

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

HOUSE BILL 2155

5 By: Representative Barnett  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND ARKANSAS LAW CONCERNING THE  
9 RESIDENTIAL CONTRACTORS COMMITTEE; TO AMEND THE NAME  
10 OF THE RESIDENTIAL CONTRACTORS COMMITTEE; AND FOR  
11 OTHER PURPOSES.  
12  
13

## Subtitle

14 TO AMEND ARKANSAS LAW CONCERNING THE  
15 RESIDENTIAL CONTRACTORS COMMITTEE; AND TO  
16 AMEND THE NAME OF THE RESIDENTIAL  
17 CONTRACTORS COMMITTEE.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code § 17-25-501 is amended to read as follows:  
24 17-25-501. Purpose.

25 It is the intent of this subchapter to protect ~~homeowners and~~ the  
26 purchasers of homes constructed in this state by establishing reasonable and  
27 adequate licensing and regulation of homebuilders ~~and home improvement~~  
28 ~~contractors~~. It is intended that this subchapter apply to everyone not  
29 specifically excluded. It is also the intent of this subchapter that the  
30 Residential Building Contractors Committee be located with the Contractors  
31 Licensing Board and that the staff and appropriation for the board be  
32 utilized to implement this subchapter.  
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34 SECTION 2. Arkansas Code § 17-25-502 is amended to read as follows:  
35 17-25-502. Definitions.

36 For purposes of this subchapter:



1 (1) "Committee" means the Residential Building Contractors  
 2 Committee created by this subchapter;

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

10 ~~(3)(2)~~ "Residential building contractor" means any person, firm,  
 11 partnership, copartnership, association, corporation, or other organization  
 12 or any combination thereof, which for a fixed price, commission, fee, or  
 13 wage, attempts to submit or submits a bid to construct or contract or  
 14 undertakes to construct or assumes charge in a supervisory capacity or  
 15 otherwise manages the construction of a single family ~~residence or the~~  
 16 ~~property and structures appurtenant thereto~~ residences; and

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

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

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

27  
 28 SECTION 4. Arkansas Code § 17-25-504 is amended to read as follows:  
 29 17-25-504. Authority.

30 The Residential Building Contractors Committee may:

31 (1) Issue, modify, suspend, and revoke a residential building  
 32 contractor's licenses license issued by the committee;

33 (2) Establish qualifications for a residential building  
 34 contractor's licenses license issued by the committee;

35 (3) Enforce this subchapter and the committee's rules;

36 (4) Issue rules necessary for the implementation of this

1 subchapter;

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

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

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

10

11 SECTION 5. Arkansas Code § 17-25-505 is amended to read as follows:  
 12 17-25-505. License from committee required.

13 ~~(a)~~ A person shall not act as a residential building contractor after  
 14 July 1, 2001, unless licensed by the Residential Building Contractors  
 15 Committee or exempted from licensure under this subchapter.

16 ~~(b)~~ ~~A person shall not act as a home improvement contractor after~~  
 17 ~~January 1, 2012, unless:~~

18 ~~(1) Licensed by the committee; or~~

19 ~~(2) Exempt from licensure under this subchapter.~~

20

21 SECTION 6. Arkansas Code § 17-25-506(a)(1), concerning application for  
 22 license, is amended to 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) Except as provided in subdivision (a)(1)(B) of this~~  
 28 ~~section, a compiled financial statement with each application for all persons~~  
 29 ~~and entities required by this subchapter to be licensed by the committee when~~  
 30 ~~the cost of the work done or to be done in the State of Arkansas by the~~  
 31 ~~contractor, including without limitation labor and materials, is twenty~~  
 32 ~~thousand dollars (\$20,000) or more.~~

33 ~~(B) A person or entity required to be licensed under this~~  
 34 ~~subchapter when the cost of the work done or to be done in the State of~~  
 35 ~~Arkansas by the contractor, including without limitation labor and materials,~~  
 36 ~~is less than twenty thousand dollars (\$20,000) shall not be required to~~

1 ~~submit a financial statement~~ A compiled financial statement with each new  
 2 application; and

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

4 (b)(1) The financial statement required with each application is not  
 5 public information and may not be made available for inspection by any  
 6 person, unless by an order of a court of competent jurisdiction.

7 (2) After the contractor is licensed, the Contractors Licensing  
 8 Board shall destroy the financial statement by the process of shredding or  
 9 returning the financial statement to the contractor.

10  
 11 SECTION 7. Arkansas Code § 17-25-507 is amended to read as follows:  
 12 17-25-507. Applicant qualifications.

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

16 (1) Experience;

17 (2) Ability;

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

19 (4) Financial condition;

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

22 (6) Default in complying with the provisions of this subchapter  
 23 or any other law of the state.

24 ~~(b) The committee may limit a license issued by the committee to the~~  
 25 ~~character of work for which the applicant is qualified to perform.~~

26  
 27 SECTION 8. Arkansas Code § 17-25-508 is amended to read as follows:  
 28 17-25-508. Name of licensed contractor.

29 ~~Contractors licensed under this subchapter~~ Residential building  
 30 contractors may act as ~~such~~ residential building contractors only in the name  
 31 under which they are licensed by the Residential Building Contractors  
 32 Committee.

33  
 34 SECTION 9. Arkansas Code § 17-25-509 is amended to read as follows:  
 35 17-25-509. Written examination.

36 (a) Except as otherwise provided in this section, a person shall not

1 be licensed as a residential building contractor unless the person has passed  
 2 a written examination prescribed by the Residential Building Contractors  
 3 Committee.

4 ~~(b)(1) Until January 1, 2012, the committee shall waive the written  
 5 examination for a person who:~~

6 ~~(A) Submits proof of having obtained five (5) building  
 7 permits within the three (3) years preceding the date of application;~~

8 ~~(B) Submits proof of having obtained one (1) building  
 9 permit within the preceding twelve (12) months; or~~

10 ~~(C) Submits proof of experience in construction acceptable  
 11 to the committee.~~

12 ~~(2) Subsection (b)(1) of this section does not apply to  
 13 applicants for a residential builder license.~~

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

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

21  
 22 SECTION 10. Arkansas Code § 17-25-510 is amended to read as follows:

23 17-25-510. Hearings regarding violations.

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

30 ~~(b) A contractor who, after notice and hearing, is found to have  
 31 committed the following actions shall pay to the Contractors Licensing Board  
 32 a civil penalty of not less than one hundred dollars (\$100) nor more than  
 33 four hundred dollars (\$400) for each day that the violation occurred:~~

34 ~~(1) Acting as a contractor without having a valid license in  
 35 violation of this chapter;~~

36 ~~(2) Using a contractor in violation of this chapter;~~

- ~~(3) Presenting or filing the license certificate of another;~~
  - ~~(4) Giving false or forged evidence of any kind to the board in obtaining a certificate of license;~~
  - ~~(5) Using an expired or revoked certificate of license;~~
  - ~~(6) Giving false or fraudulent evidence of a contractor's license to another person or entity; or~~
  - ~~(7) Committing other violations under this chapter.~~
- ~~(c) The committee may revoke the certificate of license of any contractor licensed under this subchapter who is found guilty of:~~
- ~~(1) Fraud or deceit in obtaining a license;~~
  - ~~(2) Aiding or abetting a contractor or person to violate this chapter; or~~
  - ~~(3) Gross negligence, incompetence, or misconduct in the contractor's business.~~

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

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

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

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

SECTION 13. Arkansas Code § 17-25-513 is amended to read as follows:

1 17-25-513. ~~Exemptions~~ Exemption for personal homebuilder.

2 The following shall be exempted from the licensing requirements of this  
3 subchapter:

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

7 (2) ~~The owner of a single family residence acting as his or her~~  
8 ~~own home improvement contractor on his or her own property;~~

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

12 (B) ~~Subdivision (3)(A) of this section shall not apply to~~  
13 ~~a project in which the construction work necessary to complete the project is~~  
14 ~~divided into separate contracts of amounts less than two thousand dollars~~  
15 ~~(\$2,000);~~

16 (4) ~~A subcontractor of a contractor licensed by the Residential~~  
17 ~~Contractors Committee; and~~

18 (5) ~~A person or entity licensed as a contractor by another~~  
19 ~~licensing agency, board, or commission of the State of Arkansas if the~~  
20 ~~contractor is performing work within the scope of the license held by the~~  
21 ~~person or entity.~~

22 This subchapter shall not require a person who acts as a residential  
23 building contractor in the construction of his or her own residence to obtain  
24 a license from the Residential Building Contractors Committee unless the  
25 person builds more than one (1) residence during any year.

26  
27 SECTION 14. Arkansas Code 17-25-514 is amended to read as follows:

28 17-25-514. Workers' compensation required.

29 (a) A residential building contractor required to be licensed by the  
30 Residential Building Contractors Committee ~~as a residential building~~  
31 ~~contractor~~ shall secure the payment of workers' compensation under § 11-9-  
32 401 et seq.

33 (b) The committee shall require proof of current workers' compensation  
34 coverage before issuing or renewing a license ~~as a residential building~~  
35 ~~contractor.~~

36 (c) ~~Unless otherwise required by law, a home improvement contractor~~

1 ~~required to be licensed under this subchapter shall not be required to secure~~  
2 ~~the payment of workers' compensation under § 11-9-401 et seq. or provide~~  
3 ~~proof of coverage to the committee before issuing or receiving a license if~~  
4 ~~the cost of the work done or to be done in the State of Arkansas by the home~~  
5 ~~improvement contractor, including without limitation labor and materials, is~~  
6 ~~less than twenty thousand dollars (\$20,000).~~

7 ~~(d)(c)(1)~~ If a contractor fails to maintain workers' compensation  
8 coverage ~~or fails to maintain proof of current workers' compensation coverage~~  
9 ~~on file with the committee~~, the committee shall revoke the contractor's  
10 license.

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

14 ~~(e)(d)~~ The committee shall promulgate rules necessary to enforce this  
15 section.

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17 SECTION 15. Arkansas Code § 17-25-515 is repealed.

18 ~~17-25-515. Actions to enforce contracts in violation of this~~  
19 ~~subchapter.~~

20 ~~A contractor found guilty of a violation of this subchapter shall not~~  
21 ~~bring an action:~~

22 ~~(1) In law or equity to enforce any provision of a contract~~  
23 ~~entered into in violation of this subchapter; or~~

24 ~~(2) For quantum meruit.~~

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