

State of Arkansas

76th General Assembly

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AS ENGROSSED 3/2/87

HOUSE BILL

1766

By: Representative Willems

AS ENGROSSED 3/12/87

"AN ACT TO AMEND VARIOUS SECTIONS OF ACT 200 OF 1951 [ARK. STAT. 71-1205 ET SEQ.], THE PLUMBER'S LICENSURE ACT, TO CLARIFY THE POWERS OF THE STATE BOARD OF HEALTH; TO INCREASE THE MEMBERSHIP ON THE COMMITTEE OF EXAMINERS; TO INCREASE THE AMOUNT OF FINES AND PENALTIES; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 1 of Act 200 of 1951, as amended, the same being Arkansas Statute 71-1205, is hereby amended to read as follows:

"Section 1. (a) An 'Apprentice Plumber' means any person other than a journeyman or master plumber who is engaged in learning and assisting in the installation of plumbing and drainage and enrolled in a State-approved apprentice program.

(b) 'Board' means the State Board of Health.

(c) 'Department' means the State Department of Health.

(d) 'Gas Utility Serviceman' means an employee of a gas utility specially trained for gas service work with the utility.

(e) 'Journeyman Plumber' means any person other than a master plumber, who is engaged in the practical installation of plumbing.

(f) 'Master Plumber' means any person skilled in the planning, superintending and the practical installation of plumbing and familiar with the laws, rules and regulations governing the same.

(g) 'Plumbing' means and includes:

(1) All piping, fixtures, appliances and appurtenances in connection with the water supply and drainage systems within a building and to a point from three (3) to five (5) feet outside of the building.

(2) The construction and connection of any drain or waste pipe carrying domestic sewage from a point within five (5) feet outside of the

foundation walls of any building within the sewer service lateral or other disposal terminal, including the alteration of any such system, drain or waste pipe, except minor repairs to faucets, valves, pipes, appliances and removing of stoppages.

(3) The water service piping from a point within five (5) feet outside of the foundation walls of any building to the water meter or other water utility property or other terminal and the connecting of domestic hot water storage tanks, water softeners, and water heaters with the water supply system.

(4) A sanitary drainage system so designed and vent piping so installed as to keep the air within the system in free circulation and movement, and to prevent with a margin of safety unequal air pressures of such forces as might blow, siphon or affect trap seals or retard the discharge from plumbing fixtures, or permit sewer air to escape into the building.

(5) All fixtures, appliances, appurtenances or pipes used in the installation of gas.

(h) 'Restricted Plumber' means a person qualified to install building water or sewer lines or other special phases of plumbing providing that such person has demonstrated competency for that particular phase of plumbing."

SECTION 2. Section 2 of Act 200 of 1951, as amended, the same being Arkansas Statute 71-1206, is hereby amended to read as follows:

"Section 2. (a) The Board shall have the following powers:

(1) To insure that the construction, installation and maintenance of plumbing in connection with all buildings in this State, including buildings owned by the State or any political subdivision thereof, shall be safe, sanitary and such as to safeguard the public health.

(2) To have general supervision of all such plumbing and shall, after ten (10) days' notice in a recognized legal publication and public hearing, prescribe and publish and enforce minimum, reasonable standards therefor which shall be uniform as far as practicable. The State Health Officer or any employee of the Department designated by the Board may act for the Board, except in the adoption of rules and regulations.

(3) To prescribe rules and regulations as to the qualifications, examination and licensing of master and journeyman plumbers and for the registration of apprentice plumbers.

(4) To assign the duties of the Committee of Examiners.

(5) Apprentice Training Committees. The Board shall by regulation prescribe rules and regulations governing plumbing apprentice training committees and, in cooperation with educational authorities, assist in related training programs for plumbers.

(b) The Department may exercise such powers as are reasonably necessary to carry out the provisions of Act 200 of 1951, as amended. It may, among other things:

(1) Employ competent supervisors who shall be licensed plumbers or licensed engineers, and other assistants, prescribe their qualifications and assign their duties.

(2) Conduct investigations and experiments for the advancement of technical knowledge relating to plumbing and may hold public meetings and attend or be represented at such meetings within or without the State.

(3) Enter and inspect at reasonable hours plumbing installations on private or public property and may disseminate information relative to the provisions of this Act.

(4) Prepare and cause to be printed such codes, bulletins, or other documents as may be necessary and furnish copies thereof to those engaged in the plumbing business and to the public upon request.

(5) Charge a reasonable fee for plumbing inspections.

(6) Furnish upon request of the owner of the building or of the plumber making the plumbing installation, recommendations or a certificate of inspection.

(7) Issue restricted licenses limited to gas fitter, residential and governmental maintenance, service line installation, solar mechanic and hospital maintenance licenses providing that the licensee has demonstrated competency for the particular phase of plumbing for which the person is licensed and providing that the Board has adopted regulations defining restrictions in type of work allowed, geographical area served, and term of that type of restricted license.

(8) Issue a restricted gas utility license to all gas utilities having gas servicemen. Such license shall cover all of the servicemen of the utility providing that the utility requires each such serviceman to be specially trained for such service. The utility shall be responsible to the Department for each serviceman and shall provide an identification card

showing the utility name, utility license number and the restricted service of the serviceman. The utility shall register each serviceman and his serial number with the Department.

(9) Prepare a list giving the names and addresses of all licensed plumbers and registered apprentice plumbers."

SECTION 3. Section 3 of Act 200 of 1951, as amended, the same being Arkansas Statute 71-1207, is hereby amended to read as follows:

"Section 3. (a) (1) Examiners, Terms, Duties, Pay. The Board shall within ninety (90) days after the effective date of this Act appoint a Committee of Examiners consisting of seven (7) voting members, prescribe their qualifications and assign their duties, two (2) of which shall be Master Plumbers, one (1) a Journeyman Plumber, one (1) a Professional Engineer with special expertise in Plumbing Design, two (2) consumers, and one (1) a professional engineer employed by the Department. The Director of the Plumbing and Natural Gas Section of the Department shall serve as Executive Secretary for the committee.

(2) Those members of the Committee of Examiners who are not employees of the State of Arkansas shall be paid a per diem of ten dollars (\$10.00) per day for the actual number of days served by such member in the performance of his duties, and in addition thereto shall be reimbursed his actual expenses necessarily incurred in the performance of his duties.

(3) The member from the Department of Health shall serve on the Committee until replaced by the State Health Officer. The term of office for the remaining members shall be for a staggered term of four (4) years, with the terms of two (2) members expiring two years after the appointment by the Board and the terms of the remaining two (2) members expiring four years after appointment. The Board may remove a member for cause.

(4) The said Committee of Examiners and other employees of the Department shall, when so directed, serve the Board in an advisory capacity in the formulating of rules and regulations to be adopted by the Board.

(b) The Department may issue temporary revocable permits to master and journeyman plumber license applicants pending examination. The Board shall make rules and prescribe procedure governing the issuance of such permits."

SECTION 4. Section 4 of Act 200 of 1951, as amended, the same being Arkansas Statute 71-1208, is hereby amended to read as follows:

"Section 4. (a) Any city, town or county having a system of either water, sewerage or gas utility, or a combination of utilities, shall by ordinance, rules, regulations, or customer contract prescribe rules and regulations governing the regulations of plumbing not in conflict and equal to or exceeding the minimum standards prescribed by the Department.

(b) No plumbing installation shall be installed in any building within this State except in accordance or exceeding the minimum requirements of the Department. No such plumbing installation shall be started without the prescribed licenses, permits and acceptable review of plans and specifications when required.

(c) Any city, town, sewerage district, water district, sewer association, water association, utility gas system or county having a system of either water, sewerage or gas utility, or a combination of utilities, shall set up a system of permits and inspections to assure that the public health and safety is protected. Reasonable fees for inspections may be charged."

SECTION 5. Section 5 of Act 200 of 1951, as amended, the same being Arkansas Statute 71-1209, is hereby amended to read as follows:

"Section 5. (a) Nothing in this Act shall prohibit any city, town or county from having full authority to provide full supervision of the inspection of plumbing and plumbers by enactment of ordinances or regulations by the legal local government body. Providing that where a system of either water, sewerage or gas has been or will be established which has not provided for a local Board or inspector to supervise plumbing or gas, the Department may take immediate charge and entire control of plumbing inspection program. The Board shall prescribe full regulations including permits, permit fees and inspections.

(b) When the plumbing control program of any county, city, town, water district, water association, sewerage district, sewer association or water, sewer or gas utility fails to provide a program at least equal to the minimum requirements of the Department, the Department shall take measures to assure that the minimum State requirements are met to protect the public health and safety of the county, city, town, water district, water association, sewerage district or water, sewer or gas utility."

SECTION 6. Section 6 of Act 200 of 1951, as amended, the same being

Arkansas Statute 71-1210, is hereby amended to read as follows:

"Section 6. (a) No person shall engage in work as a master plumber, journeyman plumber, apprentice plumber or restricted license holder called for under this Act or adopted regulations unless first licensed or registered to do so by the Department.

(b) In such city or town or in any sewerage district, water district, water association, sewer association or utility gas system, no person, firm or corporation shall install plumbing unless at all times a licensed master or restricted licensed plumber is in charge, who shall be responsible for proper installation. No such license shall be transferable. It shall be unlawful for any licensed plumber to allow the use of his license, directly or indirectly, for the purpose of obtaining local permits for others. Nor shall he allow the use of his license by others to install plumbing work.

(c) Each member or employee of a co-partnership or each officer or employee of a corporation engaging in the business of superintending plumbing installations shall be required to apply for and obtain a master plumber license or other license provided for in this Act before engaging in the work of superintending plumbing installations.

(d) No person shall act as a plumbing inspector in this State without first obtaining a certificate of competency as a plumbing inspector which shall be issued by the Department. The Department may issue special certification for special phases of plumbing and may issue an Inspector-in-Training Certificate to duly appointed plumbing inspectors."

SECTION 7. Section 7 of Act 200 of 1951, as amended, the same being Arkansas Statute 71-1211, is hereby amended to read as follows:

"Section 7. (a) License Without Examination. Any person now engaged in gas plumbing as defined in Act 200 of 1951, as amended may obtain a license for his special phase of gas plumbing without examination providing such person shall make application for the license within ninety (90) days after April 7, 1975. Such application shall be accompanied by the required fee and evidence that the applicant has been engaged in such work in a bona fide manner and that such applicant has not violated any requirements of Act 200 of 1951.

(b) Semiannual. Regular examinations shall be held at least twice a year and special examinations may be held at such time and place as may be fixed by

the Department.

(c) Application. Application for a master or journeyman plumber examination, temporary permit or license shall be made to the Department with fees. Unless the applicant is entitled to a renewal of license, a license shall be issued only after the applicant passes a satisfactory examination showing fitness. No such license or permit shall be transferable."

SECTION 8. Section 8 of Act 200 of 1951, as amended, the same being Arkansas Statute 71-1212, is hereby amended to read as follows:

"Section 8. (a) The Board, by regulation and after public hearings, may set reasonable license or examination fees for all licenses called for under this Act including, but not limited to, master plumber licenses, journeyman plumber licenses, apprentice plumber registration, gas utility licenses, and restricted plumber licenses.

(b) All licenses shall be renewed annually within thirty (30) days after the expiration date of the license. The Department may renew a license after the thirty (30) day period providing there is sufficient reason for not renewing such license in the time specified and payment of penalties as prescribed by regulation.

(c) The Department may set a system of staggered expiration dates for all licenses issued by the Department."

SECTION 9. Section 9 of Act 200 of 1951, as amended, the same being Arkansas Statute 71-1213, is hereby amended to read as follows:

"Section 9. (a) The Committee of Examiners may on its own motion make investigations and conduct hearings and may, on its own motion or upon complaint in writing duly signed and verified by the complainant, and upon not less than ten (10) days' notice to the licensee, suspend any plumber's license or temporary permit if it has reason to believe, and may revoke such license or permit in the manner hereinafter provided, if it finds that the holder of such license or permit has:

(1) Made a material misstatement in the application for license or renewal thereof or for temporary permit;

(2) Demonstrated incompetency to act as a license holder; or

(3) Has wilfully violated any provisions of this Act or any rule, regulation or order prescribed by the Board.

(b) A copy of the complaint with notice of the suspension of license or permit, if ordered by the Committee of Examiners, shall be served on the person complained against, and his answer thereto shall be filed in the time allowed for the filing of answers in legal proceedings by the statutes of the State of Arkansas.

(c) No order revoking a license or permit shall be made until after a public hearing set by the Committee of Examiners not less than sixty (60) days after the serving of a notice of suspension on the person complained against. Such hearing shall be held at the place designated by the Committee of Examiners. The person complained against shall have the right to be represented by counsel and to introduce any evidence in his defense. The conduct of the hearing shall be in accordance with recognized rules of legal procedure. An appeal may be had from such hearing by filing such with the State Board of Health. All appeals shall be pursuant to the Administrative Procedures Act, Act 434 of 1967, as amended. Any member of the Committee of Examiners or a representative designated by the Committee of Examiners shall have the authority to administer oaths for the taking of testimony. One (1) year after the date of revocation an application may be made for a new license."

SECTION 10. Section 11 of Act 200 of 1951, as amended, the same being Arkansas Statute 71-1215, is hereby amended to read as follows:

"Section 11. (a) Any person, firm or corporation who engages in or follows the business or occupation of, or advertises or holds himself or itself out as or acts temporarily or otherwise as a plumber without first having secured the required license or permit, or who otherwise violates any provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment. Each day during which a violation continues shall be a separate offense.

(b) Any person who shall do any act prohibited in this Act or fail to obey a lawful order of the Department, or a judgment or decree of a court in connection with this Act, shall be punished by imprisonment in the county jail for not more than three (3) months or by a fine not exceeding five hundred

dollars (\$500.00). Each day during which the violation continues shall constitute a separate offense.

(c) Any person, firm or corporation who shall employ an apprentice on plumbing representing him to be a journeyman, or who shall charge for an apprentice a journeyman's wage, shall be punished by a fine of not more than one hundred dollars (\$100.00) or by imprisonment in the county jail for not more than thirty (30) days. Each day of violation shall be a separate offense."

SECTION 11. Section 12 of Act 200 of 1951, as amended, the same being Arkansas Statute 71-1216, is hereby amended to read as follows:

"Section 12. (a) The licensing provisions of this Act shall not apply:

(1) To plumbing work done by a property owner in a building owned and occupied by him as his home, except where such license is required by local ordinance.

(2) To work done on buildings whose primary use is agricultural located outside the incorporated limits of any city or town, unless such buildings are connected to a public water system, sewerage system or gas utility system.

(b) Scope of the Code. The provisions of the State plumbing code or amendments thereto as adopted by the Board defining plumbing work, prescribing minimum requirements for design, materials, appliances, workmanship and methods of installation shall after publication in any legal publication in the State once each week for three (3) weeks have the effect and force of law in the form of minimum standards statewide in application and shall apply to all types of buildings, private or public, rural or urban, including buildings owned by the State or any political subdivision thereof. All plumbing installations shall be made to conform with such Code.

(c) Provided, the State Health Department inspectors may not go into any city that has a city code enforcement officer for the purpose of conducting an inspection, unless the State Health Department first contacts the city code enforcement officer and asks him to accompany them on inspections within the city, and in such an event, the State Health Department official (inspector) shall work through, and in concert with, the city code enforcement officer at all times when conducting an inspection within the city limits of the city in which the inspection is to be conducted. A written report of all inspections

hereunder shall be prepared by the State Health Department inspector and a copy of the report shall be furnished to the city code enforcement officer and the owner of the property on which the inspection by the State Health Department inspector and city inspector is conducted, within five (5) days.

(d) The Freedom of Information Act shall apply to all documents compiled during an inspection conducted by the State Health Department.

SECTION 12. Section 13 of Act 200 of 1951, as amended, the same being Ark. Stat. §71-1217, is hereby amended to read as follows:

"Section 13. All fees or payments of any type collected by the Board under this Act prior to July 1, 1957, and held in bank accounts shall to the extent of the unencumbered amount thereof be deposited in the State Treasury on or before August 1, 1957. Commencing on July 1, 1957, and thereafter, all fees or payments of any type collected by the Board under this Act shall be deposited in the State Treasury on or before the fifth day of the month next following the month of collection thereof, and the State Treasurer shall credit the same to the credit of the "Plumbers Licensing Fund" which is hereby created. All funds deposited in the Plumbers Licensing Fund shall be used for the maintenance, operation and improvement of the plumbers licensing and inspection services of the State Board of Health. The Chief Fiscal Officer of the State is hereby authorized from time to time, to make transfers of monies in the Budget Revolving Fund as loans to the Plumbers Licensing Fund to be used for maintenance and operation of the Plumbers Licensing and Plumbing Inspection Program of the Department of Health, provided that any such monies loaned from the Budget Revolving Fund to the Plumbers Licensing Fund shall be repaid from fees derived from the Plumbers Licensing and Plumbing Inspection Program on or before the last day of the fiscal year in which the loan of said funds is is made."

SECTION 13. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 14. It is hereby found and determined by the General Assembly that the present law on plumber licensure is antiquated; that this Act is designed to update such law to provide protection to citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act

being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

/s/ Frank Willems

