

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 895

An Act to amend and reenact §§ 54.1-1102, 54.1-1117 and 54.1-1118 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 11 of Title 54.1 an article numbered 3, consisting of sections numbered 54.1-1128 through 54.1-1135; and to repeal §§ 15.1-11.4 and 36-99.1 of the Code of Virginia, relating to certification of tradesmen.

[H 472]

Approved April 20, 1994

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-1102, 54.1-1117 and 54.1-1118 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 3, consisting of sections numbered 54.1-1128 through 54.1-1135, as follows:

§ 54.1-1102. Board for Contractors membership; offices; meetings; seal; record.

A. The Board for Contractors shall be composed of ~~nine~~ *thirteen* members as follows: one member shall be a licensed Class A *general* contractor; the larger part of the business of one member shall be the construction of utilities; the larger part of the business of one member shall be the construction of commercial and industrial buildings; the larger part of the business of one member shall be the construction of single-family residences; the larger part of the business of one member shall be the construction of home improvements; one member shall be a subcontractor as generally regarded in the construction industry; one member shall be in the business of sales of construction materials and supplies; *one member shall be a local building official; one member shall be a licensed plumbing contractor; one member shall be a licensed electrical contractor; one member shall be a licensed heating, ventilation and air-conditioning contractor;* and two members shall be citizen members. The terms of the Board members shall be four years.

The Board shall meet at least four times each year, once in January, April, July and October, and at such other times as may be deemed necessary. ~~Each April~~ *Annually*, the Board shall elect from its membership a chairman and a vice-chairman to serve for a one-year ~~period~~ *term*. ~~Five~~ *Seven* members of the Board shall constitute a quorum.

The Board shall promulgate regulations not inconsistent with statute necessary ~~to regulate for the practice of contracting~~ *licensure of contractors and the certification of tradesmen*.

The Board may adopt regulations requiring all Class A and B residential contractors, excluding subcontractors to the contracting parties and those who engage in routine maintenance or service contracts, to use legible written contracts including the following terms and conditions:

1. General description of the work to be performed;
2. Fixed price or an estimate of the total cost of the work, the amounts and schedule of progress payments, a listing of specific materials requested by the consumer and the amount of down payment;
3. Estimates of time of commencement and completion of the work; and
4. Contractor's name, address, office telephone number and license or registration number and class.

In transactions involving door to door solicitations, the Board may require that a statement of protections be provided by the contractor to the homeowner, consumer or buyer, as the case may be.

The Board shall adopt a seal with the words "Board for Contractors, Commonwealth of Virginia." The Director shall have charge, care and custody of the seal.

B. The Director shall maintain a record of the proceedings of the Board.

§ 54.1-1117. Licensing of certain contractors by cities, counties and towns; qualifications and procedure; registration of certain persons engaged in business of home improvement.

A. Except as to contractors currently licensed under the provisions of § 54.1-1106, the governing body of every city, county or town shall have the power and authority to adopt ordinances, not inconsistent with the provisions of this chapter, requiring every person who engages in, or offers to engage in, the business of home improvement; ~~electrical, plumbing or heating or air conditioning contracting~~ or the business of constructing single- or multi-family dwellings, in such city, county or town, to obtain a license from such city, county or town.

B. The governing body of every city, county or town adopting ordinances pursuant to this section may require every applicant for such license, other than those currently licensed under the provisions of § 54.1-1106, (i) to furnish evidence of his ability and proficiency; and (ii) to successfully complete an examination to determine his qualifications. The governing body may designate or establish an agent or board and establish the procedures for an examination according to the standards set forth in this chapter and in the regulations of the Board for Contractors. Except contractors currently licensed under the provisions of § 54.1-1106, licensure may be refused to any person found not to be qualified. Persons not currently licensed pursuant to § 54.1-1106 may be required to furnish bond in a reasonable penal sum, with reasonable condition, and with surety as the governing body deems necessary. The governing body

may provide for the punishment of violations of such ordinances, provided that no such punishment shall exceed that provided for misdemeanors generally.

C. For the purpose of this section the business of home improvement shall mean the contracting for and/or providing labor and material or labor only for repairs, improvements, and additions to residential buildings or structures accessory thereto where any payment of money or other thing of value is required.

§ 54.1-1118. Definitions.

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

"Act" means the Virginia Contractor Transaction Recovery Act.

"Biennium" means a two-year period beginning on July 1 of an even-numbered year and continuing through June 30 of the next even-numbered year.

"Claimant" means any person with an unsatisfied judgment against a regulant, who has filed a verified claim under this Act.

"Fund" means the Contractor Transaction Recovery Fund.

"Improper or dishonest conduct" includes only the wrongful taking or conversion of money, property or other things of value which involves fraud, material misrepresentation or conduct constituting gross negligence, continued incompetence, or intentional violation of the Uniform Statewide Building Code (§ 36-97 et seq.). The term "improper or dishonest conduct" does not include mere breach of contract.

"Judgment" includes an order of a United States Bankruptcy Court declaring a claim against a regulant who is in bankruptcy to be a "Debt Nondischargeable in Bankruptcy."

"Regulant" means any individual, person, firm, corporation, association, partnership, joint venture or any other legal entity licensed by the Board for Contractors. *"Regulant" shall not include tradesmen certified in accordance with Article 3 (§ 54.1-1128 et seq.) of this chapter.*

Article 3.

Certification of Tradesmen.

§ 54.1-1128. Definitions.

"Board" means the Board for Contractors.

"Tradesman" means any individual who engages in, or offers to engage in, work for the general public for compensation in the trades of electrical, plumbing and heating, ventilation and air-conditioning.

§ 54.1-1129. Necessity for tradesman certification.

Beginning July 1, 1995, no individual shall engage in, or offer to engage in, work as a tradesman as defined in § 54.1-1128 unless he has been certified under the provisions of this article. Individuals shall not be subject to tradesman certification when working under the supervision of a tradesman who is certified in the specialty for which work is being performed. Individuals holding a certification in one specialty shall not be required to have a tradesman certification in another specialty when performing work which is incidental to work being performed under their own specialty certification.

§ 54.1-1130. Application for tradesman certification; fees; examinations; issuance.

Any individual desiring to be certified as a tradesman shall file 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 applicant's name, place of employment, and business address; information on the knowledge, skills, abilities and education or training of the applicant; and an affidavit stating that the information on the application is correct.

If the application is satisfactory to the Board, the applicant shall be required by Board regulations to take an oral or written examination to determine his general knowledge of the trade in which he desires certification. If the applicant successfully completes the examination, tradesman certification shall be issued.

§ 54.1-1131. Exemptions.

An individual certified or licensed by any one of the following agencies shall not be required to fulfill the examination requirement specified in § 54.1-1130 for tradesman certification:

- 1. The Board of Housing and Community Development prior to July 1, 1995.*
- 2. Any local governing body prior to July 1, 1978.*
- 3. An apprenticeship program which is approved by the Virginia Apprenticeship Council.*

Individuals applying for tradesman certification between July 1, 1995, and July 1, 1996, shall be deemed to have fulfilled the examination requirement if they are able to demonstrate the required number of years of discipline-free experience set forth in Board regulations.

§ 54.1-1132. Expiration and renewal of tradesman certification.

A tradesman certificate issued pursuant to this article shall expire as provided in Board regulations and shall become invalid on that date unless renewed, subject to approval of the Board. Application for renewal of a tradesman certificate shall be made as provided by Board regulations and shall be accompanied by a fee set by the Board pursuant to § 54.1-201.

§ 54.1-1133. Continuing education.

The Board may establish in the regulations, requirements for continuing education as a prerequisite to renewal of a tradesman certification issued under this article.

§ 54.1-1134. Grounds for denial or revocation of tradesman certification; reports of building officials.

The Board shall have the power to require remedial education and to suspend, revoke or deny renewal of the tradesman certification of any individual who is found to be in violation of the statutes or regulations governing the practice of certified tradesmen in the Commonwealth.

Any building official who finds that an individual is practicing as a tradesman without a tradesman certification as required by this article shall file a report to such effect with the Board.

Any building official who has reason to believe that a tradesman is performing incompetently as demonstrated by an egregious or repeated violation of the Uniform Statewide Building Code shall file a report to such effect with the Board.

§ 54.1-1135. Prohibited acts.

A. Practicing or attempting to practice as a tradesman in the Commonwealth, except as provided for in this article, is prohibited and shall constitute the commission of a Class 3 misdemeanor.

B. No person shall be entitled to assert the lack of tradesman certification as required by this article 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 of the certification requirements of this article.

2. That §§ 15.1-11.4 and 36-99.1 of the Code of Virginia are repealed.

3. That the provisions of this act shall become effective on July 1, 1995, except that § 54.1-1102 and Article 3 (§ 54.1-1128 et seq.) of Chapter 11 of Title 54.1 shall become effective in due course.

4. That the Board for Contractors shall promulgate regulations in accordance with Article 3 (§ 54.1-1128 et seq.) of Chapter 11 of Title 54.1 on July 1, 1994.

5. That the standards for certification of tradesmen established by the Board of Housing and Community Development shall remain in effect until such time as the Board for Contractors shall implement standards in accordance with Article 3 (§ 54.1-1128 et seq.) of Chapter 11 of Title 54.1.