SENATE, No. 3010



STATE OF NEW JERSEY

220th LEGISLATURE



INTRODUCED SEPTEMBER 22, 2022

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



An Act concerning the licensure of landscape professionals and the registration of professional landscaping businesses, amending P.L.1971, c.60 and P.L.2004, c.16, and supplementing Title 45 of the Revised Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1971, c.60 (C.45:1-2.2) is amended to read as follows:

2. a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.

b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members, two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Court Reporting, the State Board of Social Work Examiners, the Elevator, Escalator, and Moving Walkway Mechanics Licensing Board, and the State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage and Family Therapy Examiners, the State Board of Examiners of Master Plumbers, **[**and**]** the State Real Estate Appraiser Board, and the Landscape Professional License Review Committee. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process; provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 of P.L.1971, c.60 (C.45:1-2.1) and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.

d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

(cf: P.L.2012, c.71, s.14)

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

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

a. any person required to register pursuant to "The New Home Warranty and Builders' Registration Act," P.L.1977, c.467

(C.46:3B-1 et seq.);

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

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

d. any person who is employed by a community association or cooperative corporation;

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

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

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

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

(cf: P.L.2004, c.16, s.5)

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

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

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

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

4. (New section) As used in this act:

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

“Board” means the New Jersey State Board of Architects.

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

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

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

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

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

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

"Landscape category" means the area of specialization of a landscape professional which includes: a landscape management professional; and a landscape installation professional.

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

"Landscape management professional" means a landscape professional whose work may include any of the following: the management of residential and commercial turf, other than golf courses, including, but not limited to, the following services: mowing; aeration; de-thatching; over-seeding of existing lawn areas; and all activities needed to maintain exterior or interior landscapes including, but not limited to, ground-based pruning, pest identification, pest control, and fertilization, which must be performed by a licensed professional pursuant to section 4 of P.L.2010, c.112 (C.58:10A-64).

"Landscape professional" means a person who installs, renovates, or maintains all or any part of an exterior or interior landscape environment and includes individuals engaged in each of the landscape categories as defined in this section. “Landscaping professional” shall not include individuals who provide a service otherwise included as part of the definition of “landscaping” if the service is provided on an occasional, infrequent basis.

"Landscaping" means conducting work associated with erosion control; hardscaping; water features; grading and drainage; hydro-seeding; mulching; lawn establishment by seed or sod; installation, renovation, or maintenance of landscape plants and plantings; pest identification; root pruning and excavation; transplanting; and all other forms of ground-based general tree care and maintenance, and ground-based pruning.

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

"Professional association" means a registered and incorporated organization established in accordance with the laws of the State of New Jersey to promote professional behavior and provide education, and whose membership consists of those who work as landscape professionals as defined in this section, and may also include students and individuals who provide allied services to the landscape industry.

"Professional landscaping business" means a company that builds, renovates, or maintains exterior and interior landscapes for residential or commercial clients, whether as a sole proprietorship, partnership, corporation, limited liability corporation or any other type of business organization. A professional landscaping business may engage in those services included in the definition of “landscaping” in this section.

"Supervised agricultural experience" means a planned, documented, practical activity for students who are enrolled in a State-approved agricultural education program under the supervision of a certified teacher which is conducted outside of academic class time and in which students develop and apply agricultural knowledge and skills.

"Water features" means any water containment element constructed as part of a landscape installation and may also include, but is not limited to, a fountain, waterfall, and pond.

5. (New section) a. There is established in the Division of Consumer Affairs in the Department of Law and Public Safety, under the New Jersey State Board of Architects, the Landscape Professionals License Review Committee.

b. The committee shall consist of 10 members who are residents of the State, as follows:

(1) six voting members who shall include three landscape installation professionals and three landscape management professionals, all with at least ten years of experience and who are members of a professional landscape association recognized by the State of New Jersey, and one public member with voting rights; and

(2) three members who shall be nonvoting and who are to be made up of a representative of an educational institution which offers a landscape, horticulture, or turf management degree program; a representative of the New Jersey Council of County Vocational Technical Schools; and a representative of the nursery industry who owns a business selling products labeled as “Jersey Fresh” or “Jersey Grown” pursuant to P.L.1939, c.136 (C.4:10-16 et seq.) or of the New Jersey Department of Agriculture.

c. Four of the committee members with voting rights shall constitute a quorum and may exercise the powers of the committee at any meeting.

6. (New section) a. Of the three landscape installation professionals and three landscape management professionals to be appointed to the committee, the Governor, Senate President and the Speaker of the General Assembly shall each appoint one landscape installation professional and one landscape management professional. The appointments shall be based upon the recommendations of the Licensing Committee of the New Jersey Landscapers Association and shall be for terms of three years, except that of the membership first appointed which shall consist of the following: one landscape installation professional appointed for a term of three years; one landscape installation professional for a term of two years, and one landscape installation professional for a term of one year; one landscape management professional for a term of three years, one landscape management professional for a term of two years, and one landscape management professional for a term of one year. The one public member shall be appointed pursuant to subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2).

b. The Governor shall appoint the three nonvoting members, one of whom shall represent an educational institution which offers a landscape, horticulture or turf management degree program; one of whom shall represent the New Jersey Council of County Vocational Technical Schools; and one of whom shall represent the nursery industry and own a business selling products labeled as “Jersey Fresh” or “Jersey Grown” pursuant to P.L.1939, c.136 (C.4:10-16 et seq.) or of the New Jersey Department of Agriculture, to terms of three years, except the membership of those first appointed shall consist of one representative of the New Jersey Agricultural Education Association and who also works at an institution of higher education which offers a landscape, horticulture, or turf management program to a term of three years, one representative of the New Jersey Council of County Vocational Technical Schools to a term of two years, and one representative who is the director of the Rutgers New Jersey Agricultural Experiment Station, or their designee, to a term of one year.

c. The voting members to be appointed need not be licensed until 180 days following the promulgation of initial regulations by the committee to carry out the provisions of this act. Thereafter, the voting members of the committee shall be licensed before appointment. Any vacancy in the membership of the committee shall be filled for the unexpired term in the manner provided for the original appointment. No member of the committee may serve more than three successive terms including any unexpired term to which he has been appointed.

7. (New section) The committee shall organize as soon as its membership has been appointed and shall annually select a chairman and vice-chairman from among its voting members and may select a secretary, who need not be a member of the committee. The committee shall meet at least quarterly and may hold additional meetings as necessary to discharge its duties.

8. (New section) The committee shall:

a. Review the qualifications of an applicant for licensure under

the act;

b. Establish standards for examinations for licensure;

c. Issue and renew licenses and assess fees;

d. Establish standards for continuing education;

e. Suspend or revoke licenses or registrations for licensure for

violations of this act;

f. Adopt a code of professional ethics;

g. Adopt those regulations necessary to effectuate the purposes

of the act; and

h. Establish fees by regulation for examinations, applications for licensure, and license renewals. The fees shall be sufficient to defray expenses incurred by the committee in the performance of its duties under this act.

9. (New section) The committee shall develop an examination or designate examinations to evaluate the qualifications of applicants to perform as landscape professionals, and shall administer the examinations at least semi-annually at times and places to be determined by the committee. The committee shall provide for adequate written notice of the time and place of the examinations.

10. (New section) a. All licenses shall be issued on a biennial basis.

b. A person may seek renewal of a license upon submission of a renewal application, and satisfactory evidence to the committee that the renewal applicant has successfully completed the continuing education requirements prescribed pursuant to this act, and the payment of a renewal fee established by the committee.

11. (New section) No person shall present themselves to the public as a licensed landscape professional or use the titles “landscape management professional” or “landscape installation professional” without licensure by the committee. A candidate for either licensure shall submit satisfactory evidence to the committee that the individual:

a. is at least 18 years of age;

b. is of good moral character;

c. possesses a high school diploma or its equivalent;

d. provides a letter of reference from a professional in the field of landscape management, landscape installation, or in a closely related field, who has first-hand knowledge of the applicant’s work and moral character, including, but not limited to, the applicant’s adherence to the canons of professional ethics and standards by which the committee shall determine whether a candidate meets the requirement of good moral character;

e. provides documentation that the applicant has satisfied one of the following:

(1) a degree from a four-year college in forestry, arboriculture, ornamental horticulture, botany, nursery production, plant biology, plant physiology, ecology, horticulture, environmental planning and design, landscape architecture, natural resources, or an alternative curriculum together with a request that the committee find the alternative curriculum sufficient to satisfy the educational requirement;

(2) two years of college with passing grades in at least three college courses related to arboriculture, such as botany, soils, plant science, plant biology, plant pathology, plant physiology, entomology, forestry, natural resources, ecology, horticulture, plant propagation, landscape installation or dendrology, and evidence of continuous employment in the practice of arboriculture for at least three years preceding in the date of application;

(3) continuous employment in the practice of arboriculture for five years immediately preceding the date of application for licensure; or

(4) certification as a landscape industry manager, landscape industry technician or nursery landscape professional and completion of not less than four years of full-time working experience in landscaping or gardening after receiving the certificate;

f. passage of the examination developed or designated by the committee pursuant to section 9 of this act; and

g. payment of the appropriate fees to the board.

12. (New section) a. The committee shall:

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

(2) approve educational programs offering credit towards the continuing education requirements; and

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

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

13. (New section) The committee may, in its discretion, grant licenses without examination to applicants licensed in other states; provided that equal reciprocity is provided for New Jersey landscape professionals by law of the applicant’s domiciliary state and provided further that the domiciliary state's standards are equal to or comparable to those of this State.

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

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

(1) any crime of the first degree;

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

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

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

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

(2) has conducted work, or allowed work to be conducted under the supervision of the applicant or licensee, in a manner not in compliance with standards approved by the committee;

(3) has engaged in the use of dishonesty, fraud, deception, misrepresentation, false promise, or false pretense in the course of business;

(4) has engaged in gross negligence or gross incompetence;

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

(6) has engaged in occupational misconduct, as determined by the committee;

(7) has been convicted of any crime involving moral turpitude, any crime relating adversely to the activities regulated by the committee, or any crime of the first, second, third, or fourth degree;

(8) has had authority to engage in the activities regulated by the committee revoked or suspended by any other state, agency, or authority;

(9) has failed to comply with the provisions of this act or any regulation promulgated pursuant thereto, including canons of ethics established by the committee;

(10) is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the health, safety, and welfare of the public;

(11) has engaged in any form of false or misleading advertising or promotional activities; or

(12) has failed to maintain records required by the committee.

c. An applicant whose registration is denied, suspended, or revoked pursuant to this section shall, upon a written request transmitted to the committee within 30 calendar days of that action, be afforded an opportunity for a hearing in a manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. An applicant shall have the continuing duty to provide any assistance or information requested by the committee, and to cooperate in any inquiry, investigation, or hearing conducted by the committee.

e. If any of the information required to be included in the disclosure statement changes, or if additional information should be added after the filing of the statement, the applicant shall provide that information to the committee, in writing, within 30 calendar days of the change or addition.

f. Notwithstanding the provisions of paragraph (7) of subsection b. of this section, no individual shall be disqualified from registration or shall have registration revoked on the basis of any conviction disclosed if the individual has affirmatively demonstrated to the committee clear and convincing evidence of the individual's rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) the nature and responsibility of the position which the convicted individual would hold;

(2) the nature and seriousness of the offense;

(3) the circumstances under which the offense occurred;

(4) the date of the offense;

(5) the age of the individual when the offense was committed;

(6) whether the offense was an isolated or repeated incident;

(7) any social conditions which may have contributed to the offense; and

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

15. (New section) a. Every professional landscaping business shall register biennially as a condition of doing business in this State and shall provide the following information:

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

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

(3) the names and addresses of every licensed landscape professional employed by the business and the location of each licensee, if at a branch office other than the business’s main office;

(4) proof of general liability insurance of a type and amount required by the committee by regulation;

(5) proof of workers’ compensation insurance coverage;

(6) proof that at least one person engaged in the professional landscaping business, is a licensed landscape professional, and that at least one person who is located at each branch office of the professional landscaping business is a licensed landscape professional for every additional 10 employees located at the branch office; and

(7) any other information required by the committee.

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

16. (New section) a. Every professional landscaping business which is registered pursuant to section 15 of this act shall secure, maintain and file with the commission proof of a certificate of commercial general liability insurance in an amount specified by the committee, by regulation.

b. Every professional landscaping business whose commercial general liability insurance policy is cancelled or not renewed shall immediately submit to the committee a copy of the certificate of commercial general liability insurance for a new or replacement policy which meets the requirements of subsection a. of this section before the former policy is no longer effective.

17. (New section) The committee may revoke or suspend a registration of any professional landscaping business, after notice and hearing, that the business:

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

b. has allowed work to be conducted in a manner not in compliance with standards approved by the committee;

c. has engaged in the use of dishonesty, fraud, deception, misrepresentation, false promise, or false pretense in the course of its business;

d. has been found guilty of gross negligence or incompetence;

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

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

g. has engaged in any form of false or misleading advertising or promotional activities;

h. has failed to maintain records required by the committee;

i. has failed to provide proper proof of general liability and worker compensation insurance; or

j. has failed to purchase a new or replacement general liability and worker compensation insurance if the original policy is canceled or not renewed.

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

b. Any invoice, contract or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided by the committee pursuant to section 21 of this act.

19. (New section) a. This act shall supersede any municipal ordinance or regulation that provides for the licensing, certification, vehicle permits or registration of landscape professionals or the registration of professional landscaping businesses.

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

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

21. (New section) The Division of Consumer Affairs shall establish and undertake a public information campaign, using fees collected by the board for professional landscaping licensure and professional landscaping business registration, to educate and inform contractors and consumers of this State of the provisions of this act. The campaign shall include, but not be limited to, the following:

a. newsprint, radio, television, social media, websites, and e-mails. The campaign may also include preparation, printing and distribution, by the committee, of booklets, pamphlets or other written pertinent information;

b. a toll-free telephone number for consumers to use for inquiries regarding landscape professionals and professional landscaping businesses; and

c. a website that includes landscape professionals who are licensed and in good standing, and those landscape professionals with suspended licenses.

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

(1) the legal name, business address, and registration number of the professional landscaping business;

(2) a copy of the certificate of commercial general liability insurance required of a professional landscaping business pursuant to section 16 of this act and the telephone number of the insurance company issuing the certificate; and

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

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

"NOTICE TO CONSUMER:

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

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

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

(Name of Professional landscaping business)

(Address of Professional landscaping business)

(Phone Number of Professional landscaping business)

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

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

a. any person regulated by the State as a licensed landscape architect who is acting within the scope of that profession;

b. any person performing landscape activities upon a residential or non-commercial property owned by that person, or by the person’s family or by any person performing landscape activities upon a residential or non-commercial property owned by a bona fide charity or other non-profit organization;

c. any student who is participating in a supervised agricultural experience;

d. any tree installation, removal or maintenance that is conducted for agricultural or horticultural purposes on agricultural lands;

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

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

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

h. any activities of a swimming pool installation company when that company is solely engaged in the installation of swimming pools.

24. (New section) For a period of 730 days from the date regulations are promulgated pursuant to the provisions of this act, any individual of good moral character whose business or person was residing in this State on the effective date of this act shall qualify as a licensed landscape professional, upon application for licensure and payment of the appropriate fee, if the individual:

a. possesses an associate degree, in a related field, as determined by the committee, from an accredited institution and has completed not less than three years of full-time working experience in landscaping;

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

c. possesses a certification as landscape industry certified technician or professional or a certified nursery and landscape professional and has completed not less than four years of full-time working experience in landscaping or gardening after receiving the certificate; or

d. upon enactment of this act, has at least eight years of full-time diversified professional experience in landscaping of a grade and character acceptable to the committee. The applicant shall provide documentation as required by the committee to demonstrate the experience.

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

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

26. (New section) All fees and penalties collected pursuant to this act shall be deposited with the division and their use shall be authorized by the board for the purposes of carrying out the provisions of this act.

27. (New section) This act shall take effect on the 90th day following enactment.

STATEMENT

This bill establishes licensing requirements for landscape professionals. As defined in the bill, “landscape professional” means a person who installs, renovates, or maintains all or any part of the exterior or interior landscape environment and includes persons engaged in each of the landscape categories. The bill defines “landscape category” as an area of specialization of a landscape professional which includes: landscape management professional; landscape installation professional; and landscape lighting professional.

The bill creates the Landscape Professional License Review Committee, which is to be overseen by the New Jersey State Board of Architects. The board currently regulates architecture and landscape architecture. The committee shall consist of 10 members who are residents of the State. Seven of these members, including the public member, will have voting rights and four of the members with voting rights will constitute a quorum.

In addition, the bill requires the committee to establish continuing education requirements for licensed landscape professionals to complete as a condition of biennial licensure renewal. The bill also stipulates that every professional landscaping business is to register biennially with the committee as a requirement of doing business in this State. Moreover, the bill requires all landscaping contracts in excess of $500 to be in writing and to be in clear and understandable language. The bill permits a consumer to cancel a landscaping contract for any reason at any time before midnight of the third business day after the consumer receives a copy of the contract. The bill requires that the contract contain a conspicuous notice on the consumer’s right to cancel.

The bill requires the Division of Consumer Affairs to establish and undertake a public information campaign to educate and inform landscape professionals and consumers of the bill’s provisions. The bill also requires the committee to provide a toll-free telephone number for consumers making inquiries regarding landscape professionals and professional landscaping business.