

**SENATE, No. 192**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**SYNOPSIS**

Provides for licensure of landscape professionals and registration of professional landscape businesses.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1   **AN ACT** concerning the licensure of landscape professionals and the  
2       registration of professional landscape businesses, amending  
3       P.L.1962, c.162 and P.L.2004, c.16, and supplementing Title 4 of  
4       the Revised Statutes.

5

6       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
7       *of New Jersey:*

8

9       1. (New section) The Legislature finds and declares that  
10      landscape activities are a vital part of New Jersey's economy, serve  
11      a vital role in the protection of New Jersey's environment, and that  
12      professionally installed and maintained landscapes enhance the  
13      public health, safety, and well-being.

14      The Legislature also finds that New Jersey property owners and  
15      residents recognize the value of a professionally developed and  
16      maintained landscape. An attractive, healthy landscape enriches the  
17      community, and enhances the quality of life for all in New Jersey.  
18      It reflects positively on the people living and working in the State  
19      and enhances property values. A well-maintained and developed  
20      property is important to providing a safe, high quality play area for  
21      children and pets. A properly developed and maintained landscape  
22      also contributes in a positive way to overall air and water quality.

23      The Legislature further finds that there are no unified Statewide  
24      licensing requirements which would encompass the full scope of  
25      professional landscape activities.

26      The Legislature therefore determines that it is appropriate for the  
27      State to recognize New Jersey licensed landscape professionals,  
28      encourage awareness of and compliance with industry standards,  
29      promote safe landscape operations and protect the interests of the  
30      public by preventing unqualified individuals or businesses from  
31      engaging in landscape activities.

32

33      2. (New section) As used in this act:

34      "Advertise" means to communicate to the public by means of any  
35      print, electronic or any other media, including, but not limited to,  
36      newspapers, magazines, periodicals, journals, directories, books,  
37      circulars, flyers, business cards, signs, radio, telephone, facsimile  
38      machine, television, computer, vehicle signage, or the Internet.

39      "Board" means the Landscape Professional License Review  
40      Board established pursuant to section 3 of this act.

41      "Erosion control" means those activities which contribute to  
42      preserve the integrity of the top soil or surface layer of a soil profile  
43      and including, but not limited to, plantings, mulching, use of  
44      erosion control mats, installation of silt fencing or hay bales, and  
45      regrading of topography.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

      Matter underlined thus is new matter.

1 "Grading and drainage" means the execution of grading and  
2 drainage plans designed by other licensed professionals who are  
3 acting within the scope of their profession, whether by mechanized  
4 or manual means to ensure surface and subsurface movement of  
5 water to protect property and people and to preserve overall  
6 environmental quality.

7 "Ground based pruning" means landscape operations involving  
8 the removal of trees that are less than six inches in diameter at  
9 breast height but does not include climbing, use of aerial lifts,  
10 cranes, ropes and rigging operations of any kind.

11 "Hardscaping" means the installation of impervious or pervious  
12 vertical or horizontal surfaces or features, including, but not limited  
13 to, brick, wood, stone, concrete, or aggregate. These structures  
14 include, but are not limited to, walkways, steps, planters,  
15 driveways, fences, decks and pergolas.

16 "Hydro-seeding" means the application of seed, whether alone or  
17 mixed with or in combination with nutrients, and mulch materials in  
18 a liquefied form by use of hydraulic sprayers.

19 "Landscape category" means the area of specialization of a  
20 landscape professional which includes: landscape management  
21 professional; landscape installation professional; and landscape  
22 lighting professional.

23 "Landscape installation professional" means a landscape  
24 professional whose work may include the activities of a landscape  
25 management professional, and additionally includes all activities  
26 related to the installation of exterior and interior landscapes  
27 including, but not limited to, the installation and maintenance of  
28 plantings and hardscape.

29 "Landscape lighting professional" means a landscape  
30 professional whose work comprises the installation, maintenance,  
31 and repair of low voltage landscape lighting systems.

32 "Landscape management professional" means a landscape  
33 professional whose work may include any of the following: the  
34 management of residential and commercial turf, other than golf  
35 courses, including, but not limited to, the following services:  
36 mowing; aeration; de-thatching; fertilization; over-seeding of  
37 existing lawn areas; and additionally includes all activities needed  
38 to maintain exterior or interior landscapes including, but not limited  
39 to, ground based pruning, fertilization, and pest identification and  
40 control.

41 "Landscape professional" means a person who installs,  
42 renovates, or maintains all or any part of an exterior or interior  
43 landscape environment and includes persons engaged in each of the  
44 landscape categories.

45 "Landscaping" means conducting work associated with erosion  
46 control, hardscaping, water features, grading and drainage, hydro-  
47 seeding, mulching, lawn establishment by seed or sod, installation,

1 renovation, or maintenance of landscape plants and plantings,  
2 fertilization, pest management, root pruning, root excavation,  
3 transplanting and all other forms of ground based general tree care  
4 and maintenance, ground based pruning, and low-voltage landscape  
5 lighting installation and maintenance.

6 "Low voltage landscape lighting installation and maintenance"  
7 means the layout, installation, and maintenance of exterior lighting  
8 with a maximum voltage of 30 volts used to enhance the  
9 appearance, safety, and use of landscapes, but does not include the  
10 direct wiring of a branch circuit to a residential or commercial  
11 electrical system.

12 "Mulching" means the application of mulch by hand or the  
13 application of mulch by the use of mechanized blowers and may  
14 include the application of all those materials commonly known as  
15 mulch including, but not limited to, pine bark, hardwoods, chips,  
16 and other organic or inorganic materials, or the redistribution of  
17 existing mulch.

18 "Professional association" means a registered and incorporated  
19 organization established in accordance with the laws of the State of  
20 New Jersey to promote professional behavior and provide education  
21 and whose membership consists of those who work as landscape  
22 professionals in any capacity and may also include student members  
23 and members who provide allied services to the landscape industry.

24 "Professional landscape business" means a company that builds,  
25 renovates, or maintains exterior and interior landscapes for  
26 residential or commercial clients, whether as a sole proprietorship,  
27 partnership, corporation, limited liability corporation or any other  
28 type of business organization. The professional landscape business  
29 may engage in the following: erosion control; hardscaping; water  
30 features; grading and drainage; hydro-seeding; mulching; lawn  
31 establishment by seed or sod; installation or maintenance of  
32 landscape plants and plantings; fertilization; pest management; root  
33 pruning; root excavation; transplanting and all other forms of  
34 ground based general tree care and maintenance; ground based  
35 pruning; and low-voltage landscape lighting installation.

36 "Supervised agricultural experience" means a planned,  
37 documented, practical activity for students who are enrolled in a  
38 New Jersey approved agricultural education program under the  
39 supervision of a certified teacher which is conducted outside of  
40 academic class time and in which students develop and apply  
41 agricultural knowledge and skills.

42 "Water features" means any water containment element  
43 constructed as part of a landscape installation and may also include,  
44 but is not limited to, fountains, water falls, pools, and ponds.

45

46 3. (New section) There is established in the Department of  
47 Agriculture the Landscape Professional License Review Board.

1 The board shall consist of 15 members who are residents of the  
2 State, as follows: six shall serve as nonvoting members, including  
3 one representative from a post-secondary educational institution  
4 which offers a landscape or turf management associate degree  
5 program, one representative of the New Jersey Agricultural  
6 Education Association, one representative of the New Jersey  
7 Council of County Vocational Technical Schools, one  
8 representative with communications or public relations experience  
9 dealing with horticulture, the Director of the Rutgers New Jersey  
10 Agricultural Experiment Station, or his designee, and a  
11 representative of the Department of Agriculture; and nine shall be  
12 voting members, including three landscape installation  
13 professionals with at least 10 years experience who are members of  
14 professional landscape associations recognized by the Secretary of  
15 Agriculture, three landscape management professionals with at least  
16 10 years experience who are members of professional landscape  
17 associations recognized by the Secretary of Agriculture, two  
18 representatives of the nursery industry with at least 10 years  
19 experience, and one public member. Five of the voting members of  
20 the board shall constitute a quorum and may exercise the powers of  
21 the board at any meeting.

22

23 4. (New section) The Governor shall appoint each member of  
24 the board, upon the recommendation of the Secretary of  
25 Agriculture, for terms of three years, except that of the voting  
26 members first appointed: one landscape installation professional  
27 shall be appointed to a term of three years, one landscape  
28 installation professional shall be appointed for a term of two years,  
29 and one landscape installation professional shall be appointed to a  
30 term of one year; one landscape management professional shall be  
31 appointed to a term of three years, one landscape management  
32 professional shall be appointed to a term of two years, and one  
33 landscape management professional shall be appointed for a term of  
34 one year; one representative of the nursery industry shall be  
35 appointed for a term of three years, and one representative of the  
36 nursery industry shall be appointed for a term of two years; and the  
37 member of the public shall be appointed for a term of two years.  
38 The initial voting members, other than the public member, need not  
39 be licensed until 180 days following the promulgation of initial  
40 regulations by the board to carry out the provisions of this act.  
41 Thereafter, the voting members of the board, other than the public  
42 member, shall be licensed before appointment. Any vacancy in the  
43 membership of the board shall be filled for the unexpired term in  
44 the manner provided for the original appointment. No member of  
45 the board may serve more than three successive terms in addition to  
46 any unexpired term to which he has been appointed.

1       5. (New section) The voting members of the board shall be  
2 compensated on a per diem basis in the amount of \$125 or an  
3 amount to be determined by the Secretary of Agriculture, with the  
4 approval of the State Treasurer, but not to exceed \$175 per diem or  
5 \$3,500 annually, and shall be reimbursed for actual expenses  
6 reasonably incurred in the performance of their official duties. Such  
7 moneys shall be paid according to rules and regulations  
8 promulgated by the Secretary of Agriculture.

9  
10       6. (New section) The board shall organize as soon as its  
11 membership has been appointed and shall annually select a  
12 chairman and vice-chairman from among its voting members and  
13 may select a secretary, who need not be a member of the board.  
14 The board shall meet at least annually and may hold additional  
15 meetings as necessary to discharge its duties.

16  
17       7. (New section) The board shall:

- 18       a. Review the qualifications of an applicant for licensure under  
19 the act;  
20       b. Establish standards for examinations for licensure;  
21       c. Issue and renew licenses and assess fees therefor;  
22       d. Establish standards for continuing education;  
23       e. Suspend or revoke licenses or registrations for licensure for  
24 violations of the act;  
25       f. Maintain a registry of licensees;  
26       g. Adopt a canon of professional ethics;  
27       h. Identify and recognize professional associations;  
28       i. Adopt those regulations necessary to effectuate the purposes  
29 of the act;  
30       j. Establish fees by regulation for examinations, applications  
31 for licensure, and license renewals. The fees shall be sufficient to  
32 defray expenses incurred by the board in the performance of its  
33 duties under the act; and  
34       k. Maintain a registry of professional landscape businesses and  
35 charge a fee therefor.

36  
37       8. (New section) a. The board shall develop an examination or  
38 designate examinations to evaluate the knowledge, ability, and  
39 fitness of applicants to perform as landscape professionals, and  
40 shall administer the examinations at least semi-annually at times  
41 and places to be determined by the board. The board shall provide  
42 for adequate written notice of the time and place of the  
43 examinations.

44       b. All licenses shall be issued on a biennial basis.

45       c. A person may seek renewal of a license upon submission of  
46 a renewal application, and satisfactory evidence to the board that  
47 the renewal applicant has successfully completed the continuing

1 education requirements prescribed pursuant to this act, and the  
2 payment of a renewal fee established by the board.

3

4 9. (New section) No person shall present himself to the public  
5 as a licensed landscape professional or use the titles landscape  
6 management professional, landscape installation professional, or  
7 landscape lighting professional without licensure by the board. A  
8 candidate for licensure shall submit satisfactory evidence to the  
9 board that he:

10 a. is at least 18 years of age;

11 b. is of good moral character;

12 c. possesses a high school diploma or its equivalent;

13 d. (1) has completed not less than 90 hours of classroom  
14 instruction from an accredited institution in a curriculum consisting  
15 of a course or program of study approved by the board, which shall  
16 include, but not be limited to standards, specifications and  
17 professionalism in landscape operations, legal standards, plant  
18 identification, turf management, principles of pruning, and  
19 landscape management, and has completed not less than four years  
20 of working experience in landscaping or gardening; or

21 (2) possesses an associate's degree, in a related field, as  
22 determined by the board, from an accredited institution and has  
23 completed not less than three years of full-time working experience  
24 in landscaping or gardening; or

25 (3) possesses a bachelor's degree, in a related field, as  
26 determined by the board, from an accredited institution and has  
27 completed not less than two years of full-time working experience  
28 in landscaping or gardening after receiving the degree; or

29 (4) possesses one of the following certifications: certified  
30 nursery landscape professional or certified landscape technician;  
31 and has completed not less than four years of full-time working  
32 experience in landscaping or gardening after receiving the  
33 certificate; or

34 (5) possesses a Master Gardener certificate from Rutgers, The  
35 State University of New Jersey and has completed not less than four  
36 years of full-time working experience in landscaping or gardening.

37

38 10. (New section) a. The board shall:

39 (1) Establish standards for continuing education of landscape  
40 professionals, including the subject matter and content of courses of  
41 study, and the number and type of continuing education credits  
42 required of a licensed landscape professional as a condition for  
43 biennial license renewal;

44 (2) Approve educational programs offering credit towards the  
45 continuing education requirements; and

46 (3) Approve other equivalent educational programs, and shall  
47 establish procedures for the issuance of credit upon satisfactory  
48 proof of the completion of these programs.

1       b. In the case of education courses and programs, each hour of  
2 instruction shall be equivalent to one credit.

3

4       11. (New section) The board may in its discretion grant licenses  
5 without examination to applicants licensed by other states; provided  
6 that equal reciprocity is provided for New Jersey landscape  
7 professionals by the law of the applicant's domiciliary state and  
8 provided further that the domiciliary state's standards are equal to or  
9 comparable to those of this State.

10

11       12. (New section) In addition to any other procedure, condition  
12 or information required by this act:

13       a. Every applicant for licensure as a landscape professional  
14 shall file a disclosure statement with the board stating whether the  
15 applicant has been convicted of any crime, which for the purposes  
16 of this act shall mean a violation of any of the following provisions  
17 of the New Jersey Code of Criminal Justice, Title 2C of the New  
18 Jersey Statutes, or the equivalent under the laws of any other  
19 jurisdiction:

20       (1) Any crime of the first degree;

21       (2) Any crime which is a second or third degree crime and is a  
22 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;  
23 or

24       (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-  
25 2, 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,  
26 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of  
27 2C:17-2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2  
28 through 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15,  
29 or 2C:21-19, chapter 27 or 28 of Title 2C of the New Jersey  
30 Statutes, N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1  
31 through 2C:37-4.

32       b. The board may refuse to issue or renew, or may suspend or  
33 revoke a license, or may refuse to admit a person to an examination  
34 for licensure, after notice and hearing, upon a finding that an  
35 applicant or licensee:

36       (1) Has obtained a license or authorization to sit for an  
37 examination through fraud, deception, or misrepresentation;

38       (2) Has conducted work, or allowed work to be conducted under  
39 his supervision, in a manner not in compliance with standards  
40 approved by the board;

41       (3) Has engaged in the use of dishonesty, fraud, deception,  
42 misrepresentation, false promise, or false pretense in the course of  
43 his business;

44       (4) Has engaged in gross negligence or gross incompetence;

45       (5) Has engaged in repeated acts of negligence or incompetence;

46       (6) Has engaged in occupational misconduct, as determined by  
47 the board;



- 1 (7) Has been convicted of any crime involving moral turpitude,  
2 any crime relating adversely to the activities regulated by the board,  
3 or any crime of the first, second, third, or fourth degree;
- 4 (8) Has had his authority to engage in the activities regulated by  
5 the board revoked or suspended by any other state, agency, or  
6 authority;
- 7 (9) Has failed to comply with the provisions of this act or any  
8 regulation promulgated pursuant thereto, including canons of ethics  
9 established by the board;
- 10 (10) Is incapable, for medical or any other good cause, of  
11 discharging the functions of a licensee in a manner consistent with  
12 the health, safety, and welfare of the public;
- 13 (11) Has engaged in any form of false or misleading advertising  
14 or promotional activities; or
- 15 (12) Has failed to maintain records required by the board.
- 16 c. An applicant whose registration is denied, suspended, or  
17 revoked pursuant to this section shall, upon a written request  
18 transmitted to the board within 30 calendar days of that action, be  
19 afforded an opportunity for a hearing in a manner provided for  
20 contested cases pursuant to the "Administrative Procedure Act,"  
21 P.L.1968, c.410 (C.52:14B-1 et seq.).
- 22 d. An applicant shall have the continuing duty to provide any  
23 assistance or information requested by the board, and to cooperate  
24 in any inquiry, investigation, or hearing conducted by the board.
- 25 e. If any of the information required to be included in the  
26 disclosure statement changes, or if additional information should be  
27 added after the filing of the statement, the applicant shall provide  
28 that information to the board, in writing, within 30 calendar days of  
29 the change or addition.
- 30 f. Notwithstanding the provisions of paragraph (7) of  
31 subsection b. of this section, no individual shall be disqualified  
32 from registration or shall have registration revoked on the basis of  
33 any conviction disclosed if the individual has affirmatively  
34 demonstrated to the board clear and convincing evidence of the  
35 individual's rehabilitation. In determining whether an individual  
36 has affirmatively demonstrated rehabilitation, the following factors  
37 shall be considered:
  - 38 (1) The nature and responsibility of the position which the  
39 convicted individual would hold;
  - 40 (2) The nature and seriousness of the offense;
  - 41 (3) The circumstances under which the offense occurred;
  - 42 (4) The date of the offense;
  - 43 (5) The age of the individual when the offense was committed;
  - 44 (6) Whether the offense was an isolated or repeated incident;
  - 45 (7) Any social conditions which may have contributed to the  
46 offense; and

1 (8) Any evidence of rehabilitation, including good conduct in  
2 prison or in the community, counseling or psychiatric treatment  
3 received, acquisition of additional academic or vocational  
4 schooling, successful participation in correctional work-release  
5 programs, or the recommendation of persons who have had the  
6 individual under their supervision.

7  
8 13. (New section) a. Every professional landscape business shall  
9 register biennially with the board as a condition of doing business  
10 in this State and shall provide the following information:

11 (1) The name and residence of the owner or owners of the  
12 business;

13 (2) The principal address of the business, and any branch office  
14 or subsidiary of the business;

15 (3) The names and addresses of every licensed landscape  
16 professional employed by the business and the location of each such  
17 licensee, if at a branch office other than the business' main office;

18 (4) Proof of general liability insurance of a type and amount  
19 required by the board by regulation;

20 (5) Proof of workers' compensation insurance coverage required  
21 pursuant to chapter 15 of Title 34 of the Revised Statutes.

22 (6) Proof that at least one person engaged in the professional  
23 landscape business, and who primarily works in the field and has  
24 responsibility of supervision of not more than 25 employees, is a  
25 licensed landscape professional, and that at least one person who is  
26 located at each branch office of the professional landscape business  
27 is a licensed landscape professional for every additional 10  
28 employees located at the branch office; and

29 (7) Any other information required by the board.

30 b. Every professional landscape business required to register  
31 under this act shall file an amended registration within 20 days after  
32 any change in the information required to be included thereon. No  
33 fee shall be required for the filing of an amendment.

34  
35 14. (New section) a. Every professional landscape business  
36 which is registered pursuant to section 13 of this act shall secure,  
37 maintain and file with the board proof of a certificate of commercial  
38 general liability insurance in an amount specified by the board, by  
39 regulation.

40 b. Every professional landscape business whose commercial  
41 general liability insurance policy is cancelled or non renewed shall  
42 submit to the board a copy of the certificate of commercial general  
43 liability insurance for a new or replacement policy which meets the  
44 requirements of subsection a. of this section before the former  
45 policy is no longer effective.

1       15. (New section) The board may revoke or suspend a  
2 registration of any professional landscape business, after notice and  
3 hearing, that the business:

4       a. Has failed to ensure the safe operation of all equipment used  
5 in the performance of professional landscape services;

6       b. Has allowed work to be conducted in a manner not in  
7 compliance with standards approved by the board;

8       c. Has engaged in the use of dishonesty, fraud, deception,  
9 misrepresentation, false promise, or false pretense in the course of  
10 his business;

11       d. Has been found guilty of gross negligence or incompetence;

12       e. Has had the authority to engage in professional landscape  
13 services revoked or suspended by any other state, agency, or  
14 authority;

15       f. Has failed to comply with the provisions of this act or any  
16 regulation promulgated pursuant thereto;

17       g. Has engaged in any form of false or misleading advertising  
18 or promotional activities; or

19       h. Has failed to maintain records required by the board.  
20

21       16. (New section) a. All professional landscape business  
22 registrants shall prominently display their registration numbers  
23 within their places of business, in all advertisements distributed  
24 within this State, on business documents, contracts and  
25 correspondence with consumers of landscaping services in this  
26 State, and on all commercial vehicles and trailers registered in this  
27 State and leased or owned by registrants and used by registrants for  
28 the purpose of providing landscaping improvements.

29       b. Any invoice, contract or correspondence given by a  
30 registrant to a consumer shall prominently contain the toll-free  
31 telephone number provided by the board pursuant to section 19 of  
32 this act.  
33

34       17. (New section) a. This act shall supersede any municipal  
35 ordinance or regulation that provides for the licensing, certification  
36 or registration of landscape professionals or the registration of  
37 professional landscape businesses.

38       b. No municipality shall issue a construction permit for  
39 landscaping to any person who is not licensed as a landscape  
40 professional or registered as a professional landscape business by  
41 the board pursuant to the provisions of this act.  
42

43       18. (New section) This act shall not deny to any municipality  
44 the power to inspect a landscape professional's work or equipment,  
45 the work of a landscape professional who performs improvements  
46 to commercial property, or the power to regulate the standards and  
47 manners in which the landscape professional's work shall be done.

1       19. (New section) a. The board shall establish and undertake a  
2 public information campaign to educate and inform landscape  
3 professionals and the consumers of this State of the provisions of  
4 this act. The public information campaign shall include, but not be  
5 limited to, newsprint, radio, television, and the preparation, printing  
6 and distribution of booklets, pamphlets or other written pertinent  
7 information.

8       b. The board shall provide a toll-free telephone number for  
9 consumers making inquiries regarding landscape professionals and  
10 professional landscape businesses.

11  
12       20. (New section) a. Every landscaping contract for a purchase  
13 price in excess of \$500, and all changes in the terms and conditions  
14 of the contract, shall be in writing. The contract shall be signed by  
15 all parties thereto, and shall clearly and accurately set forth in  
16 legible form and in understandable language all terms and  
17 conditions of the contract, including but not limited to:

18       (1) The legal name, business address, and registration number of  
19 the professional landscape business;

20       (2) A copy of the certificate of commercial general liability  
21 insurance required of a professional landscape business pursuant to  
22 section 14 of this act and the telephone number of the insurance  
23 company issuing the certificate; and

24       (3) The total price or other consideration to be paid by the  
25 consumer, including the finance charges.

26       b. A landscaping contract may be cancelled by a consumer for  
27 any reason at any time before midnight of the third business day  
28 after the consumer receives a copy of it. The consumer shall notify  
29 the professional landscape business of the cancellation in writing,  
30 by registered or certified mail, return receipt requested, or by  
31 personal delivery, to the address specified in the contract. All  
32 moneys paid pursuant to the cancelled contract shall be fully  
33 refunded within 30 days of receipt of the notice of cancellation, but  
34 shall not include moneys for materials purchased and delivered to  
35 the job site prior to the cancellation. If the consumer has executed  
36 any credit or loan agreement through the professional landscape  
37 business to pay all or part of the contract, the agreement or note  
38 shall be cancelled without penalty to the consumer and written  
39 notice of that cancellation shall be mailed to the consumer within  
40 30 days of receipt of the notice of cancellation. The contract shall  
41 contain a conspicuous notice printed in at least 10-point bold-faced  
42 type as follows:

43                       "NOTICE TO CONSUMER:

44       YOU MAY CANCEL THIS CONTRACT AT ANY TIME  
45 BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER  
46 RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO  
47 CANCEL THIS CONTRACT, YOU MUST EITHER:

1 1. SEND A SIGNED AND DATED WRITTEN NOTICE OF  
2 CANCELLATION BY REGISTERED OR CERTIFIED MAIL,  
3 RETURN RECEIPT REQUESTED; OR

4 2. PERSONALLY DELIVER A SIGNED AND DATED  
5 WRITTEN NOTICE OF CANCELLATION TO:

6 (Name of Professional Landscape Business)

7 (Address of Professional Landscape Business)

8 (Phone Number of Professional Landscape Business)

9 If you cancel this contract within the three-day period, you are  
10 entitled to a full refund of your money, except for expenditures for  
11 materials purchased and delivered to the job site prior to the  
12 cancellation. Refunds must be made within 30 days of the receipt  
13 by the professional landscape business of the cancellation notice."  
14

15 21. (New section) The provisions of this act shall not apply to:

16 a. Any person regulated by the State as a certified landscape  
17 architect who is acting within the scope of his profession;

18 b. Any person performing landscape activities upon a  
19 residential or non-commercial property owned by that person, or by  
20 the person's family or by any person performing landscape  
21 activities upon a residential or non-commercial property owned by a  
22 bona fide charity or other non-profit organization;

23 c. Any student who is participating in a supervised agricultural  
24 experience;

25 d. Any tree installation, removal or maintenance that is  
26 conducted for agricultural or horticultural purposes on agricultural  
27 lands;

28 e. Any golf course employee whose sole responsibility is the  
29 management of golf course turf and landscaped areas;

30 f. Any excavation activities of excavation companies that  
31 solely involve: grading, drainage, seeding, and the application of  
32 erosion control measures in conjunction with excavation for new  
33 residential or commercial building construction; excavation for  
34 construction of additions to residential or commercial structures;  
35 septic system installation or repair; utility installations; or retaining  
36 wall installation to improve drainage or for erosion control;

37 g. Any activities of a fence installation company when that  
38 company is solely engaged in the installation of fences; and

39 h. Any activities of a swimming pool installation company  
40 when that company is solely engaged in the installation of  
41 swimming pools.  
42

43 22. (New section) For a period of 730 days from the date  
44 regulations are promulgated pursuant to the provisions of this act,  
45 any individual of good moral character who was residing in this  
46 State on the effective date of this act shall qualify as a licensed

1 landscape professional, upon application for licensure and payment  
2 of the appropriate fee, if the individual:

3 a. possesses an associate's degree, in a related field, as  
4 determined by the board, from an accredited institution and has  
5 completed not less than three years of full-time working experience  
6 in landscaping or gardening; or

7 b. possesses a bachelor's degree, in a related field, as  
8 determined by the board, from an accredited institution and has  
9 completed not less than two years of full-time working experience  
10 in landscaping or gardening after receiving the degree; or

11 c. possesses one of the following certifications: certified  
12 nursery landscape professional or certified landscape technician;  
13 and has completed not less than four years of full-time working  
14 experience in landscaping or gardening after receiving the  
15 certificate; or

16 d. possesses a Master Gardener certificate from Rutgers, The  
17 State University of New Jersey and has completed not less than four  
18 years of full-time working experience in landscaping or gardening;  
19 or

20 e. has a total of at least 10 years of full-time diversified  
21 professional experience in landscaping of a grade and character  
22 acceptable to the board, and has completed on or before the  
23 effective date of this act not less than 18 hours of classroom  
24 instruction from an accredited institution in a curriculum consisting  
25 of a course or program of study, which shall include, but not be  
26 limited to, standards, specifications and professionalism in  
27 landscape operations, legal standards, plant identification, turf  
28 management, principles of pruning, and landscape management.

29  
30 23. (New section) a. In addition to suspension or revocation of a  
31 license or registration, the board may levy a fine, not to exceed  
32 \$5,000 for a first violation, and not to exceed \$10,000 for a second  
33 or subsequent violation of this act. If the violation is of a  
34 continuing nature, each day during which it continues shall  
35 constitute an additional, separate, and distinct offense. The civil  
36 penalty shall be issued for and recovered by and in the name of the  
37 board, and shall be collected by summary proceeding pursuant to  
38 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-  
39 10 et seq.), including reimbursement for the cost of investigation  
40 and legal fees.

41 b. In addition to any other penalty provided by law, a person  
42 who knowingly violates any of the provisions of this act is guilty of  
43 a crime of the fourth degree. For the purposes of this subsection,  
44 each violation shall constitute a separate offense.

45  
46 24. (New section) All fees and penalties collected pursuant to  
47 this act shall be deposited with the Department of Agriculture, and

1 their use shall be authorized by the board for the purposes of  
2 carrying out the provisions of this act.

3

4 25. Section 18 of P.L.1962, c.162 (C.45:5A-18) is amended to  
5 read as follows:

6 18. Electrical work or construction which is performed on the  
7 following facilities or which is by or for the following agencies  
8 shall not be included within the business of electrical contracting so  
9 as to require the securing of a business permit under this act:

10 (a) Minor repair work such as the replacement of lamps and  
11 fuses.

12 (b) The connection of portable electrical appliances to suitable  
13 permanently installed receptacles.

14 (c) The testing, servicing or repairing of electrical equipment or  
15 apparatus.

16 (d) Electrical work in mines, on ships, railway cars, elevators,  
17 escalators or automotive equipment.

18 (e) Municipal plants or any public utility as defined in R.S.48:2-  
19 13, organized for the purpose of constructing, maintaining and  
20 operating works for the generation, supplying, transmission and  
21 distribution of electricity for electric light, heat, or power.

22 (f) A public utility subject to regulation, supervision or control  
23 by a federal regulatory body, or a public utility operating under the  
24 authority granted by the State of New Jersey, and engaged in the  
25 furnishing of communication or signal service, or both, to a public  
26 utility, or to the public, as an integral part of a communication or  
27 signal system, and any agency associated or affiliated with any  
28 public utility and engaged in research and development in the  
29 communications field.

30 (g) A railway utility in the exercise of its functions as a utility  
31 and located in or on buildings or premises used exclusively by such  
32 an agency.

33 (h) Commercial radio and television transmission equipment.

34 (i) Construction by any branch of the federal government.

35 (j) Any work with a potential of less than 10 volts.

36 (k) Repair, manufacturing and maintenance work on premises  
37 occupied by a firm or corporation, and installation work on  
38 premises occupied by a firm or corporation and performed by a  
39 regular employee who is a qualified journeyman electrician.

40 (l) Installation, repair or maintenance performed by regular  
41 employees of the State or of a municipality, county, or school  
42 district on the premises or property owned or occupied by the State,  
43 a municipality, county, or school district.

44 (m) The maintaining, installing or connecting of automatic oil,  
45 gas or coal burning equipment, gasoline or diesel oil dispensing  
46 equipment and the lighting in connection therewith to a supply of  
47 adequate size at the load side of the distribution board.

1 (n) Work performed by a person on a dwelling that is occupied  
2 solely as a residence for himself or for a member or members of his  
3 immediate family.

4 (o) (Deleted by amendment, P.L.1997, c.305).

5 (p) Any work performed by a landscape irrigation contractor  
6 which has the potential of not more than 30 volts involving the  
7 installation, servicing, or maintenance of a landscape irrigation  
8 system as this term is defined by section 2 of [this amendatory and  
9 supplementary act] P.L.1985, c.289 (C.45:5A-18.1). Nothing in  
10 this act shall be deemed to exempt work covered by this subsection  
11 from inspection required by the "State Uniform Construction Code  
12 Act," P.L.1975, c.217 (C.52:27D-119 et seq.) or regulations adopted  
13 pursuant thereto.

14 (q) Any work performed by a person certified pursuant to  
15 sections 1 through 10 of P.L.2001, c.289 (C.52:27D-25n through  
16 C.52:27D-25w) that is not branch circuit wiring. For the purposes  
17 of this subsection, "branch circuit wiring" means the circuit  
18 conductors between the final overcurrent device protecting the  
19 circuit and one or more outlets. A certificate holder shall be  
20 deemed to have engaged in professional misconduct for the  
21 purposes of section 8 of P.L.1978, c.73 (C.45:1-21) for violating the  
22 provisions of this subsection.

23 (r) Any work performed by an alarm business, as that term is  
24 defined by section 2 of P.L.1985, c.289 (C.45:5A-18.1), licensed  
25 pursuant to P.L.1997, c.305 (C.45:5A-23 et seq.) that is not branch  
26 circuit wiring. For the purposes of this subsection, "branch circuit  
27 wiring" means the circuit conductors between the final overcurrent  
28 device protecting the circuit and one or more outlets. A licensee  
29 shall be deemed to have engaged in professional misconduct for the  
30 purposes of section 8 of P.L.1978, c.73 (C.45:1-21) for violating the  
31 provisions of this subsection.

32 (s) Any work performed by a landscape professional engaged in  
33 low voltage landscape lighting installation and maintenance as  
34 defined by section 2 of P.L. , c. (C. ) (pending before the  
35 Legislature as this bill)

36 The board may also exempt from the business permit provisions  
37 of this act such other electrical activities of like character which in  
38 the board's opinion warrant exclusion from the provisions of this  
39 act.

40 (cf: P.L.2001, c.289, s.20)

41  
42 26. Section 5 of P.L.2004, c.16 (C.56:8-140) is amended to read  
43 as follows:

44 5. The provisions of this act shall not apply to:

45 a. Any person required to register pursuant to "The New Home  
46 Warranty and Builders' Registration Act," P.L.1977, c.467  
47 (C.46:3B-1 et seq.);



1 b. Any person performing a home improvement upon a  
2 residential or non-commercial property he owns, or that is owned  
3 by a member of his family, a bona fide charity, or other non-profit  
4 organization;

5 c. Any person regulated by the State as an architect,  
6 professional engineer, landscape architect, land surveyor, electrical  
7 contractor, master plumber, or any other person in any other related  
8 profession requiring registration, certification, or licensure by the  
9 State, who is acting within the scope of practice of his profession;

10 d. Any person who is employed by a community association or  
11 cooperative corporation;

12 e. Any public utility as defined under R.S.48:2-13;

13 f. Any person licensed under the provisions of section 16 of  
14 P.L.1960, c.41 (C.17:16C-77); **[and]**

15 g. Any home improvement retailer with a net worth of more  
16 than \$50,000,000, or employee of that retailer; and

17 h. Any person licensed as a landscape professional under the  
18 provisions of P.L. , c. (C. ) (pending before the Legislature  
19 as this bill).

20 (P.L.2004, c.16, s.5)

21  
22 27. This act shall take effect on the 90th day following  
23 enactment.

## 24 25 26 STATEMENT

27  
28 This bill establishes licensing requirements for landscape  
29 professionals. As defined in the bill, "landscape professional"  
30 means a person who installs, renovates, or maintains all or any part  
31 of the exterior or interior landscape environment and includes  
32 persons engaged in each of the landscape categories. The bill  
33 defines "landscape category" as an area of specialization of a  
34 landscape professional which includes: landscape management  
35 professional; landscape installation professional; and landscape  
36 lighting professional.

37 The bill also establishes the Landscape Professional License  
38 Review Board in the Department of Agriculture. The board shall  
39 consist of 15 members who are residents of the State, as follows:  
40 six shall serve ex officio and as nonvoting members, including one  
41 representative from a post-secondary educational institution which  
42 offers a landscape or turf management associate degree program,  
43 one representative of the New Jersey Agricultural Education  
44 Association, one representative of the New Jersey Council of  
45 County Vocational Technical Schools, one representative with  
46 communications or public relations experience dealing with  
47 horticulture, the Director of the Rutgers New Jersey Agriculture

1 Experiment Station, or his designee, and a representative of the  
2 Department of Agriculture; and nine of whom shall be voting  
3 members, including three landscape installation professionals with  
4 at least 10 years experience who are members of professional  
5 landscape associations recognized by the Secretary of Agriculture,  
6 three landscape management professionals with at least 10 years of  
7 experience who are members of professional landscape associations  
8 recognized by the Secretary of Agriculture, two representatives of  
9 the nursery industry with at least 10 years of experience, and one  
10 public member.

11 In addition, the bill requires licensed landscape professionals to  
12 complete continuing education requirements as a condition of  
13 biennial license renewal. The board shall: establish standards for  
14 continuing education of landscape professionals, including the  
15 subject matter and content of courses of study, and the number and  
16 type of continuing education credits required of a licensed  
17 landscape professional as a condition for biennial license renewal;  
18 approve educational programs offering credit towards the  
19 continuing education requirements; and approve other equivalent  
20 educational programs, and shall establish procedures for the  
21 issuance of credit upon satisfactory proof of the completion of these  
22 programs. In the case of education courses and programs, each  
23 hour of instruction shall be equivalent to one credit.

24 The bill also stipulates that every professional landscape  
25 business shall register biennially with the board as a course of doing  
26 business in this State and shall provide the following information:  
27 the name and residence of the owner or owners of the business; the  
28 principal address of the business, and any branch office or  
29 subsidiary of the business; the names and addresses of every  
30 licensed landscape professional employed by the business and the  
31 location of each such licensee, if at a branch office other than the  
32 business' main office; proof of general liability insurance of a type  
33 and amount required by the board by regulation; proof that at least  
34 one person engaged in the professional landscape business, and who  
35 primarily works in the field and has responsibility of supervision of  
36 not more than 25 employees, is a licensed landscape professional,  
37 and that at least one person who is located at each branch office of  
38 the profession landscape business is a licensed landscape  
39 professional for every additional 10 employees located at the branch  
40 office; and any other information required by the board.

41 The bill requires all landscaping contracts in excess of \$500, and  
42 amendments thereto, to be in writing and to be in clear and  
43 understandable language. The bill requires that landscaping  
44 contracts include: the legal name, business address, and registration  
45 number of the professional landscape business; a copy of the  
46 certificate of commercial general liability insurance required of a  
47 professional landscape business and the telephone number of the  
48 insurance company issuing the certificate; and the total price to be

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1     paid by the consumer, including the finance charges.

2         The bill permits a consumer to cancel a landscaping contract for  
3     any reason at any time before midnight of the third business day  
4     after the consumer receives a copy of the contract. The bill requires  
5     that the contract contain a conspicuous notice informing the  
6     consumer of the right to cancel a landscaping contract within three  
7     business days of signing.

8         The bill requires the Landscape Professional License Review  
9     Board to conduct a program of public education to educate and  
10    inform landscape professionals and consumers of the bill's  
11    provisions. The bill also requires the board to provide a toll-free  
12    telephone number for consumers making inquiries regarding  
13    landscape professionals and professional landscaping businesses.