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HOUSE BILL NO. 227

Offered January 9, 2008

Prefiled December 28, 2007

A BILL to amend and reenact §§ 54.1-1100, 54.1-1106, 54.1-1108, 54.1-1108.2, and 54.1-1110 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-1108.3, relating to the Board for Contractors; applications for licensure.

Patron—Cosgrove

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-1100, 54.1-1106, 54.1-1108, 54.1-1108.2, and 54.1-1110 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-1108.3 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 \$120,000 or more, or (ii) the total value of all such construction, removal, repair, or improvements undertaken by such person within any 12-month period is \$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 \$120,000, or (ii) the total value of all such construction, removal, repair or improvements undertaken by such person within any 12-month period is \$150,000 or more, but less than \$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 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 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.

"Owner-developer" means any person who, for a third party purchaser, orders or supervises the construction, removal, repair, or improvement of any building or structure permanently annexed to real property owned, controlled, or leased by the owner-developer, or any other improvement to such property and who contracts with a person licensed in accordance with this chapter for the work undertaken.

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

"Undocumented worker" means an alien employee who is not authorized to work in the United States.

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

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

A. Any person desiring to be licensed as a Class A contractor shall file with the Department a written application on a form prescribed by the Board. The application shall be accompanied by a fee set by the Board pursuant to § 54.1-201. The application shall contain the name, place of employment, and business address of the proposed designated employee, and information on the knowledge, skills, abilities, and financial position of the applicant. *The application shall also include the certification required by § 54.1-1108.3.*

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59 B. The Board shall determine whether the past performance record of the applicant, including his
60 reputation for paying material bills and carrying out other contractual obligations, satisfies the purposes
61 and intent of this chapter. The Board shall also determine whether the applicant has complied with the
62 laws of the Commonwealth pertaining to the domestication of foreign corporations, *federal and state law*
63 *regulating the employment of aliens*, and all other laws affecting those engaged in the practice of
64 contracting as set forth in this chapter. If the Board determines that sufficient questions or ambiguities
65 exist in an individual applicant's presentation of his financial information, the Board may require the
66 applicant to provide a balance sheet reviewed by a certified public accountant licensed in accordance
67 with § 54.1-4409.1. In addition, if the applicant is a sole proprietor, he shall furnish to the Board his
68 name and address. If the applicant is a member of a partnership, he shall furnish to the Board the names
69 and addresses of all of the general partners of the partnership. If the applicant is a member of an
70 association, he shall furnish to the Board the names and addresses of all of the members of the
71 association. If the applicant is a corporation, it shall furnish to the Board the names and addresses of all
72 officers of the corporation. If the applicant is a joint venture, it shall furnish to the Board the names and
73 addresses of (i) each member of the joint venture and (ii) any sole proprietor, general partner of any
74 partnership, member of any association, or officer of any corporation who is a member of the joint
75 venture. The applicant shall thereafter keep the Board advised of any changes in the above information.

76 B.C. If the application is satisfactory to the Board, the proposed designated employee shall be
77 required by Board regulations to take an oral or written examination to determine his general knowledge
78 of contracting, including the statutory and regulatory requirements governing contractors in the
79 Commonwealth. If the proposed designated employee successfully completes the examination and the
80 applicant meets or exceeds the other entry criteria established by Board regulations, a Class A contractor
81 license shall be issued to the applicant. The license shall permit the applicant to engage in contracting
82 only so long as the designated employee is in the full-time employment of the contractor or is a member
83 of the contractor's responsible management. No examination shall be required where the licensed Class
84 A contractor changes his form of business entity provided he is in good standing with the Board. In the
85 event the designated employee leaves the full-time employ of the licensed contractor or is no longer a
86 member of the contractor's responsible management, no additional examination shall be required of such
87 designated employee, except in accordance with § 54.1-1110.1, and the contractor shall within 90 days
88 of that departure provide to the Board the name of the new designated employee.

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

92 § 54.1-1108. Application for Class B license; fees; examination; issuance.

93 A. Any person desiring to be licensed as a Class B contractor shall file with the Department a
94 written application on a form prescribed by the Board. The application shall be accompanied by a fee
95 set by the Board pursuant to § 54.1-201. The application shall contain the name, place of employment,
96 and business address of the proposed designated employee; information on the knowledge, skills,
97 abilities, and financial position of the applicant; and evidence of holding a current local license pursuant
98 to local ordinances adopted pursuant to § 54.1-1117. *The application shall also include the certification*
99 *required by § 54.1-1108.3.*

100 The Board shall determine whether the past performance record of the applicant, including his
101 reputation for paying material bills and carrying out other contractual obligations, satisfies the purpose
102 and intent of this chapter. The Board shall also determine whether the applicant has complied with the
103 laws of the Commonwealth pertaining to the domestication of foreign corporations, *federal and state law*
104 *regulating the employment of aliens*, and all other laws affecting those engaged in the practice of
105 contracting as set forth in this chapter. In addition, if the applicant is a sole proprietor, he shall furnish
106 to the Board his name and address. If the applicant is a member of a partnership, he shall furnish to the
107 Board the names and addresses of all of the general partners of that partnership. If the applicant is a
108 member of an association, he shall furnish to the Board the names and addresses of all of the members
109 of the association. If the applicant is a corporation, it shall furnish to the Board the name and address of
110 all officers of the corporation. If the applicant is a joint venture, it shall furnish to the Board the names
111 and addresses of (i) each member of the joint venture and (ii) any sole proprietor, general partner of any
112 partnership, member of any association, or officer of any corporation who is a member of the joint
113 venture. The applicant shall thereafter keep the Board advised of any changes in the above information.

114 B. If the application is satisfactory to the Board, the proposed designated employee shall be required
115 by Board regulations to take an oral or written examination to determine his general knowledge of
116 contracting, including the statutory and regulatory requirements governing contractors in the
117 Commonwealth. If the proposed designated employee successfully completes the examination and the
118 applicant meets or exceeds the other entry criteria established by Board regulations, a Class B contractor
119 license shall be issued to the applicant. The license shall permit the applicant to engage in contracting
120 only so long as the designated employee is in the full-time employment of the contractor and only in the

counties, cities, and towns where such person has complied with all local licensing requirements and for the type of work to be performed. No examination shall be required where the licensed Class B contractor changes his form of business entity provided he is in good standing with the Board. In the event the designated employee leaves the full-time employ of the licensed contractor, no additional examination shall be required of such designated employee, except in accordance with § 54.1-1110.1, and the contractor shall within 90 days of that departure provide to the Board the name of the new designated employee.

C. The Board may grant a Class B license in any of the following classifications: (i) building contractor, (ii) highway/heavy contractor, (iii) electrical contractor, (iv) plumbing contractor, (v) HVAC contractor, and (vi) specialty contractor.

§ 54.1-1108.2. Application for Class C license; fees; issuance.

A. Any person desiring to be licensed as a Class C contractor shall file with the Department a written application on a form prescribed by the Board. The application shall be accompanied by a fee set by the Board pursuant to § 54.1-201. The application shall contain information concerning the name, location, nature, and operation of the business, and information demonstrating that the applicant possesses the character and minimum skills to properly engage in the occupation of contracting. *The application shall also include the certification required by § 54.1-1108.3.*

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

§ 54.1-1108.3. Applications for Class A, B, or C licenses; required provision.

A. *As part of the application for licensure under this chapter, whether the application is for licensure as a Class A, B, or C contractor, each applicant shall submit a statement, on a form provided by the Board, certifying that the applicant (i) will not knowingly employ an undocumented worker or otherwise violate the Federal Immigration and Reform Act or § 40.1-11.1 of the Code of Virginia and (ii) will continue to verify the lawful employment status of all employees by means of a work-authorization program issued by the U.S. Bureau of Citizenship and Immigration Services or any equivalent federal work authorization program approved or operated by the U.S. Department of Homeland Security.*

B. *No application shall be accepted or license issued by the Board without the inclusion of the certification required by subsection A with the application form.*

§ 54.1-1110. Grounds for denial or revocation of license or certificate.

The Board shall have the power to require remedial education, suspend, revoke, or deny renewal of the license or certificate of any contractor who is found to be in violation of the statutes or regulations governing the practice of licensed or certified contractors in the Commonwealth *or who is found to have knowingly hired one or more undocumented workers in violation of the Federal Immigration and Reform Act or § 40.1-11.1 of the Code of Virginia.*

The Board may suspend, revoke, or deny renewal of an existing license or certificate, or refuse to issue a license or certificate, to any contractor who is shown to have a substantial identity of interest with a contractor whose license or certificate has been revoked or not renewed by the Board. A substantial identity of interest includes but is not limited to (i) a controlling financial interest by the individual or corporate principals of the contractor whose license or certificate has been revoked or nonrenewed, (ii) substantially identical principals or officers, or (iii) the same designated employee as the contractor whose license or certificate has been revoked or not renewed by the Board.

Additionally, the Board may suspend, revoke or deny renewal of an existing license or certificate, or refuse to issue a license or certificate to any contractor who violates the provisions of Chapter 5 (§ 60.2-500 et seq.) of Title 60.2 and Chapter 8 (§ 65.2-800 et seq.) of Title 65.2.

Any person whose license is suspended or revoked by the Board shall not be eligible for a license or certificate under any circumstances or under any name, except as provided by regulations of the Board pursuant to § 54.1-1102.