

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

SENATE BILL 342

5 By: Senators J. Cooper, Hester, Flippo, T. Garner, B. Davis, J. Sturch, D. Wallace
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAWS CONCERNING THE CONTRACTORS
9 LICENSING BOARD; TO AMEND THE LICENSING REQUIREMENTS
10 OF CONTRACTORS; TO REQUIRE SUBCONTRACTOR
11 REGISTRATION; TO ACCEPT A BOND IN LIEU OF A FINANCIAL
12 STATEMENT; TO ALLOW FOR EMERGENCY SUSPENSION OF A
13 LICENSE; TO ALLOW THE AWARD OF RESTITUTION; AND FOR
14 OTHER PURPOSES.
15

Subtitle

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17
18 TO AMEND THE LAWS CONCERNING THE
19 CONTRACTORS LICENSING BOARD; AND TO AMEND
20 THE LICENSING REQUIREMENTS OF
21 CONTRACTORS.
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

27 (a) The General Assembly finds that:

28 (1) Arkansas is taking a leading role in the nationwide pursuit
29 of reforms to the system of occupational licensing;

30 (2) Arkansas became one (1) of eleven (11) states chosen to
31 participate in the Occupational Licensing Policy Learning Consortium, an
32 initiative funded by a grant from the United States Department of Labor and
33 supported in partnership with the National Conference of State Legislatures,
34 the Council of State Governments, and the National Governors Association;

35 (3) Governor Asa Hutchinson appointed seventeen (17) individuals
36 to the Red Tape Reduction Working Group to review and address occupational



1 licensing regulations that create unnecessary barriers to labor market entry;

2 (4) The Red Tape Reduction Working Group issued a final report
 3 to the Governor in the fall of 2018 with five (5) recommendations for
 4 substantive legislative reform, which are to:

5 (A) Establish an expedited procedure for occupational
 6 licensing entities to collectively submit administrative rules that are
 7 responsive to new legislation;

8 (B) Extend Acts 2017, No. 781, to allow repeal of
 9 subsections of rules;

10 (C) Establish provisions to allow certain agencies to
 11 consider occupational relevance with regard to criminal background issues;

12 (D) Authorize occupational licensing entities to identify
 13 types of individuals or entities that may be issued temporary or provisional
 14 licenses; and

15 (E) Establish a systematic process for review of:

16 (i) New occupational licensure and occupational
 17 licensing entities; and

18 (ii) Existing occupational licensure and
 19 occupational licensing entities;

20 (5) Several occupational licenses are needlessly regulated and
 21 could be deregulated or de-licensed without causing detrimental harm to the
 22 citizens of the State of Arkansas and the economy of the this state;

23 (6) Research has found that occupational licensing reduces
 24 access to jobs, inhibits geographic mobility, and raises the costs of
 25 services;

26 (b) It is the intent of the General Assembly to amend the laws
 27 concerning contractors and to allow registration of subcontractors and
 28 eliminate the subcontractor licensing requirement.

29
 30 SECTION 1. Arkansas Code § 17-25-101, concerning the definitions under
 31 the laws regarding contractors and the licensing of contractors, is amended
 32 to add additional subsections to read as follows:

33 (e) "Owner" means a person who owns property or is lessee of property;

34 (f) "Person" means any natural person, limited or general partnership,
 35 corporation, association, limited liability company, trust or other legal
 36 entity, and any organization capable of conducting business, or any

1 combination thereof;

2 (g) "Prime contractor" means a contractor who contracts directly with
 3 the owner of property; and

4 (h) "Subcontractor" means a person who contracts directly with a prime
 5 contractor or another subcontractor.

6
 7 SECTION 2. Arkansas Code § 17-25-102, concerning exemptions under the
 8 provisions related to the licensing requirements of contractors, is amended
 9 to add an additional subdivision to read as follows:

10 (4)(A) Subcontractors of a licensed contractor who are properly
 11 registered with the Contractors Licensing Board under this chapter.

12 (B) The Contractors Licensing Board may issue rules
 13 necessary for the:

14 (i) Implementation of a registration process;

15 (ii) Determination of application fees for registration;

16 and

17 (iii) Establishment of civil penalties in the same amounts
 18 and under the same procedures as for other license holders under this
 19 chapter.

20
 21 SECTION 3. Arkansas Code § 17-25-103(a), concerning penalties and
 22 enforcement under the laws regarding licensing of contractors, is amended to
 23 read as follows:

24 ~~(a)(1) Any~~ It is a violation of this chapter for any contractor shall
 25 ~~be deemed guilty of a misdemeanor and shall be liable to a fine of not less~~
 26 ~~than one hundred dollars (\$100) nor more than two hundred dollars (\$200) for~~
 27 ~~each offense, with each day to constitute a separate offense who~~ to knowingly
 28 do any of the following:

29 ~~(1)(A)(A)(i)~~ (i) For a fixed price, commission, fee, or wage
 30 attempts to or submits a bid or bids to construct or demolish or contracts to
 31 construct or demolish, or undertakes to construct or demolish, or assumes
 32 charge in a supervisory capacity or otherwise, or manages the construction,
 33 erection, alteration, demolition, or repair of, or has constructed, erected,
 34 altered, demolished, or repaired, under his or her or its direction, any
 35 building, apartment, condominium, highway, sewer, utility, grading, or any
 36 other improvement or structure, when the cost of the work to be done, or

1 done, in the State of Arkansas by the contractor, including, but not limited
 2 to, labor and materials, is fifty thousand dollars (\$50,000) or more, without
 3 first having procured a license or registration with the proper
 4 classification to engage in the business of contracting in this state.

5 ~~(B)(ii)~~ Subdivision ~~(a)(1)(A)(i)~~ of this section
 6 ~~shall~~ does not apply to any demolition work or other work necessary to clean
 7 up a natural disaster within seventy-two (72) hours following the natural
 8 disaster;

9 ~~(2)(B)~~ ~~Shall present or file~~ Presents or files the license or
 10 registration certificate of another;

11 ~~(3)(C)~~ ~~Shall give~~ Gives false or forged evidence of any kind to
 12 the Contractors Licensing Board or any member thereof in obtaining a
 13 certificate of license or registration;

14 ~~(4)(D)~~ ~~Shall impersonate~~ Impersonates another; or

15 ~~(5)(E)~~ ~~Shall use~~ Uses an expired or revoked certificate of
 16 license or registration;

17 (2) A violation under subsection (a) of this section is a Class
 18 A misdemeanor, with each day of activity constituting a separate offense.

19
 20 SECTION 4. Arkansas Code § 17-25-103(b), concerning penalties and
 21 enforcement under the laws regarding licensing of contractors, is amended to
 22 read as follows:

23 (b) The doing of any act or thing herein prohibited by any applicant,
 24 ~~or~~ licensee, or registrant shall, in the discretion of the board, constitute
 25 sufficient grounds to refuse a license or registration to an applicant or to
 26 revoke the license of a licensee or the registration of a registrant.

27
 28 SECTION 5. Arkansas Code § 17-25-104 is amended to read as follows:
 29 17-25-104. Injunction.

30 When any contractor ~~not licensed by the Contractors Licensing Board~~
 31 ~~shall engage or attempt~~ engages or attempts to engage in the business of
 32 contracting as herein defined, in violation of this chapter, the ~~board~~
 33 Contractors Licensing Board shall have the right to go into ~~the proper court~~
 34 in the jurisdiction in which the work is being performed a court where venue
 35 is proper and is of competent jurisdiction and, upon affidavit, secure a writ
 36 of injunction, without bond, restraining and prohibiting the contractor from

1 performance of the work then being done or about to commence.

2
3 SECTION 6. Arkansas Code Title 17, Chapter 25, Subchapter 1, is
4 amended to add an additional section to read as follows:

5 17-25-107. Abuse, neglect, or exploitation.

6 (a) The definitions under § 5-28-101 apply to this chapter.

7 (b) Any contractor licensed or registered under this chapter who is
8 suspected by the Contractors Licensing Board or the Residential Contractors
9 Committee of the abuse, neglect, or exploitation of an endangered person or
10 an impaired person while engaging in the performing the services of a
11 contractor as defined under § 17-25-101 is subject to emergency license or
12 registration suspension under §§ 17-25-309 and 17-25-510.

13 (c) The board may provide evidence, documentation, reports, and
14 information related to the abuse, neglect, or exploitation of an endangered
15 person or an impaired person to any entity with the authority to enforce § 5-
16 28-101 et. seq.

17
18 SECTION 7. Arkansas Code § 17-25-301(a), concerning the significance
19 and proof of a certificate of license by the Contractors Licensing Board, is
20 amended to read as follows:

21 (a) The issuance of a certificate of license or registration by the
22 Contractors Licensing Board shall be evidence that the person, firm, or
23 corporation named ~~therein~~ on the certificate of license or registration is
24 entitled to all of the rights and privileges of a licensed or registered
25 contractor while the license or registration remains unrevoked or unexpired.

26
27 SECTION 8. Arkansas Code § 17-25-302 is amended to read as follows:
28 17-25-302. Limitations.

29 The Contractors Licensing Board shall have power to limit by proper
30 classification the license or registration to the character of work for which
31 the applicant is qualified.

32
33 SECTION 9. Arkansas Code § 17-25-303(a)(1)(A), concerning the
34 application, renewal, and fees required for licensure as a contractor, is
35 amended to read as follows:

36 (a)(1)(A) ~~Any~~ A person desiring to be licensed or registered as a

1 contractor in this state shall make and file with the Contractors Licensing
2 Board thirty (30) days before any regular or special meeting ~~thereof~~ of the
3 board, a written application on a form ~~as may then be~~ prescribed by the
4 board, for examination by the board.

5
6 SECTION 10. Arkansas Code § 17-25-303(b), concerning the application,
7 renewal, and fees required for licensure as a contractor, is amended to read
8 as follows:

9 (b) Thereafter, an annual renewal license or registration fee to be
10 determined by the board but not to exceed one hundred dollars (\$100) shall be
11 paid by each licensee or registrant to defray the costs and expenses of the
12 administration of this chapter.

13
14 SECTION 11. Arkansas Code § 17-25-304, concerning financial statements
15 filed with the Contractors Licensing Board, is amended to add an additional
16 subsection to read as follows:

17 (c)(1) In lieu of providing a financial statement showing a minimum
18 net worth for a person or entity required to be licensed or registered by the
19 Contractors Licensing Board as required by subsections (a) and (b) of this
20 section, an applicant may provide a surety bond from:

21 (A) A surety authorized to transact surety business in the
22 State of Arkansas; and

23 (B) A surety listed on the current United States
24 Department of the Treasury's List of Approved Sureties;

25 (2) The surety bond shall be in an amount ten (10) times the
26 required net worth for the applicant's license or registration classification
27 with his or her initial or renewal application.

28 (3) The surety shall maintain a rating of performance from A. M.
29 Best Company, Inc., or its successor rating organization, of "A" as stated in
30 the most current publication of Best's Key Rating Guide, Property/Casualty-
31 United States and Canada.

32 (4) The surety bond provided under this subsection shall:

33 (A) Be continuous in form;

34 (B)(i) Be maintained in effect for as long as the
35 applicant maintains the license or registration issued by the board;

36 (ii) If an applicant submits a financial statement

1 showing that the applicant meets the net worth requirements for the license
2 or registration, the surety bond may be cancelled;

3 (C)(i) List the State of Arkansas as obligee for the bond.

4 (ii) The State shall have priority over all other
5 claims to recover against the bond;

6 (D) Be for the benefit of any person who is damaged by:

7 (i) An act or omission of the applicant constituting
8 a breach of construction contract or a contract for the furnishing of labor,
9 materials, or professional services for construction undertaken by the
10 applicant; or

11 (ii) An unlawful act or omission of the applicant in
12 performing the services of a contractor as defined under § 17-25-101; and

13 (E) Be in addition to, and not in lieu of, any other
14 surety bond required of the applicant by law or rule, or by any party to a
15 contract with the applicant.

16 (5)(A) The surety bond provided in subsection (c) of this
17 section may only be canceled by notification to the board by the surety and
18 the applicant sixty days before cancellation.

19 (B) When the surety bond is canceled, the licensee or
20 registrant shall provide a replacement bond or submit a financial statement
21 as required by § 17-25-304 before the effective date of the cancellation or
22 the license or registration of the licensee or registrant shall be suspended.

23 (6) The board may adopt rules necessary to enforce this
24 subsection.

25
26 SECTION 12. Arkansas Code § 17-25-307 is amended to read as follows:
27 17-25-307. Expiration.

28 All certificates of license or registration to engage ~~in the business~~
29 ~~of contracting~~ in performing the services of a contractor as defined under §
30 17-25-101 in the State of Arkansas shall expire at 12:00 midnight on the day
31 before the anniversary date of ~~their~~ issuance unless otherwise designated by
32 the Contractors Licensing Board, and ~~they~~ all certificates of license or
33 registration shall become invalid on that day unless renewed.

34
35 SECTION 13. Arkansas Code § 17-25-308(a), concerning the grounds for
36 revocation of a contractor’s license, is amended to read as follows:

1 (a) The Contractors Licensing Board may revoke the certificate of
2 license or registration of any contractor licensed or registered under this
3 chapter who is found guilty of any fraud or deceit in obtaining a license or
4 registration or for aiding or abetting any contractor or person to violate
5 the provisions of this chapter or for gross negligence, incompetence, or
6 misconduct in the conduct of the contractor's business.

7
8 SECTION 14. Arkansas Code § 17-25-309(a), concerning the procedure for
9 revocation and reissuance of a contractor's license, is amended to read as
10 follows:

11 (a) Any person may prefer charges in connection with the foregoing
12 against any contractor licensed or registered under this chapter.

13
14 SECTION 15. Arkansas Code § 17-25-309(f) and (g), concerning the
15 procedure for revocation and reissuance of a contractor's license, are
16 amended to read as follows:

17 (f) If after the hearing the board finds the facts as alleged and of
18 such character as to disqualify the contractor, then the board shall revoke
19 the license or registration of the contractor, but in that event no refund
20 shall be made of the license or registration fee.

21 (g) Within its discretion and upon proper application or hearing, the
22 board may reissue a license or registration to any contractor whose license
23 or registration has been revoked.

24
25 SECTION 16. Arkansas Code § 17-25-309, concerning the procedure for
26 revocation and reissuance of a contractor's license, is amended to add an
27 additional subsection to read as follows:

28 (h)(1) When suspected abuse, neglect, or exploitation of an endangered
29 person or an impaired person is suspected, the Contractors Licensing Board
30 may:

31 (A) State in writing that due to imminent physical or
32 other harm to the endangered person or impaired person, the situation merits
33 the emergency suspension of a license or registration; and

34 (B) Proceed with the suspension of a license or
35 registration without a hearing or upon any abbreviated hearing that the board
36 finds practicable to suspend the license or registration;

1 (2) The emergency suspension shall become effective immediately,
2 unless otherwise stated in the written determination by the board.

3 (3) The emergency suspension may be effective for a period of
4 thirty (30) days or less and the emergency suspension shall not be renewable.

5 (4) When an emergency suspension is ordered, a formal suspension
6 or revocation proceeding shall be promptly instituted and acted upon in
7 accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et
8 seq.

9
10 SECTION 17. Arkansas Code § 17-25-310 is amended to read as follows:
11 17-25-310. Replacement.

12 A certificate of license or registration to replace any lost,
13 destroyed, or mutilated certificate may be issued subject to the rules ~~and~~
14 ~~regulations~~ of the Contractors Licensing Board.

15
16 SECTION 18. Arkansas Code § 17-25-316 is amended to read as follows:
17 17-25-316. Workers' compensation coverage required.

18 (a) A contractor required to be licensed or registered by the
19 Contractors Licensing Board shall obtain and maintain workers' compensation
20 coverage as required under the Workers' Compensation Law, § 11-9-101 et seq.

21 (b) The board shall require proof of current workers' compensation
22 coverage before issuing or renewing a license or registration to a contractor
23 required to have workers' compensation coverage under the Workers'
24 Compensation Law § 11-9-101 et seq.

25 (c)(1) If a contractor fails to maintain workers' compensation
26 coverage or fails to maintain proof of current workers' compensation coverage
27 on file with the board, the board may revoke or suspend the contractor's
28 license or registration.

29 (2) A contractor's license or registration that has been revoked
30 or suspended due to failure to maintain workers' compensation coverage may be
31 reinstated upon receipt by the board of proof that the contractor has secured
32 workers' compensation coverage.

33 (d) The board shall promulgate rules necessary to enforce this
34 section.

35
36 SECTION 19. Arkansas Code § 17-25-401(a)(2), concerning the definition

1 of "contractor" under the laws regarding contractors licensing, is amended to
2 read as follows:

3 (2) ~~The term~~ As used in this subchapter "contractor" includes:

4 (A) All original, prime, and general contractors; and

5 (B) A contractor who is required to obtain a contractor's
6 license or registration under the state licensing law of this state, § 17-25-
7 101 et seq.

8
9 SECTION 20. Arkansas Code § 17-25-504, concerning the authority of the
10 Residential Contractors Committee, is amended to add an additional
11 subdivision to read as follows:

12 (8) Award restitution to a property owner.

13
14 SECTION 21. Arkansas Code § 17-25-505, concerning the requirement of a
15 license from the Residential Contractors Committee, is amended to add a new
16 subsection to read as follows:

17 (c) Any person, firm, partnership, copartnership, association,
18 corporation, limited liability company, or other organization that fails to
19 procure a license as required under this subchapter shall be deemed guilty of
20 a Class A misdemeanor with each day in violation of the requirement to
21 constitute a separate offense.

22
23 SECTION 22. Arkansas Code § 17-25-510, concerning hearings by the
24 Residential Contractors Committee regarding violations, is amended to add an
25 additional subsection to read as follows:

26 (d)(1) When suspected abuse, neglect, or exploitation of an endangered
27 person or an impaired person is suspected, the Residential Contractors
28 Committee may:

29 (A) State in writing that due to imminent physical or
30 other harm to the endangered person or impaired person, the situation merits
31 the emergency suspension of a license or registration; and

32 (B) Proceed with the suspension of a license or
33 registration without a hearing or upon any abbreviated hearing that the
34 committee finds practicable to suspend the license or registration;

35 (2) The emergency suspension shall become effective immediately,
36 unless otherwise stated in the written documentation by the board.

1 (3) The emergency suspension may be effective for a period of
2 longer than thirty (30) days and the emergency suspension shall not be
3 renewable.

4 (4) When an emergency suspension is ordered, a formal suspension
5 or revocation proceeding shall be promptly instituted and acted upon in
6 accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et
7 seq.

8
9 SECTION 23. EFFECTIVE DATE. This act is effective on and after July
10 1, 2020.

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