

# HOUSE BILL No. 5025

July 10, 2007, Introduced by Reps. Donigan, Kathleen Law, Jackson, Hopgood, Warren, Vagnozzi and Meisner and referred to the Committee on Commerce.

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 105, 2201, 2202, 2203, 2204, 2205, 2208, 2209, 2210, and 2211 (MCL 339.105, 339.2201, 339.2202, 339.2203, 339.2204, 339.2205, 339.2208, 339.2209, 339.2210, and 339.2211), sections 105, 2205, and 2209 as amended by 1988 PA 463 and section 2204 as amended by 1981 PA 83.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 105. (1) "License" means the document issued to a person  
2 under this act which will enable that person to use a designated  
3 title and practice an occupation, which practice would otherwise be  
4 prohibited by this act **EXCEPT AS OTHERWISE PROVIDED IN ARTICLE 22.**  
5 License includes a document issued by the department which permits

1 a school, institution, or person to offer training or education in  
2 an occupation or which permits the operation of a facility,  
3 establishment, or institution in which an occupation is practiced.  
4 License includes a permit or approval.

5 (2) "Licensee" means a person who has been issued a license  
6 under this act.

7 (3) "Limitation" means a condition, stricture, constraint,  
8 restriction, or probation attached to a license or registration  
9 relative to the scope of practice including the following:

10 (a) A requirement that the licensee or registrant perform only  
11 specified functions of the licensee's or registrant's occupation.

12 (b) A requirement that the licensee or registrant perform the  
13 licensee's or registrant's occupation only for a specified period  
14 of time.

15 (c) A requirement that the licensee or registrant perform the  
16 licensee's or registrant's occupation only within a specified  
17 geographical area.

18 (d) A requirement that restitution be made or certain work be  
19 performed before a license or registration is issued, renewed, or  
20 reinstated.

21 (e) A requirement that a financial statement certified by a  
22 person licensed as a certified public accountant be filed with the  
23 department at regular intervals.

24 (f) A requirement which reasonably assures a licensee's or  
25 registrant's competence to perform the licensee's or registrant's  
26 occupation.

27 (g) A requirement that all contracts of a licensee or

1 registrant be reviewed by an attorney.

2 (h) A requirement that a licensee or registrant have on file  
3 with the department a bond issued by a surety insurer approved by  
4 the department or cash in an amount determined by the department.

5 (i) A requirement that a licensee or registrant deposit money  
6 received in an escrow account which can be disbursed only under  
7 certain conditions as determined by the licensee or registrant and  
8 another party.

9 (j) A requirement that a licensee or registrant file reports  
10 with the department at intervals determined by the department.

11 (4) "Occupation" means a field of endeavor regulated by this  
12 act.

13 (5) "Person" means an individual, sole proprietorship,  
14 partnership, association, corporation, common law trust, or a  
15 combination of those legal entities. Person includes a department,  
16 board, school, institution, establishment, or governmental entity.

17 (6) "Physical dominion" means control and possession.

18 (7) "Physician" means that term as defined in section 17001  
19 and section 17501 of the public health code, ~~Act No. 368 of the~~  
20 ~~Public Acts of 1978, being sections 333.17001 and 333.17501 of the~~  
21 ~~Michigan Compiled Laws 1978 PA 368, MCL 333.17001 AND 333.17501.~~

22 (8) "Probation" means a sanction which permits a board to  
23 evaluate over a period of time a licensee's or registrant's fitness  
24 to practice an occupation regulated by this act.

25 (9) "Public access" means the right of a person to view and  
26 copy files pursuant to the freedom of information act, ~~Act No. 442~~  
27 ~~of the Public Acts of 1976, as amended, being sections 15.231 to~~

1 ~~15.246 of the Michigan Compiled Laws 1976 PA 442, MCL 15.231 TO~~  
2 ~~15.246.~~

3 (10) "Registrant" means a person who is registered under this  
4 act.

5 (11) "Registration" means the document issued to a person  
6 under this act which will enable that person to use a designated  
7 title, which use would be otherwise prohibited by this act.

8 (12) "Rule" means a rule promulgated under this act and  
9 pursuant to the administrative procedures act of 1969, ~~Act No. 306~~  
10 ~~of the Public Acts of 1969, as amended, being sections 24.201 to~~  
11 ~~24.328 of the Michigan Compiled Laws 1969 PA 306, MCL 24.201 TO~~  
12 ~~24.328.~~

13 (13) "State" means the District of Columbia or a commonwealth,  
14 state, or territory of the United States.

15 Sec. 2201. As used in this article:

16 (a) "Landscape architect" means a person qualified to **ENGAGE**  
17 **IN THE** practice **OF** landscape architecture as provided in this  
18 article.

19 (b) "Practice of landscape architecture" means **ALL OF THE**  
20 **FOLLOWING:**

21 (i) The performance of professional services such as  
22 consultation, investigation, research, planning, design, or  
23 responsible field observation in connection with the development of  
24 land areas where, and to the extent that the dominant purpose of  
25 the services is the preservation, enhancement, or determination of  
26 proper land uses, natural land resources, ground cover and  
27 planting, naturalistic and aesthetic values, the settings and

1 approaches to structures or other improvements, natural drainage,  
2 and the consideration and determination of inherent problems of the  
3 land relating to erosion, use and stress, blight, or other hazards.

4 (ii) The location and arrangement of tangible objects and  
5 features incidental and necessary to the purposes outlined in this  
6 article.

7 Sec. 2202. (1) This article ~~shall~~ **DOES** not ~~preclude~~ **PROHIBIT** a  
8 ~~registered~~ **LICENSED** landscape architect from performing any of the  
9 services described in section 2201(b) (i) in connection with the  
10 settings, approaches, or environment for buildings, structures, or  
11 facilities.

12 (2) This article ~~shall not be construed as authorizing~~ **DOES**  
13 **NOT AUTHORIZE** a landscape architect to engage in the practice of  
14 architecture, engineering, or land surveying as defined in article  
15 20.

16 (3) **THE LICENSURE REQUIREMENT OF THIS ARTICLE DOES NOT**  
17 **PROHIBIT A PERSON FROM PERFORMING OR OFFERING SERVICES AS A**  
18 **LANDSCAPE DESIGNER, LANDSCAPE GARDENER, LANDSCAPE CONTRACTOR, OR**  
19 **LANDSCAPE NURSERY OPERATOR AS LONG AS THAT PERSON DOES NOT USE THE**  
20 **TERM "LANDSCAPE ARCHITECT".**

21 Sec. 2203. (1) The board of landscape architects is created.

22 (2) **WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY**  
23 **ACT THAT ADDED THIS SUBSECTION, ANY BOARD MEMBER REPRESENTING**  
24 **LANDSCAPE ARCHITECTS AND SERVING ON THAT DATE SHALL OBTAIN**  
25 **LICENSURE UNDER THIS ARTICLE IN ORDER TO CONTINUE TO SERVE ON THE**  
26 **BOARD.**

27 Sec. 2204. An applicant for ~~registration~~ **LICENSURE** as a

1 landscape architect shall be of good moral character and shall pass  
2 a written examination developed by the department and the board. In  
3 addition, each applicant shall have had not less than 7 years of  
4 training and experience in the actual **IMPLEMENTATION AND** practice  
5 of landscape architecture. Satisfactory completion of each year up  
6 to 5 years of an accredited course in landscape architecture in an  
7 accredited school shall be considered as equivalent to a year of  
8 experience.

9       Sec. 2205. (1) All requirements for ~~registration~~**LICENSURE**  
10 shall be completed within 10 years after receipt of the application  
11 by the department. If the requirements are not completed within the  
12 10-year period, the application shall be void.

13       **(2) A DEMONSTRATION OF CONTINUING PROFESSIONAL COMPETENCE**  
14 **SHALL BE REQUIRED FOR RENEWAL OF A LICENSE AS DETERMINED BY THE**  
15 **BOARD AND PROVIDED FOR BY RULE OF THE DIRECTOR.**

16       Sec. 2208. ~~Registration~~**LICENSURE** under this article shall be  
17 on an individual basis. The department shall not ~~register~~**LICENSE** a  
18 partnership, association, corporation, or a public agency under  
19 this article.

20       Sec. 2209. The department may issue a ~~registration~~**LICENSE**  
21 without examination to an applicant who is legally registered, ~~or~~  
22 licensed, **OR REGULATED** as a landscape architect in any other state  
23 or country whose requirements for registration, ~~or~~ licensure, **OR**  
24 **OTHER REGULATION** are at least substantially equivalent to the  
25 requirements of this state.

26       Sec. 2210. (1) Each landscape architect shall have a seal,  
27 approved by the department and the board, which shall contain the

1 name of the landscape architect, the ~~serial~~ number of his or her  
2 ~~certificate of registration~~ **LICENSE** and the legend "landscape  
3 architect, state of Michigan" and other words or figures as the  
4 department considers necessary. Plans, specifications, and reports  
5 prepared by the landscape architect or under his or her supervision  
6 shall be stamped with his or her seal when filed with a public  
7 authority.

8 (2) A landscape architect who indorses a document with his or  
9 her seal while his or her ~~certificate of registration~~ **LICENSE** is  
10 not in full force and effect, or who indorses a document which the  
11 landscape architect did not actually prepare or supervise the  
12 preparation, is subject to the penalties prescribed in article 6.

13 Sec. 2211. A person shall not use or advertise **THE TITLE**  
14 **"LANDSCAPE ARCHITECT" OR** any title or description tending to convey  
15 the impression that he or she is a landscape architect unless he or  
16 she is ~~registered as provided in~~ **LICENSED UNDER** this article. This  
17 article does not restrict the use of the titles "landscape  
18 gardener", "landscape contractor", "landscape designer", or  
19 "landscape ~~nursery man~~ **OPERATOR**".

20 Enacting section 1. This amendatory act does not take effect  
21 unless Senate Bill No. \_\_\_\_ or House Bill No. 5026 (request no.  
22 03702'07 a) of the 94th Legislature is enacted into law.