

1 S.28

2 Introduced by Senators Snelling, Bartlett, Campbell, Lyons, Mazza and Miller

3 Referred to Committee on

4 Date:

5 Subject: Professions and occupations; landscape architects; licensure

6 Statement of purpose: This bill proposes to create a system for regulating and
7 licensing landscape architects.

8 An act relating to the regulation of landscape architects

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

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

11 CHAPTER 46. LANDSCAPE ARCHITECTS

12 Subchapter 1. General Provisions

13 § 2611. PURPOSE

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

17 § 2612. DEFINITIONS

18 As used in this chapter:

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

11 (4) Practice or attempt to practice landscape architecture during license
12 revocation or suspension.

13 (5) Engage in unprofessional conduct.

14 (6) Violate any provisions of this chapter.

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

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

20 § 2614. EXEMPTIONS

21 (a) Nothing in this chapter shall prohibit:

1 (1) An architect, professional engineer, or land surveyor or other
2 professional licensed in Vermont from providing services for which he or she
3 is licensed;

4 (2) Individuals from making plans, drawings, or specifications for
5 property owned by them and for their own personal use.

6 (b) This chapter shall not be construed to affect or prevent:

7 (1) The practice of other legally recognized professions by those
8 licensed in this state to practice those professions, including architecture,
9 professional engineering, and land surveying;

10 (2) Employees under the instruction, control, or supervision of someone
11 lawfully practicing landscape architecture under the provisions of this chapter;

12 (3) Students of landscape architecture acting under the supervision of a
13 licensed landscape architect; or

14 (4) An officer or employee of the federal government working in
15 connection with his or her employment.

16 (c) This section shall not be construed to permit a person not licensed as
17 provided in this chapter to use the title landscape architect or any title, sign,
18 card, or device to indicate that the person is a landscape architect.

19 (d) This chapter shall not be construed to limit or restrict in any manner the
20 right of a practitioner of another profession or occupation from carrying on in
21 the usual manner any of the functions incidental to that profession or

1 occupation, including landscape designers undertaking work that require only a
2 building permit, foresters preparing forest management plans, and professional
3 planners.

4 Subchapter 2. Administration

5 § 2621. OFFICE OF PROFESSIONAL REGULATION

6 (a) The director shall:

7 (1) Provide general information to applicants for certification as
8 landscape architects.

9 (2) Explain appeal procedures to licensed landscape architects and
10 applicants, and complaint procedures to the public.

11 (3) Administer fees as established by law.

12 (4) Receive applications for licensure, administer examinations, provide
13 licenses to applicants qualified under this chapter, renew, revoke and reinstate
14 licenses as ordered by an administrative law officer.

15 (5) Refer all disciplinary matters to an administrative law officer.

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

18 § 2622. ADVISOR APPOINTEES

19 (a) The secretary of state shall appoint two landscape architects for four-
20 year terms to serve at the secretary's pleasure as advisors in matters relating to
21 landscape architecture. One of the initial appointments may be for less than a

1 four-year term. An appointee shall have not less than three years' experience
2 as a landscape architect immediately preceding appointment, shall be licensed
3 as a landscape architect in Vermont or be in the process of applying for
4 licensure, and shall be actively engaged in the practice of landscape
5 architecture in this state during incumbency.

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

8 § 2623. APPLICATIONS

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

13 § 2624. QUALIFICATIONS

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

16 (1) Comity or endorsement. A person holding a registration or license
17 to engage in the practice of landscape architecture issued on the basis of an
18 examination administered by the council of landscape architectural registration
19 boards, by the appropriate regulatory authority of a state, territory, or
20 possession of the United States, the District of Columbia, or another country
21 based on requirements and qualifications shown by the application to be equal

1 to or greater than the requirements of this chapter may be examined on
2 landscape architecture matters peculiar to Vermont and granted a license at the
3 discretion of the director. The director shall accept evidence that an applicant
4 holds a valid certificate from the council of landscape architectural registration
5 boards as proof of qualification for certification under this subdivision.

6 (2) Graduation and examination. An applicant who has graduated from
7 a landscape architecture curriculum of four years or more approved by the
8 landscape architectural accreditation board, followed by at least three years of
9 diversified experience in landscape architecture under the supervision of a
10 licensed, registered, or certified landscape architect, and who has passed an
11 examination administered by the council of landscape architectural registration
12 boards may be granted a license. The director may accept experience received
13 under the supervision of a licensed or registered architect, professional
14 engineer, or land surveyor for one year of the experience required under this
15 subdivision. All applicants shall have at least two years of experience under
16 the supervision of a licensed, certified, or registered landscape architect.

17 (3) Experience and examination. An applicant who has completed nine
18 or more years' diversified experience in landscape architecture under the
19 supervision of a licensed, certified, or registered landscape architect and who
20 has passed an examination administered by the council of landscape
21 architectural review boards may be granted a license. Experience received

1 under the supervision of a licensed or registered architect, professional
2 engineer, or land surveyor may be substituted for no more than three years of
3 this requirement. Credits from a landscape architecture program accredited by
4 the landscape architectural accreditation board may be substituted for up to no
5 more than three years of this requirement.

6 (b) Upon application for licensure, an applicant qualifying for licensure
7 under subdivision (a)(2) or (a)(3) of this section shall file a report with the
8 director certifying the practical experience requirements completed. The
9 director shall certify that to the best of the director's knowledge, the report is
10 correct.

11 (c) An applicant may submit experience accrued under the supervision of a
12 Vermont landscape architect regardless of registration status if the experience
13 was obtained on or before December 31, 2010. Evidence of experience shall
14 be reviewed and approved by the director.

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

21 Notification of the results of examinations shall be mailed to each candidate

1 within 30 days of the date the results are received by the director. A candidate
2 failing to pass the examination may apply for reexamination and may sit for a
3 regularly scheduled examination as many times as the candidate chooses to do
4 so. If an applicant does not pass the entire examination, the applicant shall not
5 be required to retake any section of an examination that the applicant has
6 previously passed. No license shall be granted to an applicant until he or she
7 passes all sections of the exam.

8 (e) Licensing standards and procedures adopted by the director by rule
9 shall be fair and reasonable. Those standards and procedures shall be designed
10 and implemented to ensure that all applicants are admitted to practice unless
11 there is a good reason to believe that practice by a particular applicant would
12 be inconsistent with the public health, safety, or welfare. Licensing standards
13 shall not be designed or implemented for the purpose of limiting the number of
14 licensed landscape architects.

15 § 2625. LICENSURE; GENERALLY

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

19 § 2626. LICENSE RENEWAL

20 (a) A license shall be renewed every two years upon application and
21 payment of the required fee. Failure to comply with the provisions of this

1 section shall result in suspension of all privileges granted to the licensee,
2 beginning on the expiration date of the license. A license which has lapsed
3 shall be renewed upon payment of the biennial renewal fee and the late
4 renewal penalty.

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

10 § 2627. FEES

11 Applicants and persons regulated under this chapter shall pay the following
12 fees:

13 (1) Application for licensure: \$150.00

14 (2) Initial license issuance: \$40.00

15 (3) Biennial license renewal: \$250.00

16 § 2628. SEAL

17 Each licensed landscape architect shall obtain a seal of a design as the
18 director shall authorize and direct. Plans and specifications prepared by or
19 under the direct supervision of a licensed landscape architect shall be stamped
20 with the licensed landscape architect's seal.

1 § 2629. UNPROFESSIONAL CONDUCT

2 Unprofessional conduct means the following conduct and the conduct set
3 forth in section 129a of Title 3:

4 (1) Accepting and performing responsibilities which the licensed
5 landscape architect knows or has reason to know that he or she is not
6 competent to perform, or undertaking to perform professional services in
7 specific technical areas in which the licensed landscape architect is not
8 qualified by education, training, and experience;

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

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

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

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

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

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

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

9 (9) Offering or making a gift of other than nominal value, including
10 reasonable entertainment and hospitality, with the intent to influence the
11 judgment of an existing or prospective client in connection with a project in
12 which the licensed landscape architect is interested;

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

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

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

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

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

6 (15) Signing or sealing technical submissions unless they were prepared
7 by or under the responsible control of the licensed landscape architect, except
8 that the licensed landscape architect may sign or seal those portions of the
9 technical submissions that were prepared by or under the responsible control of
10 persons who are licensed under this chapter if the licensed landscape architect
11 has reviewed and adopted in whole or in part those portions and has either
12 coordinated their preparation or integrated them into his or her work; and

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