

CHAPTER 90

(HB 314)

AN ACT relating to landscape architects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 323A IS CREATED TO READ AS FOLLOWS:

An individual may be granted an inactive or retired license annually under the following conditions:

- (1) *An application for renewal of inactive status shall be upon a form and for a fee to be set by the board through the promulgation of administrative regulations. Each applicant shall furnish all information required by the board;*
- (2) *A licensee is exempt from continuing education requirements while on inactive or retired status;*
- (3) *An inactive or retired licensee may use and maintain the title of landscape architect but shall not engage in the practice of landscape architecture;*
- (4) *Inactive or retired licensees may apply for an active license after:*
 - (a) *Paying a fee and obtaining continuing education pursuant to administrative regulations promulgated by the board; and*
 - (b) *Meeting the requirements of subsection (5) of Section 7 of this Act; and*
- (5) *An inactive or retired licensee shall give the board written notice of any change of address within thirty (30) days.*

➔Section 2. KRS 323A.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Board" means the **Kentucky**{State} Board of ~~Examiners and Registration of~~ Landscape Architects ~~of Kentucky~~;
- (2) "Landscape architect" means a person who engages in the practice of landscape architecture as defined in subsection (3) of this section;
- (3) The "practice of landscape architecture", means to render or offer to render any professional service in connection with the planning of outdoor space involving the relationships of people, flora and fauna, and facilities, with emphasis on the function, preservation, conservation, restoration, and enhancement of the physical environment, by arranging land and water and the elements thereon, including the alignment of roadways and the location of buildings, service areas, parking areas, walkways, steps, ramps, pools, and other structures, and the grading of the land, surface and sub-soil drainage, erosion control, planting, reforestation, and the preservation of the natural landscape ecology and environment, in accordance with the accepted professional standard of public health, welfare, and safety. 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 in this subsection. The practice of landscape architecture shall not include the design of structures of facilities with separate and self-contained purposes for habitation or industry, public streets or streets intended for public dedication, highways, utilities, storm and sanitary sewers, or sewage treatment facilities, if ordinarily included in the practice of engineering or architecture. Nothing contained in this subsection shall preclude a duly licensed landscape architect from performing any of the services described in the first sentence of this subsection in connection with the setting, approaches, or environment for buildings, structures, or facilities; **and**
- (4) "Professional services" means the providing of professional landscape architectural services for compensation. "Professional services" may include consultation, investigation, reconnaissance, research, planning, design, or responsible supervision;
- ~~(5) "Expired license" means the status of a landscape architect's license if the license has not been renewed for failure to pay the required renewal fees or for failure to meet the continuing education requirements as provided in KRS 323A.100;~~

- (6) ~~"Suspended license" means the status of a landscape architect's license if the license is inoperative for failure to renew the license beyond the expiration date or because of action of the board;~~
- (7) ~~"Revoked license" means the status of a landscape architect's license if the privilege to engage in the practice of landscape architecture has been canceled;~~
- (8) ~~"Inactive license" means the status of a landscape architect's license if the licensee has voluntarily chosen not to practice landscape architecture].~~

➔SECTION 3. KRS 323A.040 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Every applicant for licensure as a landscape architect shall:

- (1) *Be at least twenty-one (21) years of age;*
- (2) *Be a graduate of an accredited landscape architecture curriculum approved by the board;*
- (3) *Pass a national examination as prescribed by the board;*
- (4) *Submit a completed application as provided by the board through the promulgation of administrative regulations;*
- (5) *Pay the required fees; and*
- (6) *Document at least two (2) years of experience related to the practice of professional landscape architecture under the supervision of a licensed landscape architect, engineer, or architect, within five (5) years prior to submitting the application for licensure.*

➔Section 4. KRS 323A.050 is amended to read as follows:

Any person who is a licensed landscape architect in *the United States or* another~~[-state or-]~~ country where the qualifications prescribed at the time of licensing were, in the opinion of the board, equal to those prescribed in the Commonwealth at the date of application, may be granted a license~~[-without an examination].~~

➔SECTION 5. KRS 323A.060 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *The board shall promulgate administrative regulations to establish the following fees:*
 - (a) *Application fee;*
 - (b) *Reinstatement fee;*
 - (c) *Reactivation fee;*
 - (d) *Renewal fees for active, inactive, and retired licensees; and*
 - (e) *Duplicate license fee.*
- (2) *The fees as established by administrative regulation shall be paid to the board, and shall not be refunded in whole or in part.*

➔Section 6. KRS 323A.080 is amended to read as follows:

- (1) Each landscape architect licensed to practice within the Commonwealth shall secure ~~a[an embossed circular]~~ seal of the design prescribed by the administrative regulation of the board.
- (2) *Each landscape architect shall sign and seal* all working drawings, specifications, and reports prepared by *the landscape architect[-]* or under *his or her[the]* supervision~~[-of the individual, partnership, or firm shall bear the imprint of this seal.~~
- (3) ~~No landscape architect shall sign or affix his seal to any drawings, specifications or reports which have not been prepared under his immediate supervision].~~

➔SECTION 7. KRS 323A.100 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *All landscape architects desiring to continue practice shall annually, prior to July 1, renew their licenses upon the payment of a fee and completion of approved continuing education as established by the board through the promulgation of administrative regulations. Each landscape architect shall furnish the information required by the board.*
- (2) *Each landscape architect shall give the board written notice of any change of address within thirty (30) days.*

- (3) *Licenses expire on July 1. Thereafter, individuals whose licenses have expired as a result of nonrenewal may not hold themselves out to be landscape architects or engage in the practice of landscape architecture.*
- (4) *The board may restore a license within five (5) years of last expiration, upon receipt of payment of all applicable fees, including a reinstatement fee, and completion of approved continuing education as established by the board through the promulgation of administrative regulations.*
- (5) *Beginning on January 1, 2015, any landscape architect who fails to maintain an active license for five (5) or more consecutive years or who does not hold a valid license described in Section 4 of this Act may restore his or her license only upon retaking and passing the current examination required by the board for licensure, and paying the reinstatement fee.*

➔Section 8. KRS 323A.110 is amended to read as follows:

~~{(1)}~~ The board may *refuse to issue or renew a license, or may place on probation, reprimand,* suspend, or revoke the license of any landscape architect to practice landscape architecture in the Commonwealth of Kentucky, and may impose a fine of not less than one hundred dollars (\$100) nor more than ~~ten~~^{one} thousand dollars ~~(\$10,000)~~^(\$1,000) per violation, for any of the following reasons:

- ~~(1)(a)}~~ *Incompetence*~~[Gross incompetency]~~ or ~~gross~~ negligence in *the practice of landscape architecture*~~[planning or designing the development of land areas]~~, as determined by the board;
- ~~(2)(b)}~~ Unprofessional conduct, or conduct tending to bring the profession into disrepute, as determined by the board;
- ~~(3)(c)}~~ Conviction of a felony, *including all instances in which a plea of nolo contendere or no contest is the basis of the conviction;*
- ~~(4)(d)}~~ Fraudulent or dishonest landscape architectural practice;
- ~~(5)(e)}~~ Use of false evidence or misrepresentations in an application for license;
- ~~(6)(f)}~~ Signing or affixing his *or her* seal to any plans, prints, specifications, or reports which have not been prepared by *the landscape architect*~~[him]~~ personally or under his *or her* immediate supervision;
- ~~(7)(g)}~~ Failure to meet the continuing education requirements established by administrative regulation of the board;
- (8) *Impairment due to drugs, alcohol, or mental disability to an extent that continued practice may be dangerous to clients or to public safety;*
- (9) *Failure to comply with an order issued by the board; and*
- (10) *Violation of any state statute or administrative regulation governing the practice of landscape architecture.*

~~{(2)}~~ The board shall revoke the license of a landscape architect who practices landscape architecture while his license is inactive or suspended.

➔Section 9. KRS 323A.120 is amended to read as follows:

- (1) No *licensee*~~[license]~~ shall be *disciplined*~~[revoked or suspended]~~ without *an opportunity for* a hearing~~[, except a license suspended for failure to either pay a required fee or meet the continuing education requirements as established by administrative regulation of the board]~~. Hearings of the board shall be conducted in accordance with KRS Chapter 13B.~~[The board may proceed against a licensee on its own initiative, on the basis of either information contained in its own records or information obtained through its informal investigation. If a formal complaint, verified by affidavit, is filed with the board by a responsible citizen or organization, containing allegations that if it were true shall warrant suspension or revocation of a license, the board shall proceed against the licensee within three (3) months.]~~
- (2) Any *disciplined licensee*~~[person whose license is revoked or suspended]~~ may appeal the final order to Franklin Circuit Court in accordance with KRS Chapter 13B.

➔Section 10. KRS 323A.170 is amended to read as follows:

Four (4) members of the board appointed by the Governor shall be landscape architects *licensed*~~[registered]~~ in the Commonwealth of Kentucky, and shall have been residents of this Commonwealth for at least five (5) years immediately preceding their appointment. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. Each member shall serve for a term of three (3) years, and

until ~~a~~^{his} successor is appointed and qualified, ~~except that of the members appointed after July 15, 1998, two (2) members appointed to fill the terms expiring on June 30, 2000, shall serve until February 1, 2001; and subsequent appointments shall be for three (3) year terms ending on February 1.~~

→ Section 11. KRS 323A.180 is amended to read as follows:

The board, ~~at the first meeting of each fiscal year,~~ shall elect a **chairperson**, ~~president and~~ secretary, and treasurer **annually, or more frequently if required by the circumstances**. The offices of secretary and treasurer may be held by the same person.

→ Section 12. KRS 323A.190 is amended to read as follows:

Each member of the board shall receive an amount not to exceed ~~two~~^{one} hundred dollars (~~\$200~~){(\$100)} for each day or part thereof spent in the performance of ~~his~~ official duties, including time spent in necessary travel. In addition, each member of the board shall be reimbursed for all necessary and proper traveling and incidental expenses incurred in connection with ~~these~~^{his} duties.

→ Section 13. KRS 323A.200 is amended to read as follows:

A quorum of the board shall consist of at least three (3) members. The concurring votes of three (3) members shall be considered as the action of the board, ~~except in the case of revoking a license, in which case, the unanimous vote of the board shall be required.~~

→ Section 14. KRS 323A.210 is amended to read as follows:

(1) The board shall:

- (a) Adopt and provide itself with a seal with a band inscribed, "**Kentucky**~~(State)~~ Board of ~~Examiners and Registration of~~ Landscape Architects~~(of Kentucky)~~" with the coat of arms of the state in the center;
- ~~(b)~~ ~~Make all necessary administrative regulations concerning the contents and conduct of examinations, the method and time for filing applications for examinations and the time within which an applicant shall be examined after his application has been filed;~~
- ~~(e)~~ Keep a complete record of its proceedings and an accurate list of all applications made, licenses issued, ~~licenses suspended,~~ inactive **and retired** licenses, and licenses **disciplined**~~(revoked)~~;
- ~~(c)~~~~(d)~~ Make a general report including finances to the Governor annually; and
- ~~(d)~~~~(e)~~ Employ legal counsel or contract for legal services it considers necessary.

(2) The board may:

- (a) **Promulgate**~~Adopt~~ administrative regulations necessary to **maintain**~~establish~~ a program of continuing education for **licensees**~~registrants under this chapter~~. Continuing education requirements shall be determined by administrative regulation of the board. No requirement for continuing education shall exceed fifteen (15)~~eleven~~ hours per year.
- (b) Adopt all reasonable administrative regulations **consistent**~~not inconsistent~~ with this chapter that are necessary to carry into effect the purposes of this chapter.

→ Section 15. KRS 323A.230 is amended to read as follows:

Whenever in the judgment of the board any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, a violation of KRS 323A.020, the board may ~~inform the Attorney General, who may~~ make application to the Franklin Circuit Court for an order enjoining such acts or practices, or the board may inform the **prosecuting**~~Commonwealth's~~ attorney of the county in which the acts or practices are occurring or will occur who may make application to the Circuit Court of that county for an order enjoining such acts or practices. Upon a showing by the board that such person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court. Any order of the Franklin Circuit Court shall be enforceable and shall be valid anywhere in this Commonwealth and the order of either court shall be reviewable as provided in the Rules of Civil Procedure, in the case of other injunctions and restraining orders.

→ Section 16. KRS 323A.990 is amended to read as follows:

Any person who violates any provision of this chapter shall be **guilty of a Class A misdemeanor**~~(fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000))~~.

➔Section 17. KRS 224.10-052 is amended to read as follows:

- (1) The Office of Occupations and Professions in the Public Protection Cabinet shall provide administrative services, technical assistance, and advice to the following boards and commissions at the request of the individual boards or commissions, all of which maintain their identity and their full authority for making policy decisions in the fields that they regulate: the State Board of Accountancy, the Kentucky Board of Architects, the Kentucky Board of Barbering, the Kentucky Board of Hairdressers and Cosmetologists, the State Board of Podiatry, the Kentucky State Board of Chiropractic Examiners, the Kentucky Board of Dentistry, the State Board of Embalmers and Funeral Directors, the State Board of Registration for Professional Engineers and Land Surveyors, the Kentucky Board of Nursing, the Kentucky Board of Ophthalmic Dispensers, the Kentucky Board of Optometric Examiners, the Kentucky Board of Pharmacy, the State Board of Physical Therapy, the State Board of Examiners of Psychologists, the Kentucky Real Estate Commission, the Kentucky Board of Veterinary Examiners, the Board of Auctioneers, the ~~Kentucky State Board of Examiners and Registration of~~ Landscape Architects, the State Board of Medical Licensure, the Board of Speech-Language Pathology and Audiology, the Kentucky Board of Licensure for Nursing Home Administrators, the Kentucky Licensing Board for Specialists in Hearing Instruments, the Kentucky Board of Social Work, and such other boards and commissions as are created to license, certify, register, or otherwise regulate any occupational or professional category.
- (2) The office may also provide administrative services to a board or commission that is created to license, certify, register, or otherwise regulate any occupational or professional category if these administrative services are deemed to be preferable or required after the review process conducted under KRS 224.10-053.
- (3) To the extent that the office provides administrative services, the respective boards and commissions are relieved of the power and duty to provide the services for themselves. The office shall charge each board or commission a reasonable amount for administrative services provided pursuant to subsection (1) of this section. The office may employ persons previously employed by boards or commissions.
- (4) The office may receive complaints against the conduct of licensees granted licensure by the boards and commissions assigned to the office for administrative purposes. The office shall cause such complaints to be reduced to writing and forwarded to the appropriate board or commission for investigation and a determination of the validity of the complaint. The office shall keep a record of all complaints received by it and forwarded to a board or commission.
- (5) Any board or commission listed in subsection (1) of this section, shall accept personal checks in payment of license renewal fees.

➔Section 18. The following KRS sections are repealed:

323A.025 Effect of expired, suspended, revoked, or inactive license -- Restoration or reactivation of license.

323A.070 Reexamination.

323A.090 Form of license certificate.

Signed by Governor April 10, 2014.