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HOUSE BILL NO. 707**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee on General Laws and Technology
on February 29, 2016)

(Patron Prior to Substitute—Delegate Minchew)

A BILL to amend and reenact §§ 54.1-500, 54.1-1100, 54.1-1101, 55-225.17, 55-248.12:3, and 55-519.4 of the Code of Virginia, relating to the Board for Asbestos, Lead, and Home Inspectors; Board for Contractors; licensure of remediation or site work related to former methamphetamine property.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-500, 54.1-1100, 54.1-1101, 55-225.17, 55-248.12:3, and 55-519.4 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-500. Definitions.

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

"Accredited asbestos training program" means a training program that has been approved by the Board to provide training for individuals to engage in asbestos abatement, conduct asbestos inspections, prepare management plans, prepare project designs or act as project monitors.

"Accredited lead training program" means a training program that has been approved by the Board to provide training for individuals to engage in lead-based paint activities.

"Accredited renovation training program" means a training program that has been approved by the Board to provide training for individuals to engage in renovation or dust clearance sampling.

"Asbestos" means the asbestiform varieties of actinolite, amosite, anthophyllite, chrysotile, crocidolite, and tremolite.

"Asbestos analytical laboratory license" means an authorization issued by the Board to perform phase contrast, polarized light, or transmission electron microscopy on material known or suspected to contain asbestos.

"Asbestos contractor's license" means an authorization issued by the Board permitting a person to enter into contracts to perform an asbestos abatement project.

"Asbestos-containing materials" or "ACM" means any material or product which contains more than 1.0 percent asbestos or such other percentage as established by EPA final rule.

"Asbestos inspector's license" means an authorization issued by the Board permitting a person to perform on-site investigations to identify, classify, record, sample, test and prioritize by exposure potential asbestos-containing materials.

"Asbestos management plan" means a program designed to control or abate any potential risk to human health from asbestos.

"Asbestos management planner's license" means an authorization issued by the Board permitting a person to develop or alter an asbestos management plan.

"Asbestos project" or "asbestos abatement project" means an activity involving job set-up for containment, removal, encapsulation, enclosure, encasement, renovation, repair, construction or alteration of an asbestos-containing material. An asbestos project or asbestos abatement project shall not include nonfriable asbestos-containing roofing, flooring and siding materials which when installed, encapsulated or removed do not become friable.

"Asbestos project designer's license" means an authorization issued by the Board permitting a person to design an asbestos abatement project.

"Asbestos project monitor's license" means an authorization issued by the Board permitting a person to monitor an asbestos project, subject to Department regulations.

"Asbestos supervisor" means any person so designated by an asbestos contractor who provides on-site supervision and direction to the workers engaged in asbestos projects.

"Asbestos worker's license" means an authorization issued by the Board permitting an individual to work on an asbestos project.

"Board" means the Virginia Board for Asbestos, Lead, and Home Inspectors.

"Certified home inspection" means any inspection of a residential building for compensation conducted by a certified home inspector. A certified home inspection shall include a written evaluation of the readily accessible components of a residential building, including heating, cooling, plumbing, and electrical systems; structural components; foundation; roof; masonry structure; exterior and interior components; and other related residential housing components. A certified home inspection may be limited in scope as provided in a home inspection contract, provided such contract is not inconsistent with the provisions of this chapter or the regulations of the Board.

"Certified home inspector" means a person who meets the criteria of education, experience, and testing required by this chapter and regulations of the Board and who has been certified by the Board.

60 "Dust clearance sampling" means an on-site collection of dust or other debris that is present after the
61 completion of a renovation to determine the presence of lead-based paint hazards and the provisions of a
62 report explaining the results.

63 "Dust sampling technician" means an individual licensed by the Board to perform dust clearance
64 sampling.

65 "Friable" means that the material when dry may be crumbled, pulverized, or reduced to powder by
66 hand pressure and includes previously nonfriable material after such previously nonfriable material
67 becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by
68 hand pressure.

69 "Lead abatement" means any measure or set of measures designed to permanently eliminate
70 lead-based paint hazards, including lead-contaminated dust or soil.

71 "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of
72 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

73 "Lead-based paint activity" means lead inspection, lead risk assessment, lead project design and
74 abatement of lead-based paint and lead-based paint hazards, including lead-contaminated dust and
75 lead-contaminated soil.

76 "Lead-contaminated dust" means surface dust that contains an area or mass concentration of lead at
77 or in excess of levels identified by the Environmental Protection Agency pursuant to § 403 of TSCA (15
78 U.S.C. § 2683).

79 "Lead-contaminated soil" means bare soil that contains lead at or in excess of levels identified by the
80 Environmental Protection Agency.

81 "Lead contractor" means a person who has met the Board's requirements and has been issued a
82 license by the Board to enter into contracts to perform lead abatements.

83 "Lead inspection" means a surface-by-surface investigation to determine the presence of lead-based
84 paint and the provisions of a report explaining the results of the investigation.

85 "Lead inspector" means an individual who has been licensed by the Board to conduct lead
86 inspections and abatement clearance testing.

87 "Lead project design" means any descriptive form written as instructions or drafted as a plan
88 describing the construction or setting up of a lead abatement project area and the work practices to be
89 utilized during the lead abatement project.

90 "Lead project designer" means an individual who has been licensed by the Board to prepare lead
91 project designs.

92 "Lead risk assessment" means (i) an on-site investigation to determine the existence, nature, severity
93 and location of lead-based paint hazards and (ii) the provision of a report by the individual or the firm
94 conducting the risk assessment, explaining the results of the investigation and options for reducing
95 lead-based paint hazards.

96 "Lead risk assessor" means an individual who has been licensed by the Board to conduct lead
97 inspections, lead risk assessments and abatement clearance testing.

98 "Lead supervisor" means an individual who has been licensed by the Board to supervise lead
99 abatements.

100 "Lead worker" or "lead abatement worker" means an individual who has been licensed by the Board
101 to perform lead abatement.

102 "Person" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association
103 or any other individual or entity.

104 "Principal instructor" means the individual who has the primary responsibility for organizing and
105 teaching an accredited asbestos training program, an accredited lead training program, an accredited
106 renovation training program, or any combination thereof.

107 "Renovation" means the modification of any existing structure or portion thereof, for compensation,
108 that results in the disturbance of painted surfaces, unless that activity is (i) performed as a part of a lead
109 abatement or (ii) *limited in scope to the site work or remediation as referenced in the definition of*
110 *contractor in § 54.1-1100. As used in this definition, "compensation" shall include the receipt of (i) (a)*
111 *pay for work performed, such as that paid to contractors and subcontractors; (ii) (b) wages, including*
112 *but not limited to those paid to employees of contractors, building owners, property management*
113 *companies, child-occupied facilities operators, state and local government agencies, and nonprofit*
114 *organizations; and (iii) (c) rent for housing constructed before January 1, 1978, or child-occupied*
115 *facilities in public or commercial building space.*

116 "Renovation contractor" means a person who has met the Board's requirements and has been issued a
117 license by the Board to conduct renovations.

118 "Renovator" means an individual who has been issued a license by the Board to perform renovations
119 or to direct others who perform renovations.

120 "Residential building" means, for the purposes of home inspection, a structure consisting of one to
121 four dwelling units used or occupied, or intended to be used or occupied, for residential purposes.

"Training manager" means the individual responsible for administering a training program and monitoring the performance of instructors for an accredited asbestos training, accredited lead training program or accredited renovation training program.

§ 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 \$10,000 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 \$10,000, 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. *For purposes of this chapter, "improvement" shall include (i) remediation, cleanup, or containment of premises to remove contaminants or (ii) site work necessary to make certain real property usable for human occupancy according to the guidelines established pursuant to § 32.1-11.7.*

"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.

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

§ 54.1-1101. Exemptions; failure to obtain certificate of occupancy; penalties.

A. The provisions of this chapter shall not apply to:

1. Any governmental agency performing work with its own forces;
2. Work bid upon or undertaken for the armed services of the United States under the Armed Services Procurement Act;
3. Work bid upon or undertaken for the United States government on land under the exclusive jurisdiction of the federal government either by statute or deed of cession;
4. Work bid upon or undertaken for the Department of Transportation on the construction, reconstruction, repair or improvement of any highway or bridge;
5. Any other persons who may be specifically excluded by other laws but only to such an extent as such laws provide;
6. Any material supplier who renders advice concerning use of products sold and who does not provide construction or installation services;
7. Any person who performs or supervises the construction, removal, repair or improvement of no more than one primary residence owned by him and for his own use during any 24-month period;
8. Any person who performs or supervises the construction, removal, repair or improvement of a house upon his own real property as a bona fide gift to a member of his immediate family provided such member lives in the house. For purposes of this section, "immediate family" includes one's mother, father, son, daughter, brother, sister, grandchild, grandparent, mother-in-law and father-in-law;
9. Any person who performs or supervises the repair or improvement of industrial or manufacturing

183 facilities, or a commercial or retail building, for his own use;

184 10. Any person who performs or supervises the repair or improvement of residential dwelling units
185 owned by him that are subject to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.);

186 11. Any owner-developer, provided that any third party purchaser is made a third party beneficiary to
187 the contract between the owner-developer and a licensed contractor whereby the contractor's obligation
188 to perform the contract extends to both the owner-developer and the third party; ~~and~~

189 12. Work undertaken by students as part of a career and technical education project as defined in
190 § 22.1-228 established by any school board in accordance with Article 5 (§ 22.1-228 et seq.) of Chapter
191 13 of Title 22.1 for the construction of portable classrooms or single family homes; *and*

192 13. *Any person who performs the removal of building detritus or provides janitorial, cleaning, or*
193 *sanitizing services incidental to the construction, removal, repair, or improvement of real property.*

194 All other contractors performing work for any government or for any governmental agency are
195 subject to the provisions of this chapter and are required to be licensed as provided herein.

196 B. Any person who is exempt from the provisions of this chapter as a result of subdivision 7, 10, 11,
197 or 12 of subsection A shall obtain a certificate of occupancy for any building constructed, repaired or
198 improved by him prior to conveying such property to a third party purchaser, unless such purchaser has
199 acknowledged in writing that no certificate of occupancy has been issued and that such purchaser
200 consents to acquire the property without a certificate of occupancy.

201 C. Any person who is exempt from the provisions of this chapter as a result of subdivision 7, 8, 9,
202 10, 11, or 12 of subsection A shall comply with the provisions of the Uniform Statewide Building Code
203 (§ 36-97 et seq.).

204 D. Any person who violates the provisions of subsections B or C shall be guilty of a Class 1
205 misdemeanor. The third or any subsequent conviction of violating subsections B or C during a 36-month
206 period shall constitute a Class 6 felony.

207 **§ 55-225.17. Required disclosures for property previously used to manufacture**
208 **methamphetamine; remedy for nondisclosure.**

209 A. If the landlord of a residential dwelling unit has actual knowledge that the dwelling unit was
210 previously used to manufacture methamphetamine and has not been cleaned up in accordance with the
211 guidelines established pursuant to § 32.1-11.7 *and the applicable licensing provisions of Chapter 11*
212 *(§ 54.1-1100 et seq.) of Title 54.1*, the landlord shall provide to a prospective tenant a written disclosure
213 that so states. Such disclosure shall be provided prior to the execution by the tenant of a written lease
214 agreement or, in the case of an oral lease agreement, prior to occupancy by the tenant.

215 B. Any tenant who is not provided the disclosure required by subsection A may terminate the lease
216 agreement at any time within 60 days of discovery that the property was previously used to manufacture
217 methamphetamine and has not been cleaned up in accordance with the guidelines established pursuant to
218 § 32.1-11.7 by providing written notice to the landlord in accordance with the lease or as required by
219 law. Such termination shall be effective as of (i) 15 days after the date of the mailing of the notice or
220 (ii) the date through which rent has been paid, whichever is later. In no event, however, shall the
221 effective date of the termination exceed one month from the date of mailing. Termination of the lease
222 agreement shall be the exclusive remedy for the failure to comply with the disclosure provisions
223 required by this section and shall not affect any rights or duties of the landlord or tenant arising under
224 this chapter, other applicable law, or the rental agreement.

225 **§ 55-248.12:3. Required disclosures for property previously used to manufacture**
226 **methamphetamine; remedy for nondisclosure.**

227 A. If the landlord of a residential dwelling unit has actual knowledge that the dwelling unit was
228 previously used to manufacture methamphetamine and has not been cleaned up in accordance with the
229 guidelines established pursuant to § 32.1-11.7 *and the applicable licensing provisions of Chapter 11*
230 *(§ 54.1-1100 et seq.) of Title 54.1*, the landlord shall provide to a prospective tenant a written disclosure
231 that so states. Such disclosure shall be provided prior to the execution by the tenant of a written lease
232 agreement or, in the case of an oral lease agreement, prior to occupancy by the tenant.

233 B. Any tenant who is not provided the disclosure required by subsection A may terminate the lease
234 agreement at any time within 60 days of discovery that the property was previously used to manufacture
235 methamphetamine and has not been cleaned up in accordance with the guidelines established pursuant to
236 § 32.1-11.7 by providing written notice to the landlord in accordance with the lease or as required by
237 law. Such termination shall be effective as of (i) 15 days after the date of the mailing of the notice or
238 (ii) the date through which rent has been paid, whichever is later. In no event, however, shall the
239 effective date of the termination exceed one month from the date of mailing. Termination of the lease
240 agreement shall be the exclusive remedy for the failure to comply with the disclosure provisions
241 required by this section and shall not affect any rights or duties of the landlord or tenant arising under
242 this chapter, other applicable law, or the rental agreement.

243 **§ 55-519.4. Required disclosures; property previously used to manufacture methamphetamine.**

244 Notwithstanding the exemptions in § 55-518, if the owner of a residential dwelling unit has actual

245 knowledge that such residential property was previously used to manufacture methamphetamine and has
246 not been cleaned up in accordance with the guidelines established pursuant to § 32.1-11.7 *and the*
247 *applicable licensing provisions of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1*, the owner shall provide
248 to a prospective purchaser a written disclosure that so states. Such disclosure shall be provided to the
249 purchaser on a form provided by the Virginia Real Estate Board and otherwise in accordance with this
250 chapter.