

2025 SESSION

LEGISLATION NOT PREPARED BY DLS
INTRODUCED

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SENATE BILL NO. 1388

Offered January 13, 2025

Prefiled January 13, 2025

A BILL to amend and reenact §§ 54.1-1100, 54.1-1106, 54.1-1108, 54.1-1108.1, and 54.1-1110.1 of the Code of Virginia, relating to Department of Professional and Occupational Regulation; contractors; designated employees; affiliates.

Patron—French

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-1100, 54.1-1106, 54.1-1108, 54.1-1108.1, and 54.1-1110.1 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-1100. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Affiliate" means a contractor that is connected in some way, whether financially or legally, to a contractor that has applied to the Board for licensure under the provisions of this chapter. The following requirements, conditions, and factors are applicable:

1. Contractors are affiliates of each other when, either directly or indirectly:

a. One business controls or has the power to control the other;

b. A third party controls or has the power to control both;

c. An identity of interest between or among parties exists such that affiliation may be found; or

d. One contractor has a direct or indirect ownership of the other.

2. In determining whether affiliation exists, all appropriate factors shall be considered, including common ownership, common management, and contractual relationships.

"Board" means the Board for Contractors.

"Class A contractors" perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is \$120,000 or more, or (ii) the total value of all such construction, removal, repair, or improvements undertaken by such person within any 12-month period is \$750,000 or more.

"Class B contractors" perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is \$10,000 or more, but less than \$120,000, or (ii) the total value of all such construction, removal, repair or improvements undertaken by such person within any 12-month period is \$150,000 or more, but less than \$750,000.

"Class C contractors" perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is over \$1,000 but less than \$10,000, or (ii) the total value of all such construction, removal, repair, or improvements undertaken by such person within any 12-month period is less than \$150,000. The Board shall require a master tradesmen license as a condition of licensure for electrical, plumbing, and heating, ventilation, and air conditioning contractors.

"Contractor" means any person, that for a fixed price, commission, fee, or percentage undertakes to bid upon, or accepts, or offers to accept, orders or contracts for performing, managing, or superintending, in whole or in part, the construction, removal, repair, or improvement of any building or structure permanently annexed to real property owned, controlled, or leased by him or another person or any other improvements to such real property. For purposes of this chapter, "improvement" ~~shall include~~ *includes* (i) remediation, cleanup, or containment of premises to remove contaminants or (ii) site work necessary to make certain real property usable for human occupancy according to the guidelines established pursuant to § 32.1-11.7.

"Department" means the Department of Professional and Occupational Regulation.

"Designated employee" means the contractor's full-time employee, *a full-time employee of an affiliate of the contractor*, or a member of the contractor's responsible management, who is ~~at least~~ 18 years of age or older and who has successfully completed the oral or written examination required by the Board on behalf of the contractor.

"Director" means the Director of the Department of Professional and Occupational Regulation.

"Fire sprinkler contractor" means a contractor that provides for the installation, repair, alteration, addition, testing, maintenance, inspection, improvement, or removal of sprinkler systems using water as a means of fire suppression when annexed to real property. "Fire sprinkler contracting" does not include the installation, repair, or maintenance of other types of fire suppression systems.

"Owner-developer" means any person who, for a third party purchaser, orders or supervises the construction, removal, repair, or improvement of any building or structure permanently annexed to real

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property owned, controlled, or leased by the owner-developer, or any other improvement to such property, and who contracts with a person licensed in accordance with this chapter for the work undertaken.

"Person" means any individual, firm, corporation, association, partnership, joint venture, or other legal entity.

"Value" means fair market value. When improvements are performed or supervised by a contractor, the contract price shall be prima facie evidence of value.

§ 54.1-1106. Application for Class A license; fees; examination; issuance.

A. Any person desiring to be licensed as a Class A contractor shall file with the Department a written application on a form prescribed by the Board. The application shall be accompanied by a fee set by the Board pursuant to § 54.1-201. The application shall contain the name, place of employment, and business address of the proposed designated employee, and information on the knowledge, skills, abilities, and financial position of the applicant. The Board shall determine whether the past performance record of the applicant, including his reputation for paying material bills and carrying out other contractual obligations, satisfies the purposes and intent of this chapter. The Board shall also determine whether the applicant has complied with the laws of the Commonwealth pertaining to the domestication of foreign corporations and all other laws affecting those engaged in the practice of contracting as set forth in this chapter.

B. As proof of financial responsibility, the applicant shall demonstrate compliance with the minimum net worth requirement fixed by the Board in regulation by providing either:

1. A financial statement on a form prescribed by the Board, subject to additional verification if the Board determines that sufficient questions or ambiguities exist in the applicant's presentation of financial information; or

2. A balance sheet reviewed by a certified public accountant licensed in accordance with § 54.1-4409.1.

C. In lieu of compliance with subsection B, an applicant may demonstrate financial responsibility by electing to obtain and maintain a bond in the amount of \$50,000. Proof of current bond shall come from a corporate surety licensed to do business in the Commonwealth and approved by the Attorney General and shall be filed with the Department.

D. In addition, if the applicant is a sole proprietor, he shall furnish to the Board his name and address. If the applicant is a member of a partnership, he shall furnish to the Board the names and addresses of all of the general partners of the partnership. If the applicant is a member of an association, he shall furnish to the Board the names and addresses of all of the members of the association. If the applicant is a corporation, it shall furnish to the Board the names and addresses of all officers of the corporation. If the applicant is a joint venture, it shall furnish to the Board the names and addresses of (i) each member of the joint venture and (ii) any sole proprietor, general partner of any partnership, member of any association, or officer of any corporation who is a member of the joint venture. The applicant shall thereafter keep the Board advised of any changes in the above information.

E. If the application is satisfactory to the Board, the proposed designated employee shall be required by Board regulations to take an oral or written examination to determine his general knowledge of contracting, including the statutory and regulatory requirements governing contractors in the Commonwealth. If the proposed designated employee successfully completes the examination and the applicant meets or exceeds the other entry criteria established by Board regulations, a Class A contractor license shall be issued to the applicant. The license shall permit the applicant to engage in contracting only so long as the designated employee is in the full-time employment of the contractor *or the contractor's affiliate* or is a member of the contractor's responsible management. No examination shall be required where the licensed Class A contractor changes his form of business entity provided he is in good standing with the Board. In the event the designated employee leaves the full-time employ of the licensed contractor *or the licensed contractor's affiliate* or is no longer a member of the contractor's responsible management, no additional examination shall be required of such designated employee, except in accordance with § 54.1-1110.1, and the contractor shall within 90 days of that departure provide to the Board the name of the new designated employee.

F. The Board may grant a Class A license in any of the following classifications: (i) residential building contractor, (ii) commercial building contractor, (iii) highway/heavy contractor, (iv) electrical contractor, (v) plumbing contractor, (vi) heating, ventilation, and air conditioning contractor, (vii) fire sprinkler contractor, and (viii) specialty contractor.

§ 54.1-1108. Application for Class B license; fees; examination; issuance.

A. Any person desiring to be licensed as a Class B contractor shall file with the Department a written application on a form prescribed by the Board. The application shall be accompanied by a fee set by the Board pursuant to § 54.1-201. The application shall contain the name, place of employment, and business address of the proposed designated employee; information on the knowledge, skills, abilities, and financial position of the applicant; and evidence of holding a current local license pursuant to local ordinances adopted pursuant to § 54.1-1117. The Board shall determine whether the past performance record of the applicant, including his reputation for paying material bills and carrying out other contractual obligations, satisfies the purpose and intent of this chapter. The Board shall also determine whether the applicant has complied with

the laws of the Commonwealth pertaining to the domestication of foreign corporations and all other laws affecting those engaged in the practice of contracting as set forth in this chapter.

B. As proof of financial responsibility, the applicant shall demonstrate compliance with the minimum net worth requirement fixed by the Board in regulation by providing either:

1. A financial statement on a form prescribed by the Board, subject to additional verification if the Board determines that sufficient questions or ambiguities exist in the applicant's presentation of financial information; or

2. A balance sheet reviewed by a certified public accountant licensed in accordance with § 54.1-4409.1.

C. In lieu of compliance with subsection B, an applicant may demonstrate financial responsibility by electing to obtain and maintain a bond in the amount of \$50,000. Proof of current bond shall come from a corporate surety licensed to do business in the Commonwealth and approved by the Attorney General and shall be filed with the Department.

D. In addition, if the applicant is a sole proprietor, he shall furnish to the Board his name and address. If the applicant is a member of a partnership, he shall furnish to the Board the names and addresses of all of the general partners of that partnership. If the applicant is a member of an association, he shall furnish to the Board the names and addresses of all of the members of the association. If the applicant is a corporation, it shall furnish to the Board the name and address of all officers of the corporation. If the applicant is a joint venture, it shall furnish to the Board the names and addresses of (i) each member of the joint venture and (ii) any sole proprietor, general partner of any partnership, member of any association, or officer of any corporation who is a member of the joint venture. The applicant shall thereafter keep the Board advised of any changes in the above information.

E. If the application is satisfactory to the Board, the proposed designated employee shall be required by Board regulations to take an oral or written examination to determine his general knowledge of contracting, including the statutory and regulatory requirements governing contractors in the Commonwealth. If the proposed designated employee successfully completes the examination and the applicant meets or exceeds the other entry criteria established by Board regulations, a Class B contractor license shall be issued to the applicant. The license shall permit the applicant to engage in contracting only so long as the designated employee is in the full-time employment of the contractor *or the contractor's affiliate* and only in the counties, cities, and towns where such person has complied with all local licensing requirements and for the type of work to be performed. No examination shall be required where the licensed Class B contractor changes his form of business entity provided he is in good standing with the Board. In the event the designated employee leaves the full-time employ of the licensed contractor *or the licensed contractor's affiliate*, no additional examination shall be required of such designated employee, except in accordance with § 54.1-1110.1, and the contractor shall within 90 days of that departure provide to the Board the name of the new designated employee.

F. The Board may grant a Class B license in any of the following classifications: (i) residential building contractor, (ii) commercial building contractor, (iii) highway/heavy contractor, (iv) electrical contractor, (v) plumbing contractor, (vi) HVAC contractor, (vii) fire sprinkler contractor, and (viii) specialty contractor.

§ 54.1-1108.1. Waiver of examination; designated employee; Board regulations.

A. Any Class A contractor licensed in the Commonwealth of Virginia prior to January 1, 1991, and in business on December 31, 1990, shall provide to the Board in writing the name of one full-time employee *of the contractor or the contractor's affiliate* or member of the contractor's responsible management who is ~~at least~~ 18 years of age *or older* and that employee shall be deemed to have fulfilled the requirement for examination in § 54.1-1106, so long as he remains a full-time employee of the contractor *or the contractor's affiliate* or remains a member of the contractor's responsible management. The designated employee shall not be required to take an examination if the Class A contractor changes his form of business entity and is in good standing with the Board. Upon his leaving the employ of the contractor *or the contractor's affiliate* or his leaving as a member of the contractor's responsible management, the contractor shall name another full-time employee *of the contractor or the contractor's affiliate* or member of the contractor's responsible management in accordance with § 54.1-1106.

Any Class B contractor registered in the Commonwealth prior to January 1, 1991, and in business on December 31, 1990, shall, within its current period of registration, provide on a form prescribed by the Board satisfactory information on the financial position, and knowledge, skills, and abilities of the registered firm; and the name of a full-time employee *of the contractor or the contractor's affiliate* who is ~~at least~~ 18 years of age *or older* and that employee shall be deemed to have fulfilled the requirement for examination in § 54.1-1108; so long as he remains a full-time employee of the contractor *or the contractor's affiliate*. The designated employee shall not be required to take an examination if the Class B contractor changes his form of business entity and is in good standing with the Board. If such employee leaves the employ of the contractor *or the contractor's affiliate*, the contractor shall name another full-time employee *of the contractor or the contractor's affiliate* in accordance with § 54.1-1108.

B. 1. The Board is directed to revise Board regulations to allow multiple individuals from a single firm to

181 sit for the business examination required to be confirmed as the firm's designated employee. The Board shall
182 also review current regulations and procedures pertaining to the time allowed for a change of the designated
183 employee to determine if the current time for replacement is sufficient and practicable.

184 2. As used in this subsection, "firm" means any business entity recognized under the laws of the
185 Commonwealth of Virginia.

186 **§ 54.1-1110.1. Re-examination of designated employee.**

187 The Board shall have the power to require remedial education or may require a designated employee to
188 retake the examination required by this chapter; in any case where the conduct of the designated employee,
189 while in the employ of a licensed Class A or Class B contractor *or such contractor's affiliate*, has resulted in
190 any disciplinary action by the Board against such contractor.