



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5775

by Rep. Richard P. Myers

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 80/4.29 new

30 ILCS 105/5.708 new

Creates the Tree Expert Licensing Act. Provides for the licensure of tree experts by the Department of Agriculture. Establishes the Tree Expert Licensing Board. Sets forth powers and duties of the Department and the Board, licensure requirements, grounds for discipline, penalties for violation of the Act, and administrative procedure. Includes provisions concerning exemption from the Act. Limits home rule powers. Amends the Regulatory Sunset Act to set a repeal date of January 1, 2019 for the new Act. Amends the State Finance Act to establish the Tree Expert Licensing Fund. Effective immediately.

LRB095 17332 RAS 43402 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Tree
5 Expert Licensing Act.

6 Section 5. Purpose. Practice in the tree expert profession
7 in the State of Illinois is hereby declared to affect the
8 public health, safety, and welfare and to be subject to
9 regulation and control in the public interest. It is further
10 declared to be a matter of public interest and concern that the
11 tree expert profession merit and receive the confidence of the
12 public and that only qualified persons be permitted to use the
13 title of tree expert in the State of Illinois. This Act shall
14 be liberally construed to carry out these objectives and
15 purposes.

16 Section 10. Definitions. In this Act:

17 "Board" means the Tree Expert Licensing Board.

18 "Department" means the Department of Agriculture.

19 "Director" means the Director of Agriculture.

20 "Person" means any individual, partnership, corporation,
21 business trust, limited liability company, or other legal
22 entity.

1 "Tree expert" means any person who, for profit, (i)
2 diagnoses the condition of shade or ornamental trees and
3 recommends or supervises the treatment of any such trees, (ii)
4 in any manner treats ornamental trees or any such trees by
5 feeding or fertilizing, or by pruning, trimming, bracing,
6 treating cavities, or other methods, (iii) in any manner
7 engages in the removal of ornamental or any such trees, or (iv)
8 protects or attempts to protect ornamental trees or any such
9 trees from damage by insects or disease by spraying or any
10 other method.

11 Section 15. Application of Act; exemptions. This Act does
12 not apply to any of the following:

13 (1) Any department, bureau, or agency of the United
14 States of America, the State of Illinois, or any county,
15 municipality, or political subdivision in this State or any
16 official representative of a department, bureau, or agency
17 of the United States of America, the State of Illinois, or
18 any county, municipality, or political subdivision in this
19 State in the pursuit of his or her official duties.

20 (2) Any person with reference to trees on his or her
21 own premises.

22 (3) Any individual performing labor or services on or
23 in connection with trees at the direction and under the
24 personal supervision of a licensed tree expert, while in
25 the performance of those functions.

1 (4) Any public utility, including its authorized
2 employees and agents, when engaged in tree trimming or tree
3 removal for the purpose of line clearance and in order to
4 ensure the continuity of utility service to the public or
5 on the public utility's own property.

6 (5) Any person engaged in commercial logging or timber
7 harvesting operations.

8 Section 20. Licensure required. Beginning 6 months after
9 the adoption of final administrative rules under this Act, no
10 individual or entity may practice, offer to practice, attempt
11 to practice, or hold himself, herself, or itself out to
12 practice the profession of tree expert without being licensed
13 under this Act.

14 Section 25. Application; licensure requirements.

15 (a) Every person applying to the Department for licensure
16 must do so in writing on forms prescribed by the Department and
17 pay a required nonrefundable fee of \$50. An applicant must
18 indicate if the license is sought for an individual or an
19 entity. The application shall include without limitation the
20 name, principal place of business, address, and telephone
21 number of the applicant.

22 (b) Licensure may be granted in an individual's name to an
23 individual applicant who meets all of the following
24 qualifications:

1 (1) He or she must be at least 21 years of age.

2 (2) He or she must be a citizen of the United States.

3 (3) He or she must hold a current certification from
4 the International Society of Arboriculture or hold a
5 college degree from an accredited school of forestry
6 approved by the Department.

7 (4) He or she must meet all other requirements deemed
8 necessary by the Department.

9 (c) Licensure may be granted in an entity's name to an
10 entity applicant that meets all of the following
11 qualifications:

12 (1) The entity must designate a qualifying party who:

13 (A) possesses a valid individual license under
14 this Act;

15 (B) is legally qualified to act for the entity in
16 all matters connected with the practice of the tree
17 expert profession; and

18 (C) is directly responsible for contracts or the
19 provision of diagnostic services.

20 (2) The entity must be in compliance with any statutory
21 requirements pertaining to such legal entity.

22 No individual licensee may engage in the practices of a
23 tree expert as an employee or officer or serve as a qualifying
24 party of more than one entity licensee during any one period of
25 time.

26 (d) All applicants for licensure under this Act must

1 provide the Department with proof of compliance with the
2 applicable regulations set forth by the Occupational Safety and
3 Health Administration (OSHA), the American National Standards
4 Institute (ANSI), and the Animal and Plant Health Inspection
5 Service (APHIS) and proof that the applicant has obtained
6 Workers' Compensation insurance covering the applicant's
7 employees or is approved as a self-insurer of Workers'
8 Compensation in accordance with Illinois law. Any applicant who
9 engages in the application of pesticides as it relates to the
10 practice of the tree expert profession must provide proof to
11 the Department of possessing a valid applicator license under
12 the Illinois Pesticide Act.

13 (e) The Department may establish further requirements for
14 licensure by rule.

15 Section 30. Non-resident applicants; foreign entities.
16 Each non-resident applicant for an original license or a
17 renewal license, except a foreign corporation, shall file an
18 irrevocable consent that actions against the applicant may be
19 filed in any appropriate court of any county or municipality of
20 this State in which the plaintiff resides or in which some part
21 of the transaction occurred, out of which the alleged cause of
22 action arose and that process in any action may be served on
23 the applicant by leaving 2 copies of the process with the
24 Director. Such consent shall stipulate and agree that service
25 of process shall be taken and held to be valid and binding for

1 all purposes. The Director shall send one copy of the process
2 to the applicant at the non-resident licensee's address of
3 record by registered mail.

4 No foreign corporation shall receive a license under this
5 Act until it has been authorized to do business in this State
6 by the Director of State.

7 Section 35. Current address. Every licensee under this Act
8 must maintain a current address with the Department. It shall
9 be the responsibility of the licensee to notify the Department
10 in writing of any change of address.

11 Section 40. Display. Each person licensed under this Act
12 shall affix the license number of his or her license to all of
13 his or her contracts and bids and shall affix the license
14 number and the licensee's name, as it appears on the license,
15 on all commercial vehicles used as part of his or her business
16 as a tree expert. A license issued under this Act must be
17 displayed in a conspicuous place in the licensee's principal
18 office, place of business, or place of employment.

19 Section 45. Powers and duties of the Department.

20 (a) The Department shall exercise the powers and duties
21 prescribed by the Civil Administrative Code of Illinois for the
22 administration of licensing Acts and shall exercise such other
23 powers and duties vested in it by this Act.

1 (b) The Department shall adopt rules necessary for the
2 administration and enforcement of this Act, including rules
3 concerning standards and criteria for licensure and for the
4 payment of applicable fees. The Department must consult the
5 Board concerning these rules. Notice of proposed rulemaking
6 shall be transmitted to the Board and the Department shall
7 review the Board's response and any recommendations made
8 therein. The Department shall notify the Board in writing of
9 the explanation for any deviations from the Board's
10 recommendations and response.

11 (c) The Department may, at any time, seek the advice and
12 the expert knowledge of the Board on any matter relating to the
13 administration of this Act.

14 (d) The Department must prescribe forms required for the
15 administration of this Act.

16 (e) The Department has the authority and power to
17 investigate any and all unlicensed activities.

18 Section 50. Tree Expert Licensing Board.

19 (a) There is created the Tree Expert Licensing Board, which
20 shall be appointed by the Director and comprised of persons who
21 are residents of this State and who shall serve in an advisory
22 capacity to the Director. The Board shall consist of 5 members,
23 2 of whom shall be commercial tree experts or arborists who
24 have been engaged in practice as tree experts or arborists for
25 for at least 10 years, one of whom shall be a plant

1 pathologist, one of whom shall be an entomologist, and one of
2 whom shall be a representative of a State or municipal forestry
3 or park department. All members shall be licensed under this
4 Act, except that those members initially appointed shall meet
5 the requirements for licensure and obtain an individual tree
6 expert license within 12 months after the adoption of final
7 administrative rules under this Act.

8 (b) Members of the Board shall serve 4-year terms and until
9 their successors are appointed and qualified, except that of
10 the members of the Board first appointed one commercial tree
11 expert or arborist member shall be appointed to serve for 2
12 years, one commercial tree expert or arborist member shall be
13 appointed to serve for one year, the plant pathologist member
14 shall serve for 3 years, the entomologist member shall serve
15 for 4 years, and the member who is a representative of a State
16 or municipal forestry or park department shall be appointed to
17 serve for 5 years. No member may serve more than 2 complete
18 4-year terms.

19 (c) Members of the Board shall be immune from suit in any
20 action based on any disciplinary proceedings or other acts
21 performed in good faith as members of the Board, unless the
22 conduct that gave rise to the suit was willful or wanton
23 misconduct.

24 (d) If a vacancy on the Board occurs for any reason
25 resulting in an unexpired term, within 90 days after the
26 vacancy first occurs, the Director shall fill the vacancy in

1 like manner for the unexpired balance of the term only. The
2 Board shall meet annually to elect one member as chairperson
3 and one member as vice-chairperson from their number. No
4 officer may be elected more than 2 times in succession to the
5 same office.

6 (e) Board members shall receive reimbursement for actual,
7 necessary, and authorized expenses incurred in attending the
8 meetings of the Board.

9 Section 55. Renewal; restoration; military service.

10 (a) Licenses issued under this Act must be renewed on an
11 annual basis and upon the payment of a \$50 renewal fee. All
12 other renewal requirements shall be set by the Department by
13 rule.

14 (b) Any person who has permitted his or her license to
15 expire may have his or her license restored by applying to the
16 Department, filing proof acceptable to the Department of his or
17 her fitness to have the license restored, which may include
18 sworn evidence certifying to active practice in another
19 jurisdiction satisfactory to the Department, and paying the
20 required restoration fee. If the person has not maintained an
21 active practice in another jurisdiction satisfactory to the
22 Department, the Board shall determine, by an evaluation program
23 established by rule, the person's fitness to resume active
24 status.

25 (c) Any person whose license has expired while he or she

1 has been engaged (i) in federal service on active duty with the
2 Armed Forces of the United States or the State Militia called
3 into service or training or (ii) in training or education under
4 the supervision of the United States preliminary to induction
5 into the military service, may have his or her license renewed
6 or restored without paying any lapsed renewal fees if, within 2
7 years after termination of service, training, or education,
8 other than by dishonorable discharge, he or she furnishes the
9 Department with satisfactory evidence to the effect that he or
10 she has been so engaged and that the service, training, or
11 education has been so terminated.

12 Section 60. Inactive status.

13 (a) Any tree expert who notifies the Department in writing
14 on forms prescribed by the Department may elect to place his or
15 her license on inactive status and shall be excused from
16 payment of renewal fees until he or she notifies the Department
17 in writing of his or her desire to resume active status.

18 (b) Any person whose license has been expired for more than
19 3 years may have his or her license restored by making
20 application to the Department and filing proof acceptable to
21 the Department of his or her fitness to have his or her license
22 restored, including evidence certifying to active practice in
23 another jurisdiction, and by paying the required restoration
24 fee.

25 (c) Any tree expert whose license is on inactive status,

1 has been suspended or revoked, or has expired may not represent
2 himself or herself to be a tree expert or use the title
3 "licensed tree expert" or any other title that includes the
4 words "tree expert".

5 Section 65. Fees; disposition of funds.

6 (a) The Department shall establish by rule a schedule of
7 fees for the administration and maintenance of this Act. Such
8 fees shall be nonrefundable.

9 (b) All of the fees and fines collected under this Act
10 shall be deposited into the Tree Expert Licensing Fund, which
11 is hereby created as a special fund in the State treasury. The
12 moneys deposited into the Tree Expert Licensing Fund shall be
13 used by the Department, as appropriate, for the ordinary and
14 contingent expenses of the Department. Moneys in the Tree
15 Expert Licensing Fund may be invested and reinvested, with all
16 earnings received from these investments being deposited into
17 that Fund and used for the same purposes as the fees and fines
18 deposited in that Fund.

19 Section 70. Roster. The Department shall maintain a roster
20 of the names and addresses of all licensees under this Act.
21 This roster shall be made available upon written request and
22 payment of the required fee.

23 Section 75. Advertising. Any person licensed under this Act

1 may advertise the availability of tree expert services in the
2 public media or on the premises where such professional
3 services are rendered, provided that such advertising is
4 truthful and not misleading.

5 Section 80. Maintenance of action of counterclaim. No
6 action or counterclaim shall be maintained by any person in any
7 court in this State with respect to any agreement or work,
8 labor, or materials for which a license is required by this Act
9 or to recover the agreed-upon price or any compensation under
10 any such agreement or for any such work, labor, or materials
11 for which a license is required by this Act without alleging
12 and proving that, such person was in possession of a valid
13 license under this Act at the time of making the agreement or
14 of supplying the labor, work, or materials

15 Section 85. Injunction; criminal penalty; cease and desist
16 order.

17 (a) If any person violates the provisions of this Act, the
18 Director may, in the name of the People of the State of
19 Illinois and through the Attorney General or the State's
20 Attorney of any county in which the action is brought, petition
21 for an order enjoining such violation and for an order
22 enforcing compliance with this Act. Upon the filing of a
23 verified petition in court, the court may issue a temporary
24 restraining order, without notice or bond, and may

1 preliminarily and permanently enjoin such violation. If it is
2 established that such person has violated or is violating the
3 injunction, the Court may punish the offender for contempt of
4 court. Proceedings under this Section shall be in addition to,
5 and not in lieu of, all other remedies and penalties provided
6 by this Act.

7 (b) If any person holds himself or herself out as a "tree
8 expert" without being licensed under the provisions of this
9 Act, then any licensed tree expert, interested party, or person
10 injured thereby may, in addition to the Director, petition for
11 relief as provided in subsection (a) of this Section.

12 (c) Whoever holds himself or herself out as a "tree expert"
13 in this State without being licensed for that purpose is guilty
14 of a Class B misdemeanor, if an individual, and a petty
15 offense, if an entity, and subject to fines of \$100 for a first
16 offense, \$250 for a second offense, and \$500 for a third or
17 subsequent offense.

18 (d) Whenever, in the opinion of the Department, a person
19 violates any provision of this Act, the Department may issue a
20 rule to show cause why an order to cease and desist should not
21 be entered against that person. The rule shall clearly set
22 forth the grounds relied upon by the Department and shall allow
23 the person at least 7 days after the date of the rule to file an
24 answer that is satisfactory to the Department. Failure to
25 answer to the satisfaction of the Department shall cause an
26 order to cease and desist to be issued.

1 Section 90. Disciplinary grounds.

2 (a) The Department may refuse to issue, renew, or may
3 revoke, suspend, place on probation, reprimand, or take other
4 disciplinary action as the Department considers appropriate,
5 including the issuance of fines not to exceed \$10,000 for each
6 violation, with regard to any license for any one or more of
7 the following causes:

8 (1) Violation of this Act or any rule adopted under
9 this Act.

10 (2) Conviction of any crime under the laws of an U.S.
11 jurisdiction that is a felony or a misdemeanor an essential
12 element of which is dishonesty or that directly relates to
13 the practice of the profession.

14 (3) Making any misrepresentation for the purpose of
15 obtaining a license.

16 (4) Professional incompetence or gross negligence in
17 the practice of the tree expert profession.

18 (5) Gross malpractice, prima facie evidence of which
19 may be a conviction or judgment of malpractice in any court
20 of competent jurisdiction.

21 (6) Aiding or assisting another person in violating any
22 provision of this Act or any rule adopted under this Act.

23 (7) Failing, within 60 days, to provide information in
24 response to a written request made by the Department that
25 has been sent by certified or licensed mail to the

1 licensee's last known address.

2 (8) Engaging in dishonorable, unethical, or
3 unprofessional conduct of a character likely to deceive,
4 defraud, or harm the public.

5 (9) Habitual or excessive use of or addiction to
6 alcohol, narcotics, stimulants, or any other chemical
7 agent or drug that results in the inability to practice
8 with reasonable judgment, skill, or safety.

9 (10) Discipline by another U.S. jurisdiction or
10 foreign nation, if at least one of the grounds for the
11 discipline is the same or substantially equivalent to those
12 set forth in this Section.

13 (11) Directly or indirectly giving to or receiving from
14 any person, firm, corporation, partnership, or association
15 any fee, commission, rebate, or other form of compensation
16 for any professional service not actually rendered.

17 (12) A finding by the Department that a licensee, after
18 having his or her license placed on probationary status,
19 has violated the terms of probation.

20 (13) Conviction by any court of competent
21 jurisdiction, either within or without this State, of any
22 violation of any law governing the practice of building
23 contracting if the Department determines, after
24 investigation, that such person has not been sufficiently
25 rehabilitated to warrant the public trust.

26 (14) A finding that licensure has been applied for or

1 obtained by fraudulent means.

2 (15) Practicing, attempting to practice, or
3 advertising under a name other than the full name as shown
4 on the license or any other legally authorized name.

5 (16) Gross and willful overcharging for professional
6 services, including filing false statements for collection
7 of fees or moneys for which services are not rendered.

8 (17) Failure to file a tax return or to pay any final
9 assessment of tax, penalty, or interest, as required by any
10 tax Act administered by the Department of Revenue, until
11 such time as the requirements of any such tax Act are
12 satisfied.

13 (18) Failure to continue to meet the requirements of
14 this Act.

15 (19) Physical or mental disability, including
16 deterioration through the aging process or loss of
17 abilities and skills, that result in an inability to
18 practice the profession with reasonable judgment, skill,
19 or safety.

20 (20) Material misstatement in furnishing information
21 to the Department or to any other State agency.

22 (21) Advertising in any manner that is false,
23 misleading, or deceptive.

24 (22) The determination by a court that a licensee is
25 subject to involuntary admission or judicial admission as
26 provided in the Mental Health and Developmental

1 Disabilities Code. Such determination shall result in an
2 automatic suspension of a licensee's license. The
3 suspension shall end upon a finding by a court that the
4 licensee is no longer subject to involuntary admission or
5 judicial admission, the issuance of an order so finding and
6 discharging the patient, and the recommendation of the
7 Board to the Director that the licensee be allowed to
8 resume practice within the profession.

9 (b) The Department shall deny the issuance or renewal of
10 any license under this Act to any person who has defaulted on
11 an educational loan guaranteed by the Illinois Student
12 Assistance Commission; however, the Department may issue a
13 license or renewal if the person in default has established a
14 satisfactory repayment record, as determined by the Illinois
15 Student Assistance Commission.

16 Section 95. Investigation; notice of hearing. The
17 Department may investigate the actions or qualifications of any
18 applicant or person holding or claiming to hold a license. The
19 Department shall, before suspending or revoking, placing on
20 probation, reprimanding, or taking any other disciplinary
21 action under Section 90 of this Act, at least 30 days before
22 the date set for the hearing, notify the applicant or licensee
23 in writing of the nature of the charges and that a hearing will
24 be held on the date designated. The written notice may be
25 served by personal delivery or certified or licensed mail to

1 the applicant or licensee at the address of his or her last
2 notification to the Department or, if a non-resident licensee,
3 in the manner set forth in Section 30 of this Act. The
4 Department shall direct the applicant or licensee to file a
5 written answer with the Department, under oath, within 20 days
6 after the service of the notice, and inform the person that if
7 he or she fails to file an answer, his or her license may be
8 revoked, suspended, placed on probation, reprimanded, or the
9 Department may take any other additional disciplinary action,
10 including the issuance of fines not to exceed \$1,000 for each
11 violation, as the Department may consider necessary, without a
12 hearing. At the time and place fixed in the notice, the Board
13 shall proceed to hear the charges and the parties or their
14 counsel. All parties shall be afforded an opportunity to
15 present any statements, testimony, evidence, and arguments as
16 may be pertinent to the charges or to their defense. The Board
17 may continue the hearing from time to time.

18 Section 100. Record of proceedings; transcript. The
19 Department, at its expense, shall preserve a record of all
20 proceedings at the formal hearing of any case involving the
21 refusal to issue, renew, or restore a license of licensure or
22 the discipline of a licensee. The notice of hearing, complaint,
23 and all other documents in the nature of pleadings and written
24 motions filed in the proceedings, the transcript of testimony,
25 the report of the Board, and the orders of the Department shall

1 be the record of the proceedings.

2 Section 105. Subpoenas; depositions; oaths. The Department
3 may subpoena and bring before it any person and take testimony,
4 either orally, by deposition, or both, with the same fees and
5 mileage and in the same manner as prescribed in civil cases in
6 circuit courts of this State. The Director, the designated
7 hearing officer, and every member of the Board has the power to
8 administer oaths to witnesses at any hearing which the
9 Department is authorized to conduct, and any other oaths
10 authorized in any Act administered by the Department.

11 Section 110. Compelling testimony. Any court, upon the
12 application of the Department, designated hearing officer, or
13 the applicant or licensee against whom proceedings under
14 Section 90 of this Act are pending, may enter an order
15 requiring the attendance of witnesses and their testimony and
16 the production of documents, papers, files, books, and records
17 in connection with any hearing or investigation. The court may
18 compel obedience to its order by proceedings for contempt.

19 Section 115. Findings and recommendations. At the
20 conclusion of a hearing, the Board shall present to the
21 Director a written report of its findings of fact, conclusions
22 of law, and recommendations. The report shall contain a finding
23 as to whether the licensee violated this Act or failed to

1 comply with the conditions required in this Act. The Board
2 shall specify the nature of the violation or failure to comply
3 and shall make its recommendations to the Director.

4 The report of findings of fact, conclusions of law, and
5 recommendations of the Board shall be the basis for the
6 Department's order for refusal or for the granting of the
7 license of licensure. If the Director disagrees with the
8 recommendations of the Board, the Director may issue an order
9 in contravention of the Board recommendations. The Director
10 shall provide a written report to the Board on any disagreement
11 and shall specify the reasons for the action in the final
12 order. These findings are not admissible in evidence against
13 the person in a criminal prosecution for violation of this Act,
14 but the hearing and findings shall not serve as a bar to
15 criminal prosecution for violation of this Act.

16 Section 120. Board; rehearing. At the conclusion of a
17 hearing, a copy of the Board's report shall be served upon the
18 accused person, either personally or as provided in this Act
19 for the service of the notice. Within 20 days after such
20 service, the applicant or licensee may present to the
21 Department a motion in writing for a rehearing which shall
22 specify the particular grounds for rehearing. If no motion for
23 a rehearing is filed, then upon the expiration of the time
24 specified for filing such a motion or if a motion for rehearing
25 is denied, then upon the denial, the Director may enter any

1 order in accordance with recommendations of the Board, except
2 as otherwise provided in this Act. If the applicant or licensee
3 requests and pays for a transcript of the record within the
4 time for filing a motion for rehearing, the 20-day period
5 within which a motion may be filed shall commence upon the
6 delivery of the transcript to the applicant or licensee.

7 Whenever the Director is not satisfied that substantial
8 justice has been done, he or she may order a rehearing by the
9 same or another special board. At the expiration of the time
10 specified for filing a motion for a rehearing the Director has
11 the right to take the action recommended by the Board.

12 Section 125. Appointment of a hearing officer. The Director
13 has the authority to appoint any attorney licensed to practice
14 law in the State of Illinois to serve as the hearing officer in
15 any action for refusal to issue or renew a license of licensure
16 or to discipline a licensee. The Director shall notify the
17 Board of any such appointment. The hearing officer has full
18 authority to conduct the hearing. At least one member of the
19 Board shall attend each hearing. The hearing officer shall
20 report his or her findings of fact, conclusions of law, and
21 recommendations to the Board and the Director. The Board has 60
22 days after receipt of the report to review it and present its
23 findings of fact, conclusions of law, and recommendations to
24 the Director. If the Board fails to present its report within
25 the 60-day period, the Director shall issue an order based on

1 the report of the hearing officer. If the Director disagrees
2 with the recommendation of the Board or hearing officer, the
3 Director may issue an order in contravention of the
4 recommendation. The Director shall promptly provide a written
5 explanation to the Board on any disagreement.

6 Section 130. Order of certified copy; prima facie proof.
7 An order or a certified copy thereof, over the seal of the
8 Department and purporting to be signed by the Director, shall
9 be prima facie proof that:

- 10 (1) the signature is the genuine signature of the
11 Director;
12 (2) the Director is duly appointed and qualified; and
13 (3) the Board and the members thereof are qualified to
14 act.

15 Section 135. Restoration of suspended or revoked license of
16 licensure. At any time after the suspension or revocation of
17 any license of licensure, the Department may restore it to the
18 licensee upon the written recommendation of the Board, unless
19 after an investigation and hearing, the Board determines that
20 restoration is not in the public interest.

21 Section 140. Surrender of license of licensure. Upon the
22 revocation or suspension of any license of licensure, the
23 licensee shall immediately surrender his or her license to the

1 Department. If the licensee fails to do so, the Department has
2 the right to seize the license.

3 Section 145. Summary suspension of a license of licensure.
4 The Director may summarily suspend a license of licensure
5 issued under this Act without a hearing, simultaneously with
6 the institution of proceedings for a hearing provided for in
7 this Act, if the Director finds that evidence in the possession
8 of the Director indicates that the continuation in practice by
9 the licensee would constitute an imminent danger to the public.
10 In the event that the Director temporarily suspends the license
11 of a licensee without a hearing, a hearing must be held within
12 30 days after such suspension has occurred.

13 Section 150. Administrative Review Law; venue.

14 (a) All final administrative decisions of the Department
15 are subject to judicial review under the Administrative Review
16 Law and its rules. The term "administrative decision" is
17 defined as in Section 3-101 of the Code of Civil Procedure.

18 (b) Proceedings for judicial review shall be commenced in
19 the circuit court of the county in which the party applying for
20 review resides, but if the party is not a resident of this
21 State, the venue shall be in Sangamon County.

22 Section 155. Certification of record; costs. The
23 Department shall not be required to certify any record to the

1 court or file an answer in court or to otherwise appear in any
2 court in a judicial review proceeding, unless there is filed in
3 the court with the complaint a receipt from the Department
4 acknowledging payment of the costs of furnishing and certifying
5 the record. Failure on the part of the plaintiff to file such
6 receipt in court shall be grounds for dismissal of the action.

7 Section 160. Administrative Procedure Act. The Illinois
8 Administrative Procedure Act is hereby expressly adopted and
9 incorporated herein as if all of the provisions of that Act
10 were included in this Act, except that the provision of
11 subsection (d) of Section 10-65 of the Illinois Administrative
12 Procedure Act that provides that at hearings the licensee has
13 the right to show compliance with all lawful requirements for
14 retention, continuation, or renewal of the license is
15 specifically excluded. For the purposes of this Act, the notice
16 required under Section 10-25 of the Illinois Administrative
17 Procedure Act is deemed sufficient when mailed to the last
18 known address of a party.

19 Section 165. Home rule. It is declared to be the public
20 policy of this State, pursuant to paragraphs (h) of Section 6
21 of Article VII of the Illinois Constitution of 1970, that any
22 power or function set forth in this Act to be exercised by the
23 State is an exclusive State power or function.

1 Section 900. The Regulatory Sunset Act is amended by adding
2 Section 4.29 as follows:

3 (5 ILCS 80/4.29 new)

4 Sec. 4.29. Act repealed on January 1, 2019. The following
5 Act is repealed on January 1, 2019:

6 The Tree Expert Licensing Act.

7 Section 905. The State Finance Act is amended by adding
8 Section 5.708 as follows:

9 (30 ILCS 105/5.708 new)

10 Sec. 5.708. The Tree Expert Licensing Fund.

11 Section 999. Effective date. This Act takes effect upon
12 becoming law.