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SENATE BILL NO. 1774

Offered January 18, 2019

A BILL to amend and reenact §§ 54.1-1100, 54.1-1106, 54.1-1108, and 54.1-1108.2 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 11 of Title 54.1 an article numbered 6, consisting of sections numbered 54.1-1147 and 54.1-1148, relating to the Board for Contractors; requirements for licensure; certification of automatic fire sprinkler inspectors.

Patron—Edwards

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-1100, 54.1-1106, 54.1-1108, and 54.1-1108.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 11 of Title 54.1 an article numbered 6, consisting of sections numbered 54.1-1147 and 54.1-1148, 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 \$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.

"Fire sprinkler contractor" means a contractor that provides for the installation, repair, alteration, addition, testing, maintenance, inspection, improvement, or removal of sprinkler systems using water as a means of fire suppression when annexed to real property. "Fire sprinkler contracting" does not include the installation, repair, or maintenance of other types of fire suppression systems.

"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.

§ 54.1-1106. 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

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59 written application on a form prescribed by the Board. The application shall be accompanied by a fee
60 set by the Board pursuant to § 54.1-201. The application shall contain the name, place of employment,
61 and business address of the proposed designated employee, and information on the knowledge, skills,
62 abilities, and financial position of the applicant. The Board shall determine whether the past performance
63 record of the applicant, including his reputation for paying material bills and carrying out other
64 contractual obligations, satisfies the purposes and intent of this chapter. The Board shall also determine
65 whether the applicant has complied with the laws of the Commonwealth pertaining to the domestication
66 of foreign corporations and all other laws affecting those engaged in the practice of contracting as set
67 forth in this chapter.

68 B. As proof of financial responsibility, the applicant shall demonstrate compliance with the minimum
69 net worth requirement fixed by the Board in regulation by providing either:

70 1. A financial statement on a form prescribed by the Board, subject to additional verification if the
71 Board determines that sufficient questions or ambiguities exist in the applicant's presentation of financial
72 information; or

73 2. A balance sheet reviewed by a certified public accountant licensed in accordance with
74 § 54.1-4409.1.

75 C. In lieu of compliance with subsection B, an applicant may demonstrate financial responsibility by
76 electing to obtain and maintain a bond in the amount of \$50,000. Proof of current bond shall come from
77 a corporate surety licensed to do business in the Commonwealth and approved by the Attorney General
78 and shall be filed with the Department.

79 D. In addition, if the applicant is a sole proprietor, he shall furnish to the Board his name and
80 address. If the applicant is a member of a partnership, he shall furnish to the Board the names and
81 addresses of all of the general partners of the partnership. If the applicant is a member of an association,
82 he shall furnish to the Board the names and addresses of all of the members of the association. If the
83 applicant is a corporation, it shall furnish to the Board the names and addresses of all officers of the
84 corporation. If the applicant is a joint venture, it shall furnish to the Board the names and addresses of
85 (i) each member of the joint venture and (ii) any sole proprietor, general partner of any partnership,
86 member of any association, or officer of any corporation who is a member of the joint venture. The
87 applicant shall thereafter keep the Board advised of any changes in the above information.

88 E. If the application is satisfactory to the Board, the proposed designated employee shall be required
89 by Board regulations to take an oral or written examination to determine his general knowledge of
90 contracting, including the statutory and regulatory requirements governing contractors in the
91 Commonwealth. If the proposed designated employee successfully completes the examination and the
92 applicant meets or exceeds the other entry criteria established by Board regulations, a Class A contractor
93 license shall be issued to the applicant. The license shall permit the applicant to engage in contracting
94 only so long as the designated employee is in the full-time employment of the contractor or is a member
95 of the contractor's responsible management. No examination shall be required where the licensed Class
96 A contractor changes his form of business entity provided he is in good standing with the Board. In the
97 event the designated employee leaves the full-time employ of the licensed contractor or is no longer a
98 member of the contractor's responsible management, no additional examination shall be required of such
99 designated employee, except in accordance with § 54.1-1110.1, and the contractor shall within 90 days
100 of that departure provide to the Board the name of the new designated employee.

101 F. The Board may grant a Class A license in any of the following classifications: (i) residential
102 building contractor, (ii) commercial building contractor, (iii) highway/heavy contractor, (iv) electrical
103 contractor, (v) plumbing contractor, (vi) heating, ventilation, and air conditioning contractor, ~~and~~ (vii)
104 *fire sprinkler contractor, and (viii) specialty contractor.*

105 **§ 54.1-1108. Application for Class B license; fees; examination; issuance.**

106 A. Any person desiring to be licensed as a Class B contractor shall file with the Department a
107 written application on a form prescribed by the Board. The application shall be accompanied by a fee
108 set by the Board pursuant to § 54.1-201. The application shall contain the name, place of employment,
109 and business address of the proposed designated employee; information on the knowledge, skills,
110 abilities, and financial position of the applicant; and evidence of holding a current local license pursuant
111 to local ordinances adopted pursuant to § 54.1-1117. The Board shall determine whether the past
112 performance record of the applicant, including his reputation for paying material bills and carrying out
113 other contractual obligations, satisfies the purpose and intent of this chapter. The Board shall also
114 determine whether the applicant has complied with the laws of the Commonwealth pertaining to the
115 domestication of foreign corporations and all other laws affecting those engaged in the practice of
116 contracting as set forth in this chapter.

117 B. As proof of financial responsibility, the applicant shall demonstrate compliance with the minimum
118 net worth requirement fixed by the Board in regulation by providing either:

119 1. A financial statement on a form prescribed by the Board, subject to additional verification if the
120 Board determines that sufficient questions or ambiguities exist in the applicant's presentation of financial

information; or

2. A balance sheet reviewed by a certified public accountant licensed in accordance with § 54.1-4409.1.

C. In lieu of compliance with subsection B, an applicant may demonstrate financial responsibility by electing to obtain and maintain a bond in the amount of \$50,000. Proof of current bond shall come from a corporate surety licensed to do business in the Commonwealth and approved by the Attorney General and shall be filed with the Department.

D. In addition, if the applicant is a sole proprietor, he shall furnish to the Board his name and address. If the applicant is a member of a partnership, he shall furnish to the Board the names and addresses of all of the general partners of that partnership. If the applicant is a member of an association, he shall furnish to the Board the names and addresses of all of the members of the association. If the applicant is a corporation, it shall furnish to the Board the name and address of all officers of the corporation. If the applicant is a joint venture, it shall furnish to the Board the names and addresses of (i) each member of the joint venture and (ii) any sole proprietor, general partner of any partnership, member of any association, or officer of any corporation who is a member of the joint venture. The applicant shall thereafter keep the Board advised of any changes in the above information.

E. If the application is satisfactory to the Board, the proposed designated employee shall be required by Board regulations to take an oral or written examination to determine his general knowledge of contracting, including the statutory and regulatory requirements governing contractors in the Commonwealth. If the proposed designated employee successfully completes the examination and the applicant meets or exceeds the other entry criteria established by Board regulations, a Class B contractor license shall be issued to the applicant. The license shall permit the applicant to engage in contracting 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.

F. The Board may grant a Class B license in any of the following classifications: (i) residential building contractor, (ii) commercial building contractor, (iii) highway/heavy contractor, (iv) electrical contractor, (v) plumbing contractor, (vi) HVAC contractor, ~~and~~ (vii) *fire sprinkler contractor*, and (viii) 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.

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

Article 6.

Certification of Automatic Fire Sprinkler Inspectors.

§ 54.1-1147. Certified automatic fire sprinkler inspector.

A. No person may perform or offer to perform inspections of automatic fire sprinkler systems in the Commonwealth unless he is certified under the provisions of this section.

B. The Board shall certify as an automatic fire sprinkler inspector any person who receives (i) a Level III or higher Inspection and Testing of Water-Based Systems certificate issued through the National Institute for Certification in Engineering Technologies or (ii) a substantially similar certification from a nationally recognized training program approved by the Board. The Board may suspend or revoke certification as an automatic fire sprinkler inspector for any person that does not maintain a certification required under this subsection.

C. Notwithstanding the provisions of subsection A, a person lacking certification under this section but participating in a training or apprenticeship program may perform automatic fire sprinkler inspections so long as (i) such person is accompanied by a certified automatic fire sprinkler inspector and (ii) any required inspection forms are signed by the certified automatic fire sprinkler inspector.

§ 54.1-1148. Continuing education.

The Board shall establish in the regulations requirements for continuing education as a prerequisite

182 *to renewal of a certificate issued under this article. The Board shall require evidence of knowledge of*
183 *changes to the Virginia Statewide Fire Prevention Code as a prerequisite to renewal of any certificate*
184 *issued under this article. In addition, the Board may require continuing education for any individual*
185 *who is found to be in violation of law or regulations governing the practice of a backflow prevention*
186 *installer or automatic fire sprinkler inspector certified under this article.*

187 **2. That the provisions of subsection A and C of § 54.1-1147 of the Code of Virginia, as created by**
188 **this act, shall become effective July 1, 2021.**

189 **3. That the Board for Contractors (the Board) shall promulgate regulations to implement (i) the**
190 **provisions of this act that shall become effective in due course, with such regulations to become**
191 **effective no later than December 1, 2019, and (ii) the provisions of this act that shall become**
192 **effective on July 1, 2021, with such regulations to become effective no later than July 1, 2021. The**
193 **Board's initial adoption of regulations necessary to implement the provisions of this act shall be**
194 **exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except**
195 **that the Board shall provide an opportunity for public comment on the regulations prior to**
196 **adoption.**