

act in the lights of its surroundings and objectives. Nor need the standards be set forth in express terms, if they may reasonably be inferred from the statutory scheme as a whole." *Schierstead v. City of Brigantine*, 20 N.J. 164, 169 (1955).

An examination of the act reveals that although renewal requirements are not expressly set forth, they may reasonably be inferred from the act as a whole. Looking first to R.S. 13:1-31(a) referred to above, it is obvious that the Legislature intended this residence requirement be a continuing requirement; otherwise, it would be rendered almost meaningless for a certificate holder could remove himself from the state the day after he received his certificate. It is significant that there is no language in R. S. 13:1-31(a) or any other section of the act which could be construed as limiting residence to mean residence at the time of issuance of the initial certificate.

The recent decision in *Richman v. Blank*, 45 N.J. Super. 272 (Decided May 24, 1957) confirms this construction. The Superior Court there held that a requirement of residence within the Passaic Valley Sewerage District was a continuing one and did not govern solely eligibility for appointment.

Our conclusion that residence is a continuing requirement is further supported by the fact that the purpose of the act as stated in the title is not only to license but also to supervise tree experts. The act requires that certified tree experts maintain a place of business and devote the regular business hours of the day to their practice. R.S. 13:1-29. The Bureau of Tree Experts is empowered to revoke or suspend the license of a certified tree expert who has been "convicted of a misdemeanor in the courts of this State", or who has been found guilty of any fraud or deceit in obtaining his certificate or who has been found guilty of negligence or wrongful conduct in his practice. R.S. 13:1-33. If certificates of non-residents were renewed, supervision would be extremely difficult if not impossible in some instances. The fact that residence is a requisite for adequate supervision was discussed at length in *La Tourette v. McMaster*, 104 S. Car. 501, 89 S.E. 398, 399 (Sup. Ct. of S.C. 1916) aff'd, 248 U.S. 465 (1919). The Supreme Court of South Carolina in upholding the constitutionality of a residence requirement for the licensing of insurance brokers stated on page 504:

" . . . By the terms of this act and others regulating the business, the books, papers, and accounts of such brokers are at all times to be open to the inspection of the commissioner, who is given supervisory control of the business for the protection of the insured as well as the insurers. Now, without question, such supervision can be exercised over brokers residing in the state more expeditiously, advantageously, and effectively than if they resided in many different states of the Union, and the Commissioner can more readily ascertain whether they have the requisite skill and ability and are faithful in the performance of their duties and obey the laws of the state. Moreover, they are required to exercise due care in placing insurance, and would be personally liable for neglect of that duty. They are also liable to indictment for violations of the laws of the state regulating the business and for disobeying the lawful orders of the commissioner with respect thereto. It is therefore desirable, if not imperatively necessary for the proper regulation of the business, that they should be residents of the state and subject to the jurisdiction of its courts . . ."

That the Legislature considered and dealt with the problem of non-residents is evidenced by section 13:1-36 of the act which authorizes the bureau in its discretion to register the certificates of non-residents provided such non-residents are lawful holders of certified tree expert certificates of another state which extends similar privileges to New Jersey certified tree experts. Since the Legislature has seen fit to provide specifically for the registration of one group of non-residents, i.e., those holding certificates from other states, and thus subject to supervision by another state, in accordance with the doctrine that an affirmative expression in a statute ordinarily implies a negation of any other, *Dillemuthe v. Efinger*, 126 N.J.L. 579 (Sup. Ct. 1941) ; *Moses v. Moses*, 140 N.J. Eq. 575 (E. & A. 1947), this group is the only group of non-residents who may practice as certified tree experts in New Jersey.

There being no expression to the contrary, the logical inference to be drawn from a reading of the entire act is that the requirements for renewal of a certificate are the same requirements which the Legislature set forth for the initial issuance of a certificate. See *Division of New Jersey Real Estate Commission v. Ponsi*, 39 N.J. Super. 526, 531 (App. Div. 1956) wherein the Superior Court in affirming the action of the Real Estate Commission denying the license renewal application of a real estate broker stated :

“. . . It seems inconceivable that the Legislature intended to establish one standard for the issuance of a license and another for its renewal or revocation.”

For the foregoing reasons, certificates of non-residents cannot be renewed.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: JUNE STRELECKI
Deputy Attorney General

JS:ccm

JUNE 5, 1957

HONORABLE AARON K. NEELD
State Treasurer
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-21

DEAR MR. NEELD:

You have requested an opinion as to whether a member of the Consolidated Police and Firemen's Pension Fund may retire while on military leave of absence when such leave of absence constitutes a major portion of his total years of public service.

Retirements within the Consolidated Police and Firemen's Pension System are governed by R.S. 43:16-1. Any active member of a municipal or county police department or of a paid or part paid fire department is eligible to retire after twenty-five years service upon attainment of the age of fifty-one years. Any employee member of any such department qualifies for retirement after twenty-five years service upon