

**LOUISIANA HORTICULTURE COMMISSION**  
**HORTICULTURE LAW**  
**Title 3**  
**CHAPTER 24. HORTICULTURE**

**§3801. Horticulture Commission**

- A. The Horticulture Commission of Louisiana is hereby created within the Department of Agriculture and Forestry to be comprised of the following thirteen members:
- (1) The commissioner of agriculture and forestry.
  - (2) The assistant commissioner of agricultural and environmental sciences.
  - (3) The director of the Louisiana Cooperative Extension Service.
  - (4) A licensed arborist.
  - (5) A licensed retail florist.
  - (6) A licensed wholesale florist.
  - (7) A licensed landscape horticulturist.
  - (8) A licensed landscape architect.
  - (9) A nursery stock dealer.
  - (10) A wholesale nurseryman.
  - (11) A licensed utility arborist.
  - (12) A sod grower.
  - (13) A licensed landscape irrigation contractor.
- B. The commissioner of agriculture and forestry, the assistant commissioner of agricultural and environmental sciences, and the director of the Louisiana Cooperative Extension Service shall serve as ex officio members with the same rights, powers, and privileges as the other members.
- C. The following members shall be appointed by the commissioner, subject to confirmation of the Senate, and shall serve terms of four calendar years beginning with the year of appointment in accordance with the following provisions:
- (1) The licensed arborist shall be appointed during the second year of each administration from the arborists licensed by the commission.
  - (2) The licensed retail florist shall be appointed during the second year of each administration from a list of three persons nominated by the Louisiana State Florists Association, Inc.
  - (3) The licensed wholesale florist shall be appointed during the third year of each administration from the wholesale florists licensed by the commission.
  - (4) The licensed landscape horticulturist shall be appointed during the fourth year of each administration from a list of three persons nominated by the Louisiana Nursery and Landscape Association.
  - (5) The licensed landscape architect shall be appointed during the third year of each administration from a list of three persons nominated by the Louisiana Chapter of the American Society of Landscape Architects.
  - (6) The nursery stock dealer shall be appointed during the first year of each administration from a list of three persons nominated by the Louisiana Retailers Association.
  - (7) The wholesale nurseryman shall be appointed during the first year of each administration from a list of three persons nominated by the Louisiana Nursery and Landscape Association.

- (8) The licensed utility arborist shall be appointed during the second year of each administration from the utility arborists licensed by the commission, who are graduate foresters and who work in the utility line clearing area.
  - (9) The sod grower shall be appointed during the fourth year of each administration from a list of three persons nominated by the Louisiana Turfgrass Association.
  - (10) The licensed landscape irrigation contractor shall be appointed during the first year of each administration from a list of three persons nominated by the Louisiana Irrigation Association.
- D. Vacancies in the office of the appointed members shall be filled in the same manner as the original appointments. Appointments to fill vacancies shall be made within ninety days of the date the vacancy occurred and shall be for the unexpired portion of the term of the office vacated.
- E. A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of the duties of the commission. Each member shall take and subscribe to the oath of office prescribed for state officers. Members of the commission shall not receive any salary for their duties as members. The appointed members who are not state employees or officers may receive a per diem for each day spent in actual attendance of meetings of the commission or of duly appointed committees or subcommittees of the commission. The amount of the per diem shall be fixed by the commission in an amount not to exceed forty dollars. The appointed members who are not state employees or officers may receive a mileage allowance for mileage traveled in attending meetings. The mileage allowance shall be fixed by the commission in an amount not to exceed the mileage rate for state employees.
- F. The commission is hereby authorized to adopt such rules and regulations as are necessary to enforce the provisions of this Chapter and to carry out the intent of the laws contained therein, including, but not limited to, rules and regulations for the following purposes:
- (1) To govern the qualifications and practices of persons engaged in the professions and occupations regulated by the commission.
  - (2) To establish examinations for applications for licenses and to establish minimum scores necessary to pass those examinations.
  - (3) To require the payment of examination fees, license fees, and permit fees as provided in this Chapter.
  - (4) To hold hearings and to conduct investigations.
  - (5) To do all things necessary to prevent fraudulent practices by persons engaged in the professions and occupations regulated by the commission.
  - (6) To encourage holders of licenses and permits to participate in continuing education programs approved by the commission.
- G. The commissioner of agriculture and forestry, the assistant commissioner for agricultural and environmental sciences, and the director of the Louisiana Cooperative Extension Service may name designees to attend meetings for those officers. The commissioner may appoint an alternate member for each member he appoints. If the member is appointed from a list of nominees, the alternate shall be appointed from the same list. Any designee or alternate who attends a meeting as a representative of a member shall have the same rights, powers, and privileges, including voting rights, as the member he represents.
- H. The commission, by a vote of two-thirds of the appointed members, may expel a member who has accumulated three consecutive unexcused absences from commission meetings.

- I. The commission shall employ a director and assistant director who shall be appointed by the commission, subject to the approval of the commissioner. The director and assistant director shall be in the unclassified service.

Acts 1950, No. 224, §1. Amended by Acts 1954, No. 534, §1; Acts 1965, No. 127, §1; Acts 1972, No. 320, §1; Acts 1980, No. 330, §2; Acts 1981, No. 418, §1; Acts 1985, No. 120, §1; Acts 1986, No. 447, §1, eff. July 1, 1986; Acts 1988, No. 318, §1; Acts 1990, No. 69, §1; Acts 1992, No. 60, §1; Acts 1995, No. 182, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2008, No. 63, §1, eff. June 5, 2008; Acts 2008, No. 227, §1, eff. June 16, 2008; Acts 2008, No. 229, §1, eff. June 16, 2008; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2010, No. 495, §1, eff. June 24, 2010; Acts 2012, No. 310, §1, eff. May 25, 2012.

### **§3802. Chairman, secretary**

- A. The commissioner of agriculture and forestry shall be the chairman of the commission. The chairman shall enforce the provisions of this Chapter and the rules and regulations adopted by the commission and shall employ such personnel, other than the director and assistant director, as may be necessary to administer the provisions of this Chapter.
- B. The assistant commissioner for agricultural and environmental sciences shall serve as secretary of the commission.

Acts 1950, No. 224, §2. Amended by Acts 1952, No. 272, §1; Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1986, No. 447, §1, eff. July 1, 1986; Acts 2009, No. 24, §1, eff. June 12, 2009.

### **§3803. Definitions**

As used in this Chapter, the following terms shall have the following meanings ascribed to them:

- (1) "Chairman" means the chairman of the commission.
- (2) "Commission" means the Horticulture Commission of Louisiana.
- (3) "Commissioner" means the commissioner of agriculture and forestry.
- (4) "Direct supervision" means giving direction or instruction to and accepting responsibility for the work product of the person being supervised.
- (5) "Landscape irrigation contractor" means a person who is licensed to construct, install, connect, repair, maintain, improve, or alter any portion of a landscape irrigation system.
- (6) "Landscape irrigation system" means any assemblage of component materials or special equipment that provides and distributes a controlled dispersion of water to landscaped areas for the purposes of irrigating vegetation or controlling dust and erosion.
- (7) "License" means a document issued by the commissioner authorizing the holder to engage in the profession indicated thereon.
- (8) "Mobile unit" means a container or means of conveyance from which cut flowers or nursery stock are sold.
- (9) "Nursery" means any farm, grounds, or premises on which nursery stock is propagated, grown, or kept for sale or distribution.

- (10) "Nursery stock" means all trees, shrubs, ornamental plants, grass sod, or foliage plants grown or kept for propagation, distribution, or sale.
- (11) "Nurseryman" means any person who engages in the production, distribution, and sale of nursery stock.
- (12) "Outlet" means a mobile unit or a place of business.
- (13) "Permit" means a document issued by the commissioner authorizing the holder to engage in the occupation indicated thereon.
- (14) "Person" means an individual or any legal or commercial entity, including a corporation, business trust, partnership, limited liability company, association, or joint venture. However, for the purposes of violations, adjudications, and penalties under this Chapter, "person" shall not include a person or entity volunteering to provide horticulture services.
- (15) "Place of business" means a permanent location or a portion of a permanent location from which business in a regulated profession or occupation is transacted.
- (16) "Regular Employee" means a person who holds a valid, appropriate license or permit issued by the commissioner and who works at a place of business for thirty-two or more hours a week.
- (17) "Secretary" means the secretary of the commission.
- (18) "Vending machine" means any climate controlled mechanical, electric, or electronic self-service device which, upon insertion of money, credit card, token, or any other form of payment, automatically dispenses merchandise.

Acts 1950, No. 224, §3. Amended by Acts 1965, No. 127, §1; Acts 1972, No. 320, §§1, 2; Acts 1981, No. 112, §1; Acts 1985, No. 120, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2008, No. 63, §1, eff. June 5, 2008; Acts 2008, No. 227, §1, eff. June 16, 2008; Acts 2008, No. 229, §1, eff. June 16, 2008; Acts 2015, No. 202, §1, eff. August 1, 2015.

#### **§3804. Regulation of professions and occupations**

A. The commission shall regulate the following professions:

- (1) Arborist.
- (2) Retail florist.
- (3) Wholesale florist.
- (4) Landscape horticulturist.
- (5) Landscape architect.
- (6) Utility arborist.
- (7) Landscape irrigation contractors.

B. The commission shall regulate the following occupations:

- (1) Nursery stock dealer.
- (2) Cut flower dealer.

C. No person shall receive fees, whether directly or indirectly, for engaging in a regulated profession, or advertise as engaged in a regulated profession, or solicit business in a regulated profession, unless the person holds a valid appropriate license issued by the commissioner, or has a regular employee who holds a valid appropriate license issued by the commissioner, or is employed by or is working under the direct supervision of a person who holds a valid appropriate license issued by the commissioner.

- D. No person shall receive income, whether directly or indirectly, for engaging in a regulated occupation, or advertise as engaging in a regulated occupation, or solicit business in a regulated occupation, unless the person holds a valid appropriate permit issued by the commissioner, or has a regular employee who holds a valid appropriate permit issued by the commissioner, or is employed by or supervised by a person who holds a valid appropriate permit issued by the commissioner and who accepts responsibility for insuring that the employee complies with the requirements of this Chapter.
- E. The regulation of arborists is preempted by this Chapter. The governing authority of a political subdivision shall not adopt any ordinance in any way affecting the licensure or regulation of arborists, except as follows:
- (1) The governing authorities of parishes and municipalities may request that the rules applicable to arborists be amended to provide for specific problems encountered by the parish or municipality.
  - (2) The following provisions shall govern requests by parish or municipal governing authorities:
    - (a) The request shall be addressed to the commissioner.
    - (b) The commission shall hear the request.
    - (c) The commission shall make a preliminary determination as to the advisability of amending the rules and shall transmit its determination to the commissioner.
    - (d) The commissioner shall make the final determination as to the desirability of amending the rules.
    - (e) If the commissioner determines that the rules should be amended, the rule shall be adopted in accordance with the Administrative Procedure Act.
  - (3) Any governing authority of a political subdivision may petition the commissioner for approval of an ordinance applicable to the licensure or regulation of arborists as follows:
    - (a) The governing authority shall transmit the proposed ordinance to the commissioner who shall refer the ordinance for hearing in accordance with R.S. 3:3804(E)(2).
    - (b) Upon receipt of the recommendation of the commission, the commissioner shall approve or disapprove the proposed ordinance.
    - (c) Any governing authority aggrieved by a final decision of the commissioner, shall have a right of judicial review of the administrative process in accordance with the Administrative Procedure Act.

Acts 1950, No. 224, §4. Amended by Acts 1965, No. 127, §1; Acts 1972, No. 320, §1; Acts 1974, No. 574, §3; Acts 1979, No. 500, §1; Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1992, No. 60, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2008, No. 63, §1, eff. June 5, 2008.

### **§3805. Applications**

Each application to take an examination and each application for a license or permit shall be in writing and shall be on forms which shall be prescribed by the commission. Each application shall be accompanied by the appropriate fee and by such documents as the commission may require. Each applicant shall indicate on the application the street address of his residence and the street address of his place of business. If the residence or place of business does not have a street address, the applicant shall provide sufficient information to establish the physical location of the residence or place of business. Each applicant for a nursery stock dealer's permit or a cut flower dealer's permit shall have an identifying sales tax number issued by the secretary of revenue and taxation and shall indicate that number on the application.

Acts 1950, No. 224, §5. Amended by Acts 1954, No. 534, §2; Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1985, No. 192, §1.

**§3806. Fees**

- A (1) The examination fee for each examination for a professional license, except for landscape architects, shall be established by the commission by rule in an amount not to exceed three hundred fifty dollars. In determining the amount of the fee, the commission shall consider the costs incurred in obtaining, administering, and grading the examination.
- (2) The examination fee for each examination for a professional license for landscape architects shall be established by the commission by rule in an amount not to exceed two hundred dollars, which represents the cost of administering and grading the Louisiana Landscape Architect Examination.
- B. The license fee for each professional license which is issued or renewed by the commissioner shall not be less than seventy-five dollars nor more than one hundred fifty dollars per license.
- C. The permit fee for each nursery stock dealer's permit which is issued or renewed by the commissioner shall not be less than one hundred thirty dollars nor more than one hundred seventy-five dollars per permit.
- D. The permit fee for each cut flower dealer's permit which is issued or renewed by the commissioner shall not be less than seventy dollars nor more than one hundred forty dollars per permit.
- E. In addition to the fees provided for in Subsections B, C, and D of this Section, each applicant who applies for the renewal of a license or permit more than fifteen working days after his license or permit has expired shall pay a late fee of twenty-five dollars for each late application.
- F. The fees established in this Section shall not be refundable except under such conditions as the commission may establish.
- G. (1) All assessments, fees, penalties, and all other funds received under the provisions of this Chapter, subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.
- (2) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury under the provisions of this Chapter into a special fund which is hereby created in the state treasury and designated as the Horticulture and Quarantine Fund.
- (3) All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. The state treasurer shall invest monies in the fund in the same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.
- (4) Subject to appropriation, the monies in the fund shall be used for the following purposes:
  - (a) To provide for the expenses of the program established by this Chapter and the expenses of the office of agricultural and environmental sciences, as determined by the commissioner.
  - (b) To fund any and all costs related to the purposes of this Chapter and to carrying out the powers and duties granted the commission and the commissioner under this Chapter.

- H. The commission is authorized to promulgate rules and regulations, in accordance with the Administrative Procedure Act, necessary to implement the provisions of this Section.

Acts 1950, No. 224, §6. Amended by Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1981, Ex.Sess., No. 2, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1987, No. 844, §1; Acts 1992, No. 457, §1; Acts 1992, No. 984, §2; Acts 2003, No. 123, §1, eff. July 1, 2003; Acts 2011, No. 31, §1.; Acts 2013, No. 103, §1, eff. August 1, 2013; Acts 2015, No. 202, §1, eff. August 1, 2015.

### **§3807. Examinations**

- A. Each applicant for a professional license shall satisfactorily pass an examination prior to being issued a license. The commission shall be responsible for the preparation, administration, and grading of examinations for professional licenses. The commission shall review and approve all proposed examinations and shall determine the minimum score necessary to satisfactorily pass each examination.
- B. The examination for each profession shall be compiled from lists of questions submitted by the following organizations:
- (1) The arboricultural examination shall be compiled from a list of questions submitted by the Louisiana State University Agricultural Center and the Louisiana Department of Agriculture and Forestry. The utility arboricultural examination shall be a separate examination pertaining to utility tree work and shall be compiled from a list of questions submitted by the Louisiana State University Agricultural Center and the Louisiana Department of Agriculture and Forestry.
  - (2) The retail florist examination shall be compiled from a list of questions submitted by the Louisiana State Florists Association, Louisiana State University Agricultural Center, and the Louisiana Department of Agriculture and Forestry.
  - (3) The wholesale florist examination shall be compiled from a list of questions submitted by the Louisiana Wholesale Florists Association, Louisiana State University Agricultural Center, and the Louisiana Department of Agriculture and Forestry.
  - (4) The landscape horticulturist examination shall be compiled from a list of questions submitted by the Louisiana Nursery and Landscape Association, Louisiana State University Agricultural Center, and the Louisiana Department of Agriculture and Forestry.
  - (5) The national landscape architect examination shall be prepared by the Council of Landscape Architectural Registration Boards, or its successor. The Louisiana Landscape Architect Examination shall be compiled from a list of questions approved by the commission.
  - (6) Repealed by Acts 2008, No. 63, §2, eff. June 5, 2008.
  - (7) The landscape irrigation contractor examination shall be compiled from a list of questions submitted by the Louisiana Irrigation Association and the Louisiana Department of Agriculture and Forestry.
- C. The commission shall fix the dates for all examinations for professional licenses. The commission may establish a date prior to each examination which shall be the last date on which applications to take the examination will be accepted, and may refuse to administer examinations to persons whose applications are received after that date.
- D. Each person who has been issued a license and who fails to renew his license for three successive years, may do so upon completion of the requirements for renewal established by the commission. The maximum fee for delayed renewal shall be established by the commission, provided that said renewal fee shall not exceed three times the normal renewal fee. This delinquent renewal fee shall be in addition to the late renewal registration fee set forth in R.S. 3:3806(E).

- E. The commission may enter into reciprocal agreements with licensing agencies in other states to provide that applicants for a landscape architect's license who are licensed in another state as a result of passing an examination which was approved by the Council of Landscape Architectural Registration Boards, or its successor, shall be given credit for having passed that examination and will be required to pass the Louisiana Landscape Architect Examination.

Acts 1950, No. 224, §7. Amended by Acts 1965, No. 127, §1; Acts 1972, No. 320, §1; Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1987, No. 844, §1; Acts 1988, No. 230, §1; Acts 1990, No. 120, §1; Acts 1992, No. 60, §1; Acts 1992, No. 457, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2008, No. 63, §§1, 2, eff. June 5, 2008; Acts 2008, No. 556, §1, eff. June 30, 2008; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2010, No. 1040, §1, eff. July 8, 2010; Acts 2013, No. 103, §1, eff. August 1, 2013.

### **§3808. Terms and conditions of licenses and permits**

- A. A person who presents himself as, or advertises as, engaging in the arborist profession shall be required to obtain a license which shall subject that person to the following provisions:
- (1) An arborist's license authorizes the holder thereof to recommend or execute the following measures:
    - (a) The removal of a tree or a portion of a tree.
    - (b) Measures to prolong the life of a tree.
    - (c) Measures to enhance the aesthetic value of a tree.
  - (2) For license renewal, each arborist is required to attend a continuing training seminar as determined by rule by the commission.
- B. Retail florists shall be subject to the following provisions:
- (1) A retail florist's license authorizes the holder thereof to arrange or supervise the arrangement of floral designs which include living or freshly cut plant materials and to sell at retail floral designs, cut flowers, and ornamental plants in pots normally and customarily sold by florists.
  - (2) Each person who engages in the profession of retail floristry shall have a regular employee at each place of business who is a licensed retail florist and whose license shall be on display at all times during the hours business is conducted in that profession.
  - (3) Notwithstanding the provisions of Subsection (2), an individual who is a licensed florist and who owns his own floral business may operate a vending machine at a location remote from the individual's place of business for the sale of cut flowers and floral designs, subject to all of the following restrictions:
    - (a) (i) No individual shall operate more than five vending machines at any time.
      - (ii) When a floral business is operated by two or more licensed florists, the floral business shall be limited to five vending machines, regardless of the number of licensed florists who are employed by the floral business.
    - (b) A licensee shall obtain a cut flower permit for each vending machine.
    - (c) The following shall be prominently displayed inside the vending machine in plain view or on each vending machine:
      - (i) The name of the licensed florist.



- (ii) The address and telephone number, which is on record with the commission, of the individual owning or operating the vending machine.
  - (d) The cut flowers and floral designs sold from the vending machine shall be inspected or arranged by a licensed florist or under the supervision of a licensed florist at the owner's place of business prior to placement in the vending machine.
  - (e) The vending machine is monitored in person or electronically by a licensed florist or an individual under the direct supervision of a licensed florist at least once each business day and serviced as needed.
- (4) The commission may adopt rules and regulations governing the profession of retail florist, including rules and regulations providing for the operation, location and monitoring of vending machines and for the quality, freshness, longevity, and freedom from injurious insects, diseases, or other pests, of cut flowers, floral designs, and ornamental plants in pots sold by a licensed florist.
- (5) The provisions of this Subsection shall not apply to persons who arrange or sell floral designs composed entirely of artificial materials, or dried plant materials, or both.
- (6) Individuals licensed to operate vending machines shall not operate them outside of the parish more than twenty-five miles beyond their place of business.
- C. A wholesale florist's license authorizes the holder thereof to prepare and sell cut flowers, plant materials, and ornamental plants in pots normally and customarily used by retail florists to persons who hold a retail florist's license and to prepare and sell cut flowers to persons who hold a cut flower dealer's permit. A wholesale florist's license shall not authorize the holder thereof to arrange or sell floral designs.
- D. A landscape horticulturist's license authorizes the holder to do the following:
  - (1) Implement plans, studies, surveys, specifications, and designs prepared by a licensed landscape architect.
  - (2) Recommend and implement measures for interior and exterior beautification and development through the use of nursery stock.
  - (3) Sell or lease nursery stock and to recommend and execute measures for the maintenance of nursery stock. Each landscape horticulturist may use his license for the sale or lease of nursery stock from only one place of business. The license shall be on display at all times during the hours nursery stock is sold.
  - (4) Prepare drawings to indicate the placement of nursery stock. Each drawing shall include the name and license number of the landscape horticulturist who prepared the drawing. No fee shall be charged for preparing a drawing. A landscape horticulturist may use a drawing prepared by him in connection with the submission of a bid proposal. A drawing shall not be used by any person to solicit bids for the sale of materials or rendering of services regulated by the Commission.
- E. Landscape architects shall be subject to the following provisions:
  - (1) A landscape architect's license authorizes the holder thereof to perform professional services such as consultation, investigation, research, preparation of general development and detailed landscape design plans, studies, specifications, and responsible supervision in connection with the development of landscape areas where, and to the extent that, the principal purpose of the service is to arrange and modify the effects of natural scenery for aesthetic effect, considering the intended use of the land. Such services concern the arrangement of natural forms, features, and plantings, including the

ground and water forms, vegetation, circulation, walks, and other landscape features to fulfill aesthetic and practical requirements.

- (2) In order to accomplish the duties described in Paragraph (1) of this Subsection, the landscape architect may prepare feasibility studies; formulate graphic and written criteria to govern the aesthetic and practical planning and design of land construction programs; prepare, review, and analyze plans for aesthetic and practical land use and development; produce landscape plans, landscape grading and landscape drainage plans, landscape irrigation plans, planting plans, and related landscape construction details, specifications, estimates of probable costs, and reports for aesthetic and practical land use; collaborate in the design of pleasing and practical settings and approaches for vehicular and pedestrian circulation systems, bridges, and nonhabitable structures, all with respect to the practical and aesthetic requirements of the areas on which they are to be placed; negotiate and arrange for execution of landscape projects; and conduct field observation of landscape construction, restoration, and maintenance.
- (3) Nothing in this Subsection shall permit any person licensed under this Subsection to perform professional services which are defined as the practice of architecture in R.S. 37:141 et seq., or the practice of engineering or land surveying in R.S. 37:681 et seq., and which are not included in the practice of landscape architecture under this Subsection. Nothing in this Subsection shall prohibit the practice of engineering or land surveying or the practice of architecture by any person who is licensed as a professional engineer or land surveyor under R.S. 37:681 et seq., or as an architect under R.S. 37:141 et seq.
- (4) In order to qualify to take the national landscape architect examination, the applicant shall meet the minimum qualification standards approved by the Council of Landscape Architectural Registration Boards, or its successor.
- (5) In order to qualify to take the Louisiana Landscape Architect Examination, the applicant shall submit evidence of passing the national examination prepared by the Council of Landscape Architectural Registration Boards, or its successor.
- (6) The commission shall issue each licensed landscape architect a permanent registration number.
- (7) Each landscape architect shall affix his seal to all drawings or specifications prepared by or under the direct supervision of the landscape architect.
- (8) The seals used by landscape architects shall meet the specifications determined by rule by the commission.

F. Repealed by Acts 2008, No. 63, §2, eff. June 5, 2008.

G. Each person licensed under the provisions of this Chapter shall meet the professional standards determined by the commission for each profession and shall notify the commission of each change in the address of the residence or place of business of the license holder.

H. A nursery stock dealer's permit authorizes the holder thereof to sell nursery stock. A nursery stock dealer's permit shall not authorize the holder thereof to install nursery stock.

I. A cut flower dealer's permit authorizes the holder to do any of the following:

- (1) Sell cut flowers either singly or in bunches, or both. However, the holder of a cut flower permit may not sell cut flowers within three hundred feet of the place of business of another person engaged in the profession of retail florist.
- (2) Operate under that permit a vending machine for the sale of cut flowers and floral design in accordance with the provisions of this Chapter and the rules and regulations adopted pursuant to this Chapter, if the holder is engaged in the profession of retail florist.

- J. Each person issued a permit under the provisions of this Chapter shall meet the occupational standards determined by the commission for each occupation and shall notify the commission of each change in the address of the permit holder.
- K. Each person who holds a valid Louisiana Nursery Certificate Permit may use that permit in lieu of a nursery stock dealer's permit, or a cut flower dealer's permit, or both, at any one outlet.
- L. Each nursery stock dealer and cut flower dealer shall secure an appropriate permit for each outlet operated by the dealer.
- M. Each license and permit issued under the provisions of this Chapter shall expire on January thirty-first of each year and may be renewed in accordance with rules adopted by the commission.
- N. Each holder of a license or permit issued under the provisions of this Chapter shall present such license or permit upon demand of any authorized agent of the horticulture commission.
- O. Utility arborists shall be subject to the following provisions:
  - (1) A utility arborist's license authorizes the holder thereof to recommend or execute the removal of trees or portions of trees along utility rights of way.
  - (2) For license renewal, each utility arborist is required to attend a continuing training seminar as determined by rule by the commission.
- P. Landscape irrigation contractors shall be subject to the following provisions:
  - (1) Notwithstanding any other law to the contrary, a landscape irrigation contractor's license authorizes the holder to construct, install, connect, repair, maintain, improve, or alter any portion of a landscape irrigation system, including the required wiring within that system, and to install and connect the landscape irrigation system to the required power supply and to a public or private water supply system.
  - (2) For license renewal, each landscape irrigation contractor shall obtain continuing training as determined by rule of the commission.
  - (3) He shall request and be issued any necessary permits from any governing authority.
  - (4) Prior to connecting to a public or private water supply system, a licensed landscape irrigation contractor shall obtain a water supply protection specialist endorsement from the State Plumbing Board. The State Plumbing Board shall issue a special endorsement of a water supply protection specialist to any licensed landscape irrigation contractor who completes the training required by the State Plumbing Board as provided for in R.S. 37:1368(H)(1); however, neither a journeyman plumber's license nor a master plumber's license shall be required.
  - (5) Backflow prevention devices shall be installed in accordance with the provisions of Part XIV of the Louisiana State Sanitary Code by a person holding a water supply protection specialist endorsement.
  - (6) Nothing in this Subsection shall permit any licensed landscape irrigation contractor to perform any electrical or plumbing services not provided for in this Subsection, for which a license is required from any other regulatory board. Nothing in this Subsection shall prohibit a licensed electrician or plumber from providing electrical or plumbing services necessary to make or keep an irrigation system operational.

Acts 1987, No. 844, §1; Acts 1988, No. 231, §1; Acts 1992, No. 60, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2008, No. 63, §§1, 2, eff. June 5, 2008; Acts 2008, No. 227, §1, eff. June 16, 2008; Acts 2010, No. 495, §1, eff. June 24, 2010; Acts 2013, No. 103, §1, eff. August 1, 2013.

**§3809. Employee of persons who hold licenses and permits**

- A. Each person who holds a professional license issued under the provisions of this Chapter may employ personnel to work under the direct supervision of the license holder in the profession indicated on the license. The license holder shall give direction and instruction to such personnel and shall be responsible for insuring that the work product of such personnel meets the appropriate professional standards determined by the commission.
- B. Each person who holds an occupational permit issued under the provisions of this Chapter may employ personnel to work in the occupation indicated on the permit. The permit holder shall be responsible for insuring that such personnel meet the appropriate occupational standards determined by the commission.

Added by Acts 1965, No. 127, §2. Amended by Acts 1972, No. 320, §1; Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1.

**§3810. Violations**

- A. Failure to comply with any provision of this Chapter or of any rule or regulation adopted pursuant to this Chapter shall constitute a violation. Violations include but are not limited to:
  - (1) Performing any of the following acts in a regulated profession or occupation without either a valid appropriate license or permit issued by the commissioner or without a regular employee who holds a valid appropriate license or permit issued by the commissioner:
    - (a) Engaging in or doing any form of work in a regulated profession or occupation.
    - (b) Receiving income, whether directly or indirectly, for engaging in or doing any form of work in a regulated profession or occupation.
    - (c) Advertising, soliciting, or otherwise attempting to obtain any form of work in a regulated profession or occupation.
  - (2) Failing to abide by any cease and desist order issued by the commission or any stop order or notice of non-compliance issued by the commissioner or their authorized employees or agents.
  - (3) Performing any fraudulent practice while engaged in a regulated profession or occupation or intentionally misrepresenting any matter involved in or related to work in a regulated profession or occupation.
  - (4) Altering, forging, counterfeiting, or using without authority any license, permit, or other document provided for in this Chapter or in any rule or regulation adopted pursuant to this Chapter.
  - (5) Knowingly permitting any person under direct supervision of a person holding a license or permit pursuant to this Chapter to violate any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter.
  - (6) Failing to comply with the continuing education requirements adopted by the commission for any regulated profession or occupation.
  - (7) Failing to timely pay any fee, penalty, or other cost imposed under this Chapter or any rule or regulation adopted pursuant to this Chapter.

(8) Failing to meet the appropriate minimum standards of practice for a regulated profession or occupation established by the commission through rule or regulation.

B. Each violation shall be considered a separate offense and each day on which a violation occurs or continues to occur shall be considered a separate offense.

Added by Acts 1965, No. 127, §2. Amended by Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 2008, No. 229, §1, eff. June 16, 2008.

### **§3810.1. Adjudicatory proceedings**

A. Findings of violations and imposition of penalties may be made only by a ruling of the commission based upon an adjudicatory proceeding held in accordance with the provisions of the Administrative Procedure Act and this Chapter.

B. Whenever the commissioner has any reason to believe that a violation of this Chapter or of any rule or regulation adopted pursuant to this Chapter has occurred, the commissioner may present the alleged violations to the commission for a determination.

C. A hearing officer shall be appointed to preside over the hearing.

D. Notice of the alleged violation, the date of the adjudicatory hearing, the conduct of discovery and the adjudicatory hearing shall be as provided in the Administrative Procedure Act.

E. The ruling of the commission shall be in writing and provided to the person charged with the violation, as provided by the Administrative Procedure Act.

F. Any appeal from a ruling of the commission shall be in accordance with the Administrative Procedure Act.

Acts 2008, No. 229, §1, eff. June 16, 2008.

### **§3810.2. Civil penalties and costs**

A. Whoever is found by the commission to have violated a provision of this Chapter or any rule or regulation adopted pursuant to this Chapter shall be fined as follows:

(1) The commission may assess a civil penalty of not more than five hundred dollars for each violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter if the person subject to the civil penalty has not been found guilty of a violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter in a prior adjudicatory proceeding held by the commission.

(2) The commission may assess a civil penalty of not more than one thousand dollars for each violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter if the person subject to the civil penalty has been found guilty of a violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter in a prior adjudicatory proceeding held by the commission.

(3) The commission may assess a civil penalty of not more than one thousand five hundred dollars for each violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter if the person subject to the civil penalty has been found guilty of a violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter in two or more prior adjudicatory proceedings held by the commission.

- B. In addition to civil penalties, the commission may assess the cost of the adjudicatory proceeding against any person found to be in violation of this Chapter or any rule or regulation adopted pursuant to this Chapter. The commission shall, by rule or regulation, determine the amount of the cost of an adjudicatory proceeding, which may include the cost of any investigation leading up to or made during the course of an adjudicatory proceeding.

Acts 2008, No. 229, §1, eff. June 16, 2008; Acts 2015, No. 202, §1, eff. August 1, 2015.

### **§3810.3. Enforcement**

- A. The commission may issue a cease and desist order and the commissioner may issue a stop order or notice of non-compliance to stop or prevent a violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter.
- B. The commissioner may seek to collect any fee, penalty, or cost that may be due under any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter.
- C. The commissioner may institute civil proceedings in any court of proper jurisdiction and venue to:
  - (1) Enforce the rulings of the commission.
  - (2) Collect any fee, penalty or cost due under any provision of this Chapter or any rules or regulations adopted pursuant to this Chapter.
  - (3) Seek injunctive relief to restrain and prevent violations of any provision of this Chapter or of any rule or regulation adopted pursuant to this Chapter.

Acts 2008, No. 229, §1, eff. June 16, 2008.

### **§3811. Revocation of licenses and permits**

- A. The commission may revoke or suspend any license or permit issued under the provisions of this Chapter upon a determination by the commission that the holder of the license or permit has violated the provisions of this Chapter or the rules and regulations of the commission, or has failed to meet the professional or occupational standards determined by the commission, or has failed to insure that the personnel employed by the holder of the license or permit meet the professional or occupational standards determined by the commission.
- B. Licenses and permits may be revoked or suspended only by a ruling of the commission based on an adjudicatory hearing held in accordance with the provisions of the Louisiana Administrative Procedure Act.
- C. The commission shall notify each person whose license has been revoked or suspended, by certified mail, return receipt requested.
- D. Each person whose license or permit has been revoked or suspended shall return the license or permit to the commission within fifteen days of the date on which the notice of the revocation or suspension was received.

Added by Acts 1965, No. 127, §2. Amended by Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1.

**§3812. Mandamus to compel issuance of license or permit**

Any person who is denied a permit or license by the commission may institute legal proceedings against the commission in the district court for the parish of East Baton Rouge. If the court finds that the license or permit should have been issued, the court may issue a writ of mandamus to compel the commission to issue the license or permit.

Added by Acts 1965, No. 127, §2. Amended by Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1.

**§3813. Repealed by Acts 1987, No. 844, §2.**

**§3814. Meetings of the commission**

The commission shall hold regular meetings twice each year. The commission may meet at other times upon the call of the chairman or of any three members. The commission shall not meet more than six times in any calendar year.

Added by Acts 1965, No. 127, §2. Amended by Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1990, No. 112, §1.

**§3815. Transition provisions**

Any person holding either a horticulturist license or landscape contractor's license prior to February 1, 2009 and who is eligible to renew his license shall be issued a landscape horticulturist license in place of the old license without further application or examination upon the payment of any required renewal fee.

Added by Acts 1965, No. 127, §2; Acts 1985, No. 120, §1; Acts 2008, No. 63, §1, eff. June 5, 2008.

**§3816. Special provisions**

The following provisions shall supersede the requirements and provisions of this Chapter:

- (1) An individual performing certain gardening activities, such as mowing, edging, hand weeding, or trimming of hedges and shrubbery, under the direction and responsibility of the owner of the property, shall not be required to obtain any license required by this Chapter to practice his occupation.
- (2) An individual who prunes a tree, under the specific direction and responsibility of the owner of the property, in which the branch to be removed is two inches or less in diameter and is within ten feet of ground level, shall not be required to obtain any license required by this Chapter.
- (3) The provisions of Paragraphs (1) and (2) of this Section shall not apply to services performed for commercial establishments.
- (4) A landowner or homeowner doing work on his own property, a land surveyor practicing his profession, land clearing operations, forestry operations, and utility companies doing work in emergency situations or in the preventing of emergency situations, for the restoration of service, or for the installation of individual service lines by an installer repair technician, shall not be required to obtain a utility arborist license as required by this Chapter.
- (5) A person who constructs, installs, connects, repairs, maintains, improves, or alters an irrigation system used for agricultural or forestry purposes or on property owned, managed, or leased by that person or

- his employer shall not be required to obtain a landscape irrigation contractor license as required by this Chapter.
- (6) The provisions of this Chapter shall not supersede local ordinances adopted by local governing authorities regarding the installation of backflow prevention devices.
  - (7)
    - (a) In the event of a catastrophe and a declaration of emergency, the commissioner may issue a temporary arborist license authorizing a person to perform the measures specified by R.S. 3:3808(A).
    - (b) Applicants for a temporary arborist license shall:
      - (i) Be licensed in another state as a result of passing a state examination or have acquired International Society of Arboriculture (ISA) Certification.
      - (ii) Present proof of license in another state or proof of ISA Certification.
      - (iii) Present a certification of insurance as provided in LAC 7:XXIX.117(E)(2).
      - (iv) Pay a fee of one hundred fifty dollars.
    - (c) The temporary arborist license shall be applied for within ninety days of the declaration of emergency and shall be in effect for a period of ninety days from the date of issuance.
    - (d) If the holder of the temporary arborist license desires to continue performing measures specified in R.S. 3:3808(A) beyond the ninety-day period, he shall be required to obtain an arborist license through normal procedures established by the Louisiana Horticulture Commission for such license.
  - (8) A contractor that is licensed pursuant to R.S. 37:2156.1 and is performing repair work within a right-of-way that covers less than five thousand square feet shall not be required to obtain any license required by this Chapter. For the purposes of this Section, "repair work" means the restoration or replacement of sod disrupted during the course of performing work within the scope of a construction contract or permit.

Acts 1987, No. 874, §1; Acts 1992, No. 60, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2010, No. 34, §1.; Acts 2020, No. 308, §1, eff. June 12, 2020.