

AN ACT

To amend sections 3.16, 119.06, 4703.071, 4703.15, 4703.30, 4703.31, 4703.32, 4703.33, 4703.331, 4703.34, 4703.35, 4703.36, 4703.37, 4703.38, 4703.41, 4703.44, 4703.46, 4703.49, 4703.50, 4703.52, 4703.53, and 4703.99, to enact section 4703.411, and to repeal sections 4703.42, 4703.43, and 4703.45 of the Revised Code to eliminate the process for reinstatement of certificates issued by the Architects Board, to allow the Architects Board to deny renewal of, revoke, or suspend certificates issued by the Architects Board without an adjudication hearing when such a hearing is not requested, to make changes related to the laws governing landscape architects to provide for the appointment of an interim replacement official upon suspension of a public official, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3.16, 119.06, 4703.071, 4703.15, 4703.30, 4703.31, 4703.32, 4703.33, 4703.331, 4703.34, 4703.35, 4703.36, 4703.37, 4703.38, 4703.41, 4703.44, 4703.46, 4703.49, 4703.50, 4703.52, 4703.53, and 4703.99 be amended and section 4703.411 of the Revised Code be enacted to read as follows:

Sec. 3.16. (A) As used in this section:

(1) "Prosecuting attorney" means the prosecuting attorney of the county in which a public official who is charged as described in division (B) of this section serves.

(2) "Public official" means any elected officer of a political subdivision as defined in section 2744.01 of the Revised Code. "Public official" does not include a judge of a court of record.

(B)(1) If a public official is charged with a felony in a state or federal

court and if the attorney general, if the attorney general is prosecuting the case, or prosecuting attorney with responsibility to prosecute the case determines that the felony relates to the public official's administration of, or conduct in the performance of the duties of, the office of the public official, the attorney general, if the attorney general is prosecuting the case, or prosecuting attorney with responsibility to prosecute the case shall transmit a copy of the charging document to the chief justice of the supreme court with a request that the chief justice proceed as provided in division (C) of this section. If the attorney general or the prosecuting attorney transmits a copy of the charging document to the chief justice, a copy also shall be sent to the attorney general if the prosecuting attorney transmits the copy to the chief justice or to the prosecuting attorney of the county in which the public official holds office if the attorney general transmits the copy to the chief justice.

(2) Upon transmitting a copy of a charging document and a request to the chief justice of the supreme court under division (B)(1)(a) or (b) of this section, the attorney general or prosecuting attorney shall provide the public official with a written notice that, not later than fourteen days after the date of the notice, the public official may file with the attorney general or prosecuting attorney, whichever sent the notice, a written statement either voluntarily authorizing the attorney general or prosecuting attorney to prepare a judgment entry for the judge presiding in the case to provisionally suspend the public official from office or setting forth the reasons why the public official should not be suspended from office.

If the public official voluntarily authorizes the attorney general or prosecuting attorney to prepare a judgment entry for the judge presiding in the case to provisionally suspend the public official from office as described in this division, the attorney general or prosecuting attorney shall prepare a judgment entry for the judge presiding in the case to provisionally suspend the public official from office immediately upon receipt of the ~~judement~~ judgment entry and shall notify the chief justice of the supreme court of the provisional suspension. Upon receipt of the judgment entry, the judge presiding in the case shall sign the judgment entry and file the signed judgment entry in the case. The signing and filing of the judgment entry provisionally suspends the public official from office. The attorney general's or prosecuting attorney's request to the chief justice that was made under division (B)(1) of this section remains applicable regarding the public official, and the chief justice shall establish a special commission pursuant to division (C)(1) of this section. A provisional suspension imposed under this division shall remain in effect until the special commission established

by the chief justice enters its judgment under division (C)(3) of this section. After the special commission so enters its judgment, divisions (C)(3) and (4) of this section shall govern the continuation of the suspension. Division (E) of this section applies to a provisional suspension imposed under this division.

If the public official files a written statement setting forth the reasons why the public official should not be suspended from office, the public official shall not be provisionally suspended from office, and the attorney general or prosecuting attorney, whichever sent the notice to the public official, shall transmit a copy of the public official's written statement to the chief justice of the supreme court. The attorney general's or prosecuting attorney's request to the chief justice that was made under division (B)(1) of this section remains applicable regarding the public official, and the chief justice shall establish a special commission pursuant to division (C)(1) of this section.

(C)(1) Not sooner than fourteen days after the chief justice's receipt of the attorney general's or prosecuting attorney's request under division (B)(1) of this section, the chief justice shall establish a special commission composed of three retired justices or judges of a court of record. A special commission established under this division is an administrative agency. The chief justice shall appoint the members of the special commission and shall provide to the special commission all documents and materials pertaining to the matter that were received from the attorney general or prosecuting attorney under division (B)(1) or (2) of this section. At least one member of the special commission shall be of the same political party as the public official. Members of the special commission shall receive compensation for their services, and shall be reimbursed for any expenses incurred in connection with special commission functions, from funds appropriated to the attorney general's office.

(2) Once established under division (C)(1) of this section, a special commission shall review the document that charges the public official with the felony, all other documents and materials pertaining to the matter that were provided by the chief justice under division (C)(1) of this section, and the facts and circumstances related to the offense charged. Within fourteen days after it is established, the special commission shall make a preliminary determination as to whether the public official's administration of, or conduct in the performance of the duties of, the official's office, as covered by the charges, adversely affects the functioning of that office or adversely affects the rights and interests of the public and, as a result, whether the public official should be suspended from office. Upon making the

preliminary determination, the special commission immediately shall provide the public official with notice of the preliminary determination. The notice may be in writing, by telephone, or in another manner. If the preliminary determination is that the public official's administration of, or conduct in the performance of the duties of, the official's office, as covered by the charges, does not adversely affect the functioning of the office or adversely affect the rights and interests of the public, the preliminary determination automatically shall become the special commission's final determination for purposes of division (C)(3) of this section. If the preliminary determination is that the public official's administration of, or conduct in the performance of the duties of, the official's office, as covered by the charges, adversely affects the functioning of the office or adversely affects the rights and interests of the public and that the public official should be suspended from office, the notice shall inform the public official that the public official may contest the preliminary determination by filing with the special commission and within fourteen days after the date of the notice to the public official a notice contesting the determination.

If the public official files a notice contesting the preliminary determination within fourteen days after the date of the notice to the public official, the public official may review the reasons and evidence for the determination and may appear at a meeting of the special commission to contest the determination and present the public official's position on the matter. The meeting of the special commission shall be held not later than fourteen days after the public official files the notice contesting the preliminary determination. The public official has a right to be accompanied by an attorney while appearing before the special commission, but the attorney is not entitled to act as counsel or advocate for the public official before the special commission or to present evidence or examine or cross-examine witnesses before the special commission. At the conclusion of the meeting, the special commission shall make a final determination as to whether the public official's administration of, or conduct in the performance of the duties of, the official's office, as covered by the charges, adversely affects the functioning of the office or adversely affects the rights and interests of the public and, as a result, whether the public official should be suspended from office and shall proceed in accordance with division (C)(3) of this section.

If the public official does not file a notice contesting the determinations within fourteen days after the date of the notice to the public official, the special commission's preliminary determination automatically shall become its final determination for purposes of division (C)(3) of this section.

Notwithstanding anything to the contrary in section 121.22 of the Revised Code, all meetings of the special commission shall be closed to the public. Notwithstanding anything to the contrary in section 149.43 of the Revised Code, the records of the special commission shall not be made available to the public for inspection or copying until the special commission issues its written report under this division.

(3) Upon making the final determination described in division (C)(2) of this section regarding a public official who is charged with a felony, including, if applicable, conducting a meeting pursuant to that division for the public official to contest the preliminary determination, the special commission shall issue a written report that sets forth its findings and final determination. The special commission shall send the report by certified mail to the public official, the attorney general if the attorney general is prosecuting the case or the prosecuting attorney with responsibility to prosecute the case, whichever is applicable, and any other person that the special commission determines to be appropriate. Upon the issuance of the report, one of the following applies:

(a) If the special commission in its final determination does not determine that the public official's administration of, or conduct in the performance of the duties of, the official's office, as covered by the charges, adversely affects the functioning of that office or adversely affects the rights and interests of the public, the special commission shall include in the report a statement to that effect, and the public official shall not be suspended from office. If the public official was provisionally suspended from office under division (B)(2) of this section, the provisional suspension shall terminate immediately upon the issuance of the report.

(b) If the special commission in its final determination determines that the public official's administration of, or conduct in the performance of the duties of, the official's office, as covered by the charges, adversely affects the functioning of that office or adversely affects the rights and interests of the public, the special commission shall include in the report a holding that the public official be suspended from office. The holding that the public official be suspended from office and the suspension take effect immediately upon the special commission's issuance of the report. If the public official was provisionally suspended from office under division (B)(2) of this section, the holding that the public official be suspended from office shall continue the suspension immediately upon the special commission's issuance of the report. The report and holding shall have the same force and effect as a judgment of a court of record.

(4) A suspension imposed or continued under division (C)(3) of this

section shall continue until one of the following occurs:

(a) The public official is reinstated to office by an appeal as provided in division (D) of this section;

(b) All charges are disposed of by dismissal or by a finding or findings of not guilty;

(c) A successor is elected and qualified to serve the next succeeding term of the public official's office.

(D) If a special commission issues a written report and holding pursuant to division (C)(3)(b) of this section that suspends a public official from office or that continues a provisional suspension imposed under division (B)(2) of this section, the public official may appeal the report and holding to the supreme court. The public official shall take the appeal by filing within thirty days of the date on which the report is issued a notice of appeal with the supreme court and the special commission. Unless waived, notice of the appeal shall be served upon all persons to whom the report was sent under division (C)(3) of this section. The special commission, upon written demand filed by the public official, shall file with the supreme court, within thirty days after the filing of the demand, a certified transcript of the proceedings of the special commission pertaining to the report and the evidence considered by the special commission in making its decision.

The supreme court shall consider an appeal under this division on an expedited basis. If the public official appeals the report and holding, the appeal itself does not stay the operation of the suspension imposed or continued under the report and holding. If, upon hearing and consideration of the record and evidence, the supreme court decides that the determinations and findings of the special commission are reasonable and lawful, the court shall affirm the special commission's report and holding and the suspension and shall enter final judgment in accordance with its decision. If the public official subsequently pleads guilty to or is found guilty of any felony with which the public official was charged, the public official is liable for any amount of compensation paid to the official during the suspension, with the liability relating back to the date of the original suspension under the special commission's report and holding, and the amount of that liability may be recovered as provided in division (E) of this section. If, upon hearing and consideration of the record and evidence, the supreme court decides that the determinations and findings of the special commission are unreasonable or unlawful, the court shall reverse and vacate the special commission's report and holding and the suspension, reinstate the public official, and enter final judgment in accordance with its decision.

The clerk of the supreme court shall certify the judgment of the court to

the special commission. Upon receipt of the judgment, the special commission shall certify the judgment to all persons to whom the special commission's report was certified under division (C)(3) of this section and shall certify the judgment to all other public officials or take any other action in connection with the judgment as is required to give effect to it.

(E) Any public official suspended from office under this section shall not exercise any of the rights, powers, or responsibilities of the holder of that office during the period of the suspension. The suspended public official, however, shall retain the title of the holder of that office during the period of the suspension and continue to receive the compensation that the official is entitled to receive for holding that office during the period of the suspension, until the public official pleads guilty to or is found guilty of any felony with which the public official is charged or until one of the conditions in division (C)(4)(a), (b), or (c) of this section occurs. For the duration of the public official's suspension, a ~~an~~ interim replacement official shall be appointed ~~or elected~~ by the county central committee of the political party that nominated the suspended public official if the suspended public official is an elected county official, or by the probate judge of the court of common pleas if the suspended public official is an elected official of a municipal corporation, township, school district, or other political subdivision, to perform the suspended public official's duties ~~of office in the manner provided by law for filling a vacancy in that office.~~ The interim replacement official shall have all of the rights, powers, and responsibilities of, and shall be entitled to the same rate of pay as, the suspended public official. The interim replacement official shall give bond and take the oath of office. If the office of the suspended public official becomes vacant during the period of suspension, a public official shall be appointed or elected to fill such vacancy as provided by law. If a regular election is to occur during the period of suspension, a public official shall be elected as provided by law.

A political subdivision may file a civil action in the appropriate court to recover from any former public official of the political subdivision the amount of compensation paid to that former public official in accordance with this division from the date of the former public official's suspension to the date the former public official pleads guilty to or is found guilty of any felony with which the former public official was charged.

Sec. 119.06. No adjudication order of an agency shall be valid unless the agency is specifically authorized by law to make such order.

No adjudication order shall be valid unless an opportunity for a hearing is afforded in accordance with sections 119.01 to 119.13 of the Revised

Code. Such opportunity for a hearing shall be given before making the adjudication order except in those situations where this section provides otherwise.

The following adjudication orders shall be effective without a hearing:

(A) Orders revoking a license in cases where an agency is required by statute to revoke a license pursuant to the judgment of a court;

(B) Orders suspending a license where a statute specifically permits the suspension of a license without a hearing;

(C) Orders or decisions of an authority within an agency if the rules of the agency or the statutes pertaining to such agency specifically give a right of appeal to a higher authority within such agency, to another agency, or to the board of tax appeals, and also give the appellant a right to a hearing on such appeal.

When a statute permits the suspension of a license without a prior hearing, any agency issuing an order pursuant to such statute shall afford the person to whom the order is issued a hearing upon request.

Whenever an agency claims that a person is required by statute to obtain a license, it shall afford a hearing upon the request of a person who claims that the law does not impose such a requirement.

Every agency shall afford a hearing upon the request of any person who has been refused admission to an examination where such examination is a prerequisite to the issuance of a license unless a hearing was held prior to such refusal.

Unless a hearing was held prior to the refusal to issue the license, every agency shall afford a hearing upon the request of a person whose application for a license has been rejected and to whom the agency has refused to issue a license, whether it is a renewal or a new license, except that the following are not required to afford a hearing to a person to whom a new license has been refused because the person failed a licensing examination: the state medical board, state chiropractic board, ~~board of examiners of~~ architects board, ~~board of~~ Ohio landscape architect examiners ~~architects~~ board, and any section of the Ohio occupational therapy, physical therapy, and athletic trainers board.

When periodic registration of licenses is required by law, the agency shall afford a hearing upon the request of any licensee whose registration has been denied, unless a hearing was held prior to such denial.

When periodic registration of licenses or renewal of licenses is required by law, a licensee who has filed an application for registration or renewal within the time and in the manner provided by statute or rule of the agency shall not be required to discontinue a licensed business or profession merely

because of the failure of the agency to act on the licensee's application. Action of an agency rejecting any such application shall not be effective prior to fifteen days after notice of the rejection is mailed to the licensee.

Sec. 4703.071. (A) The ~~state board of examiners of architects~~ board shall establish and maintain and administer an architecture education assistance program to pay applicant enrollment fees for the internship program required of applicants by section 4703.07 of the Revised Code.

(B) The board shall adopt rules in accordance with Chapter 119. of the Revised Code to establish all of the following:

(1) Applicant eligibility criteria for receipt of internship program enrollment fees, which must include a requirement that applicants be enrolled in an architecture education program at an institution within the state that has been approved by the board and accredited by the national architectural accrediting board, and may include a requirement that the applicant has completed a minimum amount of course work in the program as prescribed by the state board by rule;

(2) Application procedures for payment of internship program enrollment fees;

(3) The maximum amount of internship program enrollment fees that may be provided by the architecture education assistance program to an applicant;

(4) The total amount of internship program enrollment fees that may be disbursed by the architecture education assistance program in any given fiscal year;

(5) The means by which other matters incidental to the operation of the program may be approved, including the means to authorize necessary expenses for the operation of the architecture education assistance program.

(C) The receipt of internship program enrollment fees under this section shall not affect a student's eligibility for any other assistance, or the amount of that assistance.

Sec. 4703.15. (A) The architects board may by three concurring votes deny renewal of, revoke, or suspend any certificate of qualification to practice architecture, issued or renewed under sections 4703.10, 4703.13, and 4703.14 of the Revised Code, or any certificate of authorization, issued or renewed under sections 4703.13 and 4703.18 of the Revised Code, if proof satisfactory to the board is presented in any of the following cases:

(1) In case it is shown that the certificate was obtained by fraud;

(2) In case the holder of the certificate has been found guilty by the board or by a court of justice of any fraud or deceit in the holder's professional practice, or has been convicted of a felony by a court of justice;

(3) In case the holder has been found guilty by the board of gross negligence, incompetency, or misconduct in the performance of the holder's services as an architect or in the practice of architecture;

(4) In case the holder of the certificate has been found guilty by the board of signing plans for the construction of a building as a "registered architect" where the holder is not the actual architect of such building and where the holder is without prior written consent of the architect originating the design or other documents used in the plans;

(5) In case the holder of the certificate has been found guilty by the board of aiding and abetting another person or persons not properly registered as required by sections 4703.01 to 4703.19 of the Revised Code, in the performance of activities that in any manner or extent constitute the practice of architecture.

~~At any time after the expiration of six months from the date of the revocation or suspension of a certificate, the individual, firm, partnership, association, or corporation may apply for reinstatement of the certificate. Upon showing that all loss caused by the individual, firm, partnership, association, or corporation whose certificate has been revoked or suspended has been fully satisfied and that all conditions imposed by the revocation or suspension decision have been complied with, and upon the payment of all costs incurred by the board as a result of the case at issue, the board, at its discretion and upon evidence that in its opinion would so warrant, may restore the certificate.~~

(B) In addition to disciplinary action the board may take against a certificate holder under division (A) of this section or section 4703.151 of the Revised Code, the board may impose a fine against a certificate holder who obtained a certificate by fraud or who is found guilty of any act specified in divisions (A)(2) to (A)(5) of this section or who violates any rule governing the standards of service, conduct, and practice adopted pursuant to section 4703.02 of the Revised Code. The fine imposed shall be not more than one thousand dollars for each offense but shall not exceed five thousand dollars regardless of the number of offenses the certificate holder has committed between the time the fine is imposed and the time any previous fine was imposed.

(C) If a person fails to request a hearing within thirty days after the date the board, in accordance with section 119.07 of the Revised Code, notifies the person of the board's intent to act against the person under division (A) of this section, the board by a majority vote of a quorum of the board members may take the action against a person without holding an adjudication hearing.

Sec. 4703.30. As used in sections 4703.30 to 4703.49 of the Revised Code:

(A) "Landscape architect," "professional landscape architect," or "registered landscape architect" means a person who has been registered as provided in sections 4703.30 to 4703.49 of the Revised Code.

(B) "Landscape architecture" or "the practice of landscape architecture" includes:

(1) The preparation of master, site, and comprehensive development plans, the preparation of feasibility and site selection studies, and the supervision of the execution of projects thereon, in accordance with the accepted professional standards of public health, welfare, and safety, where the dominant purpose of such service involves:

(a) The preservation, conservation, enhancement, or determination of proper land and water uses, natural land features, ground cover and plantings, naturalistic and aesthetic values, natural systems, reforestation, restoration, and reclamation;

(b) The determination of settings, grounds, and approaches for buildings and structures or other improvements; the determination of environmental problems of land relating to erosion and sediment control, flooding, blight and other hazards; the shaping and contouring of land and water forms; the determination of grades; and the determination of surface and ground water drainage and providing for drainage systems where such systems do not require structural design of system components or a hydraulic analysis of the receiving storm water conveyance system;

(c) The development of roadways and parkways, equestrian, bicycle, and pedestrian circulation systems, sidewalks, parking, planting, pools, irrigation systems, and other ancillary elements, for public and private use and enjoyment.

(2) The preparation of construction documents, provided that these are limited to and are necessary for projects within the scope of the practice of landscape architecture as defined in divisions (B)(1)(a), (b), and (c) of this section;

(3) The following services as they relate to the practice of landscape architecture:

(a) Construction observation;

(b) Project coordination and review of technical submissions, plans, and construction documents;

(c) Collaboration with architects and professional engineers in the design of streets, highways, bridges, buildings, and structures with respect to the functional and aesthetic requirements of the area in which such facilities

are to be placed.

(4) This practice shall include the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined in this section, but shall not include the design of structures or facilities with separate and self-contained purposes for habitation or industry, or the design of streets and highways, utilities, storm and sanitary sewers, and water and sewage treatment facilities, such as are exclusive to the practice of engineering or architecture. A landscape architect shall undertake to perform professional services only when the landscape architect is qualified by education, training, and experience in the specific technical areas involved. This division shall not be construed to prohibit a landscape architect from engaging individuals performing services outside the scope of the landscape architect's qualifications as consultants.

(5) The practice of landscape architecture does not include the practice of surveying as defined in division (F) of section 4733.01 of the Revised Code.

(C) "Board" means the ~~state~~ Ohio landscape architects board of ~~landscape architect examiners~~.

Sec. 4703.31. (A) There is hereby created the ~~state board of Ohio landscape architect examiners~~ architects board. The board shall consist of five members appointed by the governor. All appointments made to the board shall be for a five-year term commencing on the eleventh day of November and ending on the tenth day of November. Each member shall hold office from the date of appointment until the end of the term to which the member was appointed. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor is appointed, or until a period of sixty days has elapsed, whichever occurs first. Three of the members shall be landscape architects registered under sections 4703.33 to 4703.37 of the Revised Code for not less than five years prior to appointment to the board. One member shall be appointed from a licensed design profession and one member shall represent the public. Any member of the board may be removed by the governor at any time for cause.

(B) In the event of a vacancy in the office of a member of the board other than by reason of the expiration of a term, the governor, not later than ninety days after the occurrence of the vacancy, shall appoint a person to hold office for the remainder of the unexpired term.

(C) The board shall elect from its members a president and a secretary who shall hold those offices for one year.

(D) Each member of the board shall receive as a part of the expense of the board an amount fixed pursuant to division (J) of section 124.15 of the

Revised Code for each day actually employed in the discharge of official duties, along with other necessary expenses.

(E) The board shall meet at least twice each calendar year for purposes of transacting regular business and may hold other meetings upon the call of the president or a majority of the members of the board after reasonable notice to the other board members of the time and place of the meeting. Three members of the board constitute a quorum for the transaction of business.

(F) The board shall utilize the physical facilities and administrative staff of the ~~state board of examiners of architects~~ board for the discharge of all the Ohio landscape architects board's administrative duties in connection with the administration and enforcement of sections 4703.30 to 4703.52 of the Revised Code. The ~~state board of~~ Ohio landscape architect examiners architects board shall bear a proportionate share of the cost of those administrative services, which shall not exceed its revenue.

Sec. 4703.32. (A) No person shall engage in the practice of landscape architecture or use the title of "landscape architect," "professional landscape architect," or "registered landscape architect" or any title, sign, card, or device indicating, or tending to indicate, or represent in any manner that the person is a landscape architect, professional landscape architect, or registered landscape architect, unless the person is registered under sections 4703.30 to 4703.49 of the Revised Code.

Any person registered pursuant to sections 4703.30 to 4703.99 of the Revised Code may be designated or known as a landscape architect, professional landscape architect, or registered landscape architect.

No person shall assume a title or use any abbreviation, words, letters, or figures to indicate or imply that the person is a landscape architect, professional landscape architect, or registered landscape architect, unless the person is registered under sections 4703.30 to 4703.49 of the Revised Code.

(B) Notwithstanding division (A) of this section, the Ohio landscape architects board may authorize any person to use the title "emeritus landscape architect." An emeritus landscape architect is an individual who has been registered to practice landscape architecture in this state for at least ten years, is fully retired from the practice of landscape architecture, and is at least sixty-five years old. An emeritus landscape architect is exempt from the continuing education and fee requirements of sections 4703.30 to 4703.49 of the Revised Code.

(C) Sections 4703.30 to 4703.49 of the Revised Code are not intended to restrict or otherwise affect the right of any individual to practice architecture under sections 4703.01 to 4703.19 of the Revised Code or

engineering under sections 4733.01 to 4733.27 of the Revised Code. This division does not exclude a registered architect from the practice of landscape architecture that is incidental to the practice of architecture or exclude a landscape architect from the practice of architecture that is incidental to the practice of landscape architecture.

~~(C)~~(D) Sections 4703.30 to 4703.49 of the Revised Code do not affect the right of any individual to engage in the occupation of growing or marketing nursery stock or to use the title "nurseryperson," "landscape nurseryperson," "gardener," "landscape gardener," "landscape designer," "general contractor," "landscape contractor," "land developer," "golf course architect," or "golf course designer," provided that no individual shall engage in the practice of landscape architecture or use the title "landscape architect," "professional landscape architect," or "registered landscape architect," unless the person has complied with sections 4703.30 to 4703.49 of the Revised Code.

~~(D)~~(E) Nothing in sections 4703.30 to 4703.49 of the Revised Code prevents a vendor of goods, services, or materials, including nurserypersons, landscape nurserypersons, gardeners, landscape gardeners, landscape designers, general or landscape contractors, land developers, and golf course architects or golf course designers, from providing drawings or graphic diagrams that are necessary for the proper layout of the vendor's goods or materials for public or private land or arranging for the installation of the goods or materials. Nothing in sections 4703.30 to 4703.49 of the Revised Code prevents a landscape designer from engaging in, for a fee, the design of spaces utilizing plant materials and ancillary paving and building materials or arranging for the installation of the materials. Nothing in sections 4703.30 to 4703.49 of the Revised Code shall be construed in any manner to prohibit a person from designing or preparing drawings or specifications for any real property owned by that person.

~~(E)~~(F) Each landscape architect, upon registration by the ~~state board of Ohio landscape architect examiners~~ architects board, may obtain a stamp of the design authorized by the board, bearing the name of the registrant, date of registration, number of certificate, and the legend "registered landscape architect," "professional landscape architect," or "landscape architect." All professional documents, including maps, plans, designs, drawings, specifications, estimates, and reports, issued by a registrant may be stamped only while the registrant's certificate is in full force and effect.

Sec. 4703.33. (A) The ~~state board of Ohio landscape architect examiners~~ architects board, in accordance with Chapter 119. of the Revised Code, may adopt, amend, and enforce rules governing the standards for education,

experience, services, conduct, and practice to be followed in the practice of the profession of landscape architecture and rules pertaining to the satisfactory completion of continuing education requirements. If the board adopts rules pertaining to continuing education requirements, the board shall specify in the rules that the continuing education requirements may be satisfied by coursework or activities dealing with technical, ethical, or managerial topics relevant to the practice of landscape architecture and that a registrant may earn continuing professional education hours by completing or teaching university or college level coursework; attending seminars, workshops, or conferences; authoring relevant published papers, articles, or books; receiving patent awards; actively participating in professional or technical societies serving the landscape architecture profession, or actively participating in any other activity deemed relevant by the board. If the board adopts rules pertaining to continuing education requirements, the board shall, in general, follow model continuing education recommendations established by the council of landscape architectural registration boards or a similar successor organization.

(B) The board, or the board's designee, shall hold examinations not less than once annually and shall register as a landscape architect each applicant who demonstrates to the satisfaction of the board that the applicant has met all the requirements of section 4703.34 of the Revised Code.

(C) The board shall issue to each individual registered pursuant to this section a certificate of qualification.

(D) The board shall appoint at least one of its members as a delegate to each regional and annual meeting of the council of landscape architectural registration boards.

Sec. 4703.331. (A) A firm, partnership, association, limited liability company, or corporation may provide landscape architectural services in this state as long as the services are provided only through natural persons registered to provide those services in this state and subject to the requirements of this chapter.

(B) No firm, partnership, association, limited liability company, or corporation shall provide landscape architectural services, hold itself out to the public as providing landscape architectural services, or use a name including the word "landscape architect," "professional landscape architect," or "registered landscape architect" or any modification or derivation of ~~the word those words~~, unless the firm, partnership, association, limited liability company, or corporation files all information required to be filed under this section with the ~~state board of Ohio landscape architect examiners~~ architects board and otherwise complies with all requirements of this chapter. A

nonprofit membership corporation may use a name including the word "landscape architect," "professional landscape architect," or "registered landscape architect" or any modification or derivation of ~~the word~~ those words without complying with this section.

(C) A corporation may be organized under Chapter 1701. of the Revised Code, a professional association may be organized under Chapter 1785. of the Revised Code, or a limited liability company may be formed under Chapter 1705. of the Revised Code for the purpose of providing professional engineering, surveying, architectural, or landscape architectural services, or any combination of those services. A corporation organized under Chapter 1701. of the Revised Code for the purpose of providing those services also may be organized for any other purpose in accordance with that chapter.

(D) No firm, partnership, association, limited liability company, or corporation shall provide or offer to provide landscape architectural services in this state unless more than fifty per cent of the partners, members, or shareholders, more than fifty per cent of the directors in the case of a corporation or professional association, more than fifty per cent of the managers in the case of a limited liability company the management of which is not reserved to its members, and more than fifty per cent of the trustees in the case of an employee stock ownership plan, are professional engineers, surveyors, architects, or landscape architects or a combination of those professions, who are registered in this or any other state and who own more than fifty per cent of the interests in the firm, partnership, association, limited liability company, or corporation; unless the requirements of this division and of section 1785.02 of the Revised Code are satisfied with respect to any professional association organized under Chapter 1785. of the Revised Code; or unless the requirements of this division and of Chapter 1705. of the Revised Code are satisfied with respect to a limited liability company formed under that chapter.

(E) Each firm, partnership, association, limited liability company, or corporation through which landscape architectural services are offered or provided in this state shall designate one or more trustees, partners, managers, members, officers, or directors as being in responsible charge of the professional landscape architectural activities and decisions, and those designated persons shall be registered in this state. Each firm, partnership, association, limited liability company, or corporation of that type shall annually file with the ~~state board of landscape architect examiners~~ the name and address of each trustees, partner, manager, officer, director, member, or shareholder, and each firm, partnership, association, limited liability company, or corporation of that type shall annually file with the board the

name and address of all persons designated as being in responsible charge of the professional landscape architectural activities and decisions and any other information the board may require. If there is a change in any such person in the interval between filings, the change shall be filed with the board in the manner and within the time that the board determines.

(F) No corporation organized under Chapter 1701. of the Revised Code shall engage in providing landscape architectural services in this state without obtaining a certificate of authorization from the ~~state board of landscape architect examiners~~. A corporation desiring a certificate of authorization shall file with the board a copy of its articles of incorporation and a listing on the form that the board directs of the names and addresses of all trustees, officers, directors, and shareholders of the corporation, the names and addresses of any individuals providing professional services on behalf of the corporation who are registered to practice landscape architecture in this state, and any other information the board requires. If all requirements of this chapter are met, the board may issue a certificate of authorization to the corporation. No certificate of authorization shall be issued unless persons owning more than fifty per cent of the corporation's shares and more than fifty per cent of the interests in the corporation are professional engineers, surveyors, architects, or landscape architects, or a combination of those professions, who are registered in this or any other state. Any corporation that holds a certificate of authorization under this section and otherwise meets the requirements of this chapter may be organized for any purposes for which corporations may be organized under Chapter 1701. of the Revised Code and shall not be limited to the purposes of providing professional engineering, surveying, architectural, or landscape architectural services or any combination of those services. The board, by rules adopted in accordance with Chapter 119. of the Revised Code, may require any firm, partnership, association, or limited liability company not organized under Chapter 1701. of the Revised Code that provides landscape architectural services to obtain a certificate of authorization. If the board so requires, no firm, partnership, association, or limited liability company shall engage in providing landscape architectural services without obtaining the certificate and complying with the rules.

(G) This section does not modify any law applicable to the relationship between a person furnishing a professional service and a person receiving that service, including liability arising out of that service.

(H) Nothing in this section shall restrict or limit in any manner the authority or duty of the ~~state board of landscape architect examiners~~ with respect to natural persons providing professional services or any law or rule

pertaining to standards of professional conduct.

Sec. 4703.34. (A) Any individual desiring to be registered as a landscape architect may apply in writing to the ~~state board of Ohio landscape architect examiners~~ architects board in the manner prescribed by the board.

(B) Except as provided in section 4703.35 of the Revised Code, each application shall include, or be accompanied by, evidence given under oath or affirmation and satisfactory to the board that the applicant possesses the qualifications prescribed by division (C) of this section and also possesses, or is in the process of obtaining, one of the qualifications required by division (D) of this section. Each applicant shall include in the application a request for examination. The board shall permit an applicant who is in the process of completing the requirement specified in division (D) of this section to take an examination, but the board shall not register such an applicant until the applicant completes the requirement.

(C) Except as provided in section 4703.35 of the Revised Code, each applicant for registration as a landscape architect shall pass, to the satisfaction of the board, an examination conducted under the authority of the board to determine the fitness of the applicant for registration. The applicant shall be at least eighteen years of age and of good moral character and shall have obtained a professional degree in landscape architecture from a program accredited by the national landscape architect accrediting board.

(D) In addition to the qualifications required by division (C) of this section, the applicant shall meet either of the following requirements:

(1) Has completed three years of practical experience in the office of and under the direct supervision of a registered landscape architect who is actively involved in the practice of landscape architecture, or equivalent experience, as determined by the board, provided that at least one year of the practical experience or its equivalent as required by division (D)(1) of this section shall have been completed by the applicant subsequent to the completion of the educational requirements established by division (C) of this section;

(2) Has completed the requirements for training under an internship program established pursuant to rules adopted by the board that includes, but is not limited to, training in design and construction documents and construction administration and office management, or has equivalent experience that is acceptable to the board.

Sec. 4703.35. The ~~state board of Ohio landscape architect examiners~~ architects board shall register as a landscape architect any individual who is at least eighteen years of age and who provides evidence satisfactory to the

board that ~~he~~ the individual is a registered or licensed landscape architect in another ~~sate~~ state or country in which the qualifications, at the time of licensure, were substantially equal, in the opinion of the board, to the requirements for registration as a landscape architect in this state. The board may require that an applicant for registration under this section hold a current council record or certificate in good standing issued by the council of landscape architectural registration ~~board~~ boards.

Sec. 4703.36. (A) ~~The state board of Ohio landscape architect examiners architects board~~ shall register as a landscape architect each applicant who demonstrates to the satisfaction of the board that the applicant has met all requirements of section 4703.34 of the Revised Code or, in lieu thereof, has complied with section 4703.35 of the Revised Code. The certificate issued to each individual shall be prima-facie evidence of the right of the individual to whom it is issued to represent self as a landscape architect and to enter the practice of landscape architecture, subject to sections 4703.30 to 4703.49 of the Revised Code.

(B) Each certificate of qualification issued and registered on or after the effective date of this amendment shall authorize the holder to practice landscape architecture as a landscape architect in this state until the last day of ~~October~~ December of each ~~odd-numbered~~ even-numbered calendar year, unless revoked or suspended for cause as provided in this chapter or suspended pursuant to section 3123.47 of the Revised Code. License renewal shall be conducted in accordance with the standard license renewal procedure in Chapter 4745. of the Revised Code. Each applicant for license renewal shall demonstrate satisfactory completion of any continuing education requirements the ~~state board of landscape architect examiners~~ adopts under section 4703.33 of the Revised Code. Each renewal shall be recorded in the official register of the board.

(C) Each person registered by the board shall secure a seal of the design prescribed by the board. All plans, specifications, drawings, and other documents prepared by, or under the direct supervision of, the landscape architect shall be imprinted with the seal in accordance with the requirements of the board.

(D) Each certificate of authorization issued under division (F) of section 4703.331 of the Revised Code shall authorize the holder to provide landscape architectural services, through the landscape architect designated as being in responsible charge of the landscape architectural activities and decisions, from the date of issuance until the last day of June next succeeding the date upon which the certificate was issued unless the certificate has been suspended or revoked for cause as provided in section

~~4703.42~~ 4703.41 of the Revised Code.

Sec. 4703.37. (A) The ~~state board of Ohio landscape architect examiners~~ architects board shall establish an application fee for obtaining registration under section 4703.34 of the Revised Code and a fee for obtaining registration under section 4703.35 of the Revised Code.

(B) The fee to restore an expired certificate of qualification is the renewal fee for the current certification period, plus the renewal fee for each previous renewal period in which the certificate was not renewed, plus a penalty of twenty-five per cent of the total renewal fees for each renewal period or part thereof in which the certificate was not renewed, on the condition that the maximum fee shall not exceed an amount established by the board.

(C) The board also shall establish the following fees:

~~(1) The fee for taking or retaking the examination described in division (C) of section 4703.34 of the Revised Code at an amount adequate to cover the expenses of procuring and grading the examination plus a fee for retaking all or parts of the required examination.~~

~~(2)~~ (2) The fee for a certificate of qualification or duplicate thereof, as issued to a landscape architect registered under sections 4703.33 to 4703.38 of the Revised Code.

~~(3)~~ (2) The fee for the biennial renewal of the certificate of qualification and the fee for a duplicate renewal card.

~~(4)~~ (3) The fee to be charged an examinee for administering an examination to the examinee on behalf of another jurisdiction.

~~(5)~~ (4) The fee for a certificate of authorization issued under division (F) of section 4703.331 of the Revised Code, the fee for annual renewal of a certificate of authorization, and the fee for a duplicate certificate of authorization.

~~(6)~~ (5) The fee to cover costs for checks or other instruments returned to the board by financial institutions due to insufficient funds.

Sec. 4703.38. The ~~board of Ohio landscape architect examiners~~ architects board shall promulgate rules setting fees in accordance with section 4703.37 of the Revised Code, and governing the application, examination procedure, renewal, revocation, denial, or failure to renew registration in accordance with Chapter 119. of the Revised Code.

Sec. 4703.41. The ~~state board of Ohio landscape architect examiners~~ architects board may refuse to register any applicant or refuse to issue a certificate of authorization to any applicant, may refuse to renew the registration of any landscape architect registered under sections 4703.30 to 4703.49 or a certificate of authorization issued under division (F) of section

4703.331 of the Revised Code, or may suspend ~~for a period not exceeding one year~~ or revoke the registration of any landscape architect registered under sections 4703.30 to 4703.49 of the Revised Code or a certificate of authorization issued under division (F) of section 4703.331 of the Revised Code, or may fine a person when the registrant ~~or~~ holder of a certificate of authorization, or other person does any of the following:

(A) Has obtained or attempted to obtain registration or a certificate of authorization under sections 4703.30 to 4703.49 of the Revised Code by fraud or material misrepresentation or by false oath or affirmation;

(B) Is impersonating or has attempted to impersonate a landscape architect or a former landscape architect;

(C) Is found by the board to have been guilty of fraud, deceit, or gross negligence in the practice of landscape architecture or in providing landscape architectural services;

(D) Has affixed the registrant's or certificate holder's signature to plans, drawings, specifications, or other professional documents that have not been prepared by the registrant or certificate holder or under the registrant's or certificate holder's immediate and responsible direction, or has permitted the registrant's or certificate holder's name to be used for the purpose of assisting any individual, not a landscape architect, to evade sections 4703.30 to 4703.49 of the Revised Code;

(E) Fails the examination under section 4703.33 of the Revised Code;

(F) Is found by the board to have violated any rule governing the standards for education, experience, services, conduct, and practice or any rule adopted by the board under sections 4703.30 to 4703.49 of the Revised Code;

(G) Fails to comply with any disciplinary sanction issued by the board.

Sec. 4703.411. (A) No person shall do any of the following:

(1) Obtain or attempt to obtain registration or a certificate of authorization under sections 4703.30 to 4703.49 of the Revised Code by fraud or material misrepresentation or by false oath or affirmation;

(2) Impersonate or attempt to impersonate a landscape architect or former landscape architect;

(3) Recklessly engage in fraud, deceit, or gross negligence in the practice of landscape architecture or in providing landscape architectural services.

(B) No registrant or certificate holder shall do either of the following:

(1) Affix the registrant's or certificate holder's signature to plans, drawings, specifications, or other professional documents that have not been prepared by the registrant or certificate holder or under the registrant's or

certificate holder's immediate and responsible direction:

(2) Permit the registrant's or certificate holder's name to be used for the purpose of assisting any individual, not a landscape architect, to evade sections 4703.30 to 4703.49 of the Revised Code.

~~Sec. 4703.44. Unless otherwise provided in section 4703.42 of the Revised Code, the~~ The administrative procedures of the state board of Ohio landscape architect examiners architects board shall be governed by Chapter 119. of the Revised Code, and the ~~president of the board and the president's board's~~ authorized representatives may administer oaths, take depositions, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, records, memoranda, or other information necessary to the carrying out of sections 4703.30 to 4703.52 of the Revised Code.

If a person fails to request a hearing within thirty days after the date the board, in accordance with section 119.07 of the Revised Code, notifies the person of the board's intent to act against the person under section 4703.41 of the Revised Code, the board, by a majority vote of a quorum of the board members, may take the action against a person without holding an adjudication hearing.

Sec. 4703.46. (A) ~~The state board of Ohio landscape architect examiners architects board,~~ upon its own motion or upon the verified complaint in writing of any person, may investigate any alleged violation of sections 4703.30 to 4703.52 of the Revised Code. The board, in its discretion, may disregard any complaint filed more than two years after the act or omission alleged as a violation of those sections.

(B) The board may apply to any court of competent jurisdiction for relief by injunction or restraining order to enjoin or restrain a person, firm, corporation, partnership, limited liability company, or other group or combination of persons from the commission of any act that is prohibited by sections 4703.30 to 4703.52 of the Revised Code or by rules adopted by the board under sections 4703.30 to 4703.49 of the Revised Code that govern the standards of service, conduct, and practice to be followed in the practice of landscape architecture.

Sec. 4703.49. The attorney general is hereby designated as the legal advisor of the ~~state board of Ohio landscape architect examiners architects board.~~

The prosecuting attorney in each of the counties shall prosecute by court action all violations of sections 4703.30 to 4703.52 of the Revised Code occurring in the prosecuting attorney's jurisdiction as may be presented for prosecution by the board or the board's designee.

Sec. 4703.50. All receipts of the architects board and ~~state board of Ohio landscape architect examiners~~ architects board shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. ~~All expenditures of the boards shall be paid pursuant to vouchers approved by the secretary or executive secretary of the architects board, or both, as authorized by the board.~~

Sec. 4703.52. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the architects board and the ~~state board of Ohio landscape architects examiners~~ board shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate issued pursuant to this chapter.

Sec. 4703.53. The architects board and the ~~state board of Ohio landscape architect examiners~~ architects board shall comply with section 4776.20 of the Revised Code.

Sec. 4703.99. (A) Whoever violates division (A) of section 4703.18 or section 4703.411 of the Revised Code is guilty of a misdemeanor of the third degree; for each subsequent offense such person is guilty of a misdemeanor of the first degree.

(B) Whoever violates ~~sections 4703.30 to 4703.49~~ section 4703.32 of the Revised Code shall be fined not less than fifty nor more than two hundred dollars for the first offense; for each subsequent offense such person shall be fined not less than two hundred nor more than five hundred dollars.

SECTION 2. That existing sections 3.16, 119.06, 4703.071, 4703.15, 4703.30, 4703.31, 4703.32, 4703.33, 4703.331, 4703.34, 4703.35, 4703.36, 4703.37, 4703.38, 4703.41, 4703.44, 4703.46, 4703.49, 4703.50, 4703.52, 4703.53, and 4703.99, and sections 4703.42, 4703.43, and 4703.45 of the Revised Code are hereby repealed.

SECTION 3. If an individual holds a certificate of qualification to practice landscape architecture as a landscape architect on the effective date of this act, or if an individual's application for registration as a landscape architect is pending on the effective date of this act and a certificate of qualification is subsequently issued to the individual, the certificate of qualification does not expire until December 31, 2016, unless it is revoked or suspended for cause as provided in Chapter 4703. of the Revised Code or is suspended under section 3123.47 of the Revised Code.

SECTION 4. Section 4703.32 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 214 and Am. Sub. H.B. 337 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 5. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that an interim replacement public official is needed to carry on official duties when a public official is suspended. Therefore, this act shall go into immediate effect.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. S. B. No. 68

130th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20__.

Secretary of State.

File No. _____ Effective Date _____