

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.



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2

1 AN ACT concerning the licensure of landscape professionals and the
2 registration of professional landscaping businesses, amending
3 P.L.1971, c.60 and P.L.2004, c.16, and supplementing Title 45 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. Section 2 of P.L.1971, c.60 (C.45:1-2.2) is amended to read
10 as follows:

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

18 b. In addition to the membership otherwise prescribed by law,
19 the Governor shall appoint in the same manner as presently
20 prescribed by law for the appointment of members, two additional
21 members to represent the interests of the public, to be known as
22 public members, to each of the following boards and commissions:
23 the New Jersey State Board of Accountancy, the New Jersey State
24 Board of Architects, the New Jersey State Board of Cosmetology
25 and Hairstyling, the New Jersey State Board of Dentistry, the State
26 Board of Mortuary Science of New Jersey, the State Board of
27 Professional Engineers and Land Surveyors, the State Board of
28 Medical Examiners, the New Jersey Board of Nursing, the New
29 Jersey State Board of Optometrists, the State Board of Examiners of
30 Ophthalmic Dispensers and Ophthalmic Technicians, the Board of
31 Pharmacy, the State Board of Professional Planners, the State Board
32 of Psychological Examiners, the New Jersey Real Estate
33 Commission, the State Board of Court Reporting, the State Board of
34 Social Work Examiners, the Elevator, Escalator, and Moving
35 Walkway Mechanics Licensing Board, and the State Board of
36 Veterinary Medical Examiners, and one additional public member
37 to each of the following boards: the Board of Examiners of
38 Electrical Contractors, the State Board of Marriage and Family
39 Therapy Examiners, the State Board of Examiners of Master
40 Plumbers, **[and]** the State Real Estate Appraiser Board, and the
41 Landscape Professional License Review Committee. Each public
42 member shall be appointed for the term prescribed for the other
43 members of the board or commission and until the appointment of
44 his successor. Vacancies shall be filled for the unexpired term only.
45 The Governor may remove any such public member after hearing,

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.

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1 for misconduct, incompetency, neglect of duty or for any other
2 sufficient cause.

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

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

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

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

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

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

42

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

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

46 a. any person required to register pursuant to "The New Home
47 Warranty and Builders' Registration Act," P.L.1977, c.467
48 (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 (cf: P.L.2004, c.16, s.5)

21
22 3. (New section) The Legislature finds and declares that
23 landscape activities are a vital part of New Jersey's economy, serve
24 a vital role in the protection of New Jersey's environment, and that
25 professionally installed and maintained landscapes enhance the
26 public health, safety, and well-being of its residents.

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

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

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

45
46 4. (New section) As used in this act:

47 "Advertise" means to communicate to the public by means of any
48 print, electronic or any other media, including, but not limited to,

1 newspapers, magazines, periodicals, journals, directories, books,
2 circulars, flyers, business cards, signs, radio, telephone, facsimile
3 machine, television, computer, vehicle signage, or the Internet.

4 "Board" means the New Jersey State Board of Architects.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43
44 5. (New section) a. There is established in the Division of
45 Consumer Affairs in the Department of Law and Public Safety,
46 under the New Jersey State Board of Architects, the Landscape
47 Professionals License Review Committee.

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

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

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

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

19

20 6. (New section) a. Of the three landscape installation
21 professionals and three landscape management professionals to be
22 appointed to the committee, the Governor, Senate President and the
23 Speaker of the General Assembly shall each appoint one landscape
24 installation professional and one landscape management
25 professional. The appointments shall be based upon the
26 recommendations of the Licensing Committee of the New Jersey
27 Landscapers Association and shall be for terms of three years,
28 except that of the membership first appointed which shall consist of
29 the following: one landscape installation professional appointed for
30 a term of three years; one landscape installation professional for a
31 term of two years, and one landscape installation professional for a
32 term of one year; one landscape management professional for a
33 term of three years, one landscape management professional for a
34 term of two years, and one landscape management professional for
35 a term of one year. The one public member shall be appointed
36 pursuant to subsection b. of section 2 of P.L.1971, c.60 (C.45:1-
37 2.2).

38 b. The Governor shall appoint the three nonvoting members,
39 one of whom shall represent an educational institution which offers
40 a landscape, horticulture or turf management degree program; one
41 of whom shall represent the New Jersey Council of County
42 Vocational Technical Schools; and one of whom shall represent the
43 nursery industry and own a business selling products labeled as
44 “Jersey Fresh” or “Jersey Grown” pursuant to P.L.1939, c.136
45 (C.4:10-16 et seq.) or of the New Jersey Department of Agriculture,
46 to terms of three years, except the membership of those first
47 appointed shall consist of one representative of the New Jersey
48 Agricultural Education Association and who also works at an

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1 institution of higher education which offers a landscape,
2 horticulture, or turf management program to a term of three years,
3 one representative of the New Jersey Council of County Vocational
4 Technical Schools to a term of two years, and one representative
5 who is the director of the Rutgers New Jersey Agricultural
6 Experiment Station, or their designee, to a term of one year.

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

16

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

23

24 8. (New section) The committee shall:

25 a. Review the qualifications of an applicant for licensure under
26 the act;

27 b. Establish standards for examinations for licensure;

28 c. Issue and renew licenses and assess fees;

29 d. Establish standards for continuing education;

30 e. Suspend or revoke licenses or registrations for licensure for
31 violations of this act;

32 f. Adopt a code of professional ethics;

33 g. Adopt those regulations necessary to effectuate the purposes
34 of the act; and

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

39

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

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

3 b. A person may seek renewal of a license upon submission of
4 a renewal application, and satisfactory evidence to the committee
5 that the renewal applicant has successfully completed the
6 continuing education requirements prescribed pursuant to this act,
7 and the payment of a renewal fee established by the committee.
8

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

15 a. is at least 18 years of age;

16 b. is of good moral character;

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

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

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

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

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

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

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

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

3 g. payment of the appropriate fees to the board.
4

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

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

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

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

16 b. In the case of education courses and programs, each hour of
17 instruction shall be equivalent to one credit.
18

19 13. (New section) The committee may, in its discretion, grant
20 licenses without examination to applicants licensed in other states;
21 provided that equal reciprocity is provided for New Jersey
22 landscape professionals by law of the applicant's domiciliary state
23 and provided further that the domiciliary state's standards are equal
24 to or comparable to those of this State.
25

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

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

35 (1) any crime of the first degree;

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

39 (3) any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2,
40 2C:11-2, 2C:11-3, 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,
41 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of
42 2C:17-2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2
43 through 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15,
44 or 2C:21-19, chapter 27 or 28 of Title 2C of the New Jersey
45 Statutes, or N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-2
46 through 2C:37-4.

47 b. The committee may refuse to issue or renew, or may suspend
48 or revoke a license, or may refuse to admit a person to an

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1 examination for licensure, after notice and hearing, upon a finding
2 that an applicant or licensee:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 f. Notwithstanding the provisions of paragraph (7) of
46 subsection b. of this section, no individual shall be disqualified
47 from registration or shall have registration revoked on the basis of
48 any conviction disclosed if the individual has affirmatively

1 demonstrated to the committee clear and convincing evidence of the
2 individual's rehabilitation. In determining whether an individual
3 has affirmatively demonstrated rehabilitation, the following factors
4 shall be considered:

- 5 (1) the nature and responsibility of the position which the
6 convicted individual would hold;
- 7 (2) the nature and seriousness of the offense;
- 8 (3) the circumstances under which the offense occurred;
- 9 (4) the date of the offense;
- 10 (5) the age of the individual when the offense was committed;
- 11 (6) whether the offense was an isolated or repeated incident;
- 12 (7) any social conditions which may have contributed to the
13 offense; and
- 14 (8) any evidence of rehabilitation, including good conduct in
15 prison or in the community, counseling or psychiatric treatment
16 received, acquisition of additional academic or vocational
17 schooling, successful participation in correctional work-release
18 programs, or the recommendation of persons who have had the
19 individual under their supervision.

20

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

- 24 (1) the name and residence of the owner or owners of the
25 business;
- 26 (2) the principal address of the business, and any branch office
27 or subsidiary of the business;
- 28 (3) the names and addresses of every licensed landscape
29 professional employed by the business and the location of each
30 licensee, if at a branch office other than the business's main office;
- 31 (4) proof of general liability insurance of a type and amount
32 required by the committee by regulation;
- 33 (5) proof of workers' compensation insurance coverage;
- 34 (6) proof that at least one person engaged in the professional
35 landscaping business, is a licensed landscape professional, and that
36 at least one person who is located at each branch office of the
37 professional landscaping business is a licensed landscape
38 professional for every additional 10 employees located at the branch
39 office; and

40 (7) any other information required by the committee.

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

45

46 16. (New section) a. Every professional landscaping business
47 which is registered pursuant to section 15 of this act shall secure,
48 maintain and file with the commission proof of a certificate of

1 commercial general liability insurance in an amount specified by
2 the committee, by regulation.

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

9
10 17. (New section) The committee may revoke or suspend a
11 registration of any professional landscaping business, after notice
12 and hearing, that the business:

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

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

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

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

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

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

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

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

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

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

34
35 18. (New section) a. All professional landscaping business
36 registrants shall prominently display their registration numbers
37 within their places of business, in all advertisements distributed
38 within this State, on business documents, contracts and
39 correspondence with consumers of landscaping services in this
40 State, and on all commercial vehicles and trailers registered in this
41 State and leased or owned by registrants and used by registrants for
42 the purpose of providing landscaping services.

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

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

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

9
10 20. (New section) This act shall not deny to any municipality
11 the power to inspect a landscape professional's work or equipment,
12 the work of a landscape professional who performs improvements
13 to commercial property, or the power to regulate the standards and
14 manners in which the landscape professional's work shall be done.

15
16 21. (New section) The Division of Consumer Affairs shall
17 establish and undertake a public information campaign, using fees
18 collected by the board for professional landscaping licensure and
19 professional landscaping business registration, to educate and
20 inform contractors and consumers of this State of the provisions of
21 this act. The campaign shall include, but not be limited to, the
22 following:

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

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

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

33
34 22. (New section) a. Every landscaping contract for a purchase
35 price in excess of \$500, and all changes in the terms and conditions
36 of the contract, shall be in writing. The contract shall be signed by
37 all parties to the contract, and shall clearly and accurately set forth
38 in legible form and in understandable language all terms and
39 conditions of the contract, including but not limited to:

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

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

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

1 b. A landscaping contract may be cancelled by a consumer for
2 any reason at any time before midnight of the third business day
3 after the consumer receives a copy of it. The consumer shall notify
4 the professional landscaping business of the cancellation in writing,
5 by registered or certified mail, return receipt requested, or by
6 personal delivery, to the address specified in the contract. All
7 moneys paid pursuant to the cancelled contract shall be fully
8 refunded within 30 days of receipt of the notice of cancellation, but
9 shall not include moneys for materials purchased and delivered to
10 the job site prior to the cancellation. If the consumer has executed
11 any credit or loan agreement through the professional landscaping
12 business to pay all or part of the contract, the agreement or note
13 shall be cancelled without penalty to the consumer and written
14 notice of that cancellation shall be mailed to the consumer within
15 30 days of receipt of the notice of cancellation. The contract shall
16 contain a conspicuous notice printed in at least 10-point bold-faced
17 type as follows:

18

19 "NOTICE TO CONSUMER:

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

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

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

29 (Name of Professional landscaping business)

30 (Address of Professional landscaping business)

31 (Phone Number of Professional landscaping business)

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

37

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

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

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

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

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

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

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

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

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

18
19 24. (New section) For a period of 730 days from the date
20 regulations are promulgated pursuant to the provisions of this act,
21 any individual of good moral character whose business or person
22 was residing in this State on the effective date of this act shall
23 qualify as a licensed landscape professional, upon application for
24 licensure and payment of the appropriate fee, if the individual:

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

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

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

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

43
44 25. (New section) a. In addition to suspension or revocation of
45 a license or registration, the committee may levy a fine, not to
46 exceed \$5,000 for a first violation, and not to exceed \$10,000 for a
47 second or subsequent violation of this act. If the violation is of a
48 continuing nature, each day during which it continues shall

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1 constitute an additional, separate, and distinct offense. The civil
2 penalty shall be issued for and recovered by and in the name of the
3 committee, and shall be collected by summary proceeding pursuant
4 to the "Penalty Enforcement Law of 1999," P.L.1999, c.274
5 (C.2A:58-10 et seq.), including reimbursement for the cost of
6 investigation and legal fees.

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

11
12 26. (New section) All fees and penalties collected pursuant to
13 this act shall be deposited with the division and their use shall be
14 authorized by the board for the purposes of carrying out the
15 provisions of this act.

16
17 27. (New section) This act shall take effect on the 90th day
18 following enactment.

21 STATEMENT

22
23 This bill establishes licensing requirements for landscape
24 professionals. As defined in the bill, "landscape professional"
25 means a person who installs, renovates, or maintains all or any part
26 of the exterior or interior landscape environment and includes
27 persons engaged in each of the landscape categories. The bill
28 defines "landscape category" as an area of specialization of a
29 landscape professional which includes: landscape management
30 professional; landscape installation professional; and landscape
31 lighting professional.

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

39 In addition, the bill requires the committee to establish
40 continuing education requirements for licensed landscape
41 professionals to complete as a condition of biennial licensure
42 renewal. The bill also stipulates that every professional landscaping
43 business is to register biennially with the committee as a
44 requirement of doing business in this State. Moreover, the bill
45 requires all landscaping contracts in excess of \$500 to be in writing
46 and to be in clear and understandable language. The bill permits a
47 consumer to cancel a landscaping contract for any reason at any
48 time before midnight of the third business day after the consumer

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1 receives a copy of the contract. The bill requires that the contract
2 contain a conspicuous notice on the consumer's right to cancel.

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