

BILL NO. 270

(as passed)



*1st Session, 59th General Assembly
Nova Scotia
54 Elizabeth II, 2005*

Private Member's Bill

Professional Planners Act

CHAPTER 45 OF THE ACTS OF 2005

Jim DeWolfe
Pictou East

[First Reading](#): October 26, 2005 (LINK TO BILL AS INTRODUCED)

Second Reading: November 1, 2005

[Third Reading](#): December 8, 2005 (WITH COMMITTEE AMENDMENTS)

Royal Assent: December 8, 2005



An Act Respecting Professional Planners

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the Professional Planners Act.

2 The purpose of this Act is to restrict the right to use the designation "Licensed Professional Planner" and to recognize the practice of professional planning.

3 In this Act,

- (a) "applicant" means a person who applies for a licence pursuant to this Act;
- (b) "Association" means the Licensed Professional Planners Association of Nova Scotia;
- (c) "Board" means the Board of Directors of the Association;
- (d) "director" means a member of the Board;
- (e) "Discipline Committee" means the Discipline Committee of the Association;
- (f) "licence" means a licence issued pursuant to this Act;
- (g) "licensed professional planner" means a person who holds a licence to carry on the practice of professional planning;
- (h) "Nominations Committee" means the Nominations Committee of the Association;
- (i) "planning" means the art and science of providing for the orderly management, disposition and distribution of land, resources, facilities and services and of applying physical, economical and social efficiencies to help ensure the health, well-being and sustainability of communities and regions;
- (j) "practice of professional planning" means any act of planning including, without restricting the generality of the foregoing,
 - (i) investigating, designing, commissioning, composing, evaluating, advising, reporting, directing or supervising, or managing any of the foregoing, that requires or involves the application of principles of planning and that concerns the safeguarding of life, health, property, economic interests, public welfare or the environment,
 - (ii) the preparation and implementation of plans, studies or strategies involving the application of the principles of planning including, without restricting the generality of the foregoing, regional or municipal plans or strategies, urban or rural plans, land

development plans or strategies, land-use by-laws, site plans, subdivision plans, economic plans, environmental plans or studies, social plans, recreation plans, conservation plans, organizational plans, heritage plans, lifestyle plans, conceptual plans and strategic plans,

(iii) the application of skills or techniques for the purpose of planning including, without restricting the generality of the foregoing, computer analysis and data queries, environmental analysis, geological studies, morphology studies, air-photo analysis, cartography or mapping, cost-benefit analysis, physical sciences, social sciences, statistical analysis, demographic research, environmental design and planning, project planning and implementation, research and communication,

(iv) any tasks necessary to implement the planning legislation of the Province involving the use or application of the principles of planning,

(v) project management where the principles of planning are involved, and

(vi) any other tasks that involve the principles of planning;

(k) "Practice Committee" means the Practice Committee of the Association;

(l) "principles of planning" means those principles that are taught in programs that are accredited by the Canadian Institute of Planners and that are offered by universities and colleges in courses leading to a degree in planning;

(m) "Register" means the Register of Professional Planners;

(n) "Registrar" means the Registrar of Professional Planners.

4 There is hereby established a body corporate to be known as the Licensed Professional Planners Association of Nova Scotia.

5 The objects of the Association are to

(a) regulate the practice of professional planning by its members in accordance with this Act, its by-laws, the standards of practice adopted by the Association and a code of ethics approved by the Association;

(b) further the recognition of the planning profession in the Province;

(c) promote the value, use and method of planning;

(d) improve the quality of the environment in the Province and in communities within the Province by the application of the principles of planning;

(e) encourage participation and co-operation among those persons, associations and groups concerned with improving the quality of the environment in the Province and in communities within the Province;

(f) stimulate the generation, development, dissemination and discussion of ideas on planning; and

(g) protect the interests of the public by establishing, maintaining and enforcing standards of professional practice and ethics among members of the Association.

6 The membership of the Association consists of every person who holds a licence.

7 The Association has the capacity and, subject to this Act, the rights, powers and privileges of a body corporate and, without restricting the generality of the foregoing, may

(a) acquire by any means real and personal property and hold, sell, convey, mortgage, lease, dispose of or deal with real and personal property;

(b) engage and pay for such technical, clerical, professional and other assistance as may be necessary in carrying out its objects;

(c) levy on its members such fees as are necessary in carrying out its objects;

(d) issue licences and fix the amount of the fee to be paid for a licence, with power to create different classes of licences and to fix different fees for different classes of licences;

(e) apply the funds of the Association in such manner and in such amounts as is necessary to manage the Association in accordance with this Act and its by-laws;

(f) give grants and scholarships to students training to be professional planners;

(g) assess applications and determine whether applicants qualify for licences;

(h) require licensed professional planners to produce documents and undergo examinations, training, peer review and audits and inspection of their practice as professional planners;

(i) maintain the Register;

(j) establish and ensure adherence to standards of practice and a code of ethics for licensed professional planners;

(k) refer issues or matters or make recommendations thereon to the Atlantic Planners Institute and the Canadian Institute of Planners;

(l) make such by-laws as are necessary for the conduct of its affairs and for carrying out its objects and, without restricting the generality of the foregoing, make by-laws

- (i) defining who is a student or a lay person for the purpose of this Act,
- (ii) establishing the manner in which a person may apply for a licence and the qualifications an applicant must have and the conditions and requirements that an applicant must meet before a licence may be issued to the applicant, including educational requirements, with power to prescribe courses of study and instruction that must be completed and to establish different qualifications, conditions and requirements for different classes of licence and establishing classes of membership with power to define the rights, privileges and responsibilities of each class of membership,
- (iii) respecting the issue, renewal, suspension and revocation of licences, including the conditions and requirements that must be met in order for a licence to be renewed,
- (iv) providing for the maintenance and inspection of licences,
- (v) respecting the composition, selection, term of office, authority, duties and responsibilities of the Discipline Committee, the Nominations Committee and the Practice Committee and other committees of the Association,
- (vi) establishing standards and a code of ethics for the practice of professional planning by licensed professional planners,
- (vii) prescribing the records that must be kept by licensed professional planners and the manner in which they must be kept,
- (viii) subject to the Freedom of Information and Protection of Privacy Act, requiring and providing for the inspection, audit and examination of the office files and records of licensed professional planners,
- (ix) defining classes of specialists in the various fields in the practice of professional planning by a licensed professional planner, establishing the qualifications that a person must have to be designated as a member of any class of specialist, with power to establish different qualifications for different classes of specialist, providing for the suspension or revocation of any such designation and regulating and prohibiting the use of terms, titles or designations indicating that a licensed professional planner is a specialist in any field in the practice of professional planning,
- (x) prescribing the form and manner in which a complaint against a member of the Association is made and defining, for the purpose of this Act, unprofessional conduct and incompetence to hold a licence pursuant to this Act,
- (xi) regulating the nature of advertising, if any, that a member may carry out with respect to that member's practice of professional planning,
- (xii) respecting the reporting and publication of decisions in disciplinary matters both within and outside the Province,

- (xiii) respecting the duties, functions and authority of the Board and of the Registrar,
- (xiv) requiring the payment of fees by its members in order to assist the Association in carrying out its objects, including fees for the issue and renewal of licences and for conducting examinations, and to reimburse the Association for any costs or expenses it incurs as a result of the Registrar carrying out any activity that the Registrar is required or empowered to carry out by this Act or the by-laws, with power to prescribe when such fees are to be paid and to impose penalties for late payment of any fee,
- (xv) prescribing forms and providing for their use,
- (xvi) providing for the payment by the Association to each director of a per diem allowance for carrying out the duties of a director and reimbursement of each director for reasonable expenses incurred in carrying out those duties,
- (xvii) providing for the employment of such persons whose services are required for the operation of the Association and for the payment of remuneration and salaries for such services, with power to establish a salary scale in accordance with which the amount of such salaries and remuneration are determined,
- (xviii) prescribing the information to be included on the seal of a professional planner and governing the use of such seal,
- (xix) governing the manner in which elections of directors are conducted,
- (xx) establishing the manner in which meetings of the members of the Association and of the Board are called and the procedure to be followed at such meetings, and providing for meetings of the members of the Association, other than annual meetings, enabling such percentage of the members of the Association as is established by the by-laws to require the Board to convene a meeting of the members of the Association, with power to establish the manner in which this right may be exercised,
- (xxi) prescribing the manner in which matters required to be proved by applicants may be proved,
- (xxii) establishing offices of the Association, with power to prescribe the title of each office and the rights, privilege and responsibilities of each officer,
- (xxiii) fixing the term of office of members of committees and subcommittees.

8 Each member shall comply with the by-laws of the Association.

9 (1) There shall be a Board of Directors of the Association.

(2) The control and management of the affairs of the Association and the powers of the Association are vested in and may be exercised by the Board.

(3) The Board consists of such number, not fewer than seven, of persons as is determined by the by-laws, and includes

(a) the President, the Vice-president, the Secretary and the Treasurer elected at an annual meeting of the members of the Association from among their number;

(b) the immediate Past President of the Association; and

(c) one person appointed by the Governor in Council who

(i) is not employed in the public service of the Province or any agency of Her Majesty in right of the Province,

(ii) is not a licensed professional planner or a person registered under any Act governing another planning profession, practice or discipline, and

(iii) has no personal, financial or other interest in the practice of professional planning or a related planning profession that could give rise to a conflict of interest.

(4) A person appointed pursuant to clause (3)(c) holds office for a period of three years and may be re-appointed.

(5) Notwithstanding subsection (4), a member of the Board holds office until the member is re-elected or re-appointed or until the member's successor is elected or appointed, even if the election, appointment, re-election or re-appointment occurs after the member's term of office expires.

(6) The Board may appoint up to two students engaged in the study of planning to participate as observer members on the Board but such students are not part of a quorum and may not vote or participate in motions of the Board.

10 The Board shall perform such functions as are prescribed by this Act and the by-laws of the Association.

11 There shall be a Register of Professional Planners.

12 (1) There shall be a Registrar of Professional Planners appointed by the Board for a term of two years which the Board may renew for a further term of two years.

(2) No person may be appointed as Registrar or may hold that office unless that person is a licensed professional planner.

(3) The Registrar shall

(a) enter in the Register the name of each licensed professional planner and maintain the Register;

- (b) prepare an annual list of licensed professional planners;
- (c) attend every meeting of the Board unless directed by the Board not to do so;
- (d) report to the Board;
- (e) supervise and administer the nomination of candidates for election to the Board; and
- (f) perform such other functions and carry out such other duties as are prescribed by this Act, the by-laws of the Association or the Board.

13 The Board shall convene an annual meeting of the members of the Association to be held once during each calendar year and such other meetings of the members as are prescribed by the by-laws of the Association or may be demanded, as provided in the by-laws, by that percentage of the members as prescribed by the by-laws.

14 (1) Every person who holds a licence that is in good standing may engage in the practice of professional planning in the Province and may use the designation "Licensed Professional Planner" or "L.P.P.".

(2) No person shall take, use or display either of the designations "Licensed Professional Planner" or "L.P.P.", alone or in combination with another word, name, title, initial or description, to imply, suggest or hold out that the person is a licensed professional planner unless that person holds a licence.

15 (1) Any person who wishes to be licensed pursuant to this Act may apply for a licence in the manner prescribed by the by-laws of the Association.

(2) Where an application for a licence is made in accordance with the by-laws, the Registrar shall review the application and either

(a) make a recommendation, in writing, to the Board that the applicant either has or has not met the requirements that must be met in order for the applicant to be licensed; or

(b) refer the application to the Discipline Committee or the Practice Committee,

and, where the application is referred to the Discipline Committee or the Practice Committee pursuant to clause (b), that committee shall review the application and make a recommendation, in writing, to the Board and the Registrar as to whether or not the applicant ought to be licensed and, if so, the conditions or limitations, if any, that ought to be attached to or imposed on the licence.

(3) After reviewing the recommendation of the Registrar or the Discipline or Practice Committee, if any, the Board shall determine whether the applicant meets the requirements imposed by this Act and the by-laws that must be met in order for the applicant to be licensed.

(4) Where the Board decides that an applicant ought to be licensed, it shall direct the Registrar to issue a licence to the applicant, with or without conditions or limitations, and the Registrar shall issue the licence to the applicant and enter the name of the applicant in the Register.

(5) The Board may refuse to direct that a licence be issued to an applicant and, without restricting the generality of the foregoing, may refuse to direct the issue of a licence to an applicant who is being investigated or has been disciplined for professional misconduct, negligence or incompetence in carrying on the practice of professional planning by an authority outside the Province that is authorized by law to do so.

(6) Where the Board refuses to direct that a licence be issued, it shall furnish the applicant with written reasons for so doing.

16 Any document, certificate or seal that is evidence that a person holds a licence remains at all times the property of the Association and, where the person resigns or is suspended or expelled as a member of the Association or where the person's licence is suspended or revoked, that person shall forthwith put the Association in possession of the documents, certificate or seal.

17 Every licensed professional planner shall have a seal that must contain the name of the licensed professional planner and such other information as is prescribed by the by-laws of the Association.

18 There shall be a Discipline Committee of the Association composed of at least three licensed professional planners and at least one lay person appointed by the Board in accordance with the by-laws.

19 Any person may make a complaint against a member of the Association alleging that the member is guilty of

(a) unprofessional conduct; or

(b) incompetence in carrying on the practice of professional planning.

20 The Discipline Committee shall perform such functions as are prescribed by this Act and the by-laws of the Association.

21 For the purpose of exercising jurisdiction pursuant to this Act, including conducting an investigation or a hearing, the Discipline Committee has all the powers, privileges and immunities of a commissioner appointed pursuant to the Public Inquiries Act and may establish rules of procedure for the purpose of this Act.

22 Every complaint that is filed pursuant to this Act must be reviewed by the Discipline Committee and the Committee shall file a report and make a recommendation to the Board.

23 A formal hearing must be held by the Board with respect to a complaint if

(a) the complaint was investigated by the Discipline Committee and the Committee recommended that a formal hearing be held; or

(b) the member of the Association against whom the complaint was made requests that a formal hearing be held.

24 (1) A person who has been refused a licence either on initial application or renewal or who has been subject to disciplinary sanction may appeal the refusal or sanction to the Nova Scotia Court of Appeal.

(2) An appeal shall be taken by filing a notice of appeal, in the form prescribed by the by-laws of the Association, with the Nova Scotia Court of Appeal within thirty days of the decision being appealed from.

25 Upon the request of the party taking the appeal and upon payment of the fee prescribed by the by-laws of the Association, the Registrar shall provide the party with a certified copy of the record of the proceedings being appealed, including the documents received in evidence and the decision or order that is the subject of the appeal, and that party shall file the record with the Nova Scotia Court of Appeal before the appeal is heard.

26 An appeal may be taken on a question of law or fact, or both, and the Nova Scotia Court of Appeal may

(a) confirm, vary or rescind the decision appealed from;

(b) exercise all the powers of the Association, Board or any committee of the Association;

(c) direct the Association to take any action the Association may take and, for such purpose, the Court may substitute its opinion for that of the Association, Board or any committee or subcommittee of the Association;

(d) refer the matter back to the Board for re-hearing, in whole or in part.

27 The Discipline Committee may investigate an allegation that a person who is not a member is contravening this Act and make recommendations to the Board with respect to the allegation.

28 (1) There shall be a Practice Committee of the Association composed of at least three licensed professional planners appointed by the Board in accordance with the by-laws of the Association.

(2) The Practice Committee shall perform such functions as are prescribed by this Act and the by-laws.

29 (1) Every person engaged in the administration of this Act with respect to the investigation of a complaint, including any person making an inquiry or inspection, and any member of the Board or a committee or subcommittee under this Act shall preserve secrecy with respect to all matters that come to that person's knowledge in the course of that person's duties except

(a) as may be required in connection with the administration of this Act and the by-laws or any proceedings pursuant to this Act or the by-laws;

(b) to that person's legal counsel; or

(c) with the consent of the person to whom the information relates.

(2) No person to whom subsection (1) applies is required to give testimony in any civil suit or proceeding with regard to information obtained by that person in the course of carrying out duties pursuant to this Act.

30 A director or officer of the Association is not liable for anything done in good faith as part of the director's or officer's functions under this Act.

31 (1) Every person who contravenes this Act is guilty of an offence and is liable, on summary conviction, for a first offence to a fine not exceeding one thousand dollars and, for a second or subsequent offence, to a fine not exceeding five thousand dollars.

(2) For the purpose of subsection (1), every day a person contravenes this Act constitutes a separate offence.

(3) Where a corporation commits an offence under this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the violation of this Act or the regulations is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted.

32 (1) In this Section, "former Association" means the Nova Scotia Association of Professional Planners.

(2) Notwithstanding anything contained in this Act,

(a) the Board consists of each person who was a member of the board of the former Association immediately before the coming into force of this Act until a Board is elected and appointed at the first annual meeting of the Association held after the coming into force of this Act;

(b) each by-law of the former Association that was in force immediately before the coming into force of this Act is a by-law of the Association until it is repealed or replaced pursuant to this Act.

33 Nothing in this Act affects or interferes with the right of a person who is not a member of the Association to engage in the practice of professional planning including, but not limited to, a person

(a) registered or licensed under the Architects Act;

(b) registered or licensed under the Engineering Profession Act;

(c) registered or licensed under the Land Surveyors Act;

(d) who is a member of the Nova Scotia Barristers' Society pursuant to the Legal Profession Act;
or

(e) appointed as a development officer under the Municipal Government Act.

34 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

