

1 HB231
2 165024-4
3 By Representative Williams (JD)
4 RFD: Boards, Agencies and Commissions
5 First Read: 11-MAR-15

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ENROLLED, An Act,

To amend Sections 34-31-18, 34-31-20, 34-31-21, 34-31-24, 34-31-25, and 34-31-26, Code of Alabama 1975, relating to the regulation of heating and air conditioning contractors, to include the regulation of the practices of checking duct tightness by the Board of Heating, Air Conditioning, and Refrigeration Contractors; and to provide for the definition of terms, fees, and training requirements for such practices; to provide for classroom training for home builders through the nonprofit Alabama Home Builders Foundation; and to provide further for the renewal date for certification.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-31-18, 34-31-20, 34-31-21, 34-31-24, 34-31-25, and 34-31-26, Code of Alabama 1975, are amended to read as follows:

"§34-31-18.

"For the purposes of this chapter, the following terms shall have the meanings herein ascribed to them unless the context clearly indicates otherwise:

"(1) ADMINISTRATIVE PROCEDURE LAW. Sections 41-22-1 through 41-22-27, and any subsequent amendment or supplement thereto, and any rules or regulations promulgated thereto.

1 "(2) APPRENTICE. A person other than a certified
2 heating, air conditioning, or refrigeration contractor, who is
3 engaged in learning and assisting in the installation,
4 service, or repair of a heating, air conditioning, or
5 refrigeration system and working under the direct supervision
6 of a certified heating, air conditioning, or refrigeration
7 contractor, and who has successfully fulfilled the voluntary
8 registration requirements of the board and has been duly
9 registered by the board as such for the current year.

10 "(3) BOARD. The State Board of Heating, Air
11 Conditioning, and Refrigeration Contractors, herein
12 established.

13 "(4) CERTIFICATION. The process of testing to
14 determine the knowledge and skill of an individual with
15 respect to heating, air conditioning, and refrigeration. This
16 term is used herein interchangeably with the term "license."

17 "(5) CERTIFIED HEATING AND AIR CONDITIONING
18 CONTRACTOR. ~~Any individual or any regularly employed person
19 for any partnership or corporation who for hire is engaged in
20 the installation or service and repair of heating and air
21 conditioning systems.~~ Any and all legal entities engaged in
22 the business of heating and air conditioning contracting and
23 installation or service and repair.

1 "(6) CERTIFIED REFRIGERATION CONTRACTOR. Any and all
2 legal entities engaged in the business of refrigeration
3 contracting and servicing, installation, and repair.

4 "(7) DUCT AIR TIGHTNESS TESTING CONTRACTOR. Any
5 individual who engages in the practice of testing and
6 verifying duct air tightness in conjunction with the
7 installation, service, or repair of a heating and air
8 conditioning system.

9 "~~(7)~~(8) HEATING AND AIR CONDITIONING SYSTEMS OR
10 SYSTEM. A heating and/or cooling apparatus consisting of an
11 air heating and/or cooling fixture from pipes, plenums, or
12 blowers including any accessory and equipment installed in
13 connection herewith; specifically excluding window units,
14 automotive, or farm implement type heating and/or air
15 conditioning equipment.

16 "~~(8)~~(9) INSTALLATION. The act of setting up or
17 installing a heating and air conditioning system or
18 refrigeration system for operation and use.

19 "~~(9)~~(10) REFRIGERATION. The use of mechanical or
20 absorption equipment to control temperature, humidity, or
21 both, in order to satisfy the intended use of a specific
22 space, other than for human comfort.

23 "~~(10)~~(11) REFRIGERATION TRADE OR BUSINESS. Includes
24 any and all legal entities engaged in the installation,

1 maintenance, servicing, and repairing of refrigerating
2 machinery, equipment, devices, and components.

3 "~~(11)~~(12) REGULARLY EMPLOYED PERSON. A person who is
4 an actual employee of the business, not an independent
5 contractor. The person must work an average of 30 or more
6 hours per week for the heating, air conditioning, or
7 refrigeration business. A regularly employed person must not
8 be paid as an independent contractor and must receive a W-2
9 for all earnings.

10 "~~(12)~~(13) RESPONSIBLE CHARGE. The direction of
11 projects involving the installation or service and repair of
12 heating, air conditioning, and refrigeration systems requiring
13 initiation, professional skills, technical knowledge, and
14 independent judgment.

15 "~~(13)~~(14) SERVICE AND REPAIR. The act of maintaining
16 for operation a heating, air conditioning, or refrigeration
17 system which has previously been installed including parts
18 replacement within a piece of equipment.

19 "§34-31-20.

20 "(a) The Board of Heating and Air Conditioning
21 Contractors as created by Act 82-547, 1982 Regular Session
22 (Acts 1982, p. 900), is renamed the Board of Heating, Air
23 Conditioning, and Refrigeration Contractors. The authority of
24 the board is expanded to allow the board to examine, certify,

1 and regulate heating, air conditioning, and refrigeration on a
2 statewide basis.

3 "(b) The board shall consist of 12 members, who
4 shall be citizens of this state and who shall be subject to
5 confirmation by the Senate. The seven initial appointments
6 shall be effective as of July 1, 1982, as follows: One member
7 shall be appointed by the Governor for an initial term of one
8 year, and shall be a licensed professional engineer; one
9 member shall be appointed by the Governor for an initial term
10 of four years and shall be a heating and air conditioning
11 contractor; one member shall be appointed by the Lieutenant
12 Governor for an initial term of three years and shall be a
13 trade representative of an equipment manufacturer or supplier;
14 one member shall be appointed by the Governor for an initial
15 term of three years and shall be a consumer from the general
16 public; one member shall be appointed by the Speaker of the
17 House of Representatives for an initial term of two years and
18 shall be a trade representative of the service, repair parts
19 industry; one member shall be appointed by the Lieutenant
20 Governor for an initial term of two years, and shall be a
21 representative from county or local inspection services
22 department; and one member shall be appointed by the Speaker
23 of the House of Representatives for an initial term of three
24 years, and shall be a consumer from the general public. Three
25 additional members shall be appointed to serve four-year terms

1 beginning on January 1, 2001. Each of these three additional
2 members shall be heating and air conditioning or refrigeration
3 contractors. One of these additional members shall be
4 appointed by the Governor, one of these additional members
5 shall be appointed by the Lieutenant Governor, and one of
6 these additional members shall be appointed by the President
7 Pro Tempore of the Senate. An additional two members, who
8 shall be heating and air conditioning contractors, shall be
9 appointed by the Speaker of the House of Representatives for
10 initial terms of three years. Their successors, who shall be
11 appointed by the same respective appointing authorities, and
12 shall possess the same respective occupational qualifications,
13 shall each serve not more than two consecutive terms of office
14 of four years each and until their successors are appointed
15 and qualified. The membership of the board shall be inclusive
16 and reflect the racial, gender, geographic, urban/rural, and
17 economic diversity of the state.

18 "(c) All moneys, equipment, and property of the
19 board created pursuant to Sections 34-31-1 through 34-31-17,
20 inclusive, shall, effective July 1, 1982, be transferred to
21 the board created in subsection (a). The board shall pay all
22 money received under this chapter to the State Treasurer, who
23 shall keep the money in a separate fund for the board. All
24 money remaining at the end of the fiscal year which exceeds 25
25 percent of the board's budget for the previous year shall be

1 transferred to the ~~State General Fund~~ 501(c)(3) nonprofit
2 Alabama Home Builders Foundation to be used exclusively for
3 classroom training tools at educational facilities that
4 provide heating, air conditioning and/or refrigeration
5 curriculum to include any program approved or accredited by
6 the State of Alabama, United States federal government, or any
7 state or federal governmental agency or board. If, at any
8 time, the Alabama Home Builders Foundation should lose its
9 nonprofit status, those funds shall be transferred to the
10 State General Fund.

11 "§34-31-21.

12 "(a) The board shall elect from among its members a
13 chairman, vice-chairman, and a secretary. The board may hire
14 an executive director to serve at the pleasure of the board.
15 The board may require the executive director to perform the
16 duties required by this section and any other tasks required
17 by the board. The board shall set the salary of the executive
18 director. The executive director, with the consent of the
19 board, may employ a deputy director who shall serve at the
20 pleasure of the ~~board~~ executive director. The salary and
21 compensation for the deputy director shall be set by the board
22 and shall not exceed the salary set for the executive
23 director.

24 "(b) The chairman shall preside over meetings of the
25 board. The vice-chairman shall preside over meetings of the

1 board in the absence of the chairman. The chairman shall
2 designate another member to preside in the absence of the
3 chairman and vice-chairman.

4 "(c) The secretary or, if directed by the board, the
5 executive director shall perform the following tasks:

6 "(1) Keep all minutes, books, records, and files of
7 the board.

8 "(2) Issue all certificates in the name of the
9 board.

10 "(3) Send all notices and attend to all
11 correspondence directed by the board.

12 "(4) Receive and deposit all fees.

13 "(5) Perform all incidental duties of the office as
14 directed by the board.

15 "(d) The secretary shall give bond, payable to the
16 Governor, in the penal sum of \$5,000 for the faithful
17 performance of his or her duties, and the premium therefor
18 shall be paid from the fees of the board.

19 "(e) No moneys shall be withdrawn from the funds of
20 the board except by direction of the board as provided by
21 state law.

22 "(f) A majority of the board shall constitute a
23 quorum for the transaction of all business.

24 "(g) The board is also authorized to adopt and
25 publish minimum repair and service standards for its certified

1 contractors, and shall mail a copy thereof to every certified
2 contractor at least 30 days before the standard of criteria
3 becomes effective. Certified contractors who fail to comply
4 with such minimum standards and criteria shall be punished as
5 prescribed in Section 34-31-32(a).

6 "(h) The board is authorized to hold hearings, call
7 witnesses, administer oaths, take testimony, and obtain
8 evidence in the conduct of its business. It is further
9 authorized to take such disciplinary actions as are authorized
10 in subsection (c) of Section 34-31-32.

11 "(i) The board is authorized to expend funds for
12 purposes of public awareness of the board and its rules and
13 regulations to include advertising, promotional materials,
14 event exhibiting, staff uniforms, or other means approved by
15 the board.

16 "§34-31-24.

17 "(a) (1) No individual, partnership, or corporation
18 shall advertise, solicit, bid, obtain permit, do business, or
19 perform the function of a certified contractor unless the
20 person or persons in responsible charge, as defined in Section
21 34-31-18~~(12)~~, are certified contractors.

22 "~~(b)~~ (2) Every contractor licensed under this chapter
23 shall display the contractor's certification number and the
24 company name on any and all documentation, forms of
25 advertising, and on all service and installation vehicles used

1 in conjunction with heating, air conditioning, and
 2 refrigeration contracting.

3 ~~"(c)(3)~~ A contractor licensed under this chapter may
 4 not permit the use of his or her license by any other persons.

5 ~~"(d)(4)~~ No official charged with the duty of issuing
 6 licenses to any individual, partnership, or corporation to
 7 operate a business as a certified contractor shall issue such
 8 license unless there is presented for inspection a certificate
 9 of qualification as provided for herein issued by the board to
 10 the individual or to some person in responsible charge with
 11 the partnership or corporation.

12 "(b) The following requirements apply to the
 13 practice of testing or verifying duct air tightness:

14 "(1) Any individual who engages in the practice of
 15 testing and verifying duct air tightness is required to
 16 register with the board. Such individuals shall not be
 17 required to become a certified heating and air conditioning
 18 contractor, but shall complete training as set forth by this
 19 subsection. The board shall maintain a list of individuals who
 20 are registered duct envelope testing contractors in the
 21 practice of testing and verifying duct air tightness and
 22 leakage. The board may establish fees to be paid by
 23 registrants. All fees must accompany the application for
 24 registration and are nonrefundable. All registrations must be
 25 renewed by December 31 of each year beginning in 2016. The

1 board may establish a late fee for those individuals failing
2 to renew December 31.

3 "(2) Any board certified heating and air
4 conditioning contractor or home builder licensed by the
5 Alabama Home Builders Licensure Board, seeking to register as
6 a duct tightness tester for the purposes of testing ducts on
7 his or her own project or on a third party basis for the
8 general public, must successfully complete the Residential
9 Energy Services Network Home Energy Rating Systems (HERS)
10 Rater training, the Building Performance Institute Building
11 Analyst (BPI) training, or the Home Builders Association of
12 Alabama Qualified Credentialed Air Tightness Verifier (QCATV)
13 training. Any applicant that is not a board certified
14 contractor or a licensed home builder seeking to register as a
15 duct tightness tester for the purposes of testing duct work on
16 a third party basis for the general public, must successfully
17 complete the Residential Energy Services Network Home Energy
18 Rating System (HERS) Rater training or the Building
19 Performance Institute Building Analyst (BPI) training. Each
20 applicant must submit verification that he or she has
21 successfully completed the training required by at least one
22 of the above listed programs to the board prior to receiving
23 the registration in order to be added to the list of
24 registered individuals. Each registrant must submit proof of

1 completion, approved by the Home Builders Association of
2 Alabama, prior to annual re-registration by the board.

3 "(3) The board may discipline any registrant who
4 fails to conduct air tightness testing to the standards set
5 forth by the board. Discipline for registrants may include any
6 and all penalties authorized by this chapter.

7 "§34-31-25.

8 "(a) (1) For the purpose of defraying the expense in
9 carrying out the provisions of this chapter, the board may fix
10 fees to be paid by applicants for certificates for the
11 issuance, reissuance, and replacement of certificates and for
12 any other service provided by the board, but in no event shall
13 the charges fixed by the board exceed ~~two hundred dollars~~
14 ~~(\$200) two hundred fifty dollars (\$250).~~ The inactive fees may
15 be waived for building officials or inspectors, as defined by
16 the International Code Council. All fees fixed by the board
17 must accompany the application, and no part of the fees shall
18 be refunded. The fees shall be received by the board and held
19 solely for the purpose of paying the expense of carrying out
20 the provisions of this chapter.

21 "(2) Renewal fees shall be established by the board
22 as to insure adequate funding to support the board. Fees shall
23 not exceed two hundred fifty dollars (\$250) per year. The
24 amount of these fees shall be established by the board on an
25 annual basis to provide adequate funding to support the board

1 and to pay the expenses incurred for applications,
 2 examinations, and/or renewals of licenses.

3 "(b) Fees for apprentice registration and annual
 4 renewal fees shall not exceed fifty dollars (\$50).

5 "(c) All penalties collected by the board shall be
 6 used in the same manner and for the same purpose as fees.

7 ~~"(d) Renewal fees shall be established by the board
 8 as to insure adequate funding to support the board. Fees shall
 9 not exceed two hundred dollars (\$200) per year. The amount of
 10 these fees shall be established by the board on an annual
 11 basis to provide adequate funding to support the board and to
 12 pay the expenses incurred for applications, examinations,
 13 and/or renewals of licenses.~~

14 "(d) Fees for Duct Envelope Testing Contractors
 15 application and annual renewal shall not exceed one hundred
 16 dollars (\$100).

17 "§34-31-26.

18 "(a) All certificates provided for herein shall be
 19 renewed annually, not later than ~~90 days after the first day~~
 20 ~~of October~~ December 31 of each year. All holders of
 21 certificates may be renewed annually, provided that the
 22 certified contractor has complied with all provisions of law
 23 and rules and regulations of the board thereof, upon payment
 24 of ~~a renewal fee~~ all fees set forth by the board as provided
 25 for in this chapter.

1 "(b) Any person certified by the board may elect an
2 inactive status certificate by notifying the board in writing.
3 The fee for the issuance and renewal of an inactive status
4 certificate shall be established by the board in an amount not
5 to exceed one-half of the amount set for fees pursuant to
6 Section 34-31-25.

7 "(c) The board shall provide by rule or regulation
8 those activities which an inactive status certificate holder
9 may engage in, and for a procedure for the reinstatement as an
10 active status certificate holder.

11 "(d) The board shall adopt an annual program of
12 continuing education for its certified contractors by January
13 1 of each year. All certified contractors shall be required to
14 complete at least four hours of continuing education every
15 year. In the event a contractor completes an excess of four
16 hours continuing education in a calendar year, he or she may
17 carry over four years to the following renewal year. This
18 minimum continuing education requirement will begin during the
19 calendar year 2001. All certified contractors will be required
20 to complete the minimum continuing education requirements
21 prior to renewal in all years beginning January 1, 2002.

22 "(e) The failure to complete the minimum continuing
23 education requirements shall prevent the renewal of the
24 certified contractor's license until proof of compliance with
25 the continuing education requirement is submitted to the

1 board. The board may permit a certified contractor to submit a
2 deficiency plan to the board for approval by January 1 of each
3 year for medical hardships and emergencies that prevent the
4 certified contractor from complying with the continuing
5 education requirements on time. This deficiency plan shall be
6 specific in describing the plan for full compliance with the
7 continuing education requirement and shall be accompanied by a
8 deficiency plan fee established by the board.

9 "(f) The board shall adopt rules that prescribe the
10 policies, procedures, and fees for obtaining board approval of
11 the providers, courses, and instructors for the continuing
12 education program.

13 "(g) Any inactive contractor who is 65 years of age
14 or older is exempt from continuing education requirements.

15 "(h) A contractor is exempt from completing
16 continuing education requirements during the first year he or
17 she receives his or her certification with the board."

18 Section 2. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.

