

SENATE BILL No. 662

November 1, 1989, Introduced by Senators FAXON, EHLERS, SEDERBURG and POLLACK and referred to the Committee on State Affairs, Tourism, and Transportation.

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 NATURAL LAND
14 FEATURES, GROUND COVER AND PLANTING, NATURALISTIC AND AESTHETIC
15 VALUES, THE SETTINGS, APPROACHES, OR ENVIRONMENT FOR STRUCTURES
16 OR OTHER IMPROVEMENTS, AND THE CONSIDERATION OF LAND SURFACE
17 PROBLEMS RELATING TO EROSION AND NATURAL DRAINAGE. THE PRACTICE
18 INCLUDES THE ARRANGEMENT OF TANGIBLE OBJECTS AND INCIDENTAL FEA-
19 TURES BUT DOES NOT INCLUDE EITHER OF THE FOLLOWING:

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

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

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

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

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

22 (iii) THE LICENSEE PROVIDES TO THE SUPERVISED INDIVIDUAL
23 PREDETERMINED OPERATING POLICIES AND PROCEDURES.

24 Sec. 2202. (1) ~~This article shall not preclude a regis-~~
25 ~~tered landscape architect from performing any of the services~~
26 ~~described in section 2201(b)(i) in connection with the settings,~~
27 ~~approaches, or environment for buildings, structures, or~~

1 ~~facilities.~~ A PERSON SHALL NOT ENGAGE IN OR OFFER TO ENGAGE IN
2 THE PRACTICE OF LANDSCAPE ARCHITECTURE, WITH OR WITHOUT COMPENSA-
3 TION, UNLESS THE PERSON IS LICENSED UNDER THIS ARTICLE, IS UNDER
4 THE SUPERVISION OF A LICENSEE, OR IS EXEMPT FROM LICENSURE UNDER
5 SUBSECTION (4).

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

22 (3) A PERSON WHO, ON THE EFFECTIVE DATE OF THE AMENDATORY
23 ACT THAT ADDED THIS SUBSECTION, IS USING THE TITLE "LANDSCAPE
24 DESIGNER" IN THE NAME OF A BUSINESS SHALL BE PERMITTED TO CON-
25 TINUE TO USE THAT TITLE IN THE BUSINESS NAME, BUT SHALL NOT USE
26 THAT TITLE AS A DESCRIPTION OF AN INDIVIDUAL.

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

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

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

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

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

13 (i) THE GROWING OF PLANTS.

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

17 (iii) THE ACTUAL PHYSICAL INSTALLATION OF PLANTS OR THE CARE
18 AND MAINTENANCE OF PLANTS.

19 (iv) THE DEVELOPMENT OF A PLAN DESIGNATING THE PLACEMENT AND
20 SELECTION OF PLANTS.

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

25 Sec. 2204. (1) ~~An applicant for registration as a land-~~
26 ~~scape architect shall be of good moral character and shall pass a~~
27 ~~written examination developed by the department and the board.~~

1 ~~In addition, each applicant shall have had not less than 7 years~~
2 ~~of training and experience in the actual practice of landscape~~
3 ~~architecture. Satisfactory completion of each year up to 5 years~~
4 ~~of an accredited course in landscape architecture in an accredi-~~
5 ~~ted school shall be considered as equivalent to a year of~~
6 ~~experience.~~ THE DEPARTMENT SHALL ISSUE A LICENSE AS A LANDSCAPE
7 ARCHITECT TO AN INDIVIDUAL WHO MEETS ALL OF THE FOLLOWING:

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

9 (B) IS OF GOOD MORAL CHARACTER.

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

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

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

24 (2) AN APPLICANT SHALL COMPLETE ALL OF THE REQUIREMENTS FOR
25 LICENSURE WITHIN 10 YEARS AFTER RECEIPT OF THE APPLICATION BY THE
26 DEPARTMENT. IF THE REQUIREMENTS ARE NOT COMPLETED WITHIN THE
27 10-YEAR PERIOD, THE APPLICATION SHALL BE VOID.

1 Sec. 2205. (1) ~~All requirements for registration shall be~~
2 ~~completed 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.~~ THE BOARD MAY
5 PROMULGATE RULES RELATING TO CONTINUING EDUCATION REQUIREMENTS.

6 (2) THE BOARD MAY ADOPT A PROGRAM OF CONTINUING EDUCATION
7 ESTABLISHED BY ANOTHER PERSON IF IT DETERMINES THAT THE PROGRAM
8 MEETS THE STANDARDS ESTABLISHED IN THE RULES PROMULGATED UNDER
9 SUBSECTION (1).

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

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

20 (A) THE REQUIREMENTS WHICH WERE IN EFFECT IN THIS STATE AT
21 THE TIME HE OR SHE OBTAINED HIS OR HER FIRST LICENSE OR REGISTRA-
22 TION AS A LANDSCAPE ARCHITECT.

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

25 (2) THE DEPARTMENT SHALL REQUIRE THE APPLICANT APPLYING FOR
26 LICENSURE UNDER THIS SECTION TO SIT FOR AN EXAMINATION ON THE
27 CONDITIONS OF PRACTICE IN THIS STATE.

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

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

14 (3) THE LICENSEE SHALL ASSURE THAT HIS OR HER SEAL IS IN
15 CONFORMANCE WITH THE RULES EXCEPT THAT A LICENSEE MAY CONTINUE TO
16 USE A SEAL WHICH WAS IN USE ON OR BEFORE THE EFFECTIVE DATE OF
17 THE AMENDATORY ACT THAT ADDED THIS SUBSECTION DESPITE ITS BEARING
18 A LEGEND INDICATING THAT THE INDIVIDUAL IS REGISTERED INSTEAD OF
19 LICENSED.

20 (4) ~~-(2) A landscape architect who indorses a document with~~
21 ~~his or her seal while his or her certificate of registration is~~
22 ~~not in full force and effect, or who indorses a document which~~
23 ~~the landscape architect did not actually prepare or supervise the~~
24 ~~preparation, is subject to the penalties prescribed in article~~
25 ~~6.~~ DOCUMENTS PREPARED BY A LICENSEE OR UNDER HIS OR HER SUPERVI-
26 SION SHALL BE SEALED WHEN THEY ARE FILED WITH A PUBLIC
27 AUTHORITY. A DOCUMENT SHALL NOT BE CONSIDERED PROPERLY SEALED

1 UNTIL THE SEAL IS ACCOMPANIED BY AN ORIGINAL SIGNATURE, THE
2 PRINTED NAME OF THE INDIVIDUAL LICENSEE, THE PRINTED NAME OF THE
3 LICENSEE'S FIRM, IF ANY, THE PRINTED ADDRESS OF THE LICENSEE, THE
4 LICENSE NUMBER, AND THE EXPIRATION DATE OF THE LICENSE.

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

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

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

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

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

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

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

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

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

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

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

24 Section 3. This amendatory act shall not take effect unless
25 Senate Bill No. 663

26 of the 85th Legislature is enacted into law.