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HOUSE BILL NO. 2335

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 3, 2017)

(Patron Prior to Substitute—Delegate Watts)

A *BILL to amend and reenact § 54.1-1115 of the Code of Virginia, relating to the Board for Contractors; unlicensed activity; penalty.*

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-1115 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-1115. Prohibited acts; penalty.

A. The following acts are prohibited and shall constitute the commission of a Class 1 misdemeanor:

1. Contracting for, or bidding upon the construction, removal, repair or improvements to or upon real property owned, controlled or leased by another person without a license or certificate, or without the proper class of license as defined in § 54.1-1100 for the value of work to be performed.

2. Attempting to practice contracting in the Commonwealth, except as provided for in this chapter.

3. Presenting or attempting to use the license or certificate of another.

4. Giving false or forged evidence of any kind to the Board or any member thereof in an application for the issuance or renewal of a license or certificate.

5. Impersonating another or using an expired or revoked license or certificate.

6. Receiving or considering as the awarding authority a bid from anyone whom the awarding authority knows is not properly licensed or certified under this chapter. The awarding authority shall require a bidder to submit his license or certificate number prior to considering a bid.

B. Any person who undertakes work without (i) any valid Virginia contractor's license or certificate when a license or certificate is required by this chapter or (ii) the proper class of license as defined in § 54.1-1100 for the work undertaken, shall be fined an amount not to exceed \$500 per day for each day that such person is in violation, in addition to the authorized penalties for the commission of a Class 1 misdemeanor. *In addition, a third or subsequent violation in any 36 month period by any person who undertakes work without any valid Virginia contractor's license or certificate when a license or certificate is required by this chapter shall constitute a Class 6 felony.*

Any violation of clause (i) of this subsection shall also constitute a prohibited practice in accordance with § 59.1-200 provided the violation involves a consumer transaction as defined in the Virginia Consumer Protection Act (§ 59.1-196 et seq.), and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act.

C. No person shall be entitled to assert the lack of licensure or certification as required by this chapter as a defense to any action at law or suit in equity if the party who seeks to recover from such person gives substantial performance within the terms of the contract in good faith and without actual knowledge that a license or certificate was required by this chapter to perform the work for which he seeks to recover payment.

Failure to renew a license or certificate issued in accordance with this chapter shall create a rebuttable presumption of actual knowledge of such licensing or certification requirements.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 780 of the Acts of Assembly of 2016 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.