

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: H1/24/97

A Bill

HOUSE BILL 1014

4 By: Representative Dietz, McGehee, Wilkinson, Broadway, and Milum

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7

For An Act To Be Entitled

8

"AN ACT TO PROVIDE FOR THE LICENSURE OF RESIDENTIAL

9

BUILDING CONTRACTORS; AND FOR OTHER PURPOSES."

10

11

Subtitle

12

"TO PROVIDE FOR THE LICENSURE OF

13

RESIDENTIAL BUILDING CONTRACTORS."

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

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17 SECTION 1. Chapter 25 of Title 17 of the Arkansas Code is amended by

18 adding an additional subchapter to read as follows:

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"17-25-501. It is the intent of this act to protect the purchasers of

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homes constructed in this state by establishing a reasonable and adequate

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licensing and regulation of homebuilders. It is intended that this act apply

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to everyone not specifically excluded. It is also the intent of this act that

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the Residential Building Contractors Committee be located with the Contractors

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Licensing Board and that the staff and appropriation for the Contractors

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Licensing Board be utilized to implement this subchapter.

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27 17-25-502. For purposes of this act:

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(a) Committee means the Residential Contractors Committee created by

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this act.

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(b) Residential building contractor means any person, firm,

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partnership, co-partnership, association, corporation, or other organization

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or any combination thereof who for a fixed price, commission, fee, or wage,

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attempts to or submits a bid to construct or contract or undertakes to

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construct or assumes charge in a supervisory capacity or otherwise manages the

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construction of single family residences.

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(c) Single family residence means any project consisting of one but

1 not more than four units of new construction for the residential occupancy,
2 when the cost of the project is twenty thousand dollars (\$20,000) or more.
3 This definition does not apply to subcontractors of licensed residential
4 building contractors or to remodeling operations.

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6 17-25-503. (a) There is hereby created the Residential Building
7 Contractors Committee to consist of seven (7) members.

8 (1) The Governor shall appoint five (5) persons who have at least
9 five years experience in residential construction. Two (2) of the five
10 residential construction members shall be appointed from a list of at least
11 ten (10) names submitted by the *statewide trade organization or organizations*
12 *that represent the residential construction industry*. No more than two of the
13 five residential construction members may reside in the same congressional
14 district. The five residential construction members shall serve three year
15 terms except that the initial appointees shall serve staggered terms as
16 determined by the Governor so that one will serve a one-year term, two will
17 serve two year terms, and two will serve three year terms. No member may
18 serve more than two three year terms.

19 (2) The Governor shall designate a member of the Contractors
20 Licensing Board to serve at the Governor_s pleasure as a member of the
21 residential building contractors committee and to act as chairman without the
22 power to vote.

23 (3) The administrator of the Contractors Licensing Board shall
24 also serve as a non-voting member of the committee.

25 (b) Three voting members shall constitute a quorum.

26 (c) Committee members shall receive the same expense reimbursement and
27 stipend as provided to the Contractors Licensing Board under the procedures
28 prescribed by Arkansas Code 25-16-901 et seq. except that the administrator
29 shall not receive the stipend. Expenses and stipends shall be paid by the
30 Contractors Licensing Board.

31 (d) The Governor shall make appointments to fill vacancies *in the same*
32 *manner as appointments were made under subsection (a)*. Persons appointed to
33 fill vacancies shall serve the unexpired term of office and shall possess the
34 same qualifications as if being appointed to a full term on the committee.

35 (e) The Contractors Licensing Board shall provide staff and
36 administrative support for the committee.

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2 17-25-504. The committee may:

3 (1) issue, modify, suspend and revoke residential building contractor_s
4 licenses;

5 (2) establish qualifications for residential building contractor_s
6 licenses;

7 (3) enforce this subchapter and the committee_s regulations;

8 (4) issue regulations necessary for the implementation of this
9 subchapter;

10 (5) levy civil penalties in the same amounts and under the same
11 procedures as prescribed for the Contractors Licensing Board;

12 (6) issue orders of abatement in the same manner and to the same extent
13 as authorized for the Contractors Licensing Board; and

14 (7) seek any other civil remedies which are available to the
15 Contractors Licensing Board.

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17 17-25-505. No person shall act as a residential building contractor
18 after July 1, 1999, unless licensed by the residential building contractors
19 committee or exempted from licensure under this subchapter.

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21 17-25-506. Applications for licensure shall be made on forms prescribed
22 by the committee and shall have attached thereto:

23 (a) a certificate of general liability insurance and workers_
24 compensation insurance in an amount deemed adequate by the committee,

25 (b) a compiled financial statement prepared by a certified or
26 registered public accountant in accordance with AICPA professional standards,
27 and

28 (c) such other information as required by the committee.

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30 17-25-507. The committee, in determining the qualifications of any
31 applicant for original license or any renewal license, shall, among other
32 things, consider the following:

33 (1) Experience;

34 (2) Ability;

35 (3) The manner of performance of previous contracts;

36 (4) Financial condition;

1 (5) Equipment;

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

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

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7 17-25-508. Residential building contractors may act as such only in the
8 name under which licensed by the committee.

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10 17-25-509. Workers_ compensation insurance and general liability
11 insurance must be maintained continuously by the residential building
12 contractors and such insurance must be issued by an insurer authorized to do
13 business in this state. Lapse of insurance coverage constitutes grounds for
14 suspension or revocation of license.

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16 17-25-510. (a) Except as otherwise provided in this section, no person
17 shall be licensed as a residential building contractor unless the person has
18 passed a written examination prescribed by the committee.

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

22 (c) The committee shall waive the written examination for any person
23 who:

24 (1) submits proof of having obtained five building permits within
25 the three years preceding the date of application or

26 (2) one building permit within the preceding twelve months or

27 (3) proof of experience in residential construction acceptable to
28 the *committee* if the construction was in a nonpermitting area. Subsection (c)
29 expires on July 1, 1999.

30 (d) A property owner who acts as a residential building contractor for
31 the purpose of constructing his own residence is not required to be licensed
32 under this subchapter unless the person constructs more than one residence per
33 *calendar year*.

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35 17-25-511. The committee may conduct hearings regarding alleged
36 violations of this subchapter or regulations promulgated thereunder and such

1 hearings shall be conducted in accordance with the Administrative Procedure
2 Act. The committee shall within a reasonable time make findings and
3 determinations as a result of the hearings.

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5 17-25-512. Any person aggrieved by an action or decision of the
6 committee may appeal to the Contractors Licensing Board *within ten (10)*
7 *calendar days after the action or decision* under procedures prescribed by the
8 board. Aggrieved parties shall be granted an opportunity to address the board
9 regarding the committee's actions and the final actions of the board shall be
10 binding upon the committee.

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12 17-25-513. All licenses issued by the board shall expire one year after
13 the date of issuance unless otherwise provided by the committee. The
14 committee may charge reasonable examination fees and delinquency fees and may
15 charge a fee not to exceed one hundred dollars for new licenses or renewal of
16 a license. All fees and other monies collected by the committee shall be
17 disposed of as provided by Arkansas Code 17-25-205 and shall be used by the
18 Contractors Licensing Board to implement this subchapter.

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20 17-25-514. Nothing in this subchapter shall be construed as requiring a
21 person who acts as a residential building contractor in the construction of
22 his own residence to obtain a license from the committee unless the person
23 builds more than one residence during any year."

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25 SECTION 2. All provisions of this act of a general and permanent nature
26 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
27 Revision Commission shall incorporate the same in the Code.

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29 SECTION 3. If any provision of this act or the application thereof to
30 any person or circumstance is held invalid, such invalidity shall not affect
31 other provisions or applications of the act which can be given effect without
32 the invalid provision or application, and to this end the provisions of this
33 act are declared to be severable.

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35 SECTION 4. All laws and parts of laws in conflict with this act are
36 hereby repealed.

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/s/Rep, Dietz, et al