

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 54

By: Long

AS INTRODUCED

An Act relating to professions and occupations; creating the Construction Contractor Licensing Act; providing short title; defining terms; requiring licensing of certain contractors, remodelers, and installers; making certain actions after certain date without a license a misdemeanor; providing for penalty; providing for licensing of certain persons without examination; prohibiting political subdivisions from issuing building permits to certain persons; requiring certain reports; providing for injunctive relief; creating Committee of Construction Contractor Examiners; providing for number and appointment of members and filling of vacancies; stating qualifications for appointment; stating terms of office; providing for certain forfeiture; requiring election of officers; making committee subject to Oklahoma Open Meeting Act; requiring certain meetings; requiring holding of special meetings under certain circumstances; providing for quorum; providing for reimbursement of members pursuant to State Travel Reimbursement Act; authorizing payment of per diem under certain circumstances; stating duties of committee; providing for administrative support; making certain actions of committee subject to Article II of the Administrative Procedures Act; authorizing promulgation of rules pursuant to Article I of the Administrative Procedures Act; providing for certain hearing appeal; requiring certain investigations; requiring certain actions upon making of certain findings; authorizing assessment of administrative fines under certain circumstances; establishing certain fees; creating certain revolving fund; authorizing expenditures from fund; making exceptions to applicability of act; providing for codification; and providing an effective date.

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 1840.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 9 of this act shall be known and may be cited as the "Construction Contractor Licensing Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1840.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Construction Contractor Licensing Act:

1. "Board" means the State Board of Health;
2. "Commissioner" means the State Commissioner of Health;
3. "Committee" means the Committee of Construction Contractor Examiners appointed as provided by this act;
4. "Department" means the State Department of Health;
5. "General building contractor" means a person in the business of building any structure governed by the adopted building codes of this state or in the business of contracting or offering to contract with an owner to improve real property by providing three or more special skills as defined in this section;
6. "Licensee" means a general building contractor, residential building contractor, residential remodeler, or manufactured home installer licensed pursuant to this act;
7. "Manufactured home" means a structure transportable in one or more sections which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or which, when erected on site, covers three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; provided, the term "manufactured home" shall include any structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development of the United States;

further provided, this definition shall be narrowly construed as applicable only to the purposes of the Construction Contractor Licensing Act;

8. "Manufactured home installer" means a person in the business of contracting or offering to contract with an owner, lessee, agent, or other individual to improve real property by the installation, alteration, or addition of a manufactured home;

9. "Residential building contractor" means a person in the business of constructing residential dwellings, not more than two stories and basement in height, or of contracting or offering to contract to construct residential dwellings by providing two or more special skills as defined in this section; a residential building contractor, however, may also contract or offer to contract with an owner to improve existing residential real estate;

10. "Residential real estate" means a new or existing building constructed for habitation by one or more families, including detached garages, not more than two stories and basement in height;

11. "Residential remodeler" means a person in the business of contracting or offering to contract with an owner, lessee, agent, or other individual to improve existing residential real estate by providing three or more special skills as defined in this section; and

12. "Special skill" means:

- a. a skill, trade, or occupation regulated by this state pursuant to one or more of the following:
 - (1) the Electrical License Act,
 - (2) the Mechanical Licensing Act, and
 - (3) the Plumbing License Law of 1955,
- b. masonry or concrete work,
- c. carpentry,
- d. roofing, or
- e. installation of prefabricated steel exteriors.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1840.3 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 2000, no person may act as, or hold himself or herself out to be, a general building contractor, residential building contractor, residential remodeler, or manufactured home installer unless licensed pursuant to this act.

B. A person who violates the provisions of subsection A of this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than One Hundred Dollars (\$100.00) for each day in violation.

C. Persons who, between March 1, 2000, and June 30, 2000, demonstrate to the satisfaction of the Committee of Construction Contractor Examiners that they have, during the five-year period immediately preceding July 1, 2000, regularly performed work subject to licensing by this act effective July 1, 2000, shall be licensed in that work without examination or payment of an examination fee, but shall be required to pay license fees pursuant to Section 7 of this act.

D. Effective July 1, 2000, no political subdivision of this state shall issue a building permit if there is any indication that work involved that requires licensing under this act will be performed by unlicensed personnel. Any officer or employee of a political subdivision who discovers that a person is attempting to obtain a building permit without complying with the licensing requirements of this act shall notify the State Commissioner of Health of the attempt.

E. The State Commissioner of Health is hereby authorized, effective July 1, 2000, to seek injunctive relief against any person violating any of the provisions of this act or any rule promulgated pursuant to this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1840.4 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Committee of Construction Contractor Examiners, which shall consist of nine (9) members, one of whom shall be a lay person appointed by the Governor to serve coterminously with the Governor, and eight of whom shall be appointed by the State Board of Health. The Board's appointments shall be such that the Committee of Construction Contractor Examiners always has at least one of each of the following among its members: a general building contractor; a residential building contractor; a residential remodeler; a manufactured home installer; a municipal building inspector; a licensed architect or registered professional engineer; and a representative of organized labor. Prior to appointing a representative of organized labor, the Board shall solicit and consider recommendations of labor organizations engaged in collective bargaining in the building trades in this state.

B. The Board's initial appointments shall be to staggered terms having June 30 ending dates, as follows: two members shall serve initial one-year terms, two members shall serve initial two-year terms, two members shall serve initial three-year terms, and two members shall serve initial four-year terms. Thereafter, the Board's appointees shall serve four-year terms having June 30 ending dates. If a vacancy is not filled within thirty (30) days by the appropriate appointing authority, the Committee shall, at its earliest opportunity, fill the vacancy by appointing a person meeting the qualifications for the vacant position as stated herein.

C. Each member shall be a qualified elector in this state at the time of appointment and shall forfeit the position when no longer a qualified elector of this state. Except for the representative of organized labor, who shall have at least five (5) years' union

membership immediately prior to appointment, each member appointed by the Board shall have had, immediately prior to the time of appointment, at least five (5) years' experience in the work which the individual will represent on the Committee. The Board shall remove from the Committee any member who fails to attend three (3) consecutive meetings of the Committee.

D. The Committee shall be subject to the Oklahoma Open Meeting Act. The Committee shall meet at least once each year, in June, at which meeting the members shall elect to one-year terms ending June 30 of the following year, from among their membership, a chair, vice-chair, and such other officers as the Committee deems appropriate. The chair or vice-chair shall preside at all meetings of the Committee. No individual shall serve as an officer of the Committee for more than four (4) consecutive years. The Committee shall also hold special meetings whenever called by the State Commissioner of Health or the Commissioner's designee or whenever three or more members present a request for a special meeting to the Commissioner or the Commissioner's designee.

E. A majority of the total membership of the Committee, including the chair or vice-chair, shall constitute a quorum for the conduct of hearings or the performance of other duties of the Committee.

F. From funds available to the State Department of Health, Committee members shall be reimbursed pursuant to the State Travel Reimbursement Act for meetings attended and may, as determined by policy of the State Board of Health, be compensated on a per diem basis when serving as hearing board members.

G. Procurement and administration of licensing examinations, issuance of licenses, maintenance of licensing records, conduct of investigations, and provision of such other administrative support as may be required by the Committee shall be accomplished by

employees of the State Department of Health designated by the State Commissioner of Health.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1840.5 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The duties of the Committee of Construction Contractor Examiners shall be to recommend to the State Board of Health:

1. Standards of practice;
2. Criteria for licensing, renewal of licenses, and reinstatement of licenses after suspension or revocation;
3. Criteria for recognition of licenses by reciprocal agreement;
4. Continuing education requirements for licensees; and
5. Such other matters as the Committee may deem appropriate to recommend for Board action.

B. The Committee shall also serve as a hearing board pursuant to this act and may assess administrative fines. When serving as a hearing board, the Committee shall be subject to Article II of the Administrative Procedures Act.

C. Actions of the Committee may be appealed to the State Board of Health.

D. The State Board of Health, as it deems necessary to accomplish the provisions of this act, is hereby authorized to promulgate rules pursuant to Article I of the Administrative Procedures Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1840.6 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Committee of Construction Contractor Examiners may, upon its own motion, and shall, upon written complaint filed by any person, investigate the business transactions and performance of any

licensed general building contractor, residential building contractor, residential remodeler, or manufactured home installer.

B. Upon a finding by clear and convincing evidence, the Committee may assess an administrative fine and shall suspend or revoke a license granted pursuant to this act for any of the following:

1. Making a material misstatement in the application for a license or the renewal of a license under this act;
2. Loaning or illegally using a license granted pursuant to this act;
3. Demonstrating incompetence to perform work for which licensed under this act;
4. Willfully violating any provision of this act or of any rule promulgated pursuant to this act; or
5. Grossly neglecting to perform normal business obligations.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1840.7 of Title 59, unless there is created a duplication in numbering, reads as follows:

The following shall be the fees charged under the Construction Contractor Licensing Act:

Examination fees:

General building contractor examination	\$100.00
Residential building contractor examination	\$100.00
Residential remodeler examination	\$ 75.00
Manufactured home installer examination	\$ 75.00

Annual license fees:

General building contractor license	\$ 60.00
Residential building contractor license	\$ 60.00
Residential remodeler license	\$ 40.00
Manufactured home installer license	\$ 40.00

Penalty for renewal of license more than
thirty (30) days after expiration, in
addition to renewal license fee: \$ 15.00

SECTION 8. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1840.8 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
"Construction Contractor Licensing Revolving Fund". The fund shall
be a continuing fund, not subject to fiscal year limitations, and
shall consist of all monies received by the State Commissioner of
Health under the Construction Contractor Licensing Act, including
license fees, administrative fines, and penalties. All monies
accruing to the credit of the fund are hereby appropriated and may
be budgeted and expended by the State Commissioner of Health for
operations relating to administration of the Construction Contractor
Licensing Act. Expenditures from the 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 9. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1840.9 of Title 59, unless there
is created a duplication in numbering, reads as follows:

The provisions of the Construction Contractor Licensing Act
shall not apply to:

1. A property owner making improvements to his or her own real
property if the property owner represents himself or herself as his
or her own general contractor or performs the work himself or
herself; provided, no unlicensed person shall perform work for which
a license is required pursuant to the Electrical License Act,
Mechanical Licensing Act, or Plumbing License Law of 1955;

2. Employees of federal, state, or municipal governments or school districts when performing work for the employer;

3. Employees of public utilities regulated by the Corporation Commission when performing work for the employer; or

4. Installers of television antennas, cable television lines, telephone lines, or other telecommunications equipment.

SECTION 10. This act shall become effective November 1, 1999.

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