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SENATE BILL NO. 1267

Offered January 14, 2013

A *BILL to amend the Code of Virginia by adding in Chapter 11 of Title 54.1 an article numbered 6, consisting of sections numbered 54.1-1147 through 54.1-1156, relating to the Board for Contractors; licensure of tree care service providers; penalties.*

Patron—Ruff (By Request)

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 11 of Title 54.1 an article numbered 6, consisting of sections numbered 54.1-1147 through 54.1-1156, as follows:

*Article 6.**Tree Care Service Providers.***§ 54.1-1147. Definitions.**

As used in this article, unless the context requires a different meaning:

"Licensed tree care service provider" means an individual licensed to provide tree care services in the Commonwealth pursuant to this article.

"Tree care service provider" means a person engaged in the business of performing tree care services.

"Tree care services" means tree pruning, tree repairing, brush cutting or removal, tree removal, and stump grinding or removal.

§ 54.1-1148. Necessity for licensure.

Beginning January 1, 2014, no individual shall engage in, or offer to engage in, the business of performing tree care services unless he has been licensed under the provisions of this article. An individual shall not be subject to licensure as a tree care service provider when working under the supervision of a licensed tree care service provider.

§ 54.1-1149. Application for licensure; fees; examinations; issuance.

A. Any individual desiring to be licensed as a tree care service provider shall file a written application on a form prescribed by the Board. The application shall be accompanied by a fee set by the Board pursuant to § 54.1-201 and proof of insurance as required by § 54.1-1155. The application shall contain, at a minimum, the applicant's name, place of employment, and business address; information on the knowledge, skills, abilities, and education or training of the applicant; and an affidavit stating that the information on the application is correct.

B. If the application is satisfactory to the Board, the applicant shall be required by Board regulations to take an oral or written examination to determine his general knowledge of the trade. If the applicant successfully completes the examination, a license as a tree care service provider shall be issued.

§ 54.1-1150. Expiration and renewal of license.

A license as a tree care service provider issued pursuant to this article shall expire as provided in Board regulations and shall become invalid on that date unless renewed, subject to approval of the Board. Application for renewal of any license issued pursuant to this article shall be made as provided by Board regulations and shall be accompanied by a fee set by the Board pursuant to § 54.1-201 and proof of insurance as required by § 54.1-1155.

§ 54.1-1151. Continuing education.

The Board may establish in the regulations requirements for continuing education as a prerequisite to renewal of any license issued under this article. In addition, the Board may require continuing education for any individual who is found to be in violation of the statutes or regulations governing the practice of tree care service providers.

§ 54.1-1152. Grounds for denial or revocation of license; reports of building officials.

A. The Board shall have the power to require remedial education and to suspend, revoke, or deny renewal of the license of any individual who is found to be in violation of the statutes or regulations governing the practice of providing tree care services in the Commonwealth.

B. Any building official who finds that an individual is practicing as a tree care service provider without a license as required by this article shall file a report to such effect with the Board.

§ 54.1-1153. Prohibited acts.

A. Engaging or attempting to engage in the business of performing tree care services except as provided for in this article is prohibited and shall constitute the commission of a Class 1 misdemeanor.

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SB1267

59 B. No person shall be entitled to assert the lack of licensure as required by this article as a defense
60 to any action at law or suit in equity if the party who seeks to recover from such person gives
61 substantial performance within the terms of the contract in good faith and without actual knowledge of
62 the licensure requirements of this article.

63 C. Any person who engages in the business of performing tree care services on or after January 1,
64 2014, without having in effect a policy of liability insurance that complies with the requirements of §
65 54.1-1155 is guilty of a Class 1 misdemeanor, provided that the minimum fine assessed therefor shall
66 not be less than \$1,000.

67 **§ 54.1-1154. Obligation of public utilities.**

68 A public utility shall not be obligated to lower or otherwise move the location of any above-ground
69 line or cable used in connection with electrical energy or telecommunications services at the request of
70 any person in connection with the performance of tree care services until the person seeking to perform
71 the tree care services provides the utility with evidence that such person is a licensed tree care service
72 provider.

73 **§ 54.1-1155. Liability insurance required.**

74 A. The Board shall not issue a license until the applicant has furnished evidence of financial
75 responsibility, consisting of a liability insurance policy from an insurance carrier authorized to do
76 business in the Commonwealth that protects persons who suffer legal damages as a result of the
77 performance of tree care services. The Board by regulation may establish and prescribe the conditions
78 for financial responsibility.

79 B. The amount of financial responsibility shall be established by the Board at a minimum of
80 \$100,000 for property damage, \$100,000 for personal injury to or death of one person, and \$300,000
81 per occurrence. The Board may accept a liability insurance policy containing a deductible clause in an
82 amount considered usual and customary in the industry, with the provision that the insurer shall pay all
83 claims in full and that the amount of the deductible shall be recoverable only from the insured. The
84 Board may adopt regulations governing the provision of additional evidence of financial responsibility
85 based upon annual gross revenue of the applicant's or his employer's business and an assessment of the
86 risks of the applicant's or his employer's business to persons, property, and the environment. Such
87 financial responsibility shall be maintained at not less than such amount at all times during the licensed
88 period. The applicant shall notify the Board 10 days prior to any reduction at the request of the
89 applicant or upon cancellation of the liability insurance policy by the insurer.

90 **§ 54.1-1156. Required term of agreement.**

91 No person shall perform tree care services pursuant to an agreement with a customer unless he has
92 provided the customer with a statement, signed by a licensed tree care service provider, affirming that
93 (i) the tree care services shall be conducted by a licensed tree care service provider who has in effect a
94 policy of liability insurance that complies with the requirements of § 54.1-1155 and that will cover any
95 damage to the property of the customer that occurs in the course of the performance of the tree care
96 services and (ii) the customer's property insurer shall have no liability for damages to the property of
97 the customer and for injuries to the persons performing the tree care services.