

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

HOUSE BILL 1204

4
5 By: Representative Parks
6 By: Senator Russ

For An Act To Be Entitled

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9
10 "AN ACT TO AMEND VARIOUS SECTIONS OF THE CONTRACTORS
11 LICENSING LAW; AND FOR OTHER PURPOSES."

Subtitle

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13
14 "TO AMEND VARIOUS SECTIONS OF THE
15 CONTRACTORS LICENSING LAW."

16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. Arkansas Code 17-25-103 is amended to read as follows:
20 "17-25-103. Penalties - Enforcement.

21 (a) Any contractor shall be deemed guilty of a misdemeanor and shall be
22 liable to a fine of not less than one hundred dollars (\$100) nor more than two
23 hundred dollars (\$200) for each offense, with each day to constitute a
24 separate offense, who:

25 (1) For a fixed price, commission, fee, or wage, attempts to or
26 submits a bid or bids to construct or contracts to construct, or undertakes to
27 construct, or assumes charge in a supervisory capacity or otherwise, or
28 manages ~~of~~ the construction, erection, alteration, or repair ~~of, or has~~
29 constructed, erected, altered, or repaired, under his or its direction, any
30 building, apartment, condominium, highway, sewer, utility, grading, or any
31 other improvement or structure, when the cost of the work to be done or done,
32 in the State of Arkansas by the contractor, including, but not limited to,
33 labor and materials, is twenty thousand dollars (\$20,000) or more, without
34 first having procured a license with the proper classification to engage in
35 the business of contracting in this state;

36 (2) Shall present or file the license certificate of another;

1 (3) Shall give false or forged evidence of any kind to the board,
2 or any member thereof, in obtaining a certificate of license;

3 (4) Shall impersonate another; or

4 (5) Shall use an expired or revoked certificate of license.

5 (b) The doing of any act or thing herein prohibited by any applicant or
6 licensee shall, in the discretion of the board, constitute sufficient grounds
7 to refuse a license to an applicant or to revoke the license of a licensee.

8 (c) Regarding any violation of this chapter, the board shall have the
9 power to issue subpoenas and bring before the board as a witness any person in
10 the state and may require the witness to bring with him any book, writing, or
11 other thing under his control which he is bound by law to produce in evidence.

12 (d) No action may be brought either at law or in equity to enforce any
13 provision of any contract entered into in violation of this chapter. No action
14 may be brought either at law or in equity for quantum meruit by any contractor
15 in violation of this chapter.

16 (e)(1)(A) Any contractor who, after notice and hearing, is found by the
17 Contractors Licensing Board to have violated, or used a contractor in
18 violation of, this ~~section~~ chapter shall pay to the board a civil penalty of
19 not less than one hundred dollars (\$100) nor more than four hundred dollars
20 (\$400) per day for the activity. However, the penalty shall not exceed three
21 percent (3%) of the total ~~contract~~ project being performed by the contractor.

22 (B) The penalty provided for in this ~~subsection~~ chapter,
23 plus interest at ten percent (10%) per annum, shall be paid to the Contractors
24 Licensing Board before the contractor can be issued a license to engage in the
25 business of contracting in this state. In addition to the assessment of the
26 penalty, the Contractors Licensing Board may, upon a finding of a violation of
27 this ~~section~~ chapter, issue an order of abatement directing the contractor to
28 cease all actions constituting a violation of this ~~section~~ chapter.

29 (2) The Contractors Licensing Board shall have the power to
30 withhold approval, for up to six (6) months, of any application from any
31 person who, prior to approval of the application, has been found in violation
32 of this ~~section~~ chapter.

33 (3) All hearings and appeals therefrom under this ~~section~~ chapter
34 shall be pursuant to the provisions of the Arkansas Administrative Procedure
35 Act, as amended, § 25-15-201 et seq.

36 (4) No proceedings under this ~~section~~ chapter may be commenced by

1 the Contractors Licensing Board after three (3) years from the date on which
 2 the act or omission which is the basis for the proceeding occurred.

3 (5) The Contractors Licensing Board shall have the power to file
 4 suit in the Circuit Court of Pulaski County to obtain a judgment for the
 5 amount of any penalty not paid within thirty (30) days of service on the
 6 contractor of the order assessing the penalty, unless the circuit court enters
 7 a stay pursuant to the provisions of this ~~section~~ chapter.

8 (6) The Contractors Licensing Board shall have the power to file
 9 suit in the Circuit Court of Pulaski County to enforce any order of abatement
 10 not complied with within fifteen (15) days, excluding Saturdays, Sundays, and
 11 legal holidays, of service on the contractor of the order of abatement. If the
 12 circuit court finds the order of abatement to have been properly issued, it
 13 may enforce the order by any means by which injunctions are ordinarily
 14 enforced. However, nothing shall be construed herein to diminish the
 15 contractor's right to appeal and obtain a stay pursuant to the procedures
 16 provided for in this ~~section~~ chapter."

17
 18 SECTION 2. Arkansas Code 17-25-206(d) is amended to read as follows:

19 "(d) A roster showing the names and places of business and of residence
 20 of all licensed contractors shall be prepared by the secretary of the board
 21 annually. ~~as soon as convenient during the month of August of each year. The~~
 22 ~~roster shall be ordered printed by the board and paid for out of the funds~~
 23 ~~appropriated for the operation of this chapter."~~

24
 25 SECTION 3. Arkansas Code 17-25-302 is amended to read as follows:

26 "17-25-302. Limitations.

27 The board shall have power to limit by proper classification the license
 28 to the character of work for which the applicant is qualified."

29
 30 SECTION 4. Arkansas Code 17-25-309 is amended to read as follows:

31 "17-25-309. Procedure for revocation - Reissuance.

32 (a) Any person may prefer charges in connection with the foregoing
 33 against any contractor licensed under this chapter.

34 (b) The charges shall be in writing and sworn to by the complainant and
 35 mailed to the board and, unless dismissed without hearing by the board as
 36 unfounded or trivial, shall be heard and determined by the board ~~within thirty~~

1 ~~(30) days after the date on which they were made.~~

2 (c) A time and place for the hearing shall be fixed by the board and
3 held in the City of Little Rock.

4 (d) A copy of the charges, together with the notice of the time and
5 place of hearing, shall be considered as legally served by the board when sent
6 to the last known address of the accused by ~~registered~~ certified mail, at
7 least ten (10) days before the date fixed for the hearing. In the event that
8 such service cannot be effected ten (10) days before the hearing, then the
9 date of hearing and determination shall be postponed as may be necessary to
10 permit the carrying out of this condition.

11 (e) At the hearing the accused contractor shall have the right to
12 appear personally and by counsel and to cross-examine witnesses and to submit
13 evidence in the contractor's behalf and defense.

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

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

20 ~~(h) The board shall immediately notify the Secretary of State of its
21 findings in the case of a revocation of a license, or of a reissuance of a
22 revoked license."~~

23
24 SECTION 5. Arkansas Code 17-25-313 is amended to read as follows:

25 "17-25-313. License requirements to accompany invitation to bid.

26 All architects and engineers preparing plans and specifications for work
27 to be contracted in the State of Arkansas shall include in their invitation to
28 bidders and in their specifications a copy of this chapter, or such portions
29 thereof, as are deemed necessary to convey to the invited bidder, whether he
30 is a resident of this state or not, the information that it will be necessary
31 for him to have a certificate of license with the proper classification from
32 this board before his bid is ~~considered~~ submitted."

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34 SECTION 6. All provisions of this Act of a general and permanent nature
35 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
36 Revision Commission shall incorporate the same in the Code.

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SECTION 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 8. All laws and parts of laws in conflict with this Act are hereby repealed.