

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2564

By: Bastin

AS INTRODUCED

An Act relating to professions and occupations;
enacting the Contractor Registration Act; providing
short title; defining terms; specifying certain
powers and duties; requiring certain registration;
authorizing certain grace periods; authorizing
certain exemptions; requiring certain
qualifications for registration; specifying
applications for registration; providing for
certain fees; providing for the issuance of certain
registration certificates and numbers; authorizing
the adoption of certain registration expiration
systems and prorating of fees related thereto;
prohibiting certain acts; requiring the exhibition
of certain registration certificates under certain
conditions; requiring registration numbers to be
placed on certain documents; requiring notification
by certain registrants of certain changes;
requiring the maintenance of certain records;
authorizing the revocation or suspension of certain
registration, or the denial of application for
certain registration under certain conditions;
providing for certain investigations and
proceedings related thereto; creating the
Contractor Registration Revolving Fund; providing

for expenditures and deposits of such fund;
providing for certain procedures relating to such
fund; providing for costs associated with the act;
providing penalties; authorizing injunctive relief
and restraining orders; amending 68 O.S. 1991,
Section 1701.1, which relates to contractor
identification numbers; requiring contractors to
have certain registration numbers in such persons'
possession; providing for codification; providing
an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2013.1 of Title 59, unless there
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Contractor
Registration Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2013.2 of Title 59, unless there
is created a duplication in numbering, reads as follows:

As used in the Contractor Registration Act:

1. "Board" means the State Board of Health;
2. "Commissioner" means the State Commissioner of Health;
3. "Department" means the State Department of Health; and
4. "Contractor" means the same as defined in Section 1701 of

Title 68 of the Oklahoma Statutes.

SECTION 3. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2013.3 of Title 59, unless there
is created a duplication in numbering, reads as follows:

A. In addition to those duties and powers otherwise prescribed by law, the Commissioner shall have the duties and powers to:

1. Advise the Board in the promulgation of rules pursuant to the Administrative Procedures Act necessary to effectuate the provisions of this act;

2. Prescribe and adopt forms for registration applications and initiate mailing of such application forms to all persons requesting such applications;

3. Register contractors to engage in contracting pursuant to the Contractors Registration Act and provide such contractors with a registration certificate and a registration number;

4. Enter upon public and private property for the purpose of inspecting contractors' registration and bond requirements for compliance with the provisions of the Contractors Licensing Act and of the rules of the Board promulgated and adopted thereto;

5. Charge and collect such fees as are prescribed by this act;

6. Employ personnel to conduct investigations and inspections for registration and bond requirements;

7. Investigate alleged violations of the registration and bonding provisions of this act and of any rules promulgated and adopted pursuant to this act; and

8. Initiate prosecution and injunctive proceedings against any person who violates any of the registration or bonding provisions of this act or any rules promulgated and adopted pursuant to this act.

B. In addition to those duties and powers otherwise prescribed by law, the Board shall promulgate rules pursuant to the Administrative Procedures Act to effectuate the provisions of this act.

C. The Commissioner and Board shall have such other powers and duties as are necessary to implement the provisions of this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2013.4 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Beginning January 1, 1995, no person shall be engaged in the profession or occupation of contractor in this state without first having received a registration certificate and registration number by the State Department of Health pursuant to the provisions of this act. This registration shall be in addition to the requirements of Section 1701.1 of Title 68 of the Oklahoma Statutes.

B. Every person engaged in such profession or occupation in this state on the effective date of this act shall have one hundred eighty (180) days in which to apply to the Commissioner for registration. A person applying for registration within this period may continue the person's profession or occupation pending a final determination of his application. Additional time beyond the one-hundred-eighty-day period may be granted by the Commissioner.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2013.5 of Title 59, unless there is created a duplication in numbering, reads as follows:

A person shall be exempt from the requirements of this act if the person:

1. Is required to be licensed or registered by another state agency, except for those requirements specified in Title 68 of the Oklahoma Statutes, if such licensure or registration is of a profession or occupation which the Commissioner deems similar to the profession or occupation of contractor;

2. Works on a project for which the combined value of labor, materials, and all other items on one or more contracts is less than Three Hundred Dollars (\$300.00). Work which is part of a larger or major project, whether undertaken by the same or different contractors, may not be divided into amounts less than Three Hundred

Dollars (\$300.00) in an attempt to meet the Three Hundred Dollar (\$300.00) exemption;

3. Is an employee who is paid wages and who does not have direction or control over the performance of work or who does not determine the final results of the work or project;

4. Is a public employee or officer working on public projects;

5. Is an officer of a court acting within the scope of their office;

6. Is an employee or officer of a public utility working under specified conditions;

7. Is an owner or lessee performing oil and gas operations;

8. Is an owner-builder who builds or improves existing structures on such person's own property if such person either does the work or uses such person's own employees to do the work. This exemption is only valid if the structure is not intended or offered for sale within one (1) year of completion;

9. Is an owner-builder who builds or improves existing structures on such persons own property if such person contracts for the construction with a registered contractor or contractors;

10. Is an owner-builder who improves such person's main place of residence, has actually resided there for one (1) year prior to completion of the work, and who completes the work prior to sale. This exemption is limited to two structures within a three-year period; or

11. Is a seller or installer of finished products that do not become a fixed part of the structure. The exemption applies to a seller of installed carpets who contracts for installation of the carpet with a carpet installer. The exemption does not apply to:

- a. material suppliers or manufacturers who install or contract for installation of products, or
- b. those who install mobile homes or mobile home accessory structures.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2013.6 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Any person applying for registration to engage in contracting pursuant to this act shall provide evidence to the Committee that the individual:

1. Is at least eighteen (18) years of age; and
2. Has been able to obtain or is qualified to obtain a surety bond or letter of credit in an amount and form determined and ordered by the Commissioner for the purpose of protecting the public against illegal or unscrupulous action by such registrant. This surety bond or letter of credit will be in addition to the one required by Section 1703 of Title 68 of the Oklahoma Statutes. The Commissioner may exempt such person from the requirement of this paragraph if there is undue hardship in obtaining such surety bond or letter of credit. However, if there is evidence that the registrant has been involved in any illegal or unscrupulous actions, the Commissioner shall require the surety bond or letter of credit.

B. The applicant shall advise the Commissioner and furnish full information on any conviction of a felony or any crime involving moral turpitude for which a full pardon has not been granted.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2013.7 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. An application for registration shall include:

1. The name of the applicant;
2. The resident address of the applicant; and
3. Such other information, statements or documents as may be required by the Commissioner.

B. Fees for registration issued pursuant to this act shall be determined by the Board. Provided, the fees provided for in this subsection shall reflect the estimated actual cost of processing and

issuance of the registration certificate and number. An applicant shall pay the registration fee at the time such person makes application.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2013.8 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Upon the making of proper application, payment of the proper registration fee, and posting of the surety bond or letter of credit, if required, a registration certificate and registration number shall be issued by the Commissioner to the applicant. The registration shall be valid for a one-year period, but may be renewed by the Commissioner. The registration number shall remain the same through each renewal.

B. The Commissioner may adopt a system under which registration expires on various dates throughout the year. For any change in such expiration dates, registration fees shall be prorated on an appropriate periodic basis.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2013.9 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A registration certificate or registration number shall not be altered or assigned.

B. A registration certificate shall be exhibited by the licensee upon request of any person doing business with such registrant pursuant to the provisions of this act or by any member or authorized employee of the Department. The registration number shall be placed on all documents relating to the registrant's business or occupation as a contractor.

C. A registrant shall notify the Commissioner within fourteen (14) days of any change of information furnished on his application for registration or on his registration certificate including, but not limited to, change of name or address. If the required notice

of change is not given within fourteen (14) days, the registration certificate may be suspended or revoked by the Commissioner.

D. No person shall represent falsely that he is registered or employed by a registrant.

E. Each registrant shall maintain a record containing such information relative to his employees as may be required by the Commissioner.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2013.10 of Title 59, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the State Department of Health, to be designated the Contractor Registration Revolving Fund. The Fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department pursuant to the Contractor Registration Act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of implementing the Contractor Registration Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2013.11 of Title 59, unless there is created a duplication in numbering, reads as follows:

Except as otherwise provided in this section, all costs of administration of the Contractor Registration Act shall be paid from fees collected pursuant to the provisions of this act. At no time shall a claim for payment be submitted to the Director of State Finance if the revenue deposited in the Contractor Registration Revolving Fund to the current date does not equal or exceed the total claims for payments made to that date. The Department may

transfer monies into such fund if the fee amount is not adequate for such claims for payments.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2013.12 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. An individual or person who is found to be in violation of the provisions of the Contractor Registration Act or of the rules adopted pursuant to this act for implementation and administration of this act, upon conviction, shall be guilty of a misdemeanor and shall be punished by confinement in the county jail for a period not to exceed one (1) year or by the imposition of a fine not to exceed Five Thousand Dollars (\$5,000.00) per violation and not to exceed Twenty-Five Thousand Dollars (\$25,000.00) for all violations occurring within a one-year period of time, or by both such imprisonment and fine.

B. The Commissioner may make application to the appropriate court for an order enjoining the acts or practices prohibited by this act, and upon a showing by the Commissioner that the person has engaged in any of the prohibited acts or practices, an injunction, restraining order, or other order as may be appropriate may be granted by the court.

SECTION 13. AMENDATORY 68 O.S. 1991, Section 1701.1, is amended to read as follows:

Section 1701.1 A. All resident and nonresident contractors shall have in their possession current employer identification numbers issued to them by the Oklahoma Tax Commission, the Oklahoma Employment Security Commission, the Internal Revenue Service, and the Social Security Administration, and a registration number issued to them by the State Department of Health pursuant to the Contractor Registration Act. Each contractor shall be responsible for maintaining his own payroll reports and records including reports and records required by the Oklahoma Tax Commission, the Oklahoma

Employment Security Commission, the Internal Revenue Service, and the Social Security Administration. No contractor shall be required to keep payroll records or make any other report for any other contractor.

B. Owners, lessees, or renters awarding a contract shall not be required to ascertain if a contractor has complied with the provisions of subsection A of this section or be responsible for a contractor's reports, records, or be liable for any penalty resulting from the contract.

C. Any contractor who violates or does not comply with the provisions of subsection A of this section shall be liable for any unpaid taxes and wages resulting from his contract in addition to the penalties provided in Section 1707 of ~~Title 68 of the Oklahoma Statutes~~ this title. The failure of a contractor to comply with the provisions of subsection A of this section shall neither present any liability or responsibility for any unpaid taxes, wages, or penalties resulting from his contract upon any other contractor nor shall any future contracts of said contractor be impaired because of his failure to comply with the provisions of subsection A of this section on a prior contract.

D. Subsection A of this section shall not apply where a contract for an entire project requires the services of less than three employees. A resident contractor shall not be required to comply with the provisions of subsection A of this section in the construction of a single family dwelling when the total cost of the project is less than the average sales price of a single family dwelling in this state as set each year by the National Association of Home Builders. This subsection shall not be construed to exempt any person of any tax liabilities or other requirements provided for by law.

SECTION 14. This act shall become effective July 1, 1998.

SECTION 15. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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