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## **WEST VIRGINIA LEGISLATURE**

FIRST REGULAR SESSION, 1999

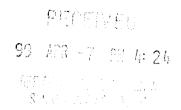
# ENROLLED

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



## **ENROLLED**

## 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

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- 3 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.
  - 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;
  - (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 such 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 section seven, article sixteen-a, chapter nineteen of this code to engage in the application of pesticides for hire, unless the operator also performs structural repairs exceeding one thousand 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

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

- (d) "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.
- (e) "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 such construction.
- (f) "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.
- (g) "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.
- (h) "License" means a license to engage in business in this state as a contractor in one of the classifications set out in this article.
- (i) "Multifamily contractor" means a person who is engaged in construction, repair or improvement of a multifamily 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.
  - (k) "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.
  - (l) "Plumbing contractor" means a person whose principal business is the installation, maintenance, extension and alteration of piping, plumbing fixtures, plumbing appliances 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.
  - (m) "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.
  - (n) "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.
  - (o) "Residential occupancy" means occupancy of a structure for residential purposes for periods greater than thirty consecutive calendar days.
- (p) "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.
- 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.
Chairman Senate Committee
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Chair <b>n</b> an House Committee
Originating in the House.
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