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**HOUSE BILL NO. 1708**

Offered January 14, 2009

Prefiled January 5, 2009

*A BILL to amend and reenact §§ 36-105, 54.1-1140, 54.1-1142, 54.1-1142.1, and 54.1-1143 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-1142.2, relating to the Board for Contractors; elevator mechanics.*

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Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 36-105, 54.1-1140, 54.1-1142, 54.1-1142.1, and 54.1-1143 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-1142.2 as follows:**

§ 36-105. Enforcement of Code; appeals from decisions of local department; inspection of buildings; inspection warrants; inspection of elevators.

A. Enforcement generally. Enforcement of the provisions of the Building Code for construction and rehabilitation shall be the responsibility of the local building department. There shall be established within each local building department a local board of Building Code appeals whose composition, duties and responsibilities shall be prescribed in the Building Code. Appeals from the local building department concerning application of the Building Code or refusal to grant a modification to the provisions of the Building Code shall first lie to the local board of Building Code appeals. No appeal to the State Building Code Technical Review Board shall lie prior to a final determination by the local board of Building Code appeals. Whenever a county or a municipality does not have such a building department or board of Building Code appeals, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the Department for such enforcement and appeals resulting therefrom. For the purposes of this section, towns with a population of less than 3,500 may elect to administer and enforce the Building Code; however, where the town does not elect to administer and enforce the Building Code, the county in which the town is situated shall administer and enforce the Building Code for the town. In the event such town is situated in two or more counties, those counties shall administer and enforce the Building Code for that portion of the town which is situated within their respective boundaries. Fees may be levied by the local governing body in order to defray the cost of such enforcement and appeals.

B. New construction. Any building or structure may be inspected at any time before completion, and shall not be deemed in compliance until approved by the inspecting authority. Where the construction cost is less than \$2,500, however, the inspection may, in the discretion of the inspecting authority, be waived. A building official may issue an annual permit for any construction regulated by the Building Code. The building official shall coordinate all reports of inspections for compliance with the Building Code, with inspections of fire and health officials delegated such authority, prior to issuance of an occupancy permit.

C. Existing buildings and structures.

1. Inspections and enforcement of the Building Code. The local governing body may also inspect and enforce the provisions of the Building Code for existing buildings and structures, whether occupied or not. Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body.

2. Complaints by tenants. However, upon a finding by the local building department, following a complaint by a tenant of a residential dwelling unit that is the subject of such complaint, that there may be a violation of the unsafe structures provisions of the Building Code, the local building department shall enforce such provisions.

3. Inspection warrants. If the local building department receives a complaint that a violation of the Building Code exists that is an immediate and imminent threat to the health or safety of the owner or tenant of a residential dwelling unit or a nearby residential dwelling unit, and the owner or tenant of the residential dwelling unit that is the subject of the complaint has refused to allow the local building official or his agent to have access to the subject dwelling, the local building official or his agent may present sworn testimony to a magistrate or a court of competent jurisdiction and request that the magistrate or court grant the local building official or his agent an inspection warrant to enable the building official or his agent to enter the subject dwelling for the purpose of determining whether violations of the Building Code exist. The local building official or his agent shall make a reasonable

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59 effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of  
60 an inspection warrant under this section.

61 4. Transfer of ownership. If the local building department has initiated an enforcement action against  
62 the owner of a building or structure and such owner subsequently transfers the ownership of the building  
63 or structure to an entity in which the owner holds an ownership interest greater than 50%, the pending  
64 enforcement action shall continue to be enforced against the owner.

65 D. Elevator inspections. The local governing body shall, however, inspect and enforce the Building  
66 Code for elevators, except for elevators in single- and two-family homes and townhouses. Such  
67 inspection shall (i) be carried out by an agency or department designated by the local governing body  
68 and (ii) include a reference to the certification number of the elevator mechanic who performed the  
69 work on an elevator, escalator, or related conveyance in accordance with the Building Code.

70 § 54.1-1140. Definition.

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

72 "~~Certified elevator mechanic~~" means an individual who is certified by the Board in accordance with  
73 this article to engage in work as an elevator mechanic.

74 "Elevator mechanic" means an individual who is ~~engaged~~ certified by the Board in accordance with  
75 this article to engage in erecting, constructing, installing, altering, servicing, repairing, testing or  
76 maintaining elevators, escalators, or related conveyances in accordance with the Uniform Statewide  
77 Building Code.

78 § 54.1-1142. Issuance of certification; emergency certification.

79 A. The Board shall issue a certificate to practice as a ~~certified~~ an elevator mechanic in the  
80 Commonwealth to any applicant who has submitted satisfactory evidence that he has successfully:

81 1. Completed the educational requirements as required by the Board, which shall at a minimum  
82 include such requirements as the Board determines will establish minimum competency on the part of  
83 the applicant;

84 2. Completed the experience requirements as required by the Board, which shall at a minimum  
85 consist of at least three years in the elevator industry; and

86 3. Passed an examination offered or approved by the Board.

87 B. The Board may issue a certificate to practice as a ~~certified~~ an elevator mechanic to any applicant  
88 who has a certification from an association approved by the Board that is equal to or exceeds the  
89 requirements established by the Board for all applicants.

90 § 54.1-1142.1. Certifications in event of declared emergency.

91 A. Whenever the Governor declares a state of emergency in accordance with § 44-146.17 or in the  
92 event of a work stoppage by elevator mechanics and the Board determines that the number of ~~certified~~  
93 elevator mechanics is insufficient to meet the demands of the emergency or work stoppage, the Board  
94 shall issue a ~~an emergency~~ certificate to practice as a ~~certified~~ an elevator mechanic under the following  
95 conditions:

96 1. A contractor licensed under the provisions of this chapter (a) ~~certifies~~ attests to the Board, in a  
97 form prescribed by the Board, that an applicant has an acceptable combination of documented  
98 experience and education to perform work as an elevator mechanic without direct and immediate  
99 supervision and (b) provides such proof thereof as required by the Board; and

100 2. The applicant ~~certified~~ attested to the Board by the licensed contractor applies to the Board for  
101 emergency certification as an ~~emergency~~ certified elevator mechanic.

102 B. Each such certification shall be valid for a period of ~~30~~ 45 days from the date of issuance and for  
103 such geographic areas or such elevators, escalators, or related conveyances as the Board may designate.  
104 Such certification shall entitle the certificate holder to engage in work as a certified elevator mechanic.  
105 The Board shall renew such certification as often as necessary to ensure that there is a sufficient number  
106 of certified elevator mechanics to meet the demands of the emergency. No fee shall be charged for  
107 application for such certification or any renewal thereof.

108 C. ~~In addition, when notified by a contractor licensed under the provisions of this section that there~~  
109 ~~is a shortage of certified personnel to perform elevator work, the Board may issue temporary elevator~~  
110 ~~mechanic certifications under the following conditions:~~

111 1. ~~The licensed contractor certifies to the Board, in a form prescribed by the Board, that an applicant~~  
112 ~~has an acceptable combination of documented experience and education to perform work as an elevator~~  
113 ~~mechanic without direct and immediate supervision and provide such proof thereof as required by the~~  
114 ~~Board;~~

115 2. ~~The applicant certified to the Board by the licensed contractor applies to the Board for such~~  
116 ~~temporary certification as an elevator mechanic; and~~

117 3. ~~The applicant pays an application fee as set by the Board.~~

118 D. Each such certification shall be valid for a period of 30 days from the date of issuance provided  
119 the applicant is employed by the licensed contractor. The Board shall renew such certification as often  
120 as necessary to ensure that there is a sufficient number of certified elevator mechanics to meet the

~~shortage~~The Board may delegate to the Director of the Department the authority to issue such emergency certifications. The Director shall inform the Board of the issuance of any certifications.

§ 54.1-1142.2. Certifications in event of shortage of elevator mechanics.

A. Whenever a contractor licensed under the provisions of this chapter demonstrates to the satisfaction of the Board that there is a shortage of elevator mechanics, the Board shall issue temporary certifications under the following conditions:

1. The licensed contractor attests to the Board, in a form prescribed by the Board, that after due diligence, the licensed contractor is unable to employ an elevator mechanic from the list of elevator mechanics maintained by the Board to perform elevator work;

2. The applicant has an acceptable combination of documented experience and education to perform work as an elevator mechanic without direct and immediate supervision and provides such proof thereof as required by the Board;

3. The applicant applies for such temporary certification as an elevator mechanic; and

4. The applicant pays an application fee as set by the Board.

B. Each such temporary certification shall be valid for a period of up to 45 days from the date of issuance, provided the applicant continues at all times to be employed by the licensed contractor. The Board shall renew such certification as often as necessary to ensure that there is a sufficient number of elevator mechanics to meet the shortage.

C. The Board may delegate to the Director of the Department the authority to issue such temporary certifications or renewals thereof. The Director shall inform the Board of the issuance of any such certifications or renewals.

§ 54.1-1143. Continuing education.

A. The Board shall establish in the regulations requirements for continuing education as a prerequisite to renewal of any certificate issued under this article. The Board shall require evidence of knowledge of the Uniform Statewide Building Code changes as a prerequisite to renewal of any certificate issued under this article. In addition, the Board may require continuing education for any individual who is found to be in violation of law or regulations governing the practice of an elevator mechanic certified under this article.

~~B. A certified~~ An elevator mechanic, as a condition of recertification and as part of the recertification application, shall ~~certify~~ attest to the Board that he has completed at least eight hours of continuing education, approved by the Board, in the specialty of elevator/escalator contracting. The Board may establish such requirements for approval of training instructors, the criteria for the continuing education and such other regulations to ensure the protection of the public interest. Such criteria shall include approval of curriculum sponsored by national or state professional elevator industry associations approved by the Board.

C. The provisions of this section shall not apply to certifications issued by the Board under § 54.1-1142.1 or 54.1-1142.2.