



Sen. James A. DeLeo

Filed: 5/25/2004

09300HB3715sam003

LRB093 09844 AMC 51577 a

1 AMENDMENT TO HOUSE BILL 3715

2 AMENDMENT NO. _____. Amend House Bill 3715 by replacing
3 everything after the enacting clause with the following:

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. For the purposes of 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 Professional
14 Regulation.

15 "Director" means the Director of Professional Regulation.

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

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

21 "Glazing" means setting glass in window frames.

22 "Journeyman" means a person who has completed an
23 apprenticeship program approved by the Department or is an
24 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 Section 10. Licensure requirement.

12 (a) Beginning January 1, 2006, a person may not act as a
13 contractor on a project in which the total cost (labor and
14 materials) of one or more of the contractor's contracts is \$500
15 or more without being licensed under this Act.

16 (b) Beginning January 1, 2006, a contractor must be
17 licensed before submitting bids.

18 Section 12. Exemptions.

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

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

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

25 (3) Lead-based paint removal.

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

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

29 (6) Removal of old paint from roadways and direct
30 traffic.

31 (b) This Act does not apply to the performance of painting,
32 drywall finishing, or glazing of any property owned or operated

1 by a public utility, a public utility affiliate, a
2 telecommunications carrier or its affiliate, an electric
3 cooperative as defined in Section 3.4 of the Electric Supplier
4 Act, a telephone cooperative as defined in Section 13-212 of
5 the Public Utilities Act, a utility owned and operated by a
6 municipal corporation or unit of local government, or a company
7 that generates electricity.

8 (c) This Act does not apply to electrical contractors,
9 utility workers, or their employees performing painting of
10 brackets, fixtures, electrical equipment, transmission towers,
11 traffic signal or lighting poles, welds, or other miscellaneous
12 equipment that is deemed necessary to complete the electrical
13 maintenance or installation.

14 (d) This Act does not apply to licensed plumbers, sprinkler
15 fitters, and pipefitters performing work in plumbing,
16 pipefitting, heating, irrigation, ventilation, air
17 conditioning, refrigeration (HVACR) systems, instrumentation,
18 and stress relieving.

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

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

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

31 (h) This Act does not apply to individuals performing
32 custodial and maintenance work whose job duties also include
33 drywall repair and related drywall taping, spot painting, and
34 minor glazing repair work.

1 (i) This Act does not apply to the painting of roadway
2 surfaces.

3 (j) This Act does not apply to overall interior and
4 exterior demolition.

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

8 (l) Nothing in this Act shall be construed to require a
9 person who performs painting, drywall finishing, or glazing
10 work on his or her employer's property to be licensed under
11 this Act where there exists an employer-employee relationship.

12 (m) This Act does not apply to a person, or to the person's
13 employees, who perform painting, drywall finishing, or glazing
14 work incidental to the management of real property on behalf of
15 the owner of the property, so long as the person or employee
16 does not hold himself or herself out as, or bid for work
17 separately as, a painting, drywall finishing, or glazing
18 contractor.

19 Section 15. Powers and duties of the Department. The
20 Department may exercise the following powers and duties subject
21 to the provisions of this Act:

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

23 (2) To pass upon the qualifications of applicants for
24 licensure and issue licenses to those found to be fit and
25 qualified.

26 (3) To conduct hearings on proceedings to revoke,
27 suspend, or otherwise discipline or to refuse to issue or
28 renew licenses.

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

31 Section 20. Application for original licensure.

32 (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
26 entity.

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

30 (b) If the applicant is proposing to qualify a partnership,
31 corporation, business trust, or other legal entity,
32 application shall be made for each such entity and shall state
33 the name of the partnership and of its partners, the name of

1 the corporation and of its officers and directors, the name of
2 business trust and its trustees, or the name of such other
3 legal entity and its members, and the use of fictitious names,
4 if a fictitious name is used. The application shall also show
5 that the person applying for the certification is legally
6 qualified to act for the business organization in all matters
7 connected with its contracting business and that he or she has
8 authority to supervise painting, drywall finishing, and
9 glazing operations.

10 Section 27. License number on contracts and bids.

11 (a) Each contractor shall affix his or her license number
12 to all his or her contracts and bids. In addition, the official
13 issuing building permits shall affix the contractor's license
14 number to each application for a building permit and on each
15 building permit issued and recorded.

16 (b) Every contractor shall affix his or her license number
17 and name on all vehicles used as part of his or her business as
18 a contractor.

19 (c) Every holder of a license shall display it in a
20 conspicuous place in his or her principal office, place of
21 business, or employment.

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

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

26 (b) The Department may credit training, apprenticeship, or
27 education in lieu of the 48 months of practical experience as
28 follows:

29 (1) a maximum of one and one-half years upon submission
30 of a certificate of completion from a U.S. D.O.L. Bureau of
31 Apprenticeship and Training accredited school for
32 painting, drywall finishing, or glazing completed in not

1 less than 12 months; or

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

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

7 (B) a professional degree in law; or

8 (C) substantial college or university course work
9 in accounting, architecture, business, construction
10 technology, drafting, economics, engineering,
11 mathematics, or physics; or

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

13 (A) a Certificate of Completion of Apprenticeship
14 from an U.S. D.O.L. Bureau of Apprenticeship and
15 Training accredited apprenticeship program or a
16 certified statement of a completion of apprenticeship
17 training from the International Union of Painters and
18 Allied Trades; or

19 (B) transcripts for a 4-year degree from an
20 accredited college or university in architecture,
21 construction technology, or any field of engineering
22 that is directly related to painting, drywall
23 finishing, or glazing.

24 (c) Applicants have 3 years from the date of application to
25 complete the application process. If the application has not
26 been completed within 3 years, the application shall be denied,
27 the fee shall be forfeited, and the applicant must reapply and
28 meet the requirements in effect at the time of reapplication.

29 Section 33. Bond. Before issuing or renewing a license, the
30 Department shall require each applicant or licensee to file and
31 maintain in force a surety bond in the amount specified in
32 paragraph (4) of subsection (b) of Section 20, issued by an
33 insurance company authorized to transact fidelity and surety

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

12 Section 35. Expiration of license.

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

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

21 Section 40. Public records.

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

25 (2) If a licensee changes his or her name style, address,
26 or employment from that which appears on his or her current
27 license, he or she shall notify the Department of the change
28 within 30 days after it occurs.

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

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

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

9 (b) conviction of any crime under the laws of any U.S.
10 jurisdiction which is a felony or which is a misdemeanor,
11 an essential element of which is dishonesty, or of any
12 crime which directly relates to the practice of the
13 profession;

14 (c) making any misrepresentation for the purpose of
15 obtaining a license;

16 (d) professional incompetence or gross negligence in
17 the practice of painting, drywall finishing, or glazing
18 contracting;

19 (e) gross malpractice, prima facie evidence of which
20 may be a conviction or judgment of malpractice in any court
21 of competent jurisdiction;

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

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

28 (h) engaging in dishonorable, unethical, or
29 unprofessional conduct of a character likely to deceive,
30 defraud, or harm the public;

31 (i) habitual or excessive use or addiction to alcohol,
32 narcotics, stimulants, or any other chemical agent or drug
33 that results in the inability to practice with reasonable
34 judgment, skill, or safety;

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

5 (k) directly or indirectly giving to or receiving from
6 any person, firm, corporation, partnership, or association
7 any fee, commission, rebate, or other form of compensation
8 for any professional services not actually or personally
9 rendered;

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

13 (m) conviction by any court of competent jurisdiction,
14 either within or without this State, of any violation of
15 any law governing the practice of painting, drywall
16 finishing, or glazing contracting, if the Department
17 determines, after investigation, that such person has not
18 been sufficiently rehabilitated to warrant the public
19 trust;

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

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

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

28 (q) failure to file a return, or to pay the tax,
29 penalty or interest shown in a filed return, or to pay any
30 final assessment of tax, penalty or interest, as required
31 by any tax Act administered by the Illinois Department of
32 Revenue, until such time as the requirements of any such
33 tax Act are satisfied;

34 (r) failure to continue to meet the requirements of

1 this Act shall be deemed a violation;

2 (s) physical or mental disability, including
3 deterioration through the aging process or loss of
4 abilities and skills that result in an inability to
5 practice the profession with reasonable judgment, skill,
6 or safety;

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

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

19 (v) advertising in any manner that is false,
20 misleading, or deceptive; or

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

26 The Department shall deny any license or renewal under this
27 Act to any person who has defaulted on an educational loan
28 guaranteed by the Illinois Student Assistance Commission;
29 however, the Department may issue a license or renewal if the
30 person in default has established a satisfactory repayment
31 record as determined by the Illinois Student Assistance
32 Commission.

33 Section 50. Stenographer; record of proceedings. The

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

17 Section 55. Attendance of witnesses; production of
18 documents; contempt. Any circuit court may, upon application of
19 the Department or its designee or of the applicant or licensee
20 against whom proceedings are pending, enter an order requiring
21 the attendance of witnesses and their testimony, and the
22 production of documents, papers, files, books and records in
23 connection with any hearing or investigation. The court may
24 compel obedience to its order by proceedings for contempt.

25 Section 60. Subpoenas; oaths. The Department has the power
26 to subpoena and bring before it any person in this State and to
27 take testimony either orally or by deposition or both, or to
28 subpoena documents, exhibits, or other materials with the same
29 fees and mileage and in the same manner as prescribed by law in
30 judicial proceedings in civil cases in circuit courts of this
31 State.

32 The Director and any member of the Board have power to

1 administer oaths to witnesses at any hearing that the
2 Department or Board is authorized by law to conduct. Further,
3 the Director has power to administer any other oaths required
4 or authorized to be administered by the Department under this
5 Act.

6 Section 65. Findings of facts, conclusions of law, and
7 recommendations; order. Within 60 days of the Department's
8 receipt of the transcript of any hearing that is conducted
9 pursuant to this Act or the rules for its enforcement or any
10 other statute or rule requiring a hearing under this Act or the
11 rules for its enforcement, or for any hearing related to
12 restoration of any license issued pursuant to this Act, the
13 hearing officer shall submit his or her written findings and
14 recommendations to the Board. The Board shall review the report
15 of the hearing officer and shall present its findings of fact,
16 conclusions of law, and recommendations to the Director by the
17 date of the Board's second meeting following the Board's
18 receipt of the hearing officer's report.

19 A copy of the findings of fact, conclusions of law, and
20 recommendations to the Director shall be served upon the
21 accused person, either personally or by registered or certified
22 mail. Within 20 days after service, the accused person may
23 present to the Department a written motion for a rehearing,
24 which shall state the particular grounds therefor. If the
25 accused person orders and pays for a transcript pursuant to
26 Section 50, the time elapsing thereafter and before the
27 transcript is ready for delivery to him or her shall not be
28 counted as part of the 20 days.

29 The Director shall issue an order based on the findings of
30 fact, conclusions of law, and recommendations to the Director.
31 If the Director disagrees in any regard with the findings of
32 fact, conclusions of law, and recommendations to the Director,
33 he may issue an order in contravention of the findings of fact,

1 conclusions of law, and recommendations to the Director.

2 If the Director issues an order in contravention of the
3 findings of fact, conclusions of law, and recommendations to
4 the Director, the Director shall notify the Board in writing
5 with an explanation for any deviation from the Board's findings
6 of fact, conclusions of law, and recommendations to the
7 Director within 30 days of the Director's entry of the order.

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

18 Section 75. Review under Administrative Review Law. All
19 final administrative decisions of the Department are subject to
20 judicial review pursuant to the Administrative Review Law and
21 its rules. The term "administrative decision" is defined as in
22 Section 3-101 of the Code of Civil Procedure.

23 Section 80. Violations. A violation of this Act is
24 punishable by a \$1,000 fine for a first offense and a \$2,500
25 fine for a second offense. A third or subsequent violation of
26 this Act is a Class A misdemeanor.

27 Section 85. Administrative Procedure Act. The Illinois
28 Administrative Procedure Act is hereby expressly adopted and
29 incorporated herein as if all of the provisions of that Act
30 were included in this Act, except that the provision of

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

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

17 Section 95. Returned checks; fines. Any person who
18 delivers a check or other payment to the Department that is
19 returned to the Department unpaid by the financial institution
20 upon which it is drawn shall pay to the Department, in addition
21 to the amount already owed to the Department, a fine of \$50.
22 The fines imposed by this Section are in addition to any other
23 discipline provided under this Act for unlicensed practice or
24 practice on a nonrenewed license. The Department shall notify
25 the person that payment of fees and fines shall be paid to the
26 Department by certified check or money order within 30 calendar
27 days of the notification. If, after the expiration of 30 days
28 from the date of the notification, the person has failed to
29 submit the necessary remittance, the Department shall
30 automatically terminate the license or deny the application,
31 without hearing. If, after termination or denial, the person
32 seeks a license, he or she shall apply to the Department for

1 restoration or issuance of the license and pay all the
2 application fees as set by rule. The Department may establish a
3 fee for the processing of an application for restoration of a
4 license to pay all expenses of processing this application. The
5 Director may waive the fines due under this Section in
6 individual cases where the Director finds that the fines would
7 be unreasonable or unnecessarily burdensome.

8 Section 100. Hearing officers. The Director has the
9 authority to appoint any attorney duly licensed to practice law
10 in the State of Illinois to serve as the hearing officer for
11 any action for refusal to issue or renew a license, for
12 discipline of a licensee for sanctions for unlicensed practice,
13 for restoration of a license, or for any other action for which
14 findings of fact, conclusions of law, and recommendations are
15 required pursuant to Section 65 of this Act. The hearing
16 officer shall have full authority to conduct the hearing and
17 shall issue his or her findings of fact and recommendations to
18 the Board pursuant to Section 65 of this Act.

19 Section 105. Investigation; notice; default. The
20 Department may investigate the actions of any applicant or any
21 person or persons holding or claiming to hold a license. The
22 Department shall, before suspending, revoking, placing on
23 probationary status, or taking any other disciplinary action as
24 the Department may deem proper with regard to any license, at
25 least 30 days prior to the date set for the hearing, notify the
26 accused in writing of any charges made and the time and place
27 for a hearing on the charges before the hearing officer, direct
28 him or her to file his written answer with the hearing officer
29 under oath within 30 days after the service on him or her of
30 such notice, and inform him or her that if he or she fails to
31 file such answer default will be taken against him or her and
32 his or her license may be suspended, revoked, placed on

1 probationary status, or other disciplinary action, including
2 limiting the scope, nature or extent of his or her practice, as
3 the Department may deem proper, taken. This written notice may
4 be served by personal delivery or certified or registered mail
5 to the Department. In case the person fails to file an answer
6 after receiving notice, his or her license may, in the
7 discretion of the Department, be suspended, revoked, or placed
8 on probationary status, or the Department may take whatever
9 disciplinary action deemed proper, including limiting the
10 scope, nature, or extent of the person's practice or the
11 imposition of a fine, without a hearing, if the act or acts
12 charged constitute sufficient grounds for such action under
13 this Act. At the time and place fixed in the notice, the
14 Department shall proceed to hear the charges and the parties or
15 their counsel shall be accorded ample opportunity to present
16 such statements, testimony, evidence and argument as may be
17 pertinent to the charges or to their defense. The Department
18 may continue such hearing from time to time. At the discretion
19 of the Director after having first received the recommendation
20 of the hearing officer, the accused person's license may be
21 suspended, revoked, placed on probationary status, or other
22 disciplinary action may be taken as the Director may deem
23 proper, including limiting the scope, nature, or extent of said
24 person's practice without a hearing, if the act or acts charged
25 constitute sufficient grounds for such action under this Act.

26 Section 110. Enforcement; petition to court.

27 (a) If any person violates the provisions of this Act, the
28 Director through the Attorney General of Illinois, or the
29 State's Attorney of any county in which a violation is alleged
30 to exist, may in the name of the People of the State of
31 Illinois petition for an order enjoining such violation or for
32 an order enforcing compliance with this Act. Upon the filing of
33 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
27 work, but who in the normal course of work engages in
28 incidental drywall repair, related drywall taping, spot
29 painting, and minor glazing repair work.

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

33 Section 115. Unlicensed practice; violation; civil

1 penalty.

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

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

14 (c) The civil penalty shall be paid within 60 days after
15 the effective date of the order imposing the civil penalty. The
16 order shall constitute a judgment and may be filed and
17 execution had thereon in the same manner as any judgment from
18 any court of record.

19 Section 120. Deposit of fees. All fees and fines collected
20 under this Act shall be deposited into the General Professions
21 Dedicated Fund and shall be appropriated to the Department for
22 the purpose of administering and enforcing this Act.

23 Section 125. The Painting, Drywall Finishing, and Glazing
24 Contractor Licensing Board. The Painting, Drywall Finishing,
25 and Glazing Contractor Licensing Board is created and shall
26 consist of 7 persons, one of whom is a knowledgeable public
27 member and 6 of whom have been issued licenses as painting,
28 drywall finishing, and glazing contractors by the Department
29 (for initial appointments, these 6 members must meet the
30 requirements for licensure under this Act). One of the 6
31 licensed contractors on the Board shall represent a statewide
32 association representing painters. The public member shall not

1 be licensed under this Act or any other Act the Department
2 administers. Each member shall be appointed by the Director.
3 Members shall be appointed who reasonably represent the
4 different geographic areas of the State.

5 Members of the Painting, Drywall Finishing, and Glazing
6 Contractor Licensing Board shall be immune from suit in any
7 action based upon any disciplinary proceedings or other acts
8 performed in good faith as members of the Board, unless the
9 conduct that gave rise to the suit was willful and wanton
10 misconduct.

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

17 Within 90 days of a vacancy occurring, the Director shall
18 fill the vacancy for the unexpired portion of the term with an
19 appointee who meets the same qualifications as the person whose
20 position has become vacant. The Board shall meet annually to
21 elect one member as chairman and one member as vice-chairman.
22 No officer shall be elected more than twice in succession to
23 the same office. The members of the Board shall receive
24 reimbursement for actual, necessary, and authorized expenses
25 incurred in attending the meetings of the Board.

26 Section 999. Effective date. This Act takes effect upon
27 becoming law."