

By Representative Fuller

1                                   A bill to be entitled  
2           An act relating to landscape designers;  
3           amending s. 581.011, F.S.; defining the terms  
4           "landscape design" and "landscape designer";  
5           amending s. 581.031, F.S.; granting the  
6           Department of Agriculture and Consumer Services  
7           certain powers and duties, including rulemaking  
8           authority, with respect to landscape designers;  
9           amending s. 581.035, F.S.; preempting  
10          regulatory authority over landscape designers  
11          to the department; amending s. 581.121, F.S.;  
12          prohibiting landscape designers from certain  
13          activities relating to nursery stock, for which  
14          there are penalties; amending s. 581.131, F.S.;  
15          providing requirements for application for and  
16          renewal of a certificate of registration;  
17          providing for fees; providing for exemptions  
18          from registration; amending s. 581.141, F.S.;  
19          providing for revocation and suspension of  
20          certificates of registration; providing for  
21          fines; amending s. 581.211, F.S.; providing for  
22          imposition of administrative fines upon  
23          landscape designers; amending s. 481.329, F.S.,  
24          relating to exemption from licensure as a  
25          landscape architect; including reference to  
26          landscape designers, to conform; providing an  
27          effective date.

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29   Be It Enacted by the Legislature of the State of Florida:  
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1           Section 1. Subsection (6) of section 581.011, Florida  
2 Statutes, is amended, subsections (15) through (29) are  
3 renumbered as subsections (17) through (31), respectively, and  
4 new subsections (15) and (16) are added to said section, to  
5 read:

6           581.011 Definitions.--As used in this chapter:

7           (6) "Certificate of registration" means an official  
8 document issued by the division to nurseries, stock dealers,  
9 agents, ~~and~~ plant brokers, and landscape designers as evidence  
10 of being properly registered with the division in compliance  
11 with the requirements of this chapter and of any of the rules  
12 promulgated hereunder.

13           (15) "Landscape design" means the planning, design, or  
14 construction of exterior spaces, using plant materials and  
15 incidental paving and building materials, and includes any  
16 consultation with respect such planning, design, or  
17 construction.

18           (16) "Landscape designer" means a person who, for  
19 compensation, provides or offers to provide any landscape  
20 design service.

21           Section 2. Subsections (8), (11), and (21) of section  
22 581.031, Florida Statutes, are amended to read:

23           581.031 Department; powers and duties.--The department  
24 has the following powers and duties:

25           (8)(a) To make and publish reasonable rules governing  
26 the application for, and issuance, suspension, and revocation  
27 of, certificates of registration and of inspection of  
28 nurserymen, stock dealers, agents, and plant brokers in the  
29 state.

30           (b) To make such rules as are necessary for the  
31 issuance and renewal of certificates of registration of

1 landscape designers and to charge fees for the issuance and  
2 renewal of such certificates which are sufficient to pay the  
3 costs of issuance, renewal, and discipline of such  
4 certificates, not to exceed \$100 for initial issuance or  
5 renewal.

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

9 (21)(a) To make and issue certificates of registration  
10 and of inspection to nurserymen, stock dealers, agents, and  
11 plant brokers, after proper certification of their nursery  
12 stock, authorizing them to do business as nurserymen, stock  
13 dealers, agents, or plant brokers within the state.

14 (b) To make and issue certificates of registration to  
15 landscape designers authorizing them to do business as  
16 landscape designers within the state.

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

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

25 (1) Nursery owners, plant brokers, and stock dealers;  
26 ~~and~~

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

30 (3) Landscape designers,

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1 is preempted to the department.

2 Section 4. Section 581.121, Florida Statutes, is  
3 amended to read:

4 581.121 Nursery stock; prohibited conduct.--It is  
5 unlawful for any nurseryman, stock dealer, agent, ~~or~~ plant  
6 broker, or landscape designer to sell, give away, transfer,  
7 move or cause to be moved, carry, ship, or deliver for  
8 carriage or shipment any nursery stock except in compliance  
9 with the provisions of this chapter and the rules made  
10 pursuant to law.

11 Section 5. Subsection (9) of section 581.131, Florida  
12 Statutes, is amended, and subsection (11) is added to said  
13 section, to read:

14 581.131 Certificate of registration.--

15 (9)(a) If the registration has not been renewed or the  
16 fee has not been paid by the renewal date, a penalty of \$10 or  
17 20 percent of the renewal fee, whichever is greater, shall be  
18 assessed.

19 (b) If the registration has not been renewed or the  
20 fee has not been paid within 31 days of the renewal date, the  
21 department shall stop sale or stop movement on all nursery  
22 stock until the person has renewed the certificate of  
23 registration.

24 (c) If the registration has not been renewed or the  
25 fee has not been paid within 31 days of the renewal date, the  
26 landscape designer shall stop providing any landscape design  
27 services until she or he has renewed the certificate of  
28 registration.

29 (d)~~(e)~~ Upon application prior to the renewal date, the  
30 department may, for good cause supported by written

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1 documentation, extend the renewal date without penalty for up  
2 to 90 days.

3 (11)(a) Before any landscape designer shall provide  
4 any landscape design service in this state, she or he shall  
5 apply to the director of the division, on forms supplied by  
6 the division, for a certificate of registration. The  
7 application and renewal process shall be as provided in this  
8 section and by department rule.

9 (b) The department shall provide qualifications for  
10 registration by rule, according to the following minimum  
11 criteria:

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

15 2. Completion of an associate in science or arts  
16 degree in landscape design, horticulture, landscape  
17 management, or a related field from an accredited community  
18 college, together with 2 years' full-time documented  
19 experience in landscape design;

20 3. Completion of a 1-year certificate in ornamental  
21 horticulture, landscape management, or a related field from an  
22 accredited technical center, together with 4 years' full-time  
23 documented experience in landscape design;

24 4. Completion of 6 years' full-time practical  
25 experience in landscape design; or

26 5. Certification by a nationally recognized  
27 organization in landscape design.

28 (c) Neither the certificate of registration fee nor  
29 the annual renewal fee may exceed \$100.

30 (d) The department may exempt from payment of a  
31 certificate fee those governmental agencies whose landscape

1 design services are provided exclusively for landscaping  
2 designs on their own property.

3 (e) This subsection does not apply to architects  
4 registered under part I of chapter 481; landscape architects  
5 registered under part II of chapter 481; engineers registered  
6 under chapter 471; contractors licensed under chapter 489 for  
7 work on their own property; arborists, including tree trimming  
8 and tree removal services; tree moving services; and lawn  
9 maintenance services or landscape maintenance services for the  
10 provision of maintenance services.

11 Section 6. Section 581.141, Florida Statutes, is  
12 amended to read:

13 581.141 Certificate of registration or of inspection;  
14 revocation and suspension; fines.--

15 (1) REVOCATION AND SUSPENSION.--If it is determined by  
16 the department that any nurseryman, stock dealer, agent, or  
17 plant broker is selling or offering for sale, or is  
18 distributing or offering to distribute, nursery stock or that  
19 any landscape designer is providing landscape design services  
20 in violation of the provisions of this chapter and the rules  
21 adopted under this chapter, or has aided or abetted in such  
22 violation, the department may revoke or suspend her or his  
23 certificate of registration or the use of any certificates,  
24 permits, or agreements issued by the division. Further, the  
25 department may refuse or suspend the certification of any  
26 nursery stock or plant product when it is determined that  
27 plant pests exist on the stock or product or that the nursery  
28 or site is in such condition with regard to growth and  
29 cultivation that an efficient inspection for plant pests  
30 cannot be made.

31 (2) FINES; PROBATION.--

1 (a)1. The department may, after notice and hearing,  
2 impose a fine not exceeding \$5,000 or probation not exceeding  
3 12 months, or both, for the violation of any of the provisions  
4 of this chapter or the rules adopted under this chapter upon  
5 any person, nurseryman, stock dealer, agent, ~~or~~ plant broker,  
6 or landscape designer. The fine, when paid, shall be  
7 deposited in the Plant Industry Trust Fund.

8 2. The imposition of a fine or probation pursuant to  
9 this subsection may be in addition to or in lieu of the  
10 suspension or revocation of a certificate of registration or  
11 certificate of inspection.

12 (b) Whenever any administrative order has been made  
13 and entered by the department imposing a fine upon any person  
14 pursuant to this subsection, the order shall specify the  
15 amount of the fine and the time limit for payment, which shall  
16 not exceed 15 days. Upon failure to pay the fine within such  
17 time, the certificate of registration or certificate of  
18 inspection of the person may be suspended or revoked without  
19 further hearing; and a fine of \$100 per day may be imposed for  
20 each day the violation continues.

21 Section 7. Paragraph (a) of subsection (3) of section  
22 581.211, Florida Statutes, is amended to read:

23 581.211 Penalties for violations.--

24 (3)(a)1. In addition to any other provision of law,  
25 the department may, after notice and hearing, impose an  
26 administrative fine not exceeding \$5,000 for each violation of  
27 this chapter, upon any person, nurseryman, stock dealer,  
28 agent, ~~or~~ plant broker, or landscape designer. The fine, when  
29 paid, shall be deposited in the Plant Industry Trust Fund. In  
30 addition, the department may place the violator on probation  
31 for up to 1 year, with conditions.

1           2. The imposition of a fine or probation pursuant to  
2 this subsection may be in addition to or in lieu of the  
3 suspension or revocation of a certificate of registration or  
4 certificate of inspection.

5           Section 8. Subsection (5) of section 481.329, Florida  
6 Statutes, is amended to read:

7           481.329 Exceptions; exemptions from licensure.--

8           (5) This part shall not be deemed to prohibit any  
9 nurseryman, nursery stock dealer, ~~or agent, or landscape~~  
10 designer as defined by chapter 581 who is required under  
11 chapter 581 to hold a valid certificate of registration  
12 ~~license~~ issued by the Division of Plant Industry of the  
13 Department of Agriculture and Consumer Services and who does  
14 hold a valid certificate of registration ~~license~~ to engage in  
15 the business of selling nursery stock or providing landscape  
16 design services in this state, insofar as she or he engages in  
17 the preparation of plans or drawings as an adjunct to  
18 merchandising her or his product, so long as she or he does  
19 not use the title, term, or designation "landscape architect,"  
20 "landscape architectural," "landscape architecture," "L.A.,"  
21 "landscape engineering," or any description tending to convey  
22 the impression that she or he is a landscape architect unless  
23 she or he is registered as provided in this part or is exempt  
24 from registration under the provisions of this part.

25           Section 9. This act shall take effect October 1 of the  
26 year in which enacted.

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HOUSE SUMMARY

Provides for regulation of landscape designers under ch. 581, F.S., relating to the plant industry. Preempts authority over landscape designers to the Department of Agriculture and Consumer Services and provides the department with the requisite powers and duties and rulemaking authority therefor. Requires registration and provides for discipline of landscape designers. Specifies services exempt from registration and provides that a landscape designer is exempt from licensure as a landscape architect under pt. II, ch. 481, F.S. See bill for details.