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4

As Engrossed: H3/16/11

# A Bill

HOUSE BILL 1938

5 By: Representative Nickels  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND ARKANSAS LAW CONCERNING THE  
9 JURISDICTION OF THE CONTRACTORS LICENSING BOARD; AND  
10 FOR OTHER PURPOSES.  
11

## Subtitle

14 TO AMEND ARKANSAS LAW CONCERNING THE  
15 JURISDICTION OF THE CONTRACTORS LICENSING  
16 BOARD.  
17

18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 *SECTION 1. Arkansas Code § 17-25-501 is amended to read as follows:*  
22 *17-25-501. Purpose.*

23 *It is the intent of this subchapter to protect homeowners and the*  
24 *purchasers of homes constructed in this state by establishing reasonable and*  
25 *adequate licensing and regulation of homebuilders, remodelers, and home*  
26 *improvement contractors. It is intended that this subchapter apply to*  
27 *everyone not specifically excluded. It is also the intent of this subchapter*  
28 *that the Residential ~~Building~~ Contractors Committee be located with the*  
29 *Contractors Licensing Board and that the staff and appropriation for the*  
30 *board be utilized to implement this subchapter.*  
31

32 *SECTION 2. Arkansas Code § 17-25-502 is amended to read as follows:*  
33 *17-25-502. Definitions.*

34 *For purposes of this subchapter:*

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



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

8           (2) "Residential building contractor" means any person, firm,  
 9 partnership, copartnership, association, corporation, or other organization  
 10 or any combination ~~thereof~~, which for a fixed price, commission, fee, or  
 11 wage, attempts to or submits a bid to construct or contract or undertakes to  
 12 construct or assumes charge in a supervisory capacity or otherwise manages  
 13 the construction of ~~a single-family residences~~ single-family residence or the  
 14 property and structures appurtenant to the residence; and

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

20  
 21           SECTION 3. Arkansas Code § 17-25-503(a)(1), concerning the Residential  
 22 Contractors Committee, is amended to read as follows:

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

25  
 26           SECTION 4. Arkansas Code § 17-25-504 is amended to read as follows:

27           17-25-504. Authority.

28           The Residential ~~Building~~ Contractors Committee may:

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

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

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

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

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

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

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

9  
 10       SECTION 5. Arkansas Code § 17-25-505 is amended to read as follows:

11       17-25-505. License from committee required.

12       (a) No A person shall not act as a residential building contractor  
 13 after July 1, 2001, unless licensed by the Residential ~~Building~~ Contractors  
 14 Committee or exempted from licensure under this subchapter.

15       (b) A person shall not act as a home improvement contractor after July  
 16 1, 2013, unless:

17           (1) Licensed by the Residential Contractors Committee; or

18           (2) Exempt from licensure under this subchapter.

19  
 20       SECTION 6. Arkansas Code § 17-25-506(a), concerning applications for  
 21 licenses from the Residential Building Contractors Committee, is amended to  
 22 read as follows:

23       17-25-506. Application for license.

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

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

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

30  
 31       SECTION 7. Arkansas Code § 17-25-507 is amended to read as follows:

32       17-25-507. Applicant qualifications.

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

36           (1) Experience;

- 1 (2) Ability;
- 2 (3) The manner of performance of previous contracts;
- 3 (4) Financial condition;
- 4 (5) Citizenship, legal residency, or legal status to work in the
- 5 United States;

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

8 ~~(6)(7)~~ Default in complying with the provisions of this  
 9 subchapter or any other law of the state.

10 (b)(1) The committee may limit a license issued by the committee to  
 11 the character of work for which the applicant is qualified to perform.

12 (2) The categories to which a license may be limited shall  
 13 include without limitation:

14 (A) A residential building contractor; and

15 (B) A home improvement contractor.

16  
 17 SECTION 8. Arkansas Code § 17-25-508 is amended to read as follows:  
 18 17-25-508. Name of licensed contractor.

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

22  
 23 SECTION 9. Arkansas Code § 17-25-509 is amended to read as follows:  
 24 17-25-509. Written examination.

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

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

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

36 (b)(1) Until June 30, 2012, the committee shall waive the written

1 examination for a person who submits proof of:

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

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

6 (C) Experience in construction acceptable to the  
7 committee.

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

10  
11 SECTION 10. Arkansas Code § 17-25-510 is amended to read as follows:  
12 17-25-510. Hearings regarding violations.

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

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

24 (1) Using a contractor in violation of this chapter;

25 (2) Presenting or filing the license certificate of another;

26 (3) Given false or forged evidence of any kind to the board in  
27 obtaining a certificate of license;

28 (4) Using an expired or revoked certificate of license;

29 (5) Giving false or fraudulent evidence of a contractor's  
30 license to another person or entity; or

31 (6) Committing other violations under this chapter.

32 (c) The committee may revoke the certificate of license of any  
33 contractor licensed under this subchapter who is found guilty of:

34 (1) Fraud or deceit in obtaining a license;

35 (2) Aiding or abetting another contractor or person to violate  
36 this chapter; or

1                   (3) Gross negligence, incompetence, or misconduct in the  
2 contractor's business.

3  
4           SECTION 11. Arkansas Code § 17-25-511 is amended to read as follows:  
5           17-25-511. Appeal from committee decision.

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

12  
13           SECTION 12. Arkansas Code § 17-25-512 is amended to read as follows:  
14           17-25-512. Expiration of license -- Fees.

15           All licenses issued by the Contractors Licensing Board shall expire one  
16 (1) year after the date of issuance unless otherwise provided by the  
17 Residential ~~Building~~ Contractors Committee. The committee may charge  
18 reasonable examination fees and delinquency fees and may charge a fee not to  
19 exceed one hundred dollars (\$100) for new licenses or renewal of a license.  
20 All fees and other moneys collected by the committee shall be disposed of as  
21 provided by § 17-25-205 and shall be used by the board to implement this  
22 subchapter.

23  
24           SECTION 13. Arkansas Code § 17-25-513 is amended to read as follows:  
25           17-25-513. ~~Exemption for personal homebuilder~~ Exemptions.

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

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

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

36           (2) The owner of a single-family residence acting as his or her

1 own home improvement contractor on his or her own property;

2 (3)(A) A person or entity acting as a residential building  
3 contractor or a home improvement contractor on any project, when the cost of  
4 the work done or to be done does not exceed twenty thousand dollars  
5 (\$20,000).

6 (B) Subdivision (3)(A) of this section does not apply to a  
7 project in which the construction work necessary to complete the project is  
8 divided into separate contracts of amounts less than twenty thousand dollars  
9 (\$20,000);

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

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

16  
17 SECTION 14. Arkansas Code 17-25-514 is amended to read as follows:

18 17-25-514. Workers' compensation required.

19 (a) A ~~residential building~~ contractor required to be licensed by the  
20 Residential ~~Building~~ Contractors Committee as a residential building  
21 contractor or home improvement contractor shall secure the payment of  
22 workers' compensation under § 11-9-401 et seq.

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

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

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

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

35  
36 /s/Nickels