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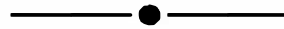
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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006

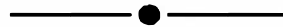


ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4276

(By Delegates Beane, Ennis, Barker, Butcher,
Hatfield, Porter, Schoen and Walters)



Passed March 10, 2006

In Effect Ninety Days from Passage

FILED

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COMMITTEE SUBSTITUTE

FOR

H. B. 4276

(BY DELEGATES BEANE, ENNIS, BARKER, BUTCHER,
HATFIELD, PORTER, SCHOEN AND WALTERS)

[Passed March 10, 2006; in effect ninety days from passage.]

AN ACT to repeal §30-22-5a of the Code of West Virginia, 1931, as amended; to amend and reenact §30-22-1, §30-22-2, §30-22-3, §30-22-4, §30-22-5, §30-22-6, §30-22-7, §30-22-8, §30-22-9, §30-22-10, §30-22-11, §30-22-12, §30-22-13, §30-22-14, §30-22-15, §30-22-16, §30-22-17 and §30-22-18; and to amend said code by adding thereto eleven new sections, designated §30-22-19, §30-22-20, §30-22-21, §30-22-22, §30-22-23, §30-22-24, §30-22-25, §30-22-26, §30-22-27, §30-22-28 and §30-22-29, all relating to updating the regulation of the practice of landscape architecture; definitions; board composition; powers and duties of the board; clarifying rulemaking authority; license, temporary permit and certificate of authorization requirements; exemptions; hearing and notice requirements; providing a civil cause of action; criminal penalties; and continuation of the board.

Be it enacted by the Legislature of West Virginia:

That §30-22-5a of the Code of West Virginia, 1931, as amended, be repealed; and that §30-22-1, §30-22-2, §30-22-3, §30-22-4, §30-22-5, §30-22-6, §30-22-7, §30-22-8, §30-22-9, §30-22-10, §30-22-11, §30-22-12, §30-22-13, §30-22-14, §30-22-15, §30-22-16, §30-22-17 and §30-22-18, be amended and reenacted; and that said code be amended by adding thereto eleven new sections, designated §30-22-19, §30-22-20, §30-22-21, §30-22-22, §30-22-23, §30-22-24, §30-22-25, §30-22-26, §30-22-27, §30-22-28 and §30-22-29, all to read as follows:

ARTICLE 22. LANDSCAPE ARCHITECTS.

§30-22-1. License required to practice.

1 The practice of landscape architecture requires education,
2 training and experience and should only be practiced by a
3 licensed landscape architect. Therefore, the Legislature finds
4 that in order to protect the health, safety, interest and welfare of
5 the public and to provide for the regulation of landscape
6 architecture in this state, a person must have a license, as
7 provided in this article, to practice as a landscape architect.

§30-22-2. Unlawful acts.

1 (a) It is unlawful for any person to practice or offer to
2 practice landscape architecture in this state without a license
3 issued under the provisions of this article, or advertise or use
4 any title or description tending to convey the impression that
5 the person is a licensed landscape architect, unless such person
6 has been duly licensed under the provisions of this article.

7 (b) It is unlawful for any firm to practice or offer to practice
8 landscape architecture in this state without a certificate of
9 authorization issued under the provisions of this article, or
10 advertise or use any title or description tending to convey the
11 impression that it is a landscape architectural firm, unless such
12 firm has been issued a certificate of authorization under the
13 provisions of this article.

§30-22-3. Applicable law.

1 The practice of landscape architecture and the Board of
2 Landscape Architects are subject to the provisions of article one
3 of this chapter and the provisions of this article and any rules
4 promulgated thereunder.

§30-22-4. Definitions.

1 As used in this article, the following words and terms have
2 the following meanings, unless the context clearly indicates
3 otherwise:

4 (a) “Accredited” means a school, college or university
5 accredited by the Landscape Architectural Accreditation Board
6 (LAAB) or any other accrediting body recognized by the board.

7 (b) “Applicant” means a person making application for a
8 license or a permit, or a firm making application for a certifi-
9 cate of authorization, under the provisions of this article.

10 (c) “Board” means the West Virginia Board of Landscape
11 Architects.

12 (d) “Certificate of authorization” means a certificate issued
13 under the provisions of this article to a firm providing land-
14 scape architectural services.

15 (e) “Certificate of authorization holder” means a firm
16 certified under the provisions of this article to provide land-
17 scape architectural services.

18 (f) “Examination” means the examination in landscape
19 architecture required for licensure.

20 (g) “Firm” means any business entity, partnership, associa-
21 tion, company, corporation, limited partnership, limited liability

22 company or other entity providing landscape architectural
23 services.

24 (h) "Landscape architect" means a person licensed under
25 the provisions of this article to practice landscape architecture.

26 (I) "Landscape architecture" means the analysis, planning,
27 design, management and stewardship of the natural and built
28 environments.

29 (j) "License" means a landscape architecture license issued
30 under the provisions of this article.

31 (k) "Licensee" means a person holding a landscape archi-
32 tecture license issued under the provisions of this article.

33 (l) "Permittee" means a person holding a temporary permit.

34 (m) "Practice of landscape architecture" means the perfor-
35 mance of professional services, including but not limited to,
36 analysis, consultations, evaluations, research, planning, design,
37 management or responsible supervision of projects principally
38 directed at the functional, aesthetic use, preservation and
39 stewardship of the land and natural and built environments,
40 including:

41 (1) Investigation, selection and allocation of land and water
42 resources for appropriate uses;

43 (2) Formulation of feasibility studies and graphic and
44 written criteria to govern the planning, design and management
45 of land and water resources;

46 (3) Preparation, review and analysis of those aspects of land
47 use master plans, subdivision plans and preliminary plats as are
48 related to landscape architecture;

49 (4) Determination of the location and siting of improve-
50 ments, including buildings and other features, as well as the
51 access and environs for those improvements associated with the
52 practice of landscape architecture;

53 (5) Design of land forms, soil conservation and erosion
54 control methods, site lighting, water features, irrigation
55 systems, plantings, pedestrian and vehicular circulation systems
56 and related construction details, and natural drainage, surface
57 and ground water drainage systems: *Provided*, That such
58 systems do not require structural design of system components
59 or a hydraulic analysis of the receiving storm water conveyance
60 system; and

61 (6) Preparation, filing and administration of plans, draw-
62 ings, specifications and other related construction documents.

63 (n) "Temporary permit" means a permit to practice land-
64 scape architecture issued by the board for a period of time not
65 to exceed one year.

§30-22-5. Board of Landscape Architects.

1 (a) The West Virginia Board of Landscape Architects is
2 hereby continued and shall be composed of three members, two
3 of whom must be licensed landscape architects, appointed by
4 the Governor by and with the advice and consent of the Senate,
5 for staggered terms of three years.

6 (b) Each licensed member of the board, at the time of his or
7 her appointment, must have held a license in this state for a
8 period of not less than three years and must have been a
9 resident of this state for a period of not less than one year
10 immediately preceding the appointment.

11 (c) Each member of the board must be a resident of this
12 state during the appointment term.

13 (d) No member may serve more than three consecutive full
14 terms and any member having served three consecutive full
15 terms may not be appointed for one year after completion of his
16 or her third full term. A member shall continue to serve until his
17 or her successor has been appointed and qualified. Any member
18 currently serving on the board on the effective date of this
19 article may be reappointed in accordance with the provisions of
20 this section.

21 (e) A vacancy on the board shall be filled by appointment
22 by the Governor for the unexpired term of the member whose
23 office is vacant.

24 (f) The Governor may remove any member from the board
25 for neglect of duty, incompetency or official misconduct.

26 (g) Any member of the board immediately and automati-
27 cally forfeits his or her membership if he or she has his or her
28 license to practice suspended or revoked by the board, is
29 convicted of a felony under the laws of any state or the United
30 States, or becomes a nonresident of this state.

31 (h) The board shall designate one of its members as
32 chairperson and one member as secretary-treasurer who shall
33 serve at the will of the board.

34 (i) Each member of the board is entitled to receive compen-
35 sation and expense reimbursement in accordance with article
36 one of this chapter.

37 (j) A majority of the members of the board shall constitute
38 a quorum.

39 (k) The board shall hold at least one annual meeting. Other
40 meetings shall be held at the call of the chairperson or upon the
41 written request of two members, at such time and place as
42 designated in the call or request.

§30-22-6. Powers and duties of the board.

1 (a) The board has all the powers and duties set forth in this
2 article, by rule, in article one of this chapter, and elsewhere in
3 law.

4 (b) The board's powers and duties include:

5 (1) Holding meetings, conducting hearings and administer-
6 ing examinations and reexaminations;

7 (2) Setting the requirements for a license, temporary permit
8 and certificate of authorization;

9 (3) Establishing procedures for submitting, approving and
10 rejecting applications for a license, temporary permit and
11 certificate of authorization;

12 (4) Determining the qualifications of any applicant for a
13 license, temporary permit and certificate of authorization;

14 (5) Preparing, conducting, administering and grading
15 written, oral or written and oral examinations and reexamina-
16 tions for a license;

17 (6) Contracting with third parties to prepare and/or adminis-
18 ter the examinations and reexaminations required under the
19 provisions of this article;

20 (7) Determining the passing grade for the examinations;

21 (8) Maintaining records of the examinations and reexamina-
22 tions the board or a third party administers, including the
23 number of persons taking the examination or reexamination and
24 the pass and fail rate;

25 (9) Maintaining an accurate registry of names and addresses
26 of all persons and firms regulated by the board;

27 (10) Defining, by legislative rule, the fees charged under
28 the provisions of this article;

29 (11) Issuing, renewing, denying, suspending, revoking or
30 reinstating licenses, temporary permits and certificates of
31 authorization;

32 (12) Establishing, by legislative rule, the continuing
33 education requirements for licensees;

34 (13) Suing and being sued in its official name as an agency
35 of this state;

36 (14) Maintaining an office, and hiring, discharging, setting
37 the job requirements and fixing the compensation of employees
38 and investigators necessary to enforce the provisions of this
39 article;

40 (15) Investigating alleged violations of the provisions of
41 this article, the rules promulgated hereunder, and orders and
42 final decisions of the board;

43 (16) Conducting disciplinary hearings of all persons and
44 business entities regulated by the board;

45 (17) Setting disciplinary action and issuing orders;

46 (18) Instituting appropriate legal action for the enforcement
47 of the provisions of this article;

48 (19) Keeping accurate and complete records of its proceed-
49 ings, and certifying the same as may be appropriate;

50 (20) Proposing rules in accordance with the provisions of
51 article three, chapter twenty-nine-a of this code to implement
52 the provisions of this article; and

53 (21) Taking all other actions necessary and proper to
54 effectuate the purposes of this article.

§30-22-7. Rule-making authority.

1 (a) The board shall propose rules for legislative approval,
2 in accordance with the provisions of article three, chapter
3 twenty-nine-a of this code, to implement the provisions of this
4 article, including the establishment of:

5 (1) Standards and requirements for licensure, temporary
6 permits and certificates of authorization;

7 (2) Procedures for examinations and reexaminations;

8 (3) Requirements for third parties to prepare and/or
9 administer examinations and reexaminations;

10 (4) Educational and experience requirements, and the
11 passing grade on the examination for licensure;

12 (5) Procedures for the issuance and renewal of a license,
13 temporary permit and certificate of authorization;

14 (6) A fee schedule: *Provided*, That the fee schedule in
15 effect as of the first day of July, two thousand five, will remain
16 in effect until amended, modified, repealed or replaced by the
17 legislative rule promulgated pursuant to this subsection;

18 (7) Continuing education requirements for licensees;

19 (8) The procedures for denying, suspending, revoking,
20 reinstating or limiting the practice of a licensee, permittee or
21 certificate of authorization holder;

22 (9) Requirements for inactive or revoked licenses, tempo-
23 rary permits or certificates of authorization; and

24 (10) Any other rules necessary to effectuate the provisions
25 of this article.

26 (b) All rules in effect on the effective date of this article
27 shall remain in effect until they are amended, modified,
28 repealed or replaced.

§30-22-8. Fees; special revenue account; administrative fines.

1 (a) All fees and other moneys, except administrative fines,
2 received by the board shall be deposited in a separate special
3 revenue fund in the State Treasury designated the "Board of
4 Landscape Architects Fund," which fund is hereby continued.
5 The fund shall be used by the board for the administration of
6 this article. Except as may be provided in article one of this
7 chapter, the board shall retain the amounts in the special
8 revenue account from year to year. No compensation or
9 expense incurred under this article is a charge against the
10 general revenue fund.

11 (b) Any amounts received as fines imposed pursuant to this
12 article shall be deposited into the general revenue fund of the
13 State Treasury.

**§30-22-9. Education, experience and examination requirements
for licensure.**

1 (a) An applicant for licensure under this article must have
2 completed one of the following educational and/or experience
3 requirements:

4 (1) Has a bachelor degree in landscape architecture from
5 an accredited college or university and at least two years of
6 experience in landscape architecture under the supervision of a
7 landscape architect or a person having qualifications acceptable
8 to the board and similar to the qualifications of a landscape
9 architect;

10 (2) Has a graduate degree in landscape architecture from an
11 accredited college or university and at least one year of experi-
12 ence in landscape architecture under the supervision of a
13 landscape architect or a person having qualifications acceptable
14 to the board and similar to the qualifications of a landscape
15 architect; or

16 (3) (A) Prior to the thirty-first day of December, two
17 thousand six, has completed at least ten years of experience in
18 landscape architecture, including at least six years of experience
19 in landscape architecture under the supervision of a landscape
20 architect or a person having qualifications acceptable to the
21 board and similar to the qualifications of a landscape architect;
22 or

23 (B) Prior to the thirty-first day of December, two thousand
24 six, has begun the ten years of experience in landscape architec-
25 ture set out in subdivision (3) (A) of this subsection, and has not
26 completed the experience requirements prior to the thirty-first
27 day of December, two thousand six, then the person must notify
28 the board that he or she will be making application under this
29 subdivision (3) (B) and comply with the procedures prescribed
30 by the board; or

31 (C) On and after the first day of January, two thousand
32 seven, has completed at least ten years of experience in
33 landscape architecture under the supervision of a landscape
34 architect or a person having qualifications acceptable to the
35 board and similar to the qualifications of a landscape architect.

36 (b) An applicant for licensure under this article must pass
37 the examination prescribed by the board.

§30-22-10. License requirements.

1 (a) The board shall issue a license to practice under the
2 provisions of this article to an applicant who meets the follow-
3 ing requirements:

4 (1) Is of good moral character;

5 (2) Is at least eighteen years of age;

6 (3) Is a citizen of the United States or is eligible for
7 employment in the United States;

8 (4) Has not been convicted of a crime involving moral
9 turpitude;

10 (5) Has not had his or her application for a license to
11 practice as a landscape architect refused in any state of the
12 United States;

13 (6) Has not had his or her license to practice landscape
14 architecture suspended or revoked in any state of the United
15 States; and

16 (7) Has completed the licensure requirements set out in this
17 article and the rules promulgated hereunder.

18 (b) The board may issue a license to practice under the
19 provisions of this article to an applicant who does not meet the
20 licensure requirements set out in subdivisions (5) or (6) of
21 subsection (a) of this section, but who does meet the licensure
22 requirements established by rule by the board.

23 (c) An application for a license shall be made on forms
24 prescribed by the board.

25 (d) An applicant shall pay all the applicable fees.

26 (e) A license to practice landscape architecture issued by
27 the board prior to the first day of July, two thousand six, shall
28 for all purposes be considered a license issued under this
29 article: *Provided*, That a person holding a license to practice
30 landscape architecture issued prior to the first day of July, two

31 thousand six, must renew the license pursuant to the provisions
32 of this article.

**§30-22-11. License from another jurisdiction; license to practice
in this state.**

1 The board may issue a license to practice landscape
2 architecture in this state, without requiring an examination, to
3 an applicant of good moral character who holds a valid license
4 or other authorization to practice landscape architecture from
5 another jurisdiction, if the applicant:

6 (1) Holds a license or other authorization to practice
7 landscape architecture in another jurisdiction and meets
8 requirements which are substantially equivalent to the licensure
9 requirements set forth in this article;

10 (2) Is not currently being investigated by a disciplinary
11 authority of this state or another jurisdiction, does not have
12 charges pending against his or her license or other authorization
13 to practice landscape architecture, and has never had a license
14 or other authorization to practice landscape architecture
15 revoked;

16 (3) Has not previously failed an examination for licensure
17 in this state;

18 (4) Has paid all the applicable fees; and

19 (5) Has completed such other action as required by the
20 board.

§30-22-12. License renewal requirements.

1 (a) A licensee shall, annually or biennially upon or before
2 the first day of July, renew his or her license by completing a
3 form prescribed by the board and paying a renewal fee.

4 (b) At least thirty days prior to the first day of July, either
5 annually or biennially, the secretary-treasurer of the board shall
6 mail to every licensee a notice of renewal, an application for
7 renewal and a statement for the renewal fee.

8 (c) The board shall charge a fee for each renewal of a
9 license and a late fee for any renewal not paid in a timely
10 manner.

11 (d) The board shall require as a condition for the renewal of
12 a license that each licensee complete continuing education
13 requirements.

14 (e) The board may deny an application for renewal for any
15 reason which would justify the denial of an original application
16 for a license.

§30-22-13. Inactive license requirements.

1 (a) A licensee who chooses not to continue in active
2 practice and notifies the board in writing, may be granted
3 inactive status.

4 (b) A person granted inactive status shall pay an inactive
5 fee, is exempt from the continuing education requirements and
6 cannot practice in this state.

7 (c) When an inactive licensee wants to return to active
8 practice, he or she must complete all the continuing education
9 requirements, pay all the applicable fees and meet all the other
10 requirements prescribed by the board.

§30-22-14. Retired license requirements.

1 (a) A licensee who chooses to retire and notifies the board
2 in writing, may be granted retired status.

3 (b) A person granted retired status cannot practice land-
4 scape architecture in this state.

§30-22-15. Reinstatement.

1 The board may reinstate a license upon a showing that the
2 applicant is qualified to resume practice. The applicant shall
3 pay all applicable fees and shall meet all the requirements
4 prescribed by the board.

§30-22-16. Temporary permits.

1 (a) Upon proper application and payment of the applicable
2 fees, the board may issue a temporary permit, for a period of
3 time not to exceed one year, to an applicant who has completed
4 the educational and/or experience requirements set out in this
5 article, but who has not taken the examination.

6 (b) The temporary permit expires thirty days after the board
7 gives written notice to the permittee of the results of the first
8 examination held following the issuance of the temporary
9 permit.

10 (c) The temporary permit may not be renewed nor another
11 temporary permit be issued to the same person.

12 (d) The temporary permit may be revoked for any reason
13 which would justify the suspension, revocation, limitation or
14 denial of a license.

§30-22-17. Display of license.

1 (a) The board shall prescribe the form for a license and may
2 issue a duplicate license, upon payment of a fee.

3 (b) A licensee shall conspicuously display his or her license
4 at his or her principal place of practice.

§30-22-18. Seal requirements.

1 (a) Each licensee must have a seal, authorized by the board,
2 which seal shall include the licensee's name and the words:
3 "Professional Landscape Architect, State of West Virginia,"
4 and any other words or figures prescribed by the board.

5 (b) All working drawings and specifications prepared by a
6 licensee shall be signed and stamped with the licensee's seal:
7 *Provided*, That nothing contained in this article shall be
8 construed to permit the seal of a landscape architect to serve as
9 a substitute for the seal of an architect, an engineer or a
10 professional surveyor whenever the seal of such architect,
11 engineer or professional surveyor is required by law.

12 (c) It is unlawful for a person who is not licensed under the
13 provisions of this article to affix a seal on a document.

§30-22-19. Certificate of authorization requirements.

1 (a) After the first day of July, two thousand six, a firm
2 practicing landscape architecture in West Virginia shall have a
3 certificate of authorization.

4 (b) The board shall issue a certificate of authorization to a
5 firm that:

6 (1) Wants to practice landscape architecture in West
7 Virginia;

8 (2) Provides proof that the firm employs a West Virginia
9 licensed landscape architect;

10 (3) Has paid all applicable fees; and

11 (4) Completes such other requirements as specified by the
12 board.

13 (c) The name of the employed licensee in direct control or
14 having personal supervision of the practice of the firm shall
15 appear as the landscape architect on all plans, drawings,
16 specifications, reports or other instruments of service rendered
17 or submitted by the firm.

§30-22-20. Certificate of authorization renewal requirements.

1 (a) A firm wanting to continue in active practice shall,
2 annually or biennially upon or before the first day of July,
3 renew its certificate of authorization and pay a renewal fee.

4 (b) At least thirty days prior to the first day of July, either
5 annually or biennially, the secretary-treasurer of the board shall
6 mail to every certificate of authorization holder a notice of
7 renewal, an application for renewal and a statement for the
8 renewal fee.

9 (c) The board shall charge a fee for each renewal of a
10 certificate of authorization and a late fee for any renewal not
11 paid in a timely manner.

§30-22-21. Display of certificate of authorization.

1 (a) The board shall prescribe the form for a certificate of
2 authorization, and may issue a duplicate certificate of authoriza-
3 tion upon payment of a fee.

4 (b) A firm shall conspicuously display its certificate of
5 authorization at its principal place of practice.

§30-22-22. Exemptions from article.

1 (a) Nothing in this article shall prohibit any professional
2 engineer, professional surveyor, or forester licensed or regis-
3 tered under the provisions of this code from providing services
4 for which they are licensed or registered.

5 (b) Nothing in this article shall prohibit any architect
6 licensed or registered under the provisions of this code from
7 performing any of the services included within the definition of
8 the practice of landscape architecture as set forth in subsection
9 (m), section four of this article when incidental to the practice
10 of architecture as defined in article twelve of this chapter.

11 (c) Nothing in this article shall prohibit a nursery person,
12 agriculturist, horticulturist, gardener, landscape designer,
13 landscape contractor, grader, cultivator of land, garden or lawn
14 caretaker from engaging in the occupation of growing or
15 marketing nursery stock, preparing planting plans, installing
16 plant material, providing drawings or graphic diagrams neces-
17 sary for the proper layout of goods or materials, or arranging for
18 the installation of goods or materials on private or public land.

19 (d) Nothing in this article shall prohibit state, county, city
20 or other municipal, urban or regional planners and designers
21 from preparing plans or diagrams necessary to the planning,
22 design and management of communities or regions.

23 (e) Nothing in this article shall prohibit an individual from
24 making landscape plans, drawings or specifications for property
25 owned, leased or rented by the individual for his or her personal
26 use.

27 (f) Only licensed landscape architects shall use the title,
28 "Landscape Architect", or other similar words or titles which
29 implies licensure.

**§30-22-23. Refusal to issue or renew, suspension or revocation;
disciplinary action.**

1 (a) The board may refuse to issue, refuse to renew, suspend,
2 revoke or limit any license, temporary permit, certificate of
3 authorization or practice privilege and may take disciplinary
4 action against a licensee, permittee or certificate of authoriza-

5 tion holder who, after notice and a hearing, has been adjudged
6 by the board as unqualified for any of the following reasons:

7 (1) Fraud, misrepresentation or deceit in obtaining or
8 maintaining a license, temporary permit or certificate of
9 authorization;

10 (2) Failure by any licensee, permittee or certificate of
11 authorization holder to maintain compliance with the require-
12 ments for the issuance or renewal of a license, temporary permit
13 or certificate of authorization;

14 (3) Dishonesty, fraud, professional negligence in the
15 performance of landscape architectural services, or a willful
16 departure from the accepted standards of landscape architecture
17 and the professional conduct of landscape architects;

18 (4) Violation of any provision of this article or any rule
19 promulgated hereunder;

20 (5) Violation of any professional standard or rule of
21 professional conduct;

22 (6) Failure to comply with the provisions of this article or
23 any rule promulgated hereunder;

24 (7) Failure to comply with any order or final decision of the
25 board;

26 (8) Failure to respond to a request or action of the board;

27 (9) Conviction of a crime involving moral turpitude;

28 (10) Conviction of a felony or a crime involving dishonesty
29 or fraud or any similar crime under the laws of the United
30 States, this state or another jurisdiction, if the underlying act or
31 omission involved would have constituted a crime under the
32 laws of this state;

33 (11) Any conduct adversely affecting the licensee's,
34 permittee's or certificate of authorization holder's fitness to
35 perform landscape architectural services; or

36 (12) Knowingly using any false or deceptive statements in
37 advertising.

38 (b) If the board suspends, revokes, refuses to issue, refuses
39 to renew or limits any license, temporary permit, certificate of
40 authorization or practice privilege, the board shall make and
41 enter an order to that effect and give written notice of the order
42 to the person by certified mail, return receipt requested, which
43 order shall include a statement of the charges setting forth the
44 reasons for the action, and notice of the date, time and place of
45 the hearing. If a license, temporary permit, certificate of
46 authorization is ordered suspended or revoked, then the
47 licensee, permittee or certificate of authorization holder shall,
48 within twenty days after receipt of the order, return the license,
49 temporary permit, certificate of authorization to the board. The
50 hearing shall be held in accordance with the provisions of this
51 article.

52 (c) Disciplinary action includes, but is not limited to, a
53 reprimand, censure, probation, administrative fines, and
54 mandatory attendance at continuing education seminars.

§30-22-24. Complaints; investigations; notice.

1 (a) The board may, on its own motion, conduct an investi-
2 gation to determine whether there are any grounds for disciplin-
3 ary action against a licensee, permittee or certificate of authori-
4 zation holder. The board shall, upon the verified written
5 complaint of any person, conduct an investigation to determine
6 whether there are any grounds for disciplinary action against a
7 licensee, permittee or certificate of authorization holder.

8 (b) Upon receipt of a written complaint filed against any
9 licensee, permittee or certificate of authorization holder, the
10 board shall provide a copy of the complaint to the licensee,
11 permittee or certificate of authorization holder.

12 (c) If the board finds, upon investigation, that probable
13 cause exists that the licensee, permittee or certificate of
14 authorization holder has violated any provision of this article or
15 the rules promulgated hereunder, then the board shall serve the
16 licensee, permittee or certificate of authorization holder with a
17 written statement of charges and a notice specifying the date,
18 time and place of the hearing. The hearing shall be held in
19 accordance with the provisions of this article.

§30-22-25. Hearing and judicial review.

1 (a) Any person adversely affected by an order entered by
2 the board is entitled to a hearing. A hearing on a statement of
3 the charges shall be held in accordance with the provisions for
4 hearings set forth in article one of this chapter and the proce-
5 dures specified by the board by rule.

6 (b) Any licensee, permittee or certificate of authorization
7 holder, adversely affected by any decision of the board entered
8 after a hearing, may obtain judicial review of the decision in
9 accordance with section four, article five, chapter twenty-nine-a
10 of this code, and may appeal any ruling resulting from judicial
11 review in accordance with article five, chapter twenty-nine-a of
12 this code.

§30-22-26. Injunctions.

1 (a) When, by reason of an investigation under this article or
2 otherwise, the board or any other interested person believes that
3 a person has violated or is about to violate any provision of this
4 article, any rule promulgated hereunder, any order of the board
5 or any final decision of the board, the board or any other

6 interested person may apply to any court of competent jurisdic-
7 tion for an injunction against such person enjoining such person
8 from the violation. Upon a showing that the person has engaged
9 in or is about to engage in any prohibited act or practice, an
10 injunction, restraining order or other appropriate order may be
11 granted by the court without bond.

12 (b) A cause of action by the board may be brought in the
13 circuit court of the county where the cause of action took place.

§30-22-27. Criminal proceedings; penalties.

1 (a) When, as a result of an investigation under this article
2 or otherwise, the board has reason to believe that a person has
3 knowingly violated the provisions of this article, the board may
4 bring its information to the attention of the Attorney General or
5 other appropriate law-enforcement officer who may cause
6 appropriate criminal proceedings to be brought.

7 (b) If a court of law finds that a person knowingly violated
8 any provision of this article, any rule promulgated hereunder,
9 any order of the board or any final decision of the board, then
10 the person is guilty of a misdemeanor, and upon conviction
11 thereof, shall be fined not less than one hundred dollars and no
12 more than one thousand dollars for each violation, imprisoned
13 for up to thirty days for each violation, or both fined and
14 imprisoned.

§30-22-28. Single act evidence of practice.

1 In any action brought or in any proceeding initiated under
2 this article, evidence of the commission of a single act prohib-
3 ited by this article is sufficient to justify a penalty, injunction,
4 restraining order or conviction without evidence of a general
5 course of conduct.

§30-22-29. Continuation of West Virginia Board of Landscape Architects.

1 Pursuant to the provisions of article ten, chapter four of this
2 code, the West Virginia Board of Landscape Architects shall
3 continue to exist until the first day of July, two thousand nine,
4 unless sooner terminated, continued or reestablished.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Candy White
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within is approved this the 4th
day of April, 2006.

[Signature]
Governor

PRESENTED TO THE
GOVERNOR

MAR 22 2006

Time 3:45 pm