

Hall of the House of Representatives
88th General Assembly - Regular Session, 2011
Amendment Form

**

Subtitle of House Bill No. 1938

TO AMEND ARKANSAS LAW CONCERNING THE JURISDICTION OF THE
CONTRACTORS LICENSING BOARD.

Amendment No. 2 to House Bill No. 1938

Amend House Bill No. 1938 as engrossed, H3/16/11 (version: 03/16/2011 12:18:26 PM)

Delete everything following the enacting clause and substitute the following:

"SECTION 1. Arkansas Code Title 17, Chapter 25, Subchapter 3 is amended to add a new section to read as follows:

17-25-317. Workers without legal authorization to work in the United States – Prohibition.

(a) As used in this section, "worker without legal authorization to work in the United States" means an individual who cannot present valid and appropriate documentation evidencing both identity and authorization to work as required by Federal Form 1-9 as existing on January 1, 2011, and using the applicable regulations, standards, and guidelines of Federal Form 1-9 as existing on January 1, 2011.

(b) If after notice and hearing, a contractor licensed under this chapter is found by the Contractors Licensing Board to knowingly employ a worker without legal authorization to work in the United States, the board may take one (1) or more of the following actions:

(A) Impose a civil penalty under § 17-25-103;

(B) Suspend the contractor's certificate of license;

(C) Revoke the contractor's certificate of license; or

(D) Impose additional penalties authorized under § 17-25-101 et seq.

(c) When applying to the Contractors Licensing Board for



the initial issuance of a certificate of license or the renewal of a certificate of license, a contractor shall state in writing that he or she:

(1) Is legally authorized to work in the United States; and

(2) Does not employ a worker without legal authorization to work in the United States.

(d) The board shall promulgate rules necessary to carry out the provisions of this section.

SECTION 2. Arkansas Code § 17-25-501 is amended to read as follows:

17-25-501. Purpose.

It is the intent of this subchapter to protect homeowners and the purchasers of homes constructed in this state by establishing reasonable and adequate licensing and regulation of homebuilders and home improvement contractors. It is intended that this subchapter apply to everyone not specifically excluded. It is also the intent of this subchapter that the Residential ~~Building~~ Contractors Committee be located with the Contractors Licensing Board and that the staff and appropriation for the board be utilized to implement this subchapter.

SECTION 3. Arkansas Code § 17-25-502 is amended to read as follows:

17-25-502. Definitions.

For purposes of this subchapter:

~~(1) "Committee" means the Residential Building Contractors Committee created by this subchapter;~~

(1) "Home improvement contractor" means any person, firm, partnership, co-partnership, association, corporation, or other organization or any combination that attempts to or submits a bid, or contracts, undertakes, or assumes charge in a supervisory capacity or otherwise manages the reconstruction, alteration, renovation, repair, modification, improvement, removal, demolition, or addition to any preexisting single-family residence or the property and structures appurtenant thereto;

(2) "Residential building contractor" means any person, firm, partnership, copartnership, association, corporation, or other organization or any combination thereof, which for a fixed price, commission, fee, or wage, attempts to or submits a bid to construct or contract or undertakes to

construct or assumes charge in a supervisory capacity or otherwise manages the construction of a single family residences single-family residence or the property and structures appurtenant to the residence; and

(3) "~~Single family~~ Single-family residence" means any project consisting of one (1) but not more than four (4) units of new construction for residential occupancy, ~~when the cost of the project is twenty thousand dollars (\$20,000) or more. This definition does not apply to subcontractors of licensed residential building contractors or to remodeling operations.~~

SECTION 4. Arkansas Code § 17-25-503(a)(1), concerning the Residential Contractors Committee, is amended to read as follows:

(a)(1) There is created the "Residential Building Contractors Committee", to consist of seven (7) members.

SECTION 5. Arkansas Code § 17-25-504 is amended to read as follows:

17-25-504. Authority.

The Residential ~~Building~~ Contractors Committee may:

(1) Issue, modify, suspend, and revoke ~~residential building contractor's~~ licenses issued by the committee;

(2) Establish qualifications for ~~residential building contractor's~~ licenses issued by the committee;

(3) Enforce this subchapter and the committee's ~~regulations~~ rules;

(4) Issue ~~regulations~~ rules necessary for the implementation of this subchapter;

(5) Levy civil penalties ~~in the same amounts and under the same procedures as prescribed for the Contractors Licensing Board~~ under this subchapter;

(6) Issue orders of abatement in the same manner and to the same extent as authorized for the ~~board~~ Contractors Licensing Board under § 17-25-103; and

(7) Seek any other civil remedies which are available to the board.

SECTION 6. Arkansas Code § 17-25-505 is amended to read as follows:

17-25-505. License from committee required.

(a) ~~No~~ A person shall not act as a residential building contractor after July 1, 2001, unless licensed by the

Residential ~~Building~~ Contractors Committee or exempted from licensure under this subchapter.

(b) A person shall not act as a home improvement contractor on or after July 1, 2013, unless:

(1) Licensed by the Residential Contractors Committee; or

(2) Exempt from licensure under this subchapter.

SECTION 7. Arkansas Code § 17-25-506(a), concerning applications for licenses from the Residential Building Contractors Committee, is amended to read as follows:

17-25-506. Application for license.

(a) Applications for licensure shall be made on forms prescribed by the Residential ~~Building~~ Contractors Committee and shall have attached thereto:

(1) A compiled financial statement with each ~~new~~ application; and

(2) Such other information as required by the committee.

SECTION 8. Arkansas Code § 17-25-507 is amended to read as follows:

17-25-507. Applicant qualifications.

(a) In determining the qualifications of any applicant for original license or any renewal license, the Residential ~~Building~~ Contractors Committee shall consider, among other things, the following:

(1) Experience;

(2) Ability;

(3) The manner of performance of previous contracts;

(4) Financial condition;

(5) Citizenship, legal residency, or legal status to work in the United States;

~~(5)~~(6) Any other fact tending to show ability and willingness to conserve the public health and safety; and

~~(6)~~(7) Default in complying with the provisions of this subchapter or any other law of the state.

(b) The committee may limit a license issued by the committee to the character of work for which the applicant is qualified to perform.

SECTION 9. Arkansas Code § 17-25-508 is amended to read as follows:

17-25-508. Name of licensed contractor.

~~Residential building contractors~~ A contractor licensed under this subchapter may act as such only in the name under which they are licensed by the Residential ~~Building~~ Contractors Committee.

SECTION 10. Arkansas Code § 17-25-509 is amended to read as follows:

17-25-509. Written examination.

(a) Except as otherwise provided in this section, ~~no~~ a person shall not be licensed as a residential building contractor unless the person has passed a written examination prescribed by the Residential ~~Building~~ Contractors Committee.

~~(b) Persons licensed by the Contractors Licensing Board shall not be required to submit to written examination by the committee but must meet all other requirements for licensure as a residential building contractor.~~

~~(c) A property owner who acts as a residential building contractor for the purpose of constructing his or her own residence is not required to be licensed under this subchapter unless the person constructs more than one (1) residence per calendar year.~~

(b)(1) Until June 30, 2013, the committee shall waive the written examination for a person who submits proof of:

(A) Having obtained five (5) building permits within the three (3) years preceding the date of application;

(B) Having obtained one (1) building permit within the preceding twelve (12) months; or

(C) Experience in construction acceptable to the committee.

(2) Subsection (b)(1) of this section does not apply to applicants for residential building contractor.

SECTION 11. Arkansas Code § 17-25-510 is amended to read as follows:

17-25-510. Hearings regarding violations.

(a) The Residential ~~Building~~ Contractors Committee may conduct hearings regarding alleged violations of this subchapter or regulations promulgated thereunder, and the hearings shall be conducted in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq. The committee shall within a reasonable time make findings and determinations as a result of the hearings.

(b) A contractor who, after notice and hearing, is found to have committed the following actions shall pay to the Contractors Licensing Board a civil penalty of not less than one hundred dollars (\$100) nor more than four hundred dollars (\$400) for each day that any of the following violations occurred:

- (1) Acting as a contractor without a license in violation of this chapter;
- (2) Presenting or filing the license certificate of another;
- (3) Given false or forged evidence of any kind to the board in obtaining a certificate of license;
- (4) Using an expired or revoked certificate of license;
- (5) Giving false or fraudulent evidence of a contractor's license to another person or entity; or
- (6) Committing other violations under this chapter.

(c) The committee may, after notice and hearing, revoke the certificate of license of any contractor licensed under this subchapter who is found guilty of:

- (1) Fraud or deceit in obtaining a license;
- (2) Aiding or abetting another contractor or person to violate this chapter; or
- (3) Gross negligence, incompetence, or misconduct in the contractor's business.

SECTION 12. Arkansas Code § 17-25-511 is amended to read as follows:

17-25-511. Appeal from committee decision.

Any person aggrieved by an action or decision of the Residential ~~Building~~ Contractors Committee may appeal to the Contractors Licensing Board within ten (10) calendar days after the action or decision under procedures prescribed by the board. Aggrieved parties shall be granted an opportunity to address the board regarding the committee's actions, and the final actions of the board shall be binding upon the committee.

SECTION 13. Arkansas Code § 17-25-512 is amended to read as follows:

17-25-512. Expiration of license -- Fees.

All licenses issued by the Contractors Licensing Board shall expire one (1) year after the date of issuance unless otherwise provided by the Residential ~~Building~~ Contractors Committee. The committee may charge reasonable examination fees

and delinquency fees and may charge a fee not to exceed one hundred dollars (\$100) for new licenses or renewal of a license. All fees and other moneys collected by the committee shall be disposed of as provided by § 17-25-205 and shall be used by the board to implement this subchapter.

SECTION 14. Arkansas Code § 17-25-513 is amended to read as follows:

17-25-513. ~~Exemption for personal homebuilder~~ Exemptions.

~~Nothing in this subchapter shall be construed as requiring a person who acts as a residential building contractor in the construction of his or her own residence to obtain a license from the Residential Building Contractors Committee unless the person builds more than one (1) residence during any year.~~

The following shall be exempted from the licensing requirements of this subchapter:

(1) A person who acts as a residential building contractor in the construction of his or her residence unless he or she builds more than one (1) residence during any calendar year;

(2) The owner of a single-family residence acting as his or her own home improvement contractor on his or her own property;

(3)(A) A person or entity acting as a residential building contractor or a home improvement contractor on any project, when the cost of the work done or to be done does not exceed one thousand dollars (\$1,000).

(B) Subdivision (3)(A) of this section does not apply to a project in which the construction work necessary to complete the project is divided into separate contracts of amounts less than one thousand dollars (\$1,000);

(4) A subcontractor of a contractor licensed by the Residential Contractors Committee; and

(5) A person or entity licensed as a contractor by another licensing agency, board, or commission of the State of Arkansas if the contractor is performing work within the scope of the license held by the person or entity.

SECTION 15. Arkansas Code 17-25-514 is amended to read as follows:

17-25-514. Workers' compensation required.

(a) ~~A residential building contractor~~ required to be licensed by the Residential ~~Building~~ Contractors Committee as a

residential building contractor or home improvement contractor shall secure the payment of workers' compensation under § 11-9-401 et seq.

(b) The committee shall require proof of current workers' compensation coverage before issuing or renewing a license as a residential building contractor or home improvement contractor.

(c)(1) If a contractor fails to maintain workers' compensation coverage or fails to maintain proof of current workers' compensation coverage on file with the committee, the committee shall revoke the contractor's license.

(2) A contractor's license that has been revoked due to failure to maintain workers' compensation coverage may be reinstated upon receipt of proof that the contractor has secured workers' compensation coverage.

(d) The committee shall promulgate rules necessary to enforce this section.

SECTION 16. Arkansas Code Title 17, Chapter 25, Subchapter 5 is amended to add an additional section to read as follows:

17-25-515. Workers without legal authorization to work in the United States – Prohibition.

(a) As used in this section, "worker without legal authorization to work in the United States" means an individual who cannot present valid and appropriate documentation evidencing both identity and authorization to work as required by Federal Form 1-9 as existing on January 1, 2011, and using the applicable regulations, standards, and guidelines of Federal Form 1-9 as existing on January 1, 2011.

(b) If after notice and hearing, a contractor licensed under this subchapter is found by the Residential Contractors Committee to knowingly employ a worker without legal authorization to work in the United States, the committee may take one (1) or more of the following actions:

(A) Impose a civil penalty under § 17-25-510;

(B) Suspend the contractor's certificate of license;

(C) Revoke the contractor's certificate of license; or

(D) Impose additional penalties authorized under this subchapter.

(c) When applying to the committee for the initial issuance of a certificate of license or the renewal of a certificate of license, a contractor shall state in writing that

he or she:

(1) Is legally authorized to work in the United States; and

(2) Does not employ a worker without legal authorization to work in the United States.

(d) The committee shall promulgate rules necessary to carry out the provisions of this section."

The Amendment was read _____
By: Representative Nickels
MBM/BGS - 03/18/11 12:35
MBM389

Chief Clerk