

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1733

H. P. 1390

House of Representatives, April 13, 1977

On Motion of Mr. Curran of South Portland, referred to the Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Greenlaw of Stonington.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**AN ACT Creating a Maine State Board for Registration of Architects and
Landscape Architects.**

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 5 MRSA § 2301, sub-§1, 14th ¶ is repealed and the following enacted in its place:

Board of Registration for Architects and Landscape Architects.

Sec. 2. 32 MRSA c. 3, as amended is repealed.

Sec. 3. 32 MRSA c. 3-A is enacted to read:

CHAPTER 3-A

ARCHITECTS AND LANDSCAPE

ARCHITECTS

SUBCHAPTER I

BOARD OF REGISTRATION

§ 211. Membership; term

A state board for registration of architects and landscape architects, as hereafter created and hereinafter in this chapter called the "board" shall administer this chapter and may be cited as the "Maine State Board for Registration of Architects and Landscape Architects."

The board shall be appointed by the Governor and shall be composed of 5 registered and practicing architects, one of whom may be a professor of

architecture, 2 registered and practicing landscape architects, and one representative of the public. The term of office for each present member of the Maine State Board for Registration of Architects shall expire as now provided. Landscape architect members shall initially be appointed, one for a 2-year term and one for a 3-year term. Thereafter all board members shall be appointed for 3-year terms, except that if more than 3 members' terms expire during any one calendar year the following rules shall apply: Members appointed to fill the first 2 vacancies shall be appointed for 3-year terms, the member appointed to fill the 3rd vacancy shall be appointed for a 2-year term, all members appointed to fill any additional scheduled vacancies during that year shall be appointed to 1-year terms. All board members shall serve until their successors are duly appointed and qualified. Each member of the board shall receive a certificate of his appointment from the Governor.

§ 212. Qualifications for members

Each member of the board shall be a citizen of the United States, a resident of this State and in the case of architect or landscape architect members shall be of recognized standing and engaged in the independent practice of architecture or landscape architecture for at least 5 years prior to appointment. The member who may be a professor of architecture in any college or university of this State shall have combined experience in practice and teaching of not less than 5 years, at least 2 of which shall have been in the active practice of architecture as a profession.

§ 213. Organization; meetings; compensation; quorum; seal

The board shall hold at least 2 meetings each year for the purpose of examining candidates for registration. Special meetings shall be held at such times as the regularly adopted rules and regulations of the board shall provide. The members of the board shall each receive a compensation for their services of \$35 a day for each meeting and their actual and necessary expenses incurred in the discharge of their duties. These expenses shall be certified by the secretary of the board.

Five members of the board shall constitute a quorum except that no certificate of registration shall be issued or revoked except on an affirmative vote of at least 5 members of the board. The board shall annually elect a chairman and a secretary. The secretary may receive an annual salary to be fixed by the board not to exceed \$5,000, which shall be in lieu of a per diem compensation. The secretary shall be paid his necessary expenses incurred in the discharge of his official duties, including clerical and stenographical assistance, printing and postage. Such salary and allowance for expenses shall be certified by the chairman of the board.

§ 214. Powers and duties

The board shall, in accordance with the spirit and intent of the law, make such rules and regulations necessary for the performance of its duties and for carrying out the purposes of this chapter.

The board shall, in accordance with the purpose and intent of the law and the standards set forth in this chapter, make such other reasonable rules and

regulations as are appropriate to establish and maintain high standards of ethical conduct. These shall include, but not be limited to, rules and regulations concerning misconduct, compensation, fee-splitting, advertising and standards of workmanship.

The board, or any committee thereof, shall be entitled to the services of the Attorney General and the services of the prosecuting attorney for the county in which enforcement is required. The board shall have the power to employ legal advice and such other assistance as may be deemed necessary for the proper conduct of its affairs, the expense of such assistance to be defrayed by the revenues provided by this chapter.

§ 215. Removal of members; vacancies

The Governor may by due process of law remove any member of the board for misconduct, incompetency, neglect of duty or for any malfeasance in office. Vacancies in the membership of the board shall be immediately filled for the unexpired term.

If the Governor fails to name a successor for any vacancy on the board within 2 months after the vacancy occurred, the remaining members of the board shall be empowered to, and may, fill the vacancy of the architect or landscape architect member by giving the Governor 10 days' written notice that they are about to take such action, and at the expiration of the 10 days' notice, unless the Governor shall within that period make an appointment, may elect an architect or landscape architect having the necessary qualifications to serve out the vacant term.

§ 216. Records

The board shall keep a record of its proceedings and a register of all applications for registration and registrants.

§ 217. Reports

Not later than August 1st of each year, the board shall submit to the Governor a report of its transactions of the preceding fiscal year ending June 30th, and shall transmit to him a complete statement of all receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

§ 218. Hearings

Any person may prefer charges of fraud, deceit, gross negligence, incompetency or misconduct against any registrant. Such charges shall be sworn to by the person making them and shall be filed with the secretary of the board.

All valid charges shall be heard within 3 months following the date received by the secretary. The hearing shall be held in accordance with Title 5, Chapters 301-307. If the Administrative Court Judge finds that the licensed architect or landscape architect has violated the provisions of this chapter he shall revoke or suspend the certificate of registration of that architect or landscape architect for a period of one year.

The board, according to rules it shall adopt, may reissue a certificate of registration to any person whose certificate has lapsed or has been suspended or revoked, provided no suit is pending for charges of a violation of this chapter against that person in any court of record of this State and that the board is unanimous in its decision; except in the case where charges have been maintained and the registrant has been convicted, in which case no certificate shall be reissued during 12 months from the date of lapse, suspension or revocation of the previous certificate.

SUBCHAPTER II REGULATION OF ARCHITECTS AND LANDSCAPE ARCHITECTS

§ 220. Practice forbidden unless registered; qualifications

1. Architects.

A. No person shall practice architecture or hold himself out to practice architecture within the State or use the title "architect" or call himself an architect or sign drawings or specifications as an architect, unless he shall be duly registered by the board.

As used in this chapter, the practice of architecture shall consist of rendering or offering to render service to clients by consultations, investigations, preliminary studies, plans, specifications, contract documents and a coordination of structural factors concerning the aesthetic or structural design and inspection of construction of buildings or any other service in connection with the designing or inspection of construction of buildings located within the State, regardless of whether such persons are performing one or all of these duties, or whether they are performed in person or as the direct-

The practice of architecture shall not include the practice of landscape architecture as defined in this chapter. A registered architect may do such landscape architectural work as is incidental to his work.

B. Qualifications.

(1) To be qualified for admission to the examination to practice architecture in this State an applicant must submit evidence to the board that:

(a) He is at least 21 years of age;

(b) He is a graduate of an approved senior high school including not less than one year in the basic science of chemistry and physics and 3 years of mathematics, or equivalent training;

(c) He has completed a course of study in a school or college of architecture approved by the board, with graduation therefrom as evidenced by a diploma setting forth a satisfactory degree, and 3 years of practical experience in the office of an experienced architect or architect or architects engaged in the practice of architecture as a profession; or

(d) Training or practical experience, or a combination of both, which in the opinion of the board, is fully equivalent to that required in division (c).

(2) No corporation shall be registered to practice architecture in this State, but it shall be lawful for employees of a corporation to practice architecture providing the chief executive officer of such corporation shall be a registered architect and all drawings and plans and specifications and supervision of construction or alterations of buildings or projects by such corporation shall be under the personal direction of such registered architect.

2. Landscape architects.

A. No person shall practice landscape architecture or hold himself out to practice landscape architecture within the State or use the title "landscape architect" or call himself a landscape architect or sign drawings or specifications as a landscape architect unless he shall be duly registered by the board.

As used in this chapter, the practice of landscape architecture shall consist of rendering or offering to render services to clients by consultations, investigations, preliminary studies, plans, specifications, contract documents involving the development of land and incidental water areas where and to the extent that the dominant purpose of such services is the preservation, enhancement or determination of proper land uses, natural land features, naturalistic and aesthetic values, the settings and approaches to buildings, structures, facilities or other improvements, and natural drainage and the consideration, determination and solution of inherent problems of the land relating to erosion, wear and tear, blight or other hazards. Also the practice of landscape architecture shall include the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined herein.

The practice of landscape architecture shall not include the practice of architecture as defined in this chapter. A registered landscape architect may do such architectural work as is incidental to his work.

B. Qualifications.

(1) To be qualified for admission to the examination to practice landscape architecture in this State an applicant must submit evidence that:

(a) He is at least 21 years of age;

(b) He is a graduate of an approved senior high school;

(c) He has completed a course of study in a school or college of landscape architecture acceptable to the board, with graduation therefrom as evidenced by a diploma setting a satisfactory degree, and 2 years of practical experience in landscape architectural work of a grade and character satisfactory to the board; or

(d) Training or practical experience, or a combination of both, which in the opinion of the board, is fully equivalent to that required in division (c).

(2) No corporation shall be registered to practice landscape architecture in this State, but it shall be lawful for employees of a corporation to practice landscape architecture provided the chief executive officer of such corporation shall be a registered landscape architect and all drawings and plans to specifications and supervision of the development or improvement of land and water areas shall be under the personal direction of such registered landscape architect.

§ 221. Examinations

Examinations for registration as an architect or landscape architect shall be held by the board at least once each year, provided that applications have been received during the time announced. The board shall make all necessary rules and regulations governing the time, place and method of giving and grading examinations, shall publish appropriate announcements and shall conduct examinations at the time designated for all applicants who desire to be registered as an "architect" or "landscape architect" and to engage in performing the functions of an architect or landscape architect. The board shall have the power to provide a reasonable division into classes of the various applicants and the examination to be taken in each class. Examinations shall consist of such technical and professional subjects and oral questioning as the board may from time to time prescribe. The rules for the examination shall follow the recommendations of the board.

§ 222. Fees

For the purpose of defraying the expenses of the board, and as required for carrying out this chapter, the following fees and penalties shall be paid.

1. Application for registration. For an application for registration an amount shall be fixed by the board which shall not exceed the sum of \$50.

2. Examination fee. For an examination fee an amount shall be fixed by the board which shall not exceed the sum of \$50.

3. Certificate of registration; resident. For a certificate of registration for a resident by transfer of registration from another state or country, an amount shall be fixed by the board which shall not exceed the sum of \$100.

4. Certificate of registration; nonresident. For a certificate of registration for a nonresident an amount shall be fixed by the board which shall not exceed the sum of \$200.

5. Renewal. For the annual renewal of a registration certificate an amount shall be fixed by the board which shall not exceed the sum of \$25.

6. Reissuance. For the reissuance of a lapsed or suspended certificate, an amount shall be fixed by the board which shall not exceed the sum of \$50.

All fees must accompany applications and no part of these fees shall be refunded, except such part as may be provided under the rules of the board to be refunded when no certificate is issued.

§ 223. Registration without examination

1. Resident registration from other states. Certificates of registration may be issued to residents who hold or have held certificates of registration from other states, provided the requirements of such certificates of registration are deemed equivalent to requirements for registration in this State by examination, and provided the applicants submit such other evidence of his ability as may be required by the board.

2. Nonresident registration. Certificates of registration may be issued to nonresidents who hold an unexpired certificate of registration issued to him by any state or territory or possession of the United States or any country, provided the requirements of the registration under which certificates of registration were issued do not contravene this chapter and are deemed the equivalent of requirements for registration in this State by examination, and provided the applicant submit such other evidence of his ability as may be required by the board.

3. Certification by National Council of Architectural Registration. Certificates of registration may be issued to persons who have passed a standard National Council of Architectural Registration Boards' examination and have received certification thereof by the National Council of Architectural Registration Boards, and the further evidence of continued honorable professional conduct after the passing of such examination.

4. Certification by the Council of Landscape Architectural Registration Board. Certificates of registration may be issued to persons who have passed a standard Council of Landscape Architectural Registration's examination and have received certification thereof, and the further evidence of continued honorable professional conduct after the passing of such examination.

5. Prior practice. Certificates of registration may be issued to a resident of the State who has been actively engaged in the practice of landscape architecture as defined in this chapter and has used the title "landscape architect" for a minimum of one full year preceding the enactment of this legislation, provided that proof of the applicant's practice of landscape architecture and use of the title "landscape architect" is presented to the satisfaction of the board, and provided such application is made on or before December 31, 1978.

§ 224. Certificate of registration

The board shall issue a certificate of registration, upon payment of the fee provided for in this chapter, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter. Certificates shall bear a serial number and the full name of the registrant, and shall bear the signatures of the chairman and secretary, and the seal of the board.

Issuance of a certificate of registration by the board shall be evidence that the person named therein is entitled to all the rights and privileges of a registered architect or registered landscape architect while the certificate remains unexpired and unrevoked. The certificate shall be synonymous with registration, with the full meaning and effect of a license to practice architecture or landscape architecture.

Certificates of registration shall expire on the last day of June of each year and shall become invalid on that date unless renewed. Renewal may be effected at any time during the month of June by payment of the renewal fee as provided. In the case of a revoked, lapsed or suspended registration, the board shall have the power to compel the return of the certificate within one month from the date of its expiration, provided there is no reissue of the certificate.

§ 225. Seal

Each registrant shall upon registration obtain a seal of such design as the board shall authorize and direct. Plans and specifications, prepared by or under the direct supervision of a registered architect in the case of an architect registrant, and under the direct supervision of a registered landscape architect in the case of a landscape architect registrant, shall be stamped with the seal during the life of the registrant's certificate, and it shall be unlawful for anyone to stamp or seal any documents with the seal after the certificate of the registrant named thereon has expired or has been revoked, unless the certificate shall have been renewed or reissued.

§ 226. Exceptions

1. Practices excepted. Nothing in this chapter shall be construed to affect or prevent the practice of:

- A. The supervision of construction;
- B. Marine or naval architects acting within the scope of their profession or occupation;
- C. Officers or employees of the Government of the United States engaged within the State in the practice of architecture or landscape architecture for that government;
- D. Any person, in the regular employment of a public utility, carrying out work incidental to his employment;
- E. Any person who is qualified under the law to use the title "professional engineer," provided such person may do only architectural or landscape architectural work as is incidental to his engineering work;
- F. A landscape contractor acting as such; or
- G. Any agriculturist, horticulturist, forester, land use planner, nurseryman, gardner, caretaker, or cultivator of land, acting within the scope of their professions.

2. Drawings and specifications; construction or development. Nothing in this chapter shall be construed to prevent any person from making a set of drawings or specifications for, or supervising the construction or development of, or the occasional or incidental erection, construction or development of:

- A. Any building intended for occupancy by himself or any person, association or corporation regularly employing him;

- B. Any building used for farm purposes;
- C. Any single family residence used by that person as his home;
- D. Any remodeling or alteration of existing buildings not involving structural changes; provided such person shall not receive any compensation for making such drawings and specifications; and
- E. Any land or body of water which is the primary or temporary residence of that person or any person, association or corporation regularly employing that person.

§ 227. Enforcement

It shall be the duty of all duly constituted law enforcement officers of the State and all political subdivisions thereof to enforce this chapter and to prosecute any persons violating this chapter.

§ 228. Penalties

Violation of any provision of this chapter shall be a Class E crime punishable by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than 3 months, or by both.

STATEMENT OF FACT

The purpose of this bill is to incorporate licensing procedures for landscape architects with the licensing procedures for architects, and to create a Board for the Registration of Architects and Landscape Architects.