

COUNCIL OF THE DISTRICT OF COLUMBIA

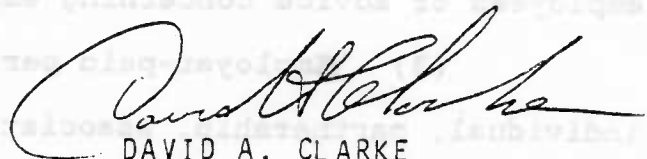
NOTICE

D.C. LAW 5-136

"Employment Services Licensing and Regulation Act of 1984".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 5-280 on first and second readings, September 12, 1984 and October 9, 1984, respectively. Following the signature of the Mayor on October 25, 1984, this legislation was assigned Act No. 5-194, published in the November 16, 1984 edition of the D.C. Register, (Vol. 31 page 5727) and transmitted to Congress January 7, 1985 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 5-136, effective March 13, 1985.



DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

| | |
|----------|---|
| January | 7, 22, 23, 24, 25, 28, 29, 30, 31 |
| February | 1, 4, 5, 6, 7, 19, 20, 21, 22, 25, 26, 27, 28 |
| March | 1, 4, 5, 6, 7, 8, 11, 12 |

D.C. LAW 5 - 1 3 6

AN ACT

EFFECTIVE DATE MAR 1 3 1985

D.C. ACT 5 - 1 9 4

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCT 2 5 1984

To provide for the licensing and regulation of employment agencies, employment counseling services, employer-paid personnel services, job listing services, and employment counselors in the District of Columbia; and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Employment Services Licensing and Regulation Act of 1984".

Codification, new chapter title 36 entitled "Employment Services Licensing and Regulation"

Sec. 2. Definitions.

For the purposes of this act the term:

- (1) "District" means the District of Columbia.
- (2) "Employer" means any individual or business which employs 1 or more individuals and which receives or seeks to receive the services of an employment agency or employer-paid personnel service for the purpose of obtaining employees or advice concerning employees.

New, D.C. Code, sec. 36 (1985 supp.)

- (3) "Employer-paid personnel service" means any individual, partnership, association, corporation, contractor, or subcontractor in the District who, for a fee, procures, offers, or attempts to procure job-seekers for employers, or provides employment advice or counseling to employers or to other persons designated by employers, and who is compensated solely by employers and does not in any

way hold any job-seeker liable for fees. Except for the purposes of sections 3(a), 7(e)(6), 9, and 15(a), the term "employer-paid personnel service" shall not mean an executive search firm which is paid solely by employers and which acts as a consultant to employers to identify, appraise, or recommend individuals for executive, managerial, or professional positions, and shall not mean an outplacement consulting firm which is paid solely by employers to provide employment advice to employees.

(4) "Employment agency" means any individual, partnership, association, corporation, contractor, or subcontractor in the District who, for a fee, procures, offers, or attempts to procure job-seekers for employers or employment for job-seekers, and whose fees are charged in whole or in part to the job-seekers contracting for those services.

(5) "Employment counseling service" means any individual, partnership, association, corporation, contractor, or subcontractor in the District who, for a fee, provides, offers, or implies the offer of counseling, evaluating, testing, marketing, or advising job-seekers concerning career decisions, or the procurement of employment; who does not directly procure or attempt to procure employment for job-seekers; and whose fees are charged in whole or in part to the job-seekers contracting for those services.

(6) "Employment counselor" means any placement manager, placement director, counselor, interviewer, or any

other person employed by an employment agency, employment counseling service, or employer-paid personnel service who interviews, counsels, or advises job-seekers seeking or receiving the services of the employment agency, employment counseling service, or employer-paid personnel service. The term "employment counselor" shall not include employees of an employment agency, employment counseling service, or employer-paid personnel service who are primarily engaged in interviewing, counseling, or advising employers, or in research, management, or clerical operations.

(7) "Fee" means money or other valuable consideration required or received by an employment agency, employment counseling service, employer-paid personnel service, or job listing service in payment for its services.

(8) "Job listing service" means any individual, partnership, association, corporation, contractor, or subcontractor in the District who, for a fee, provides to any purchaser a list of job openings, and who does not provide, offer, or imply the offer of any service related to employment, employment counseling, or the procurement of employment.

(9) "Job-seeker" means any individual who receives or seeks to receive the services of an employment agency, employment counseling service, or employer-paid personnel service for the purpose of obtaining or considering new employment.

(10) "Mayor" means the Mayor of the District of Columbia.

Sec. 3. Licensing Requirements for Employment

Agencies, Employment Counseling Services, Employer-Paid Personnel Services, Job Listing Services, and Employment Counselors.

New, D.C. Cod
sec. 36-1002
(1985 supp.)

(a)(1) No individual, partnership, association, corporation, contractor, or subcontractor shall operate an employment agency, employment counseling service, employer-paid personnel service, or job listing service in the District without first obtaining a license for that purpose from the Mayor.

(2) All licenses to operate an employment agency, employment counseling service, employer-paid personnel service, or job listing service shall be issued for 1 year and may be renewed.

(3) Each applicant for a license shall file with the Mayor a completed application on a form prescribed and furnished by the Mayor. The application shall be signed by the applicant and shall be notarized.

(A) The application shall list the addresses of all of the applicant's offices in the District and shall identify the person who is to manage the day-to-day operations of each office.

(B) If the applicant is a corporation, the application shall state the names and home addresses of all the officers and directors of the corporation and shall be signed and sworn to by the president, treasurer, and secretary of the corporation.

(C) If the applicant is a partnership, the

application shall state the names and home addresses of all partners and shall be signed and sworn to by all of them.

(D) The application shall identify the business experience of the applicant for the 10 years preceding the date of the application. If the applicant is a corporation or a partnership, the application shall identify the business experience for the preceding 10 years of each partner in the partnership or of the president, treasurer, and secretary of the corporation.

(4) Each applicant for a license as an employment agency or employment counseling service shall file with the application 3 copies of its contract for services to job-seekers. The Mayor shall not issue a license until he is satisfied that the contract complies with this act and with rules and regulations issued pursuant to this act.

(5) Prior to receiving a license, each applicant approved for a license shall pay an annual license fee of \$500.

(6) Upon receiving an application for a license, the Mayor shall investigate the business integrity and financial standing of the applicant.

(7) The application shall be rejected if the Mayor finds specific and articulable facts showing that the applicant, any officer or director of an applicant corporation, or any partner of an applicant partnership:

(A) has a record of failing to meet significant financial obligations;

(B) has been convicted of any federal,

state, District, or municipal offense involving fraud or deceptive business practices in the 10 years preceding the date of the application;

(C) has engaged in fraud, deceit, or misrepresentation of any material fact in attempting to procure any license under this act; or

(D) was or is an owner, partner, or corporate officer of any business whose license was revoked or that was otherwise caused to cease operations by action of any state or federal agency or court because of violations of law or regulations relating to deceptive or unfair practices in the conduct of business.

(8) To apply for renewal of a license, a licensee shall, on or before the 30th day prior to the date of expiration of the license, submit an application to the Mayor on a form prescribed and furnished by the Mayor and pay the annual license fee. The Mayor shall renew the license after determining that the licensee complies with the provisions of this act, rules and regulations, issued pursuant to this act, and other applicable laws, rules, and regulations of the District.

(b)(1) No individual may perform the duties of an employment counselor without first obtaining a license for that purpose from the Mayor.

(2) An applicant for an employment counselor's license shall file a completed and notarized application with the Mayor on a form prescribed and furnished by the Mayor, pay an application fee in the amount established by

the Mayor, and pass an examination established by the Mayor to test the applicant's knowledge of basic employment counseling skills and the laws, rules, and regulations applicable to employment counseling in the District.

(3) The Mayor shall administer the examination to each applicant no later than 10 days after receiving the application, and shall notify the applicant of the results of the examination no later than 5 days after the applicant takes the examination.

(4) The Mayor may reject any application if he finds that the applicant:

(A) has engaged in any practice prohibited by section 5(o);

(B) has engaged in fraud, deceit, or misrepresentation of any material fact in attempting to procure any license under this act; or

(C) has had a license to practice employment counseling or other business revoked or was otherwise caused to cease operations by action of any state or federal agency or court because of violation of laws or regulations relating to deceptive or unfair practices in the conduct of business.

(5) All employment counselor licenses shall state the name and location of the employment agency, employment counseling service, or employer-paid personnel service by which the employment counselor is employed.

(6) All employment counselor licenses shall remain in effect as long as the licensee continues to be

employed with the employment agency, employment counseling service, or employer-paid personnel service stated on the license, and complies with the provisions of this act and rules and regulations issued pursuant to this act.

(7) The employment counselor and the employment agency, employment counseling service, or employer-paid personnel service shall notify the Mayor within 5 days after termination of the employment counselor's employment. The employment counselor may apply for license renewal upon obtaining employment with another employment agency, employment counseling service, or employer-paid personnel service.

(c)(1) The Mayor shall approve or reject applications for licensure as an employment agency, employment counseling service, employer-paid personnel service, job listing service, or employment counselor within 60 days from the date the application is received by the Mayor.

(2) The Mayor may issue a 45-day provisional license to an applicant for licensure as an employment counselor who has complied with all requirements of subsection (b)(2) and who has not had an employment counselor's license suspended or revoked by the Mayor.

(3) Any applicant who is aggrieved by the rejection of an application by the Mayor shall have the right to a hearing before the Mayor pursuant to section 109 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Code, sec. 1-1509), which hearing shall be conducted within 10 days

following the aggrieved party's formal request for the hearing.

(d) Each employment agency, employment counseling service, employer-paid personnel service, job listing service, and employment counselor licensed pursuant to this act shall post the license in a prominent place visible to clients in each place of business maintained by the licensee.

Sec. 4. Bonding Requirements.

(a) Every applicant for a license to operate an employment agency, employment counseling service, or job listing service, prior to receiving a license, shall file with the Mayor a bond signed by the applicant as principal and by a surety company authorized to do business in the District as a surety.

New, D.C. Cod.
sec. 36-1003
(1985 supp.)

(b)(1) Any employment agency or employment counseling service whose average fee for job-seekers is \$2,000 or more and which enters into contracts with 100 or more job-seekers per year shall file a bond in the amount of \$100,000.

(2) Any employment agency or employment counseling service whose average fee for job-seekers is less than \$2,000 or which enters into contracts with fewer than 100 job-seekers per year shall file a bond in the amount of \$50,000.

(3) Each job listing service shall file a bond in the amount of \$5,000.

(c) Each bond shall be in favor of the District for the benefit of any job-seeker injured by the employment

agency or employment counseling service or any purchaser of job lists from the job listing service when the job-seeker or purchaser is unable to recover directly from the licensee for the injury. The liability of the surety under any bond may not exceed the amount of the bond, regardless of the number or amount of claims filed. If the claims filed should exceed the amount of the bond, the surety shall pay the amount of the bond to the Mayor for distribution to claimants entitled to restitution and shall be relieved of all liability under the bond.

(d) Upon commencement of any action or actions against the surety based upon the bond for an aggregate amount exceeding the amount of the bond, the Mayor may require the licensee to obtain an additional bond in an amount to be determined by the Mayor. The licensee's failure to file the new and additional bond within 30 days from the date of the Mayor's requirement shall constitute cause for revocation of the license.

(e) Each applicant for renewal of a license to operate an employment agency, employment counseling service, or job listing service, prior to receiving the license renewal, shall file with the Mayor evidence that the bond required by this section remains in force.

(f) The Mayor may accept an irrevocable letter of credit from a financial institution authorized to do business in the District, or evidence of cash deposited in an escrow account in a financial institution in the District in the name of the licensee and the District in lieu of the

bond required by this section. The letter of credit or escrow account shall be in the amounts required by subsection (b).

Sec. 5. Requirements for the Operation of Employment Agencies.

(a) Each employment agency shall maintain a file of all its advertisements identified by date and publication.

All advertisements and other promotional material shall carry the name under which the employment agency is licensed to do business.

New, D.C. Cod
sec. 36-1004

Note, D.C. Co
sec. 28:3-302
28:3901

(1985 supp

(b) Any employment agency which uses any statistics regarding its placement rate, success rate, or other similar statistics in its advertising, promotional materials, or oral or written statements to job-seekers shall maintain records from which the Mayor can determine the accuracy of these statistics.

(c) Each employment agency shall keep detailed records of the following information on forms approved by the Mayor:

(1) the names, home addresses, and telephone numbers of all job-seekers contracting with the employment agency;

(2) a log of all activities performed by the employment agency for the benefit of each job-seeker contracting with the employment agency, including, but not limited to, the dates of job interviews arranged by the employment agency for each job-seeker and the identity of the employer with whom each interview was arranged;

(3) copies of each contract between the

employment agency and each job-seeker;

(4) the name of each employer placing a job order with the employment agency, a description of each job order, and the identity of each job-seeker referred to the employer for each job order;

(5) the identity of each employer and job-seeker for each job placement resulting from the activities performed by the employment agency and a description of the job in which the job-seeker was placed; and

(6) any other information determined by the Mayor to be necessary to accomplish the purposes of this act.

(d) The records required by subsections (a) through (c) shall be maintained for 4 years from the date the record was made.

(e) Each employment agency shall file with the Mayor a schedule of fees to be charged to job-seekers. These fees may be changed by filing an amended schedule showing the changes at least 30 days before the changes are to take effect. It shall be unlawful to charge, demand, or receive a fee greater than is specified in the most recent schedule filed with the Mayor.

(f)(1) Prior to performing any service for a job-seeker, an employment agency shall enter into a written contract with the job-seeker.

(2) The contract required by this subsection shall be written in simple, easily understandable language.

(3) The contract shall set forth the specific services to be provided, the fee charged by the employment

agency for each service, the total fee for all services to be provided by the employment agency, the period of time during which the services are to be provided, and the schedule for payment of fees.

(4) The employment agency shall provide a copy of the contract to the job-seeker at the time the contract is signed by the job-seeker.

(5) The job-seeker shall have the right to cancel any contract with an employment agency by providing written notification to the employment agency within 3 days from the date of signing the contract.

(6) Each contract between an employment agency and a job-seeker shall contain the following notice in type which is more prominent than the type used for the remainder of the contract:

NOTICE

YOU HAVE THE RIGHT TO CANCEL THIS CONTRACT FOR ANY REASON WITHIN 3 DAYS FROM THE DATE OF SIGNING. IF YOU CHOOSE TO CANCEL THIS CONTRACT, YOU MUST PROVIDE (name of employment agency) WRITTEN NOTIFICATION OF YOUR CANCELLATION WITHIN 3 DAYS.

IF YOU FEEL THAT YOU HAVE BEEN THE VICTIM OF AN UNLAWFUL TRADE PRACTICE RELATED TO THIS CONTRACT, YOU HAVE THE RIGHT TO FILE A COMPLAINT WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS OF THE DISTRICT OF COLUMBIA.

(g) No employment agency shall charge any job-seeker a registration fee or collect from any job-seeker any payment for any service in advance of performing the service.

(h) No employment agency shall charge, demand, or receive any fee from a job-seeker unless the employment agency has made an appointment for the job-seeker for a job interview with an employer.

(i) Any attempt by any employment agency or its representative to collect a fee from a job-seeker who has accepted a job with an employer with which the employment agency did not make an appointment for the job-seeker shall be considered fraud and grounds for suspension of the employment agency's license. Any job-seeker aggrieved by this improper attempt to collect a fee may file a complaint with and request a hearing by the Mayor.

(j)(1) No employment agency, as a condition of providing service to a job-seeker, shall require the job-seeker to execute any document prior to acceptance of a job which may constitute a promissory note or authorization to confess judgment.

(2) Any promissory note executed by a person in consideration of an employment agency finding that person employment shall not be held in due course for a period of 120 days after the commencement of employment even though the holder during that period meets all the requirements set forth in D.C. Code, sec. 28:3-302.

(k) Employment shall not be considered permanent when, within 12 weeks after employment commences, that employment is terminated by the employer through no fault of the job-seeker, or is terminated by the job-seeker if the employment is not as represented to the job-seeker. In that

event, the employment agency making the job placement shall refund to the job-seeker the portion of the placement fee that exceeds 1/12 of that fee for each week or portion thereof that the employment continued.

(l) In the event the job-seeker is discharged for cause or voluntarily leaves employment without just cause within 12 weeks after employment commences, the employment agency making the job placement may charge the job-seeker a fee not to exceed 75% of the permanent placement fee.

(m) If an employer agrees to pay an employment agency fee, but through no fault of the job-seeker does not, the employment agency shall have a right of action against the employer, but not against the job-seeker.

(n) Each employment agency shall give to every job-seeker a numbered receipt for each payment received by the employment agency from the job-seeker. Each receipt shall have printed or written on it the name of the job-seeker, the date and amount of the payment, the name and address of the employment agency, the purpose for which the payment was made, and the legible signature of the person receiving the payment.

(o) No employment agency doing business in the District, or any person employed by or acting as an agent of that employment agency, shall:

(1) knowingly make referral to any job for which the requirements, duties, or conditions violate federal or District law;

(2) knowingly refer any job-seeker to any

establishment at which a labor dispute is in progress without informing the job-seeker of the existence of the labor dispute;

(3) refer any job-seeker to any employer for a job that the employment agency does not know to be open, unless the employer specifically requests to see the particular job-seeker;

(4) refer any job-seeker to an employer without making an appointment for the job-seeker with the employer;

(5) refer any job-seeker to any employer for a position for which the employment agency knows the job-seeker is not qualified;

(6) advertise a job opening unless the employment agency has a bona fide employer order for a job-seeker for that job opening;

(7) solicit, persuade, or induce any job-seeker to leave any job in which the employment agency placed the job-seeker;

(8) solicit, persuade, or induce any employer to discharge any job-seeker;

(9) offer, divide, or share, directly or indirectly, any fee, charge, or compensation received or to be received from any job-seeker with any employer or person in any way connected with the employer's business;

(10) place or attempt to place any person under the age of 18 in any employment where the employment would violate any compulsory education or child labor laws;

(11) enter into any contract with any person

under 18 years of age who is not an emancipated minor unless that person's parent or guardian co-signs the contract; or

(12) violate any provision of chapter 39 of title 28 of the D.C. Code.

Sec. 6. Requirements for the Operation of Employment Counseling Services.

(a) Each employment counseling service shall maintain a file of all of its advertisements identified by date and publication. All advertisements and other promotional material shall carry the name under which the employment counseling service is licensed to do business, and shall carry a notice stating that the employment counseling service is not an employment agency, does not arrange job interviews, and does not provide job placement services.

New, D.C. C
sec. 36-100

Note, D.C.
sec. 28-390
(1985 supp.)

(b) Any employment counseling service which uses any statistics regarding its success rate or other similar statistics in its advertising, promotional materials, or oral or written statements to job-seekers shall maintain records from which the Mayor can determine the accuracy of these statistics.

(c) Each employment counseling service shall keep detailed records of the following information on forms approved by the Mayor:

(1) the names, home addresses, and telephone numbers of all job-seekers contracting with the employment counseling service;

(2) a log of all activities performed by the employment counseling service for the benefit of each

job-seeker;

(3) copies of each contract between the employment counseling service and job-seekers; and

(4) any other information determined by the Mayor to be necessary to accomplish the purposes of this act.

(d) The records required by subsections (a) through (c) shall be maintained for 4 years from the date the record was made.

(e) Each employment counseling service shall file with the Mayor a schedule of fees to be charged to job-seekers. These fees may be changed by filing an amended schedule showing the changes at least 30 days before the changes are to take effect. It shall be unlawful to charge, demand, or receive a fee greater than is specified in the most recent schedule filed with the Mayor.

(f)(1) Prior to performing any service for a job-seeker, an employment counseling service shall enter into a written contract with the job-seeker.

(2) The contract required by this subsection shall be written in simple, easily understandable language.

(3) The contract shall set forth the specific services to be provided, the fee charged by the employment counseling service for each service, the total fee for all services to be provided by the employment counseling service, the period of time during which the services are to be provided, and the schedule for payment of fees.

(4) The employment counseling service shall provide a copy of the contract to the job-seeker at the time

the contract is signed by the job-seeker.

(5) The job-seeker shall have the right to cancel any contract with an employment counseling service by providing written notification to the employment counseling service within 3 days from the date of signing the contract.

(6) Each contract between an employment counseling service and a job-seeker shall contain the following notice in type which is more prominent than the type used for the remainder of the contract:

NOTICE

YOU HAVE THE RIGHT TO CANCEL THIS CONTRACT FOR ANY REASON WITHIN 3 DAYS FROM THE DATE OF SIGNING. IF YOU CHOOSE TO CANCEL THIS CONTRACT, YOU MUST PROVIDE (name of employment counseling service) WRITTEN NOTIFICATION OF YOUR CANCELLATION WITHIN 3 DAYS.

IF YOU FEEL THAT YOU HAVE BEEN THE VICTIM OF AN UNLAWFUL TRADE PRACTICE RELATED TO THIS CONTRACT, YOU HAVE THE RIGHT TO FILE A COMPLAINT WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS OF THE DISTRICT OF COLUMBIA.

(g) No employment counseling service shall charge any job-seeker a registration fee or collect from any job-seeker any payment for any service in advance of performing the service.

(h) Each employment counseling service shall give to every job-seeker a numbered receipt for each payment received by the employment counseling service from the job-seeker. Each receipt shall have printed or written on it the name of the job-seeker, the date and amount of the

payment, the name and address of the employment agency, the purpose for which the payment was made, and the legible signature of the person receiving payment.

(i) No employment counseling service doing business in the District or any person employed by or acting as an agent of that employment counseling service shall:

(1) charge any job-seeker any fee based on the job-seeker's desired income;

(2) state, imply, or in any way lead job-seekers to believe that the employment counseling service makes appointments with employers for job interviews for job-seekers or secures employment for job-seekers;

(3) enter into any contract with any person under 18 years of age, who is not an emancipated minor, unless that person's parent or guardian co-signs the contract; or

(4) violate any provision of chapter 39 of title 28 of the D.C. Code.

Sec. 7. Requirements for the Operation of Employer-paid Personnel Services.

(a) Each employer-paid personnel service shall maintain a file of all of its advertisements identified by date and publication. All advertisements and other promotional material shall carry the name under which the employer-paid personnel service is licensed to do business.

New, D.C. C.
sec. 36-100

Note, D.C.
sec. 28-390
(1985 supp.)

(b) Any employer-paid personnel service which uses any statistics regarding its placement rate, success rate, or other similar statistics in its advertising, promotional materials, or oral or written statements to job-seekers

shall maintain records from which the Mayor can determine the accuracy of these statistics.

(c) Each employer-paid personnel service shall keep detailed records of the following information on forms approved by the Mayor:

(1) the names, home addresses, and telephone numbers of all job-seekers interviewed by the employer-paid personnel service;

(2) the name of each employer placing a job order with the employer-paid personnel service, a description of each job order, and the identity of each job-seeker referred to the employer for each job order;

(3) the identity of each employer and job-seeker for each job placement resulting from the activities performed by the employer-paid personnel service and a description of the job in which the job-seeker was placed; and

(4) any other information determined by the Mayor to be necessary to accomplish the purposes of this act.

(d) The records required by subsections (a) through (c) shall be maintained for 4 years from the date the record is made.

(e) No employer-paid personnel service doing business in the District, or any person employed by or acting as an agent of that employment agency, shall:

(1) knowingly make referrals to any job for which the requirements, duties, or conditions violate federal or District law;

(2) knowingly refer any job-seeker to any establishment at which a labor dispute is in progress without informing the job-seeker of the existence of the labor dispute;

(3) advertise a job opening unless the employer-paid personnel service has on file a bona fide employer order for a job-seeker for that job opening;

(4) solicit, persuade, or induce any job-seeker to leave any job in which the employer-paid personnel service placed the job-seeker;

(5) place or attempt to place any person under the age of 18 in any employment where the employment would violate any compulsory education or child labor laws; or

(6) violate any provision of chapter 39 of title 28 of the D.C. Code.

Sec. 8. Requirements for the Operation of Job Listing Services.

(a) Each job listing service shall maintain a file of all its advertisements identified by date and publication.

New, D.C. Code
sec. 36-100

All advertisements and other promotional material shall carry the name under which the job listing service is licensed to do business.

Note, D.C. Code
sec. 28-390
(1985 supp.)

(b) Any job listing service which uses any statistics regarding its success rate or other similar statistics in its advertising, promotional materials, or oral or written statements to purchasers or potential purchasers of job lists shall maintain records from which the Mayor can determine the accuracy of these statistics.

(c) Each job listing service shall keep detailed records on forms approved by the Mayor of the sources of information used for the preparation of job lists offered for sale.

(d) The records required by subsections (a) through (c) shall be maintained for 4 years from the date the record was made.

(e) Each job listing service shall identify, on each job list offered for sale, its source of information for the jobs included on that list when the source of information is a publication or other public record.

(f) No job listing service doing business in the District or any person employed by or acting as an agent of that job listing service shall:

(1) include on any job list offered for sale any job which the job listing service does not know to be vacant within the 15-day period immediately preceding the date the job list is offered for sale; or

(2) violate any provision of chapter 39 of title 28 of the D.C. Code.

Sec. 9. Prohibition Against Discrimination.

It shall be unlawful for any employment agency, employment counseling service, employer-paid personnel service, job listing service, or employment counselor to fail or refuse to provide service to any person for any reason based on race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, physical handicap,

New, D.C. Co
sec. 36-1008

Note, D.C. C
sec. 1-2512
(1985 supp.)

matriculation, or political affiliation.

Sec. 10. Protection of Privacy.

An employment agency, employment counseling service, employer-paid personnel service, or employment counselor shall obtain the express written authorization of a job-seeker before disclosing the job-seeker's name, home address, or telephone number to any person other than to the Mayor or his or her duly authorized representative for the purpose of conducting an investigation pursuant to section 11.

New, D.C. Co.
sec. 36-100
(1985 supp.)

Sec. 11. Investigations.

(a) The Mayor may investigate the manner in which all employment agencies, employment counseling services, employer-paid personnel services, and job listing services doing business in the District conduct their businesses, and may examine at any time during business hours any and all books and records of the employment agencies, employment counseling services, employer-paid personnel services, and job listing services to determine compliance with the provisions of this act and rules and regulations issued by the Mayor pursuant to this act.

New, D.C. Co.
sec. 36-101
(1985 supp.)

(b) The Mayor may further investigate all matters which may aid in the enforcement of this act.

Sec. 12. Powers of the Mayor as to Witnesses.

(a) The Mayor, in the performance of any duty or the execution of any power prescribed by this act, may administer oaths or affirmations, certify official acts, take and cause to be taken depositions of witnesses, issue

New, D.C. Co.
sec. 36-101
(1985 supp.)

subpoenas, and compel the attendance of witnesses and production of books, papers, documents, records, and testimony.

(b) In case of failure of any person to comply with a lawful subpoena or of the refusal of any witness to produce evidence or to testify to any matter about which he or she may be lawfully interrogated, the Superior Court of the District of Columbia, upon the application of the Mayor or the Mayor's designee, may compel obedience by proceedings for contempt.

Sec. 13. Cease and Desist Orders.

(a)(1) When the Mayor, after investigation, has cause to believe that any individual, partnership, association, corporation, contractor, or subcontractor is violating any provision of this act, the Mayor may issue an order requiring the alleged violator immediately to cease and desist from the violation if the Mayor has reason to believe that immediate irreparable loss and injury to the general public has occurred or will occur. The order shall be served by certified mail or delivery in person.

New, D.C. C
sec. 36-101
(1985 supp.)

(2) The alleged violator may request the Mayor to hold a hearing on the alleged violation. Any request for a hearing shall be in writing and shall be made within 15 days of the service of the order.

(3) If a request for a hearing is not made, the order of the Mayor to cease and desist is final.

(4) If, after a hearing, the Mayor determines that the alleged violator is not in violation of this act,

the Mayor shall revoke the order to cease and desist.

(b)(1) When the Mayor, after investigation, has cause to believe that any individual, partnership, association, corporation, contractor, or subcontractor is violating any provision of this act, and has reason to believe that immediate irreparable loss and injury to the general public has not occurred and will not occur, the Mayor shall notify the alleged violator in writing of the existence of the alleged violation.

(2) Within 15 days of receipt of this notification, the alleged violator may show cause to the Mayor in writing why the Mayor should not issue an order requiring the alleged violator to cease and desist from the violation.

(3) If the alleged violator does not respond to the Mayor's show cause request within the prescribed time period, the Mayor may issue an order requiring the alleged violator immediately to cease and desist from the violation.

(4) If the alleged violator responds to the Mayor's show cause request, the Mayor may:

(A) terminate all proceedings against the alleged violator if, based upon the response of the alleged violator to the show cause request, the Mayor determines that there is no basis for the issuance of a cease and desist order; or

(B) schedule a hearing, notifying the alleged violator in writing by certified mail of the date, time, and place of the hearing at least 5 days in advance of

the hearing.

(5)(A) If, after a hearing, the Mayor determines that the alleged violator is in violation of this act, the Mayor shall order the violator to cease and desist from the violation.

(B) If, after a hearing, the Mayor determines that the alleged violator is not in violation of this act, the Mayor shall terminate all proceedings against the alleged violator.

(c) If any individual, partnership, association, corporation, contractor, or subcontractor fails to comply with any lawful order of the Mayor issued pursuant to this section, the Mayor may:

(1) petition a court of competent jurisdiction to issue an order compelling compliance with the lawful order of the Mayor; or

(2) take any other action authorized by this act.

(d) Section 109 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Code, sec. 1-1509), applies to proceedings before the Mayor pursuant to this section.

Sec. 14. Mediation or Arbitration of Disputes.

Upon receipt of a complaint against an employment agency, employment counseling service, employer-paid personnel service, job listing service, or employment counselor, the Mayor may seek to mediate the dispute or arrange for arbitration by an impartial arbitrator or panel of arbitrators.

New, D.C. C.
sec. 36-101
(1985 supp.)

Sec. 15. Penalties.

(a) Any individual, partnership, association, corporation, contractor, or subcontractor who opens, operates, or maintains an employment agency, employment counseling service, employer-paid personnel service, or job listing service, or any person acting in the capacity of an employment counselor without first obtaining a license for that purpose shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine not to exceed \$1,000 for each day the violation occurs, or to imprisonment not to exceed 1 year, or both.

New, D.C. C
sec. 36-101
(1985 supp.)

(b) The Mayor may, following a hearing, revoke or suspend for a period determined by the Mayor the license of any employment agency, employment counseling service, employer-paid personnel service, job listing service, or employment counselor violating any provision of this act.

(c) The Mayor may, following a hearing, order an employment agency, employment counseling service, employer-paid personnel service, job listing service, or employment counselor to make restitution to a complainant for losses or expenses incurred by the complainant as a result of violations of this act by the employment agency, employment counseling service, employer-paid personnel service, job listing service or employment counselor.

(d) The Mayor may, following a hearing, impose a fine of not less than \$100 or more than \$1,000 against any employment agency, employment counseling service, employer-paid personnel service, or job listing service

found in violation of any provision of this act. The fine may be imposed for each violation.

(e) The Mayor may, following a hearing, impose a fine of not less than \$25 or more than \$500 against any employment counselor found in violation of any provision of this act. The fine may be imposed for each violation.

(f) Any employment agency, employment counseling service, employer-paid personnel service, job listing service, or employment counselor aggrieved by any order of the Mayor imposing fines, ordering restitution, or suspending or revoking a license may obtain a review thereof in the District of Columbia Court of Appeals pursuant to section 110 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1209; D.C. Code, sec. 1-1510).

Sec. 16. Unfair Trade Practices.

D.C. Code, sec. 28-3904 is amended by adding a new subsection (aa) to read as follows:

"(aa) violate any provision of sections 5, 6, 7, and 8 of the Employment Services Licensing and Regulation Act of 1984."

D.C. Co
sec. 28-3904

Note, D.C. C
sec. 36-1014
(1985 supp.)

Sec. 17. Rules and Regulations; Delegation of Authority.

(a) The Mayor shall issue, and may amend from time to time, rules and regulations to implement the provisions of this act.

(b) By issuance of a Mayor's Order, the Mayor may delegate the powers and duties assigned to the Mayor by this

New, D.C. Co
sec. 36-1015
(1985 supp.)

act.

Sec. 18. Exemptions.

The requirements of this act shall not apply to:

(a) any employer who directly hires and compensates employees for the exclusive purpose of furnishing part-time or temporary help to others and does not in any way offer or attempt to place the employees in permanent jobs with any other employer;

New, D.C. C.
sec. 36-101
(1985 supp.)

(b) any person conducting a business which, for a fee, prepares resumes for individuals but does not provide, offer, or imply the offer of any other service related to employment;

(c) bona fide educational, religious, charitable, fraternal, and benevolent organizations in which no fee, commission, or other charge is made for services rendered other than ordinary membership dues or tuition fees;

(d) bona fide labor organizations securing or attempting to secure employment for their members;

(e) bona fide employees' organizations securing or attempting to secure employment for their members;

(f) professional counselors whose advice and counsel to individuals concerning employment is incidental to the primary counseling services provided; or

(g) any agency or instrumentality of the United States government or the District government.

Sec. 19. Repealers.

(a) Sections 9 and 10 of An Act to regulate the keeping of employment agencies in the District of Columbia

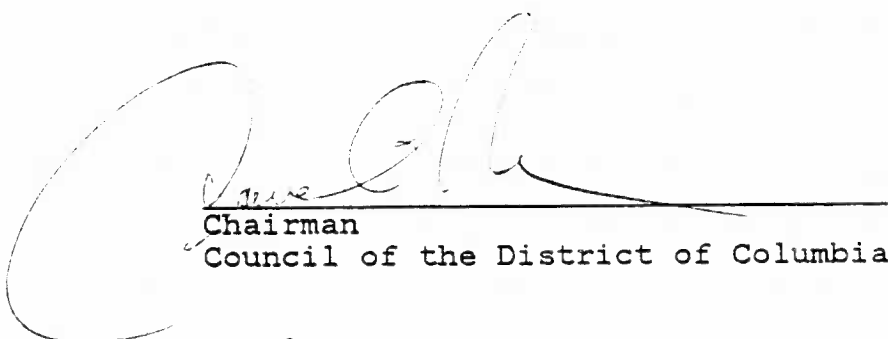
D.C. Code,
sec. 47-301C
47-3011
repealed.
(1985 supp.)

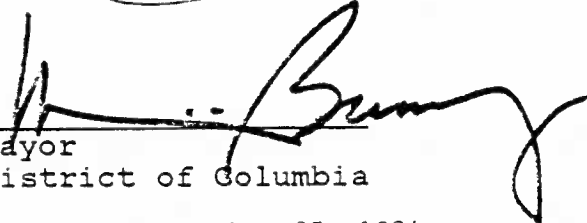
where fees are charged for procuring employment or situations, approved June 19, 1906 (34 Stat. 308; D.C. Code, secs. 47-3010 & -3011), are repealed.

(b) Paragraphs 42 through 42i of section 7 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes, approved July 1, 1902 (47 Stat. 550; D.C. Code, secs. 47-3001 - -3009), are repealed.

D.C. Code,
secs. 47-30
through -30
repealed
(1985 supp.)

Sec. 20. Effective Date. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED: October 25, 1984



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Five - Second Session

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B 5-280

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 9-12-84

VOICE VOTE: Unanimous

Recorded vote on request

Absent: all present

ROLL CALL VOTE: - RESULT

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. (repeated 3 times). Rows include CHMN. CLARKE, CRAWFORD, JARVIS, KANE, MASON, MOORE, JR., RAY, ROLARK, SHACKLETON, SMITH, JR., SPAULDING, WILSON, WINTER.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Handwritten signature of Secretary to the Council

Secretary to the Council

10/15/84 Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 10-9-84

VOICE VOTE: Unanimous

Recorded vote on request

Absent: all present

ROLL CALL VOTE: - RESULT

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. (repeated 3 times). Rows include CHMN. CLARKE, CRAWFORD, JARVIS, KANE, MASON, MOORE, JR., RAY, ROLARK, SHACKLETON, SMITH, JR., SPAULDING, WILSON, WINTER.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Handwritten signature of Secretary to the Council

Secretary to the Council

10/15/84 Date

Item on Consent Calendar

ACTION & DATE:

VOICE VOTE:

Recorded vote on request

Absent:

ROLL CALL VOTE: - RESULT

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. (repeated 3 times). Rows include CHMN. CLARKE, CRAWFORD, JARVIS, KANE, MASON, MOORE, JR., RAY, ROLARK, SHACKLETON, SMITH, JR., SPAULDING, WILSON, WINTER.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date