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4

As Engrossed: H3/18/11 H3/23/11

A Bill

HOUSE BILL 1991

5 *By: Representative Cozart*
6

For An Act To Be Entitled

8 AN ACT TO AMEND ARKANSAS LAW CONCERNING THE
9 RESIDENTIAL BUILDING CONTRACTORS COMMITTEE; TO AMEND
10 THE NAME OF THE RESIDENTIAL BUILDING CONTRACTORS
11 COMMITTEE; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO AMEND ARKANSAS LAW CONCERNING THE
16 RESIDENTIAL BUILDING CONTRACTORS
17 COMMITTEE AND TO AMEND THE NAME OF THE
18 RESIDENTIAL BUILDING CONTRACTORS
19 COMMITTEE.
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 17-25-501 is amended to read as follows:
25 17-25-501. Purpose.

26 It is the intent of this subchapter to protect homeowners and the
27 purchasers of homes constructed in this state by establishing reasonable and
28 adequate licensing and regulation of homebuilders and home improvement
29 contractors. It is intended that this subchapter apply to everyone not
30 specifically excluded. It is also the intent of this subchapter that the
31 Residential ~~Building~~ Contractors Committee be located with the Contractors
32 Licensing Board and that the staff and appropriation for the board be
33 utilized to implement this subchapter.
34

35 SECTION 2. Arkansas Code § 17-25-502 is amended to read as follows:
36 17-25-502. Definitions.



1 For purposes of this subchapter:

2 (1) "Committee" means the Residential ~~Building~~ Contractors
3 Committee created by this subchapter;

4 (2) "Home improvement contractor" means any person, firm,
5 partnership, co-partnership, association, corporation, or other organization
6 or any combination that attempts to or submits a bid, or contracts,
7 undertakes, or assumes charge in a supervisory capacity or otherwise manages
8 the reconstruction, alteration, renovation, repair, modification,
9 improvement, removal, demolition, or addition to any preexisting single
10 family residence or the property and structures appurtenant thereto;

11 ~~(2)(3)~~ (3) "Residential building contractor" means any person, firm,
12 partnership, copartnership, association, corporation, or other organization
13 or any combination thereof, which for a fixed price, commission, fee, or
14 wage, attempts to or submits a bid to construct or contract or undertakes to
15 construct or assumes charge in a supervisory capacity or otherwise manages
16 the construction of a single family residences residence or the property and
17 structures appurtenant thereto; and

18 ~~(3)(4)~~ (4) "Single family residence" means any project consisting of
19 one (1) but not more than four (4) units of new construction for residential
20 occupancy, ~~when the cost of the project is twenty thousand dollars (\$20,000)~~
21 ~~or more. This definition does not apply to subcontractors of licensed~~
22 ~~residential building contractors or to remodeling operations.~~

23
24 SECTION 3. Arkansas Code § 17-25-503(a)(1), concerning the Residential
25 Contractors Committee, is amended to read as follows:

26 (a)(1) There is created the Residential ~~Building~~ Contractors
27 Committee, to consist of seven (7) members.

28
29 SECTION 4. Arkansas Code § 17-25-504 is amended to read as follows:
30 17-25-504. Authority.

31 The Residential ~~Building~~ Contractors Committee may:

32 (1) Issue, modify, suspend, and revoke ~~residential building~~
33 ~~contractor's~~ licenses issued by the committee;

34 (2) Establish qualifications for ~~residential building~~
35 ~~contractor's~~ licenses issued by the committee;

36 (3) Enforce this subchapter and the committee's ~~regulations~~

1 rules;

2 (4) Issue ~~regulations~~ rules necessary for the implementation of
3 this subchapter;

4 (5) Levy civil penalties ~~in the same amounts and under the same~~
5 ~~procedures as prescribed for the Contractors Licensing Board~~ under this
6 subchapter;

7 (6) Issue orders of abatement in the same manner and to the same
8 extent as authorized for the ~~board~~ Contractors Licensing Board under § 17-25-
9 103; and

10 (7) Seek any other civil remedies which are available to the
11 board.

12

13 SECTION 5. Arkansas Code § 17-25-505 is amended to read as follows:

14 17-25-505. License from committee required.

15 (a) No A person shall not act as a residential building contractor
16 after July 1, 2001, unless licensed by the Residential ~~Building~~ Contractors
17 Committee or exempted from licensure under this subchapter.

18 (b) A person shall not act as a home improvement contractor after
19 January 1, 2012, unless:

20 (1) Licensed by the Residential Contractors Committee; or

21 (2) Exempt from licensure under this subchapter.

22

23 SECTION 6. Arkansas Code § 17-25-506 is amended to read as follows:

24 17-25-506. Application for license.

25 (a) Applications for licensure shall be made on forms prescribed by
26 the Residential ~~Building~~ Contractors Committee and shall have attached
27 thereto:

28 (1)(A) A Except as provided in subdivision (a)(1)(B) of this
29 section, a compiled financial statement with each new application for all
30 persons and entities required by this subchapter to be licensed by the
31 Residential Contractors Committee when the cost of the work done or to be
32 done in the State of Arkansas by the contractor, including without limitation
33 labor and materials, is twenty thousand dollars (\$20,000) or more.

34 (B) A person or entity required to be licensed under this
35 subchapter when the cost of the work done or to be done in the State of
36 Arkansas by the contractor, including without limitation labor and materials,

1 is less than twenty thousand dollars (\$20,000) shall not be required to
2 submit a financial statement; and

3 (2) Such other information as required by the committee.

4 (b)(1) The financial statement required with each application is not
5 public information and may not be made available for inspection by any
6 person, unless by an order of a court of competent jurisdiction.

7 (2) After the contractor is licensed, the Contractors Licensing
8 Board shall destroy the financial statement by the process of shredding or
9 returning the financial statement to the contractor.

10
11 SECTION 7. Arkansas Code § 17-25-507 is amended to read as follows:
12 17-25-507. Applicant qualifications.

13 (a) In determining the qualifications of any applicant for original
14 license or any renewal license, the Residential ~~Building~~ Contractors
15 Committee shall consider, among other things, the following:

16 (1) Experience;

17 (2) Ability;

18 (3) The manner of performance of previous contracts;

19 (4) Financial condition;

20 (5) Any other fact tending to show ability and willingness to
21 *conserve the public health and safety; and*

22 (6) Default in complying with the provisions of this subchapter
23 or any other law of the state.

24 (b) The committee may limit a license issued by the committee to the
25 character of work for which the applicant is qualified to perform.

26
27 SECTION 8. Arkansas Code § 17-25-508 is amended to read as follows:
28 17-25-508. Name of licensed contractor.

29 ~~Residential building contractors~~ Contractors licensed under this
30 subchapter may act as such only in the name under which they are licensed by
31 the Residential ~~Building~~ Contractors Committee.

32
33 SECTION 9. Arkansas Code § 17-25-509 is amended to read as follows:
34 17-25-509. Written examination.

35 (a) Except as otherwise provided in this section, ~~no~~ a person shall
36 not be licensed as a residential building contractor unless the person has

1 passed a written examination prescribed by the Residential Building
2 Contractors Committee.

3 ~~(b) Persons licensed by the Contractors Licensing Board shall not be~~
4 ~~required to submit to written examination by the committee but must meet all~~
5 ~~other requirements for licensure as a residential building contractor.~~

6 ~~(c) A property owner who acts as a residential building contractor for~~
7 ~~the purpose of constructing his or her own residence is not required to be~~
8 ~~licensed under this subchapter unless the person constructs more than one (1)~~
9 ~~residence per calendar year.~~

10 (b)(1) Until January 1, 2012, the committee shall waive the written
11 examination for a person who:

12 (A) Submits proof of having obtained five (5) building
13 permits within the three (3) years preceding the date of application;

14 (B) Submits proof of having obtained one (1) building
15 permit within the preceding twelve (12) months; or

16 (C) Submits proof of experience in construction acceptable
17 to the committee.

18 (2) Subsection (b)(1) of this section does not apply to
19 applicants for a residential builder license.

20

21 SECTION 10. Arkansas Code § 17-25-510 is amended to read as follows:

22 17-25-510. Hearings regarding violations.

23 (a) The Residential Building Contractors Committee may conduct
24 hearings regarding alleged violations of this subchapter or regulations
25 promulgated thereunder, and the hearings shall be conducted in accordance
26 with the Arkansas Administrative Procedure Act, § 25-15-201 et seq. The
27 committee shall within a reasonable time make findings and determinations as
28 a result of the hearings.

29 (b) A contractor who, after notice and hearing, is found to have
30 committed the following actions shall pay to the Contractors Licensing Board
31 a civil penalty of not less than one hundred dollars (\$100) nor more than
32 four hundred dollars (\$400) for each day that the violation occurred:

33 (1) Acting as a contractor without having a valid license in
34 violation of this chapter;

35 (2) Using a contractor in violation of this chapter;

36 (3) Presenting or filing the license certificate of another;

1 (4) Giving false or forged evidence of any kind to the board in
2 obtaining a certificate of license;

3 (5) Using an expired or revoked certificate of license;

4 (6) Giving false or fraudulent evidence of a contractor's
5 license to another person or entity; or

6 (7) Committing other violations under this chapter.

7 (c) The committee may revoke the certificate of license of any
8 contractor licensed under this subchapter who is found guilty of:

9 (1) Fraud or deceit in obtaining a license;

10 (2) Aiding or abetting a contractor or person to violate this
11 chapter; or

12 (3) Gross negligence, incompetence, or misconduct in the
13 contractor's business.

14
15 SECTION 11. Arkansas Code § 17-25-511 is amended to read as follows:

16 17-25-511. Appeal from committee decision.

17 Any person aggrieved by an action or decision of the Residential
18 ~~Building~~ Contractors Committee may appeal to the Contractors Licensing Board
19 within ten (10) calendar days after the action or decision under procedures
20 prescribed by the board. Aggrieved parties shall be granted an opportunity to
21 address the board regarding the committee's actions, and the final actions of
22 the board shall be binding upon the committee.

23
24 SECTION 12. Arkansas Code § 17-25-512 is amended to read as follows:

25 17-25-512. Expiration of license -- Fees.

26 All licenses issued by the Contractors Licensing Board shall expire one
27 (1) year after the date of issuance unless otherwise provided by the
28 Residential ~~Building~~ Contractors Committee. The committee may charge
29 reasonable examination fees and delinquency fees and may charge a fee not to
30 exceed one hundred dollars (\$100) for new licenses or renewal of a license.
31 All fees and other moneys collected by the committee shall be disposed of as
32 provided by § 17-25-205 and shall be used by the board to implement this
33 subchapter.

34
35 SECTION 13. Arkansas Code § 17-25-513 is amended to read as follows:

36 17-25-513. ~~Exemption for personal homebuilder~~ Exemptions.

1 ~~Nothing in this subchapter shall be construed as requiring a person who~~
2 ~~acts as a residential building contractor in the construction of his or her~~
3 ~~own residence to obtain a license from the Residential Building Contractors~~
4 ~~Committee unless the person builds more than one (1) residence during any~~
5 ~~year.~~

6 The following shall be exempted from the licensing requirements of this
7 subchapter:

8 (1) A person who acts as a residential building contractor in
9 the construction of his or her residence unless he or she builds more than
10 one (1) residence during any calendar year;

11 (2) The owner of a single family residence acting as his or her
12 own home improvement contractor on his or her own property;

13 (3)(A) A person or entity acting as a residential building
14 contractor or a home improvement contractor on any project, when the cost of
15 the work done or to be done does not exceed two thousand dollars (\$2,000).

16 (B) Subdivision (3)(A) of this section shall not apply to
17 a project in which the construction work necessary to complete the project is
18 divided into separate contracts of amounts less than two thousand dollars
19 (\$2,000);

20 (4) A subcontractor of a contractor licensed by the Residential
21 Contractors Committee; and

22 (5) A person or entity licensed as a contractor by another
23 licensing agency, board, or commission of the State of Arkansas if the
24 contractor is performing work within the scope of the license held by the
25 person or entity.

26
27 SECTION 14. Arkansas Code 17-25-514 is amended to read as follows:

28 17-25-514. Workers' compensation required.

29 (a) A ~~residential building~~ contractor required to be licensed by the
30 Residential ~~Building~~ Contractors Committee as a residential building
31 contractor shall secure the payment of workers' compensation under § 11-9-
32 401 et seq.

33 (b) The committee shall require proof of current workers' compensation
34 coverage before issuing or renewing a license as a residential building
35 contractor.

36 (c) Unless otherwise required by law, a home improvement contractor

1 required to be licensed under this subchapter shall not be required to secure
2 the payment of workers' compensation under § 11-9-401 et seq. or provide
3 proof of coverage to the committee before issuing or receiving a license if
4 the cost of the work done or to be done in the State of Arkansas by the home
5 improvement contractor, including without limitation labor and materials, is
6 less than twenty thousand dollars (\$20,000).

7 ~~(e)~~(d)(1) *If a contractor fails to maintain workers' compensation*
8 *coverage or fails to maintain proof of current workers' compensation coverage*
9 *on file with the committee, the committee shall revoke the contractor's*
10 *license.*

11 (2) A contractor's license that has been revoked due to failure
12 to maintain workers' compensation coverage may be reinstated upon receipt of
13 proof that the contractor has secured workers' compensation coverage.

14 ~~(d)~~(e) The committee shall promulgate rules necessary to enforce this
15 section.

16
17 SECTION 15. Arkansas Code Title 17, Chapter 25, Subchapter 5 is
18 amended to add a new section to read as follows:

19 17-25-515. Actions to enforce contracts in violation of this
20 subchapter.

21 A contractor found guilty of a violation of this subchapter shall not
22 bring an action:

23 (1) In law or equity to enforce any provision of a contract
24 entered into in violation of this subchapter; or

25 (2) For quantum meruit.

26
27 /s/Cozart

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30 **APPROVED: 04/05/2011**