

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 19-177—sHB 7299
General Law Committee

**AN ACT MAKING CHANGES TO DEPARTMENT OF CONSUMER
PROTECTION ENFORCEMENT STATUTES**

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Specifies that professional corporations are the corporation type that are subject to the law's requirements for providing professional engineering or land surveying services

EFFECTIVE DATE: Upon passage, unless otherwise noted below.

§§ 1 & 2 — DISPLAYING TRADESPERSON LICENSE NUMBERS

Subjects certain DCP-licensed tradesperson contractors to a fine of up to \$500 for failing to comply with license number display requirements

Under existing law, certain Department of Consumer Protection (DCP)-

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licensed tradesperson contractors must display their state license number on commercial vehicles and printed advertisements, bid proposals, contracts, invoices, and stationery they use in their business. The act requires that the license number be included on any such written materials, whether printed or not. The following trades are subject to this requirement: electrical; plumbing; solar; heating, piping, and cooling; elevator; fire protection sprinkler; irrigation; gas hearth; and residential stair lift.

The act subjects contractors that do not comply with license number display requirements to a fine of up to \$500, except for a first violation. The fine may be paid under the state's infraction procedures (i.e., one may pay the fine by mail to the Centralized Infractions Bureau without making a court appearance).

EFFECTIVE DATE: October 1, 2019

§ 3 — FOOD MANUFACTURING ESTABLISHMENT STANDARDS

Removes a provision specifying that the food manufacturing establishment enforcement laws do not prevent enforcement by local health authorities for sanitary conditions

The act eliminates a provision specifying that the food manufacturing establishment enforcement statutes do not prevent local health authorities from enforcing orders or regulations concerning sanitary conditions.

EFFECTIVE DATE: October 1, 2019

§§ 3-8 — FOOD WAREHOUSES

Generally subjects food warehouses to the laws applicable to bakeries and food manufacturing establishments

General Requirements

The act generally subjects food warehouses to the laws applicable to bakeries and food manufacturing establishments.

Generally, food warehouses are buildings or a part thereof where food is stored for wholesale distribution, provided it is used primarily for importing, storing, or distributing packaged food and not for operating a bakery or food manufacturing establishment. Packaged foods are those enclosed in a container or wrapping that do not allow food to be removed without breaking or tearing the wrapping, container, or seals (CGS § 21a-151).

Under the act, food warehouses must be designed, constructed, and operated under the same laws that apply to bakeries and food manufacturing facilities, including requirements that prohibit employees from (1) working in such an establishment if they have certain communicable diseases and (2) smoking in such an establishment. However, the act provides that food warehouses are not subject to the design and construction requirements if they registered in good standing before October 1, 2019, and are in good repair so that the food is properly protected and the premises is free of pests. The act specifies that all food warehouses, like bakeries and food manufacturing establishments, must continue

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to abide by the state's Uniform Food, Drug and Cosmetic Act, which gives DCP enforcement authority over such things as adulterated or misbranded food products.

The act requires that vehicles used to transport food warehouse products comply with the requirements applicable to those transporting bakery products, including legibly displaying the warehouse owner's, operator's, or distributor's name and address on both sides of the vehicle.

Licensing and Enforcement Actions

Under prior law, food warehouses had to obtain a DCP certificate of registration annually; under the act, they must obtain a DCP license annually, generally following an inspection, with the same \$20 fee. The act exempts from the inspection requirement food warehouses registered with DCP before October 1, 2019, that must transfer their registration into a new license.

The act requires food warehouse applicants, like bakery and food manufacturing establishment applicants, to show that their facility is operating in a location that complies with local land use regulations (i.e., obtains a certificate of approval from the local zoning commission, planning and zoning commission, or other local authority). The act exempts from this requirement food warehouses registered and in good standing before October 1, 2019.

Under the act, a warehouse's license may be revoked, after a hearing under the Uniform Administrative Procedure Act (UAPA), for violations of applicable laws. Unlike bakery and food manufacturing establishments, food warehouse licenses are not subject to summary suspensions pending a hearing. However, warehouses are subject to DCP enforcement orders and associated fines and penalties, just as bakeries and food manufacturing establishments are under existing law (certain offenses are a class D misdemeanor (see [Table on Penalties](#))).

EFFECTIVE DATE: October 1, 2019

§ 9 — INSPECTION AND TESTING ACTIVITIES

Specifies that for purposes of DCP's tradesperson licensing statutes, regulated work includes inspecting and testing the relevant systems

The act specifies that for purposes of certain DCP tradesperson licensing statutes, work in the following fields includes inspecting and testing the relevant systems: electrical; plumbing and piping work; solar thermal; heating, piping, and cooling; elevator installation, repair, and maintenance; fire protection sprinkler systems; lawn irrigation; medical gas vacuum systems; solar electricity; gas hearth products; and millwright work.

Under the act, "testing" means using testing and measurement instruments to determine a system's status given its intended use, with or without disassembling its component parts. The act's definition of testing also applies to existing law's definition of sheet metal work.

The act provides that "inspection" includes the examination of a system or

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portion thereof, involving disassembling or removing its component parts. But it specifically defines “elevator inspection” for purposes of the elevator installation, repair, and maintenance field to include the visual examination of an elevator system or portion thereof, with or without the disassembly or removal of component parts.

The act also expands the scope of the:

1. elevator maintenance field (which, by law, is distinct from elevator installation, repair, and maintenance) to include testing controls, hoistway, and car parts (inspection of such parts is already deemed part of the field), and
2. heating, piping, and cooling field to include onsite testing and balancing of hydronic, steam, and combustion air systems.

EFFECTIVE DATE: October 1, 2019

§ 10 — LIQUOR CONTROL ACT PERMITTEES

Allows DCP, rather than only suspending or revoking a liquor permit or provisional permit, to (1) place conditions on such a permit or (2) impose a fine of up to \$1,000

The act expands DCP’s enforcement options for violations of the Liquor Control Act by permittees and provisional permittees. Under prior law, among other actions, DCP could either revoke or suspend a permit after a hearing for violations of the act. Under the act, DCP may alternatively, after a hearing, place conditions on a permit or impose a fine of up to \$1,000.

If DCP imposes a fine, notice of the hearing must include the charges on which the fine is based. As is the case for revocations and suspensions, fines may be appealed in accordance with the UAPA (i.e., appealed to Superior Court).

EFFECTIVE DATE: October 1, 2019

§ 11 — SURRENDERED OR EXPIRED CREDENTIALS

Specifically allows DCP to suspend, revoke, or impose other penalties permitted by law on certain licenses or certificates that are voluntarily surrendered and not renewed

The act specifically allows DCP to suspend, revoke, or impose penalties permitted by law on certain licenses or certificates that are voluntarily surrendered or not renewed. DCP’s authority extends to licenses and certificates held by individuals subject to the oversight of the following boards and commissions:

1. Architectural Licensing Board;
2. examining boards for electrical work; plumbing and piping work; heating, piping, cooling and sheet metal work; elevator installation, repair, and maintenance work; fire protection sprinkler systems work; and automotive glass work and flat glass work;
3. Commission of Pharmacy;
4. State Board of Landscape Architects;
5. State Board of Examiners for Professional Engineers and Land Surveyors;
6. Connecticut Real Estate Commission;

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7. Connecticut Real Estate Appraisal Commission;
8. Liquor Control Commission;
9. Home Inspection Licensing Board; and
10. State Board of Accountancy.

§§ 12 & 19-27 — COMMUNITY ASSOCIATION MANAGERS

Establishes a community association manager trainee registration; allows community association managers to have unregistered administrative staff; adds a continuing education requirement; creates a new penalty for someone who holds himself or herself out as a community association manager without a registration; and requires that insurance policies cover theft by trainees or staff

Community Association Manager Trainee Registration

The act establishes a nonrenewable registration for someone working under a community association manager's direct supervision to be trained in providing association management services.

Application Process. Under the act, an applicant for the training registration certificate must apply to DCP in writing on a department-provided form that includes the following information: the applicant's name, home and business addresses, and business telephone number; whether the applicant was convicted of a felony; and any other information DCP requires. The act limits the duration of the registration to six months. The application and registration have no associated fee.

Under the act, the Connecticut Real Estate Commission reviews and authorizes the trainee registrations, but DCP issues the registration. DCP or the commission may suspend, revoke, or refuse to issue a registration (see *Enforcement and Penalties*, below).

Scope of Registration. Under the act, a community association manager trainee must be directly supervised by and act under the direction of a registered community association manager. The services a trainee may provide include preparing financial documents, helping conduct association meetings, helping the association obtain insurance, coordinating its operations, and advising the association on its operations. The act (1) specifically prohibits a trainee from collecting, controlling, or disbursing association funds and (2) makes the supervising manager liable for the trainee's actions or failures to act.

Community Association Managers

Administrative Staff. The act specifically allows community association managers to employ or contract with support or administrative staff who are unregistered as community association managers to conduct the following tasks:

1. answer telephone calls, forward calls to the community association manager, and take messages;
2. update files and forms;
3. schedule and coordinate meetings, teleconferences, service calls, and

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- responses to maintenance and repair requests;
4. copy documents and prepare mailings to unit owners, vendors, and other third parties;
 5. attend meetings and provide services such as taking notes to maintain accurate association records;
 6. help maintain the association's financial information and records, including such things as responding to unit owners' account inquiries, and drafting checks for approved payments; and
 7. implement the community association manager's decisions and directions.

The act also specifically prohibits support or administrative staff from having direct access to or control over association funds. It requires the community association manager to directly supervise, and makes the manager liable for, the work performed by his or her support or administrative staff (whether an employee or a contractor), including making sure that the staff is trained in the scope of their work and operating in compliance with the law.

Advertisements. By law, community association managers must include their registration numbers in advertisements. For business entities, the act requires that the advertisement identify at least one of the entity's principals, officers, or directors who is a community association manager and his or her registration number.

Continuing Education. The act eliminates, beginning October 1, 2019, a requirement for anyone issued a certificate of registration as a community association manager to, within one year after issuance, (1) successfully complete a nationally recognized course on community association management and (2) pass an examination.

The act instead establishes continuing education requirements for community association managers. Specifically, in order to renew a registration, a manager must complete 16 hours of continuing education over two years; keep proof of completing the education; and, upon request, provide it to DCP. The act specifies that the continuing education must consist of (1) a course or courses offered by the Connecticut Chapter of the Community Associations Institute on community association management techniques and common interest community law or (2) similar courses as may be prescribed by the DCP commissioner in regulations.

Insurance. Prior law required that those providing community association management services (e.g., controlling, collecting, having access to, or disbursing association funds) be insured by a commercially available insurance policy that protects association funds from theft by a community association manager, management company, or such company's employees. The act broadens this requirement by mandating that the insurance policy also cover theft by a community management association trainee.

The act provides that an insurance policy maintained by a common interest community unit owners' association complies with the requirement if it provides the same coverage as described above.

Registration Renewal. By law, community association manager registrations are valid for one year. The act allows a manager whose certificate has expired for more than one month, but not more than one year, to have his or her registration

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restored upon paying a \$50 fee in addition to the renewal fee. The restored registration is effective once DCP or the real estate commission approves the application.

Enforcement and Penalties

Decision Authority. The act authorizes DCP, instead of only the real estate commission, to hold hearings on matters related to community association manager registration and services. Existing law gives DCP and the commission the authority to issue subpoenas, administer oaths, compel testimony, and order the production of documents.

Registration Denial. Existing law requires DCP to notify an applicant of a denial to issue a community association manager registration and allows the applicant to request a hearing within 10 days after receiving the denial notice. The act also applies this notice requirement to manager trainee applicants.

The act shifts, from the commission to the department, the responsibility for (1) notifying an applicant of the reasons for denying the registration if a hearing is requested and (2) conducting the hearing.

Penalties. Under prior law, the Connecticut Real Estate Commission could place a registrant on probation or issue a letter of reprimand for certain prohibited acts, such as making a material misrepresentation, being convicted of certain crimes, failing to account for or remit funds within a reasonable time, comingling funds in an escrow or trustee account, or failing to comply with education requirements.

The act provides that either the commission or DCP may take action against the registrants to (1) place conditions on a registration, rather than put someone on probation, or (2) issue a civil penalty of up to \$1,000 per violation, rather than issuing a letter of reprimand.

The act also extends to DCP the commission's ability to revoke, suspend, or refuse to issue or renew a registration.

Unregistered Managers and Trainees. The act prohibits anyone from holding himself or herself out as a community association manager trainee without being properly registered. The same ban applies under existing law to those holding themselves out as community association managers. The act also prohibits anyone from providing association management services without a registration unless doing so as support or administrative staff.

Under the act, if following a hearing DCP or the Connecticut Real Estate Commission finds that an individual held themselves out as a community association manager without the required registration, DCP or the commission may issue a cease and desist order and fine the individual up to \$500. The act subjects someone who falsely holds himself or herself out as a trainee to the existing general penalties for violating a provision of the community association manager laws.

Existing law, unchanged by the act, already subjects an individual who, among other things, falsely represents himself or herself as or impersonates a registered community association manager, to a fine of up to \$1,000, up to one

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year in prison, or both. The act specifies that this fine may be imposed only after an administrative hearing. Existing law also makes any violation of the community association manager registration laws an unfair or deceptive trade practice (see BACKGROUND).

EFFECTIVE DATE: October 1, 2019, except the provision establishing a new penalty for holding oneself out as a community association manager without the proper registration is effective upon passage.

§§ 13-18 — ARCHITECTS

Expands DCP's role in licensing architects; requires continuing education for architects; establishes a registration credential for certain retired architects; and provides requirements for professional corporations with employee stock ownership plans

Application Procedure

The act expands DCP's role in licensing architects. It requires applicants for an architect license to apply to DCP, rather than the Architectural Licensing Board as under prior law. (By law, the board is in DCP.)

The act provides that the DCP commissioner, instead of only a majority of the board, may determine whether an applicant has passed the architect examination. The act also allows the DCP commissioner, instead of only the board as under prior law, to accept application materials from architects credentialed in other states who may obtain a license in Connecticut without examination if they meet certain qualifications. And it requires DCP, rather than the board's secretary, to receive the initial licensure fee.

Architect Emeritus Registration

The act establishes a registration credential for previously licensed architects who have retired from active architecture practice (i.e., an "Architect Emeritus"). To qualify for the registration, a retired architect must (1) be at least 65 years of age and (2) have been licensed for at least 10 years in Connecticut. The registration fee is \$10.

Under the act, "Architect Emeritus" is an honorific title. The act prohibits someone with the title from engaging in the practice of architecture without applying for and obtaining an architect license.

Continuing Education

The act requires DCP to adopt regulations establishing continuing education requirements for renewing an architect license (see *Required Regulations*, below). For an architect to renew his or her license, he or she must submit evidence of completing the education requirements.

Enforcement Authority

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Existing law allows the board to (1) suspend or revoke an architect license after notice and a hearing or (2) censure an architect and impose a civil fine of up to \$1,000 for certain actions such as committing a felony, fraudulently obtaining a license, or being grossly incompetent or negligent in planning or constructing buildings.

The act extends this authority to the DCP commissioner and specifies that the imposed fine is per violation. It similarly allows the commissioner to reissue a revoked license and modify a suspension. (Existing law allows the board to perform these actions.)

Existing law allows the board to suspend for up to one year or revoke the certificate of authorization it issued to a corporation if the certificate was obtained by fraud or misrepresentation, the certificate holder does not follow the law's requirements, or the corporation's CEO or stock holders were censured or had their registrations suspended or revoked. The act extends the board's suspension or revocation authority to cases where the trustee of the corporation's stock ownership plan was censured or had his or her registration revoked.

Professional Corporations

Existing law allows architects, under certain conditions, to engage in business under a corporate form or with a corporation that includes architecture in its business. One of those conditions is that the holder or holders of at least two-thirds of the corporation's voting stock be licensed architects. The act specifies that this requirement applies to professional corporations.

Under the act, if a professional corporation has an employee stock ownership plan, as defined under federal law, the voting stock held by the plan may be used in lieu of, or in addition to, the corporation's licensees' voting stock to meet the two-thirds ownership requirement as long as at least two-thirds of the plan's trustees are licensed.

Under the act, when a corporation with an employee stock ownership plan seeks a certificate of authorization from DCP, the corporation must provide the name and addresses of the plan's trustees in addition to the other information required by law. The corporation must also report any change in the plan's trustees to the board within 30 days after the change.

Required Regulations

The act transfers, from the Architectural Licensing Board to DCP, the responsibility for adopting certain regulations related to architectural licensing. Consequently, it makes DCP responsible for adopting all architecture regulations.

Under prior law, the board had to adopt regulations on architectural licensing education and training requirements, examination eligibility requirements, appealing examination grades, reciprocal licensing, and other necessary matters. The act instead requires that DCP adopt the regulations in consultation with the board. The act also expands the scope of the required regulations to specifically include continuing education requirements and Architect Emeritus registration

qualifications.

Under existing law, DCP must adopt regulations with the board's advice and help on (1) professional ethics and conduct, (2) the board's activities, and (3) licensure examinations.

EFFECTIVE DATE: October 1, 2019

§ 28 — COMPOUNDING PHARMACIES

Generally requires compounding pharmacies to additionally comply with United States Pharmacopeia chapters 800 and 825, rather than only chapter 797, and requires state-licensed and institutional compounding pharmacies to designate a pharmacist responsible for overseeing compounding activities

Compliance with Additional United States Pharmacopeia (USP) Chapters

Existing law requires nonresident, state-licensed, and institutional compounding pharmacies to comply with the most recent version of USP chapter 797 ("Pharmaceutical Compounding - Sterile Preparations"). The act requires covered pharmacies to also comply with (1) the most recent version of USP chapters 800 ("Hazardous Drugs - Handling in Healthcare Settings") and 825 ("Radiopharmaceuticals - Preparation, Compounding, Dispensing, and Repackaging") and (2) any companion documents referenced in the three chapters.

Clean Room Remodels, Relocations, Upgrades, and Repairs

Existing law requires compounding pharmacies that plan to remodel or relocate a pharmacy clean room or conduct nonemergency repair work to such room to give notice of the plans to DCP. The act specifies that this notice must be in writing.

Designated Pharmacist

The act requires state-licensed and institutional pharmacies that provide sterile pharmaceuticals to designate a pharmacist responsible for overseeing sterile pharmaceutical compounding and the application of USP chapters as they relate to sterile compounding (i.e., chapters 797, 800, and 825). Designated pharmacists must provide DCP proof that they have completed a department-approved program that demonstrates the competence necessary for compounding sterile pharmaceuticals in compliance with all applicable federal and state laws and regulations.

Each pharmacy that provides sterile pharmaceuticals must notify DCP of its designated pharmacist; if such pharmacist loses the designation, he or she must immediately notify DCP. The act specifies that designated pharmacists are allowed to serve as pharmacy managers.

EFFECTIVE DATE: January 1, 2020

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§ 29 — NOTICE OF CERTAIN ACTIONS AGAINST PHARMACIES

Requires state-licensed pharmacies to report to DCP any administrative or legal action commenced against them by a state or federal regulatory agency or accreditation entity

The act requires state-licensed pharmacies to report to DCP any administrative or legal action commenced against them by a state or federal regulatory agency or accreditation entity within 10 business days after receiving notice of the action. Existing law requires (1) state-licensed compounding pharmacies to report such information to DCP within five business days and (2) nonresident pharmacies to report similar information within 10 business days (CGS §§ 20-627(b)(8) & 20-633b(j)).

§ 30 — CLASSIFICATION OF CONTROLLED SUBSTANCES

Terminates the temporary designation of controlled substances by virtue of federal action and instead makes such classifications permanent, unless DCP opts to change them

Under prior law, if a drug was not classified in Connecticut's controlled substances schedule but was classified under the federal Controlled Substances Act, the federal classification automatically applied in Connecticut for 240 days at the same schedule. The act eliminates the temporary nature of these classifications, making them permanent. But the act specifies that the DCP commissioner, through regulations, may opt to change the classification of any controlled substance that is automatically classified under the act's provisions.

§ 31 — CLASSIFICATION OF MEDICINAL MARIJUANA PRODUCTS

Reclassifies on the state's controlled substances schedule federally approved medical marijuana products

Under prior law, DCP's regulations had to classify marijuana and marijuana products as schedule II controlled substances. The act creates an exception from this requirement for marijuana products that are approved by the federal Food and Drug Administration (FDA) or a successor agency as having a medical use. It requires the commissioner to adopt the schedule for such FDA-approved products that is designated by the federal Drug Enforcement Administration. Thus, they must be classified in Connecticut on the same schedule as they are under federal law (and if unclassified at the federal level, they must also be unclassified in Connecticut).

§§ 32-34 — REAL ESTATE APPRAISERS

Allows appraisal management companies to do additional tasks and actions and prohibits certain former license-holders from owning a portion of the company

The act allows appraisal management companies to receive an appraisal review request or order, instead of just receiving an appraisal request or order as

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under prior law. An appraisal review is a report that reviews, among other things, the accuracy of an appraisal.

The act also prohibits a person from owning an appraisal management company if the person had an appraiser license or certificate denied, refused to be renewed, suspended, or revoked. Prior law allowed such person to own up to 10% of the company.

The act completely prohibits appraisal management companies from removing appraisers from the company's appraiser panel or refusing to assign requests or orders without (1) notifying them of the reasons for their removal and the nature of the alleged conduct or violation, if applicable and (2) providing them with an opportunity to respond. Under prior law, the company could take these actions without notice or an opportunity to respond if it did so within the first 30 days after the appraiser was initially added to a panel.

§ 35 — REAL ESTATE LICENSE REVOCATION HEARINGS

Eliminates the mandatory revocation of a real estate license for committing certain crimes and instead makes it discretionary

The act eliminates the automatic license forfeiture for real estate brokers and salespersons who are convicted of certain crimes involving fraud or money and instead allows DCP to revoke the license under existing law's revocation procedures. These crimes are forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or other similar offenses.

§ 36 — CHARITABLE SOLICITATION REGISTRATION EXEMPTION

Specifies that certain charities that do not have to register with DCP are still exempt from registration even if they make solicitations

By law, charities that solicit generally need to register with DCP. Certain charitable organizations are exempt, including religious corporations, parent-teacher associations, non-profit hospitals, and any governmental unit, but exempt charities must submit any information the department requires to substantiate the exemption. The act specifies that these organizations do not need to register even if they engage in solicitation. However, they must provide the information substantiating the exemption before conducting any solicitation or having any solicitation done on their behalf.

§ 37 — FINES FOR UNCOLLECTIBLE ELECTRONIC PAYMENTS

Allows DCP to impose a \$20 fine for certain returned electronic fund transfers

As already allowed under existing law for returned checks, the act allows the DCP commissioner to (1) impose a \$20 fine on any DCP permit or license applicant whose electronic funds transfer is returned as uncollectable and (2)

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require the applicant to pay DCP any fees a financial institution charges the department due to the returned transfer.

§ 38 — POTENTIALLY HAZARDOUS COTTAGE FOOD

Clarifies a definition in the cottage food statutes

The law prohibits cottage food producers from producing potentially hazardous foods. Under prior law, these were foods requiring time and temperature control for safety to limit pathogenic microorganism growth or toxin formation. The act specifies that the time and temperature control for food safety must be consistent with the FDA's Food Code definition and adopted by the public health commissioner by reference.

§ 39 — ENGINEERING AND LAND SURVEYING CORPORATIONS

Specifies that professional corporations are the corporation type that are subject to the law's requirements for providing professional engineering or land surveying services

The act specifies that professional corporations are the corporation type that is subject to the requirements for practicing or offering to practice professional engineering or land surveying services in the state. By law, these entities must have at least two-thirds of their (1) owners be individually licensed and (2) voting stock owned by individually licensed owners.

EFFECTIVE DATE: October 1, 2019

BACKGROUND

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.