
OLR Bill Analysis

sHB 6100

AN ACT CONCERNING DEPARTMENT OF CONSUMER PROTECTION LICENSING AND ENFORCEMENT.

SUMMARY

This bill makes numerous changes to the to the Department of Consumer Protection (DCP) laws. Principally, it:

1. removes DCP from the list of state agencies with which the Connecticut Siting Council must consult, and solicit written comments from, prior to starting public hearings on certificate applications (§ 1);
2. makes changes to the appraisal management company (AMC) statutes, to comport with the Federal Financial Institutions Examination Council's audit recommendations (§§ 2-4);
3. establishes continuing education completion deadlines for architects (§ 7);
4. replaces a requirement to adopt regulations conforming to an obsolete national standard with general authority to prescribe uniform date labeling requirements for food (§ 12);
5. specifies the notice procedure that applies when a designated party or intervenor requires notice of an enforcement action (§ 13);
6. makes assessed fines payable by mail without appearing in court for (A) manufacturing hemp without a license or (B) noncompliance with a DCP order concerning mobile manufactured home parks (§ 18);
7. requires homemaker-companion agencies to conduct a national background check meeting certain requirements and specifies

- conditions that make an individual ineligible for employment (§§ 19-21);
8. requires contracts for work on private residential property by licensed tradespeople to meet certain specifications (§§ 22-24);
 9. for professional engineer and surveyor licensees, specifies that a license lapses if not renewed by the expiration date (§ 25);
 10. changes the annual registration expiration date for real estate brokers and home improvement contractors (§§ 26 & 29);
 11. makes several changes to the mobile manufactured home park licensing laws to increase DCP's enforcement authority (§§ 30-31);
 12. makes several changes to the law regulating certified public accountants (CPAs), including changes to conform statute to the American Institute of CPAs' rules of conduct concerning fees (§§ 32-36);
 13. specifies that a locksmith registration applicant's criminal history check must be a state and national criminal history check requested through the State Police Bureau of Identification (§ 37); and
 14. exempts individuals doing certain water meter utility work from the tradesperson licensing statutes (§ 39).

The bill also makes numerous minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage, except the AMC, real estate appraiser, architect, and certain CPA provisions (§§ 2-7 & 34) are effective July 1, 2021; a provision concerning annual CE completion periods and the other CPA provisions (§§ 16, 33 & 35-36) are effective October 1, 2021; and the tradesperson contract provision (§ 23) is effective January 1, 2022.

§§ 2-5 — APPRAISERS AND APPRAISAL MANAGEMENT COMPANIES

Real estate appraisers, provisional appraisers, and AMCs must register with DCP. The bill makes several changes to the AMC statutes, to comport with the Federal Financial Institutions Examination Council's audit recommendations. It:

1. revises the definition of AMC, to exclude any subsidiary of a federally regulated financial institution, regardless of what type of appraisal requests it receives, and
2. requires AMCs, when applying to DCP, to disclose any owners, not just those owning 10% or more of the company (owners are subject to DCP's good moral character review), and makes related conforming changes to subject owners of less than a 10% interest to the same requirements that apply to owners of at least a 10% interest under current law (§§ 2-4).

The bill also makes the real estate appraiser or provisional appraiser continuing education fee annual, rather than biennial, so that it coincides with the renewal period and specifies that it covers the cost of reviewing and auditing continuing education submissions (§ 5).

§ 7 — ARCHITECTS

By law, architects must complete 12 hours of continuing education (CE) annually (Conn. Agency Regs. § 20-289-6a); failure to do so may result in license suspension or revocation or civil penalties of up to \$1,000 (CGS § 20-294). The bill establishes specific CE completion deadlines and specifies that architects who miss the deadlines by more than 26 weeks may, after an administrative hearing, lose their license or have it suspended.

The bill specifies that the 12-month CE period begins three months prior to license expiration and ends three months before renewal in the following year. The bill establishes fees for architects who do not meet the bill's CE completion deadlines:

1. \$315 for architects who complete it up to 13 weeks after the

deadline and

2. \$625 for architects who complete it 13-26 weeks after the deadline.

The bill also allows licensed architects to attest to, rather than submit proof of, completing their required CE.

§§ 8-10 — COMMUNITY ASSOCIATION MANAGERS (CAM)

CAMs provide management services to common interest community associations, such as condominium associations and boards. The bill specifies that CAMs, before applying for an initial registration, must complete a nationally recognized course on community association management and pass the National Board of Certification for Community Association Managers' Certified Manager of Community Associations examination (or a similar examination if permitted by DCP regulations). (In practice, DCP already requires this.)

By law, the fee for an initial registration is \$100, plus a \$60 application fee; the fee for renewal is \$200. The bill eliminates a (1) provision that prohibits renewing a certificate that expired more than a year prior and (2) \$50 fee for renewal applications made more than a month after they expired.

§ 13 — NOTICE OF ADMINISTRATIVE ENFORCEMENT ACTION

The bill specifies that notice of administrative enforcement actions, including compliance meetings and hearings related to consumer hotline complaints, must be in writing and comply with the Uniform Administrative Procedure Act. It sets out the specific notice procedure that applies when a designated party or intervenor, or their authorized representative, requires notice of an enforcement action. The notice must be delivered (1) personally; (2) by U.S. mail, with delivery tracking or via certified mail; or (3) by email, with tracking and delivery confirmation.

Notice to a non-credential holder is sufficient if DCP makes reasonable efforts, including verifying the mailing address with the

Secretary of the State or the Department of Motor Vehicles. If notice is sent by mail or email to a credential holder, it is effective if sent to the last known address on file with DCP.

§§ 14-17 — GENERAL POWERS

The bill makes numerous minor and conforming changes to the statutes concerning DCP's general powers, and those of boards or commissions within it. Among other things, it:

1. specifies that DCP and each board or commission is authorized to place conditions on a license, registration, or certificate (not just suspend or revoke it) or impose a fine of up to \$1,000 per violation;
2. specifies that the DCP commissioner may issue a letter of reprimand to a credential holder or registrant and send a copy of the letter to a complainant or to a state or local official;
3. authorizes the DCP commissioner to place a credential holder or registrant on probationary status and (A) require him or her to report to DCP regularly or seek further education to attain a satisfactory level of competence and (B) limit his or her practice areas;
4. specifies that continuing education completion periods begin and end three months prior to the annual or biennial renewal date for the applicable credential, except those related to the practice of pharmacy; and
5. specifically authorizes the DCP commissioner to delegate her authority to render a final decision in a contested case to a hearing officer.

The bill specifies that DCP's enforcement powers extend to credentials or registrations that are voluntarily surrendered or not renewed.

§§ 19-21 — HOMEMAKER-COMPANION AGENCIES

By law, each homemaker-companion agency must obtain a surety bond for at least \$10,000 to insure against an employee's theft from a client. The bill allows agencies to obtain an insurance policy for the same purpose (§ 20).

Background Check (§ 19)

By law, homemaker-companion agencies must conduct a comprehensive background check of prospective employees. The bill expands the required components to include verifying a non-citizen prospective employee's employment authorization (i.e., Form I-9). Instead of reviewing only public Connecticut criminal records, the bill also requires agencies to conduct a national check. When doing so, it requires them to:

1. search a multistate and multi-jurisdiction criminal record locator or similar commercial nationwide database with validation;
2. search the Department of Justice's National Sex Offender Public Website; and
3. use a third-party consumer reporting agency or background screening company that is accredited by the Professional Background Screening Association and in compliance with the federal Fair Credit Reporting Act.

The bill also allows agencies to conduct video-conference interviews, rather than requiring the mandated interview to be in-person.

The bill requires agencies to notify clients, in writing, of their background check policy and include a citation to state law.

Hiring Ban (§ 21)

Beginning January 1, 2022, agencies are prohibited from hiring someone whose name appears on the U.S. Department of Health and Human Services' Office of Inspector General's online federal database of excluded individuals and entities for a conviction within the past

five years. Individuals and entities on the list are prohibited from being paid for services with federal health care program funding due to past actions, such as Medicare fraud.

The bill also prohibits agencies from hiring someone who in the past five years was:

1. convicted or released from incarceration for a criminal offense related to services or items provided under certain state health care programs (e.g., Medicaid and the Children’s Health Insurance Program);
2. convicted under state or federal law or released from incarceration for a criminal offense related to patient neglect or abuse while providing health care items or services;
3. convicted or released from incarceration for a felony related to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct, (A) while providing health care items or services or (B) for an act or omission in connection with a health care program operated or funded by a government agency;
4. convicted under state or federal law or released from incarceration for a felony relating to unlawful controlled substance manufacture, distribution, prescription, or dispensing; or
5. subject to a state or federal agency’s substantiated finding of neglect, abuse, physical harm, or misappropriation of property valued at over \$2,000.

§§ 22-24 & 39 — LICENSED TRADESPERSONS

Contract Contents (§§ 22 & 23)

The bill requires contracts for work on private residential property by licensed tradespeople to meet certain specifications.

The bill applies to contracts entered into by an owner or resident (or

their agent) of a one-to-six unit residential property or condominium or common interest community of any size (“consumer”), for work performed by a licensed contractor in the electrical; plumbing and piping; solar; heating, piping, cooling, and sheet metal; fire protection sprinkler systems; elevator installation, repair, and maintenance; irrigation; automotive glass; or flat glass work fields (“licensed tradesperson”).

Under the bill, to be enforceable against the consumer, the contract must contain the entire agreement and:

1. be in writing and signed by the licensed tradesperson or his or her employer and consumer;
2. contain the contracting licensed tradesperson’s name, address, and license number (or the employing business’s owner or partner’s name, phone number, and address);
3. include the name and license number of each licensed tradesperson performing work (this information may be amended in writing during the contract’s term);
4. contain notice of the owner’s cancellation rights under the Home Solicitation Sales Act; and
5. contain the transaction date and specify a start and completion date.

The bill requires any changes to the contract to be written and signed by both parties unless the DCP commissioner eliminates the requirement by regulation.

Reinstatement (§ 24)

The bill limits how long a tradesperson has to apply for license reinstatement after it is suspended or revoked. Under the bill, they have up to 180 days after the action is taken to apply for license reinstatement. The bill specifies that they must show good cause when applying for reinstatement.

By law, unchanged by the bill, tradespeople must wait at least 90 days after action is taken on their license to apply for reinstatement.

Exemption for Certain Water Meter Work (§ 39)

The bill exempts from the tradesperson licensing statutes (1) employees of a Public Utilities Regulatory Authority-regulated public service company and (2) contractors, while working on behalf of public service companies. The exemption only applies to specific water meter work, specifically, work that is:

1. limited to installing or replacing a water meter connected to existing fittings or unions that were installed by a licensed plumber or pipefitter, and
2. related to providing a public utility service, including installing or maintaining associated low voltage wiring solely for a meter reader located outside.

§§ 26-28 — REAL ESTATE BROKERS AND SALESPERSONS

The bill makes several minor changes to the real estate brokers' and salespersons' licensing laws. It:

1. changes the annual expiration date for brokers' licenses to November 30, rather than March 31, and specifies how renewals will be handed in the transition year (i.e., 2022), including a prorated renewal fee;
2. eliminates a provision making application fees refundable if a broker's or salesperson's license is not issued; and
3. makes real estate brokers' and salespersons' continuing education fee annual, rather than biennial (so that it coincides with the renewal period) and specifies that it covers the cost of reviewing and auditing continuing education submissions.

§§ 29 & 38 — HOME IMPROVEMENT CONTRACTORS

The bill makes home improvement contractors' annual registrations expire on March 31, rather than November 30, and specifies how

renewals will be handed in the transition year (i.e., 2021), including a pro-rated fee (§ 29).

It also makes a minor change to the affidavit requirement for Home Improvement Guaranty Fund applicants by eliminating the requirement that it be notarized (§ 38).

§§ 30 & 31 — MOBILE MANUFACTURED HOME PARK LICENSES

The bill makes several changes to the mobile manufactured home park licensing laws. It:

1. specifies that a mobile manufactured home park's license renewal may only be denied for failure to comply with the law if a formal enforcement action has been commenced;
2. specifies that DCP may place conditions on a license following a violation of applicable laws, rather than only revoke, suspend, or refuse to renew it;
3. subjects violators of a DCP order to a \$500 fine per violation, if 30 days pass without resolution following a reinspection (payable through the Centralized Infractions Bureau);
4. gives DCP 30 days, rather than five, to hold a hearing after immediately suspending a license upon finding certain public health and safety violations; and
5. authorizes DCP to require a licensee to obtain and pay for an independent inspection report assessing the potential public health impact of a park condition (e.g., trees or plumbing systems).

§§ 32-36 — CERTIFIED PUBLIC ACCOUNTANTS

Exam and License Renewal (§§ 32 & 33)

The bill specifically allows an applicant to take the CPA exam if he or she has completed at least 120 semester hours of appropriate education, as specified in Board of Accountancy regulations. Currently, to qualify to take the exam, one must have a B.A. or

equivalent with an accounting concentration or equivalent.

The bill requires CPAs to renew their licenses online and pay the renewal fee by credit card or electronic funds transfer, unless they request and are granted a waiver from the Board of Accountancy, due to extenuating circumstances.

Work Product Retention (§ 34)

The bill requires CPAs to keep work product and workpaper related to work for a client for at least seven years after creation, unless the law requires a longer retention. Current law only specifies that CPAs must retain workpaper as required by law.

As is the case under existing law, work product or workpaper related to the audit of a corporation subject to the Securities Exchange Act of 1934 must comply with the retention laws specific to those audits.

Fee Arrangements (§§ 35 & 36)

The bill makes several minor changes to conform state law to the American Institute of CPAs' rules of conduct for CPA commissions and contingency fees. Among other things, it explicitly expands existing law's prohibition on certain contingent fee arrangements by specifying that a CPA may not work on contingency for a client in a situation where another member of the CPA's firm would be prohibited from doing so. (Existing law prohibits CPAs from working on a contingent fee basis under certain conditions, including when the CPA is auditing a client or preparing tax returns.) The bill also eliminates a provision requiring contingent fee arrangements to be specified in writing.

BACKGROUND

Related Bills

sSB 266 (File 14), favorably reported by the General Law Committee, eliminates the affidavit requirement for Home Improvement Guaranty Fund applicants.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/23/2021)