

SB0155



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0155

Introduced 1/31/2007, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 80/4.28 new

Creates the Painting, Drywall Finishing, and Glazing Contractor Licensing Act. Regulates painting, drywall finishing, and glazing contractors through licensure requirements. Provides for enforcement of the Act by the Department of Financial and Professional Regulation and the Painting, Drywall Finishing, and Glazing Contractor Licensing Board. Amends the Regulatory Sunset Act to set a repeal date for the Painting, Drywall Finishing, and Glazing Contractor Licensing Act of January 1, 2018. Effective immediately.

LRB095 04314 RAS 24355 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Painting, Drywall Finishing, and Glazing Contractor Licensing
6 Act.

7 Section 5. Definitions. In this Act:

8 "Board" means the Painting, Drywall Finishing, and Glazing
9 Contractor Licensing Board.

10 "Contractor" means a person who manages the daily
11 activities of a painting, drywall finishing, or glazing
12 business, including field supervision.

13 "Department" means the Department of Financial and
14 Professional Regulation.

15 "Drywall finishing" includes the taping, surfacing, and
16 finishing of drywall.

17 "Foreman" means a person who has the knowledge and skill of
18 a journeyman and directly supervises physical painting,
19 drywall finishing, or glazing.

20 "Glazing" means setting glass in window frames.

21 "Journeyman" means a person who has completed an
22 apprenticeship program approved by the Department or is an
23 experienced worker, not a trainee, and is fully qualified and

1 able to perform painting, drywall finishing, or glazing without
2 supervision.

3 "Paint" consists of vehicle, pigment, binder, and dryers.

4 "Painting" means the application of paint. "Painting" does
5 not include the application of paint used in conjunction with
6 the repair, maintenance, or customization of a vehicle, as
7 defined in the Illinois Vehicle Code.

8 "Person" means an individual, partnership, corporation,
9 business trust, limited liability company, or other legal
10 entity.

11 "Secretary" means the Secretary of Financial and
12 Professional Regulation.

13 Section 10. Licensure requirement.

14 (a) Beginning January 1, 2008, a person may not act as a
15 contractor on a project in which the total cost (labor and
16 materials) of one or more of the contractor's contracts is \$500
17 or more without being licensed under this Act.

18 (b) Beginning January 1, 2008, a contractor must be
19 licensed before submitting bids.

20 Section 12. Exemptions.

21 (a) This Act does not apply to the following specific areas
22 of the trade:

23 (1) Scraping, sweeping, and general clean-up of steel
24 beams during bridge construction prior to painting.

1 (2) Power washing and sandblasting work prior to
2 priming and painting.

3 (3) Lead-based paint removal.

4 (4) Taping compound (mud) clean-up from floors.

5 (5) Plastic or cardboard covering and empty cans
6 clean-up.

7 (6) Removal of old paint from roadways and direct
8 traffic.

9 (b) This Act does not apply to the performance of painting,
10 drywall finishing, or glazing of any property owned or operated
11 by a public utility, a public utility affiliate, a
12 telecommunications carrier or its affiliate, an electric
13 cooperative as defined in Section 3.4 of the Electric Supplier
14 Act, a telephone cooperative as defined in Section 13-212 of
15 the Public Utilities Act, a utility owned and operated by a
16 municipal corporation or unit of local government, or a company
17 that generates electricity.

18 (c) This Act does not apply to electrical contractors,
19 utility workers, or their employees performing painting of
20 brackets, fixtures, electrical equipment, transmission towers,
21 traffic signal or lighting poles, welds, or other miscellaneous
22 equipment that is deemed necessary to complete the electrical
23 maintenance or installation.

24 (d) This Act does not apply to licensed plumbers, sprinkler
25 fitters, and pipefitters performing work in plumbing,
26 pipefitting, heating, irrigation, ventilation, air

1 conditioning, refrigeration (HVACR) systems, instrumentation,
2 and stress relieving.

3 (e) This Act does not apply to a manufacturer as part of
4 ongoing maintenance on property owned or leased by such
5 manufacturer.

6 (f) The provisions of this Act do not apply to painting,
7 drywall finishing, or glazing supplies or services sold or
8 provided by employees or agents of a business entity primarily
9 engaged in the retail sale of consumer products.

10 (g) This Act does not apply to the performance of painting,
11 drywall finishing, or glazing of any property owned or operated
12 by a water or wastewater system that serves a municipality with
13 a population of 10,000 citizens or less or any size rural water
14 or wastewater system.

15 (h) This Act does not apply to individuals performing
16 custodial and maintenance work whose job duties also include
17 drywall repair and related drywall taping, spot painting, and
18 minor glazing repair work.

19 (i) This Act does not apply to the painting of roadway
20 surfaces.

21 (j) This Act does not apply to overall interior and
22 exterior demolition.

23 (k) Nothing in this Act shall be construed to require a
24 person who performs painting, drywall finishing, or glazing on
25 his or her own property to be licensed under this Act.

26 (l) Nothing in this Act shall be construed to require a

1 person who performs painting, drywall finishing, or glazing
2 work on his or her employer's property to be licensed under
3 this Act where there exists an employer-employee relationship.

4 (m) This Act does not apply to a person, or to the person's
5 employees, who perform painting, drywall finishing, or glazing
6 work incidental to the management of real property on behalf of
7 the owner of the property, so long as the person or employee
8 does not hold himself or herself out as, or bid for work
9 separately as, a painting, drywall finishing, or glazing
10 contractor.

11 Section 15. Powers and duties of the Department. The
12 Department may exercise the following powers and duties subject
13 to the provisions of this Act:

14 (1) To prescribe forms of application for licensure.

15 (2) To pass upon the qualifications of applicants for
16 licensure and issue licenses to those found to be fit and
17 qualified.

18 (3) To conduct hearings on proceedings to revoke,
19 suspend, or otherwise discipline or to refuse to issue or
20 renew licenses.

21 (4) To adopt rules when required for the administration
22 and enforcement of this Act.

23 Section 20. Application for original licensure.

24 (a) To obtain an original license, an applicant shall

1 submit an application in writing to the Department on a form
2 containing the information prescribed by the Department and
3 accompanied by the required application fee, which shall not be
4 refundable. An application shall require information that in
5 the judgment of the Department will enable the Department to
6 pass on the qualifications of the applicant for a license.

7 (b) An applicant for a license must submit satisfactory
8 evidence that he or she:

9 (1) has obtained public liability and property damage
10 insurance in such amounts and under such circumstances as
11 may be determined by the Department;

12 (2) has obtained workers' compensation insurance
13 covering his or her employees or is approved as a
14 self-insurer of workers' compensation in accordance with
15 Illinois law;

16 (3) has an Illinois Unemployment Insurance
17 identification number or has proof of application to the
18 Illinois Department of Labor for such an identification
19 number; and

20 (4) has submitted a bond to the Department in the
21 amount of \$10,000.

22 (c) It is the responsibility of the licensee to provide to
23 the Department notice in writing of any changes in the
24 information required to be provided on the application.

25 Section 23. Business as an individual; application as legal

1 entity.

2 (a) When an individual proposes to do business in his or
3 her own name, licensure, when granted, shall be issued only to
4 that individual.

5 (b) If the applicant is proposing to qualify a partnership,
6 corporation, business trust, or other legal entity,
7 application shall be made for each such entity and shall state
8 the name of the partnership and of its partners, the name of
9 the corporation and of its officers and directors, the name of
10 business trust and its trustees, or the name of such other
11 legal entity and its members, and the use of fictitious names,
12 if a fictitious name is used. The application shall also show
13 that the person applying for the certification is legally
14 qualified to act for the business organization in all matters
15 connected with its contracting business and that he or she has
16 authority to supervise painting, drywall finishing, and
17 glazing operations.

18 Section 27. License number on contracts and bids.

19 (a) Each contractor shall affix his or her license number
20 to all his or her contracts and bids. In addition, the official
21 issuing building permits shall affix the contractor's license
22 number to each application for a building permit and on each
23 building permit issued and recorded.

24 (b) Every contractor shall affix his or her license number
25 and name on all vehicles used as part of his or her business as

1 a contractor.

2 (c) Every holder of a license shall display it in a
3 conspicuous place in his or her principal office, place of
4 business, or employment.

5 Section 30. Qualifications for a license as a contractor.

6 (a) To qualify for a license as a contractor, a person
7 shall have at least 48 months of practical experience as
8 defined by rule.

9 (b) The Department may credit training, apprenticeship, or
10 education in lieu of the 48 months of practical experience as
11 follows:

12 (1) a maximum of one and one-half years upon submission
13 of a certificate of completion from a U.S. D.O.L. Bureau of
14 Apprenticeship and Training accredited school for
15 painting, drywall finishing, or glazing completed in not
16 less than 12 months; or

17 (2) a maximum of 2 years upon submission of transcripts
18 of one of the following:

19 (A) a 4-year degree from an accredited college or
20 university in the fields of accounting, business,
21 economics, mathematics, physics, or areas;

22 (B) a professional degree in law; or

23 (C) substantial college or university course work
24 in accounting, architecture, business, construction
25 technology, drafting, economics, engineering,

1 mathematics, or physics; or

2 (3) a maximum of 3 years upon submission of:

3 (A) a Certificate of Completion of Apprenticeship
4 from an U.S. D.O.L. Bureau of Apprenticeship and
5 Training accredited apprenticeship program or a
6 certified statement of a completion of apprenticeship
7 training from the International Union of Painters and
8 Allied Trades; or

9 (B) transcripts for a 4-year degree from an
10 accredited college or university in architecture,
11 construction technology, or any field of engineering
12 that is directly related to painting, drywall
13 finishing, or glazing.

14 (c) Applicants have 3 years from the date of application to
15 complete the application process. If the application has not
16 been completed within 3 years, the application shall be denied,
17 the fee shall be forfeited, and the applicant must reapply and
18 meet the requirements in effect at the time of reapplication.

19 Section 33. Bond. Before issuing or renewing a license, the
20 Department shall require each applicant or licensee to file and
21 maintain in force a surety bond in the amount specified in
22 paragraph (4) of subsection (b) of Section 20, issued by an
23 insurance company authorized to transact fidelity and surety
24 business in the State of Illinois. The bond shall be continuous
25 in form, unless terminated by the insurance company. An

1 insurance company may terminate a bond and avoid further
2 liability by filing a 60-day notice of termination with the
3 Department and, at the same time, sending the notice to the
4 contractor. A license shall be cancelled without hearing on the
5 termination date of the contractor's bond, unless a new bond is
6 filed with the Department to become effective at the
7 termination date of the prior bond. If a license has been
8 cancelled without hearing under this Section, the license shall
9 be reinstated upon showing proof of compliance with this Act.

10 Section 35. Expiration of license.

11 (1) A license shall expire 2 years from the last day of the
12 month in which it was issued.

13 (2) Failure to renew the license prior to the expiration
14 thereof shall cause the license to become nonrenewed and it
15 shall be unlawful thereafter for the licensee to engage or
16 offer to engage in painting, drywall finishing, or glazing
17 contracting business under the license unless and until the
18 license is restored or reissued as defined by rule.

19 Section 40. Public records.

20 (1) All information required by the Department of any
21 applicant for licensure shall be a public record, except
22 financial information.

23 (2) If a licensee changes his or her name style, address,
24 or employment from that which appears on his or her current

1 license, he or she shall notify the Department of the change
2 within 30 days after it occurs.

3 (3) All public records of the Department, when duly
4 certified by the Secretary, shall be received as prima facie
5 evidence in any State administrative or judicial proceedings.

6 Section 45. Grounds for disciplinary action. The
7 Department may refuse to issue or to renew or may revoke,
8 suspend, place on probation, reprimand, or take other
9 disciplinary action as the Department may deem proper,
10 including fines not to exceed \$1,000 for each violation, with
11 regard to any license for any one or combination of the
12 following causes:

13 (a) violation of this Act or its rules;

14 (b) conviction of any crime under the laws of any U.S.
15 jurisdiction which is a felony or which is a misdemeanor,
16 an essential element of which is dishonesty, or of any
17 crime which directly relates to the practice of the
18 profession;

19 (c) making any misrepresentation for the purpose of
20 obtaining a license;

21 (d) professional incompetence or gross negligence in
22 the practice of painting, drywall finishing, or glazing
23 contracting;

24 (e) gross malpractice, prima facie evidence of which
25 may be a conviction or judgment of malpractice in any court

1 of competent jurisdiction;

2 (f) aiding or assisting another person in violating any
3 provision of this Act or rules;

4 (g) failing, within 60 days, to provide information in
5 response to a written request made by the Department which
6 has been sent by certified or registered mail to the
7 licensee's last known address;

8 (h) engaging in dishonorable, unethical, or
9 unprofessional conduct of a character likely to deceive,
10 defraud, or harm the public;

11 (i) habitual or excessive use or addiction to alcohol,
12 narcotics, stimulants, or any other chemical agent or drug
13 that results in the inability to practice with reasonable
14 judgment, skill, or safety;

15 (j) discipline by another U.S. jurisdiction or foreign
16 nation, if at least one of the grounds for the discipline
17 is the same or substantially equivalent to those set forth
18 in this Section;

19 (k) directly or indirectly giving to or receiving from
20 any person, firm, corporation, partnership, or association
21 any fee, commission, rebate, or other form of compensation
22 for any professional services not actually or personally
23 rendered;

24 (l) a finding by the Department that the licensee,
25 after having his or her license placed on probationary
26 status, has violated the terms of probation;

1 (m) conviction by any court of competent jurisdiction,
2 either within or without this State, of any violation of
3 any law governing the practice of painting, drywall
4 finishing, or glazing contracting, if the Department
5 determines, after investigation, that such person has not
6 been sufficiently rehabilitated to warrant the public
7 trust;

8 (n) a finding that licensure has been applied for or
9 obtained by fraudulent means;

10 (o) practicing, attempting to practice, or advertising
11 under a name other than the full name as shown on the
12 license or any other legally authorized name;

13 (p) gross and willful overcharging for professional
14 services including filing false statements for collection
15 of fees or monies for which services are not rendered;

16 (q) failure to file a return, or to pay the tax,
17 penalty or interest shown in a filed return, or to pay any
18 final assessment of tax, penalty or interest, as required
19 by any tax Act administered by the Illinois Department of
20 Revenue, until such time as the requirements of any such
21 tax Act are satisfied;

22 (r) failure to continue to meet the requirements of
23 this Act shall be deemed a violation;

24 (s) physical or mental disability, including
25 deterioration through the aging process or loss of
26 abilities and skills that result in an inability to

1 practice the profession with reasonable judgment, skill,
2 or safety;

3 (t) material misstatement in furnishing information to
4 the Department or to any other State agency;

5 (u) the determination by a court that a licensee is
6 subject to involuntary admission or judicial admission as
7 provided in the Mental Health and Developmental
8 Disabilities Code will result in an automatic suspension of
9 his or her license. The suspension will end upon a finding
10 by a court that the licensee is no longer subject to
11 involuntary admission or judicial admission, the issuance
12 of an order so finding and discharging the patient, and the
13 recommendation of the Board to the Secretary that the
14 licensee be allowed to resume professional practice;

15 (v) advertising in any manner that is false,
16 misleading, or deceptive; or

17 (w) a violation of the Union Employee Health and
18 Benefits Protection Act, the Minimum Wage Law, the Illinois
19 Wage Payment and Collection Act, the Prevailing Wage Act,
20 the One Day Rest in Seven Act, or the Employee Benefit
21 Contribution Act.

22 The Department shall deny any license or renewal under this
23 Act to any person who has defaulted on an educational loan
24 guaranteed by the Illinois Student Assistance Commission;
25 however, the Department may issue a license or renewal if the
26 person in default has established a satisfactory repayment

1 record as determined by the Illinois Student Assistance
2 Commission.

3 Section 50. Stenographer; record of proceedings. The
4 Department, at its expense, shall provide a stenographer to
5 take down the testimony and preserve a record of all
6 proceedings initiated pursuant to this Act, the rules for the
7 administration of this Act, or any other Act or rules relating
8 to this Act and proceedings for restoration of any license
9 issued under this Act. The notice of hearing, complaint,
10 answer, and all other documents in the nature of pleadings and
11 written motions and responses filed in the proceedings, the
12 transcript of the testimony, all exhibits admitted into
13 evidence, the report of the hearing officer, the Board's
14 findings of fact, conclusions of law, and recommendations to
15 the Secretary, and the order shall be the record of the
16 proceedings. The Department shall furnish a transcript of the
17 record to any person interested in the hearing upon payment of
18 the fee required under Section 2105-115 of the Department of
19 Professional Regulation Law (20 ILCS 2105/2105-115).

20 Section 55. Attendance of witnesses; production of
21 documents; contempt. Any circuit court may, upon application of
22 the Department or its designee or of the applicant or licensee
23 against whom proceedings are pending, enter an order requiring
24 the attendance of witnesses and their testimony, and the

1 production of documents, papers, files, books, and records in
2 connection with any hearing or investigation. The court may
3 compel obedience to its order by proceedings for contempt.

4 Section 60. Subpoenas; oaths. The Department has the power
5 to subpoena and bring before it any person in this State and to
6 take testimony either orally or by deposition or both, or to
7 subpoena documents, exhibits, or other materials with the same
8 fees and mileage and in the same manner as prescribed by law in
9 judicial proceedings in civil cases in circuit courts of this
10 State.

11 The Secretary and any member of the Board have power to
12 administer oaths to witnesses at any hearing that the
13 Department or Board is authorized by law to conduct. Further,
14 the Secretary has power to administer any other oaths required
15 or authorized to be administered by the Department under this
16 Act.

17 Section 65. Findings of facts, conclusions of law, and
18 recommendations; order. Within 60 days of the Department's
19 receipt of the transcript of any hearing that is conducted
20 pursuant to this Act or the rules for its enforcement or any
21 other statute or rule requiring a hearing under this Act or the
22 rules for its enforcement, or for any hearing related to
23 restoration of any license issued pursuant to this Act, the
24 hearing officer shall submit his or her written findings and

1 recommendations to the Board. The Board shall review the report
2 of the hearing officer and shall present its findings of fact,
3 conclusions of law, and recommendations to the Secretary by the
4 date of the Board's second meeting following the Board's
5 receipt of the hearing officer's report.

6 A copy of the findings of fact, conclusions of law, and
7 recommendations to the Secretary shall be served upon the
8 accused person, either personally or by registered or certified
9 mail. Within 20 days after service, the accused person may
10 present to the Department a written motion for a rehearing,
11 which shall state the particular grounds therefor. If the
12 accused person orders and pays for a transcript pursuant to
13 Section 50, the time elapsing thereafter and before the
14 transcript is ready for delivery to him or her shall not be
15 counted as part of the 20 days.

16 The Secretary shall issue an order based on the findings of
17 fact, conclusions of law, and recommendations to the Secretary.
18 If the Secretary disagrees in any regard with the findings of
19 fact, conclusions of law, and recommendations to the Secretary,
20 he may issue an order in contravention of the findings of fact,
21 conclusions of law, and recommendations to the Secretary.

22 If the Secretary issues an order in contravention of the
23 findings of fact, conclusions of law, and recommendations to
24 the Secretary, the Secretary shall notify the Board in writing
25 with an explanation for any deviation from the Board's findings
26 of fact, conclusions of law, and recommendations to the

1 Secretary within 30 days of the Secretary's entry of the order.

2 Section 70. Temporary suspension. The Secretary may
3 temporarily suspend the license of a painting, drywall
4 finishing, or glazing contractor without a hearing,
5 simultaneously with the institution of proceedings for a
6 hearing provided for in this Act, if the Secretary finds that
7 evidence in his or her possession indicates that continuation
8 in practice would constitute an imminent danger to the public.
9 In the event that the Secretary temporarily suspends a license
10 without a hearing, a hearing by the Department shall be held
11 within 30 days after such suspension has occurred.

12 Section 75. Review under Administrative Review Law. All
13 final administrative decisions of the Department are subject to
14 judicial review pursuant to the Administrative Review Law and
15 its rules. The term "administrative decision" is defined as in
16 Section 3-101 of the Code of Civil Procedure.

17 Section 80. Violations. A violation of this Act is
18 punishable by a \$1,000 fine for a first offense and a \$2,500
19 fine for a second offense. A third or subsequent violation of
20 this Act is a Class A misdemeanor.

21 Section 85. Administrative Procedure Act. The Illinois
22 Administrative Procedure Act is hereby expressly adopted and

1 incorporated herein as if all of the provisions of that Act
2 were included in this Act, except that the provision of
3 subsection (d) of Section 10-65 of the Illinois Administrative
4 Procedure Act that provides that at hearings the licensee has
5 the right to show compliance with all lawful requirements for
6 retention, continuation or renewal of the license is
7 specifically excluded. For the purpose of this Act the notice
8 required under Section 10-25 of the Administrative Procedure
9 Act is deemed sufficient when mailed to the last known address
10 of a party.

11 Section 90. Certification of record; costs. The Department
12 shall not be required to certify any record to the court, to
13 file an answer in court, or to otherwise appear in any court in
14 a judicial review proceeding, unless there is filed in the
15 court, with the complaint, a receipt from the Department
16 acknowledging payment of the costs of furnishing and certifying
17 the record. Failure on the part of the plaintiff to file the
18 receipt in court is grounds for dismissal of the action.

19 Section 95. Returned checks; fines. Any person who
20 delivers a check or other payment to the Department that is
21 returned to the Department unpaid by the financial institution
22 upon which it is drawn shall pay to the Department, in addition
23 to the amount already owed to the Department, a fine of \$50.
24 The fines imposed by this Section are in addition to any other

1 discipline provided under this Act for unlicensed practice or
2 practice on a nonrenewed license. The Department shall notify
3 the person that payment of fees and fines shall be paid to the
4 Department by certified check or money order within 30 calendar
5 days of the notification. If, after the expiration of 30 days
6 from the date of the notification, the person has failed to
7 submit the necessary remittance, the Department shall
8 automatically terminate the license or deny the application,
9 without hearing. If, after termination or denial, the person
10 seeks a license, he or she shall apply to the Department for
11 restoration or issuance of the license and pay all the
12 application fees as set by rule. The Department may establish a
13 fee for the processing of an application for restoration of a
14 license to pay all expenses of processing this application. The
15 Secretary may waive the fines due under this Section in
16 individual cases where the Secretary finds that the fines would
17 be unreasonable or unnecessarily burdensome.

18 Section 100. Hearing officers. The Secretary has the
19 authority to appoint any attorney duly licensed to practice law
20 in the State of Illinois to serve as the hearing officer for
21 any action for refusal to issue or renew a license, for
22 discipline of a licensee for sanctions for unlicensed practice,
23 for restoration of a license, or for any other action for which
24 findings of fact, conclusions of law, and recommendations are
25 required pursuant to Section 65 of this Act. The hearing

1 officer shall have full authority to conduct the hearing and
2 shall issue his or her findings of fact and recommendations to
3 the Board pursuant to Section 65 of this Act.

4 Section 105. Investigation; notice; default. The
5 Department may investigate the actions of any applicant or any
6 person or persons holding or claiming to hold a license. The
7 Department shall, before suspending, revoking, placing on
8 probationary status, or taking any other disciplinary action as
9 the Department may deem proper with regard to any license, at
10 least 30 days prior to the date set for the hearing, notify the
11 accused in writing of any charges made and the time and place
12 for a hearing on the charges before the hearing officer, direct
13 him or her to file his written answer with the hearing officer
14 under oath within 30 days after the service on him or her of
15 such notice, and inform him or her that if he or she fails to
16 file such answer default will be taken against him or her and
17 his or her license may be suspended, revoked, placed on
18 probationary status, or other disciplinary action, including
19 limiting the scope, nature or extent of his or her practice, as
20 the Department may deem proper, taken. This written notice may
21 be served by personal delivery or certified or registered mail
22 to the Department. In case the person fails to file an answer
23 after receiving notice, his or her license may, in the
24 discretion of the Department, be suspended, revoked, or placed
25 on probationary status, or the Department may take whatever

1 disciplinary action deemed proper, including limiting the
2 scope, nature, or extent of the person's practice or the
3 imposition of a fine, without a hearing, if the act or acts
4 charged constitute sufficient grounds for such action under
5 this Act. At the time and place fixed in the notice, the
6 Department shall proceed to hear the charges and the parties or
7 their counsel shall be accorded ample opportunity to present
8 such statements, testimony, evidence and argument as may be
9 pertinent to the charges or to their defense. The Department
10 may continue such hearing from time to time. At the discretion
11 of the Secretary after having first received the recommendation
12 of the hearing officer, the accused person's license may be
13 suspended, revoked, placed on probationary status, or other
14 disciplinary action may be taken as the Secretary may deem
15 proper, including limiting the scope, nature, or extent of said
16 person's practice without a hearing, if the act or acts charged
17 constitute sufficient grounds for such action under this Act.

18 Section 110. Enforcement; petition to court.

19 (a) If any person violates the provisions of this Act, the
20 Secretary through the Attorney General of Illinois, or the
21 State's Attorney of any county in which a violation is alleged
22 to exist, may in the name of the People of the State of
23 Illinois petition for an order enjoining such violation or for
24 an order enforcing compliance with this Act. Upon the filing of
25 a verified petition in such court, the court may issue a

1 temporary restraining order, without notice or bond, and may
2 preliminarily and permanently enjoin such violation, and if it
3 is established that such person has violated or is violating
4 the injunction, the Court may punish the offender for contempt
5 of court.

6 (b) If any person shall practice as a licensee or hold
7 himself or herself out as a licensee without being licensed
8 under the provisions of this Act, then any person licensed
9 under this Act, any interested party or any person injured
10 thereby may, in addition to those officers identified in
11 subsection (a) of this Section, petition for relief as provided
12 therein.

13 (c) Whenever the Department has reason to believe that any
14 person has violated the licensing requirements of this Act by
15 practicing, offering to practice, attempting to practice, or
16 holding himself or herself out to practice painting, drywall
17 finishing, or glazing without being licensed under this Act,
18 the Department may issue a rule to show cause why an order to
19 cease and desist should not be entered against that person. The
20 rule shall clearly set forth the grounds relied upon by the
21 Department and shall provide a period of 7 days from the date
22 of the rule to file an answer to the satisfaction of the
23 Department. Failure to answer to the satisfaction of the
24 Department shall cause an order to cease and desist to be
25 issued immediately. It is not a violation of this Act for a
26 person whose regular job duties are custodial and maintenance

1 work, but who in the normal course of work engages in
2 incidental drywall repair, related drywall taping, spot
3 painting, and minor glazing repair work.

4 (d) Proceedings under this Section shall be in addition to,
5 and not in lieu of, all other remedies and penalties which may
6 be provided by law.

7 Section 115. Unlicensed practice; violation; civil
8 penalty.

9 (a) Any person who practices, offers to practice, attempts
10 to practice, or holds himself or herself out to practice
11 painting, drywall finishing, or glazing without being licensed
12 under this Act shall, in addition to any other penalty provided
13 by law, pay a civil penalty to the Department in an amount not
14 to exceed \$5,000 for each offense as determined by the
15 Department. The civil penalty shall be assessed by the
16 Department after a hearing is held in accordance with the
17 provisions set forth in this Act regarding the provision of a
18 hearing for the discipline of a licensee.

19 (b) The Department has the authority and power to
20 investigate any and all unlicensed activity.

21 (c) The civil penalty shall be paid within 60 days after
22 the effective date of the order imposing the civil penalty. The
23 order shall constitute a judgment and may be filed and
24 execution had thereon in the same manner as any judgment from
25 any court of record.

1 Section 120. Deposit of fees. All fees and fines collected
2 under this Act shall be deposited into the General Professions
3 Dedicated Fund and shall be appropriated to the Department for
4 the purpose of administering and enforcing this Act.

5 Section 125. The Painting, Drywall Finishing, and Glazing
6 Contractor Licensing Board. The Painting, Drywall Finishing,
7 and Glazing Contractor Licensing Board is created and shall
8 consist of 7 persons, one of whom is a knowledgeable public
9 member and 6 of whom have been issued licenses as painting,
10 drywall finishing, and glazing contractors by the Department
11 (for initial appointments, these 6 members must meet the
12 requirements for licensure under this Act). One of the 6
13 licensed contractors on the Board shall represent a statewide
14 association representing painters. The public member shall not
15 be licensed under this Act or any other Act the Department
16 administers. Each member shall be appointed by the Secretary.
17 Members shall be appointed who reasonably represent the
18 different geographic areas of the State.

19 Members of the Painting, Drywall Finishing, and Glazing
20 Contractor Licensing Board shall be immune from suit in any
21 action based upon any disciplinary proceedings or other acts
22 performed in good faith as members of the Board, unless the
23 conduct that gave rise to the suit was willful and wanton
24 misconduct.

1 The persons appointed shall hold office for 4 years and
2 until a successor is appointed and qualified. Of the members of
3 the Board first appointed, 2 shall be appointed to serve for 2
4 years, 2 shall be appointed to serve for 3 years, and 3 shall
5 be appointed to serve for 4 years. No member shall serve more
6 than 2 complete 4-year terms.

7 Within 90 days of a vacancy occurring, the Secretary shall
8 fill the vacancy for the unexpired portion of the term with an
9 appointee who meets the same qualifications as the person whose
10 position has become vacant. The Board shall meet annually to
11 elect one member as chairman and one member as vice-chairman.
12 No officer shall be elected more than twice in succession to
13 the same office. The members of the Board shall receive
14 reimbursement for actual, necessary, and authorized expenses
15 incurred in attending the meetings of the Board.

16 Section 900. The Regulatory Sunset Act is amended by adding
17 Section 4.28 as follows:

18 (5 ILCS 80/4.28 new)

19 Sec. 4.28. Act repealed on January 1, 2018. The following
20 Act is repealed on January 1, 2018:

21 The Painting, Drywall Finishing, and Glazing Contractor
22 Licensing Act.

23 Section 999. Effective date. This Act takes effect upon
24 becoming law.