

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 2030

By: Leftwich

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5
6 AS INTRODUCED

7 An Act relating to professions and occupations;
8 creating the Residential Contractors Licensing Act;
9 providing short title; stating legislative intent;
10 defining terms; requiring residential contractors
11 license annually; prohibiting contracting without
12 license after certain date; stating criminal penalty;
13 stating civil penalty; providing for administrative
14 penalties limiting administrative fine to certain
15 amount; refusing to issue license without license;
16 providing for injunctive relief; exempting certain
17 persons from licensing provision; setting minimal
18 limit of job for purposes of licensing; directing the
19 Construction Industries Board to promulgate rules;
20 granting authority to issue and deny license;
21 allowing investigation for licensure; granting
22 authority to establish and collect fees; providing
23 for disciplinary action against licensee; providing
24 for confidential and public records and information;
requiring certain roster of names and addresses;
requiring records of applications for licensure;
authorizing designation of administrator; requiring
annual report to Governor; allowing continuing
education requirement; stating qualifications to
consideration for licensure; prohibiting licensure of
persons less than eighteen years; requiring
examination for licensure; allowing fingerprints and
copy of certain photo for licensure; requiring all
applicants to meet educational requirements for
licensure; requiring corporate entities to provide
certain articles and officers; requiring certain
notification upon conviction; stating manner of
notification; directing use of written contract for
jobs over certain dollar amount; stating fraud is
violation of licensure act; directing notification of
changes to address, phone and name; stating manner of

1 notification and delivery of notices; requiring
2 surrender of license upon death or disability;
3 requiring posting of license on job site and on
4 certain media and vehicles; providing for surety bond
5 or cash bond; stating minimum amount of bond; making
6 bond payable to state; requiring notification of bond
7 cancellations and reductions in cash bond; providing
8 for replenishment of bond within certain time;
9 providing for suspension for bond cancellation,
10 reduction or depletion; exempting certain
11 administrator and state treasurer from liability for
12 bonds; allowing reinstatement of license after bond
13 replacement; directing licensee to notify certain
14 Board of disciplinary action by another regulatory
15 board; making disciplinary action by another Board
16 grounds for disciplinary action under license act;
17 granting certain time to notify of replacement
18 qualifier; allowing suspension and revocation of
19 license for failure to replace qualifier; requiring
20 notification of bankruptcy; stating minimal hours of
21 continuing education for licensure; providing for
22 forms to prove continuing education; allowing
23 continuing education courses to be offered by certain
24 Board or providers; stating grounds for disciplinary
action; requiring notification of alleged violations;
directing hearing on violations; establishing hearing
process under Administrative Procedures Act; granting
certain Board authority to administer oaths, issue
subpoenas and require attendance of witness; allowing
injunctive relief without bond requirement; making
injunctive relief in addition to other penalties and
remedies; stating allowable disciplinary actions;
including suspension and revocation of license for
certain periods; providing for reapplication for
license; allowing administrative fines and recovery
of attorney fees and costs; providing for appeal
under the Administrative Procedures Act; stating
criminal penalty for violations; requiring payment of
certain fees and taxes as condition for probation;
making a misdemeanor for advertizing without a
license; allowing investigation and referral for
prosecution purposes; providing for a cease and
desist order; authorizing citations for certain
violations; setting minimal and maximum amount for
civil penalty citations; requiring rules for
citations and civil penalties; directing civil
penalties be deposited in General Revenue Fund;

1 providing procedure to notify and serve cease and
2 desist orders and citations; directing certified
3 copies of certain order be filed with court clerk for
4 enforcement; allowing recording as provided for
5 judgments; allowing the Board to waive certain civil
6 penalties upon complete licensure; requiring local
7 authority to enforce cease and desist orders;
8 directing building permits to have certain signed
9 statement of licensure or exemption; making fraud on
10 obtaining permit a violation of the licensing act;
11 authorizing a homeowner recovery fund; providing for
12 certain persons to benefit from recovery fund;
13 stating requirement of recovery fund; prohibiting
14 recovery of interest, attorney fees, and certain
15 damages from certain fund; authorizing Board to
16 establish procedure for claims against recovery fund;
17 requiring annual report of monies credited to and
18 expended from recovery fund; permitting use of funds
19 for certain purposes; stating conditions on payments
20 from recovery fund; requiring notification within
21 certain time for hearing on application for recovery
22 from certain fund; requiring recovery claim be
23 presented within certain time; allowing hearing panel
24 to hear claims for recovery; requiring claimant to
show certain conditions are met before seeking
recovery; allowing recovery from certain fund after
certain notice from judgment; setting limit on
aggregate amount against single licensee; setting
aggregate amount from same transaction claim;
limiting payments to certain percentage of fund;
prohibiting recovery from certain fund from consent
judgments; allowing the Board to enter into case
after certain notice; allowing Board to settle or
compromise claim; allowing court orders for recovery
from certain fund; stating requirement before order
for recovery; requiring certain damages recovered to
apply against certain claim; providing for nonpayment
from certain fund during pendency of appeal;
directing certain assessments during license period
to establish certain fund; setting amount of
assessment; requiring administrative funds be
deposited into certain recovery fund; making certain
assessment upon obtaining building permit; setting
certain amount be retained by authority issuing
permit; allowing Board to suspend additional
assessment when recovery fund is sufficient to meet
claims; making certain assessment apply to licensure

1 and renewals; providing certain reassessment for
2 recovery fund; allowing suspension of license for
3 failure to pay certain assessment or reassessment;
4 revoking or suspending license upon payment or
5 settlement of claim against licensee; allowing
6 repayment into recovery fund; allowing relicense
7 after repayment of certain funds; allowing certain
8 interest upon repayment of amount from recovery fund;
9 setting interest amount; disallowing bankruptcy of
10 funds subject to repayment; prioritizing claims for
11 payment; providing procedure for insufficient funds
12 to pay claims; granting right of subrogation;
13 providing notice to claimant for certain requirements
14 for payment; providing for repayment upon reversal of
15 judgment; requiring claimant response to appeals;
16 construing postponement of payment of rights of
17 claimant; providing criminal misdemeanor penalty for
18 violation of final order of Board; setting penalty
19 for first and subsequent offenses; allowing court to
20 require payment of outstanding fines to Board;
21 requiring public liability and property insurance;
22 stating minimal amount of insurance; requiring surety
23 bond for actual damages by licensee; setting damage
24 insurance minimal amount; 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 1151A-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 "Residential
Contractor Licensing Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1151A-2 of Title 59, unless
there is created a duplication in numbering, reads as follows:

1 In the interest of the public health, safety, welfare and
2 consumer protection and to regulate the residential construction
3 industry, the purpose of this act, and the intent of the
4 legislature, is to provide for the licensing of those persons who
5 engage in residential construction in the State of Oklahoma. The
6 legislature further finds that it is in the public interest to
7 provide a mechanism to remove from practice incompetent, dishonest,
8 unqualified residential contractors who provide inadequate, unsafe
9 or inferior building services. To fulfill these purposes, the
10 legislature designates the Construction Industries Board as the
11 regulatory body.

12 SECTION 3. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1151A-3 of Title 59, unless
14 there is created a duplication in numbering, reads as follows:

15 As used in the Residential Contractor Licensing Act:

16 1. "Advertise" means any written or oral publication,
17 dissemination, solicitation or circulation which is intended to
18 directly or indirectly induce any person to contract for
19 construction services with the advertiser, including, but not
20 limited to, business cards, telephone directory display
21 advertisements and vehicle signage;

22 2. "Applicant" means any person applying for a license to be
23 issued by the Construction Industries Board pursuant to this act;

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1 3. "Appurtenances" means all structures and improvements
2 subordinate to a residence, including but not limited to, garages,
3 driveways, fences, patios, swimming pools, docks, retaining walls,
4 sport courts and gazebos, as may be defined by rule, excluding the
5 residence itself;

6 4. "Board" means the Construction Industries Board designated
7 herein to regulate the residential construction industry;

8 5. "Construct" or "Construction" means the offering to perform,
9 or the performance of, building, altering, repairing, adding to,
10 subtracting from, improving, reconstructing, excavating, wrecking or
11 demolishing of any residence or residential project;

12 6. "Homeowner" means one who owns and resides or intends to
13 reside in, or who contracts for the purchase, construction,
14 remodeling or repairing of, a residence;

15 7. "License" means a new or renewal certificate of licensure
16 issued by the Construction Industries Board pursuant to this act;

17 8. "Licensee" means a holder of a license issued pursuant to
18 this act;

19 9. "Person" means any natural person, limited or general
20 partnership, corporation, association, limited liability company, or
21 other legal entity, qualifying party, or any combination thereof;

22 10. "Qualifying party" means a natural person who is regularly
23 employed by the licensee, or who is an officer in the case of a
24 licensed incorporation, a member in the case of a licensed limited

1 liability company, or a general partner in the case of a limited
2 liability partnership, and who is actively engaged in the work
3 undertaken by the licensee for which a license is required pursuant
4 to this act;

5 11. "Residence" means a single structure which is not over
6 three floors in height, and is intended for residential occupancy
7 and use including townhouses, condominiums and apartments, and any
8 appurtenances thereto;

9 12. "Residential contractor" means any person who holds
10 themselves, or by or through others:

- 11 a. attempts to or submits a bid to construct,
- 12 b. contracts to construct,
- 13 c. undertakes or offers to undertake to construct,
- 14 d. constructs,
- 15 e. provides supervision, oversight, assistance,
16 consultation, or management services to a homeowner
17 regarding construction,
- 18 f. supervises, oversees, assists in, or manages the
19 construction, or
- 20 g. advertises or purports to have the capacity to
21 undertake construction; and

22 13. "Subcontractor" means a person who contracts with a
23 licensed residential contractor and who holds a license as a
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1 plumbing contractor, electrical contractor, mechanical contractor,
2 or a residential contractor.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1151A-4 of Title 59, unless
5 there is created a duplication in numbering, reads as follows:

6 All residential contractors shall be licensed annually by the
7 Construction Industries Board.

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1151A-5 of Title 59, unless
10 there is created a duplication in numbering, reads as follows:

11 A. It shall be unlawful to act as a residential contractor
12 after July 1, 2011, unless licensed by the Construction Industries
13 Board.

14 B. Penalties for a violation of this act:

15 1. Criminal: It shall be a misdemeanor for any person to:

- 16 a. undertake or attempt to undertake the business of
17 residential construction without holding a current and
18 valid license issued by the Construction Industries
19 Board pursuant to this act,
20 b. knowingly present to, or file false information with,
21 the Board for the purpose of obtaining the license, or
22 c. violate any law or code adopted by the state, county
23 or municipality under this act.

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1 2. Civil: A residential contractor may not file a lien, file a
2 claim with the Board, or bring or maintain in any court of this
3 state a suit or action for compensation for the performance of any
4 work on any structure or for the breach of any contract for work on
5 any structure which is subject to this act, unless the residential
6 contractor was licensed pursuant to this act at the time the
7 contract for performance of the work was entered into, and was
8 licensed continuously while performing the work for which
9 compensation is sought.

10 3. Administrative: Whenever it appears to the Board that any
11 residential contractor has violated or is about to violate any
12 provision of this act, the Board may resolve the violation by
13 agreement with the residential contractor, may initiate a complaint
14 against the residential contractor, and may levy and collect
15 administrative fines for violations of this act, or the rules of the
16 Board, in an amount not to exceed One Thousand Dollars (\$1,000.00)
17 for each violation after notice and hearing.

18 4. It is the duty of the building official, or other authority
19 charged with the duty, of issuing building or similar permits, of
20 any incorporated municipality or subdivision of the municipality or
21 county, to refuse to issue a permit for any undertaking which would
22 require a license pursuant to this act unless the applicant has
23 furnished evidence that he or she is either licensed as required by
24 this act or is exempt from the requirements of this act.

1 5. Injunctions: Whenever it shall appear to the Board that any
2 residential contractor has violated or is about to violate any
3 provision of this act, the Board may in its own name petition the
4 district court of the county where the violation occurred, or is
5 about to occur, to issue a temporary restraining order or other
6 appropriate injunctive relief enjoining the violation.

7 SECTION 6. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1151A-6 of Title 59, unless
9 there is created a duplication in numbering, reads as follows:

10 This act does not apply to:

11 1. Any person who engages in construction other than for
12 compensation;

13 2. Any person who is constructing, altering, improving or
14 repairing a structure located within the boundaries of any site or
15 reservation under the jurisdiction of the federal government;

16 3. Any person who engages in a residential construction where
17 the total cost of the undertaking does not exceed Two Thousand
18 Dollars (\$2,000.00);

19 4. Any employee of a licensee who does not hold himself or
20 herself out for hire or engage in contracting, except as an employee
21 of a licensee;

22 5. Subcontractors who are licensed plumbers, electrical
23 contractors or mechanical contractors in possession of a valid
24 license issued in this state. Provided, however, if the

1 subcontractor steps outside the scope of his or her specialty trade,
2 the subcontractor shall no longer be exempt from the residential
3 contractor licensing requirement;

4 6. An authorized employee of the United States, the State of
5 Oklahoma, or any municipality, county, or other political
6 subdivision, if the employee does not hold himself or herself out
7 for hire or otherwise engage in contracting except in accordance
8 with his or her employment;

9 7. Licensed real estate agents, licensed engineers, and
10 licensed architects, and any other person licensed by the state,
11 operating under the purview of their respective licenses on behalf
12 of clients;

13 8. Owners of property when acting as their own contractor and
14 providing all material supervision themselves, when building or
15 improving a residence on such property for the occupancy of such
16 owners and not intended for sale or rent. In any action brought
17 under this act, proof of the sale or offering for sale of such
18 structure or the renting or offering to rent of such structure by
19 the owners of property within two (2) years after substantial
20 completion of same is presumptive evidence that the construction was
21 undertaken with the intent of sale or rent; and

22 9. Persons who supply or deliver materials and appliances or
23 who install appliances.

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1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1151A-7 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

4 A. The Construction Industries Board is authorized to
5 promulgate rules or to adopt, amend or suspend rules, not
6 inconsistent with the constitution and laws of this state as may be
7 reasonably necessary to effectuate the provisions of this act and
8 for the proper performance of its duties.

9 B. The Construction Industries Board has the authority to issue
10 or deny a license, including an inactive license, pursuant to the
11 requirements of this act.

12 C. The Construction Industries Board may investigate any person
13 to the extent necessary to determine if the person is unlawfully
14 engaged in the practice of residential contracting. The Board may
15 refer the matter for prosecution whether or not the person ceases to
16 practice residential contracting without a valid license.

17 D. The Construction Industries Board has the authority to
18 establish and collect fees, fines and administrative fines pursuant
19 to this act and the rules promulgated by the Board.

20 E. The Construction Industries Board has the authority to take
21 disciplinary action against the license of any licensee as set forth
22 in this act.

23 F. All administrative complaints, orders to show cause, notices
24 of hearings, and statements of charges and all amendments thereto,

1 and all orders of the Construction Industries Board which are
2 dispositive of the issues raised thereby, shall be public record.

3 G. All application material, examination scores, letters of
4 inquiry and reference concerning applicants, pending and closed
5 complaint and investigative files until a formal hearing may
6 commence or until final disciplinary action is taken, case dismissed
7 without disciplinary action, and other material of like confidential
8 nature and information otherwise protected by law shall be
9 confidential information and not public records.

10 H. Appeals from orders of the Construction Industries Board
11 shall be pursuant to the Administrative Procedures Act.

12 I. A complete roster listing the names and last known addresses
13 of all licensees who are licensed pursuant to this act shall be
14 published by the Construction Industries Board at intervals as
15 established by rule.

16 J. A record shall be made and preserved by the Construction
17 Industries Board of each application for a residential contractor
18 license and the findings of the Board pertaining to the application.
19 A copy of the applicant's or licensee's own record shall be made
20 available to any applicant or licensee requesting the applicant's or
21 licensee's own records upon payment of a reasonable fee to the Board
22 for making a copy of such record.

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1 K. The Construction Industries Board shall designate an
2 administrator to serve at the pleasure of the Board to perform
3 duties as required by this act.

4 L. The Construction Industries Board shall annually submit to
5 the Governor a report of its transactions for the preceding year.
6 The Board shall file with the Secretary of State a copy of the
7 report submitted to the Governor.

8 M. The Construction Industries Board has the authority to
9 establish continuing education requirements for licensees under this
10 act.

11 SECTION 8. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1151A-8 of Title 59, unless
13 there is created a duplication in numbering, reads as follows:

14 A. In determining whether or not to issue, deny or renew a
15 residential contractor's license pursuant to this act, the
16 Construction Industries Board shall consider, among other things,
17 the following:

- 18 1. Experience;
- 19 2. Ability;
- 20 3. Character and/or compliance with code of ethics and other
21 grounds which may include, but not be limited to:

- 22 a. applicant's failure to meet any requirement or
23 standard established by this act or the rules adopted
24 by the Board,

- b. false representations of facts on an application for licensure or renewal thereof,
- c. applicant's having another person appear in the applicant's place for the licensing exam,
- d. applicant's following a course of conduct that would be grounds for discipline under this statute or the rules adopted by the Board,
- e. the revocation, suspension or probationary status of any of the applicant's professional licenses in this state or any other state,
- f. disciplinary action pending against any of the applicant's professional licenses in this state or any other state,
- g. engaging in residential contracting without a license or committing any act that, if committed or performed by any licensee, would be grounds for suspension or revocation of the license, or
- h. any other reasons authorized by law or rule;

4. Previous performance on contracts;

5. Financial condition:

- a. the Board may require a financial statement on a form prescribed by the Board and a financial and public records search directly from a credit reporting agency,

- 1 b. the Board may, by rule, establish the minimum net
2 worth or surety bond required to obtain a new license
3 or renew a license,
4 c. the Board may require that business-related judgments,
5 judgment liens, and other perfected liens, must be
6 satisfied and released,
7 d. the Board may require such other evidence of business-
8 related financial condition sufficient to reasonably
9 satisfy the Board of the applicant's financial
10 responsibility as it deems necessary, and
11 e. any information obtained by the Board pursuant to this
12 subsection relating to the financial condition of an
13 applicant shall not be public information;

14 6. Any other information to show ability and willingness to
15 serve the public and to protect the public health, safety and
16 welfare;

17 7. Default in complying with the provisions of this act;

18 8. The conviction of any crime which substantially affects the
19 applicant's ability to perform or serve the public. The applicant
20 may be requested to furnish the criminal background check, or the
21 application or renewal may contain a question which, if answered in
22 the affirmative, shall allow the Board to conduct a criminal
23 background check; and

24 9. Any other pertinent information the Board may require.

1 B. No license shall be issued to a person under eighteen (18)
2 years of age, to any partnership in which one of the partners is a
3 minor, or to any corporation in which a corporate officer is a
4 minor.

5 C. No license shall be issued to a residential contractor
6 unless the person has passed a written examination prescribed by the
7 Board.

8 D. Before receiving, renewing and holding a license pursuant to
9 this act, the Board may require a person to submit to the Board a
10 full set of fingerprints and a copy of a state issued driver license
11 or identification card.

12 E. All applicants and licensees shall comply with the education
13 requirements established or adopted by the Board.

14 F. Corporate entities applying for a license shall provide the
15 Articles establishing the corporation, including a list of the
16 officers, members, managers or partners of the corporation.

17 SECTION 9. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1151A-9 of Title 59, unless
19 there is created a duplication in numbering, reads as follows:

20 A. Each licensee shall notify the Construction Industries Board
21 within ten (10) days after the licensee receives notice that any
22 criminal conviction has been rendered against him or her. The
23 notification shall be in writing, sent by certified mail, and shall
24 include a copy of the conviction.

1 B. Each licensee shall utilize a valid written contract when
2 engaging in the business of residential construction for jobs in the
3 amount of Two Thousand Dollars (\$2,000.00) or more. Committing
4 fraud when executing or materially altering a residential
5 construction contract, mortgage, promissory note or other document
6 incidental to performing residential construction is a violation of
7 this act.

8 C. Each licensee shall promptly notify the Board in writing if
9 there is any change in the licensee's mailing address, physical
10 address or telephone numbers during the license year. Any proposed
11 or final order or notice of hearing directed by the Board to the
12 last known address of record shall be considered delivered when
13 deposited in the United States mail and/or sent registered or
14 certified or post office receipt secured. Any other communication
15 directed by the Board to the last known address of record shall be
16 considered delivered when deposited in the United States mail,
17 regular mail.

18 D. Each licensee shall promptly notify the Board in writing of
19 any legal name change. If the name change is due to the death or
20 disability of a sole proprietor, the license may be voluntarily
21 surrendered; if not voluntarily surrendered the license shall be
22 revoked.

23 E. Each licensee shall post in a conspicuous place on the job
24 site the name and license number for the license under which any

1 work is being performed. In addition the licensee's name and
2 license number shall be printed on any and all media containing the
3 licensee's name, any signs displayed on any vehicle to conduct
4 business, business cards, letterhead, signs, and advertisements.

5 F. Each licensee shall provide proof of current workers'
6 compensation coverage in order for the license to be issued or
7 renewed. Failure to provide such proof shall result in the
8 revocation of the license.

9 G. Prior to commencing work or undertaking to perform any
10 services or duties in the state related to residential construction,
11 each licensee shall file, with the Construction Industries Board as
12 the depository agency, a surety bond of a surety authorized to do
13 business in this state, or a cash bond.

14 1. The bond shall be a condition of licensure, and the license
15 shall not be issued until the bond has been properly filed.

16 a. the bond shall be in the penal sum of One Million
17 Dollars (\$1,000,000.00),

18 b. payable to the State of Oklahoma, and

19 c. in full compliance with the rules promulgated pursuant
20 to this act.

21 2. Notice of bond cancellation shall be given to the Board and
22 the licensee by the surety prior to cancellation. Proof of notice
23 to the licensee shall be submitted promptly to the Board.

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1 3. On reduction or depletion of the cash bond, the Board shall
2 immediately notify the licensee of the reduction or depletion and
3 that the licensee must replenish the cash bond or furnish a surety
4 bond on or before thirty (30) days from the date of the reduction or
5 depletion, or the licensee's license shall be suspended on the
6 thirtieth day without further notice or hearing. Notice to the
7 licensee shall be by certified mail, postage fully prepaid, and
8 addressed to the licensee's latest address of record in the Board's
9 office. The licensee's license shall be suspended by operation of
10 law on the date the bond is canceled, or thirty (30) days from the
11 date of reduction or depletion of the cash bond unless a replacement
12 bond or cash bond is on file with the Board.

13 4. The Administrator of the Construction Industries Board and
14 the state treasurer shall have no personal liability for the
15 performance of duties relating to the bonds or cash bonds required
16 or permitted by this act as long as such duties are performed in
17 good faith.

18 5. A residential contractor's license that has become invalid
19 due to surety bond cancellation, cash bond depletion or cash bond
20 reduction may be reinstated upon receipt pursuant to the
21 requirements of this subsection of a replacement surety bond or cash
22 bond.

23 H. Each licensee shall notify the Board immediately upon
24 receipt of an order imposing disciplinary action upon its license

1 issued by any professional regulatory board, in this or any other
2 state. Disciplinary action taken against any professional license
3 held by the licensee in this state or any other state is grounds for
4 disciplinary action against the license issued by the Construction
5 Industries Board.

6 I. Each licensee shall notify the Board immediately when a
7 designated qualifier ceases to serve as the designated qualifier for
8 the licensee, or is disassociated from the licensee. If the
9 licensee has not named a new designated qualifier who meets the
10 requirements to serve as a designated qualifier within forty-five
11 (45) days after the previous designated qualifier ceased to serve as
12 the designated qualifier or was disassociated from the licensee, the
13 license shall be suspended or revoked by operation of law.

14 J. Each licensee shall promptly notify the Board of the filing
15 of bankruptcy by the licensee.

16 K. Prior to license renewal, each licensee shall present proof
17 of completion of a minimum of ten (10) hours of continuing education
18 during the immediately preceding twelve (12) months in accordance
19 with the rules adopted by the Board.

20 1. Proof of completion of continuing education shall be
21 provided on a form provided by the Board, and verified by the course
22 instructor or provider; and
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1 2. Courses may be offered by the Board, or by a provider
2 approved by the board, and shall address subject matter approved by
3 the Board.

4 SECTION 10. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1151A-10 of Title 59, unless
6 there is created a duplication in numbering, reads as follows:

7 The following licensee conduct, acts, omissions or conditions
8 may constitute grounds for disciplinary action by the Construction
9 Industries Board:

- 10 1. Violating any of the provisions of this act, or any
11 administrative rule or order adopted by the Board;
- 12 2. Violating the code of ethics adopted by the Board;
- 13 3. Fraud or deception, a misrepresentation or misstatement, or
14 any unlawful means in applying for or securing a license;
- 15 4. Fraud or deception, a misrepresentation or misstatement, or
16 any unlawful means in applying for or securing a building permit or
17 other permits for residential construction;
- 18 5. Failure to pay the required fee for licensure as provided in
19 this act;
- 20 6. Conduct constituting a violation of public laws, ordinances
21 or rules of this state, or any subdivision thereof, relevant to
22 contracting, reflecting on the contractor's ability or
23 qualifications to continue contracting for other persons, and making
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1 the licensed contractor a threat to the public safety, health or
2 well-being;

3 7. Conduct which constitutes dishonest or dishonorable
4 dealings;

5 8. Incompetence, gross negligence or reckless conduct in the
6 performance of construction;

7 9. Failing to substantially complete a project for construction
8 or a failure to substantially comply with the terms of a contract or
9 written warranty;

10 10. A license, registration or certification revoked, suspended
11 or otherwise disciplined by this state or a jurisdiction outside
12 this state;

13 11. Interference with an investigation or disciplinary
14 proceeding by a willful misrepresentation of facts or by the use of
15 threats or harassment against any person to prevent such person from
16 providing evidence in a disciplinary proceeding, investigation or
17 other legal action instituted in accordance with this act;

18 12. Conviction of any felony or misdemeanor crime in the courts
19 of this state or any other state, territory or country which
20 substantially affects the persons ability to perform or serve the
21 public. Conviction, as used in this subsection, shall include a
22 finding or verdict of guilt, an admission of guilt or a plea of nolo
23 contendere or its equivalent. The record of conviction, or a
24 certified copy thereof, certified by the clerk of the court or by

1 the judge in whose court the conviction occurred, shall be
2 conclusive evidence of such conviction;

3 13. Aiding or abetting a person not licensed in this state who
4 directly or indirectly performs activities requiring a license;

5 14. Failing to pay a valid judgment that arose out of any
6 practice pursuant to this act, or any court-ordered restitution
7 related to contracting, within six (6) months of the date that the
8 judgment or order became final; and

9 15. Failing to meet continuing education requirements as
10 established by the Board.

11 SECTION 11. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1151A-11 of Title 59, unless
13 there is created a duplication in numbering, reads as follows:

14 A. When it is brought to the attention of the Construction
15 Industries Board by the written statement of any person, or on the
16 Board's initiative, that a person licensed under this act has done
17 any act or thing in violation of any provision of this act, the
18 Board shall undertake an investigation of such person, and if the
19 Board finds that there is probable cause to institute proceedings
20 against such person, it shall without unnecessary delay transmit to
21 that person by mail, a copy of the alleged violation and shall fix a
22 day for a hearing upon the matter. The hearing shall be conducted
23 in accordance with the Administrative Procedures Act, and with the
24 administrative rules adopted by the Board.

1 B. The Board or its hearing officer, upon a finding that action
2 is necessary, shall have the power pursuant to this act to
3 administer oaths, take depositions of witnesses within or without
4 the state in the manner provided by the administrative rules adopted
5 by the Board, and shall have power throughout this state to require
6 the attendance of such witnesses and the production of such books,
7 records and papers as it may desire at any hearing and for that
8 purpose the Board may issue a subpoena for any witness or a subpoena
9 duces tecum to compel the production of any books, records or
10 papers.

11 C. The Board may apply for injunctive relief in any court of
12 competent jurisdiction without a bond to enjoin any person from
13 committing any act in violation of this act. Such injunction
14 proceedings shall be in addition to, and not in lieu of, all
15 penalties and other remedies provided for in this act.

16 SECTION 12. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1151A-12 of Title 59, unless
18 there is created a duplication in numbering, reads as follows:

19 A. The Board may, upon a finding after notice and opportunity
20 for a hearing that a person has violated any provision of this act,
21 take the following disciplinary actions singly or in combination:

22 1. Issue a censure or reprimand by informal admonition for
23 minor misconduct found by the Board, which censure or reprimand
24 shall be subject to disclosure;

- 1 2. Impose restrictions and/or conditions to a license
2 including, but not limited to, the scope of practice, place of
3 practice, supervision of practice, duration of licensed status, type
4 or nature of customer or client served, or additional education or
5 training. The Board may require a licensee to report regularly to
6 the Board on matters regarding the restricted license;
- 7 3. Suspend a license, the duration of which shall be determined
8 by the Board but not longer than one (1) year;
- 9 4. Refuse to renew a license;
- 10 5. Revoke a license. A revocation may be not more than five
11 (5) years. After the period of revocation a person may reapply for
12 a license;
- 13 6. Impose an administrative fine for violation of this act in
14 an amount not to exceed One Thousand Dollars (\$1,000.00) as set
15 forth in the administrative rules adopted by the Board;
- 16 7. Order restitution be paid to a person who has suffered from
17 a licensee violation of this act;
- 18 8. Accept a voluntary surrender of a license; and
- 19 9. Assess reasonable costs and attorney's fees against a
20 licensee for any investigation and/or administrative proceeding
21 after the licensee has been notified and had opportunity for hearing
22 on the reasonableness of costs and fees.
- 23 B. The licensee may, within thirty (30) days from the date of
24 receipt of service of the Board's final order, file with the Board

1 written notice of his or her intention to appeal from the order of
2 the Board pursuant to the Administrative Procedures Act.

3 SECTION 13. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1151A-13 of Title 59, unless
5 there is created a duplication in numbering, reads as follows:

6 A. It is unlawful for any person as provided in this act to
7 engage in the business of, submit a bid or respond to a request for
8 qualification or a request for proposals for construction services
9 as, act or offer to act in the capacity of or purport to have the
10 capacity of a residential contractor, without having a residential
11 contractor's license in good standing in the name of the person,
12 unless the person is exempt as provided in this act.

13 B. Acting as a residential contractor within the meaning of
14 this act without holding a current and valid license issued by this
15 Board is a misdemeanor.

16 1. Upon conviction, for the first offense, the violator shall
17 be fined not less than Fifty Dollars (\$50.00) nor more than Five
18 Hundred Dollars (\$500.00). For the second or any subsequent
19 offense, the violator shall be fined not less than Two Hundred
20 Dollars (\$200.00) nor more than Five Thousand Dollars (\$5,000.00).

21 2. If a person is convicted of a violation of this section and
22 the court sentences the person to a term of probation, the court
23 shall order that as conditions of probation the person does all of
24 the following:

- 1 a. pays in full all taxes that are due to the state
2 government and that arise from the acts or omissions
3 constituting the violation,
4 b. pays in full all taxes that are due to the county in
5 which the violation occurred and that arise from the
6 acts or omissions constituting the violation,
7 c. pays in full all taxes that are owed to the local
8 municipal government, city or town in which the
9 violation occurred and that arise from the acts or
10 omissions constituting the violation.

11 C. It is a misdemeanor for any person to advertise that he or
12 she is able to perform any service or contract for compensation
13 subject to regulation by the Board under the terms of this act
14 unless a license under the terms of this act is first obtained
15 regardless of whether his or her operations as a contractor are
16 otherwise exempt.

17 D. The Board may investigate any person to the extent necessary
18 to determine if the person is engaged in the unlawful practice of
19 residential contracting. The Board may refer the matter for
20 prosecution whether or not the person ceases the unlawful practice
21 of residential contracting.

22 E. In addition to all other remedies, when it appears to the
23 Board, either upon complaint or otherwise, that any person as
24 provided in this act has engaged in or is engaging in any act of

1 residential contracting, practice or transaction which constitutes a
2 violation of this act, or any rule or order of the Board, the Board
3 may serve upon such person not currently licensed under this act, by
4 certified mail or by personal service, a cease and desist order
5 requiring the person to cease and desist immediately, upon receipt
6 of the notice, from engaging in such act, practice or transaction.

7 1. In conjunction with the cease and desist order, the Board
8 may issue a citation for a violation. Each citation shall be in
9 writing and shall clearly describe the violation for which the
10 citation was issued. Each citation shall contain an order to cease
11 and desist and an assessment of a civil penalty in an amount of at
12 least Twenty-five Dollars (\$25.00) for each violation but not more
13 than One Hundred Dollars (\$100.00) for the multiple violations
14 committed on the same day. If, after the issuance of a citation by
15 the Board, the person receiving the citation fails to cease and
16 desist in the violation or violations described in the citation, the
17 Board may assess an additional civil penalty of up to One Hundred
18 Dollars (\$100.00) for each day the violation or violations continue;

19 2. The Board shall adopt rules covering the assessment of a
20 civil penalty that give due consideration to the gravity of the
21 violation and any history of previous violations; and

22 3. The penalties authorized under this subsection are separate
23 from, and in addition to, all other remedies either civil or
24 criminal.

1 F. Each violation of this act or a rule or order of the Board
2 by a person who is required to be licensed by this act and who does
3 not possess the required license shall constitute a separate
4 offense, and the Board may impose a civil penalty of not to exceed
5 Twenty-five Dollars (\$25.00) for each violation except that for
6 multiple violations committed on the same day the civil penalty
7 shall not exceed One Hundred Dollars (\$100.00) for all such
8 violations. Monies collected from civil penalties shall be
9 deposited in the General Revenue Fund of the State Treasury.

10 G. The Board may issue citations containing orders to cease and
11 desist and of civil penalties against persons who have never been
12 licensed under this act who are acting in the capacity of or
13 engaging in the business of a residential contractor in this state.

14 a. service may be in person or by certified mail at the
15 last known business address or residence address of
16 the person cited, and

17 b. the citation shall be issued by the Board within
18 ninety (90) days after actual discovery of the offense
19 by this state or the political subdivision having
20 jurisdiction.

21 H. After the exhaustion of administrative review procedures
22 pursuant to the Administrative Procedures Act, a certified copy of
23 any Board's order requiring the payment of civil penalties may be
24 filed in the office of the clerk of the district court in any county

1 of this state. The clerk shall handle the Board's order in the same
2 manner as a district court judgment. A Board's order that is filed
3 in the office of the clerk of the district court has the same effect
4 as a district court judgment and may be recorded, enforced or
5 satisfied in a similar manner. A person who files a Board's order
6 under this section is not required to pay a filing fee.

7 I. Notwithstanding any other law, the Board may waive all,
8 except Twenty-five (\$25.00), of the civil penalty if the person
9 against whom the civil penalty is assessed completes all of the
10 requirements for, and is issued, a residential contractor's license.
11 Any loss or damage to the public caused by the violator's activities
12 shall be remedied before issuance of the license.

13 J. At the request of the Board, and after the issuance of a
14 citation pursuant to this section, or a cease and desist order
15 pursuant to this section, the county, city, or local authority of
16 the state shall cause work on a residential construction project to
17 cease or be suspended on that project until there is compliance with
18 the licensing requirements as provided in this act by the
19 residential contractor on that project.

20 K. Each county, city or other political subdivision or
21 authority of this state or any agency, department, board or
22 commission of this state which requires the issuance of a building
23 permit as a condition precedent to the construction, alteration,
24 improvement, demolition or repair of a building, structure or other

1 improvement to real property for which a license is required under
2 this act, as part of the application procedures which it utilizes,
3 shall require that each applicant for a building permit file a
4 signed statement that the applicant is currently licensed under the
5 provisions of this act with the applicant's license number. If the
6 applicant purports to be exempt from the licensing requirements of
7 this act, the statement shall contain the basis of the asserted
8 exemption and the name and license number of any general,
9 mechanical, electrical or plumbing contractor who will be employed
10 on the work. The local issuing authority may require from the
11 applicant a statement from the Board to verify any purported
12 exemption.

13 L. The filing of an application for a building permit
14 containing false or incorrect information concerning an applicant's
15 residential contractor's license or transaction privilege license
16 with the intent to avoid the licensing requirements of this act is a
17 violation of this act.

18 SECTION 14. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1151A-14 of Title 59, unless
20 there is created a duplication in numbering, reads as follows:

21 A. The Construction Industries Board is authorized to establish
22 a homeowners' recovery fund from which an aggrieved homeowner may
23 recover actual economic damages, not including interest and court
24 costs, sustained within the State of Oklahoma, as the direct result

1 of conduct of a licensee in violation of this act or the rules of
2 the Board. The fund shall have the following requirements:

3 1. The administrator of the fund shall be the Administrator of
4 the Construction Industries Board;

5 2. An applicant must be injured by, or suffer damages due to,
6 the acts of a licensee in violation of this act or the rules of the
7 Board;

8 3. Payment from the fund shall be limited to actual economic
9 damages only, suffered as a direct result of the licensee's
10 violation and shall be limited to an amount not to exceed the amount
11 necessary to complete or repair the structure or appurtenance.
12 Attorney's fees, damages for pain and suffering, loss of consortium,
13 or relocation expense shall be specifically disallowed;

14 4. Bids for corrective work or the value of the work performed,
15 submitted as proof of damages, must have been issued by a licensee
16 of the Board;

17 5. Payment of interest shall be disallowed; and

18 6. Payment from the fund will not be made for damages due to
19 the acts of a licensee whose license was inactive, expired,
20 canceled, revoked, suspended or not issued at the time of the
21 occurrence.

22 B. The Board shall establish assessments and maintain the fund
23 balance at a level sufficient to pay operating costs and anticipated
24 claims.

1 C. 1. The Construction Industries Board shall determine the
2 procedure for a claimant to apply to the Board for payment from the
3 fund, for processing applications, for granting requests for
4 payment, and for subrogation or assignment of rights of any claimant
5 who has received payment from the fund. The Board shall submit
6 annually a report to the State Treasurer accounting for all monies
7 credited to and expended from the fund.

8 2. The Board may use monies in the fund only for the following
9 purposes:

- 10 a. to make payment to a claimant after approval by the
11 Board,
- 12 b. to purchase insurance when the Board finds it
13 appropriate to do so, and
- 14 c. to pay the expenses of the Board to administer the
15 fund, including employment of counsel to prosecute
16 subrogation claims, not to exceed five percent (5%) of
17 the fund in any fiscal year.

18 D. Any payments from the recovery fund shall be subject to the
19 following limitations and conditions:

- 20 1. Notwithstanding any other provisions in this act, if a
21 residential contractor's license has been revoked or has been
22 suspended as a result of an order to remedy a violation of this act,
23 and the residential contractor refuses or is unable to comply with
24 the order of the Board to remedy the violation, the fund

1 administrator may order payment from the recovery fund to remedy the
2 violation. The residential contractor or injured person may seek
3 judicial review of the Board's final award;

4 2. If it is determined that the Board should conduct a hearing
5 on an application to the recovery fund, the Board shall give the
6 claimant and residential contractor notice of hearing not less than
7 fifteen (15) days before the hearing. Notice of hearing to the
8 residential contractor shall be sufficient if mailed to the last
9 known address of the contractor at least fifteen (15) days prior to
10 the date of the hearing. All recovery fund hearings shall be
11 conducted by the Board or a hearing panel consisting of a majority
12 of the members of the Board. The claimant must show that he or she
13 has made application within one (1) year after the termination of
14 all judicial proceedings, including appeals, in connection with the
15 unsatisfied judgment or within the period prescribed in this act for
16 claims based upon the automatic stay provisions of Section 362 of
17 the U.S. Bankruptcy Code; that he or she has diligently pursued
18 remedies against the residential contractor and on any applicable
19 bond, surety or insurance contract; and that he or she has attempted
20 execution on the judgments against all judgment debtors without
21 success;

22 3. When a claimant obtains a valid judgment in a court of
23 competent jurisdiction against a licensee on the grounds otherwise
24 set forth in this section, the claimant may, when judgment is final,

1 file a certified claim in the court in which the judgment was
2 entered and, on thirty (30) days' written notice to the Board, may
3 apply to the court for an order directing payment from the recovery
4 fund of the amount remaining unpaid on the judgment;

5 4. Payments for claims against any single licensee shall not
6 exceed Fifty Thousand Dollars (\$50,000.00) in the aggregate;

7 5. Payments for claims arising out of the same transaction
8 shall not exceed Twenty Thousand Dollars (\$20,000.00) in the
9 aggregate;

10 6. Payments from the fund shall not exceed an amount equal to
11 twenty-five percent (25%) of the total amount in the fund at the
12 time the Board is ordered to pay the claim;

13 7. Payments may be made from the recovery fund only to
14 applicants who file a complaint with the Board pursuant to the
15 Board's requirements for the filing of a complaint, or within one
16 (1) year;

17 8. Payments may not be made from the recovery fund based on
18 consent judgments; and

19 9. Failure of the homeowner to follow any provisions of this
20 act shall preclude payment from the homeowners' recovery fund.

21 E. 1. When a civil complaint is filed which may result in
22 liability for the homeowners' recovery fund, the complainant shall
23 notify the Construction Industries Board in writing, sent by
24 certified mail, when the action is commenced.

1 2. When the notice is received, the Board may enter an
2 appearance in the case, file pleadings and appear at court hearings,
3 defend or take action it deems appropriate either on the behalf and
4 in the name of the defendant or in its own name. The Board may seek
5 any appropriate method of judicial review. The Board may settle or
6 compromise the claim.

7 3. When a complainant obtains a valid judgment in a court of
8 competent jurisdiction against a licensee on the grounds eligible
9 for recovery from the homeowner's recovery fund, the aggrieved
10 homeowner may, when judgment is final, file a certified claim in the
11 court in which the judgment was entered and, on thirty days' written
12 notice to the Board, may apply to the court for an order directing
13 payment from the homeowners' recovery fund of the amount remaining
14 unpaid on the judgment.

15 4. The court shall proceed on such application forthwith and,
16 on hearing, the complainant shall be required to show that:

17 a. he or she is not the spouse, child, or parent of the
18 debtor, or the personal representative of the spouse,
19 child, or parent or a shareholder officer or director
20 of the debtor,

21 b. he or she has obtained a judgment, as described in
22 this section, stating the amount of the judgment and
23 the amount owing on the judgment at the date of the
24 application, and, that in such action, he or she had

1 joined any and all bonding companies which issued
2 corporate surety bonds to the judgment debtor as
3 principal and all other necessary parties,

4 c. he or she is not aware of any personal or real
5 property or other assets of the debtor which can be
6 applied in satisfaction of the judgment, and

7 d. the following items, if recovered by him or her, have
8 been applied to the actual compensatory damages
9 awarded by the court,

10 (1) any amount recovered from the judgment debtor,

11 (2) any amount recovered from the bonding companies,
12 and

13 (3) any amount recovered in out-of-court settlements.

14 F. The court shall order the homeowners' recovery fund to pay
15 the sum it finds due, subject to the provisions and limitations of
16 this section. Upon receipt of the order from the court, the fund
17 administrator may authorize payment from the homeowners' recovery
18 fund; provided an appeal has not been instituted. In cases of
19 appeal, the administrator shall not authorize payment from the fund
20 until a final order has been rendered in the case.

21 G. 1. Every person making application for a residential
22 contractor's license or for renewal of a residential contractor's
23 license to engage in residential contracting shall pay an assessment
24 of not more than One Hundred Dollars (\$100.00) during the license

1 period for deposit into the fund. In the event that the license is
2 not issued, this assessment shall be returned to the applicant.

3 2. Administrative fines incurred by order of the Board and
4 remitted by licensees shall be deposited into the fund.

5 3. Whenever a residential contractor applies for the issuance
6 of a permit for the construction, improvement, or alteration of any
7 residence, a city or county building inspector shall collect from
8 the residential contractor a fee in the amount of Twenty-five
9 Dollars (\$25.00) for each residence to be constructed or altered
10 under the permit. The city or county inspector shall forward all
11 but Five Dollars (\$5.00) of the total fee of each fee collected to
12 the Board on a quarterly basis and the city or county may retain
13 Five Dollars (\$5.00) of each fee collected in addition to the permit
14 fee. The Board shall deposit the fees received into the fund. The
15 Board may suspend collection of this fee for any year upon a
16 determination that the amount in the fund is sufficient to meet
17 likely disbursements from the fund for that year. The Board shall
18 notify city and county building inspectors when it suspends
19 collection of the fee.

20 4. The annual recovery fund fee in the amount not to exceed One
21 Hundred Dollars (\$100.00) must accompany all license applications
22 and license renewal applications.

23 5. If at any time the balance remaining in the recovery fund is
24 less than Ten Thousand Dollars (\$10,000.00), every licensee who paid

1 into the fund pursuant to this act may be reassessed in an amount
2 determined by the fund administrator, but not more than One Hundred
3 Dollars (\$100.00), and each licensee shall make the required payment
4 into the fund. The fund administrator shall suspend a residential
5 contractor's license for failure to make the required payment until
6 the amount owed is paid in full.

7 H. 1. Should the Board pay from the homeowners' recovery fund
8 any amount in the settlement of a claim or toward satisfaction of a
9 judgment against a licensee, all licenses of the licensee shall be
10 revoked or suspended by the Board. The former licensee, upon
11 repayment to the fund, and a one-year waiting period, may reapply
12 for a new license.

13 2. The Board may refuse to issue a new license or to reinstate
14 a suspended license to the former licensee until he or she has
15 repaid in full, plus interest at the rate of twelve percent (12%)
16 per annum, the amount paid from the recovery fund.

17 3. A discharge or bankruptcy shall not relieve a person from
18 the penalties and disabilities provided in this section.

19 I. 1. The Board shall satisfy unpaid claims meeting the
20 requirements of this act with priority for payment based on the date
21 and time of the issuance of the court order to pay from the fund.

22 2. If the balance in the recovery fund is insufficient to
23 satisfy a duly authorized claim or portion of a claim, the Board
24 shall, when sufficient money has been deposited in the recovery

1 fund, satisfy the unpaid claims with priority for payment based on
2 the date and time of the issuance of the court order to pay from the
3 fund.

4 J. The Board has the right of subrogation to the extent of
5 payments made from the recovery fund including the right to collect
6 from a bond, cash payment or alternative to cash payment made
7 pursuant to this act. Any amount and interest recovered by the
8 Board on the judgment shall be deposited to the recovery fund.

9 K. On authorization of payment from the recovery fund, the
10 administrator shall notify the applicant that:

11 1. The amount authorized for payment is subject to repayment by
12 the recipient if the judgment of the court is finally reversed;

13 2. It is the responsibility of the recipient to respond to an
14 appeal from the judgment; and

15 3. On appeal from the judgment, postponement of acceptance by
16 the applicant of the amount authorized for payment does not operate
17 as a waiver of any rights of the applicant.

18 L. 1. Any person who violates a final order of the Board, upon
19 written notification, is deemed guilty of a misdemeanor, and upon
20 conviction, shall be imprisoned for a term not exceeding one (1)
21 year, or fined not more than One Thousand Dollars (\$1,000.00) for a
22 first offense and not more than Five Thousand Dollars (\$5,000.00)
23 for a second or subsequent offense. In addition to any sentence or
24 fine imposed by the court under this provision, the court may order

1 the defendant to comply with any outstanding final order of the
2 Board and to pay to the Board any outstanding fine or fines
3 previously imposed by the Board.

4 2. Throughout the period of licensure, the licensee shall have
5 in effect public liability and property damage insurance covering
6 the work of that licensee which shall be subject to this act in not
7 less than One Million Dollars (\$1,000,000.00) combined single limit,
8 bodily injury and property damage.

9 3. The applicant or licensee shall furnish an additional surety
10 bond or cash deposit in the amount of Three Hundred Thousand Dollars
11 (\$300,000.00) solely for actual damages suffered by persons injured
12 as the direct result of conduct of a licensee in violation of this
13 act or the rules of the Board.

14 SECTION 15. This act shall become effective November 1, 2010.

15 SECTION 16. It being immediately necessary for the preservation
16 of the public peace, health and safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval.

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