

COUNCIL OF THE DISTRICT OF COLUMBIA

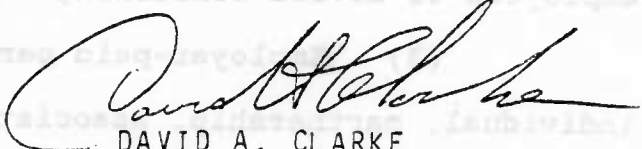
NOTICE

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