MAY CONTINUE TO
24 USE A SEAL WHICH WAS IN USE ON OR BEFORE THE EFFECTIVE DATE OF
25 THE AMENDATORY ACT THAT ADDED THIS SUBSECTION DESPITE ITS BEARING
26 A LEGEND INDICATING THAT THE INDIVIDUAL IS REGISTERED INSTEAD OF
27 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 Sec. 2211. ~~A person shall not use or advertise any title~~
14 ~~or description tending to convey the impression that he or she is~~
15 ~~a landscape architect unless he or she is registered as provided~~
16 ~~in this article. This article does not restrict the use of the~~
17 ~~titles "landscape gardener", "landscape contractor", "landscape~~
18 ~~designer", or "landscape nursery man".~~ A PERSON WHO DOES ANY OF
19 THE FOLLOWING IS SUBJECT TO THE PENALTIES IMPOSED IN ARTICLE 6:

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

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

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

3 (D) ENGAGES OR ATTEMPTS TO ENGAGE IN THE PRACTICE OF LAND-
4 SCAPE ARCHITECTURE OR AFFIXES A SEAL TO A DOCUMENT WHEN THE
5 PERSON'S LICENSE IS SUSPENDED, REVOKED, EXPIRED, OR OTHERWISE NOT
6 IN EFFECT.

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

10 (F) SUBMITS A DOCUMENT TO A PUBLIC OFFICIAL OR PUBLIC
11 AUTHORITY OF THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE
12 WHICH DOES NOT BEAR 1 OR MORE SEALS OF A LICENSEE.

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

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

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

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

4 Section 3. This amendatory act shall not take effect unless
5 Senate Bill No. 645
6 of the 86th Legislature is enacted into law.