

**ARKANSAS STATE BOARD
OF
LANDSCAPE ARCHITECTS**

ACT



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Arkansas Landscape Architectural Practice Act

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Arkansas Landscape Architectural Practice Act

AN ACT to Regulate the Practice of Landscape Architecture; to Create Arkansas State Board of Landscape Architects; to Provide Examination for Qualification; to Provide for the Issuance of Certificates of Registration and Licenses; and for Other Purposes.

Where, in order to safeguard life, health, and property, it is important that the practice of landscape architecture in this state should be regulated. Now, Therefore,

Be it Enacted by the General Assembly of the State of Arkansas:

17-36-101. Title.

This chapter shall be known and may be cited as the “Landscape Architectural Practice Act”.

17-36-102. Definitions.

- (a) As used in this chapter, unless the context otherwise requires:
 - (1) “Board” means the Arkansas State Board of Landscape Architects;
 - (2) (A) “Landscape architecture” means:
 - (i) Any service or other work, the adequate performance of which requires landscape architectural education, training, and experience;
 - (ii) The performances of professional services such as consultation, investigation, reconnaissance, research, associated planning, design, preparation of drawings, specifications, and contract documents, and responsible supervision or construction management in connection with the development of land areas or water features where, and to the extent that, the dominant purpose of such services is landscape development, preservation, and enhancement, or determination of land uses, natural land features, and functional and aesthetic values;
 - (iii) The determination, location, and construction of aesthetically pleasing and functional approaches and settings for features in the landscape, plantings, landscape irrigation, landscape lighting layout, landscape grading, and landscape drainage;
 - (iv) Environmental planning; and
 - (v) The design of tangible objects and features necessary to the purpose outlined herein.
 - (B) It shall not include the design of buildings, structures, or facilities ordinarily included in the practice of architecture or engineering; and

- (3) "Landscape designer" means a person who makes plans or drawings for the selection, placement, or use of plants when the execution of such plans or drawings does not affect the public health, safety, or welfare.
- (b) The title "landscape architect" shall be used by and shall apply only to a person who is licensed under the authority of this chapter.
- (c) This chapter shall not be construed to:
 - (1) Implicitly amend the definition of "practice of engineering" in §17-30-101, or otherwise limit the scope of the practice of engineering by engineers registered with the State Board of Registration for Professional Engineers and Land Surveyors; or
 - (2) Implicitly amend the definition of "practice of architecture" in §17-15-102, or otherwise limit the scope of the practice of architecture by architects registered and licensed by the Arkansas State Board of Architects.

17-36-103. Penalties.

- (a) It shall be a misdemeanor for any person to:
 - (1) Use the title of landscape architect, unless licensed under this chapter;
 - (2) Present as his or her own the license of another;
 - (3) Give false or forged evidence to the Arkansas State Board of Landscape Architects or any member thereof in obtaining a license;
 - (4) Falsely impersonate any other practitioner of like or different name;
 - (5) Use or attempt to use a license that has been revoked;
 - (6) Otherwise violate any of the provisions of this chapter; or
 - (7) Practice landscape architecture, unless duly licensed under this chapter.
- (b) Such misdemeanor shall be punishable by a fine of not less than one hundred dollars (\$100) and not more than five hundred dollars (\$500) or imprisonment for not more than one (1) year, or both.

17-36-104. Enforcement.

- (a) It shall be the duty of all duly constituted officers of the law of this state, and all political subdivisions thereof, to enforce the provisions of this chapter and to prosecute any person violating the provisions thereof.
- (b) The Attorney General or his or her assistants shall act as legal advisor to the Arkansas State Board of Landscape Architects and shall render legal assistance necessary in carrying out the provisions of this chapter. The board in its discretion may employ such other legal assistance as it may require.

17-36-105. Injunctions.

- (a) (1) The violation of any provision of this chapter and performing or offering to perform any work or service in violation of this chapter or any provision thereof is declared to constitute a nuisance and a threat to the public health, safety, and welfare and may be enjoined by the Arkansas State Board of Landscape Architects in the courts of this state, even though the violation may be punishable by fine.
- (2) The intention of this section is to provide a speedy means of protecting the public.
- (b) The board shall not be required to execute or give bond for cost, indemnity, or stay as a condition to the issuance of a restraining order or injunction, either temporary or permanent, in a court of this state.

SUBCHAPTER 2 – ARKANSAS STATE BOARD OF LANDSCAPE ARCHITECTS.

17-36-201. Members.

- (a) The Arkansas State Board of Landscape Architects shall consist of five (5) voting members and one (1) nonvoting member appointed by the Governor, as follows.
 - (1) Four (4) voting members shall be selected from among all landscape architects licensed and residing in the State of Arkansas;
 - (2) One (1) voting member shall be selected from recommendations furnished by the Consumer Protection Division of the Office of the Attorney General; and
 - (3) The Program Director of the University of Arkansas, School of Architecture, Program in Landscape Architecture, or his or her designee, shall be a nonvoting member.
- (b) Appointments shall be for six-year terms or, in the event of vacancies, for the period of the unexpired term of the vacancy being filled.
- (c) Each member of the board shall receive a certificate of his or her appointment from the Governor, and before beginning his or her term of office shall file with the Secretary of State his or her written oath or affirmation relative to the faithful discharge of his or her official duty.
- (d) The Governor, by due process of law, may remove any member of the board for misconduct, incompetency, or neglect of duty, or for any malfeasance in office.
- (e) Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the Governor within forty-five (45) days after the member's death or resignation.

17-36-202. Meetings.

- (a) The Arkansas State Board of Landscape Architects shall hold at least two (2) regular meetings each year and such other meetings as the board deems necessary.
- (b) Special meetings shall be held at such a time and place as shall be specified by call of the chair of the board or as otherwise determined by the board.
- (c) Board meetings shall be subject to the Freedom of Information Act of 1967, §25-19-101 et seq.

17-36-203. Officers - Quorum.

- (a) The Arkansas State Board of Landscape Architects shall elect annually from its membership a chair, vice-chair, and secretary-treasurer to hold office for one (1) year.
- (b) A quorum of the board shall consist of not fewer than three (3) voting members, and no action shall be official without at least two (2) votes in accord.

17-36-204. Powers and duties.

- (a) The Arkansas State Board of Landscape Architects may do all things necessary and convenient for carrying into effect the provisions of this chapter and may from time to time adopt necessary or desirable rules and regulations in accordance with the Arkansas Administrative Procedure Act, §25-15-201 et seq.
- (b) The board may adopt a seal with such design as it may prescribe engraved thereon.
- (c) The board may administer oaths or affirmations to witnesses appearing before the board.
- (d) After providing notice and a hearing, the board may levy civil penalties in an amount not to exceed one thousand dollars (\$1,000) for each violation against those persons found to be in violation of this chapter or rules and regulations promulgated thereunder, with each day of violation to constitute a distinct and separate offense. These penalties shall be in addition to other penalties which may be imposed by the board pursuant to this chapter.
- (e) Unless the penalty assessed under this section is paid within fifteen (15) calendar days following the date for an appeal from the order, the board shall have the power to file suit in the Circuit Court of Pulaski County to obtain a judgment for the amount of the penalty not paid.
- (f) To the extent funds are appropriated, the board may employ or contract for such staff or services as may be necessary to carry out the provisions of this chapter and put into effect the rules and regulations the board may promulgate.

17-36-205. Records and reports.

- (a) The Arkansas State Board of Landscape Architects shall keep a record of its proceedings and a register of all applications. The register shall show:
 - (1) The name, age, and residence of each applicant;
 - (2) The date of the application;
 - (3) The place of business of the applicant;
 - (4) The applicant's education and other qualifications;
 - (5) Whether or not an examination was required;
 - (6) Examination scores;
 - (7) Whether the applicant was rejected;
 - (8) Whether a license was granted;
 - (9) The date of action of the board; and
 - (10) Other information that may be deemed necessary by the board.
- (b) A transcript of the records of the board, duly certified by the board, shall be admissible in evidence with the same force and effect as if the originals were produced.
- (c) The board shall submit to the Governor an annual report of its transactions of the preceding year by June 1.

17-36-206. Disposition of funds.

- (a) The administration of this chapter shall not depend on the use of funds provided by the State of Arkansas.
- (b)
 - (1) The secretary-treasurer of the Arkansas State Board of Landscape Architects shall receive, disburse, and account for all income paid to or received by the board.
 - (2) The secretary-treasurer shall institute a system of books and financial records satisfactory to the Director of the Department of Finance and Administration and shall open an account at a bank in this state designated by the board as its official depository.

- (3) An officer of the board shall sign all checks disbursing funds of the board as provided by board regulation.
- (4) The secretary-treasurer shall deposit all funds of the board which he or she receives in the bank designated as the official depository within forty-eight (48) hours, excluding holidays and Sundays, after he or she receives the funds.
- (5) Any surplus funds at the end of the fiscal year may be retained by the board for future expenditures.

17-36-207. Continuing education.

- (a) The Arkansas State Board of Landscape Architects may adopt rules and regulations setting the minimum standards of continuing education to ensure that all licensed landscape architects remain informed of those technical and professional subjects which the board deems appropriate to professional landscape architectural practice.
- (b) The board may describe by rules and regulations the methods by which the minimum standards may be satisfied and may provide that failure to satisfy the minimum standards shall be grounds for non-renewal of a landscape architect's license.

SUBCHAPTER 3 – LICENSING.

17-36-301. License or permit required.

- (a) (1) No person shall perform or offer to perform either directly or indirectly, landscape architectural services or assume or use the title or designation of “landscape architect” unless the person shall have secured from the Arkansas State Board of Landscape Architects a license as a landscape architect, in the manner provided in this subchapter and shall thereafter comply with the provisions of this chapter.
- (2) It is the purpose of this chapter to safeguard the health, safety, and welfare of the public.
- (b) Every holder shall display the license or permit in a conspicuous place.

17-36-302. Application.

Application for licensure shall be on forms prescribed and furnished by the Arkansas State Board of Landscape Architects and shall contain statements under oath giving a detailed summary of the applicant’s education and technical experience.

17-36-303. Examination.

- (a) It shall be required that an applicant for licensure be at least twenty-one (21) years of age, be of good moral character, and pass an examination covering the matters confronting landscape architects, which shall either be prepared by the Arkansas State Board of Landscape Architects or another entity as selected by the board.
- (b) In order to qualify for examination, the applicant must:
 - (1) Hold a degree in landscape architecture from an institution accredited by an appropriate authority selected by the board and have satisfactory experience in landscape architecture of a minimum period of time as determined by the board;
 - (2) Hold a degree in a field related to landscape architecture as determined by the board and have four (4) years of experience in landscape architecture satisfactory to the board; or
 - (3) Have seven (7) years of experience in landscape architecture satisfactory to the board.
- (c) The board may require that an application be accompanied by a certificate from the Council of Landscape Architectural Registration Boards which documents that the applicant possessed the qualifications for examination as set forth in this section.
- (d) Examinations for the license shall be administered by the board or its appointed representative at least once each year, provided that applications shall have been received during the period since the last examination was given.
- (e) The board shall publish appropriate announcements and shall conduct the examinations at the times designated.

17-36-304. Reciprocity.

The Arkansas State Board of Landscape Architects may provide for licensure of an applicant who is legally registered or licensed as a landscape architect in any other state whose qualifications for licensure are generally equivalent to that of Arkansas.

17-36-305. Fees – Penalty for nonpayment.

- (a) (1) Every landscape architect shall pay an annual license fee in an amount determined by the Arkansas State Board of Landscape Architects not to exceed three hundred dollars (\$300). The fee shall be due and payable annually on a date designated by the board.
 - (2) (A) Each license shall expire annually on a date designated by the board, and each licensee whose license is not renewed by the board within thirty (30) days thereafter shall not perform or offer to perform any work or service as a landscape architect.
 - (B) The board shall issue a renewal to each licensee who shall submit a renewal application on a form approved by and received by the board accompanied by:
 - (i) The annual license fee as provided in subdivision (a)(1) of this section; and
 - (ii) Documentation acceptable to the board of the minimum number of continuing education units as provided in §17-36-207 and by board regulation.
 - (C) A landscape architect who does not renew his or her license within thirty (30) calendar days after the expiration of the prior year's license shall pay a late fee not to exceed fifty dollars (\$50.00) each month or part thereof not to exceed ninety (90) calendar days after the expiration date.
 - (D) Any license not renewed within ninety (90) calendar days after the expiration date shall be void and shall not be renewed.
 - (E) (i) Any landscape architect who fails to renew his or her license within ninety (90) calendar days after the expiration date thereof due to non-payment of fees or failure to comply with continuing education requirements may apply for reinstatement of his or her license.
 - (ii) The application shall be accompanied by documentation of continuing education units, a reinstatement fee not to exceed five hundred dollars (\$500) per year for each year or portion thereof since the date of expiration of the license, both as determined by the board, and the annual license fee.
 - (iii) The board may reinstate the license if it determines that the applicant is able to practice as a landscape architect without danger to the public health, safety, and welfare.
 - (iv) Provided however, after three (3) years following the expiration date of a license which has not been renewed or reinstated by the board, the applicant may be relicensed only upon successful completion of the examination for new applicants provided in this chapter and other proof of the applicant's qualifications to practice landscape architecture as required by the board.
- (b) (1) The fees for examination and reexamination shall be the cost of the examination as determined by the board.
 - (2) The application and examination administration fee shall not exceed two hundred and fifty dollars (\$250).
 - (3) The fee for a duplicate certificate shall not exceed one hundred dollars (\$100).
- (c) The board may provide for issuing of emeritus licenses at an annual fee and subject to conditions as determined by the board to landscape architects who are at least sixty-five (65) years of age, have retired, and do not practice landscape architecture.

17-36-306. Grounds for revocation.

The examining body shall have the power to deny, suspend or revoke the license of any landscape architect upon proof:

- (1) That the holder of the license is practicing in violation of this chapter or in violation of the proper rules and regulations of the Arkansas State Board of Landscape Architects governing this chapter;
- (2) That the license or certificate has been obtained by fraud or misrepresentation or the person named therein has obtained it by fraud or misrepresentation;
- (3) That any money, except the regular fees provided for, has been paid for the license or certificate;
- (4) That the holder of the license or certificate is falsely impersonating a practitioner or former practitioner of a like or different name or is practicing under an assumed or fictitious name;
- (5) That the holder of the license or certificate has been guilty of a felony;
- (6) That the holder of the license or certificate has been guilty of fraud or deceit or of gross negligence or misconduct in the practice of landscape architecture;
- (7) That the holder of the license or certificate affixed, or permitted to be affixed, his or her seal or name to any plans, specifications, drawings, or related documents which were not prepared by the holder or under his or her responsible supervisory control;
- (8) That the holder of the license or certificate has been adjudged mentally incapable by a court of competent jurisdiction;
- (9) That the holder of the license has committed gross unprofessional conduct; or
- (10) That the holder of the license has:
 - (A) Had a professional license suspended or revoked.
 - (B) Had imposed other disciplinary action by a regulatory body of another state for any cause other than failure to pay applicable fees; or
 - (C) Surrendered or did not renew a professional license after the initiation or any investigation or proceeding by such a body.

17-36-307. Revocation proceedings.

- (a) (1) Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against any licensee. The charges shall be:
 - (A) In writing,
 - (B) Sworn to by the person making them; and
 - (C) Filed with the Arkansas State Board of Landscape Architects.
- (2) On its own motion, the board may initiate a proceeding against a licensee.
- (b) All charges deemed worthy of consideration by the board shall be investigated by the board.
- (c) (1) Where the board determines that there is sufficient evidence of a violation of this chapter or board regulations, the board may conduct a hearing.
- (2) The board will conduct any such hearing pursuant to the Arkansas Administrative Procedure Act, §25-15-201 et seq.
- (d) If after hearing the board finds that the individual has violated applicable law, the board may impose any one or more of the following sanctions:
 - (1) Suspension, revocation, or denial of the license or renewal thereof,
 - (2) A civil penalty as provided in §17-36-204;
 - (3) Require completion of appropriate educational programs or courses;
 - (4) Require successful completion of the licensing examination;
 - (5) Place conditions or restrictions upon the licensee's license or practice; or

- (6) Such other requirements or penalties as may be appropriate to the circumstances of the case and which would achieve the desired disciplinary purposes.

17-36-308. Reissuance.

The Arkansas State Board of Landscape Architects for reasons it may deem sufficient may reissue a license to any person whose license has been suspended, revoked, or surrendered after receipt of a complaint or the initiation of any investigation, providing that no charges of violation of this chapter are pending in any court of record in this state and that three (3) or more members of the board vote in favor of reissuance.

17-36-309. Exemptions from licensing.

- (a) The following are exempt from licensing under this chapter:
 - (1) The practice of landscape architecture by any person, who acts under the supervision of a licensed landscape architect or by an employee of a person lawfully engaged in the practice of landscape architecture and who, in either event, does not assume responsible charge of design or supervision;
 - (2) The practice of landscape architecture by employees of the United States Government while engaged in the practice of landscape architecture within this state on behalf of the United States Government.
 - (3) The practice of landscape architecture by employees of the state or a municipal government while providing services for the governmental employer's facilities;
 - (4) The practice of planning as customarily done by regional and urban planners;
 - (5) The practice of arborists, foresters, gardeners, nurserymen, landscape contractors, home builders, floriculturists, ornamental horticulturists, landscape designers, irrigation designers, and irrigation contractors performing their respective trades or professions; and
 - (6) The practice of architecture or engineering as defined by the laws of this state.
- (b) None of the persons referred to in subsection (a) of this section shall use the title of landscape architect without complying with the provisions of this chapter.

17-36-310. Official seal.

Upon licensure, each licensee under this chapter shall obtain a seal of such design as the Arkansas State Board of Landscape Architects shall authorize and direct. Plans and specifications prepared by, or under the supervision of a licensed landscape architect shall be stamped with this seal during the life of the landscape architect's license. It shall be unlawful for anyone to stamp or seal any documents with the seal after the license of the landscape architect named thereon has expired or has been surrendered, suspended, or revoked.

