

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-117—HB 6338

General Law Committee

Finance, Revenue and Bonding Committee

Judiciary Committee

AN ACT CONCERNING LANDSCAPE ARCHITECTS, PENALTIES FOR UNLICENSED OCCUPATIONAL WORK AND DEPARTMENT OF CONSUMER PROTECTION RETIREMENT STATUS LICENSES

SUMMARY: This act (1) makes several changes in the landscape architect statutes, including allowing corporations and limited liability companies (businesses) to register to practice landscape architecture and broadening the penalties for specified violations; (2) specifically prohibits deceptive or misleading advertising by unlicensed tradespersons; and (3) authorizes the Department of Consumer Protection (DCP) to issue retirement status licenses.

EFFECTIVE DATE: July 1, 2011 for the landscape architect provisions, October 1, 2011 for the unlicensed tradespersons provisions, and January 1, 2012 for the DCP retirement license provisions.

§§ 1, 2 — LANDSCAPE ARCHITECTS

Registration Certificates

The act allows the practice of landscape architecture by licensed incorporated landscape architects and businesses if the (1) landscape architects for the business are either licensed or exempt from regulation under existing law and (2) State Board of Landscape Architects has authorized DCP to issue a certificate of registration.

A qualifying business must apply to the board for a certificate of registration on an application form prescribed by DCP and pay an initial application fee of \$80. Certificates expire annually and are renewable for a \$200 fee. If the requirements are met, the board must authorize DCP to issue a certificate of registration within 30 days of the application unless there are grounds to suspend or revoke an existing certificate, such as the use of fraud or misrepresentation to obtain it.

Each business must designate at least one Connecticut-licensed individual to be in charge of landscape architecture and file his or her name(s) with the board. The business must notify the board within 30 days of any change in designation.

The act requires landscape architects working for registered businesses to sign, date, and seal all final plans, drawings, specifications, reports, and other related documents they prepare or approve for use or delivery to anyone or for public record in the state.

The act specifies that it does not relieve businesses that comply with the act of the responsibility for the conduct or acts of their agents, employees, or officers.

OLR PUBLIC ACT SUMMARY

Conversely, landscape architects are not relieved of responsibility for services they perform solely because they are employed by, or have relationship with, a business engaging in landscape architecture.

Penalties

The act extends the board's enforcement authority to cover registered businesses. It also broadens the penalties the board may impose on people who (1) obtain a license or registration through fraud or misrepresentation, (2) engage in fraud or deceit in their professional practice, (3) violate any laws or regulations on the practice of landscape architecture, and (4) are found guilty of ordinary negligence or incompetence in their work. Under prior law, the board could not take disciplinary action for ordinary negligence or incompetence. Among other things, prior law allowed the board to suspend a license for a definite period of up to one year and officially censure any licensee. The act (1) eliminates the one year suspension maximum and the requirement that the suspension period be for a definite period; thus allowing the board to impose unlimited suspensions and (2) removes the board's authority to censure. It also applies all penalties to both licenses and registrations and authorizes the board to (1) issue a letter of reprimand, (2) place license and registration holders on probationary status with certain conditions, (3) impose a civil penalty of up to \$1,000, or (4) impose a combination of any penalties listed. It authorizes the board to modify or discontinue any action it takes. The act also allows the board to authorize DCP to reissue any registration that has been revoked. Previously, it could only reissue licenses.

The act eliminates the requirement that the board notify the secretary of the state when a license is suspended or revoked. It also authorizes parties to appeal a final board decision in the Superior Court for the judicial district in which they live, instead of only in New Britain Superior Court.

§§ 3, 4 — UNLAWFUL UNLICENSED ADVERTISING

The law prohibits anyone from (1) willfully and falsely pretending to qualify to practice a licensed trade or (2) offering to practice or practicing a licensed trade without a license or registration. The act specifies that the prohibition covers people who offer to perform work they are not licensed to perform in a print, electronic, television, or radio advertisement or listing. The covered trades are: electrical; plumbing; heating, piping, and cooling; elevator installation and repair; solar electrical; solar thermal; fire protection sprinkler systems; gas hearths; irrigation; medical gas and vacuum systems; sheet metal; and automotive and flat glass.

By law, the DCP commissioner and the licensing boards overseeing these trades may impose civil penalties (see BACKGROUND) for licensure violations, including the advertising ban the act establishes. In addition, violators commit a class B misdemeanor (see Table on Penalties), an unfair or deceptive trade practice, and are liable for restitution. If they cannot pay restitution, courts may sentence them to probation.

OLR PUBLIC ACT SUMMARY

§ 5 — RETIREMENT STATUS LICENSE

The act allows anyone age 65 or older who holds a DCP-issued professional or occupational license, to pay \$20 to obtain a retirement status license instead of paying the full license renewal fee. The DCP commissioner may, for good cause, grant a retirement status license to a person under age 65. The act bars a retirement status licensee from practicing or offering to practice the occupation or trade for which he or she was licensed.

An applicant must submit his or her original license to DCP, along with a letter (1) requesting the retirement status, (2) expressing the licensee's current retirement status, and (3) agreeing not to actively engage in the practice of the occupation or trade for which he or she was originally licensed.

If DCP issues a retirement status license, it must return the original license to the applicant with "Retired" designated or stamped on it.

A licensee may have his or her original license restored by (1) submitting a DCP form requesting reinstatement and (2) paying the current annual license fee.

BACKGROUND

Civil Penalties

By law, the DCP commissioner may impose fines of up to (1) \$1,000 for a first violation, (2) \$1,500 for a second violation, and (3) \$3,000 for subsequent violations occurring less than three years after a previous violation.

OLR Tracking: DC:SP:SNE:df