

# **Governor's Office of Management and Budget**

Alexis Sturm

Director



## **IL Regulatory Sunset Act Review of The Illinois Landscape Architecture Act of 1989**

April 8, 2019

**To the Honorable JB Pritzker  
Governor of Illinois**

Governor Pritzker:

The Governor's Office of Management and Budget (GOMB) in collaboration with the Illinois Department of Financial and Professional Regulation (IDFPR), in compliance with the requirements set forth in the Illinois Regulatory Sunset Act (5 ILCS 80), has conducted a review of the Illinois Landscape Architecture Act of 1989 (225 ILCS 315), which is scheduled to sunset on January 1, 2020. The following recommendation is pursuant to this review:

The Illinois Landscape Architecture Act of 1989 (225 ILCS 315) should be allowed to sunset. This Act specifically does not prohibit people from practicing landscape architecture without a license, but only from describing their work as landscape architecture or themselves as landscape architects. For this reason, it is apparent that this regulation is a matter of quality assurance rather than a matter vital to the health, safety and welfare of the public. Such quality assurance gatekeeping is not consistent with the proper exercise of the police power of the state as defined by the Illinois Constitution of 1970.

The examination of this Act considered the nine factors set out in Section 6 of the Illinois Regulatory Sunset Act. The following report details the criteria and data utilized to come to the above recommendation.

Very sincerely and respectfully,

Alexis Sturm  
Director  
Governor's Office of Management and Budget

Landscape architecture is the “the art and science of arranging land, together with the spaces and objects upon it, for the purpose of creating a safe, efficient, healthful, and aesthetically pleasing physical environment for human use and enjoyment, as performed by landscape architects” ([ILCS 225 315/3\(e\)](#)).

**Criteria (1) “The extent to which the agency or program has permitted qualified applicants to serve the public.”**

As of September 2018, there are 779 licensed landscape architects in Illinois. The table below displays the number of licensed landscape architects over the past five years:

License Type	2014	2015	2016	2017	2018
Landscape Architect	892	927	759	805	747

The current licensure fee structure is as follows:

Type	Fee Amount
Initial Application	\$100
Renewal Fee	\$30/year
Restoration After Lapse	\$50 fee, plus all lapsed renewal fees up to \$230

Licensed landscape architects must take an examination and meet initial education requirements, as well as continuing education requirements as set forth in Title 68, Section 1275.65 of the Illinois Administrative Code. Forty-seven states have full licensure for landscape architects, while three states including Illinois have only title protection. This means that the Act does not prevent anyone from practicing landscape architecture without a license, but only from using the title “landscape architect” or related titles to describe the practitioner or their work, as defined by the Act.

There are no data readily available on the number of persons who would wish to participate in this profession but are prevented due to either education requirements or fee structures. Since January 2015, there have been two disciplinary actions taken under this Act, both of which were cease and desist orders for the use of the landscape architect title without a license.

**Criteria (2) “The extent to which the trade, business, profession, occupation, or industry being regulated is being administered in a nondiscriminatory manner both in terms of employment and rendering of services.”**

IDFPR adheres to strict guidelines and requirements established for each profession regulated by the Department. Licensing decisions are based on an applicant’s ability to meet the requirements established by statute and administrative rule. Neither race nor any other identifier is a consideration for licensure under any of the professional licenses regulated by the Department. Consequently, the Department does not collect information from applicants to disclose their race or other social identifiers that could potentially lead to the act or perception of discrimination in licensing decisions.

**Criteria (3) “The extent to which the regulatory agency or program has operated in the public interest, and the extent to which its operation has been impeded or enhanced by existing statutes, procedures, and practices of any other department of state government, and any other circumstances, including budgetary resources, and personnel matters.”**

IDFPR is tasked with processing applications for licenses and renewal licenses for over 1 million professionals practicing in the state of Illinois. As resources continue to be strained in the state of Illinois, the Department has adopted internal policies, sought legislative and administrative rule changes, and developed enhanced licensing processes to maintain efficiency and efficacy. Though these changes have proved to be successful, the agency asserts that there is no substitute for the labor resources needed to maintain and improve licensing efficiencies. Over the last calendar year, IDFPR completed 80 new hires. However, in spite of the new hires, the agency ended the year with a net decrease in headcount. The agency maintains that personnel rules and laws often make it difficult to fill vacant positions in a timely manner.

***Criteria (4) "The extent to which the agency running the program has recommended statutory changes to the General Assembly that would benefit the public as opposed to the persons it regulates."***

In 2017, IDFPR sponsored Public Act 100-262, the purpose of which was to streamline and modernize the Agency's licensure and administrative case processes. The Act enhances the Department's e-license initiative to streamline initial licensure and renewal, as well as to allow recipients to learn the results of an administrative case more quickly so they can respond appropriately. This legislation ensures that regulated professions are able to use their time to address the needs of their clients, rather than addressing regulatory requirements. Furthermore, it benefits members of the public in that it enables the Department to more efficiently suspend the licenses of licensees determined to be in violation of rules and statutes. The agency maintains that this provides a fairer marketplace for the consumer.

In 2018, IDFPR supported Public Act 100-872, which removed the requirement that IDFPR refuse professional licenses to individuals who default on student loan debt that is guaranteed by the state. The agency believes this change removed a barrier to employment that can help people pay such debts.

***Criteria (5) "The extent to which the agency or program has required the persons it regulates to report to it concerning the impact of rules and decisions of the agency or the impact of the program on the public regarding improved service, economy of service, and availability of service."***

IDFPR establishes rules and makes regulatory decisions through the process established by the Joint Committee on Administrative Rules (JCAR), the administrative body responsible for approving rule proposals by state agencies. This process allows for input from industry and community stakeholders impacted by the Department's proposed changes. The Department works with lawmakers, community stakeholders and members of industry to ensure that regulations effectively protect Illinois citizens.

***Criteria (6) "The extent to which persons regulated by the agency or under the program have been required to assess the problems in their industry that affect the public."***

Full information on this criterion was not available at the time of this report.

***Criteria (7) "The extent to which the agency or program has encouraged participation by the public in making its rules and decisions as opposed to participation solely by the persons it regulates and the extent to which such rules and decisions are consistent with statutory authority."***

IDFPR adheres to the guidelines and requirements established by the Joint Committee on Administrative Rules

(JCAR) and the Illinois General Assembly (ILGA) for approving rule proposals, legislative changes and internal policies. In addition, the Department adheres to the requirements established in the Illinois Open Meetings Act (5 ILCS 120).

***Criteria (8) “The efficiency with which formal public complaints filed with the regulatory agency or under the program concerning persons subject to regulation have been processed to completion, by the executive director of the regulatory agencies or programs, by the Attorney General and by any other applicable department of the State government.”***

IDFPR accepts public complaints via its website and by phone. The average time from a complaint being received to an investigation being opened is five days. The average time to complete an investigation varies according to how the investigation proceeds:

- Average time to close a case at Investigations: 9 months
- Average time to refer a case from Investigations to Prosecutions: 4 months
- Average time to close a case at Prosecutions: 13 months
- Average time to close a case at Prosecutions with Discipline: 35 months

These average times represent Department complaints overall. Individual complaint data for each regulated profession are not available.

***Criteria (9) “The extent to which changes are necessary in the enabling laws of the agency or program to adequately comply with the factors listed in this section.”***

IDFPR recommends that any proposed language for sunset extension provide for modernizations necessary to implement more streamlined and efficient regulation of this profession, which will ensure public safety and ease the burden of regulatory compliance:

- Allow applicants to apply for “Licensure by Endorsement” without providing education or test information to IDFPR, if: (1) the applicant has been licensed for 10 consecutive years in another state, (2) the other state sends verification of consecutive licensure of the applicant, and (3) the applicant has never been disciplined.
- Add a definition of “Email address of record,” standardizing IDFPR’s initiative to become more efficient and paperless.

#### **Conclusion:**

Landscape architects are responsible for arranging outdoor spaces and objects to create a safe, efficient, healthful and aesthetically pleasing environment. This Act specifically does not prohibit people from practicing landscape architecture without a license, but only from describing their work as landscape architecture or themselves as landscape architects. For this reason, it is apparent that this regulation is a matter of quality assurance rather than a matter vital to the health, safety and welfare of the public. Such quality assurance gatekeeping is inconsistent with the proper exercise of the police power of the state as defined by the Illinois Constitution of 1970. This Act is not recommended for renewal.