

By Senator Lee

23-774A-98

1 A bill to be entitled
 2 An act relating to landscape designers;
 3 amending s. 581.011, F.S.; defining the term
 4 "landscape designer"; amending s. 581.031,
 5 F.S.; authorizing the Department of Agriculture
 6 and Consumer Services to issue and suspend the
 7 registration of landscape designers; providing
 8 for the adoption of rules; amending s. 581.035,
 9 F.S.; preempting regulatory authority over
 10 landscape designers to the department; amending
 11 s. 581.131, F.S.; prohibiting landscape
 12 designers from providing services without a
 13 valid reregistration; providing standards for
 14 the registration of landscape designers;
 15 providing exceptions; amending s. 581.141,
 16 F.S.; providing authority for the suspension or
 17 revocation of a landscape designer's
 18 registration; providing for fines; providing an
 19 effective date.

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 21 Be It Enacted by the Legislature of the State of Florida:

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 23 Section 1. Present subsections (15), (16), (17), (18),
 24 (19), (20), (21), (22), (23), (24), (25), (26), (27), (28),
 25 and (29) of section 581.011, Florida Statutes, are renumbered
 26 as subsections (16), (17), (18), (19), (20), (21), (22), (23),
 27 (24), (25), (26), (27), (28), (29), and (30), respectively,
 28 and a new subsection (15) is added to that section, to read:
 29 581.011 Definitions.--As used in this chapter:
 30 (15) "Landscape designer" means a person who engages,
 31 for compensation, in consultation concerning or the planning,

1 design, or construction of exterior spaces, using plant
2 materials and incidental paving and building materials.

3 Section 2. Subsection (11) of section 581.031, Florida
4 Statutes, is amended and subsections (31) and (32) are added
5 to that section to read:

6 581.031 Department; powers and duties.--The department
7 has the following powers and duties:

8 (11) To suspend or revoke certificates of inspection
9 and of registration of nurserymen, stock dealers, agents, ~~and~~
10 plant brokers, and landscape designers in the state.

11 (31) To make and issue certificates of registration to
12 landscape designers, authorizing them to operate within the
13 state.

14 (32) To adopt rules relating to certificates of
15 registration for landscape designers.

16 Section 3. Section 581.035, Florida Statutes, is
17 amended to read:

18 581.035 Preemption of regulatory authority over
19 nurseries.--It is the intent of the Legislature to eliminate
20 duplication of regulatory authority over nurseries and
21 landscape designers. Notwithstanding any other law to the
22 contrary, the authority to regulate, inspect, and permit:

23 (1) Nursery owners, plant brokers, and stock dealers;
24 ~~and~~

25 (2) Nurseries, nursery stock, plants, and plant
26 products, including any aquatic plant as defined in s. 369.22
27 which is grown in a nursery; and,

28 (3) Landscape designers

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30 is preempted to the department.

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1 Section 4. Subsection (9) of section 581.131, Florida
2 Statutes, is amended and subsections (11) and (12) are added
3 to that section to read:

4 581.131 Certificate of registration.--

5 (9)(a) If the registration has not been renewed or the
6 fee has not been paid by the renewal date, a penalty of \$10 or
7 20 percent of the renewal fee, whichever is greater, shall be
8 assessed.

9 (b) If the registration has not been renewed or the
10 fee has not been paid within 31 days of the renewal date, the
11 department shall stop sale or stop movement on all nursery
12 stock until the person has renewed the certificate of
13 registration.

14 (c) If the registration has not been renewed or the
15 fee has not been paid within 31 days after the renewal date,
16 the landscape designer may not provide landscape design
17 services until he or she has renewed the certificate of
18 registration.

19 (d)(c) Upon application prior to the renewal date, the
20 department may, for good cause supported by written
21 documentation, extend the renewal date without penalty for up
22 to 90 days.

23 (11)(a) Before any landscape designer may provide any
24 service defined in s. 581.011(15) in this state, he or she
25 must apply to the division, on forms supplied by the division,
26 for a certificate of registration.

27 (b) The department shall provide qualifications for
28 registration by rule, according to the following minimum
29 criteria:

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1 1. Completion of a bachelor's degree in ornamental
2 horticulture, landscape design and management, or a related
3 field from an accredited university;

4 2. Completion of an associate of science or arts
5 degree in landscape design, horticulture, landscape
6 management, or a related field from an accredited community
7 college and 2 years of full-time documented experience in
8 landscape design;

9 3. Completion of a 1-year certificate in ornamental
10 horticulture, landscape management, or a related field from an
11 accredited technical center and 4 years of documented
12 full-time experience in landscape design;

13 4. Completion of 6 years of full-time practical
14 experience in landscape design; or

15 5. Certification in landscape design issued by a
16 not-for-profit organization whose criteria are recognized by
17 the department as being at least as stringent as the criteria
18 in this section.

19 (12) This section does not apply to architects
20 registered under part I of chapter 481; landscape architects
21 registered under part II of chapter 481; engineers registered
22 under chapter 471; contractors licensed under chapter 489, for
23 work on their own property; arborists, including tree trimming
24 and tree removal services; tree moving services; or lawn
25 maintenance services or landscape maintenance services.

26 Section 5. Section 581.141, Florida Statutes, is
27 amended to read:

28 581.141 Certificate of registration or of inspection;
29 revocation and suspension; fines.--

30 (1) REVOCATION AND SUSPENSION.--If it is determined by
31 the department that any nurseryman, stock dealer, agent, or

1 | plant broker is selling or offering for sale, or is
2 | distributing or offering to distribute, nursery stock or that
3 | a landscape designer is providing landscape design services in
4 | violation of the provisions of this chapter and the rules
5 | adopted under this chapter, or has aided or abetted in such
6 | violation, the department may revoke or suspend her or his
7 | certificate of registration or the use of any certificates,
8 | permits, or agreements issued by the division. Further, the
9 | department may refuse or suspend the certification of any
10 | nursery stock or plant product when it is determined that
11 | plant pests exist on the stock or product or that the nursery
12 | or site is in such condition with regard to growth and
13 | cultivation that an efficient inspection for plant pests
14 | cannot be made.

15 | (2) FINES; PROBATION.--

16 | (a)1. The department may, after notice and hearing,
17 | impose a fine not exceeding \$5,000 or probation not exceeding
18 | 12 months, or both, for the violation of any of the provisions
19 | of this chapter or the rules adopted under this chapter upon
20 | any person, nurseryman, stock dealer, agent, ~~or~~ plant broker,
21 | or landscape designer. The fine, when paid, shall be
22 | deposited in the Plant Industry Trust Fund.

23 | 2. The imposition of a fine or probation pursuant to
24 | this subsection may be in addition to or in lieu of the
25 | suspension or revocation of a certificate of registration or
26 | certificate of inspection.

27 | (b) Whenever any administrative order has been made
28 | and entered by the department imposing a fine upon any person
29 | pursuant to this subsection, the order shall specify the
30 | amount of the fine and the time limit for payment, which shall
31 | not exceed 15 days. Upon failure to pay the fine within such

1 time, the certificate of registration or certificate of
2 inspection of the person may be suspended or revoked without
3 further hearing; and a fine of \$100 per day may be imposed for
4 each day the violation continues.

5 Section 6. This act shall take effect July 1, 1998.

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8 SENATE SUMMARY

9 Provides for the regulation of landscape designers by the
10 Department of Agriculture and Consumer Services.
11 Establishes requirements and guidelines for the issuance
12 of certificates of registration and provides grounds for
13 discipline. Provides penalties.

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