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SENATE BILL 5365

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State of Washington

59th Legislature

2005 Regular Session

By Senators Prentice, Keiser and Parlette; by request of Department of Licensing

Read first time 01/21/2005. Referred to Committee on Ways & Means.

1 AN ACT Relating to the department of licensing; amending RCW  
2 18.96.050, 19.105.380, and 64.36.225; adding a new section to chapter  
3 43.24 RCW; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.24 RCW  
6 to read as follows:

7 (1) The business and professions account is created in the state  
8 treasury. All receipts from business or professional licenses,  
9 registrations, certifications, renewals, examinations, or civil  
10 penalties assessed and collected by the department from the following  
11 chapters must be deposited into the account:

- 12 (a) Chapter 18.11 RCW, auctioneers;
- 13 (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
- 14 (c) Chapter 18.96 RCW, landscape architects;
- 15 (d) Chapter 18.145 RCW, court reporters;
- 16 (e) Chapter 18.165 RCW, private investigators;
- 17 (f) Chapter 18.170 RCW, security guards;
- 18 (g) Chapter 18.185 RCW, bail bond agents;
- 19 (h) Chapter 19.16 RCW, collection agencies;

- 1 (i) Chapter 19.31 RCW, employment agencies;
- 2 (j) Chapter 19.105 RCW, camping resorts;
- 3 (k) Chapter 19.138 RCW, sellers of travel;
- 4 (l) Chapter 42.44 RCW, notaries public; and
- 5 (m) Chapter 64.36 RCW, timeshares.

6 Moneys in the account may be spent only after appropriation.  
7 Expenditures from the account may be used only for expenses incurred in  
8 carrying out these business and professions licensing activities of the  
9 department. Any residue in the account shall be accumulated and shall  
10 not revert to the general fund at the end of the biennium.

11 (2) The director shall biennially prepare a budget request based on  
12 the anticipated costs of administering the business and professions  
13 licensing activities listed in subsection (1) of this section, which  
14 shall include the estimated income from these business and professions  
15 fees.

16 **Sec. 2.** RCW 18.96.050 and 1984 c 287 s 52 are each amended to read  
17 as follows:

18 The members of the first board shall serve for the following terms:

19 One member for one year, one member for two years, one member for  
20 three years, one member for four years, and one member for five years  
21 from the date of appointment or until successors are duly appointed and  
22 qualified. Every member of the board shall receive a certificate of  
23 his or her appointment from the governor, and before beginning his or  
24 her term of office shall file with the secretary of state his or her  
25 written oath or affirmation for the faithful discharge of his or her  
26 official duties. On the expiration of the term of each member, the  
27 governor shall appoint a successor to serve for a term of five years,  
28 or until his or her successor has been appointed and qualified:  
29 PROVIDED, That no member shall serve more than ten consecutive years.

30 The governor may remove any member of the board for cause.  
31 Vacancies in the board for any reason shall be filled by appointment  
32 for the unexpired term. In carrying out the provisions of this  
33 chapter, the members of the board shall be compensated in accordance  
34 with RCW 43.03.240 and shall be reimbursed for travel expenses  
35 according to the provisions of RCW 43.03.050 and 43.03.060, such funds  
36 to be provided from the (~~landscape architects' account in the state~~

1 ~~general fund~~) business and professions account created in section 1 of  
2 this act.

3 **Sec. 3.** RCW 19.105.380 and 2002 c 86 s 273 are each amended to  
4 read as follows:

5 (1) In addition to the unprofessional conduct in RCW 18.235.130,  
6 the director may take disciplinary action for the following conduct,  
7 acts, or conditions:

8 (a) The applicant, registrant, or affiliate has failed to file  
9 copies of the camping resort contract form under RCW 19.105.360;

10 (b) The applicant, registrant, or affiliate has failed to comply  
11 with any provision of this chapter;

12 (c) The applicant's, registrant's, or affiliate's offering of  
13 camping resort contracts has worked or would work a fraud upon  
14 purchasers or owners of camping resort contracts;

15 (d) The camping resort operator or any officer, director, or  
16 affiliate of the camping resort operator has been enjoined from or had  
17 any civil penalty assessed for a finding of dishonest dealing or fraud  
18 in a civil suit, or been found to have engaged in any violation of any  
19 act designed to protect consumers, or has been engaged in dishonest  
20 practices in any industry involving sales to consumers;

21 (e) The applicant or registrant has represented or is representing  
22 to purchasers in connection with the offer or sale of a camping resort  
23 contract that a camping resort property, facility, amenity camp site,  
24 or other development is planned, promised, or required, and the  
25 applicant or registrant has not provided the director with a security  
26 or assurance of performance as required by this chapter;

27 (f) The applicant or registrant has not provided or is no longer  
28 providing the director with the necessary security arrangements to  
29 ensure future availability of titles or properties as required by this  
30 chapter or agreed to in the permit to market;

31 (g) The applicant or registrant is or has been employing  
32 unregistered salespersons or offering or proposing a membership  
33 referral program not in compliance with this chapter;

34 (h) The applicant or registrant has breached any escrow, impound,  
35 reserve account, or trust arrangement or the conditions of an order or  
36 permit to market required by this chapter;

1 (i) The applicant or registrant has filed or caused to be filed  
2 with the director any document or affidavit, or made any statement  
3 during the course of a registration or exemption procedure with the  
4 director, that is materially untrue or misleading;

5 (j) The applicant or registrant has engaged in a practice of  
6 failing to provide the written disclosures to purchasers or prospective  
7 purchasers as required under this chapter;

8 (k) The applicant, registrant, or any of its officers, directors,  
9 or employees, if the operator is other than a natural person, have  
10 willfully done, or permitted any of their salespersons or agents to do,  
11 any of the following:

12 (i) Engage in a pattern or practice of making untrue or misleading  
13 statements of a material fact, or omitting to state a material fact;

14 (ii) Employ any device, scheme, or artifice to defraud purchasers  
15 or members;

16 (iii) Engage in a pattern or practice of failing to provide the  
17 written disclosures to purchasers or prospective purchasers as required  
18 under this chapter;

19 (l) The applicant or registrant has failed to provide a bond,  
20 letter of credit, or other arrangement to ensure delivery of promised  
21 gifts, prizes, awards, or other items of consideration, as required  
22 under this chapter, breached such a security arrangement, or failed to  
23 maintain such a security arrangement in effect because of a resignation  
24 or loss of a trustee, impound, or escrow agent;

25 (m) The applicant or registrant has engaged in a practice of  
26 selling contracts using material amendments or codicils that have not  
27 been filed or are the consequences of breaches or alterations in  
28 previously filed contracts;

29 (n) The applicant or registrant has engaged in a practice of  
30 selling or proposing to sell contracts in a ratio of contracts to sites  
31 available in excess of that filed in the affidavit required by this  
32 chapter;

33 (o) The camping resort operator has withdrawn, has the right to  
34 withdraw, or is proposing to withdraw from use all or any portion of  
35 any camping resort property devoted to the camping resort program,  
36 unless:

37 (i) Adequate provision has been made to provide within a reasonable

1 time thereafter a substitute property in the same general area that is  
2 at least as desirable for the purpose of camping and outdoor  
3 recreation;

4 (ii) The property is withdrawn because, despite good faith efforts  
5 by the camping resort operator, a nonaffiliate of the camping resort  
6 has exercised a right of withdrawal from use by the camping resort  
7 (such as withdrawal following expiration of a lease of the property to  
8 the camping resort) and the terms of the withdrawal right have been  
9 disclosed in writing to all purchasers at or prior to the time of any  
10 sales of camping resort contracts after the camping resort has  
11 represented to purchasers that the property is or will be available for  
12 camping or recreation purposes;

13 (iii) The specific date upon which the withdrawal becomes effective  
14 has been disclosed in writing to all purchasers and members prior to  
15 the time of any sales of camping resort contracts after the camping  
16 resort has represented to purchasers that the property is or will be  
17 available for camping or recreation purposes;

18 (iv) The rights of members and owners of the camping resort  
19 contracts under the express terms of the camping resort contract have  
20 expired, or have been specifically limited, upon the lapse of a stated  
21 or determinable period of time, and the director by order has found  
22 that the withdrawal is not otherwise inconsistent with the protection  
23 of purchasers or the desire of the majority of the owners of camping  
24 resort contracts, as expressed in their previously obtained vote of  
25 approval;

26 (p) The format, form, or content of the written disclosures  
27 provided therein is not complete, full, or materially accurate, or  
28 statements made therein are materially false, misleading, or deceptive;

29 (q) The applicant or registrant has failed to file an amendment for  
30 a material change in the manner or at the time required under this  
31 chapter or its implementing rules;

32 (r) The applicant or registrant has filed voluntarily or been  
33 placed involuntarily into a federal bankruptcy or is proposing to do  
34 so; or

35 (s) A camping resort operator's rights or interest in a campground  
36 has been terminated by foreclosure or the operations in a camping  
37 resort have been terminated in a manner contrary to contract  
38 provisions.

1 (2) An operator, registrant, or applicant against whom  
2 administrative or legal proceedings have been filed shall be  
3 responsible for and shall reimburse the state, by payment into the  
4 (~~general fund~~) business and professions account created in section 1  
5 of this act, for all administrative and legal costs actually incurred  
6 by the department in issuing, processing, and conducting any such  
7 administrative or legal proceeding authorized under this chapter that  
8 results in a final legal or administrative determination of any type or  
9 degree in favor of the department.

10 (3) The director may enter into assurances of discontinuance in  
11 lieu of issuing a statement of charges or a cease and desist order or  
12 conducting a hearing under this chapter. The assurances shall consist  
13 of a statement of the law in question and an agreement not to violate  
14 the stated provision. The applicant or registrant shall not be  
15 required to admit to any violation of the law, nor shall the assurance  
16 be construed as such an admission. Violating or breaching an assurance  
17 under this subsection is grounds for suspension or revocation of  
18 registration or imposition of a fine.

19 (4) The director shall immediately suspend the license or  
20 certificate of a person who has been certified pursuant to RCW  
21 74.20A.320 by the department of social and health services as a person  
22 who is not in compliance with a support order. If the person has  
23 continued to meet all other requirements for reinstatement during the  
24 suspension, reissuance of the license or certificate shall be automatic  
25 upon the director's receipt of a release issued by the department of  
26 social and health services stating that the licensee is in compliance  
27 with the order.

28 **Sec. 4.** RCW 64.36.225 and 1987 c 370 s 8 are each amended to read  
29 as follows:

30 A registrant or applicant against whom an administrative or legal  
31 proceeding authorized under this chapter has been filed, shall be  
32 liable for and reimburse to the state of Washington by payment into the  
33 (~~general fund~~) business and professions account created in section 1  
34 of this act, all administrative and legal costs, including attorneys'  
35 fees, incurred by the department in issuing and conducting  
36 administrative or legal proceedings that result in a final legal or

1 administrative determination of any type or degree, in favor of the  
2 department or the state of Washington.

3 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2005.

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