



Senate

General Assembly

File No. 207

January Session, 2011

Substitute Senate Bill No. 911

Senate, March 24, 2011

The Committee on General Law reported through SEN. DOYLE of the 9th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING HOMEMAKER SERVICES AND HOMEMAKER-COMPANION AGENCIES.

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

1 Section 1. Section 20-670 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2012*):

3 As used in sections 20-670 to 20-680, inclusive, as amended by this
4 act:

5 (1) "Certificate" means a certificate of registration issued under
6 section 20-672.

7 (2) "Commissioner" means the Commissioner of Consumer
8 Protection or any person designated by the commissioner to
9 administer and enforce the provisions of sections 20-670 to 20-680,
10 inclusive, as amended by this act.

11 (3) "Companion services" means nonmedical, basic supervision
12 services to ensure the well-being and safety of a person in such

13 person's home.

14 (4) "Employee" means any person employed by, or who enters into a
15 contract to perform services for, a homemaker-companion agency,
16 including, but not limited to, temporary employees, pool employees
17 and persons treated by such agency as independent contractors.

18 (5) "Homemaker services" means nonmedical, supportive services
19 that ensure a safe and healthy environment for a person in such
20 person's home, such services to include assistance with personal
21 hygiene, cooking, household cleaning, laundry and other household
22 chores.

23 (6) "Homemaker-companion agency" means any public or private
24 organization, employing one or more persons that is engaged in the
25 business of providing companion services or homemaker services.
26 Homemaker-companion agency shall not include a home health care
27 agency, as defined in subsection (d) of section 19a-490, or a
28 homemaker-home health aide agency, as defined in subsection (e) of
29 section 19a-490.

30 (7) "Registry" means any person or entity engaged in the business of
31 supplying or referring an individual to or placing an individual with a
32 consumer to provide homemaker or companion services provided by
33 such individual, when the individual providing such services is either
34 (A) directly compensated, in whole or in part, by the consumer, or (B)
35 treated, referred to or considered by such person or entity as an
36 independent contractor.

37 [(7)] (8) "Service plan" means a written document provided by a
38 homemaker-companion agency to a person utilizing services provided
39 by such agency, that specifies the anticipated scope, type, frequency
40 and duration of homemaker or companion services that are to be
41 provided by such agency for the benefit of the person.

42 Sec. 2. Section 20-675 of the general statutes is repealed and the
43 following is substituted in lieu thereof (*Effective January 1, 2012*):

44 (a) The Commissioner of Consumer Protection may revoke, suspend
45 or refuse to issue or renew any certificate of registration as a
46 homemaker-companion agency or place an agency on probation or
47 issue a letter of reprimand for: (1) Conduct by the agency, or by an
48 employee of the agency while in the course of employment, of a
49 character likely to mislead, deceive or defraud the public or the
50 commissioner; [or] (2) engaging in any untruthful or misleading
51 advertising; or (3) failure of such agency that acts as a registry to
52 comply with the notice requirements of section 3 of this act.

53 (b) The commissioner shall not revoke or suspend any certificate of
54 registration except upon notice and hearing in accordance with chapter
55 54.

56 Sec. 3. (NEW) (*Effective January 1, 2012*) (a) A registry shall provide
57 each consumer with a notice, to be signed by the consumer, specifying
58 the legal liabilities of such registry to the individual supplied or
59 referred to or placed with the consumer. The notice shall be given to
60 the consumer before the commencement of services and such services
61 shall not commence until the registry receives a signed copy of the
62 notice from the consumer. If the registry maintains an Internet web
63 site, a sample of the notice shall be posted on such Internet web site.

64 (b) The notice to the consumer shall be written in plain language
65 and shall comply with the plain language standard detailed in section
66 42-152 of the general statutes and shall include a statement identifying
67 the registry as an employer, joint employer, leasing employer or
68 nonemployer, as applicable, along with a statement advising the
69 consumer he or she may be considered an employer under law and, if
70 that is the case, the consumer may be held responsible for the payment
71 of federal and state taxes, Social Security, overtime and minimum
72 wage, unemployment, workers' compensation insurance payments
73 and any other applicable payment required under state or federal law.
74 The notice shall also include a statement that the consumer should
75 consult a tax professional if he or she is uncertain about his or her
76 responsibility for the payment of such taxes or payments.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2012</i>	20-670
Sec. 2	<i>January 1, 2012</i>	20-675
Sec. 3	<i>January 1, 2012</i>	New section

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

Explanation

The bill results in no fiscal impact to the Department of Consumer Protection as the level of non-compliance to the bill's provisions is expected to be negligible.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 911*****AN ACT CONCERNING HOMEMAKER SERVICES AND HOMEMAKER-COMPANION AGENCIES.*****SUMMARY:**

This bill requires a homemaker or companion services registry to provide notice prior to beginning services advising the consumer that he or she may be considered an employer and responsible for applicable taxes or other payments.

The bill defines “registry” to mean any person or entity engaged in the business of supplying or referring an individual to or placing an individual with a consumer to provide homemaker or companion services when the individual providing the services is either (1) directly compensated, in whole or in part, by the consumer or (2) treated, referred to, or considered by the supplying person or entity as an independent contractor.

The bill allows the consumer protection commissioner to (1) revoke, suspend, or refuse to issue or renew a certificate of registration of a homemaker-companion agency; (2) place an agency on probation, or (3) issue a letter of reprimand for any agency, acting as a registry, that fails to comply with the notice requirement.

EFFECTIVE DATE: January 1, 2012

NOTICE REQUIREMENT

The bill requires a registry to provide notice to the consumer, specifying the registry’s legal liabilities to the individual supplied to the consumer. The consumer must receive and sign the notice before service begins. If the registry maintains an Internet web site, a sample

of the notice must be posted on it.

The notice to the consumer must be written in plain language and include a statement identifying the registry as an employer, joint employer, leasing employer, or non-employer, as applicable. The statement must also advise the consumer he or she may be considered an employer. If the consumer is considered the employer, then he or she is responsible for the payment of federal and state taxes, Social Security, overtime, minimum wage, unemployment and workers' compensation insurance payments, and any other applicable payment required under state or federal law. The notice must also include a statement that the consumer should consult with a tax professional if he or she is uncertain about his or her responsibility for these taxes or payments.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/15/2011)