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**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**REGULAR SESSION, 2007**

OFFICE OF THE CLERK OF THE WEST VIRGINIA LEGISLATURE

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**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 21**

(SENATOR BOWMAN, *original sponsor*)

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[Passed March 9, 2007; in effect ninety days from passage.]

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 21**

(SENATOR BOWMAN, *original sponsor*)

[Passed March 9, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §21-11-14 of the Code of West Virginia, 1931, as amended, relating to granting the West Virginia Contractor Licensing Board the authority to take disciplinary action including assessing a civil penalty against a licensee for failure to satisfy an adverse judgment in favor of a consumer entered by a magistrate or circuit court.

*Be it enacted by the Legislature of West Virginia:*

53 receipt of notice of appeal in accordance with the  
54 provisions of chapter twenty-nine-a of this code.  
55 Hearings shall be held in Charleston. The board may  
56 retain a hearing examiner to conduct the hearings and  
57 present proposed findings of fact and conclusions of law  
58 to the board for its action.

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

66 (g) The following are causes for disciplinary action:

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

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

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

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

79 (5) Willful or deliberate failure to pay any moneys  
80 when due for any materials free from defect, or services

81 rendered in connection with the person's operations as  
82 a contractor when the person has the capacity to pay or  
83 when the person has received sufficient funds under the  
84 contract as payment for the particular construction  
85 work for which the services or materials were rendered  
86 or purchased, or the fraudulent denial of any amount  
87 with intent to injure, delay or defraud the person to  
88 whom the debt is owed;

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

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

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

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

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

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

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

118 (13) Failing to execute written contracts prior to  
119 performing contracting work in accordance with section  
120 ten of this article;

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

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

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


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

  
.....  
Chairman Senate Committee

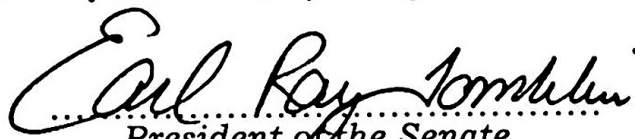
  
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Chairman House Committee


Originated in the Senate.

In effect ninety days from passage.

  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within is approved ..... this  
the 4<sup>th</sup> Day of April ....., 2007.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 03 2007

Time 1:35 p