WEST VIRGINIA CODE CHAPTER 30 ARTICLE 42

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§30-42-1. Short title.

This article shall be known and may be cited as the “West Virginia Contractor Licensing Act”.

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§30-42-2. Policy declared.

It is hereby declared to be the policy of the State of West Virginia that all persons desiring to perform contracting work in this state be duly licensed to ensure capable and skilled craftsmanship utilized in construction projects in this state, both public and private; fair bidding practices between competing contractors through uniform compliance with the laws of this state; and protection of the public from unfair, unsafe, and unscrupulous bidding and construction practices.

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§30-42-3. Definitions.

(a) “Basic universal design” means the design of products and environments to be useable by all people, to the greatest extent possible, without the need for adaptation or specialization.

(b) “Board” means the West Virginia Contractor Licensing Board.

(c) “Cease and desist order” means an order issued by the board pursuant to the provisions of this article.

(d) “Contractor” means a person who in any capacity for compensation, other than as an employee of another, undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, structure, or excavation associated with a project, development, or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, where the cost of the undertaking is $5,000 or more for residential work or $25,000 or more for commercial work.

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

Contractor does not include:

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

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

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

(4) A pest control operator licensed under the provisions of §19-16A-7 of this code to engage in the application of pesticides for hire, unless the operator also performs structural repairs exceeding $1,000 on property treated for insect pests;

(5) A corporation, partnership, or sole proprietorship whose primary purpose is to prepare construction plans and specifications used by the contractors defined in this subsection and who employs full-time a registered architect licensed to practice in this state or a registered professional engineer licensed to practice in this state. Employees of the corporation, partnership or sole proprietorship shall also be exempt from the requirements of this article;

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or

(6) A person who performs landscaping or painting services for commercial or residential customers.

(e) “Electrical contractor” means a person who engages in the business of contracting to install, erect, repair, or alter electrical equipment for the generation, transmission, or utilization of electrical energy.

(f) “General building contractor” means a person whose principal business is in connection with any structures built, being built, or to be built for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind, requiring in the construction the use of more than two contractor classifications, or a person who supervises the whole, or any part, of the construction.

(g) “General engineering contractor” means a person whose principal business is in connection with public or private works projects, including, but not limited to, one or more of the following: Irrigation, drainage, and water supply projects; electrical generation projects; swimming pools; flood control; harbors; railroads; highways; tunnels; airports and airways; sewers and sewage disposal systems; bridges; inland waterways; pipelines for transmission of petroleum and other liquid or gaseous substances; refineries; chemical plants and other industrial plants requiring a specialized engineering knowledge and skill; piers and foundations; and structures or work incidental thereto.

(h) “Heating, ventilating and cooling contractor” means a person who engages in the business of contracting to install, erect, repair, service, or alter heating, ventilating and air conditioning equipment or systems to heat, cool, or ventilate residential and commercial structures.

(i) “License” means a license to engage in business in this state as a contractor in one of the classifications set out in this article.

(j) “Multifamily contractor” means a person who is engaged in construction, repair, or improvement of a multifamily residential structure.

(k) “Person” includes an individual, firm, sole proprietorship, partnership, corporation, association, or other entity engaged in the undertaking of construction projects or any combination thereof.

(l) “Piping contractor” means a person whose principal business is the installation of process, power plant, air, oil, gasoline, chemical, or other kinds of piping; and boilers and pressure vessels using joining methods of thread, weld, solvent weld, or mechanical methods.

(m) “Plumbing contractor” means a person whose principal business is the installation, maintenance, extension, and alteration of piping, plumbing fixtures, plumbing appliances

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and plumbing appurtenances, venting systems and public or private water supply systems within or adjacent to any building or structure; included in this definition is installation of gas piping, chilled water piping in connection with refrigeration processes and comfort cooling, hot water piping in connection with building heating and piping for stand pipes.

(n) “Residential contractor” means a person whose principal business is in connection with construction, repair, or improvement of real property used as, or intended to be used for, residential occupancy.

(o) “Specialty contractor” means a person who engages in specialty contracting services which do not substantially fall within the scope of any contractor classification as set out herein.

(p) “Residential occupancy” means occupancy of a structure for residential purposes for periods greater than 30 consecutive calendar days.

(q) “Residential structure” means a building or structure used or intended to be used for residential occupancy, together with related facilities appurtenant to the premises as an adjunct of residential occupancy, which contains not more than three distinct floors which are above grade in any structural unit regardless of whether the building or structure is designed and constructed for one or more living units. Dormitories, hotels, motels, or other transient lodging units are not residential structures.

(r) “Subcontractor” means a person who performs a portion of a project undertaken by a principal or general contractor or another subcontractor.

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§30-42-4. West Virginia Contractor Licensing Board created; members; appointment; terms; vacancies; qualifications; quorum.

(a) The West Virginia Contractor Licensing Board is continued. The board shall consist of 10 members appointed by the Governor by and with the advice and consent of the Senate for terms of four years. The members shall serve until their successors are appointed and have been qualified. Eight of the appointed members shall be owners of businesses engaged in the various contracting industries, with at least one member appointed from each of the following contractor classes: One electrical contractor; one general building contractor; one general engineering contractor; one heating, ventilating and cooling contractor; one multifamily contractor; one piping contractor; one plumbing contractor; and one residential contractor, as defined in §30-42-3 of this code. Two of the appointed members shall be building code officials who are not members of any contracting industry. At least four members of the board shall reside, at the time of their appointment, in each congressional district as existing on January 1, 2023. The Secretary of the Department of Tax and Revenue or his or her designee, and the Commissioner of WorkForce West Virginia or his or her designee shall be ex-officio nonvoting members of the board.

(b) Terms of the members first appointed shall be two members for one year, two members for two years, three members for three years, and three members for four years, as designated by the Governor at the time of appointment. Thereafter, terms shall be for four years. A member who has served all or part of two consecutive terms shall not be subject to reappointment unless four years have elapsed since the member last served. Vacancies shall be filled by appointment by the Governor for the unexpired term of any member whose office is vacant and shall be made within 60 days of the occurrence of the vacancy. A vacancy on the board shall not impair the right of the remaining members to exercise all the powers of the board.

(c) The board shall elect a chair from one of the voting members of the board. The board shall meet at least once annually and at such other times as called by the chair or a majority of the board. Board members shall receive compensation not to exceed the amount paid to members of the Legislature for the interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law for each day or portion of a day spent attending meetings of the board and shall be reimbursed for all reasonable and necessary expenses incurred incident to his or her duties as a member of the board. A majority of the members appointed shall constitute a quorum of the board.

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§30-42-5. Administrative duties and powers of the board; rules.

(a) The board shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.*, of this code relating to the following:

(1) The minimum qualifications for applicants for examination and license in each of the following specified classes of contractor:

(A) Electrical contractor;

(B) General building contractor;

(C) General engineering contractor;

(D) Heating, ventilating, and cooling contractor;

(E) Multifamily contractor;

(F) Piping contractor;

(G) Plumbing contractor;

(H) Residential contractor; or

(l) Specialty contractor;

(2) The content of examinations for applicants in each class;

(3) Procedures for application, examination, and license renewal, and the manner in which the examination will be conducted;

(4) The continued competency of licensees for purposes of renewal and reinstatement of licenses; and

(5) Procedures for disciplinary action before the board.

(b) The board shall:

(1) Hold at least one examination in each calendar quarter for each specific classification of contractor, designate the time and place of the examinations, and notify applicants thereof;

(2) Investigate alleged violations of this article and legislative rules, orders, and final decisions of the board;

(3) Notify the board members of meeting dates and agenda items at least five days prior to the meetings; and

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(4) Take minutes and records of all meetings and proceedings.

(c) The board has all the powers and duties set forth in this article, including:

(1) Maintaining an office and hire, discharge, establish the job requirements and fix the compensation of employees, and contract persons necessary to enforce the provisions of this article;

(2) To sue and be sued in its official name as an agency of this state; and

(3) Conferring with the Attorney General or assistants of the Attorney General in connection with legal matters and questions.

(d) The board shall perform the following administrative duties:

(1) Collect and record all fees;

(2) Maintain records and files;

(3) Issue and receive application forms;

(4) Notify applicants of the results of the board examination;

(5) Arrange space for holding examinations and other proceedings;

(6) Issue licenses and temporary licenses as authorized by this article;

(7) Issue duplicate licenses upon submission of a written request by the licensee attesting to loss of or the failure to receive the original and payment by the licensee of a fee established by regulation adopted by the division;

(8) Notify licensees of renewal dates at least 30 days before the expiration date of their license;

(9) Answer routine inquiries;

(10) Maintain files relating to individual licensees;

(11) Arrange for printing and advertising;

(12) Purchase supplies;

(13) Employ additional help when needed;

(14) Contract with the Division of Labor for, and the Division of Labor shall provide, inspection, enforcement, and investigative services for 24 months after the effective date of this article. After 24 months, the board shall be responsible for providing inspection,

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enforcement, and investigative services; and

(15) Issue cease and desist orders to persons engaging in contracting within the state without a valid license.

(e) Following successful completion of the examination, and prior to the issuance of the license, the applicant shall certify by affidavit that the applicant:

(1) Is in compliance with the business franchise tax provisions of chapter 11 of this code;

(2) Has registered, and is in compliance, with the workers' compensation fund and the employment security fund, as required by §23-1-1 *et seq.*, and §21A-1-1 *et seq.*, of this code; and

(3) Is in compliance with the applicable wage bond requirements of §21-5-14 of this code: *Provided*, That in the case of an out-of-state contractor not doing business in this state and seeking licensure for bidding purposes only, the applicant may be granted a conditional license for bid purposes only.

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§30-42-6. Necessity for license; exemptions.

(a) No person may engage in this state in any activity as a contractor or submit a bid to perform work as a contractor, as defined in this article, unless that person holds a license issued under the provisions of this article. No firm, partnership, corporation, association, or other entity may engage in contracting in this state unless an officer thereof holds a license issued pursuant to this article.

(b) Any person to whom a license has been issued under this article shall keep the license or a copy thereof posted in a conspicuous position at every construction site where work is being done by the contractor. The contractor's license number shall be included in all contracting advertisements and all fully executed and binding contracts. Any person violating the provisions of this subsection is subject, after hearing, to a warning, a reprimand, or a fine of not more than $200.

(c) Except as otherwise provided in this code, the following are exempt from licensure:

(1) Work done exclusively by employees of the United States Government, the State of West Virginia, a county, municipality or municipal corporation, and any governmental subdivision or agency thereof;

(2) The sale or installation of a finished product, material or article, or merchandise which is not actually fabricated into and does not become a permanent fixed part of the structure;

(3) Work performed personally by an owner or lessee of real property on property the primary use of which is for agricultural or farming enterprise;

(4) A material supplier who renders advice concerning use of products sold and who does not provide construction or installation services;

(5) Work performed by a public utility company regulated by the West Virginia Public Service Commission and its employees;

(6) Repair work contracted by the owner of the equipment on an emergency basis in order to maintain or restore the operation of the equipment;

(7) Work performed by an employer's regular employees, for which the employees are paid regular wages and not a contract price, on property owned or leased by the employer which is not intended for speculative sale or lease;

(8) Work personally performed on a structure by the owner or occupant thereof; and

(9) Work performed when the specifications for the work have been developed or approved by engineering personnel employed by the owner of a facility by registered professional engineers licensed pursuant to the laws of this state when the work to be performed because of its specialized nature or process cannot be reasonably or timely contracted for within the

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general area of the facility.

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§30-42-7. Application for, issuance, and transfer of license.

(a) A person desiring to be licensed as a contractor under this article shall submit to the board a written application requesting licensure, providing the applicant's Social Security number and such other information as the board may require on forms supplied by the board. The applicant shall pay a license fee not to exceed $150: *Provided*, That electrical contractors already licensed under §29-3B-4 of this code shall pay no more than $20.

(b) No license may be issued without examination pursuant to this subsection: *Provided*, That any person issued a contractor's license by the board pursuant to this subsection may apply to the board for transfer of the license to a new business entity in which the license holder is the principal owner, partner, or corporate officer: *Provided, however*, That a license holder may hold a license on behalf of only one business entity during a given time period. The board may transfer the license issued pursuant to this subsection to the new business entity without requiring examination of the license holder.

(c) Notwithstanding the provisions of §30-42-7(b) of this code, any person issued a contractor's license by the board may apply to the board for transfer of the license to an immediate family member: *Provided*, That in order to maintain the license for longer than one year following the date of transfer, any immediate family member license transferee must successfully complete whatever examination the board may require within one year of the transfer: *Provided further*, that the license may not be subsequently transferred again prior to the initial transferee successfully completing whatever examination the board may require, unless the transferee dies or becomes permanently incapacitated prior to examination, in which case the provisions of §30-42-7(d) of this code shall control;

(d) In the event of a license holder's death or permanent incapacity, an immediate family member of the license holder, within one year of the license holder's death or incapacity, may apply to the board for transfer of the license, and shall be subject to the same restrictions and requirements placed upon an immediate family member transferee as set forth in §30-42-7(c) of this code.

(e) The board may transfer a license to an immediate family member pursuant to application made under §30-42-7(c) or §30-42-7(d) of this code for a one-year period without requiring examination of the transferee if the immediate family member demonstrates to the satisfaction of the board that he or she:

(1) Has been actively involved in the management or operation of a business entity in which the original license holder is or was the principal owner, partner, or corporate officer; or

(2) Employs or retains a person who meets the minimum qualifications for applicants for examination and license in the relevant class of contractor set by the board pursuant to §30-42-5(a)(1) of this code.

(f) In the case of a person who is transferred a license by the board pursuant to §30-42-7(e)

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of this code and who holds the license on behalf of a business entity, the license shall remain valid for the business entity: (i) only one year following the date of transfer prior to the transferee's successful completion of whatever examination the board may require; and (ii) only so long as the transferee license holder remains the principal owner, partner, or corporate officer of the business entity.

(g) For purposes of §§30-42-7(c), (d), (e) and (f) of this code, "immediate family member" means a spouse, child, sibling, or parent of a person issued a contractor's license by the board.

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§30-42-8. Licenses; expiration date; fees; renewal.

(a) A license issued under the provisions of this article expires one year from the date on which it is issued. The board shall establish application and annual license fees not to exceed $150.

(b) The board may propose rules for legislative approval in accordance with §29A-3-1 *et seq.*, of this code to establish license and renewal fees.

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§30-42-9. Unlawful use, assignment, transfer of license; revocation.

No license may be used for any purpose by any person other than the person to whom the license is issued or validly transferred. No license may be assigned, transferred, or otherwise disposed of so as to permit the unauthorized use thereof. No license issued pursuant to the provisions of §30-42-7(b) or (c) of this code may be assigned, transferred, or otherwise disposed of except as provided in said subsections. Any person who violates this section is subject to the penalties imposed in §30-42-14 of this code.

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§30-42-10. Prerequisites to obtaining building permit; mandatory written contracts.

(a) Any person making application to the building inspector or other authority of any incorporated municipality or other political subdivision in this state charged with the duty of issuing building or other permits for the construction of any building, highway, sewer, or structure, or for any removal of materials or earth, grading or improvement shall, before issuance of the permit, either furnish satisfactory proof to the inspector or authority that the person is duly licensed under the provisions of this article to carry out or superintend the construction, or file a written affidavit that the person is not subject to licensure as a contractor or subcontractor as defined in this article. The inspector or authority may not issue a building permit to any person who does not possess a valid contractor's license when required by this article.

(b) No person licensed under the provisions of this article may perform contracting work of an aggregate value of $10,000 or more, including materials and labor, without a written contract, setting forth a description and cost of the work to be performed, signed by the licensee and the person for whom the work is to be performed.

(c) The board shall file a procedural rule setting forth a standard contract form which meets the minimum requirements of this subsection for use by licensees. The board shall post the contract form on its website and shall assist licensees in the correct completion of the form. The board shall mail a written notice of the requirements imposed by the rule to each licensed contractor at the address provided to the board by the contractor on his or her last application for licensure or renewal.

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§30-42-11. Informational list for basic universal design features.

(a) Ninety days after the Contractor Licensing Board certifies and makes available to the general public the standard form informational list of basic universal design features pursuant to this section, a licensed contractor of any proposed residential housing in the state shall provide to the buyer an informational list of basic universal design features that would make the home entrance, interior routes of travel, the kitchen, and the bathroom or bathrooms universally accessible. Basic universal design features are to include, but not be limited to, the following:

(1) At least one nonstep entrance into the dwelling;

(2) All doors on the entry-level floor, including bathrooms, have a minimum of 36 inches;

(3) At least one accessible bathroom on the entry-level floor with ample maneuvering space;

(4) Kitchen, general living space, and one room capable of conversion into a bedroom, all with ample maneuvering space, on the entry-level floor; and

(5) Any other external or internal feature requested at a reasonable time by the buyer and agreed to by the seller.

(b) If a buyer is interested in a specific informational feature on the list established by subsection (a) of this section, the seller or builder upon request of the buyer shall indicate whether the feature is standard, limited, optional, or not available and, if available, shall further indicate the cost of such a feature to the buyer.

(c) The standard form informational list of basic universal design features shall be certified and made available for reproduction by the board, in accordance with the provisions of subsection (a) of this section, based on mutual recommendation of the board, the American Institute of Architects-West Virginia, the Home Builders Association of West Virginia, and the West Virginia Center for Excellence in Disabilities.

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§30-42-12. Notice included with invitations to bid and specifications.

Any architect or engineer preparing any plan and specification for contracting work to be performed in this state shall include in the plan, specification, and invitation to bid a reference to this article informing any prospective bidder that the person's contractor's license number must be included on any bid submission. A subcontractor shall furnish that person's contractor's license number to the contractor prior to the award of the contract.

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§30-42-13. License renewal, lapse, and reinstatement.

(a) A license which is not renewed on or before the renewal date shall lapse. The board may establish by rule on a delayed renewal fee to be paid for issuance of any license which has lapsed: *Provided*, That no license which has lapsed for a period of 90 days or more may be renewed: *Provided, however*, That if a licensee is in a dispute with a state agency, and it is determined that the licensee is not at fault, the board shall renew the license.

(b) If continuing education or other requirements are made a condition of license reinstatement after lapse, suspension, or revocation, these requirements must be satisfied before the license is reissued.

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§30-42-14. Violation of article; injunction; criminal penalties.

(a)(1) Upon a determination that a person is engaged in contracting business in the state without a valid license, the board shall issue a cease and desist order requiring the person to immediately cease all operations in the state. The order shall be withdrawn upon issuance of a license to that person.

(2) After affording an opportunity for a hearing, the board may impose a penalty of not less than $200 nor more than $1,000 upon any person engaging in contracting business in the state without a valid license. The board may accept payment of the penalty in lieu of a hearing.

(3) Within 30 days after receipt of the final order issued pursuant to this section, any party adversely affected by the order may appeal the order to the circuit court of Kanawha County, West Virginia, or to the circuit court of the county in which the petitioner resides or does business.

(b) Any person continuing to engage in contracting business in the state without a valid license after service of a cease and desist order is guilty of a misdemeanor and, upon conviction, is subject to the following penalties:

(1) For a first offense, a fine of not less than $200 nor more than $1,000;

(2) For a second offense, a fine of not less than $500 nor more than $5,000, or confinement in jail for not more than six months, or both fined and confined;

(3) For a third or subsequent offense, a fine of not less than $1,000 nor more than $5,000, and confinement in jail for not less than 30 days nor more than one year.

(c) The board may institute proceedings in the circuit court of the county in which the alleged violations of the provisions of this article occurred or are now occurring to enjoin any violation of any provision of this article.

(d) Any person who undertakes any construction work without a valid license when a license is required by this article, when the total cost of the contractor’s construction contract on any project upon which the work is undertaken is $25,000 or more, shall, in addition to any other penalty herein provided, be assessed by the board an administrative penalty not to exceed $200 per day for each day the person is in violation.

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§30-42-15. Disciplinary powers of the board.

(a) The board may impose the following disciplinary actions:

(1) Permanently revoke a license;

(2) Suspend a license for a specified period;

(3) Censure or reprimand a licensee;

(4) Impose limitations or conditions on the professional practice of a licensee;

(5) Impose requirements for remedial professional education to correct deficiencies in the education, training, and skill of a licensee;

(6) Impose a probationary period requiring a licensee to report regularly to the board on matters related to the grounds for probation; the board may withdraw probationary status if the deficiencies that require the sanction are remedied;

(7) Order a contractor who has been found, after hearing, to have violated any provision of this article or the rules of the board to provide, as a condition of licensure, assurance of financial responsibility. The form of financial assurance may include, but is not limited to, a surety bond, a cash bond, a certificate of deposit, an irrevocable letter of credit, or performance insurance: *Provided*, That the amount of financial assurance required under this subdivision may not exceed the total of the aggregate amount of the judgments or liens levied against the contractor or the aggregate value of any corrective work ordered by the board or both: *Provided, however*, That the board may remove this requirement for licensees against whom no complaints have been filed for a period of five continuous years; and

(8) A fine not to exceed $1,000.

(b) No license issued under the provisions of this article may be suspended or revoked without a prior hearing before the board: *Provided*, That the board may summarily suspend a licensee pending a hearing or pending an appeal after hearing upon a determination that the licensee poses a clear, significant, and immediate danger to the public health and safety.

(c) The board may reinstate the suspended or revoked license of a person if, upon a hearing, the board finds and determines that the person is able to practice with skill and safety.

(d) The board may accept the voluntary surrender of a license: *Provided*, That the license may not be reissued unless the board determines that the licensee is competent to resume practice and the licensee pays the appropriate renewal fee.

(e) A person or contractor adversely affected by disciplinary action may appeal to the board within 60 days of the date the disciplinary action is taken. The board shall hear the appeal within 30 days from receipt of notice of appeal in accordance with the provisions of Chapter

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29A of this code. Hearings shall be held in Charleston. The board may retain a hearing examiner to conduct the hearings and present proposed findings of fact and conclusions of law to the board for its action.

(f) Any party adversely affected by any action of the board may appeal that action in either the circuit court of Kanawha County, West Virginia, or in the circuit court of the county in which the petitioner resides or does business, within 30 days after the date upon which the petitioner received notice of the final order or decision of the board.

(g) The following are causes for disciplinary action:

(1) Abandonment, without legal excuse, of any construction project or operation engaged in or undertaken by the licensee;

(2) Willful failure or refusal to complete a construction project or operation with reasonable diligence, thereby causing material injury to another;

(3) Willful departure from or disregard of plans or specifications in any material respect without the consent of the parties to the contract;

(4) Willful or deliberate violation of the building laws or regulations of the state or of any political subdivision thereof;

(5) Willful or deliberate failure to pay any moneys when due for any materials free from defect, or services rendered in connection with the person’s operations as a contractor when the person has the capacity to pay or when the person has received sufficient funds under the contract as payment for the particular construction work for which the services or materials were rendered or purchased, or the fraudulent denial of any amount with intent to injure, delay, or defraud the person to whom the debt is owed;

(6) Willful or deliberate misrepresentation of a material fact by an applicant or licensee in obtaining a license or in connection with official licensing matters;

(7) Willful or deliberate failure to comply in any material respect with the provisions of this article or the rules of the board;

(8) Willfully or deliberately acting in the capacity of a contractor when not licensed or as a contractor by a person other than the person to whom the license is issued except as an employee of the licensee;

(9) Willfully or deliberately acting with the intent to evade the provisions of this article by: (i) Aiding or abetting an unlicensed person to evade the provisions of this article; (ii) combining or conspiring with an unlicensed person to perform an unauthorized act; (iii) allowing a license to be used by an unlicensed person; or (iv) attempting to assign, transfer, or otherwise dispose of a license or permitting the unauthorized use thereof;

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(10) Engaging in any willful, fraudulent, or deceitful act in the capacity as a contractor whereby substantial injury is sustained by another;

(11) Performing work which is not commensurate with a general standard of the specific classification of contractor or which is below a building or construction code adopted by the municipality or county in which the work is performed;

(12) Knowingly employing a person or persons who do not have the legal right to be employed in the United States;

(13) Failing to execute written contracts prior to performing contracting work in accordance with §30-42-10 of this code;

(14) Failing to abide by an order of the board; or

(15) Failing to satisfy a judgment or execution ordered by a magistrate court, circuit court, or arbitration board.

(h) In all disciplinary hearings the board has the burden of proof as to all matters in contention. No disciplinary action may be taken by the board except on the affirmative vote of at least six members thereof. Other than as specifically set out herein, the board has no power or authority to impose or assess damages.

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§30-42-16. Rules.

The board may propose rules for legislative approval in accordance with §29A-3-1 *et seq*. of this code that are necessary to carry out the provisions of this article. The board may disseminate educational or any other material designed to improve performance standards of any contractor group to contractors within the state. The board may adopt, and use, a seal with the words “State Contractor Licensing Board of West Virginia”. Any rule previously authorized under the provisions of §21-11-1 *et seq*. of this code shall remain in effect until amended, replaced, or repealed by the Legislature.

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§30-42-17. Record keeping.

(a) The board shall keep a record of all actions taken and account for moneys received. All moneys shall be deposited in a special account in the State Treasury to be known as the "West Virginia Contractor Licensing Board Fund". Expenditures from this fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq*. of this code and upon the fulfillment of the provisions set forth in §5A-2-1 *et seq*. of this code. Amounts collected which are found from time to time to exceed the funds needed for purposes set forth in this article may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature.

(b) The board shall maintain at the principal office, open for public inspection during office hours, a complete indexed record of all applications, licenses issued, licenses renewed, and all revocations, cancellations, and suspensions of licenses. Applications shall show the date of application, name, qualifications, place of business, and place of residence of each applicant; and whether the application was approved or refused.

(c)(1) All investigations, complaints, reports, records, proceedings, and other information received by the board and related to complaints made to the board or investigations conducted by the board pursuant to this article, including the identity of the complainant or respondent, are confidential and may not be knowingly and improperly disclosed by any member or former member of the board or staff, except as follows:

(A) Upon a finding that probable cause exists to believe that a respondent has violated the provisions of this article, the complaint and all reports, records, nonprivileged, and nondeliberative materials introduced at any probable cause hearing held pursuant to the complaint are thereafter not confidential: *Provided*, That confidentiality of the information shall remain in full force and effect until the respondent has been served with a copy of the statement of charges.

(B) Any subsequent hearing held in the matter for the purpose of receiving evidence or the arguments of the parties or their representatives shall be open to the public and all reports, records, and nondeliberative materials introduced into evidence at the subsequent hearing, as well as the board's orders, are not confidential.

(C) The board may release any information relating to an investigation at any time if the release has been agreed to in writing by the respondent.

(D) The complaint, as well as the identity of the complainant, shall be disclosed to a person named as respondent in any complaint filed immediately upon the respondent's request.

(E) Where the board is otherwise required by the provisions of this article to disclose the information or to proceed in such a manner that disclosure is necessary and required to fulfill these requirements.

WV Legislature

(2) If, in a specific case, the board finds that there is a reasonable likelihood that the dissemination of information or opinion in connection with a pending or imminent proceeding will interfere with a fair hearing or otherwise prejudice the due administration of justice, the board shall order that all or a portion of the information communicated to the board to cause an investigation and all allegations of violations or misconduct contained in a complaint are confidential, and the person providing this information or filing a complaint shall be bound to confidentiality until further order of the board.

(d) If any person violates the provisions of subsection (c) of this section by knowingly and willfully disclosing any information made confidential by this section or by the board, that person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 nor more than $5,000, or confined in jail not more than one month, or both fined and confined.

WV Legislature

§30-42-18. Reciprocity.

To the extent that other states which provide for the licensing of contractors provide for similar action, the board may grant licenses of the same or equivalent classification to contractors licensed by other states, without written examination upon satisfactory proof furnished to the board that the qualifications of the applicants are equal to the qualifications of holders of similar licenses in this state, and upon certification to the board as required by §30-42-15(c) of this code, and upon payment of the required fee.

WV Legislature

§30-42-19. Board authorized to provide training.

(a) The board may enter into work-sharing agreements with state vocational and technical training schools to provide classroom training to students who desire to obtain a West Virginia contractor license. The purpose of the training is limited to instruction applicable to the contractor license examinations required by the board. The terms of the work-sharing agreements shall be determined by the West Virginia Contractor Licensing Board and county boards of education.

(b) For the purposes of this section, the board may expend funds from its special revenue account, known as the West Virginia Contractor Licensing Board Fund, to support this activity.

WV Legislature

§30-42-20. Nonapplicability of local ordinances; exclusive license.

After the effective date of this article no municipality, local government, or county may require any additional occupational license or other evidence of competence as a contractor from any person, firm, or corporation who or which holds a valid and current license issued pursuant to this article, as a condition precedent to permission for the performance of contractor work in such municipality, local government jurisdiction, or county.

WV Legislature