

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 601

An Act to amend and reenact §§ 54.1-1100, 54.1-1103, 54.1-1106, and 54.1-1108 of the Code of Virginia, relating to licensing of joint ventures by the Board for Contractors.

[S 166]

Approved April 10, 1994

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-1100, 54.1-1103, 54.1-1106, and 54.1-1108 of the Code of Virginia are amended and reenacted 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 \$70,000 or more, or (ii) the total value of all such construction, removal, repair, or improvements undertaken by such person within any twelve-month period is \$500,000 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 less than \$70,000, and more than \$1,500, or (ii) the work is for the purpose of landscape irrigation or constructing a water well to reach groundwater as defined in § 62.1-255 regardless of contract or project amount.

"Contractor" means any person, ~~firm, association, or corporation~~ 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 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 who is at least eighteen 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 performs or supervises the construction, removal, repair or improvements of any building or structure permanently annexed to real property owned, controlled or leased by him or any other improvements to such property when either (i) the total value of all such improvements to or upon any single parcel of land is \$70,000 or more or (ii) the total value of all such improvements to or upon all real property undertaken by him within any twelve-month period is \$500,000 or more, but shall not include a person who performs or supervises the construction, removal, repair or improvement of (i) not more than one building upon his own real property and for his own use during any twenty-four-month period, (ii) 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 at least twenty-four months, (iii) industrial or manufacturing facilities for his own use, or (iv) any person who contracts with a duly licensed Class A contractor classified as a building contractor to perform such construction, removal, repair or improvements.

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.

"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.

§ 54.1-1103. Necessity for license.

A. No person shall engage in, or offer to engage in, contracting work or operate as an owner-developer in this Commonwealth unless he has been licensed under the provisions of this chapter. *Prior to a joint venture engaging in, or offering to engage in, contracting work or operating as an owner-developer in this Commonwealth, (i) each contracting party of the joint venture must be licensed under the provisions of this chapter or (ii) a license must be obtained in the name of the joint venture under the provisions of this chapter.*

B. Except as provided in § 54.1-1117, the issuance of ~~such~~ a license under the provisions of this chapter shall not entitle the holder to engage in any activity for which a special license is required by law.

§ 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; information on the knowledge, skills, abilities, and financial position of the applicant; and an affidavit stating that the information on the application is correct. The Board shall determine whether the past performance record of the applicant, including his reputation for paying material bills and carrying out other contractual obligations, satisfies the purposes and intent of this chapter. The Board shall also determine whether the applicant has complied with the laws of the Commonwealth pertaining to the domestication of foreign corporations and all other laws affecting those engaged in the practice of contracting as set forth in this chapter. 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 the 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 names and addresses 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.

B. 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 A contractor license shall be issued. 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. In the event the designated employee leaves the full-time employ of the licensed contractor, the contractor shall within ninety days of that departure provide to the Board the name of the new designated employee.

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

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

A. Any person desiring to be licensed as a Class B 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; information on the knowledge, skills, abilities, and financial position of the applicant; evidence of holding a current local license pursuant to local ordinances adopted pursuant to § 54.1-1117; and an affidavit stating that the information on the application is correct. The Board shall determine whether the past performance record of the applicant, including his reputation for paying material bills and carrying out other contractual obligations, satisfies the purpose and intent of this chapter. The Board shall also determine whether the applicant has complied with the laws of the Commonwealth pertaining to the domestication of foreign corporations and all other laws affecting those engaged in the practice of contracting as set forth in this chapter. 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.

B. 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. 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. In the event the designated employee leaves the full-time employ of the licensed contractor, the contractor shall within ninety 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.