

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 199

By: Loveless

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5
6 AS INTRODUCED

7 An Act relating to residential builders; creating the
8 Oklahoma Builders Registration Act; providing short
9 title; defining terms; authorizing the Construction
10 Industries Board to issue certain licenses;
11 establishing powers and duties of the Board; creating
12 an advisory committee; naming committee; providing
13 for membership and qualifications; setting term of
14 appointment; providing for initial terms of
15 appointment; allowing dual license holding; requiring
16 certain licensure within certain time period;
17 directing election of chairperson; authorizing
18 procedure for special meetings; providing for rules;
19 providing for vacancies and travel reimbursement;
20 prohibiting certain action or use of certain initials
21 without licensure; setting misdemeanor penalty;
22 construing authority to act under other licensure;
23 setting date for certain licensure; requiring certain
24 evidence for licensure; setting eligibility for
licensure; providing for certain examination;
requiring certain signatures on license; authorizing
licensure of out-of-state persons under certain
conditions; providing for continuing education;
setting scope of continuing education; directing
certain Board meeting annually; providing for renewal
of license by certain date; providing for inactive
license; requiring proof of general liability and
workers compensation policies; setting minimum amount
of insurance policies; requiring written warranty
policy; directing certain filing of license with
county clerk; making license registration open to the
public; directing the county clerk to provide
information annually to Board; directing license be
displayed at place of business; requiring knowledge
of current address of licensee; prohibiting
registration or license by municipality; authorizing

1 suspension or revocation of license; stating ground
2 for suspension or revocation; providing for hearing
3 and proceedings; authorizing use of personnel and
4 facilities of the Board for administration;
5 authorizing employment and compensation for
6 administration; requiring records be maintained;
7 authorizing investigation of complaints; stating
8 penalties for violations; setting fines; authorizing
9 permanent prohibition for licensure; allowing fees to
10 be set by Board; providing initial fee limitations;
11 stating term of license; requiring license number of
12 all vehicles and written materials; including license
13 number of building permits; providing for
14 codification; and providing an effective date.

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

25 SECTION 1. NEW LAW A new section of law to be codified
26 in the Oklahoma Statutes as Section 1152 of Title 59, unless there
27 is created a duplication in numbering, reads as follows:

28 Sections 1 through 11 of this act shall be known and may be
29 cited as the "Oklahoma Builders Registration Act".

30 SECTION 2. NEW LAW A new section of law to be codified
31 in the Oklahoma Statutes as Section 1152.1 of Title 59, unless there
32 is created a duplication in numbering, reads as follows:

33 As used in this act:

- 34 1. "Board" means the Construction Industries Board;
- 35 2. "Committee" means the Advisory Committee of Registered

36 Builders;

1 3. "Residential Builder or residential contractor" means a
2 person engaged in the practice or business of constructing,
3 remodeling or building a residential dwelling place in this state;

4 4. "Registered builder or registered contractor" means a person
5 licensed to construct, remodel or build a residential dwelling place
6 in this state; and

7 5. "Residential dwelling place" means a single family or
8 multifamily structure that is available for daily living and
9 occupation for non-business purposes, which consists of a private
10 home not connected to another structure, or a townhouse,
11 condominium, duplex, triplex or fourplex which may have common
12 features, structures or connection to another dwelling space.

13 SECTION 3. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1152.2 of Title 59, unless there
15 is created a duplication in numbering, reads as follows:

16 The Construction Industries Board, acting upon the advice of the
17 Committee, shall issue all licenses required by this act, and shall
18 exercise the following powers and duties:

19 1. To make rules and regulations deemed necessary to implement
20 the provisions of this act;

21 2. To prescribe application forms for license applicants,
22 license certificate forms and such other forms as necessary to
23 implement the provisions of this act;

1 3. To establish a curriculum of study for licensure in the
2 practice and theory of residential building and construction in this
3 state;

4 4. To prepare and conduct an examination for applicants for
5 licensure pursuant to this act;

6 5. To keep a complete record of all licensed residential
7 builders and to prepare an official listing of the names and
8 addresses of all licensed builders which shall be kept current. A
9 copy of such listing shall be available to any person requesting it
10 upon payment of a copying fee established by the Board;

11 6. To keep a permanent record of all proceedings pursuant to
12 this act;

13 7. To employ and establish the duties of clerical personnel
14 necessary to carry out the provisions of this act;

15 8. To conduct hearings to deny, revoke, suspend or refuse
16 renewal of licenses under this act, and to issue subpoenas to compel
17 witnesses to testify or produce evidence at such hearings in
18 accordance with the Administrative Procedures Act; and

19 9. To set the fees imposed by the provisions of this act in
20 amounts that are adequate to collect sufficient revenue to meet the
21 expenses necessary to perform their duties without accumulating an
22 unnecessary surplus.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1152.3 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 A. There is hereby created the Advisory Committee of Registered
5 Builders. The Committee shall consist of five (5) members appointed
6 by the Board. The Board shall appoint the Committee members from a
7 list of six (6) persons submitted annually by the Oklahoma Home
8 Builders Association with one member to be a certified building
9 official recommended from a list of at least two persons recommended
10 by the Municipal League. Four of the members shall be residential
11 contractors in this state with at least five (5) years of
12 experience. For the initial appointments the persons appointed
13 shall have been actively engaged in and practicing residential
14 building and construction for at least five (5) years in this state.
15 All members appointed shall be residents of this state and actively
16 engaged as residential builders as herein defined. No person shall
17 be appointed to the Committee who has been convicted of any felony
18 or any crime involving moral turpitude.

19 B. The terms of the members shall be for three (3) years and
20 until their successors are appointed and qualify. Provided however,
21 of those first appointed, one shall serve for one (1) year, one
22 shall serve for two (2) years, and one shall serve for three (3)
23 years. Vacancies shall be filled in the manner of the original
24 appointment for the unexpired portion of the term only. The Board,

1 after notice and opportunity for hearing, may remove any member of
2 the Committee for neglect of duty, incompetence, revocation or
3 suspension of his or her license, or other dishonorable conduct.

4 C. A member of the Committee may hold another license for a
5 profession or trade required to be licensed for purposes of the
6 construction industry. All members shall be duly licensed as
7 residential builder within ninety (90) days of their appointment and
8 maintain a valid license during their term.

9 D. Members of the Committee shall elect from their number a
10 chairperson. Special meetings of the Committee shall be called by
11 the chairperson on the written request of any three (3) members.
12 The Committee may recommend to the Board the adoption of rules
13 necessary to govern its proceedings and implement the purposes of
14 this act.

15 E. Each member of the Committee may be reimbursed for his or
16 her reasonable and necessary expenses as provided for in the State
17 Travel Reimbursement Act from the Construction Industries Board or
18 any fund established pursuant to this act.

19 SECTION 5. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1152.4 of Title 59, unless there
21 is created a duplication in numbering, reads as follows:

22 A. No person shall engage in or practice residential building
23 or construction or hold himself or herself out as a residential
24 contractor or builder, or use the title "Registered Builder" or

1 "Licensed Contractor", or the initials "R.B" or "L.C.", in this
2 state, unless he or she is licensed in accordance with the
3 provisions of this act. No other person shall in any way, orally or
4 in writing, in print, or by sign or transmission of sound or sight,
5 directly or by implication, represent himself or herself as a
6 residential builder or contractor. Such misrepresentation, upon
7 conviction, shall constitute a misdemeanor and shall be punishable
8 as provided in this act.

9 B. Nothing in this act shall prohibit any person in the
10 construction industry in this state under any other law or rule from
11 engaging in the practice for which he or she is duly licensed,
12 registered or otherwise authorized by law.

13 SECTION 6. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1152.5 of Title 59, unless there
15 is created a duplication in numbering, reads as follows:

16 A. On and after July 1, 2016, a licensed residential builder or
17 contractor shall consist of all persons who are currently licensed
18 by the Construction Industries Board, and all persons who are of
19 good moral character, and who have satisfactorily passed all
20 examinations before Board, or other requirements as herein created
21 or authorized. On and after July 1, 2016, all applicants for
22 licensure as residential builders or contractor shall be required to
23 furnish to the Board the following evidence:
24

1 1. Have successfully completed a curriculum of study
2 established by the Board; and

3 2. Have completed a preplanned professional experience program
4 approved by the Board.

5 B. To qualify for a license, an applicant shall pass an
6 examination prepared by the Board. The examination, as authorized
7 by this act, shall be in the English language. The examination
8 shall include the subjects required in subsection A of this section
9 as well as theory and practice of plumbing installation, electrical
10 wiring, structure design, construction materials and their
11 application, and knowledge of current residential building codes.

12 C. If based on rules and criteria established by the Board, the
13 examinee successfully passes the examination, the examinee shall be
14 entitled to receive from the Board a license as a residential
15 builder or contractor for the remainder of that calendar year. Each
16 license shall be signed by the chairperson of the Committee or
17 designee and the Executive Director of the Board and shall bear the
18 seal of the Board.

19 D. The Board may issue a license to an applicant from another
20 state who has met the requirements established by this act. The
21 applicant to be licensed in this state may provide proof of
22 licensure in good standing in another state at the time of making
23 application for licensure in this state. The applicant shall show
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1 proof of an established business address in this state or be a
2 resident of this state at the time of application.

3 E. The Board may establish continuing education requirements of
4 not less than nine (9) hours to include at least one (1) hour of
5 ethics to facilitate the maintenance of current practice skills of
6 all persons licensed pursuant to this act. The Board shall
7 designate and approve authorized sources for continuing education
8 annually.

9 F. The Board shall meet at least three times per calendar year
10 for the purpose of examining applicants for licensure and training,
11 and transacting other business as may be necessary. The meetings
12 shall be held at the office of the Board.

13 G. Every person licensed pursuant to this act who desires to
14 continue the practice of residential building shall annually, on or
15 before the 31st day of December of each year, make application for
16 renewal of the license and shall pay fees established by the Board.

17 H. If any person fails to renew his or her license within
18 thirty (30) days from the date same becomes due, the license of such
19 person shall become inactive and, in order to have such license
20 reinstated, it shall be necessary for such person to apply to the
21 Board as provided in this act and to meet the requirements
22 established by the Board for reinstatement.

23 I. All applicants shall be required to show proof and maintain
24 a valid general liability policy and workers compensation insurance

1 acceptable to the Board with a minimum of one million dollars
2 (\$1,000.000.00) aggregate on general liability and a minimum premium
3 policy of workers compensation even if no employees are currently
4 employed.

5 J. Each applicant shall show proof of a written one (1) year
6 warranty policy that shall be available and in use for each
7 residential structure upon completion.

8 SECTION 7. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1152.6 of Title 59, unless there
10 is created a duplication in numbering, reads as follows:

11 A. Every person who is licensed pursuant to the provisions of
12 this act to engage in and practice as a residential builder in this
13 state shall register the license with the county clerk of the county
14 in which said person has legal residence and for each county where
15 such person is engaged or practicing as a residential builder. The
16 county clerk to whom such license is presented shall register the
17 name and address of the person designated in the license, together
18 with the date and the number inscribed thereon, which record shall
19 be open to the public, and shall file with the Board annually,
20 during the month of February, a notice of the record so made.

21 B. Every person who is licensed pursuant to the provisions of
22 this act to engage and practice as a residential builder in this
23 state shall keep said license displayed in his or her place of
24 business as long as he or she is engaged in the practice as a

1 residential builder. The receipt for the annual renewal of license
2 shall be kept at such person's place of business and shall be shown
3 to any person requesting to see the same. The licensee shall keep
4 the Board informed of his or her current address. A license issued
5 by the Board is the property of the Board and shall be surrendered
6 on demand of the Board.

7 C. Nothing in this act shall require or permit the registration
8 or licensing of any residential builder by a municipality or any
9 political subdivision of this state.

10 SECTION 8. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1152.7 of Title 59, unless there
12 is created a duplication in numbering, reads as follows:

13 A. The Board may suspend or revoke the license of any person
14 authorized to engage and practice as a residential builder pursuant
15 to the provisions of this act upon proof that the licensee:

16 1. Has used fraud or deception in applying for a license or in
17 passing the examination provided for in this act;

18 2. Has been guilty of unprofessional conduct defined by the
19 rules established by the Board or has violated the Code of Ethics
20 adopted by the Board;

21 3. Has been guilty of fraud or deceit in connection with
22 services rendered as a residential builder;

23 4. Has been grossly negligent in the practice of his or her
24 profession;

1 5. Has failed to honor the written warranty submitted to the
2 Board as available or in use by the licensee; or

3 6. Has willfully violated any of the provisions of this act or
4 any regulation adopted hereunder.

5 B. No suspension or revocation shall be made until such person
6 appears before the Board for a hearing. Proceedings for the
7 suspension or revocation of a license are governed by rules and
8 regulations of the Board and by the Administrative Procedures Act.

9 SECTION 9. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1152.8 of Title 59, unless there
11 is created a duplication in numbering, reads as follows:

12 A. The basic personnel and necessary facilities which are
13 required to administer this act shall be the personnel and
14 facilities of the Board. The Board personnel shall act as agents of
15 the Committee. If necessary for the administration or
16 implementation of this act, the Board may secure and provide for
17 compensation for services that the Board considers necessary and may
18 employ and compensate within available resources professional
19 consultants, technical assistants, and employees on a full-time or
20 part-time basis.

21 B. The Board shall maintain the records of all licensed
22 residential builders, process all applications for licensure for
23 review by the Committee, and investigate all complaints deemed to be
24 appropriate allegations of violations of this act.

1 C. The Board shall employ such staff, equipment, and supplies
2 as are necessary to carry out administrative and investigative
3 functions required to maintain and support the objectives of the
4 Committee in exercising its duties as prescribed by this act.

5 SECTION 10. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1152.9 of Title 59, unless there
7 is created a duplication in numbering, reads as follows:

8 On and after July 1, 2016, any person who engages in or
9 practices or holds himself or herself out as a residential builder
10 in violation of the provisions of this act, upon conviction, shall
11 be guilty of a misdemeanor punishable by a fine of not less than
12 Five Hundred Dollars (\$500.00) for a first offense, not less than
13 One Thousand Dollars (\$1,000.00) for a second offense, and not less
14 than Two Thousand Dollars (\$2,500.00) for any third or subsequent
15 offense. Each day of such violation shall constitute a separate
16 offense. Any person who fails to register for any period of twelve
17 (12) months or more or who continues to engage in or practice or
18 hold himself or herself out as a residential builder or contractor
19 shall be permanently prohibited licensure by the Board.

20 SECTION 11. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1152.10 of Title 59, unless
22 there is created a duplication in numbering, reads as follows:

23 A. The application and license fees shall be set by the Board
24 by rules adopted pursuant to this act. The initial application and

1 license fee shall be Three Hundred Dollars (\$300.00) each. The
2 renewal fee shall be the same as the initial license fee. The
3 license shall be valid for one year.

4 B. Each licensee shall be required to have his or her license
5 number disclosed on all vehicles, equipment, contracts, and any
6 written advertising or broadcast materials.

7 C. The licensee shall be required to include his or her license
8 number on all building permits.

9 SECTION 12. This act shall become effective November 1, 2015.

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