



Senate

General Assembly

File No. 173

January Session, 2009

Substitute Senate Bill No. 1002

Senate, March 25, 2009

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE DEPARTMENT OF CONSUMER PROTECTION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 20-306b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2009*):

3 (a) One or more architects, each of whom is licensed under the
4 provisions of chapter 390, one or more landscape architects, each of
5 whom is licensed under the provisions of chapter 396, one or more
6 professional engineers or one or more land surveyors, each of whom is
7 licensed under the provisions of this chapter, may form a corporation
8 or limited liability company for the joint practice of architecture,
9 landscape architecture, professional engineering, [and] land surveying
10 services [] or [for the joint practice of architecture and professional
11 engineering services, or for the joint practice of architecture and land
12 surveying services, or for the joint practice of professional engineering
13 and land surveying services] any combination of such practices or
14 services, provided (1) one or more persons licensed as architects,

15 landscape architects, engineers or land surveyors under chapter 390 or
16 396 or this chapter [together] own not less than two-thirds of the
17 voting stock of the corporation or not less than two-thirds of the voting
18 interests of the limited liability company, and the members of each
19 profession forming the corporation or limited liability company
20 together own at least twenty per cent of the voting stock of the
21 corporation or at least twenty per cent of the voting interests of the
22 limited liability company, (2) the personnel in responsible charge of
23 the practice of architecture for such corporation or limited liability
24 company shall be licensed under chapter 390, [and] the personnel in
25 responsible charge of the practice of engineering or land surveying for
26 such corporation or limited liability company shall be licensed under
27 this chapter, and the personnel in responsible charge of the practice of
28 landscape architecture for such corporation or limited liability
29 company shall be licensed under chapter 396, and (3) such corporation
30 or limited liability company has been issued a joint certificate of
31 registration by the Department of Consumer Protection at the direction
32 of the Architectural Licensing Board, [and] the State Board of
33 Landscape Architects or the appropriate members of the State Board of
34 Examiners for Professional Engineers and Land Surveyors designated
35 to administer the provisions of this chapter with respect to professional
36 engineers or land surveyors. Such corporation or limited liability
37 company shall, upon request by the Architectural Licensing Board,
38 State Board of Landscape Architects or the State Board of Examiners
39 for Professional Engineers and Land Surveyors, provide the requesting
40 board with information concerning its officers, directors, members,
41 beneficial owners and all other aspects of its business organization.
42 Corporations for such joint practice in existence as of July 1, 1992, may
43 continue to be governed by the provisions of this subsection as revised
44 to 1989, provided the certificate issued under this section did not
45 expire more than two years before that date.

46 (b) Application by such corporation or limited liability company for
47 a certificate of registration under this section shall be made to [both] all
48 boards jointly on a form prescribed by the department and
49 accompanied by an application fee of four hundred fifty dollars. Each

50 such certificate shall expire annually and shall be renewable upon
51 payment of a fee of three hundred dollars, if all requirements of
52 chapter 390 or 396 and this chapter with respect to corporate or limited
53 liability company practice are met. The boards by joint action may
54 refuse to authorize the issuance or renewal of a certificate if any facts
55 exist which would entitle the boards to suspend or revoke an existing
56 certificate.

57 (c) Any corporation or limited liability company issued a certificate
58 under this section shall be required to comply with all provisions of
59 chapter 390 or 396 and this chapter with respect to corporate or limited
60 liability company practice.

61 (d) No such corporation or limited liability company shall be
62 relieved of responsibility for the conduct or acts of its agents,
63 employees, members or officers by reason of its compliance with the
64 provisions of this section, nor shall any individual practicing
65 architecture, landscape architecture, engineering or land surveying be
66 relieved of responsibility for services performed by reason of his or her
67 employment or relationship with such corporation or limited liability
68 company.

69 (e) All fees collected under this section shall be paid to the State
70 Treasurer for deposit in the General Fund.

71 (f) The Commissioner of Consumer Protection, with the advice and
72 assistance of the Architectural Licensing Board, the State Board of
73 Landscape Architects and the appropriate members of the State Board
74 of Examiners for Professional Engineers and Land Surveyors
75 designated to administer the provisions of this chapter with respect to
76 professional engineers or land surveyors, shall adopt regulations, in
77 accordance with chapter 54, to carry out the provisions of this section.

78 Sec. 2. Subsection (c) of section 20-332 of the general statutes is
79 repealed and the following is substituted in lieu thereof (*Effective*
80 *October 1, 2009*):

81 (c) If, after a hearing in accordance with the regulations adopted by
82 the Commissioner of Consumer Protection, it appears that the
83 provisions of this chapter or the regulations adopted under this
84 chapter have been violated, in addition to the penalties in this chapter,
85 the appropriate examining board, [or] and the commissioner or the
86 commissioner's authorized agent, shall report such violation to the
87 office of the state's attorney for the judicial district in which such
88 violation occurred.

89 Sec. 3. Section 21a-8 of the general statutes is repealed and the
90 following is substituted in lieu thereof (*Effective October 1, 2009*):

91 (a) The Department of Consumer Protection shall have the
92 following powers and duties with regard to each board or commission
93 transferred to the Department of Consumer Protection under section
94 21a-6:

95 (1) The department shall control the allocation, disbursement and
96 budgeting of funds appropriated to the department for the operation
97 of each board or commission transferred to said department.

98 (2) The department shall employ and assign such personnel as the
99 commissioner deems necessary for the performance of each board's or
100 commission's functions.

101 (3) The department shall perform all management functions,
102 including purchasing, bookkeeping, accounting, payroll, secretarial,
103 clerical, record-keeping and routine housekeeping functions.

104 (4) The department shall conduct any necessary review, inspection
105 or investigation regarding qualifications of applicants for licenses or
106 certificates, possible violations of statutes or regulations, accreditation
107 of schools, disciplinary matters and the establishment of regulatory
108 policy, and make recommendations to the appropriate board or
109 commission. In connection with any such investigation, the
110 Commissioner of Consumer Protection, or the commissioner's
111 authorized agent, may administer oaths, issue subpoenas, compel

112 testimony and order the production of books, records and documents.
113 If any person refuses to appear, to testify or to produce any book,
114 record or document when so ordered, a judge of the Superior Court
115 may make such order as may be appropriate to aid in the enforcement
116 of this section.

117 (5) The department shall administer any examinations necessary to
118 ascertain the qualifications of applicants for licenses or certificates and
119 shall issue licenses or certificates to qualified applicants. The
120 department shall maintain rosters of licensees or registrants and
121 update such rosters annually, and may provide copies of such rosters
122 to the public for an appropriate fee.

123 (6) The department shall conduct any necessary investigation and
124 follow-up in connection with complaints regarding persons subject to
125 regulation or licensing by the board or commission.

126 (7) The department shall perform any other function necessary to
127 the effective operation of the board or commission and not specifically
128 vested by statute in the board or commission.

129 (8) The department shall receive complaints concerning the work
130 and practices of persons licensed, registered or certified by such boards
131 or commissions and shall receive complaints concerning unauthorized
132 work and practice by persons not licensed, registered or certified by
133 such boards or commissions. The department shall distribute monthly
134 a list of all complaints received within the previous month to the
135 chairperson of the appropriate board or commission. The department
136 shall screen all complaints and dismiss any in which the allegation, if
137 substantiated, would not constitute a violation of any statute or
138 regulation. The department shall distribute notice of all such
139 dismissals monthly to the chairperson of the appropriate board or
140 commission. The department shall investigate any complaint in which
141 the allegation, if substantiated, would constitute a violation of a statute
142 or regulation under its jurisdiction. In conducting the investigation, the
143 commissioner may seek the assistance of a member of the appropriate
144 board, an employee of any state agency with expertise in the area, or if

145 no such member or employee is available, a person from outside state
146 service licensed to perform the work involved in the complaint. Board
147 or commission members involved in an investigation shall not
148 participate in disciplinary proceedings resulting from such
149 investigation. The Commissioner of Consumer Protection may dismiss
150 a complaint following an investigation if the commissioner determines
151 that such complaint lacks probable cause. Notice of such dismissal
152 shall be given only after approval by the chairperson of the
153 appropriate board or commission. The commissioner may authorize a
154 settlement if the settlement is approved by the complainant, the
155 practitioner, and the board or commission. The commissioner [may]
156 shall bring a complaint before the appropriate board or commission for
157 a formal hearing if the commissioner determines that there is probable
158 cause to believe that the offense alleged in the complaint has been
159 committed and that the practitioner named in the complaint was
160 responsible. The commissioner, or the commissioner's authorized
161 agent, shall have the power to issue subpoenas to require the
162 attendance of witnesses or the production of records, correspondence,
163 documents or other evidence in connection with any hearing of a
164 board or commission. All dispositions and final decisions by the
165 Department of Consumer Protection after an investigation into a
166 complaint has begun shall be forwarded to the chairperson of the
167 appropriate board or commission on a monthly basis.

168 (9) The department may contract with a third party, if the
169 commissioner deems it necessary and if the appropriate board or
170 commission consents, to administer licensing examinations and
171 perform all attendant administrative functions in connection with such
172 examination and to monitor continuing professional education
173 requirements, and may require the payment of a fee to such third
174 party.

175 (b) The Commissioner of Consumer Protection shall have the
176 following powers and duties with regard to each board or commission
177 transferred to the Department of Consumer Protection under section
178 21a-6:

179 (1) The commissioner may, in the commissioner's discretion, issue
180 an appropriate order to any person found to be violating any statute or
181 regulation within the jurisdiction of such board or commission
182 providing for the immediate discontinuance of the violation or
183 requiring the violator to make restitution for any damage caused by
184 the violation, or both. The commissioner may, through the Attorney
185 General, petition the superior court for the judicial district in which the
186 violation occurred, or in which the person committing the violation
187 resides or transacts business, for the enforcement of any order issued
188 by the commissioner under this subdivision and for appropriate
189 temporary relief or a restraining order. The commissioner shall certify
190 and file in the court a transcript of the entire record of the hearing or
191 hearings, including all testimony upon which such order was made
192 and the findings and orders made by the commissioner. The court may
193 grant such relief by injunction or otherwise, including temporary
194 relief, as the court deems equitable and may make and enter a decree
195 enforcing, modifying and enforcing as so modified, or setting aside, in
196 whole or in part, any order of the commissioner issued under this
197 subdivision.

198 (2) The commissioner may conduct hearings on any matter within
199 the statutory jurisdiction of such board or commission. Such hearings
200 shall be conducted in accordance with chapter 54 and the regulations
201 established pursuant to subsection (a) of section 21a-9. In connection
202 with any such hearing, the commissioner may administer oaths, issue
203 subpoenas, compel testimony and order the production of books,
204 records and documents. The commissioner shall notify the appropriate
205 examining board of any such hearing not less than two weeks prior to
206 the scheduled dates of such hearing. If any person refuses to appear,
207 testify or produce any book, record or document when so ordered, a
208 judge of the Superior Court may make such order as may be
209 appropriate to aid in the enforcement of this subdivision.

210 (3) In addition to any other action permitted under the general
211 statutes, the commissioner may, upon a finding of any cause specified
212 in subsection (c) of section 21a-9: (A) Revoke or suspend a license,

213 registration or certificate; (B) issue a letter of reprimand to a
 214 practitioner and send a copy of such letter to a complainant or to a
 215 state or local official; (C) place a practitioner on probationary status
 216 and require the practitioner to (i) report regularly to the commissioner
 217 on the matter which is the basis for probation, (ii) limit the
 218 practitioner's practice to areas prescribed by the commissioner, or (iii)
 219 continue or renew the practitioner's education until the practitioner
 220 has attained a satisfactory level of competence in any area which is the
 221 basis for probation. The commissioner may, with the approval of the
 222 appropriate examining board, discontinue, suspend or rescind any
 223 action taken under this subdivision.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2009	20-306b
Sec. 2	October 1, 2009	20-332(c)
Sec. 3	October 1, 2009	21a-8

GL *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sSB 1002*****AN ACT CONCERNING THE DEPARTMENT OF CONSUMER PROTECTION.*****SUMMARY:**

This bill (1) allows landscape architects to form a joint practice; (2) allows any combination of architect, landscape architect, professional engineer, and land surveyor in the practice; (3) subjects landscape architects to the requirement that professional members in a joint venture own at least 20% of the voting stock or interests; and (4) makes technical changes regarding registration, liability, and regulation to include references to landscape architects and the State Board of Landscape Architects.

The bill also expands the role of the occupational and professional examining boards and commissions under the Department of Consumer Protection (DCP) by requiring DCP to:

1. bring complaints to the appropriate board or commission;
2. notify the appropriate examining board of any scheduled hearing; and
3. obtain examining board approval to discontinue, suspend, or rescind any decision to revoke or suspend a license, issue a letter of reprimand, or place a practitioner on probation.

The bill also requires both the appropriate examining board and DCP to report violations to the Office of the Chief State's Attorney. Under current law, one or the other must report.

EFFECTIVE DATE: October 1, 2009, except the provisions relating to landscape architects are effective July 1, 2009.

LANDSCAPE ARCHITECTS

Under current law, any combination of licensed architects, professional engineers, and land surveyors may form a corporation or limited liability company (LLC) for the joint practice of their trades. The bill adds licensed landscape architects to the group, allowing them to also form a joint practice consisting of any combination of those practitioners.

In doing so, the bill applies existing requirements governing these joint ventures to landscape architects. These include requiring:

1. members of each licensed profession represented in a joint venture to own at least 20% of the voting stock or interests;
2. one or more persons licensed to own at least two-thirds of the voting stock or interests;
3. the personnel in charge of a particular practice be licensed;
4. the corporation or LLC to obtain a joint DCP registration certificate at the direction of the appropriate boards;
5. the corporation or LLC to provide, at the request of the appropriate board, information about the business organization; and
6. applicants for a registration certificate to apply to all boards jointly.

BOARDS AND COMMISSIONS

The bill requires both the DCP commissioner and the appropriate examining board to report to the state's attorney violations of the laws and regulations governing professional and occupational licensing they oversee. Under current law, only one or the other must report.

The bill also requires, rather than allows, the DCP commissioner to bring complaints about the work and practices of licensed, certified, and registered practitioners and those without these credentials before

the appropriate board or commission for a formal hearing if the commissioner determines there is probable cause to believe the offense has been committed and the named practitioner is responsible.

It requires the commissioner to notify the appropriate examining board whenever DCP holds a hearing on a matter pertaining to the examining board at least two weeks before the scheduled hearing date.

It also requires the commissioner to obtain approval of the appropriate examining board to discontinue, suspend, or rescind any decision to revoke or suspend a license, issue a letter of reprimand, or place a practitioner on probation. Currently, the commissioner does not need this approval.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/10/2009)