

ASSEMBLY, No. 853

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen COTTRELL and MALONE

1 AN ACT concerning the certification of tree experts, amending and
2 supplementing P.L.1940, c.100, and repealing parts of the statutory
3 law.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. Section 3 of P.L.1940, c.100 (C.45:15C-3) is amended to read
9 as follows:

10 3. The Department of Environmental Protection shall establish a
11 board of tree experts consisting of three members who shall be skilled
12 in the knowledge, science and practice of tree care and shall have been
13 **[actively engaged as tree experts within the State of New Jersey]**
14 **certified tree experts** for a period of at least **[5] five** years prior to
15 their selection. Members of the board shall hold office**[, one for the**
16 **term of 1 year, one for the term of 2 years, and one]** for **[the] a** term
17 of **[3] three** years, and thereafter until their successors are appointed
18 by the department. Vacancies shall be filled for the unexpired terms
19 only. The department shall make all rules and regulations necessary
20 to carry into effect the provisions of this act.

21 (cf: P.L.1983, c.324, s.28)

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23 2. Section 4 of P.L.1940, c.100 (C.45:15C-4) is amended to read
24 as follows:

25 4. The certificate of "certified tree expert" shall be granted by the
26 board **[to] upon application by any natural** person who is (a) a citizen
27 of the United States or has duly declared his or her intention of
28 becoming **[such] a** citizen, and **[who is a legal resident of the State of**
29 **New Jersey,](b) who is over the age of 21 years, and (c) who is of**
30 **good moral character, and (d) who has graduated from a 4 year**
31 **college with a degree in forestry, arboriculture, ornamental**
32 **horticulture, landscape architecture, or the equivalent, or (e) who**

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 [shall have continuously] , for at least [5] five years immediately
2 preceding the date of his application , has been [engaged in practice as
3 a tree expert, (f) who shall have successfully passed examinations in
4 the theory and practice of tree care, including such subjects as botany,
5 plant physiology, dendrology, entomology, plant pathology, and soils]
6 continuously employed in the practice of arboriculture, or (f) who has
7 completed two years of college and passed courses in the theory and
8 practice of tree care, including botany, plant physiology, dendrology,
9 entomology, plant pathology, and soils, or their equivalent, and has
10 been continuously employed in the practice of arboriculture for a
11 period of at least three years preceding the date of his application or
12 entry into college, and (g) who has passed the examination provided
13 for in section 5 of P.L.1940, c.100 (C.45:15C-5). Upon satisfaction
14 of the qualifications specified in this section, the board shall issue the
15 successful applicant a wall certificate evidencing the applicant's
16 certification. The determination of the board as to an applicant's
17 qualifications shall constitute final agency action.
18 (cf: P.L.1983, c.324, s.29)

19

20 3. Section 5 of P.L.1940, c.100 (C.45:15C-5) is amended to read
21 as follows:

22 5. New applicants who have never been certified or who have not
23 held a certificate for [3] three years previously [must] shall take an
24 examination , unless the board in its discretion waives this
25 requirement. All examinations provided for herein shall be conducted
26 by the board. The examinations shall take place as often as may be
27 necessary in the opinion of the board but not less frequently than once
28 each year. A candidate who [shall have passed a satisfactory
29 examination in all but one of the subjects given by the board of
30 examination] has taken the examination and failed any subject or
31 subjects thereof, may , at the discretion of the board, be reexamined
32 in that subject or those subjects only, at subsequent examinations held
33 by the board, and if he passes in that subject or those subjects he shall
34 be considered to have passed the examination. Nothing in this [law]
35 act shall be construed as prohibiting the reexamination in all subjects
36 of a candidate who has failed any subject or subjects in a prior
37 examination.

38 (cf: P.L.1983, c.324, s.30)

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40 4. Section 6 of P.L.1940, c.100 (C.45:15C-6) is amended to read
41 as follows:

42 6. The board of tree experts by majority vote thereof [shall] may
43 permanently revoke or temporarily suspend the effect of a certificate
44 of any certified tree expert who has been convicted of a crime in the
45 courts of this State, or has been guilty of any fraud or deceit in
46 obtaining [such] a certificate, or who has been guilty of negligence or

1 wrongful conduct in the practice of professional tree care. The board
2 may promulgate and may amend from time to time canons of
3 professional ethics and may temporarily suspend for a period not
4 exceeding [2] two years [the effect of] the certificate of any certified
5 tree expert who violates [such] the canons of professional ethics, this
6 power of suspension being in addition to and not in limitation of the
7 power to revoke or suspend heretofore provided in this section.
8 Notice of [the cause for such contemplated action] and the date of
9 hearing [thereon] of any action pursuant to this section by the board
10 shall be mailed to the holder of [such] the certificate at [his or her]
11 that person's registered address at least 20 days before [said] the
12 hearing. No certificate issued under this act shall be revoked or [the
13 effect thereof] suspended until the board [shall have] has had [such]
14 a hearing, but the nonappearance of the holder of any certificate after
15 notice [as herein] has been provided shall not prevent [such] the
16 hearing. By majority vote the board may reissue the certificate of any
17 certified tree expert whose certificate [shall have] has been revoked
18 and may modify [the effect of] the suspension of any certificate which
19 has been suspended.

20 (cf: P.L.1983, c.324, s.31)

21

22 5. Section 8 of P.L.1940 c.100 (C.45:15C-8) is amended to read
23 as follows:

24 8. a. No person shall represent himself or herself to the public as
25 having received a certificate as provided for in this act, or shall
26 [assume to] practice as a certified tree expert without having received
27 [such] a certificate, and no person who, having received [such] a
28 certificate and thereafter lost the same by revocation or had [the effect
29 of] the [same] certificate suspended as provided for in this act, shall
30 continue to practice as a certified tree expert, and no person shall use
31 [such] the title of certified tree expert, or the abbreviation "C.T.E." or
32 any other words, letters or abbreviations tending to indicate that
33 [such] the person is a certified tree expert without having received
34 [such] a certificate or if [such] their certificate has been revoked or
35 suspended.

36 b. Any person who violates this section shall be subject to a fine
37 not exceeding \$1,000.

38 (cf: P.L.1983, c.324, s.32)

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40 6. Section 9 of P.L.1940, c.100 (C.45:15C-9) is amended to read
41 as follows:

42 9. The board may in its discretion [register the certificate of] grant
43 certification to any person who is not a resident of this State and who
44 is the lawful holder of a [C.T.E. certificate] substantially equivalent
45 certification issued under the laws of another state which extends
46 similar privileges to certified tree experts of this State; provided, the

1 requirements [of the certificate] for certification in [the other] that
2 state [which has granted it to the applicant] are, in the opinion of the
3 board, substantially equivalent to those herein provided.

4 (cf: P.L.1983, c.324, s.33)

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6 7. (New section) "Certified tree expert" means a natural person
7 who has satisfied the requirements of P.L.1940, c.100 (C.45:15C-1 et
8 seq.) and who has been authorized by the board to present himself to
9 the public as a certified tree expert. Nothing in this act shall be
10 construed to restrict or otherwise affect the right of any person to
11 engage in the practice of arboriculture, but a person shall not hold
12 himself out as, or use the title of, a certified tree expert unless he has
13 been, and continues to be, so authorized by the board.

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15 8. (New section) All applicants for certification or renewals for
16 certification under this act shall pay a fee for the issuance or renewal.
17 Fees shall be determined by the board. The revenue generated from
18 these fees shall not exceed the operating costs incurred by the board
19 under this act.

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21 9. Sections 2, 7 and 10 of P.L.1940, c.100 (C.45:15C-2, 45:15C-7
22 and 45:15C-10) are repealed.

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24 10. This act shall take effect immediately.

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STATEMENT

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29 This bill requires reappointed or newly appointed members of the
30 board of tree experts to have been certified tree experts for at least
31 five years; allows an applicant to qualify to take the examination for
32 certification if he has completed two years of college, passed courses
33 in theory and practice of tree care, including botany, plant physiology,
34 dendrology, entomology, plant pathology, and soils, and has been
35 continuously employed in the practice of arboriculture for a period of
36 at least three years preceding the date of his application or entry into
37 college; allows the board, in its discretion, to waive the examination
38 requirement for new applicants and those applicants who have not held
39 a certificate for three years; allows the board to limit the subjects for
40 reexamination to those test subjects not passed; gives the board
41 discretion in the revocation or suspension of permits where such action
42 by the board is now mandatory; imposes a fine of up to \$1,000 on any
43 person who falsely represents himself as a "certified tree expert;"
44 defines the title "certified tree expert" as a person who is certified
45 pursuant to P.L.1940, c.100 (C.45:15C-1 et seq.) and clearly states
46 that the act does not restrict the right of any person to engage in the

- 1 practice of arboriculture except that person may not hold himself out
2 to be a "certified tree expert" unless certified as such;
3 establishes new fees reflecting the actual costs for services provided
4 by the board; and repeals three sections of current law concerning the
5 definition of "certified tree expert," fees and waiver of examinations.
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10 Revises requirements for the certification of tree experts.