

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 2727 Session of  
2006

INTRODUCED BY GANNON, DeLUCA, CALTAGIRONE, W. KELLER, BELFANTI,  
WALKO, GODSHALL, KILLION, CRAHALLA, RAYMOND, SIPTROTH, BEYER  
AND PALLONE, JUNE 7, 2006

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF  
REPRESENTATIVES, AS AMENDED, OCTOBER 4, 2006

## AN ACT

1 Providing for ~~professional~~ painters licensure; establishing the <—  
2 State Board of ~~Professional~~ LICENSED Painters; providing for <—  
3 powers and duties of the board; establishing fees, fines and  
4 civil penalties; and making an appropriation.

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15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

17 Section 1. Short title.

18 This act shall be known and may be cited as the Professional  
19 Painters Licensure Act. <—

20 Section 2. Definitions.

21 The following words and phrases when used in this act shall  
22 have the meanings given to them in this section unless the  
23 context clearly indicates otherwise:

24 ~~"Apprentice painter." An individual who is registered as an~~ <—  
25 ~~apprentice under the act of July 14, 1961 (P.L.604, No.304),~~  
26 ~~known as The Apprenticeship and Training Act, and who is~~  
27 ~~licensed by the State Board of Professional Painters as an~~  
28 ~~individual whose principle occupation is learning and assisting~~  
29 ~~in the performance of painting services.~~

30 "Board." The State Board of Professional LICENSED Painters. <—

"COMMERCIAL PROPERTY." ANY OF THE FOLLOWING:

(1) A BUILDING, STRUCTURE OR FACILITY, OR PORTION THEREOF, WHICH IS USED, OCCUPIED OR INTENDED, ARRANGED OR DESIGNED TO BE USED FOR THE PURPOSE OF OPERATING A BUSINESS, OFFICE, MANUFACTORY OR PUBLIC ACCOMMODATION.

(2) FIVE OR MORE RESIDENTIAL DWELLING UNITS.

"Commissioner." The Commissioner of the Bureau of Professional and Occupational Affairs within the Department of State.

"Conviction." The term includes a judgment, an admission of guilt or a plea of nolo contendere.

"Department." The Department of State of the Commonwealth.

~~"Journeyman painter." An individual who is licensed by the State Board of Professional Painters to assist a professional painter with the performance of painting services.~~

~~"Painting services." The application of paints, varnishes, protective coatings, shellacs, stains and other pigments or wall coverings, by brush, spray or roller where the application is provided for remuneration. The term does not include the application of paints, varnishes, protective coatings, shellacs, stains and other pigments or wall coverings, by brush, spray or roller where the application is not performed for remuneration. The term also does not include artwork created by a commercial or fine artist.~~

~~"Professional painter" or "professional painting contractor." An individual who is licensed by the State Board of Professional Painters and is authorized to perform painting services.~~

"LICENSED APPRENTICE PAINTER." AN INDIVIDUAL WHO IS REGISTERED AS AN APPRENTICE UNDER THE ACT OF JULY 14, 1961 (P.L.604, NO.304), KNOWN AS THE APPRENTICESHIP AND TRAINING ACT,

1 AND WHO IS LICENSED BY THE STATE BOARD OF LICENSED PAINTERS AS  
2 AN INDIVIDUAL WHOSE PRINCIPAL OCCUPATION IS LEARNING AND  
3 ASSISTING IN THE PERFORMANCE OF PAINTING SERVICES.

4 "LICENSED JOURNEYMAN PAINTER." AN INDIVIDUAL WHO IS LICENSED  
5 BY THE STATE BOARD OF LICENSED PAINTERS AND WHO IS AUTHORIZED TO  
6 PERFORM PAINTING SERVICES.

7 "PAINTING SERVICES." THE APPLICATION OF PAINTS, VARNISHES,  
8 PROTECTIVE COATINGS, SHELLACS, STAINS AND OTHER PIGMENTS OR WALL  
9 COVERINGS, BY BRUSH, SPRAY OR ROLLER WHERE THE APPLICATION IS ON  
10 COMMERCIAL PROPERTY. THE TERM DOES NOT INCLUDE THE APPLICATION  
11 OF PAINTS, VARNISHES, PROTECTIVE COATINGS, SHELLACS, STAINS AND  
12 PIGMENTS OR WALL COVERINGS, BY BRUSH, SPRAY OR ROLLER WHERE THE  
13 APPLICATION IS ON RESIDENTIAL PROPERTY. THE TERM ALSO DOES NOT  
14 INCLUDE ARTWORK CREATED BY A COMMERCIAL OR FINE ARTIST, STENCILS  
15 OR OTHER ARTWORK USED TO DECORATE THE INTERIOR OF COMMERCIAL OR  
16 RESIDENTIAL PROPERTY.

17 "RESIDENTIAL DWELLING UNIT." INCLUDES A DWELLING HOUSE, AN  
18 APARTMENT, A TOWNHOUSE OR ANY OTHER TYPE OF STRUCTURE WHICH IS  
19 INTENDED FOR RESIDENTIAL USE. THE TERM SHALL ALSO INCLUDE A BARN  
20 OR OTHER STRUCTURE ON A FARM.

21 "RESIDENTIAL PROPERTY." FEWER THAN FIVE RESIDENTIAL DWELLING  
22 UNITS.

23 Section 3. State Board of ~~Professional~~ LICENSED Painters. <—

24 (a) Establishment.--There is hereby established the State  
25 Board of ~~Professional~~ LICENSED Painters within the department. <—

26 (b) Composition.--The board shall consist of the following:

27 (1) The commissioner.

28 (2) Two public members.

29 (3) Six professional members. The professional members  
30 shall have been actively engaged in providing painting

1 services in this Commonwealth for the ten years immediately  
2 preceding appointment. Two professional members shall reside  
3 in a county of the first class. One professional member shall  
4 reside in a county of the second class. Three professional  
5 members shall be subject to collective bargaining agreements.  
6 Three professional members shall not be subject to collective  
7 bargaining agreements. Except as set forth in subsection (f),  
8 professional members shall be licensed under this act as  
9 ~~professional~~ LICENSED JOURNEYMAN painters. <—

10 (c) Meeting.--The board shall meet within 30 days after the  
11 appointment of its first members and shall set up operating  
12 procedures and develop application forms for licensure. It shall  
13 be the responsibility of the board to circulate the forms and  
14 educate the public regarding the requirements of this act and  
15 providing painting services in this Commonwealth.

16 (d) Term of membership.--Professional and public members  
17 shall be appointed by the Governor with the advice and consent  
18 of the Senate. Professional and public members shall be citizens  
19 of the United States and residents of this Commonwealth. Except  
20 as provided in subsection (e), a professional or public member  
21 shall serve a term of four years, or until a successor has been  
22 appointed and qualified but in no event longer than six months  
23 beyond the four-year period. In the event that a member dies or  
24 resigns or otherwise is disqualified during the member's term of  
25 office, a successor shall be appointed in the same way and with  
26 the same qualifications and shall hold office for the remainder  
27 of the unexpired term. A professional or public member shall not  
28 be eligible to hold more than two consecutive terms.

29 (e) Initial appointments.--For professional and public  
30 members initially appointed to the board pursuant to this act,

1 the term of office shall be as follows:

2 (1) Five members shall serve for a term of four years.

3 (2) Two members shall serve for a term of three years.

4 (3) One member shall serve for a term of two years.

5 (f) Professional members and initial appointments.--A  
6 professional member initially appointed to the board pursuant to  
7 this act need not be licensed at the time of appointment but  
8 must have satisfied eligibility requirements for licensure as  
9 provided in this act.

10 (g) Quorum.--A majority of the members of the board shall  
11 constitute a quorum. Except for temporary and automatic  
12 suspensions under section 15, a member may not be counted as  
13 part of a quorum or vote on any issue unless the member is  
14 physically in attendance at the meeting.

15 (h) Chairman.--The board shall annually select a chairman  
16 from among its members. ~~The board, with the approval of the~~ <—  
17 ~~commissioner, shall select and fix the compensation of an~~  
18 ~~executive secretary who shall be responsible for the day to day~~  
19 ~~operation of the board and administration of the board's~~  
20 ~~activities.~~

21 (i) Expenses.--With the exception of the commissioner, each  
22 member of the board shall receive \$60 per diem when actually  
23 attending to the work of the board. A member shall also receive  
24 the amount of reasonable travel, hotel and other necessary  
25 expenses incurred in the performance of the member's duties in  
26 accordance with Commonwealth regulations.

27 (j) Forfeiture.--A professional or public member who fails  
28 to attend three consecutive meetings shall forfeit his seat  
29 unless the commissioner, upon written request from the member,  
30 finds the member should be excused from a meeting because of

1 illness or the death of a family member.

2 (k) Training seminars.--A public member who fails to attend  
3 two consecutive statutorily mandated training seminars in  
4 accordance with section 813(e) of the act of April 9, 1929  
5 (P.L.177, No.175), known as The Administrative Code of 1929,  
6 shall forfeit his seat unless the commissioner, upon written  
7 request from the public member, finds that the public member  
8 should be excused from a meeting because of illness or the death  
9 of a family member.

10 (l) Frequency of meetings.--The board shall meet at least  
11 four times a year in the City of Harrisburg and at such  
12 additional times as may be necessary to conduct the business of  
13 the board.

14 Section 4. Powers and duties of board.

15 (a) General rule.--The board shall have the following powers  
16 and duties:

17 (1) To provide for and regulate the licensing of  
18 individuals engaged in providing painting services.

19 (2) To issue, renew, reinstate, fail to renew, suspend  
20 and revoke licenses as provided for in this act.

21 (3) To administer and enforce the provisions of this  
22 act.

23 (4) To contract with a professional testing organization  
24 to administer tests to qualified applicants for licensure as  
25 provided in this act. Written, oral or practical examinations  
26 shall be prepared and administered by a qualified and  
27 approved professional testing organization in the manner  
28 prescribed for written examinations by section 812.1 of the  
29 act of April 9, 1929 (P.L.177, No.175), known as The  
30 Administrative Code of 1929.

1           (5) To investigate applications for licensure and to  
2 determine the eligibility of an individual applying for  
3 licensure.

4           (6) To promulgate and enforce regulations, not  
5 inconsistent with this act, as necessary only to carry out  
6 the provisions of this act. This paragraph includes the  
7 setting of fees and setting the amount of professional  
8 liability insurance required by ~~professional painters~~           <—  
9 LICENSED JOURNEYMAN PAINTERS AS SET FORTH IN THIS ACT.           <—

10 Regulations shall be adopted in conformity with the  
11 provisions of the act of July 31, 1968 (P.L.769, No.240),  
12 referred to as the Commonwealth Documents Law, and the act of  
13 June 25, 1982 (P.L.633, No.181), known as the Regulatory  
14 Review Act.

15           (7) To keep minutes and records of all transactions and  
16 proceedings.

17           (8) To keep and maintain a registry of individuals  
18 licensed by the board. The board shall provide access to the  
19 registry to the public, including making the registry  
20 available via electronic means.

21           (9) To submit annually to the department an estimate of  
22 financial requirements of the board for its administrative,  
23 legal and other expenses.

24           (10) To submit annually a report to the Consumer  
25 Protection and Professional Licensure Committee of the Senate  
26 and the Professional Licensure Committee of the House of  
27 Representatives. The report shall include a description of  
28 the types of complaints received, status of cases, the action  
29 which has been taken and the length of time from initial  
30 complaint to final resolution.



(11) To submit annually to the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives, 15 days after the Governor has submitted a budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the department.

Section 5. Licensure.

(a) General rule.--Except as provided in ~~subsection (d),~~ SUBSECTIONS (D) AND (F), an individual may not provide painting services, offer himself for employment as an individual who may provide painting services or hold himself out as an individual authorized to perform painting services unless licensed AS A LICENSED JOURNEYMAN PAINTER by the board.

(b) Business entities.--An individual, corporation, partnership, firm or other entity shall not:

(1) Employ an individual to provide painting services or direct an individual to provide painting services unless the individual is licensed under this act OR THE INDIVIDUAL IS EXEMPT FROM LICENSURE PURSUANT TO SUBSECTION (F).

~~(2) Use the term "professional painter" or "professional painting contractor" in connection with the entity unless at least one employee or the owner of the entity is licensed as a professional painter in accordance with this act.~~

~~(c) Title. An individual who holds a license as a professional painter or is maintained on inactive status pursuant to section 9(b) shall have the right to use the title "licensed professional painter" or "professional painting contractor" and the abbreviation "L.P.P." or "P.P.C." No other individual shall use the title "licensed professional painter" or "professional painting contractor" or the abbreviation~~

~~"L.P.P." or "P.P.C." Except as provided in subsection (d), no individual shall hold himself out as being authorized to provide painting services.~~

~~(d) Exception. A journeyman painter or an apprentice painter may hold himself out as being authorized to perform painting services if the journeyman painter or apprentice painter works under the direction and supervision of a professional painter.~~

~~(e) Responsibility. A professional painter shall assume full responsibility for the inspection of painting services. In addition, a professional painter shall direct and supervise painting services performed by a journeyman painter or an apprentice painter.~~

#### ~~Section 6. Qualifications.~~

~~(a) Professional painter. To be eligible to apply for licensure as a professional painter, an applicant must fulfill the following requirements:~~

~~(1) Be of good moral character.~~

~~(2) Be at least 18 years of age.~~

~~(3) Pay the fee set by the board.~~

~~(4) Pass the examination provided by the board.~~

~~(5) Provide satisfactory proof to the board of the acquisition of professional liability insurance in the amount set by the board.~~

~~(b) Journeyman painter. To be eligible for licensure as a~~

(2) USE THE TERM "LICENSED JOURNEYMAN PAINTER" IN CONNECTION WITH THE ENTITY UNLESS AT LEAST ONE EMPLOYEE OR THE OWNER OF THE ENTITY HOLDS A LICENSE AS A LICENSED JOURNEYMAN PAINTER IN ACCORDANCE WITH THIS ACT.

(C) TITLE PROTECTION FOR LICENSED JOURNEYMAN PAINTERS.--AN

1 INDIVIDUAL WHO HOLDS A LICENSE AS A LICENSED JOURNEYMAN PAINTER  
2 OR IS MAINTAINED ON INACTIVE STATUS PURSUANT TO SECTION 9(B)  
3 SHALL HAVE THE RIGHT TO USE THE TITLE "LICENSED JOURNEYMAN  
4 PAINTER" AND THE ABBREVIATION "L.J.P." NO OTHER INDIVIDUAL SHALL  
5 USE THE TITLE "LICENSED JOURNEYMAN PAINTER" OR THE ABBREVIATION  
6 "L.J.P."

7 (D) LICENSED APPRENTICE PAINTER.--A LICENSED APPRENTICE  
8 PAINTER MAY HOLD HIMSELF OUT AS BEING AUTHORIZED TO PERFORM  
9 PAINTING SERVICES AND MAY PROVIDE SERVICES IF THE LICENSED  
10 APPRENTICE PAINTER WORKS UNDER THE DIRECTION AND SUPERVISION OF  
11 A LICENSED JOURNEYMAN PAINTER.

12 (E) TITLE PROTECTION FOR LICENSED APPRENTICE PAINTERS.--AN  
13 INDIVIDUAL WHO HOLDS A LICENSE AS A LICENSED APPRENTICE PAINTER  
14 OR IS MAINTAINED ON INACTIVE STATUS PURSUANT TO SECTION 9(B)  
15 SHALL HAVE THE RIGHT TO USE THE TITLE "LICENSED APPRENTICE  
16 PAINTER" AND THE ABBREVIATION "L.A.P." NO OTHER INDIVIDUAL SHALL  
17 USE THE TITLE "LICENSED APPRENTICE PAINTER" OR THE ABBREVIATION  
18 "L.A.P."

19 (F) EXCEPTIONS.--THE FOLLOWING ARE NOT REQUIRED TO BE  
20 LICENSED UNDER THIS ACT:

21 (1) AN INDIVIDUAL WHO IS EMPLOYED TO PROVIDE PAINTING  
22 SERVICES BUT WHO WORKS FEWER THAN 120 DAYS PROVIDING PAINTING  
23 SERVICES IN A CALENDAR YEAR.

24 (2) AN INDIVIDUAL WHO IS ENROLLED AT A COLLEGE OR  
25 UNIVERSITY AND WHO IS EMPLOYED PART TIME TO PROVIDE PAINTING  
26 SERVICES. FOR PURPOSES OF THIS PARAGRAPH, "PART TIME" SHALL  
27 MEAN THE INDIVIDUAL WORKS 20 OR FEWER HOURS IN A CALENDAR  
28 WEEK.

29 (3) AN INDIVIDUAL WHO APPLIES PAINTS, VARNISHES,  
30 PROTECTIVE COATINGS, SHELLACS, STAINS AND OTHER PIGMENTS OR

1 WALL COVERINGS BY BRUSH, SPRAY OR ROLLER ON FOUR OR FEWER  
2 RESIDENTIAL DWELLING UNITS IN A CALENDAR YEAR.

3 (4) AN INDIVIDUAL WHO VOLUNTEERS TO PROVIDE PAINTING  
4 SERVICES FOR A NONPROFIT ORGANIZATION WHICH IS RECOGNIZED BY  
5 THE INTERNAL REVENUE SERVICE PURSUANT TO SECTION 501(C)(3) OF  
6 THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26  
7 U.S.C. § 501(E)(3)).

8 (5) AN INDIVIDUAL WHO APPLIES PAINTS, VARNISHES,  
9 PROTECTIVE COATINGS, SHELLACS, STAINS AND OTHER PIGMENTS OR  
10 WALL COVERINGS, BY BRUSH, SPRAY OR ROLLER ON BUILDINGS,  
11 STRUCTURES OR FACILITIES OWNED OR OPERATED BY THE FEDERAL  
12 GOVERNMENT.

13 SECTION 6. QUALIFICATIONS.

14 (A) LIMITED JOURNEYMAN PAINTER.--TO BE ELIGIBLE FOR  
15 LICENSURE AS A LICENSED journeyman painter, an applicant must  
16 fulfill the following requirements:

17 (1) Be of good moral character.

18 (2) Be at least 18 years of age.

19 ~~(3) Submit satisfactory proof to the board that the~~ <—  
20 ~~applicant has provided painting services for not less than~~  
21 ~~three years as an apprentice painter or has served not less~~  
22 ~~than 6,000 hours as an apprentice painter. In no case shall~~  
23 ~~an individual be allowed to sit for the examination without~~  
24 ~~meeting one of the requirements of this paragraph.~~

25 (3) SUBMIT SATISFACTORY PROOF TO THE BOARD THAT THE <—  
26 APPLICANT HAS DONE ONE OF THE FOLLOWING:

27 (I) SERVED FOR THREE YEARS OR HAS OBTAINED 6,000  
28 HOURS AS A LICENSED APPRENTICE PAINTER.

29 (II) ACQUIRED EXPERIENCE EQUIVALENT TO THAT SET  
30 FORTH IN SUBPARAGRAPH (I), AS DETERMINED BY REGULATION OF

1 THE BOARD.

2 (4) Pay the fee set by the board.

3 ~~(5) Pass the examination provided by the board.~~ <—

4 ~~(c) Apprentice painter. To be eligible for licensure as an~~

5 (5) PASS THE LICENSURE EXAMINATION. <—

6 (6) IN THE CASE OF A LICENSED JOURNEYMAN PAINTER WHO

7 CONTRACTS OR INTENDS TO CONTRACT WITH A PERSON TO PERFORM

8 PAINTING SERVICES, SUBMIT PROOF SATISFACTORY TO THE BOARD OF

9 THE ACQUISITION OF PROFESSIONAL LIABILITY INSURANCE IN AN

10 AMOUNT SET BY THE BOARD.

11 (C) LICENSED APPRENTICE PAINTER.--TO BE ELIGIBLE FOR

12 LICENSURE AS A LICENSED apprentice painter, an applicant must

13 fulfill the following requirements:

14 (1) Be of good moral character.

15 (2) Be at least 16 years of age.

16 (3) Register with the Department of Labor and Industry

17 as set forth in the act of July 14, 1961 (P.L.604, No.304),

18 known as The Apprenticeship and Training Act. The apprentice <—

19 ~~painter~~ APPLICANT shall submit proof of current registration <—

20 to the board.

21 (4) Pay the fee set by the board.

22 (d) Renewal of license of LICENSED apprentice painter.--In <—

23 the case of ~~an~~ A LICENSED apprentice painter applying for <—

24 renewal of a license where registration under subsection (c)(3)

25 has expired or otherwise lapsed before the biennial renewal

26 cycle will expire, the LICENSED apprentice painter shall submit <—

27 evidence satisfactory to the board that the LICENSED apprentice <—

28 painter has renewed registration. Failure to notify the board

29 within 30 days that registration has expired or otherwise lapsed

30 shall subject the LICENSED apprentice painter to disciplinary <—

1 action. In the case of ~~an~~ A LICENSED apprentice painter whose <—  
2 registration has expired or otherwise lapsed, the license shall  
3 immediately be placed on inactive status by the board. The board  
4 shall promulgate regulations in order to carry out the  
5 provisions of this subsection including regulations setting  
6 forth the evidence necessary to demonstrate renewal of  
7 registration.

8 (e) Waiver of examination.--Notwithstanding the provisions  
9 of ~~subsections (a)(4) and (b)(5)~~ SUBSECTION (A)(5), the board <—  
10 may grant a license to an individual applying to become ~~either a~~ <—  
11 ~~professional painter or a~~ A LICENSED journeyman painter without <—  
12 examination if:

13 (1) The individual applies within ~~180 days~~ ONE YEAR of <—  
14 the effective date of ~~this section~~ SECTION 5. <—

15 (2) The individual meets the requirements of age and  
16 character and pays the required fee.

17 (3) For an individual applying for a license as a  
18 ~~professional~~ LICENSED JOURNEYMAN painter under this <—  
19 subsection, the individual submits proof satisfactory to the  
20 board of

21 ~~(i) Five years of prior experience providing~~ <—  
22 ~~painting services within this Commonwealth.~~

23 ~~(ii) Possession of a current business license as a~~  
24 ~~painter from a municipality or other agency recognized by~~  
25 ~~the board.~~

26 ~~(4) For an individual applying for a license as a~~  
27 ~~journeyman painter under this subsection, the individual~~  
28 ~~submits satisfactory proof to the board of four years of~~  
29 ~~prior experience providing painting services under the~~  
30 ~~direction of an individual licensed as a painter by a~~

1 ~~municipality or other entity recognized by the board.~~ FIVE <—  
2 YEARS OF PRIOR EXPERIENCE PROVIDING PAINTING SERVICES WITHIN  
3 THIS COMMONWEALTH.

4 (f) Convictions prohibited.--The board shall not issue a  
5 license to an individual who has been convicted of a felonious  
6 act prohibited by the act of April 14, 1972 (P.L.233, No.64),  
7 known as The Controlled Substance, Drug, Device and Cosmetic  
8 Act, or convicted of a felony relating to a controlled substance  
9 in a court of law of the United States or any other state,  
10 territory or country unless:

11 (1) At least ten years have elapsed from the date of  
12 conviction.

13 (2) The individual satisfactorily demonstrates to the  
14 board that the individual has made significant progress in  
15 personal rehabilitation since the conviction such that  
16 licensure of the individual should not be expected to create  
17 a substantial risk of harm to the health and safety of the  
18 public or a substantial risk of further criminal violations.

19 (3) The individual otherwise satisfies the  
20 qualifications provided in this act. An individual's  
21 statement on the application declaring the absence of a  
22 conviction shall be deemed satisfactory evidence of the  
23 absence of a conviction unless the board has some evidence to  
24 the contrary.

25 Section 7. Continuing education.

26 (a) Regulations.--The board shall adopt, promulgate and  
27 enforce rules and regulations consistent with the provisions of  
28 this act establishing continuing education to be met by  
29 individuals licensed as ~~professional painters and journeyman~~ <—  
30 LICENSED JOURNEYMAN painters. Regulations shall include any fees <—

1 necessary for the board to carry out its responsibilities under  
2 this section. The board may waive all or part of the continuing  
3 education requirement for a ~~professional~~ LICENSED painter or a <—  
4 journeyman painter who shows evidence satisfactory to the board  
5 that the individual was unable to complete the requirement due  
6 to illness, emergency, military service or other hardship. All  
7 courses, materials, locations and instructors shall be approved  
8 by the board. No credit shall be given for a course in office  
9 management or practice building.

10 (b) Requirement.--Beginning with the licensure period  
11 designated by regulation, an individual applying for renewal of  
12 a license as a ~~professional painter or a~~ LICENSED journeyman <—  
13 painter shall be required to obtain six hours of continuing  
14 education during the two calendar years immediately preceding  
15 the application for renewal.

16 SECTION 7.1. LIABILITY INSURANCE. <—

17 AS A CONDITION OF BIENNIAL RENEWAL, A LICENSED JOURNEYMAN  
18 PAINTER SHALL SUBMIT PROOF SATISFACTORY TO THE BOARD OF THE  
19 ACQUISITION AND MAINTENANCE OF PROFESSIONAL LIABILITY INSURANCE  
20 IN THE AMOUNT SET BY THE BOARD. IN THE CASE OF THE INSURANCE  
21 BEING REVOKED, CANCELED OR OTHERWISE LAPSING, THE LICENSED  
22 JOURNEYMAN PAINTER SHALL NOTIFY THE BOARD IN WRITING WITHIN 30  
23 DAYS. IN SUCH A CASE, THE BOARD SHALL IMMEDIATELY PLACE THE  
24 LICENSE OF A LICENSED JOURNEYMAN PAINTER ON INACTIVE STATUS.  
25 FAILURE TO NOTIFY THE BOARD IN WRITING WITHIN 30 DAYS SHALL  
26 SUBJECT THE LICENSED JOURNEYMAN PAINTER TO DISCIPLINARY ACTION.

27 Section 8. ~~Professional painters~~ PAINTERS in other states. <—

28 (a) Reciprocity established.--Subject to subsection (b), the  
29 board may issue a license without examination to an individual  
30 who is licensed as a ~~professional painter or a~~ LICENSED <—



1 journeyman painter in any other state, territory or possession  
2 of the United State if all of the following requirements are  
3 met:

4 (1) The individual meets the requirements as to  
5 character, age and absence of convictions.

6 (2) The individual pays the required fee.

7 (b) Requirement.--For an individual to be eligible to apply  
8 for a license as a ~~professional painter or a~~ LICENSED journeyman <—  
9 painter under subsection (a), the other state, territory or  
10 possession of the United States must provide an opportunity for  
11 reciprocal licensure which is substantially similar to the  
12 opportunity provided by the Commonwealth under this section.

13 Section 9. Duration of license.

14 (a) Duration of license.--A license issued pursuant to this  
15 act shall be on a biennial basis. The biennial expiration date  
16 shall be established by regulation of the board. Application for  
17 renewal of a license shall biennially be forwarded to an  
18 individual holding a current license prior to the expiration  
19 date of the current biennium. For individuals applying for  
20 licensure as ~~an~~ A LICENSED apprentice painter, the application <—  
21 form must indicate whether registration as an apprentice under  
22 the act of July 14, 1961 (P.L.604, No.304), known as The  
23 Apprenticeship and Training Act, has expired or otherwise lapsed  
24 before the biennial renewal cycle will expire.

25 (b) Inactive status.--An individual licensed under this act  
26 may request an application for inactive status. The application  
27 form may be completed and returned to the board. Upon receipt of  
28 an application, the individual shall be maintained on inactive  
29 status without fee and shall be entitled to apply for a  
30 licensure renewal at any time. An individual who requests the

1 board to activate the individual's license and who has been on  
2 inactive status shall, prior to receiving an active license,  
3 satisfy the requirements of the board's regulations regarding  
4 continuing education and remit the required fee. In the case of  
5 ~~an~~ A LICENSED apprentice painter who is placed on inactive <—  
6 status pursuant to section 6(d), the LICENSED apprentice painter <—  
7 shall provide evidence to the board of renewal of registration  
8 before the board may activate his license. The board shall  
9 promulgate regulations to carry out the provisions of this  
10 subsection.

11 Section 10. Reporting of multiple licensure.

12 A licensee who is licensed ~~to perform painting services~~ AS A <—  
13 PAINTER in any other state, territory, possession of the United  
14 States or country shall report this information to the board on  
15 the biennial registration application. Any disciplinary action  
16 taken in another state, territory, possession of the United  
17 States or country shall be reported to the board on the biennial  
18 registration application or within 90 days of final disposition,  
19 whichever is sooner. Multiple licensure shall be noted by the  
20 board on the individual's record, and such state, territory,  
21 possession of the United States or country shall be notified by  
22 the board of any disciplinary action taken against the licensee  
23 in this Commonwealth.

24 Section 11. Fees, fines and civil penalties.

25 (a) Fees.--All fees required under this act shall be fixed  
26 by the board by regulation and shall be subject to the act of  
27 June 25, 1982 (P.L.633, No.181), known as the Regulatory Review  
28 Act. If the revenues raised by the fees, fines and civil  
29 penalties imposed under this act are not sufficient to meet  
30 expenditures over a two-year period, the board shall increase

1 those fees by regulation so that projected revenues will meet or  
2 exceed projected expenditures.

3 (b) Fee increase.--If the Bureau of Professional and  
4 Occupational Affairs determines that the fees established by the  
5 board under subsection(a) are inadequate to meet the minimum  
6 enforcement efforts required by this act, then the Bureau of  
7 Professional and Occupational Affairs, after consultation with  
8 the board and subject to the Regulatory Review Act, shall  
9 increase the fees by regulation in an amount such that adequate  
10 revenues are raised to meet the required enforcement effort.

11 (c) Account.--All fees, fines and civil penalties imposed in  
12 accordance with this act shall be paid into the Professional  
13 Licensure Augmentation Account established pursuant to and for  
14 use in accordance with the act of July 1, 1978 (P.L.700,  
15 No.124), known as the Bureau of Professional and Occupational  
16 Affairs Fee Act.

17 (d) Renewal fee.--The board may charge a fee, as set by the  
18 board by regulation, for licensure, for renewing licensure and  
19 for other services of the board as permitted by this act or by  
20 regulation.

## 21 Section 12. Violations.

22 (a) General rule.--An individual or the responsible officer  
23 or employee of a corporation, partnership, firm or other entity  
24 violating a provision of this act or a regulation of the board  
25 commits a misdemeanor and, upon conviction, shall be sentenced  
26 to pay a fine of not more than \$1,000 or undergo imprisonment  
27 for not more than six months for the first violation. For the  
28 second and each subsequent conviction, the person convicted  
29 shall be sentenced to pay a fine of not more than \$2,000 or  
30 imprisonment of not less than six months or more than one year,

1 or both.

2 (b) Civil penalty.--In addition to any other civil remedy or  
3 criminal penalty provided for in this act, the board by a vote  
4 of the majority of the maximum number of the authorized  
5 membership of the board as provided by law or by a vote of the  
6 majority of the duly qualified and confirmed membership or a  
7 minimum of five members, whichever is greater, may levy a civil  
8 penalty up to \$1,000 for any of the following:

9 (1) A licensee who violates a provision of this act.

10 (2) An individual who performs painting services in  
11 violation of this act.

12 (3) An individual who holds himself out as an individual  
13 authorized to perform painting services without being  
14 properly licensed as provided in this act.

15 (4) The responsible officers or employees of a  
16 corporation, partnership, firm or other entity violating a  
17 provision of this act.

18 (c) Procedure.--The board shall levy the civil penalty set  
19 forth in subsection (b) only after affording the accused the  
20 opportunity for a hearing as provided in 2 Pa.C.S. (relating to  
21 administrative law and procedure).

22 Section 13. Refusal to issue, suspend or revoke license.

23 (a) General rule.--The board may refuse to issue, suspend or  
24 revoke a license in a case where the board finds:

25 (1) The licensee is negligent or incompetent in the  
26 performance of painting services.

27 (2) The licensee is unable to perform painting services  
28 with reasonable skill and safety by reason of mental or  
29 physical illness or condition or physiological or  
30 psychological dependence upon alcohol, hallucinogenic or

1     narcotic drugs or other drugs which tend to impair judgment  
2     or coordination, so long as such dependence shall continue.  
3     In enforcing this paragraph, the board shall, upon probable  
4     cause, have authority to compel a licensee to submit to a  
5     mental or physical examination as designated by it. After  
6     notice, hearing, adjudication and appeal, failure of a  
7     licensee to submit to such examination when directed shall  
8     constitute an admission of the allegations unless failure is  
9     due to circumstances beyond the licensee's control,  
10    consequent upon which a default and final order may be  
11    entered without the taking of testimony or presentation of  
12    evidence. A licensee affected under this paragraph shall at  
13    reasonable intervals be afforded the opportunity to  
14    demonstrate that he can resume competent, safe and skillful  
15    performance of painting services.

16         (3) The licensee has violated any of the provisions of  
17    this act or a regulation of the board.

18         (4) The licensee has committed fraud or deceit in:

19             (i) the performance of painting services; or

20             (ii) securing licensure.

21         (5) The licensee has been convicted of a felony or a  
22    crime of moral turpitude or received probation without  
23    verdict, disposition in lieu of trial or an Accelerated  
24    Rehabilitative Disposition in the disposition of felony  
25    charges, in the courts of this Commonwealth, the United  
26    States, another state, territory, possession of the United  
27    States or country.

28         (6) The PAINTING licensee has had his license suspended  
29    or revoked or has received other disciplinary action by the  
30    proper licensing authority in another state, territory,

<—

possession of the United States or country.

(7) With respect to the performance of painting services, the licensee has acted in such a manner as to present an immediate and clear danger to health, safety or property.

~~(8) With respect to a professional painter, the professional painter failed to properly direct and supervise a journeyman painter or an apprentice painter.~~

(8) WITH RESPECT TO A LICENSED JOURNEYMAN PAINTER WHO IS REQUIRED TO ACQUIRE PROFESSIONAL LIABILITY INSURANCE AS SET FORTH IN SECTION 6(A)(6), THE LICENSED JOURNEYMAN PAINTER FAILED TO PROPERLY DIRECT AND SUPERVISE THE PERFORMANCE OF PAINTING SERVICES.

(9) The licensee possessed, used, acquired or distributed a controlled substance.

(10) The licensee has been guilty of unprofessional conduct. Unprofessional conduct shall include departure from or failing to conform to operating practices or professional standards embraced by the ~~professional~~ LICENSED JOURNEYMAN painters' community in this Commonwealth. ~~In a proceeding~~

~~based on this paragraph, actual injury to a person or damage to property need not be established.~~ IN ADDITION,

UNPROFESSIONAL CONDUCT SHALL INCLUDE DEPARTURE FROM OR FAILING TO CONFORM TO OPERATING PRACTICES OR PROFESSIONAL STANDARDS EMBRACED BY THE STEEL STRUCTURE PAINTING COUNCIL AND THE NATIONAL ASSOCIATION OF CORROSION ENGINEERS, FEDERAL AND STATE LAWS ADDRESSING THE PROPER USE AND DISPOSAL OF TOXIC OR HAZARDOUS SUBSTANCES, APPLICABLE STANDARDS PROMULGATED BY THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION AND APPLICABLE MUNICIPAL ORDINANCES RELATING

1 TO HEALTH AND SAFETY.

2 (11) The licensee falsely advertised or made misleading,  
3 deceptive, untrue or fraudulent material representations  
4 regarding licensure or in the performance of painting  
5 services.

6 (12) Unless waived by the board in accordance with  
7 section 7, the licensee failed to satisfy the continuing  
8 education requirements of this act.

9 (b) Acts authorized.--When the board finds that the license  
10 of an individual may be refused, suspended or revoked pursuant  
11 to subsection (a), the board may:

12 (1) Deny the application for a license.

13 (2) Administer a public reprimand.

14 (3) Suspend, revoke, limit or otherwise restrict a  
15 license.

16 (4) Suspend enforcement of its finding and place a  
17 licensee on probation with the right to vacate the  
18 probationary order for noncompliance.

19 (5) Restore or reissue, at its discretion, a suspended  
20 license and impose any disciplinary or corrective measure  
21 which it might originally have imposed.

22 Section 14. Suspensions and revocations.

23 A suspension or revocation shall be made only in accordance  
24 with the regulations of the board and only by majority vote of  
25 the members of the board after a full and fair hearing. An  
26 action of the board shall be taken subject to the right of  
27 notice, hearing and adjudication, and the right of appeal, in  
28 accordance with the provisions of 2 Pa.C.S. (relating to  
29 administrative law and procedure). The board, by majority action  
30 and in accordance with its regulations, may reissue a license

1 which has been suspended. If a license has been revoked, the  
2 board shall reissue a license only in accordance with section  
3 16.

4 Section 15. Temporary and automatic suspensions.

5 (a) General rule.--A license issued under this act may be  
6 temporarily suspended under circumstances determined by the  
7 board to be an immediate and clear danger to public health,  
8 safety or property. The board shall issue an order to that  
9 effect without a hearing, but upon due notice, to the licensee  
10 concerned at the licensee's last known address, which shall  
11 include a written statement of all allegations against the  
12 licensee. The provisions of section 14 shall not apply to  
13 temporary suspension. The board shall commence formal action to  
14 suspend, revoke or restrict the license of the individual as  
15 otherwise provided for in this act. All actions shall be taken  
16 promptly and without delay. Within 30 days following the  
17 issuance of an order temporarily suspending a license, the board  
18 shall conduct or cause to be conducted a preliminary hearing to  
19 determine if there is a prima facie case supporting the  
20 suspension. The individual whose license has been temporarily  
21 suspended may be present at the preliminary hearing and may be  
22 represented by counsel, cross-examine witnesses, inspect  
23 physical evidence, call witnesses, offer evidence and testimony  
24 and make a record of the proceedings. If it is determined that  
25 there is not a prima facie case, the suspended license shall be  
26 immediately restored. The temporary suspension shall remain in  
27 effect until vacated by the board, but in no event longer than  
28 180 days.

29 (b) Commitment of licensee.--A license issued under this act  
30 shall automatically be suspended upon the legal commitment of a



1 licensee to an institution because of mental incompetence from  
2 any cause upon filing with the board a certified copy of such  
3 commitment, conviction of a felony under the act of April 14,  
4 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,  
5 Device and Cosmetic Act, or conviction of an offense under the  
6 laws of another jurisdiction, which, if committed in this  
7 Commonwealth, would be a felony under The Controlled Substance,  
8 Drug, Device and Cosmetic Act. Automatic suspension under this  
9 subsection shall not be stayed pending an appeal of a  
10 conviction. Restoration of the license shall be made as provided  
11 in the case of revocation or suspension of a license.

12 Section 16. Reinstatement of license.

13 Unless ordered to do so by Commonwealth Court or an appeal  
14 therefrom, the board shall not reinstate the license of an  
15 individual which has been revoked. An individual whose license  
16 has been revoked may reapply for a license, after a period of at  
17 least five years, but must meet all of the licensing  
18 requirements of this act.

19 Section 17. Surrender of suspended or revoked license.

20 The board shall require an individual whose license has been  
21 suspended or revoked to return the license in such manner as the  
22 board directs. Failure to do so, and upon conviction thereof,  
23 shall be a misdemeanor of the third degree.

24 Section 18. Injunction.

25 Whenever, in the judgment of the board, a person has engaged  
26 in an act or practice which constitutes or will constitute a  
27 violation of this act, the board or its agents may make  
28 application to the appropriate court for an order enjoining such  
29 act or practice. Upon a showing by the board that the person has  
30 engaged or is about to engage in such act or practice, an

1 injunction, restraining order or such order as may be  
2 appropriate, shall be granted by the court. The remedy by  
3 injunction is in addition to any other civil or criminal  
4 prosecution and punishment.

5 Section 19. Subpoenas and oaths.

6 (a) Authority granted.--The board shall have the authority  
7 to issue subpoenas, upon application of an attorney responsible  
8 for representing the Commonwealth in disciplinary matters before  
9 the board, for the purpose of investigating alleged violations  
10 of the act or regulation of the board. The board shall have the  
11 power to subpoena witnesses, to administer oaths, to examine  
12 witnesses and to take such testimony or compel the production of  
13 such books, records, papers and documents as it may deem  
14 necessary or proper in and pertinent to any proceeding,  
15 investigation or hearing held or had by it. The board is  
16 authorized to apply to Commonwealth Court to enforce its  
17 subpoenas. The court may impose limitations in the scope of the  
18 subpoena as is necessary to prevent unnecessary intrusion into  
19 client confidential information.

20 (b) Disciplinary matters.--An attorney responsible for  
21 representing the Commonwealth in disciplinary matters before the  
22 board shall ~~notify the board immediately upon receiving~~ <—  
23 ~~notification of an alleged violation of this act or a regulation~~  
24 ~~of the board. The board shall maintain current records of all~~  
25 ~~reported alleged violations and periodically review the records~~  
26 ~~for the purpose of determining that each alleged violation has~~  
27 ~~been resolved in a timely manner.~~ MAINTAIN CURRENT RECORDS OF <—  
28 ALL REPORTED ALLEGED VIOLATIONS AND SHALL PERIODICALLY REVIEW  
29 THE RECORDS FOR THE PURPOSE OF DETERMINING THAT EACH VIOLATION  
30 HAS BEEN RESOLVED IN A TIMELY MANNER.

1 Section 20. Municipalities.

2 (a) Municipal license prohibited.--Licensure under this act  
3 shall be acceptable to a municipality in this Commonwealth as  
4 proof of competence to perform painting services and no  
5 municipality may require an individual licensed under this act  
6 to obtain an additional license to perform painting services.

7 UNLESS OTHERWISE PROVIDED IN THIS ACT, ANY LOCAL ORDINANCE OR <—  
8 REGULATION CONCERNING THE QUALIFICATIONS, FITNESS AND COMPETENCE  
9 OF INDIVIDUALS TO PERFORM PAINTING SERVICES IS PREEMPTED AND  
10 SUPERSEDED.

11 (b) Certain powers preserved.--Nothing in this act shall be  
12 construed to prevent a municipality from doing any of the  
13 following:

14 (1) Levying lawful taxes and fees.

15 (2) Requiring the purchase of a business privilege  
16 license that is unrelated to demonstrating competence in the  
17 performance of painting services.

18 ~~(3) Denying or revoking local permits for failure to~~ <—  
19 ~~comply with ordinances.~~

20 (3) DENYING OR REVOKING PERMITS FOR FAILING TO COMPLY <—  
21 WITH ORDINANCES WHICH ARE NOT INCONSISTENT WITH THIS ACT OR  
22 REGULATION OF THE BOARD.

23 (4) ENFORCING ORDINANCES RELATED TO HEALTH AND SAFETY.

24 (5) PURSUANT TO AN ORDINANCE, INSPECTING OR REGULATING  
25 THE MANNER IN WHICH PAINTING SERVICES ARE PERFORMED.

26 Section 21. Appropriation.

27 The sum of \$85,000 or as much as may be necessary is  
28 appropriated from the Professional Licensure Augmentation  
29 Account to the Department of State for the payment of costs  
30 associated with processing licenses and renewing licenses, for

1 the operation of the State Board of ~~Professional~~ LICENSED  
2 Painters and for other costs associated with this act. The  
3 appropriation shall be repaid by the board within three years of  
4 the beginning of issuance of licenses by the board.

5 Section 22. Regulations.

6 Within 18 months of the effective date of this section, the  
7 board shall promulgate regulations to carry out this act.

8 Section 23. Severability.

9 The provisions of this act are severable. If any provision of  
10 this act or its application to any person or circumstance is  
11 held invalid, the invalidity shall not affect other provisions  
12 or applications of this act which can be given effect without  
13 the invalid provision or application.

14 Section 24. Effective date.

15 This act shall take effect as follows:

16 (1) This section shall take effect immediately.

17 (2) Section 5 shall take effect in ~~180 days~~ THREE YEARS. <—

18 (3) The remainder of this act shall take effect in 60  
19 days.