

HB 2774

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WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999



ENROLLED

House Bill No. 2774

(By Delegates Martin, Sparks, Butcher,
Willis, Prunty, H. White and Willison)



Passed March 12, 1999

In Effect Ninety Days from Passage

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H. B. 2774

(BY DELEGATES MARTIN, SPARKS, BUTCHER,
WILLIS, PRUNTY, H. WHITE AND WILLISON)

[Passed March 12, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article eleven, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to clarifying that certain licensed pest control operators are not contractors subject to contractor licensure.

Be it enacted by the Legislature of West Virginia:

That section three, article eleven, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 11. WEST VIRGINIA CONTRACTOR LICENSING ACT.

§21-11-3. Definitions.

- 1 (a) "Commissioner" means the commissioner of the
2 division of labor.
- 3 (b) "Board" means the West Virginia contractor licensing
4 board.
- 5 (c) "Contractor" means a person who in any capacity for
6 compensation, other than as an employee of another, under-
7 takes, offers to undertake, purports to have the capacity to

8 undertake, or submits a bid to construct, alter, repair, add to,
9 subtract from, improve, move, wreck or demolish any building,
10 highway, road, railroad, structure or excavation associated with
11 a project, development or improvement, or to do any part
12 thereof, including the erection of scaffolding or other structures
13 or works in connection therewith, where the cost of the under-
14 taking is one thousand dollars or more.

15 Contractor includes a construction manager who performs
16 management and counseling services for a construction project
17 for a professional fee.

18 Contractor does not include:

19 (1) One who merely furnishes materials or supplies without
20 fabricating or consuming them in the construction project;

21 (2) A person who personally performs construction work on
22 the site of real property which the person owns or leases
23 whether for commercial or residential purposes;

24 (3) A person who is licensed or registered as a professional
25 and who functions under the control of any other licensing or
26 regulatory board, whose primary business is real estate sales,
27 appraisal, development, management and maintenance, who
28 acting in his or her respective professional capacity and any
29 employee of such professional, acting in the course of his or her
30 employment, performs any work which may be considered to
31 be performing contracting work;

32 (4) A pest control operator licensed under the provisions of
33 section seven, article sixteen-a, chapter nineteen of this code to
34 engage in the application of pesticides for hire, unless the
35 operator also performs structural repairs exceeding one thou-
36 sand dollars on property treated for insect pests; or

37 (5) A corporation, partnership or sole proprietorship whose
38 primary purpose is to prepare construction plans and specifica-
39 tions used by the contractors defined in subsection (c) of this
40 section and who employs full time a registered architect
41 licensed to practice in this state or a registered professional
42 engineer licensed to practice in this state. Employees of such

43 corporation, partnership or sole proprietorship shall also be
44 exempt from the requirements of this article.

45 (d) "Electrical contractor" means a person who engages in
46 the business of contracting to install, erect, repair or alter
47 electrical equipment for the generation, transmission or
48 utilization of electrical energy.

49 (e) "General building contractor" means a person whose
50 principal business is in connection with any structures built,
51 being built or to be built for the support, shelter and enclosure
52 of persons, animals, chattels or movable property of any kind,
53 requiring in the construction the use of more than two contrac-
54 tor classifications, or a person who supervises the whole or any
55 part of such construction.

56 (f) "General engineering contractor" means a person whose
57 principal business is in connection with public or private works
58 projects, including, but not limited to, one or more of the
59 following: Irrigation, drainage and water supply projects;
60 electrical generation projects; swimming pools; flood control;
61 harbors; railroads; highways; tunnels; airports and airways;
62 sewers and sewage disposal systems; bridges; inland water-
63 ways; pipelines for transmission of petroleum and other liquid
64 or gaseous substances; refineries; chemical plants and other
65 industrial plants requiring a specialized engineering knowledge
66 and skill; piers and foundations; and structures or work inciden-
67 tal thereto.

68 (g) "Heating, ventilating and cooling contractor" means a
69 person who engages in the business of contracting to install,
70 erect, repair, service or alter heating, ventilating and air
71 conditioning equipment or systems to heat, cool or ventilate
72 residential and commercial structures.

73 (h) "License" means a license to engage in business in this
74 state as a contractor in one of the classifications set out in this
75 article.

76 (i) "Multifamily contractor" means a person who is
77 engaged in construction, repair or improvement of a multifam-
78 ily residential structure.

79 (j) "Person" includes an individual, firm, sole proprietor-
80 ship, partnership, corporation, association or other entity
81 engaged in the undertaking of construction projects or any
82 combination thereof.

83 (k) "Piping contractor" means a person whose principal
84 business is the installation of process, power plant, air, oil,
85 gasoline, chemical or other kinds of piping; and boilers and
86 pressure vessels using joining methods of thread, weld, solvent
87 weld or mechanical methods.

88 (l) "Plumbing contractor" means a person whose principal
89 business is the installation, maintenance, extension and alter-
90 ation of piping, plumbing fixtures, plumbing appliances and
91 plumbing appurtenances, venting systems and public or private
92 water supply systems within or adjacent to any building or
93 structure; included in this definition is installation of gas piping,
94 chilled water piping in connection with refrigeration processes
95 and comfort cooling, hot water piping in connection with
96 building heating, and piping for stand pipes.

97 (m) "Residential contractor" means a person whose
98 principal business is in connection with construction, repair or
99 improvement of real property used as, or intended to be used
100 for, residential occupancy.

101 (n) "Specialty contractor" means a person who engages in
102 specialty contracting services which do not substantially fall
103 within the scope of any contractor classification as set out
104 herein.

105 (o) "Residential occupancy" means occupancy of a struc-
106 ture for residential purposes for periods greater than thirty
107 consecutive calendar days.

108 (p) "Residential structure" means a building or structure
109 used or intended to be used for residential occupancy, together
110 with related facilities appurtenant to the premises as an adjunct
111 of residential occupancy, which contains not more than three
112 distinct floors which are above grade in any structural unit
113 regardless of whether the building or structure is designed and
114 constructed for one or more living units. Dormitories, hotels,

115 motels or other transient lodging units are not residential
116 structures.

117 (q) "Subcontractor" means a person who performs a portion
118 of a project undertaken by a principal or general contractor or
119 another subcontractor.

120 (r) "Division" means the division of labor.

121 (s) "Cease and desist order" means an order issued by the
122 commissioner pursuant to the provisions of this article.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schoonover
Chairman Senate Committee

Joe F. Smith
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Harrell Elkins
Clerk of the Senate

Gregory W. Sims
Clerk of the House of Delegates

Carl By Tomblin
President of the Senate

Franklin
Speaker of the House of Delegates

The within *approved* this the *7th*
day of *April*, 1999.

Jeff Abernethy
Governor

PRESENTED TO THE

GOVERNOR

Date 4/5/99

Time 4:00 pm