

# ASSEMBLY AGRICULTURE COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 284**

with committee amendments

# STATE OF NEW JERSEY

DATED: MAY 17, 2021

The Assembly Agriculture Committee reports favorably and with committee amendments Assembly Bill No. 284.

This bill, as amended, would establish uniform requirements Statewide for the sale and planting of running bamboo. Running bamboo is defined in the bill as any bamboo in the genus *Phyllostachys*, including *Phyllostachys aureosulcata*. The bill would not take effect until the 60th day following the date of enactment.

Specifically, under the bill, only a certified nurseryman may sell running bamboo in the State. In addition, only licensed landscape architects, registered home improvement contractors, and their employees and contractors may plant running bamboo. Any person who sells or plants running bamboo without the proper qualification would be subject to a \$100 fine. Each day during which the violation continues would constitute a separate offense.

Additionally, the bill provides that a licensed landscape architect or registered home improvement contractor who plants running bamboo may not plant it on any property within 100 feet of the property boundary line or a public right-of-way unless certain measures are taken to contain the running bamboo. A licensed landscape architect or registered home improvement contractor who fails to comply with these requirements would be liable to a civil penalty of \$100 for the first offense, and a civil penalty of \$250 for a second or subsequent offense. The bill provides the civil penalty would be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," and enforced by a municipal court or the Superior Court. In addition to imposition of the civil penalty, the court would be required to report the violator and offense to the Division of Consumer Affairs.

Furthermore, the bill requires the Division of Consumer Affairs to maintain records of the reported violators and offenses. The bill authorizes the division, upon receiving multiple reports concerning a licensed landscape architect or registered home improvement contractor, to consider the reports grounds for review of the landscape architect's license or the home improvement contractor's registration for suspension or revocation. The bill specifies that the number of reports that result in license or registration review would be at the discretion of the division.

The bill provides that a person who owns property on which running bamboo is planted according to the bill's provisions, or a subsequent purchaser of the property or person who takes possession of the property pursuant to a foreclosure, would be responsible for maintaining the running bamboo in compliance with the bill. A person who fails to properly maintain the bamboo would be liable for any damages caused to any adjacent property by the running bamboo. However, if the spread of running bamboo onto an adjacent property is the result of improper planting of the running bamboo by a licensed landscape architect or registered home improvement contractor, the person who owns the property on which the bamboo was planted by seek indemnification from the licensed landscape architect or registered home improvement contractor.

Finally, the bill would require the Director of the Division of Consumer Affairs in the Department of Law and Public Safety to require the property condition statement obtained from the seller to include the following question: "Are you aware of the presence of any bamboo or running bamboo (*Phyllostachys aureosulcata* or other bamboo in the genus *Phyllostachys*) on this property at any time in the past five years? If yes, describe the location of the running bamboo, and any action taken to remove or contain the running bamboo, it known."

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

#### COMMITTEE AMENDMENTS

The committee amendments:

- 1) establish a civil penalty of \$100 for a first offense, instead of requiring a warning;
- 2) increase the civil penalty for a second or subsequent offense to \$250;
- 3) require the court enforcing the "Penalty Enforcement Law of 1999" to report the violator and offense to the Division of Consumer Affairs;
- 4) require the Division of Consumer Affairs to maintain records of the reported violators and offenses;
- 5) authorize the Division of Consumer Affairs to consider multiple reports grounds for review of the landscape architect's license or the home improvement contractor's registration for suspension or revocation;
- 6) specify that the number of reports that result in license or registration review would be at the discretion of the division; and
- 7) change the effective date to the 60th day following the date of the bill's enactment into law.