HOUSE DOCKET, NO. 2410 FILED ON: 2/18/2011

HOUSE . . . . . No. 3266

The Commonwealth of Massachusetts

PRESENTED BY:

Carolyn C. Dykema

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to landscape architects.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Jennifer E. Benson	*37th Middlesex*

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HOUSE . . . . . No. 3266

By Ms. Dykema of Holliston, a petition (accompanied by bill, House, No. 3266) of Jennifer E. Benson relative to regulating landscape architects. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

An Act relative to landscape architects.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 98 of chapter 112 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 4, the word “him” and inserting in place thereof the following word:- them .

SECTION 2. Said section 98 of said chapter, as so appearing, is hereby further amended by striking out, in line 24, the word “his”, and inserting in place thereof the following word:- their .

SECTION 3. Chapter 112 of the General Laws is hereby further amended by striking out section 99, as appearing in the 2008 Official Edition, and inserting in place thereof the following section: -

Section 99. No person shall practice or offer to practice as a landscape architect in the commonwealth, unless such person shall have secured from the board a certificate of registration as a landscape architect. No person shall represent themselves to be a landscape architect or use the title landscape architect in the commonwealth on any sign, title, card, or other device to indicate such person is a landscape architect, unless such person shall have secured from the board a certificate of registration as a landscape architect. Every holder of a certificate of such registration shall display it in a conspicuous place in their principal office or place of employment within the commonwealth.

The following persons and activities are exempted from the provisions of this chapter: any architect registered under chapter 112, and any professional engineer registered under section 45 of chapter 13.

Nothing in this chapter shall prevent a vendor of goods, services or materials, including, but not limited, to irrigation designers, irrigation auditors, horticulturists, arborists, nursery staff,

23 gardeners, landscape gardeners, landscape preservationists, wetlands scientists, environmental
24 consultants, stone masons, and general or landscape contractors, from providing drawings or
25 graphic diagrams necessary for the proper layout of their goods or materials or as normally
26 included as part of their services, and nothing in this chapter shall prevent a landscape designer
27 from engaging in, for a fee, the design of outdoor spaces utilizing plants, grade alterations, soils,
28 soil amendments, paving, drainage solutions, building materials, or other utilities and amenities
29 normally included as a part of their work, or shall prevent them from arranging for installation of
30 same.

31 Nothing in this chapter shall be construed as in any manner to prohibit a person from
32 making plans, drawings, or specifications for the personal use and enjoyment of any property
33 which they own. Nothing in this chapter shall prevent the improvement by any person of land in
34 agriculture.

35 Notwithstanding the provisions of this section, no person exempted under this section or
36 any person engaged in activities exempted under this section shall use the title "landscape
37 architect" unless such person complies with the provisions of this chapter.

38 SECTION 4. Section 100 of said chapter 112, as so appearing, is hereby amended by
39 striking out the second and third sentences and inserting in place thereof the following 2
40 sentences:- All plans, specifications and reports prepared by a registered landscape architect or
41 prepared under their supervision, shall be stamped with the impression of such seal. A registered
42 landscape architect shall impress their seal on any plans, specifications or reports only if their
43 certificate of registration is in full force and if they were the author of such plans, specifications
44 and reports or in responsible supervision of their preparation.

45 SECTION 5. Section 101 of said chapter, as so appearing, is hereby amended by striking
46 out, in clause (a), the words "he is at least twenty-three years of age and" and inserting in place
47 thereof the following words:- the applicant is .

48 SECTION 6. Said section 101 of said chapter, as so appearing, is hereby further amended
49 by striking out clause (b) and inserting in place thereof the following clause:-

50 (b) the applicant is a citizen of the United States or has legally declared their intention of
51 so becoming, or the applicant has a current visa issued by the Federal Bureau of Citizenship and
52 Immigration Services;

53 SECTION 7. Clause (c) of said section 101 of said chapter, as so appearing, is hereby
54 amended

55 by striking out the first sentence and inserting in place thereof the following sentence:-

56 the applicant has completed the course of study and been graduated from a college or
57 school of

58 landscape architecture approved by the board and the applicant has had 2 years of
59 practical

60 experience in landscape architectural work of a grade and character satisfactory to the
61 board.

62 SECTION 8. Section 102 of said chapter, as so appearing, is hereby amended by striking
63 out the third sentence and inserting in place thereof the following sentence:- Except as
64 hereinafter provided, every applicant for registration as a landscape architect shall be required, in
65 addition to all other requirements, to establish, by written examination, their competency to plan,
66 design, specify and supervise the installation of landscape projects.

67 SECTION 9. Said section 102 of said chapter, as so appearing, is hereby further amended
68 by adding the following paragraph:-

69 All persons holding a certificate of registration as a landscape architect in the
70 commonwealth shall participate in a mandatory continuing education program, to be overseen
71 and managed by the board or by a subcommittee designated by said board in accordance with the
72 following:

73 (a) all persons holding a certificate of registration as a landscape architect in the
74 commonwealth under this chapter shall apply to the board for renewal of their certificate on or
75 before the anniversary of the date of birth of the holder of said certificate next occurring more
76 than 36 months after the date of issuance of the license and every 3 years thereafter. An
77 application for renewal of license shall be approved for those applicants who provide evidence of
78 successful completion of at least 36 contact hours triennially of continuing education for licensed
79 landscape architects as approved by the board, and provide evidence of compliance with such
80 other requirements or equivalent requirements as approved by the board. One contact hour shall
81 be considered equal to 50 minutes of instruction. At least 12 contact hours must be earned by
82 attendance of a live presentation. Holders of said certificates shall not be permitted to carry over
83 continuing education from one triennial period to the next;

84 (b) the board may draft regulations to determine the value in contact hours of various
85 activities as shall qualify for credit as continuing education;

86 (c) acceptable activities for consideration by the board for eligibility for credit as contact
87 hours for continuing education for the purpose of renewal of certification of registration as a
88 landscape architect in the commonwealth may include those that increase the landscape
89 architect's knowledge and understanding of technical subjects and contribute directly to the
90 improvement of the landscape architect's professional knowledge and competence to practice
91 landscape architecture; Such subjects include, but are not limited to: legal issues that influence
92 the design of land areas, the construction of land areas or that influence any construction that
93 impacts land areas; administrative and professional topics that pertain to the practice of

94 landscape architecture; land use and land use history; sociological, behavioral and cultural
95 influence on design or land use; natural conditions and ecosystems; resource preservation;
96 wetland protection, preservation and remediation; topology; hydrology; hydraulics; natural
97 vegetation and succession; principles of sustainability; soils sciences and analysis; design and
98 planning principles and techniques; universal-accessible design; transportation systems and
99 roadway design; pedestrian and vehicular circulation; planting design; landscape maintenance
100 practices; playground safety standards and guidelines; irrigation design; lighting design;
101 construction methods and techniques; building materials; construction and land use permitting;
102 construction sequencing; principles and practice of grading, drainage, erosion and sedimentation
103 control; utility system design and requirements; design, structural requirements, construction and
104 permitting of site amenities including small structures; teaching a graduate or undergraduate
105 level course, seminar or workshop at an accredited institution on such a topic as listed above;
106 delivering a lecture or presenting a paper on such a topic as listed above; publishing articles or
107 books on such a topic as listed above, or one otherwise determined by the board to be appropriate
108 for credit as continuing education contact hours;

109 (d) courses, programs, seminars, workshops or similar events that provide
110 opportunity for continuing education contact hours as set forth in this section must provide the
111 individual participant with documentation for recordkeeping and reporting; it is the responsibility
112 of the applicant for renewal of a certificate of registration as landscape architect to maintain a
113 written record of all continuing education relevant to application for renewal of said certificate
114 for a 6-year period; such records must include: certificates of attendance, activities descriptions,
115 records of credits maintained by providers who may qualify or certify such records and activities,
116 and other documentation that verifies the content, date, time and duration of the activity or event;

117 (e) continuing education credits obtained in other states shall be accepted if the
118 credits meet the standards of the commonwealth as set forth in this section;

119 (f) the board may make exemptions from the continuing education provisions of this
120 section for:

121 i. holders of certificates on temporary active duty in the U.S. Armed Forces for a
122 period greater than 90 days in one year, where such activity restricts participation in continuing
123 education activities; and

124 ii. holders of certificates experiencing physical or mental disability, serious illness,
125 or other extenuating circumstances that prevent professional practice of landscape architecture
126 for an extended period of time. Such hardship cases shall be considered by the board on an
127 individual basis.

128 SECTION 10. Section 103 of said chapter, as so appearing, is hereby amended by
129 striking out clause (b) and inserting in place thereof the following clause:-

130 (b) Failure to renew a certificate of registration within 60 days after notification by
131 the board that their certificate has expired, shall, before again using the title of landscape
132 architect within the commonwealth, be required to reregister, and may be required by the board
133 to be reexamined.

134 SECTION 11. Section 106 of said chapter, as so appearing, is hereby amended by
135 striking out clause(f) and inserting in place thereof the following clause:-

136 (f) that the holder of such certificate of registration has permitted or suffered their official
137 seal to be affixed to any plans, specifications, drawings or reports, if such plans, specifications,
138 drawings or reports were not prepared by them or under their personal supervision by their
139 employed subordinates.

140 SECTION 12. Section 107 of said chapter, as so appearing, is hereby amended, by
141 striking out clause (a) and inserting in place thereof the following clause:-

142 (a) hold themselves as a landscape architect unless they are registered under the
143 provisions of sections 98 to 106, inclusive;

144 SECTION 13. Said section 107 of said chapter, as so appearing, is hereby further
145 amended by striking out clause (b) and inserting in place thereof the following clause:-

146 (b) present as their own the certificate of registration of another;

147 SECTION 14. Said section 107 of said chapter, as so appearing, is hereby further
148 amended by striking out the last sentence and inserting in place thereof the following sentence:-
149 Each such violation shall be punished by a fine of not less than $100 nor more than $5,000, or by
150 imprisonment in a jail or house of correction for not more than 1 year, or by both such fine and
151 imprisonment.