

§§1-22 -  
C.45:15C-11 to  
45:15C-32  
§23 - Repealer  
§24 - Note

P.L. 2009, CHAPTER 237, *approved January 16, 2010*  
Assembly, No. 2872 (*Second Reprint*)

1 AN ACT concerning the licensure of tree experts and tree care  
2 operators and the registration of certain employers,  
3 supplementing Title 45 of the Revised Statutes, and repealing  
4 P.L.1940, c.100 and sections 7 and 8 of P.L.1996, c.20.

5

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

8

9 1. This act shall be known and may be cited as the "Tree  
10 Experts and Tree Care Operators Licensing Act."

11

12 2. For the purposes of this act:

13 "Board" means the New Jersey Board of Tree Experts  
14 established pursuant to section 3 of this act.

15 "Licensed tree care operator" means a person licensed to provide  
16 tree care operator services in the State pursuant to subsection b. of  
17 section 7 of this act.

18 "Licensed tree expert" means a person licensed to provide tree  
19 expert services in this State pursuant to subsection a. of section 7 of  
20 this act.

21 "Tree care operator services" means and includes tree pruning,  
22 repairing, brush cutting or removal, tree removal, and stump  
23 grinding or removal.

24 "Tree care services" means tree care operator services and tree  
25 expert services as established by this act.

26 "Tree expert services" means and includes tree pruning,  
27 repairing, brush cutting or removal, tree removal, stump grinding or  
28 removal, tree establishment, fertilization, cabling and bracing,  
29 lightning protection, consulting, diagnosis, and treatment of tree  
30 problems or diseases, tree management during site planning and  
31 development, tree assessment and risk management, and application  
32 of pesticides or any other form of tree maintenance.

33

34 3. There is established in the Department of Environmental  
35 Protection the New Jersey Board of Tree Experts. The board shall  
36 consist of nine members, including the Commissioner of the

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ARP committee amendments adopted June 5, 2008.

<sup>2</sup>Assembly floor amendments adopted June 16, 2008.

1 Department of Environmental Protection or the commissioner's  
2 designee, who shall serve ex officio, and eight members, appointed  
3 by the Governor with the advise and consent of the Senate as  
4 follows: five shall be licensed tree experts, two shall be licensed  
5 tree care operators, and one shall possess knowledge of  
6 arboriculture or forestry, including urban forestry. However, of the  
7 public members first appointed, three of the five licensed tree  
8 expert memberships shall be appointed from the members of the  
9 board of tree experts established by P.L.1940, c.100 (C.45:15-1 et  
10 seq.), participating on the board on the date of enactment of this act,  
11 and the remaining tree experts first appointed shall be certified, on  
12 or before the date of enactment of this act, pursuant to the  
13 provisions of P.L.1940, c.100 (C. 45:15C-1 et seq.). The initial  
14 members of the board, including the tree care operators first  
15 appointed, need not be licensed until 180 days following the  
16 promulgation of initial regulations by the board to carry out the  
17 provisions of this act. Thereafter, the members of the board  
18 subsequently appointed shall be licensed before appointment. The  
19 three members of the board of tree experts shall be appointed for a  
20 term of three years, and one of the initial tree care operators shall be  
21 appointed for a term of three years; the remaining two initial tree  
22 experts and the remaining initial tree care operator shall be  
23 appointed for a term of two years; and the initial member  
24 possessing knowledge of arboriculture or forestry shall be  
25 appointed for a term of one year. Thereafter, all members  
26 appointed shall serve for terms of three years or until their  
27 successors are appointed and qualified. Vacancies shall be filled  
28 for the unexpired terms only.

29

30 4. The board shall annually elect from among its members a  
31 chairman and a vice-chairman. The board shall meet at least four  
32 times per year and may hold additional meetings as necessary to  
33 discharge its duties. A majority of the total authorized membership  
34 of the board may exercise any of the powers of the board at any  
35 meeting. The members of the board shall serve without  
36 compensation, but the board may, within the limits of funds  
37 appropriated or otherwise made available to it, reimburse members  
38 for actual expenses necessarily incurred in the discharge of their  
39 official duties <sup>2</sup>, according to rules and regulations promulgated by  
40 the Commissioner of the Department of Environmental Protection<sup>2</sup>.

41

42 5. The board shall:

43 a. Review the qualifications of an applicant for licensure under  
44 the act;

45 b. Establish standards for examinations for licensure;

46 c. Issue and renew licenses and assess fees therefor;

47 d. Establish standards by regulation, which shall include, but  
48 not be limited to, the appropriate standards of the American

- 1 National Standards Institute (ANSI), and any related standards and  
2 best management practices;
- 3 e. Suspend or revoke licenses or registrations for violations of  
4 the act;
- 5 f. Maintain a registry of licensees;
- 6 g. Adopt a canon of professional ethics;
- 7 h. Adopt such regulations as may be necessary to effectuate the  
8 purposes of the act;
- 9 i. Establish fees by regulation for examinations, applications  
10 for licensure, and license renewals. The fees shall be sufficient to  
11 defray expenses incurred by the board in the performance of its  
12 duties under the act;
- 13 j. Conduct such worksite inspections as may be necessary to  
14 enforce the provisions of this act; and
- 15 k. Maintain a registry of businesses engaged in tree care  
16 services, and charge a fee therefor.

17

18 6. The board shall develop an examination or designate  
19 examinations to evaluate the knowledge, ability, and fitness of  
20 applicants to perform as tree experts or tree care operators,  
21 respectively, and shall administer the examinations at least semi-  
22 annually at times and places to be determined by the board. The  
23 board shall provide for adequate written notice of the time and  
24 place of the examinations. An applicant who fails an examination  
25 may not retake the examination earlier than three months following  
26 the initial examination. There shall be no limitation on the number  
27 of times an examination may be taken. All licenses shall be issued  
28 on a biennial basis. A person may seek renewal of a license upon  
29 submission of a renewal application and the payment of a renewal  
30 fee established by the board. If a license expires without being  
31 renewed, the license may be renewed within one year of expiration  
32 upon the payment of a prorated fee. The determination of the board  
33 as to an applicant's qualifications for any examination shall  
34 constitute final agency action.

35

36 7. a. No person shall present himself to the public as a licensed  
37 tree expert or use the designation "L.T.E.," without licensure by the  
38 board. A person shall not be eligible for licensure pursuant to this  
39 subsection until the final promulgation of initial regulations by the  
40 board to carry out the provisions of this act. A candidate for  
41 licensure shall:

- 42 (1) be at least 18 years of age;
- 43 (2) be of good moral character;
- 44 (3) (a) be a graduate from a four year college with a degree in  
45 forestry, arboriculture, ornamental horticulture, natural resources,  
46 or any other curriculum approved by the board; or
- 47 (b) have completed two years of college and passed courses  
48 approved by the board, and have been continuously employed in the

1 practice of arboriculture for a period of at least three years  
2 preceding the date of his application for licensure; or

3 (c) be continuously employed in the practice of arboriculture for  
4 at least five years immediately preceding the date of application for  
5 licensure; and

6 (4) except as provided in subsection c. of this section, have  
7 passed an examination established or designated by the board.

8 b. No person shall present himself to the public as a licensed  
9 tree care operator or use the designation "L.T.C.O.," without  
10 licensure by the board. A person shall not be eligible for licensure  
11 pursuant to this subsection until the final promulgation of initial  
12 regulations by the board to carry out the provisions of this act. A  
13 candidate for licensure shall:

14 (1) be at least 18 years of age;

15 (2) be of good moral character;

16 (3) (a) be a graduate from a four year college with a degree in  
17 arboriculture or an equivalent major field of study, and have been  
18 continuously employed in the practice of arboriculture for a period  
19 of at least one year preceding the date of his application for  
20 licensure; or

21 (b) be a graduate from a two year college with a degree in  
22 arboriculture or an equivalent major field of study, and have been  
23 continuously employed in the practice of arboriculture for a period  
24 of at least two years preceding the date of his application for  
25 licensure; or

26 (c) be continuously employed in the practice of arboriculture for  
27 at least three years preceding the date of his application for  
28 licensure; and

29 (4) except as provided in subsection c. of this section, have  
30 passed an examination established by the board.

31 c. Notwithstanding the provisions of subsections a. and b., for  
32 360 days after the date regulations are promulgated pursuant to the  
33 provisions of this act:

34 (1) any person of good moral character who has received  
35 certification as a tree expert pursuant to P.L.1940, c.100 (C.  
36 45:15C-1 et seq.) before the date of its repeal may, if in good  
37 standing with the board, acquire a license as a tree expert without  
38 sitting for an examination pursuant to subsection a. of this section  
39 pursuant to regulations established by the board; and

40 (2) any person of good moral character who has documented to  
41 the satisfaction of the board that he has been engaged in the practice  
42 of arboriculture for seven years preceding the effective date of this  
43 act may acquire a license as a tree care operator without sitting for  
44 an examination pursuant to subsection b. of this section, pursuant to  
45 regulations established by the board.

46 Licenses issued pursuant to this subsection shall be renewed  
47 biennially.

1 d. Persons licensed under this act shall receive a certificate  
2 evidencing their licensure.

3 e. Any person licensed as a tree care operator may  
4 subsequently apply for licensure as a tree expert upon meeting the  
5 qualifications for licensure.

6  
7 8. a. Applications for licenses as a tree expert or a tree care  
8 operator shall be on forms prescribed and furnished by the board  
9 and shall contain statements under oath showing the applicant's  
10 education or other qualification for licensure. The application shall  
11 be accompanied by an application fee as established by the board by  
12 regulation. No license shall be issued in the name of a corporation,  
13 firm, partnership, or other form of business organization.

14 b. The board shall maintain a record of all individual applicants  
15 for licensure and all licensees, including the persons' name, age,  
16 education, and other qualifications, the person's place of residence,  
17 the location in which the person is employed, and a record of the  
18 person's fulfillment of any continuing education requirements  
19 established by this act.

20 c. The board may, in its discretion, grant a tree expert license  
21 or a tree care operator license to any person who is not a resident of  
22 this State and who is the lawful holder of a substantially equivalent  
23 license or certification issued by another jurisdiction, as determined  
24 by the board.

25  
26 9. a. Every licensed tree expert and licensed tree care operator  
27 shall complete, as a condition for biennial license renewal, no less  
28 than 32 credits of continuing education in courses of study  
29 approved by the board. Each hour of instruction shall be equivalent  
30 to one credit. The board may waive requirements for continuing  
31 education on an individual basis for reasons of hardship such as  
32 illness or disability or other good cause. Evidence of the fulfillment  
33 of this requirement shall be submitted to the board in a form and  
34 manner established by the board.

35 b. The board shall review the content of courses of study  
36 offered by colleges, universities, and other institutions or  
37 organizations for the awarding of degrees or credits in subjects  
38 related to arboriculture and make the list available to the public.  
39 The board shall establish and maintain minimum requirements for  
40 courses to meet continuing education requirements by establishing a  
41 list of approved subjects and courses of study.

42  
43 10. In rendering professional services, a licensed tree expert or  
44 licensed tree care operator shall comply in all respects with the  
45 applicable laws and regulations pertaining to tree expert or tree care  
46 operator services and shall have the duty to make every reasonable  
47 effort to protect the safety, health, property, and welfare of the  
48 public. This shall include ensuring the safe operation of all

1 equipment used in the performance of tree expert or tree care  
2 operator services, under guidelines established by the Department  
3 of Environmental Protection or by the board.

4  
5 11. The board may refuse to issue or renew or may suspend or  
6 revoke a license or may refuse to admit a person to an examination  
7 for licensure, after notice and hearing, upon a finding that an  
8 applicant or licensee:

9 a. Has obtained a license or authorization to sit for an  
10 examination through fraud, deception, or misrepresentation;

11 b. Has conducted work, or allowed work to be conducted under  
12 his supervision, in a manner not in compliance with standards  
13 approved by the board;

14 c. Has engaged in the use of dishonesty, fraud, deception,  
15 misrepresentation, false promise, or false pretense in the course of  
16 his business;

17 d. Has engaged in gross negligence or gross incompetence;

18 e. Has engaged in repeated acts of negligence or incompetence;

19 f. Has engaged in occupational misconduct, as determined by  
20 the board;

21 g. Has been convicted of any crime involving moral turpitude,  
22 any crime relating adversely to the activities regulated by the board,  
23 or any crime of the first, second, third, or fourth degree;

24 h. Has had his authority to engage in the activities regulated by  
25 the board revoked or suspended by any other state, agency, or  
26 authority;

27 i. Has failed to comply with the provisions of this act or any  
28 regulation promulgated pursuant thereto, including canons of ethics  
29 established by the board;

30 j. Is incapable, for medical or any other good cause, of  
31 discharging the functions of a licensee in a manner consistent with  
32 the health, safety, and welfare of the public;

33 k. Has engaged in any form of false or misleading advertising  
34 or promotional activities, including, but not limited to, holding  
35 himself out to be a licensed tree expert, an arborist, licensed tree  
36 care operator, a tree surgeon, a tree care business, or any similar  
37 designation, or using the abbreviation "L.T.E." or "L.T.C.O."  
38 without being licensed as a tree expert or a tree care operator as  
39 provided for in this act; or

40 l. Has failed to maintain records required by the board.

41  
42 12. Every business engaged in providing tree expert or tree care  
43 operator services shall register biennially with the board as a  
44 condition of doing business in this State and shall provide the  
45 following information:

46 a. The name and residence of the owner or owners of the tree  
47 care business;

- 1       b. The principal address of the tree care business, and any
- 2 branch office or subsidiary of the business;
- 3       c. The names and addresses of every licensed tree expert or
- 4 licensed tree care operator employed by the business and the
- 5 location of each such licensee, if at a branch office other than the
- 6 business' main office;
- 7       d. Proof of general liability insurance or a letter of credit of a
- 8 type and amount required by the board by regulation;
- 9       e. Proof of workers' compensation insurance coverage required
- 10 pursuant to chapter 15 of Title 34 of the Revised Statutes;
- 11       f. Proof that at least one employee of the tree care business,
- 12 located at the principal office of the tree care business shall be
- 13 licensed either as a tree expert or tree care operator, and at least one
- 14 employee of the tree care business, located at each branch office of
- 15 the tree care business shall be licensed either as a tree expert or tree
- 16 care operator; and
- 17       g. Any other information required by the board.

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19       13. Every tree care business shall provide instruction and

20 training for its employees in the proper use, inspection and

21 maintenance of tools and equipment and shall require that safe

22 working practices are observed in accordance with the appropriate

23 standards of the American National Standards Institute (ANSI), as

24 well as any additional standards designated by the board by

25 regulation. Every tree care business shall submit documentation of

26 its training program for employees to the board annually, which

27 shall include a model tree safety program checklist, proof of general

28 liability insurance coverage or a letter of credit in an amount

29 established by the board, and proof of workers' compensation

30 insurance.

31

32       14. The board may revoke or suspend a registration of any tree

33 care business, after notice and hearing, that the business:

- 34       a. Has failed to demonstrate that the employer, or at least one
- 35 employee in each principal office and branch location who is
- 36 responsible for the supervision of workers in the performance of
- 37 tree expert or tree care operator services, is in possession of a tree
- 38 expert license or a tree care operator license;
- 39       b. Has failed to ensure the safe operation of all equipment used
- 40 in the performance of tree expert or tree care operator services;
- 41       c. Has allowed work to be conducted in a manner not in
- 42 compliance with standards approved by the board;
- 43       d. Has failed to provide instruction and training for its
- 44 employees, as required by this act;
- 45       e. Has engaged in the use of dishonesty, fraud, deception,
- 46 misrepresentation, false promise, or false pretense in the course of
- 47 his business;
- 48       f. Has been found guilty of gross negligence or incompetence;

1 g. Has had the authority to engage in tree expert or tree care  
2 operator services revoked or suspended by any other state, agency,  
3 or authority;

4 h. Has failed to comply with the provisions of this act or any  
5 regulation promulgated pursuant thereto;

6 i. Has engaged in any form of false or misleading advertising  
7 or promotional activities; or

8 j. Has failed to maintain records required by the board.  
9

10 15. In the performance of tree expert or tree care operator  
11 services, a licensed tree expert or licensed tree care operator and  
12 every tree care business shall cooperate fully with the Department  
13 of Environmental Protection and the board in an investigation or  
14 adjudication of an alleged violation of this law or any regulations  
15 promulgated pursuant thereto, and upon request, shall provide  
16 copies of any documents that shall be requested in connection  
17 therewith.  
18

19 16. Whenever it shall appear to the board or the Department of  
20 Environmental Protection that a person has engaged in, or is  
21 engaging in, any unlawful activity under the provisions of this act,  
22 the person may be required to file, on a form prescribed by  
23 regulation, a statement in writing under oath as to the facts and  
24 circumstances concerning the rendering of any service or other  
25 violation of this act. The board or the department may examine any  
26 person in connection with any act or practice subject to the act,  
27 inspect any premises upon which any violation is alleged to have  
28 taken place or premises that constitute the licensee's place of  
29 business, and examine any record, book, document, account or  
30 paper maintained by or for any licensee in the conduct of his  
31 business.  
32

33 17. Suspension or revocation of a license by the board shall take  
34 place only following notice and a hearing, sent to the licensee at  
35 least 20 days prior to the hearing. No license shall be revoked or  
36 suspended until the conclusion of any hearing. The board shall  
37 render its judgment no later than 20 days following the conclusion  
38 of the hearing.  
39

40 18. In addition to suspension or revocation of a license, the  
41 board may levy a fine, not to exceed \$1,000 for a first violation and  
42 not to exceed \$2,500 for a second or subsequent violation of this  
43 act. If the violation is of a continuing nature, each day during  
44 which it continues shall constitute an additional, separate, and  
45 distinct offense. The civil penalty shall be issued for and recovered  
46 by and in the name of the board, and shall be collected by summary  
47 proceeding pursuant to the "Penalty Enforcement Law of 1999,"

1 P.L.1999, c.274 (C.2A:58:10 et seq.), including reimbursement for  
2 the cost of investigation.

3  
4 19. Whenever it shall appear to the board or the Department of  
5 Environmental Protection that a violation of this act has occurred, is  
6 occurring, or will occur, the Attorney General, in addition to any  
7 other proceeding authorized by law, may seek and obtain in a  
8 summary proceeding in the Superior Court an injunction prohibiting  
9 the act or practice. The court may assess a civil penalty in  
10 accordance with the provisions of this act, but the court shall not  
11 suspend or revoke any license issued by the board.

12  
13 20. Any person aggrieved by an order or finding by the board or  
14 the commissioner may appeal the order or finding to the Superior  
15 Court.

16  
17 21. The provisions of this act shall not apply to:

18 a. Any public utility or any employee of a public utility while  
19 engaged in the actual performance of his duties as an employee;

20 b. Any employer under contract with a public utility who is  
21 engaged in tree trimming or any other utility vegetation  
22 management practice for purpose of line clearance, or any employee  
23 of the employer while engaged in the actual performance of duties  
24 in regard to tree trimming or other utility vegetation management  
25 practice or for the installation of underground facilities or  
26 associated site construction;

27 c. Any forestry activities that are conducted under the forest  
28 management and stewardship programs approved by the State  
29 Forester, provided that tree climbing is not performed, nor are aerial  
30 lifts, cranes, or rope and rigging operations used;

31 d. Landscape construction activities, including those performed  
32 by, or under the direction of, a landscape architect, or ground based  
33 landscape maintenance activities such as pruning, fertilization,  
34 insect and disease control, planting, transplanting and all other  
35 forms of ground based landscape maintenance, in compliance with  
36 the sections of the American National Standards Institute <sup>1</sup> **['Practice  
37 Standards] practice standards**<sup>1</sup> set forth by the board by regulation,  
38 with applicable safety standards and regulations promulgated by the  
39 federal Occupational Safety and Health Administration, and with  
40 any pesticide regulations promulgated by the Department of  
41 Environmental Protection. For the purposes of this subsection,  
42 ground based landscape maintenance means operations that do not  
43 involve climbing, the use of aerial lifts, cranes, rope and rigging  
44 operations, or the removal of trees over 6 inch D.B.H;

45 e. Any person or employer that does not offer tree care services  
46 for hire; <sup>1</sup> **['and']**<sup>1</sup>

47 f. Any trees being removed pursuant to an approved site plan  
48 or subdivision approval <sup>1</sup>, provided that the tree removal activities

1 are performed in compliance with the sections of the American  
2 National Standards Institute practice standards set forth by the  
3 board by regulation, with applicable safety standards and  
4 regulations promulgated by the federal Occupational Safety and  
5 Health Administration, and with applicable safety standards of the  
6 American National Standards Institute as designated by the board  
7 by regulation; and

8 g. Any employee of a municipality or county while engaged in  
9 the actual performance of his duties as an employee<sup>1</sup>.

10

11 22. All fees and penalties collected pursuant to this act shall be  
12 deposited with the board, and their use shall be authorized by the  
13 board for the purposes of carrying out the provisions of this act.

14

15 23. The following are repealed:

16 P.L.1940, c.100 (C.45:15C-1 et seq.); and

17 Sections 7 and 8 of P.L.1996, c.20 (C.45:15C-2.1 and -7.1).

18

19 24. This act shall take effect immediately, except for section 23,  
20 which shall take effect upon the final promulgation of initial  
21 regulations by the board necessary to carry out the provisions of  
22 this act.

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27 \_\_\_\_\_  
"Tree Experts and Tree Care Operators Licensing Act."