

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1394

Chapter 25, Laws of 2005

59th Legislature
2005 Regular Session

BUSINESS AND PROFESSIONS ACCOUNT

EFFECTIVE DATE: 7/1/05

Passed by the House March 11, 2005
Yeas 95 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 5, 2005
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved April 12, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1394** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

April 12, 2005 - 12:23 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1394

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Wood, Condotta and Kenney; by request of Department of Licensing)

READ FIRST TIME 02/28/05.

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; providing an effective date; and declaring an emergency.

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 is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of the
5 state government and its existing public institutions, and takes effect
6 July 1, 2005.

Passed by the House March 11, 2005.

Passed by the Senate April 5, 2005.

Approved by the Governor April 12, 2005.

Filed in Office of Secretary of State April 12, 2005.