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H.227

Introduced by Representatives Edwards of Brattleboro, Minter of Waterbury,
Evans of Essex and Scheuermann of Stowe
Referred to Committee on
Date:
Subject: Professions and occupations; landscape architects; licensure
Statement of purpose: This bill proposes to create a system for regulating and
licensing landscape architects.

An act relating to the regulation of landscape architects

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 26 V.S.A. chapter 46 is added to read:

CHAPTER 46. LANDSCAPE ARCHITECTS

Subchapter 1. General Provisions

§ 2611. PURPOSE

In order to protect the public health, safety, and welfare, the practice of
landscape architecture in this state is declared to be subject to regulation in the
public interest, in accordance with the terms of this chapter.

§ 2612. DEFINITIONS

As used in this chapter:

(1) "Director" means the director of the office of professional

1 regulation.

2 (2) "Disciplinary action" means any action taken against a licensed
3 landscape architect for unprofessional conduct.

4 (3) "Landscape architect" means a person who complies with all
5 provisions of this chapter and is licensed by the director to engage in the
6 practice of landscape architecture.

7 (4) "License" means an authorization granted by the director to practice
8 landscape architecture.

9 (5) "Practice of landscape architecture" means any service where
10 landscape architectural education, training, experience and the application of
11 mathematical, physical, and social science principles are applied in
12 consultation, evaluation, planning, and design, including the preparation and
13 filing of drawings, plans, specifications and other contract documents and the
14 administration of contracts relative to projects principally directed at the
15 functional and aesthetic development, use, or preservation of land that directly
16 affects the health, safety and welfare of the public. These services include the
17 implementation of land development concepts and natural resource
18 management plans through the design or grading of: land forms; on-site,
19 surface, and storm water drainage; soil conservation and erosion control; small
20 water features; pedestrian, bicycle, and local motor vehicular circulation
21 systems; and related construction details.

1 § 2613. PROHIBITION AND ENFORCEMENT

2 (a) No person shall:

3 (1) Practice or attempt to practice landscape architecture or hold himself
4 or herself as being able to do so in this state without first obtaining a valid
5 license as required by this chapter.

6 (2) Use the title “landscape architect,” “landscape architecture,” or
7 “landscape architectural” in connection with the person’s name without being
8 duly licensed under this chapter.

9 (b) No person licensed under this chapter shall:

10 (1) Stamp or seal documents with his or her landscape architect seal if
11 his or her license has expired or is revoked or suspended.

12 (2) Practice or attempt to practice landscape architecture during license
13 revocation or suspension.

14 (3) Engage in unprofessional conduct.

15 (4) Violate any provisions of this chapter.

16 (c) A person who willfully violates any provisions of subsection (a) of this
17 section shall be subject to the penalties provided in subsection 127(c) of
18 Title 3.

19 (d) The administrative law officer may bring an action for injunctive relief
20 to enforce the provisions of this chapter.

1 § 2614. EXEMPTIONS

2 (a) This chapter shall not affect or prevent:

3 (1) The practice of architecture, land surveying, engineering, or other
4 licensed profession by persons not licensed under this chapter;

5 (2) Drafters, clerks, project managers, superintendents, students, and
6 other employees or interns from acting under the instructions, control, or
7 supervision of their employers;

8 (3) The construction, alteration, or supervision of sites by contractors or
9 superintendents employed by contractors or the preparation of shop drawings
10 in connection with the construction, alteration, or supervision;

11 (4) Owners or contractors from engaging persons who are not landscape
12 architects to observe and supervise site construction of a project;

13 (5) The preparation of construction documents showing plantings, other
14 horticulture-related elements, or landscape materials unrelated to horticulture;

15 (6) Individuals from making plans, drawings, or specifications for any
16 property owned by them and for their own personal use;

17 (7) The design of irrigation systems; and

18 (8) Officers or employees of the federal government from working in
19 connection with their employment.

1 (b) The director may adopt rules necessary to perform his or her duties
2 under this section.

3 § 2622. ADVISOR APPOINTEES

4 (a) The secretary of state shall appoint two landscape architects for
5 four-year terms to serve at the secretary's pleasure as advisors in matters
6 relating to landscape architecture. One of the initial appointments may be for
7 less than a four-year term. An appointee shall have not less than three years'
8 experience as a landscape architect immediately preceding appointment, shall
9 be licensed as a landscape architect in Vermont or be in the process of
10 applying for licensure, and shall be actively engaged in the practice of
11 landscape architecture in this state during incumbency.

12 (b) The director shall seek the advice of the landscape architect advisors in
13 carrying out the provisions of this chapter.

14 § 2623. APPLICATIONS

15 Applications for licensure shall be on forms provided by the director. Each
16 application shall contain a statement under oath showing the applicant's
17 education, experience, and other pertinent information and shall be
18 accompanied by the required fee.

19 § 2624. QUALIFICATIONS

20 (a) A person shall be eligible for licensure as a landscape architect if the
21 person qualifies under one of the following provisions:

1 (1) Comity or endorsement. A person holding a registration or license
2 to engage in the practice of landscape architecture issued on the basis of an
3 examination administered by the council of landscape architectural registration
4 boards, by the appropriate regulatory authority of a state, territory, or
5 possession of the United States, the District of Columbia, or another country
6 based on requirements and qualifications shown by the application to be equal
7 to or greater than the requirements of this chapter may be examined on
8 landscape architecture matters peculiar to Vermont and granted a license at the
9 discretion of the director. The director shall accept evidence that an applicant
10 holds a valid certificate from the council of landscape architectural registration
11 boards as proof of qualification for certification under this subdivision.

12 (2) Graduation and examination. An applicant who has graduated,
13 having completed a landscape architecture curriculum approved by the
14 landscape architectural accreditation board, followed by at least three years of
15 diversified experience in landscape architecture under the supervision of a
16 licensed, registered, or certified landscape architect and who has passed an
17 examination administered by the council of landscape architectural registration
18 boards may be granted a license. The director may accept experience received
19 under the supervision of a licensed or registered architect, professional
20 engineer, or land surveyor for one year of the experience required under this

1 subdivision. All applicants shall have at least two years of experience under
2 the supervision of a licensed, certified, or registered landscape architect.

3 (3) Experience and examination. An applicant who has completed nine
4 or more years' diversified experience in landscape architecture under the
5 supervision of a licensed, certified, or registered landscape architect and who
6 has passed an examination administered by the council of landscape
7 architectural review boards may be granted a license. Experience received
8 under the supervision of a licensed or registered architect, professional
9 engineer, or land surveyor may be substituted for no more than three years of
10 this requirement. Credits from a landscape architecture program accredited by
11 the landscape architectural accreditation board may be substituted for up to no
12 more than three years of this requirement.

13 (b) Upon application for licensure, an applicant qualifying for licensure
14 under subdivision (a)(2), (3), or (4) of this section shall file a report with the
15 director certifying the practical experience requirements completed. The
16 director shall certify that, to the best of the director's knowledge, the report is
17 correct.

18 (c) An applicant may submit experience accrued for a period of three years
19 in the practice of landscape architecture, as defined in subdivision 2612(5) of
20 this title, in order to meet the experience requirements set forth in subsection
21 (a) of this section if the experience was obtained in Vermont on or before

1 December 31, 2011. Evidence of experience shall be reviewed and approved
2 by the director.

3 (d) An applicant qualifying for licensure under subdivision (a)(2) or (3) of
4 this section shall pass a written examination administered by the council of
5 landscape architectural boards on technical and professional subjects as may be
6 prescribed by the council of landscape architectural boards. Applicants may
7 apply for examination before completing the experience requirement as long as
8 the experience requirements will be fulfilled by the examination date.

9 Notification of the results of examinations shall be mailed to each candidate
10 within 30 days of the date the results are received by the director. A candidate
11 failing to pass the examination may apply for reexamination and may sit for a
12 regularly scheduled examination as many times as the candidate chooses to do
13 so. If an applicant does not pass the entire examination, the applicant shall not
14 be required to retake any section of an examination that the applicant has
15 previously passed. No license shall be granted to an applicant until he or she
16 passes all sections of the exam.

17 (e) Licensing standards and procedures adopted by the director by rule
18 shall be fair and reasonable. Those standards and procedures shall be designed
19 and implemented to ensure that all applicants are admitted to practice unless
20 there is a good reason to believe that practice by a particular applicant would
21 be inconsistent with the public health, safety, or welfare. Licensing standards

1 shall not be designed or implemented for the purpose of limiting the number of
2 licensed landscape architects.

3 § 2625. LICENSURE; GENERALLY

4 The director shall issue a license, upon payment of the fees required in this
5 chapter, to an applicant who has satisfactorily met all the requirements of this
6 chapter.

7 § 2626. LICENSE RENEWAL

8 (a) A license shall be renewed every two years upon application and
9 payment of the required fee. Failure to comply with the provisions of this
10 section shall result in suspension of all privileges granted to the licensee,
11 beginning on the expiration date of the license. A license which has lapsed
12 shall be renewed upon payment of the biennial renewal fee and the late
13 renewal penalty.

14 (b) The director may adopt rules necessary for the protection of the public
15 to assure the director that an applicant whose license has lapsed or who has not
16 worked for more than three years is professionally qualified. Conditions
17 imposed under this subsection shall be in addition to the requirements of
18 subsection (a) of this section.

19 § 2627. FEES

20 Applicants and persons regulated under this chapter shall pay the following
21 fees:

1 (1) Application for licensure: \$150.00

2 (2) Initial license issuance: \$40.00

3 (3) Biennial license renewal: \$250.00

4 § 2628. SEAL

5 Each licensed landscape architect shall obtain a seal of a design as the
6 director shall authorize and direct. Plans and specifications prepared by or
7 under the direct supervision of a licensed landscape architect shall be stamped
8 with the licensed landscape architect's seal.

9 § 2629. UNPROFESSIONAL CONDUCT

10 Unprofessional conduct means the following conduct and the conduct by a
11 licensee or applicant for licensure as set forth in section 129a of Title 3:

12 (1) Accepting and performing responsibilities which the licensed
13 landscape architect knows or has reason to know that he or she is not
14 competent to perform, or undertaking to perform professional services in
15 specific technical areas in which the licensed landscape architect is not
16 qualified by education, training, and experience;

17 (2) Failing to practice with reasonable care and competence and to apply
18 the technical knowledge and skill ordinarily applied by licensed landscape
19 architects practicing in the same locality;

1 (3) Assisting in the application for licensure of a person known by the
2 licensed landscape architect to be unqualified in respect to education, training,
3 or experience;

4 (4) Accepting compensation for services from more than one party on a
5 project unless the circumstances are fully disclosed and agreed to by all
6 interested parties;

7 (5) Failing to disclose fully in writing to a client or employer the nature
8 of any business association or direct or indirect financial interest substantial
9 enough to influence the licensed landscape architects judgment in the
10 performance of professional services;

11 (6) Soliciting or accepting compensation from material or equipment
12 suppliers in return for specifying or endorsing their products;

13 (7) Failing to disclose compensation for making public statements on
14 landscape architectural questions;

15 (8) Offering or making a payment or gift to an elected or appointed
16 government official with the intent to influence the official's judgment in
17 connection with a prospective or existing project in which the licensed
18 landscape architect is interested;

19 (9) Offering or making a gift of other than nominal value, including
20 reasonable entertainment and hospitality, with the intent to influence the

1 judgment of an existing or prospective client in connection with a project in
2 which the licensed landscape architect is interested;

3 (10) Knowingly designing a project in violation of applicable state and
4 local laws and regulations;

5 (11) Making a willful material misrepresentation with respect to the
6 qualifications or experience of an applicant or otherwise in the practice of the
7 profession, whether by commission or omission;

8 (12) Acting, while serving as a advisor to the director, in any way to
9 contravene willfully the provisions of this chapter and thereby artificially
10 restricting the entry of qualified persons into the profession;

11 (13) Using the licensed landscape architect's seal on drawings prepared
12 by others not in the his or her employ, or using the seal of another;

13 (14) Inaccurately representing to a prospective or existing client or
14 employer the licensed landscape architect's qualifications and scope of
15 responsibility for work for which he or she claims credit;

16 (15) Signing or sealing technical submissions unless they were prepared
17 by or under the responsible control of the licensed landscape architect, except
18 that the licensed landscape architect may sign or seal those portions of the
19 technical submissions that were prepared by or under the responsible control of
20 persons who are licensed under this chapter if the licensed landscape architect

1 has reviewed and adopted in whole or in part those portions and has either
2 coordinated their preparation or integrated them into his or her work; and

3 (16) In each office maintained for preparation of drawings,
4 specifications, reports, or other professional work, failing to have a licensed
5 landscape architect with direct knowledge and supervisory control of such
6 work resident and regularly employed in that office.

7 Sec. 2. TRANSITIONAL PROVISIONS

8 The director shall establish a procedure so that residents of Vermont who
9 have been engaged in the practice of landscape architecture in Vermont, and
10 who are not licensed as landscape architects in other states prior to the
11 effective date of this act, may become licensed without examination. To
12 accomplish this, the director shall establish that these candidates shall provide
13 evidence to the director and a special temporary panel, consisting of five
14 Vermont landscape architects licensed under the provisions of chapter 46 of
15 Title 26, to review the evidence regarding the qualifications for licensure
16 without examination of candidates under this procedure. Only those applicants
17 who can establish a record of landscape architectural practice for nine or more
18 years shall be eligible for licensure under this section. A degree from an
19 accredited landscape architecture program may substitute for years of the
20 experience requirement under this section at the rate of two years of accredited
21 school work for one year of landscape architectural work experience.

1 Sec. 3. REPEAL

2 Sec. 2 of this act shall be repealed on July 1, 2014.