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## SENATE BILL NO. 1090

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws  
on January 19, 2005)

(Patron Prior to Substitute—Senator Puckett)

A BILL to amend and reenact §§ 54.1-1100, 54.1-1103, 54.1-1106 and 54.1-1108.1 of the Code of Virginia, relating to the Department of Professional and Occupational Regulation; Board for Contractors; Class B contractor license.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-1100, 54.1-1103, 54.1-1106 and 54.1-1108.1 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-1100. Definitions.

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

"Board" means the Board for Contractors.

"Class A contractors" perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is ~~\$70,000~~ \$120,000 or more, or (ii) the total value of all such construction, removal, repair, or improvements undertaken by such person within any ~~twelve~~ 12-month period is ~~\$500,000~~ \$750,000 or more.

"Class B contractors" perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is \$7,500 or more, but less than ~~\$70,000~~\$120,000, or (ii) the total value of all such construction, removal, repair or improvements undertaken by such person within any ~~twelve~~ 12-month period is \$150,000 or more, but less than ~~\$500,000~~ \$750,000.

"Class C contractors" perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is over \$1,000 but less than \$7,500, or (ii) the total value of all such construction, removal, repair, or improvements undertaken by such person within any ~~twelve~~ 12-month period is less than \$150,000. The Board shall require a master tradesmen license as a condition of licensure for electrical, plumbing and heating, ventilation and air conditioning contractors.

"Contractor" means any person, that for a fixed price, commission, fee, or percentage undertakes to bid upon, or accepts, or offers to accept, orders or contracts for performing, managing, or superintending in whole or in part, the construction, removal, repair or improvement of any building or structure permanently annexed to real property owned, controlled, or leased by him or another person or any other improvements to such real property.

"Department" means the Department of Professional and Occupational Regulation.

"Designated employee" means the contractor's full-time employee, *or a member of the contractor's responsible management*, who is at least ~~eighteen~~ 18 years of age and who has successfully completed the oral or written examination required by the Board on behalf of the contractor.

"Director" means the Director of the Department of Professional and Occupational Regulation.

"Person" means any individual, firm, corporation, association, partnership, joint venture, or other legal entity.

"Value" means fair market value. When improvements are performed or supervised by a contractor, the contract price shall be prima facie evidence of value.

§ 54.1-1103. Necessity for license; requirements for water well drillers and landscape irrigation contractors; exemption.

A. No person shall engage in, or offer to engage in, contracting work in the Commonwealth unless he has been licensed under the provisions of this chapter. The Board may waive any provision of this chapter for Habitat for Humanity, its local affiliates or subsidiaries, and any other nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code (26 U.S.C. § 501 (c) (3)) for the purpose of constructing single-family dwellings that will be given to or sold below the appraised value to low-income persons. Prior to a joint venture engaging in, or offering to engage in, contracting work in the Commonwealth, (i) each contracting party of the joint venture shall be licensed under the provisions of this chapter or (ii) a license shall be obtained in the name of the joint venture under the provisions of this chapter.

B. Except as provided in § 54.1-1117, the issuance of a license under the provisions of this chapter shall not entitle the holder to engage in any activity for which a special license is required by law.

C. When the contracting work is for the purpose of landscape irrigation or the construction of a water well as defined in § 62.1-255, the contractor shall be licensed, regardless of the contract amount, as follows:

1. A Class C license is required when the total value referred to in a single contract or project is no more than \$7,500, or the total value of all such water well or landscape irrigation contracts undertaken

60 within any 12-month period is no more than \$150,000;

61 2. A Class B license is required when the total value referred to in a single contract is \$7,500 or  
62 more, but less than ~~\$70,000~~ *\$120,000*, or the total value of all such water well or landscape irrigation  
63 contracts undertaken within any 12-month period is \$150,000 or more, but less than \$500,000; and

64 3. A Class A license is required when the total value referred to in a single contract or project is  
65 ~~\$70,000~~ *\$120,000* or more, or when the total value of all such water well or landscape irrigation  
66 contracts undertaken within any 12-month period is ~~\$500,000~~ *\$750,000* or more.

67 D. Notwithstanding the other provisions of this section, an architect or professional engineer who is  
68 licensed pursuant to Chapter 4 (§ 54.1-400 et seq.) of this title shall not be required to be licensed or  
69 certified to engage in, or offer to engage in, contracting work or operate as an owner-developer in the  
70 Commonwealth in accordance with this chapter when bidding upon or negotiating design-build contracts  
71 or performing services other than construction services under a design-build contract. However, the  
72 construction services offered or rendered in connection with such contracts shall only be rendered by a  
73 contractor licensed or certified in accordance with this chapter.

74 E. Notwithstanding the other provisions of this section, any person licensed under the provisions of  
75 Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1 as a private security services business shall not be  
76 required to be licensed or certified to engage in, or offer to engage in, contracting work in the  
77 Commonwealth in accordance with this chapter when bidding upon or performing services to install,  
78 service, maintain, design or consult in the design of any electronic security equipment as defined in  
79 § 9.1-138 including but not limited to, low voltage cabling, network cabling and computer or systems  
80 integration.

81 § 54.1-1106. Application for Class A license; fees; examination; issuance.

82 A. Any person desiring to be licensed as a Class A contractor shall file with the Department a  
83 written application on a form prescribed by the Board. The application shall be accompanied by a fee  
84 set by the Board pursuant to § 54.1-201. The application shall contain the name, place of employment,  
85 and business address of the proposed designated employee, and information on the knowledge, skills,  
86 abilities, and financial position of the applicant. The Board shall determine whether the past performance  
87 record of the applicant, including his reputation for paying material bills and carrying out other  
88 contractual obligations, satisfies the purposes and intent of this chapter. The Board shall also determine  
89 whether the applicant has complied with the laws of the Commonwealth pertaining to the domestication  
90 of foreign corporations and all other laws affecting those engaged in the practice of contracting as set  
91 forth in this chapter. If the Board determines that sufficient questions or ambiguities exist in an  
92 individual applicant's presentation of his financial information, the Board may require the applicant to  
93 provide a balance sheet reviewed by a certified public accountant licensed in accordance with  
94 § 54.1-4409. In addition, if the applicant is a sole proprietor, he shall furnish to the Board his name and  
95 address. If the applicant is a member of a partnership, he shall furnish to the Board the names and  
96 addresses of all of the general partners of the partnership. If the applicant is a member of an association,  
97 he shall furnish to the Board the names and addresses of all of the members of the association. If the  
98 applicant is a corporation, it shall furnish to the Board the names and addresses of all officers of the  
99 corporation. If the applicant is a joint venture, it shall furnish to the Board the names and addresses of  
100 (i) each member of the joint venture and (ii) any sole proprietor, general partner of any partnership,  
101 member of any association, or officer of any corporation who is a member of the joint venture. The  
102 applicant shall thereafter keep the Board advised of any changes in the above information.

103 B. If the application is satisfactory to the Board, the proposed designated employee shall be required  
104 by Board regulations to take an oral or written examination to determine his general knowledge of  
105 contracting, including the statutory and regulatory requirements governing contractors in the  
106 Commonwealth. If the proposed designated employee successfully completes the examination and the  
107 applicant meets or exceeds the other entry criteria established by Board regulations, a Class A contractor  
108 license shall be issued to the applicant. The license shall permit the applicant to engage in contracting  
109 only so long as the designated employee is in the full-time employment of the contractor *or is a*  
110 *member of the contractor's responsible management*. No examination shall be required where the  
111 licensed Class A contractor changes his form of business entity provided he is in good standing with the  
112 Board. In the event the designated employee leaves the full-time employ of the licensed contractor *or is*  
113 *no longer a member of the contractor's responsible management*, no additional examination shall be  
114 required of such designated employee, except in accordance with § 54.1-1110.1, and the contractor shall  
115 within 90 days of that departure provide to the Board the name of the new designated employee.

116 C. The Board may grant a Class A license in any of the following classifications: (i) building  
117 contractor, (ii) highway/heavy contractor, (iii) electrical contractor, (iv) plumbing contractor, (v) heating,  
118 ventilation, and air conditioning contractor, and (vi) specialty contractor.

119 § 54.1-1108.1. Waiver of examination; designated employee.

120 Any Class A contractor licensed in the Commonwealth of Virginia prior to January 1, 1991, and in  
121 business on December 31, 1990, shall provide to the Board in writing the name of one full-time

122 employee *or member of the contractor's responsible management* who is at least 18 years of age and  
123 that employee shall be deemed to have fulfilled the requirement for examination in § 54.1-1106, so long  
124 as he remains a full-time employee of the contractor *or remains a member of the contractor's*  
125 *responsible management*. The designated employee shall not be required to take an examination if the  
126 Class A contractor changes his form of business entity and is in good standing with the Board. Upon his  
127 leaving the employ of the contractor *or his leaving as a member of the contractor's responsible*  
128 *management*, the contractor shall name another full-time employee *or member of the contractor's*  
129 *responsible management* in accordance with § 54.1-1106.

130 Any Class B contractor registered in the Commonwealth prior to January 1, 1991, and in business on  
131 December 31, 1990, shall, within its current period of registration, provide on a form prescribed by the  
132 Board satisfactory information on the financial position, and knowledge, skills and abilities of the  
133 registered firm; and the name of a full-time employee who is at least 18 years of age and that employee  
134 shall be deemed to have fulfilled the requirement for examination in § 54.1-1108, so long as he remains  
135 a full-time employee of the contractor. The designated employee shall not be required to take an  
136 examination if the Class B contractor changes his form of business entity and is in good standing with  
137 the Board. If such employee leaves the employ of the contractor, the contractor shall name another  
138 full-time employee in accordance with § 54.1-1108.