

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 3281

By: Stanley

AS INTRODUCED

An Act relating to professions and occupations;
amending 59 O.S. 1991, Section 1002, as amended by
Section 1, Chapter 236, O.S.L. 1993 (59 O.S. Supp.
1997, Section 1002), which relates to the Plumbing
License Law of 1955; amending 59 O.S. 1991, Section
1850.3, which relates to the Mechanical Licensing
Act; amending 59 O.S. 1991, Section 1681, as last
amended by Section 1, Chapter 155, O.S.L. 1994 (59
O.S. Supp. 1997, Section 1681), which relates to
the Electrical License Act; removing certain
bonding requirements; establishing contractor's
recovery funds; providing for assessments;
providing for administration; providing for
determination of assessment; providing purpose;
limiting compensation amounts; providing for
suspension of licenses; prohibiting reinstatement
until certain repayments plus other charges;
requiring certain promulgation of rules; making
participation in funds sufficient to meet certain
municipal requirements; providing for proof of
participation; providing for form; providing for
codification; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1002, as amended by Section 1, Chapter 236, O.S.L. 1993 (59 O.S. Supp. 1997, Section 1002), is amended to read as follows:

Section 1002. A. The State Board of Health, in pursuance of its general power of supervision over the interests of the health and life of the citizens of this state, and over the sanitary conditions under which they live, is hereby authorized, empowered and directed, through the Commissioner of Health, to ~~make,~~ prescribe, promulgate and enforce, ~~amend and repeal~~ rules and regulations governing the:

1. The examination and licensing of persons desiring or intending to engage in the business, trade or calling of master plumber ~~(, plumbing contractor)~~ or journeyman plumber, ~~the;~~

2. The registering of and issuing of certificates to persons desiring or intending to work or act as a plumber's apprentice, ~~the;~~

3. The establishment and levying of administrative fines, ~~the;~~

4. The initiation of disciplinary proceedings, ~~the;~~

5. The requesting of prosecution of and initiation of injunctive proceedings against any person who violates any of the provisions of ~~this act~~ the Plumbing License Law of 1955 or any rule promulgated pursuant to ~~this act,~~ the Plumbing License Law of 1955; and ~~to~~

6. To establish ~~bonding requirements for the issuance of a license as a plumbing contractor, provided, such rules and regulations shall not be inconsistent with the terms and conditions hereinafter provided. Such bonding requirements shall allow the filing of cash or a certificate of deposit in lieu of a bond. A state bond or cash or certificate of deposit filed in lieu of a bond and which is posted pursuant to the provisions of this section shall be deemed sufficient to meet the requirements of any municipality,~~

~~provided that a copy of said bond or documentation of cash or certificate of deposit filed in lieu of a bond shall be filed with any municipality in which the licensee does work as a plumbing contractor. A copy of the bond or documentation of cash or certificate of deposit filed in lieu of a bond shall be filed with the municipality prior to the commencement of any such work by the licensee~~ procedures for administering the Plumbing Contractor's Recovery Fund.

B. The State Board of Health shall establish a Grand Master Plumbing License for contractors in Oklahoma which will include all plumbing licenses in one license on an annual basis.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 59 of Title 1024, unless there is created a duplication in numbering, reads as follows:

A. 1. In addition to any other fees, each applicant for a license pursuant to the Plumbing License Law of 1955 shall pay an assessment to the Plumbing Contractor's Recovery Fund.

2. There is hereby created the Plumbing Contractor's Recovery Fund within the State Treasury. The Recovery Fund shall be administered by the Oklahoma Commissioner of Health pursuant to the provisions of this section.

B. The Recovery Fund shall consist of:

1. All monies received by the Commissioner as proceeds from the assessment imposed pursuant to this section;

2. Interest attributable to investment of money in the Recovery Fund; and

3. Money received by the Commissioner in the form of gifts, grants, reimbursements, or from any other source intended to be used for the purposes specified by or collected pursuant to the provisions of this section.

C. The monies deposited in the Recovery Fund shall at no time become part of the general budget of the State Department of Health

or any other state agency. Except as provided for in this section, no monies from the Recovery Fund shall be transferred for any purpose to any other state agency or any account of the Department or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

D. Each licensee who renews a license pursuant to the Plumbing License Law of 1955 shall pay in addition to the appropriate renewal fee an assessment which shall be credited to the Recovery Fund. The amount of the assessment shall be based on one one-hundredth of one percent (0.01%) of the licensee's gross annual receipts for the licensee's most recent fiscal year preceding the renewal.

E. The sole purpose of the Recovery Fund is to compensate any aggrieved owner or lessee of residential property who obtains a final judgment in any court of competent jurisdiction against a licensee on the grounds of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance.

F. Nothing in this section may obligate the Recovery Fund for more than Fifty Thousand Dollars (\$50,000.00) per claimant, nor more than Fifty Thousand Dollars (\$50,000.00) per licensee.

G. Should the Commissioner pay from the Recovery Fund any amount in settlement of a claim or toward satisfaction of judgment against a licensee, the license shall be automatically suspended upon the effective date of an order by the court authorizing payment from the Recovery Fund. No license shall be reinstated until the licensee has repaid in full, plus interest at the rate of twelve percent (12%) per year, twice the amount paid from the Recovery Fund on the licensee's account.

H. The Board of Health shall provide by rule for accelerated claims payments that do not exceed the jurisdiction limits for conciliation court matters.

I. A licensee's participation pursuant to the Plumbing Contractor's Recovery Fund shall be deemed sufficient to meet the

requirements of any municipality, provided that proof of the contractor's participation in the Recovery Fund shall be filed with any municipality in which the licensee does work as a plumbing contractor. The proof shall be filed with the municipality prior to the commencement of any such work by the licensee. The Commissioner shall establish a form for demonstrating proof of participation in the Recovery Fund.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 1850.3, is amended to read as follows:

Section 1850.3 The Board shall have the power and duty to:

1. Promulgate, prescribe, amend, and repeal rules and regulations necessary to implement the provisions of the Mechanical Licensing Act including but not limited to defining categories and limitations for such licenses, registration of apprentices, establishing ~~bonding and insurance~~ Mechanical Contractor's Recovery Fund requirements precluding municipal requirements;

2. Adopt standards for mechanical work, by reference, published by a recognized code body; and

3. Establish minimum standards of mechanical installations in this state.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1850.17 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. In addition to any other fees, each applicant for a license issued pursuant to the Mechanical Licensing Act shall pay an assessment to the Mechanical Contractor's Recovery Fund.

2. There is hereby created the Mechanical Contractor's Recovery Fund within the State Treasury. The Recovery Fund shall be administered by the Oklahoma Commissioner of Health pursuant to the provisions of this section.

B. The Recovery Fund shall consist of:

1. All monies received by the Commissioner as proceeds from the assessment imposed pursuant to this section;

2. Interest attributable to investment of money in the Recovery Fund; and

3. Money received by the Commissioner in the form of gifts, grants, reimbursements, or from any other source intended to be used for the purposes specified by or collected pursuant to the provisions of this section.

C. The monies deposited in the Recovery Fund shall at no time become part of the general budget of the State Department of Health or any other state agency. Except as provided for in this section, no monies from the Recovery Fund shall be transferred for any purpose to any other state agency or any account of the Department or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

D. Each licensee who renews a license pursuant to the Mechanical Licensing Act shall pay in addition to the appropriate renewal fee an additional assessment which shall be credited to the Recovery Fund. The amount of the assessment shall be based on one-hundredth of one percent (0.01%) of the licensee's gross annual receipts for the licensee's most recent fiscal year preceding the renewal.

E. The sole purpose of the Recovery Fund is to compensate any aggrieved owner or lessee of residential property who obtains a final judgment in any court of competent jurisdiction against a licensee on the grounds of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance.

F. Nothing in this section may obligate the Recovery Fund for more than Fifty Thousand Dollars (\$50,000.00) per claimant, nor more than Fifty Thousand Dollars (\$50,000.00) per licensee.

G. Should the Commissioner pay from the Recovery Fund any amount in settlement of a claim or toward satisfaction of judgment

against a licensee, the license shall be automatically suspended upon the effective date of an order by the court authorizing payment from the Recovery Fund. No license shall be reinstated until the licensee has repaid in full, plus interest at the rate of twelve percent (12%) per year, twice the amount paid from the Recovery Fund on the licensee's account.

H. The Board of Health shall provide by rule for accelerated claims payments that do not exceed the jurisdiction limits for conciliation court matters.

I. A licensee's participation pursuant to the Recovery Fund shall be deemed sufficient to meet the requirements of any municipality, provided that proof of participation in the Recovery Fund shall be filed with any municipality in which the licensee does work as a mechanical contractor. The proof shall be filed with the municipality prior to the commencement of any such work by the licensee. The Commissioner shall establish a form for demonstrating proof of participation in the Recovery Fund.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 1681, as last amended by Section 1, Chapter 155, O.S.L. 1994 (59 O.S. Supp. 1997, Section 1681), is amended to read as follows:

Section 1681. A. The State Board of Health is hereby authorized to ~~adopt, amend and repeal~~ promulgate rules governing ~~the:~~

1. The examination and licensing of electrical contractors and journeymen electricians, ~~the;~~

2. The defining of categories and limitations for such licenses, ~~the;~~

3. The establishment of continuing education requirements and procedures as determined by the Committee, ~~the;~~

4. The establishment and levying of administrative fines, ~~the;~~

5. The initiation of disciplinary proceedings, ~~the;~~

6. The requesting of prosecution of and initiation of injunctive proceedings against any person who violates any of the provisions of ~~this act~~ the Electrical License Act or any rule promulgated pursuant to ~~this act~~, the Electrical License Act;

7. The establishment of ~~bonding and insurance~~ the contractor's recovery fund requirements precluding municipal requirements, ~~the~~;

8. The requirement of proof of possession of a Federal Tax ID Number and a State of Oklahoma Employment Security Commission identification number, ~~the~~; and

9. The registration of electrical apprentices and the standard of electrical installations,

and to adopt future editions of the Code. ~~Provided, broiler~~

B. Broiler houses will not be required to meet the electrical wiring requirements for environmentally controlled poultry houses as set out in the National Electric Code.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1698 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. In addition to any other fees, each applicant for a license issued pursuant to the Electrical License Act shall pay an assessment to the Electrical Contractor's Recovery Fund.

2. There is hereby created the Electrical Contractor's Recovery Fund within the State Treasury. The Recovery Fund shall be administered by the Oklahoma Commissioner of Health pursuant to the provisions of this section.

B. The Recovery Fund shall consist of:

1. All monies received by the Commissioner as proceeds from the assessment imposed pursuant to this section;

2. Interest attributable to investment of money in the Recovery Fund; and

3. Money received by the Commissioner in the form of gifts, grants, reimbursements, or from any other source intended to be used

for the purposes specified by or collected pursuant to the provisions of this section.

C. The monies deposited in the Recovery Fund shall at no time become part of the general budget of the State Department of Health or any other state agency. Except as provided for in this section, no monies from the Recovery Fund shall be transferred for any purpose to any other state agency or any account of the Department or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

D. Each licensee who renews a license pursuant to the Electrical License Act shall pay in addition to the appropriate renewal fee an assessment which shall be credited to the Recovery Fund. The amount of the assessment shall be based on one one-hundredth of one percent (0.01%) of the licensee's gross annual receipts for the licensee's most recent fiscal year preceding the renewal.

E. The sole purpose of the Recovery Fund is to compensate any aggrieved owner or lessee of residential property who obtains a final judgment in any court of competent jurisdiction against a licensee on the grounds of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance.

F. Nothing in this section may obligate the Recovery Fund for more than Fifty Thousand Dollars (\$50,000.00) per claimant, nor more than Fifty Thousand Dollars (\$50,000.00) per licensee.

G. Should the Commissioner pay from the Recovery Fund any amount in settlement of a claim or toward satisfaction of judgment against a licensee, the license shall be automatically suspended upon the effective date of an order by the court authorizing payment from the Recovery Fund. No license shall be reinstated until the licensee has repaid in full, plus interest at the rate of twelve percent (12%) per year, twice the amount paid from the Recovery Fund on the licensee's account.

H. The Board of Health shall provide by rule for accelerated claims payments that do not exceed the jurisdiction limits for conciliation court matters.

I. A licensee's participation pursuant to the Recovery Fund shall be deemed sufficient to meet the requirements of any municipality, provided that proof of the contractor's participation in the Recovery Fund shall be filed with any municipality in which the licensee does work as an electrical contractor. Said proof shall be filed with the municipality prior to the commencement of any such work by the licensee. The Commissioner shall establish a form for demonstrating proof of participation in the Recovery Fund.

SECTION 7. This act shall become effective November 1, 1998.

46-2-8571

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