

April 9, 2009

H 1408. REWRITE LANDSCAPE CONTRACTOR LAWS. Filed 4/9/09. *REWRITING THE LAWS REGULATING LANDSCAPE CONTRACTORS AND AUTHORIZING THE NORTH CAROLINA LANDSCAPE CONTRACTORS' LICENSING BOARD TO INCREASE FEES.*

Repeals GS 89D-1 through 89D-10. Amends Chapter 89D by creating new GS 89D-11 (Definitions), new GS 89D-12 (license required), new GS 89D-13 (exemptions), new GS 89D-14 (landscape contractors licensing board), new GS 89D-15 (powers and duties of licensing board), new GS 89D-16 (application, qualifications, examination and issuance of license), new GS 89D-17 (reciprocity), new GS 89D-18 (license renewal and continuing education), new GS 89D-19 (expenses and fees), new GS 89D-20 (disciplinary action), new GS 89D-21 (civil penalties), and new GS 89D-22 (injunctions). New GS 89D-12 prohibits anyone from engaging in the practice of landscape construction or contracting or holding himself or herself out as a landscape contractor unless licensed by the new North Carolina Landscape Contractor Licensing Board. New GS 89D-11(2) defines landscape contractor as anyone (a) engaged in the business requiring the art, experience, ability, knowledge, science and skill to install, plant, repair and maintain gardens, lawns, shrubs, vines, trees or other decorative vegetation, including the grading and preparation of plots and areas of land for decorative treatment and arrangement, or (b) practices the act of horticulture consultation or planting design for employment purposes, or (c) constructs, installs or maintains landscape drainage systems, or (d) engages in the incidental construction of garden pools, fountains, pavilions, conservatories, hothouses and greenhouses, retaining walls, fences or walks. New GS 89D-13 lists exemptions from the provisions of Chapter 89D, including, government agencies performing landscaping on public property, property owners performing landscaping on their own property, annual landscape contracts for less than \$7,500, and individuals and businesses engaged in lawn mowing, turf edging and debris removal. New GS 89D-14 creates a nine-member North Carolina Landscape Contractors' Licensing Board and new GS 89D-15 sets forth its powers and duties, which include adopting rules to carry out the provisions of Chapter 89D, examining and determining the qualifications and fitness of applicants for licensure and licensure renewal, issuing, renewing, denying, suspending and revoking licenses, investigating complaints from the public, conducting administrative hearings, and establishing and approving continuing education requirements. New GS 89D-16(a) provides that the minimum requirements to qualify as a landscape contractor shall be a minimum age of 18, good moral character, a minimum of 3 years experience in landscape construction or the educational equivalent, which shall be two years of educational training in landscape construction for a single year of experience, and maintenance of a corporate surety bond. Subsection (b) directs the board to establish the scope and subject matter of a licensing examination that each applicant must pass to be issued a license. New GS 89D-17 allows the board to issue a license without examination to any one who is licensed as a landscape contractor in another state or country if that state or country's requirements are substantially equivalent. New GS 89D-18 provides for yearly renewal of landscape contractor licenses in accordance with the fee schedule set out in new GS 89D-19. New GS 89D-20 authorizes the board to deny, restrict, suspend or revoke a license for reasons including fraud, deceit or misrepresentation in the application for a license or its renewal, fraudulent misrepresentation in the practice of landscape contracting, gross malpractice or incompetence, violation of rules adopted by the board or failure to file or keep the required surety bond in force. New GS 89D-21 authorizes the board to assess a civil penalty of \$2,000 or less for each violation of Chapter 89D or any rules adopted by the board. New GS 89D-22 authorizes the board to file a motion for an injunction against anyone engaging in landscape construction without a license. The act also allows persons registered as landscape contractors as of December 31, 2009 to be issued a landscape contractor's license without examination. Effective January 1, 2010.

Intro. by Gibson.

GS 89D