

LD1894611

## SENATE BILL NO. 166

Senate Amendments in [ ] — January 28, 1994

A BILL 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.

Patron—Bell

Referred to the Committee on General Laws

**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. ~~[ If one or more parties to a joint venture have not been licensed under the provisions of this chapter, a license must be obtained in the name of the joint venture prior to the joint venture engaging in or offering to engage in contracting work or operating as an owner-developer in this Commonwealth. 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~~

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60 *under the provisions of this chapter or (ii) a license must be obtained in the name of the joint venture*  
61 *under the provisions of this chapter. ]*

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

65 § 54.1-1106. Application for Class A license; fees; examination; issuance.

66 A. Any person desiring to be licensed as a Class A contractor shall file with the Department a  
67 written application on a form prescribed by the Board. The application shall be accompanied by a fee  
68 set by the Board pursuant to § 54.1-201. The application shall contain the name, place of employment,  
69 and business address of the proposed designated employee; information on the knowledge, skills,  
70 abilities, and financial position of the applicant; and an affidavit stating that the information on the  
71 application is correct. The Board shall determine whether the past performance record of the applicant,  
72 including his reputation for paying material bills and carrying out other contractual obligations, satisfies  
73 the purposes and intent of this chapter. The Board shall also determine whether the applicant has  
74 complied with the laws of the Commonwealth pertaining to the domestication of foreign corporations  
75 and all other laws affecting those engaged in the practice of contracting as set forth in this chapter. In  
76 addition, if the applicant is a sole proprietor, he shall furnish to the Board his name and address. If the  
77 applicant is a member of a partnership, he shall furnish to the Board the names and addresses of all of  
78 the general partners of the partnership. If the applicant is a member of an association, he shall furnish to  
79 the Board the names and addresses of all of the members of the association. If the applicant is a  
80 corporation, it shall furnish to the Board the names and addresses of all officers of the corporation. *If*  
81 *the applicant is a joint venture, it shall furnish to the Board the names and addresses of (i) each*  
82 *member of the joint venture and (ii) any sole proprietor, general partner of any partnership, member of*  
83 *any association, or officer of any corporation who is a member of the joint venture.* The applicant shall  
84 thereafter keep the Board advised of any changes in the above information.

85 B. If the application is satisfactory to the Board, the proposed designated employee shall be required  
86 by Board regulations to take an oral or written examination to determine his general knowledge of  
87 contracting, including the statutory and regulatory requirements governing contractors in the  
88 Commonwealth. If the proposed designated employee successfully completes the examination and the  
89 applicant meets or exceeds the other entry criteria established by Board regulations, a Class A contractor  
90 license shall be issued. The license shall permit the applicant to engage in contracting only so long as  
91 the designated employee is in the full-time employment of the contractor. In the event the designated  
92 employee leaves the full-time employ of the licensed contractor, the contractor shall within ninety days  
93 of that departure provide to the Board the name of the new designated employee.

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

97 § 54.1-1108. Application for Class B license; fees; examination; issuance.

98 A. Any person desiring to be licensed as a Class B contractor shall file with the Department a  
99 written application on a form prescribed by the Board. The application shall be accompanied by a fee  
100 set by the Board pursuant to § 54.1-201. The application shall contain the name, place of employment,  
101 and business address of the proposed designated employee; information on the knowledge, skills,  
102 abilities, and financial position of the applicant; evidence of holding a current local license pursuant to  
103 local ordinances adopted pursuant to § 54.1-1117; and an affidavit stating that the information on the  
104 application is correct. The Board shall determine whether the past performance record of the applicant,  
105 including his reputation for paying material bills and carrying out other contractual obligations, satisfies  
106 the purpose and intent of this chapter. The Board shall also determine whether the applicant has  
107 complied with the laws of the Commonwealth pertaining to the domestication of foreign corporations  
108 and all other laws affecting those engaged in the practice of contracting as set forth in this chapter. In  
109 addition, if the applicant is a sole proprietor, he shall furnish to the Board his name and address. If the  
110 applicant is a member of a partnership, he shall furnish to the Board the names and addresses of all of  
111 the general partners of that partnership. If the applicant is a member of an association, he shall furnish  
112 to the Board the names and addresses of all of the members of the association. If the applicant is a  
113 corporation, it shall furnish to the Board the name and address of all officers of the corporation. *If the*  
114 *applicant is a joint venture, it shall furnish to the Board the names and addresses of (i) each member of*  
115 *the joint venture and (ii) any sole proprietor, general partner of any partnership, member of any*  
116 *association, or officer of any corporation who is a member of the joint venture.* The applicant shall  
117 thereafter keep the Board advised of any changes in the above information.

118 B. If the application is satisfactory to the Board, the proposed designated employee shall be required  
119 by Board regulations to take an oral or written examination to determine his general knowledge of  
120 contracting, including the statutory and regulatory requirements governing contractors in the  
121 Commonwealth. If the proposed designated employee successfully completes the examination and the

122 applicant meets or exceeds the other entry criteria established by Board regulations, a Class B contractor  
123 license shall be issued. The license shall permit the applicant to engage in contracting only so long as  
124 the designated employee is in the full-time employment of the contractor and only in the counties, cities,  
125 and towns where such person has complied with all local licensing requirements and for the type of  
126 work to be performed. In the event the designated employee leaves the full-time employ of the licensed  
127 contractor, the contractor shall within ninety days of that departure provide to the Board the name of the  
128 new designated employee.

129 C. The Board may grant a Class B license in any of the following classifications: (i) building  
130 contractor, (ii) highway/heavy contractor, (iii) electrical contractor, (iv) plumbing contractor, (v) HVAC  
131 contractor, and (vi) specialty contractor.

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