

1 SB290  
2 165024-3  
3 By Senator Livingston  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 19-MAR-15

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8 SYNOPSIS: Current law provides for the regulation of  
9 heating and air conditioning contracting.

10 This bill would provide additional  
11 requirements for individuals and entities regarding  
12 testing for duct tightness.

13 This bill would also provide for classroom  
14 training for home builders through the nonprofit  
15 Alabama Home Builders Foundation.

16 This bill would provide further for the  
17 renewal date for certification.

18  
19 A BILL

20 TO BE ENTITLED

21 AN ACT

22  
23 To amend Sections 34-31-18, 34-31-20, 34-31-21,  
24 34-31-24, 34-31-25, and 34-31-26, Code of Alabama 1975,  
25 relating to the regulation of heating and air conditioning  
26 contractors, to include the regulation of the practices of  
27 checking duct tightness by the Board of Heating, Air

1 Conditioning, and Refrigeration Contractors; and to provide  
2 for the definition of terms, fees, and training requirements  
3 for such practices; to provide for classroom training for home  
4 builders through the nonprofit Alabama Home Builders  
5 Foundation; and to provide further for the renewal date for  
6 certification.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 34-31-18, 34-31-20, 34-31-21,  
9 34-31-24, 34-31-25, and 34-31-26, Code of Alabama 1975, are  
10 amended to read as follows:

11 "§34-31-18.

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

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

18 "(2) APPRENTICE. A person other than a certified  
19 heating, air conditioning, or refrigeration contractor, who is  
20 engaged in learning and assisting in the installation,  
21 service, or repair of a heating, air conditioning, or  
22 refrigeration system and working under the direct supervision  
23 of a certified heating, air conditioning, or refrigeration  
24 contractor, and who has successfully fulfilled the voluntary  
25 registration requirements of the board and has been duly  
26 registered by the board as such for the current year.

1           "(3) BOARD. The State Board of Heating, Air  
2           Conditioning, and Refrigeration Contractors, herein  
3           established.

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

8           "(5) CERTIFIED HEATING AND AIR CONDITIONING  
9           CONTRACTOR. ~~Any individual or any regularly employed person  
10           for any partnership or corporation who for hire is engaged in  
11           the installation or service and repair of heating and air  
12           conditioning systems.~~ Any and all legal entities engaged in  
13           the business of heating and air conditioning contracting and  
14           installation or service and repair.

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

18           "(7) DUCT AIR TIGHTNESS TESTING CONTRACTOR. Any  
19           individual who engages in the practice of testing and  
20           verifying duct air tightness in conjunction with the  
21           installation, service, or repair of a heating and air  
22           conditioning system.

23           "~~(7)~~ (8) HEATING AND AIR CONDITIONING SYSTEMS OR  
24           SYSTEM. A heating and/or cooling apparatus consisting of an  
25           air heating and/or cooling fixture from pipes, plenums, or  
26           blowers including any accessory and equipment installed in  
27           connection herewith; specifically excluding window units,

1 automotive, or farm implement type heating and/or air  
2 conditioning equipment.

3 "~~(8)~~(9) INSTALLATION. The act of setting up or  
4 installing a heating and air conditioning system or  
5 refrigeration system for operation and use.

6 "~~(9)~~(10) REFRIGERATION. The use of mechanical or  
7 absorption equipment to control temperature, humidity, or  
8 both, in order to satisfy the intended use of a specific  
9 space, other than for human comfort.

10 "~~(10)~~(11) REFRIGERATION TRADE OR BUSINESS. Includes  
11 any and all legal entities engaged in the installation,  
12 maintenance, servicing, and repairing of refrigerating  
13 machinery, equipment, devices, and components.

14 "~~(11)~~(12) REGULARLY EMPLOYED PERSON. A person who is  
15 an actual employee of the business, not an independent  
16 contractor. The person must work an average of 30 or more  
17 hours per week for the heating, air conditioning, or  
18 refrigeration business. A regularly employed person must not  
19 be paid as an independent contractor and must receive a W-2  
20 for all earnings.

21 "~~(12)~~(13) RESPONSIBLE CHARGE. The direction of  
22 projects involving the installation or service and repair of  
23 heating, air conditioning, and refrigeration systems requiring  
24 initiation, professional skills, technical knowledge, and  
25 independent judgment.

26 "~~(13)~~(14) SERVICE AND REPAIR. The act of maintaining  
27 for operation a heating, air conditioning, or refrigeration

1 system which has previously been installed including parts  
2 replacement within a piece of equipment.

3 "§34-31-20.

4 "(a) The Board of Heating and Air Conditioning  
5 Contractors as created by Act 82-547, 1982 Regular Session  
6 (Acts 1982, p. 900), is renamed the Board of Heating, Air  
7 Conditioning, and Refrigeration Contractors. The authority of  
8 the board is expanded to allow the board to examine, certify,  
9 and regulate heating, air conditioning, and refrigeration on a  
10 statewide basis.

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

1 Governor for an initial term of two years, and shall be a  
2 representative from county or local inspection services  
3 department; and one member shall be appointed by the Speaker  
4 of the House of Representatives for an initial term of three  
5 years, and shall be a consumer from the general public. Three  
6 additional members shall be appointed to serve four-year terms  
7 beginning on January 1, 2001. Each of these three additional  
8 members shall be heating and air conditioning or refrigeration  
9 contractors. One of these additional members shall be  
10 appointed by the Governor, one of these additional members  
11 shall be appointed by the Lieutenant Governor, and one of  
12 these additional members shall be appointed by the President  
13 Pro Tempore of the Senate. An additional two members, who  
14 shall be heating and air conditioning contractors, shall be  
15 appointed by the Speaker of the House of Representatives for  
16 initial terms of three years. Their successors, who shall be  
17 appointed by the same respective appointing authorities, and  
18 shall possess the same respective occupational qualifications,  
19 shall each serve not more than two consecutive terms of office  
20 of four years each and until their successors are appointed  
21 and qualified. The membership of the board shall be inclusive  
22 and reflect the racial, gender, geographic, urban/rural, and  
23 economic diversity of the state.

24 "(c) All moneys, equipment, and property of the  
25 board created pursuant to Sections 34-31-1 through 34-31-17,  
26 inclusive, shall, effective July 1, 1982, be transferred to  
27 the board created in subsection (a). The board shall pay all

1 money received under this chapter to the State Treasurer, who  
2 shall keep the money in a separate fund for the board. All  
3 money remaining at the end of the fiscal year which exceeds 25  
4 percent of the board's budget for the previous year shall be  
5 transferred to the ~~State General Fund~~ 501(c)(3) nonprofit  
6 Alabama Home Builders Foundation to be used exclusively for  
7 classroom training tools at educational facilities that  
8 provide heating, air conditioning and/or refrigeration  
9 curriculum to include any program approved or accredited by  
10 the State of Alabama, United States federal government, or any  
11 state or federal governmental agency or board. If, at any  
12 time, the Alabama Home Builders Foundation should lose its  
13 nonprofit status, those funds shall be transferred to the  
14 State General Fund.

15 "§34-31-21.

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



1           "(b) The chairman shall preside over meetings of the  
2 board. The vice-chairman shall preside over meetings of the  
3 board in the absence of the chairman. The chairman shall  
4 designate another member to preside in the absence of the  
5 chairman and vice-chairman.

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

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

10          "(2) Issue all certificates in the name of the  
11 board.

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

14          "(4) Receive and deposit all fees.

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

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

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

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

26          "(g) The board is also authorized to adopt and  
27 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  
26 in conjunction with heating, air conditioning, and  
27 refrigeration contracting.

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

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

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

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

26           "(2) Any board certified heating and air  
27 conditioning contractor or home builder licensed by the

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

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

27 "§34-31-25.

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

14           "(2) Renewal fees shall be established by the board  
15 as to insure adequate funding to support the board. Fees shall  
16 not exceed two hundred fifty dollars (\$250) per year. The  
17 amount of these fees shall be established by the board on an  
18 annual basis to provide adequate funding to support the board  
19 and to pay the expenses incurred for applications,  
20 examinations, and/or renewals of licenses.

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

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

25           "~~(d) Renewal fees shall be established by the board~~  
26 ~~as to insure adequate funding to support the board. Fees shall~~  
27 ~~not exceed two hundred dollars (\$200) per year. The amount of~~

1 ~~these fees shall be established by the board on an annual~~  
2 ~~basis to provide adequate funding to support the board and to~~  
3 ~~pay the expenses incurred for applications, examinations,~~  
4 ~~and/or renewals of licenses.~~

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

8 "§34-31-26.

9 "(a) All certificates provided for herein shall be  
10 renewed annually, not later than ~~90 days after the first day~~  
11 ~~of October~~ December 31 of each year. All holders of  
12 certificates may be renewed annually, provided that the  
13 certified contractor has complied with all provisions of law  
14 and rules and regulations of the board thereof, upon payment  
15 of ~~a renewal fee~~ all fees set forth by the board as provided  
16 for in this chapter.

17 "(b) Any person certified by the board may elect an  
18 inactive status certificate by notifying the board in writing.  
19 The fee for the issuance and renewal of an inactive status  
20 certificate shall be established by the board in an amount not  
21 to exceed one-half of the amount set for fees pursuant to  
22 Section 34-31-25.

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

1           "(d) The board shall adopt an annual program of  
2 continuing education for its certified contractors by January  
3 1 of each year. All certified contractors shall be required to  
4 complete at least four hours of continuing education every  
5 year. In the event a contractor completes an excess of four  
6 hours continuing education in a calendar year, he or she may  
7 carry over four years to the following renewal year. This  
8 minimum continuing education requirement will begin during the  
9 calendar year 2001. All certified contractors will be required  
10 to complete the minimum continuing education requirements  
11 prior to renewal in all years beginning January 1, 2002.

12           "(e) The failure to complete the minimum continuing  
13 education requirements shall prevent the renewal of the  
14 certified contractor's license until proof of compliance with  
15 the continuing education requirement is submitted to the  
16 board. The board may permit a certified contractor to submit a  
17 deficiency plan to the board for approval by January 1 of each  
18 year for medical hardships and emergencies that prevent the  
19 certified contractor from complying with the continuing  
20 education requirements on time. This deficiency plan shall be  
21 specific in describing the plan for full compliance with the  
22 continuing education requirement and shall be accompanied by a  
23 deficiency plan fee established by the board.

24           "(f) The board shall adopt rules that prescribe the  
25 policies, procedures, and fees for obtaining board approval of  
26 the providers, courses, and instructors for the continuing  
27 education program.

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

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

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