SB101

QPDK454-1

By Senators Kelley, Elliott, Kitchens, Sessions, Carnley, Shelnutt, Orr, Figures, Beasley, Bell, Jones

RFD: Fiscal Responsibility and Economic Development

First Read: 14-Feb-24

SYNOPSIS:

Under existing law, the Board of Heating, Air Conditioning, and Refrigeration Contractors certifies individuals to install, service, or repair heating, air conditioning, and refrigeration systems.

This bill would further provide for the Board of Heating, Air Conditioning, and Refrigeration Contractors.

This bill would remove provisions related to apprentices.

This bill would allow an increase in the maximum amount of a performance bond.

This bill would allow contractors to perform certain electrical work incidental to the installation, service, or repair of residential heating and air conditioning systems.

This bill would also make nonsubstantive, technical revisions to update existing code language to current style.

A BILL

TO BE ENTITLED

AN ACT

Relating to the Board of Heating, Air Conditioning, and Refrigeration Contractors; to amend Sections 34-31-18, 34-31-24, 34-31-25, 34-31-28, 34-31-30, 34-31-32, and 34-31-34, Code of Alabama 1975, to further provide for the Board of Heating, Air Conditioning, and Refrigeration Contractors; to remove provisions governing apprentices; to allow an increase in the maximum amount of a performance bond; to allow contractors to perform electrical work incidental to the installation, service, or repair of residential heating and air conditioning systems; and to make nonsubstantive, technical revisions to update existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-31-18, 34-31-24, 34-31-25, 34-31-28, 34-31-30, 34-31-32, and 34-31-34, 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 following meanings ~~herein ascribed to them unless the context clearly indicates otherwise~~:

(1) ADMINISTRATIVE PROCEDURE ~~LAW~~ACT. ~~Sections 41-22-1 through 41-22-27,~~ Chapter 22 of Title 41 and ~~any subsequent amendment or supplement thereto, and~~ any rules ~~or regulations promulgated thereto~~adopted thereunder.

~~(2) APPRENTICE. A person other than a certified heating, air conditioning, or refrigeration contractor, who is engaged in learning and assisting in the installation, service, or repair of a heating, air conditioning, or~~

~~refrigeration system and working under the direct supervision of a certified heating, air conditioning, or refrigeration contractor, and who has successfully fulfilled the voluntary registration requirements of the board and has been duly registered by the board as such for the current year.~~

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

~~(4)~~ (3) CERTIFICATION or LICENSE. The process of testing to determine the knowledge and skill of an individual with respect to heating, air conditioning, and refrigeration. ~~This term is used herein interchangeably with the term "license.~~"

~~(5)~~ (4) CERTIFIED HEATING AND AIR CONDITIONING CONTRACTOR. Any~~ and all legal entities~~ person engaged in the business of heating and air conditioning contracting and installation or service and repair.

~~(6)~~ (5) CERTIFIED REFRIGERATION CONTRACTOR. Any~~ and all legal entities~~ person engaged in the business of refrigeration contracting and servicing, installation, and repair.

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

~~(8)~~ (7) HEATING AND AIR CONDITIONING~~ SYSTEMS OR~~ SYSTEM. A heating~~ and/or~~ or cooling apparatus consisting of an air heating~~ and/or~~ or cooling fixture from pipes, plenums, or blowers, including any accessory and equipment installed in

connection ~~herewith~~ within the system.~~; specifically excluding~~ The term does not include window units, automotive, or farm implement type heating or ~~and/or~~ air conditioning equipment.

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

(9) PERSON. Includes an individual, firm, partnership, or corporation.

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

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

(12) REGULARLY EMPLOYED PERSON. ~~A person~~An individual who ~~is~~ meets all of the following conditions:

a. Is an actual employee of the business, not an independent contractor. ~~The person must work~~

b. Works an average of 30 or more hours per week for the heating, air conditioning, or refrigeration business.

c. Is ~~A regularly employed person must~~ not ~~be~~ paid as an independent contractor.

d. ~~and must receive~~Receives a Form W-2, Wage and Tax Statement, for all earnings.

(13) RESPONSIBLE CHARGE. The direction of projects involving the installation or service and repair of heating,

air conditioning, and refrigeration systems requiring initiation, professional skills, technical knowledge, and independent judgment.

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

"§34-31-24

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

(2) Every contractor licensed under this chapter shall display the contractor's certification number and the company name on ~~any and~~ all documentation, forms of advertising, and on all service and installation vehicles used in conjunction with heating, air conditioning, and refrigeration contracting.

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

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

corporation.

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

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

(2) Any board certified heating and air conditioning contractor, or home builder licensed by the Alabama Home Builders Licensure Board, seeking to register as a duct tightness tester for the purposes of testing ducts on his or her own project or on a third party basis for the general public, must successfully complete the Residential Energy Services Network Home Energy Rating Systems (HERS) Rater training, the Building Performance Institute Building Analyst (BPI) training, or the Home Builders Association of Alabama Qualified Credentialed Air Tightness Verifier (QCATV) training. Any applicant that is not a board certified

contractor or a licensed home builder seeking to register as a duct tightness tester for the purposes of testing duct work on a third party basis for the general public, must successfully complete the Residential Energy Services Network Home Energy Rating System (HERS) Rater training or the Building Performance Institute Building Analyst (BPI) training. Each applicant must submit verification that he or she has successfully completed the training required by at least one of the above listed programs to the board prior to receiving the registration in order to be added to the list of registered individuals. Each registrant must submit proof of completion, approved by the Home Builders Association of Alabama, prior to annual re-registration by the board.

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

"§34-31-25

(a)(1) For the purpose of defraying the expense in carrying out ~~the provisions of~~ this chapter, the board may fix fees to be paid for the issuance, reissuance, and replacement of certificates, and for any other service provided by the board, but in no event shall the charges fixed by the board exceed two hundred fifty dollars ($250). The inactive fees may be waived for building officials or inspectors, as defined by the International Code Council. All fees fixed by the board must accompany the application, and no part of the fees shall be refunded. The fees shall be received by the board and held

solely for the purpose of paying the expense of carrying out ~~the provisions of~~ this chapter.

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

~~(b) Fees for apprentice registration and annual renewal fees shall not exceed fifty dollars ($50).~~

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

~~(d)~~ (c) Fees for Duct Envelope Testing Contractors application and annual renewal shall not exceed one hundred dollars ($100)."

"§34-31-28

(a) All prospective certified contractors in this state ~~desiring~~seeking to qualify in accordance with ~~the provisions of~~ this chapter shall be required to stand for a written examination before the board. Any applicant failing to pass his or her first examination for a certificate ~~shall be entitled to~~may take any subsequent examination, either written or, upon request of the applicant, a practical examination which is equivalent to the written examination, to be held within six months from the date of his or her ~~first or latest~~ unsuccessful examination.

~~(b) The board shall register every person who may apply~~

~~for an apprentice heating, air conditioning, or refrigeration registration certificate upon forms provided by the board and upon payment of all prescribed fees.~~

~~(c)~~ (b) The board shall examine the character, fitness, and qualifications of every ~~person~~individual who applies for a certified heating, air conditioning, or refrigeration contractor license upon forms prescribed by the board and upon payment of all prescribed fees.

~~(d)~~ (c) An applicant for examination for a heating, air conditioning, or refrigeration certified contractor license shall be eligible to stand for the examination if the applicant has ~~held an apprentice registration, issued by this board, for two or more calendar years; or has~~ completed 3,000 hours of ~~coursework or~~work experience, as defined by the board~~;~~, or is a graduate of an approved heating, air conditioning, or refrigeration curriculum.

~~(e) All legal entities engaged in the refrigeration business for a period of two years prior to May 13, 2009, may apply to the board for a certified refrigeration contractor license without standing for a written examination. The applicant shall provide evidence of such experience to the board as promulgated in the rules of the board. An applicant who does not apply for such certification by December 31, 2011, must stand for the written examination.~~

~~(f)~~ (d) Counties, municipalities, or other local entities are ~~hereby~~ prohibited from requiring any further local testing or satisfaction of other requirements ~~of~~by certified contractors, subject to the payment of any

applicable local privilege, license, or business fees or charges.

~~(g)~~ (e) ~~Persons~~Individuals licensed by the Alabama Liquefied Petroleum Gas Board are exempt from this chapter pertaining to heating, air conditioning, and refrigeration when:

(1) Engaged in the installation, repair, or replacement of a liquefied petroleum gas appliance so long as the appliance is not connected to a refrigeration system, ~~except~~ provided that ~~such persons~~ the individuals may ~~also~~ engage in the replacement or repair of a liquefied petroleum gas central heating unit when it is combined with an air conditioning unit.

(2) Engaged in the installation of a venting system required for a vented-type liquefied petroleum gas appliance.

~~(h)~~ (f) This chapter does not apply to any of the following:

(1) An authorized employee of the United States, ~~the State of Alabama~~ this state, or any municipality, county, or other political subdivision, if the employee does not hold himself or herself out for hire or otherwise engage in contracting except in accordance with his or her employment.

(2) Any mobile home or manufactured structure that is installed, inspected, or regulated by the Alabama Manufactured Housing Commission; however, the repair, servicing of a heating and air conditioning system, or the installation of a new heating and air conditioning system in a previously inspected manufactured structure is subject to this chapter.

(3) ~~Persons~~Individuals performing work on motor vehicles, residential refrigerators, or ice machines.

(4) Household appliances.

(5) Farm equipment.

(6) Poultry operations whether engaged in hatching, primary processing, or further processing of chicken, turkey, or other fowl.

(g) A contractor, licensed pursuant to this chapter for the installation, service, or repair of residential heating and air conditioning systems, is permitted to install all electrical connections required to energize the equipment being installed, serviced, or repaired, including dedicated electrical wiring from the electrical panel to the unit, and shall not be subject to the requirements of Chapter 36 of Title 34, relating to electrical contractors, for the conduct of the work."

"§34-31-30

The board may require a performance bond ~~in the amount of fifteen thousand dollars ($15,000)~~not to exceed twenty-five thousand dollars ($25,000) per year for all active certified contractors. There shall be no discrimination between contractors similarly situated, and each classification of regulated contractors for bonding purposes must be reasonable ~~in light of~~considering the purpose of the bond."

"§34-31-32

(a) Except as provided in Section 13A-9-111.1, any ~~person~~individual engaged in business as a certified contractor or performing the functions of a certified contractor in

violation of this chapter shall be guilty of a Class A misdemeanor~~, as defined by the state criminal code~~.

(b) The board may impose late penalties on ~~those~~ certified contractors who fail to renew certificates by December 31 of each year. The board may also remove the certification from any certified ~~person~~individual who fails to renew his or her certificate by the first day of March and require the~~ person~~ individual to apply for a new certificate. ~~Furthermore, the board may remove, revoke, or suspend the certification from any certified contractor who provides substandard or dangerous service, repair, or installation, or who otherwise violates this chapter, and may require such person to apply for a new certification.~~ The board may ~~also~~ require the successful re-testing of any ~~such~~ previously certified ~~person~~individual who applies for a new certification.

(c) The board may reprimand, in writing, any certified contractor who provides substandard or dangerous service, repair, or installation, or who otherwise violates this chapter.

(d) The board may remove, revoke, or suspend the certification of any certified contractor who provides substandard or dangerous service, repair, or installation, or who otherwise violates this chapter, and may require any previously certified individual to apply for a new certification.

~~(d)~~(e) The board may levy and collect administrative fines for~~ serious~~ violations of this chapter or the rules of

the board of not more than two thousand dollars ($2,000) for each violation.

~~(c)~~ (f)(1) In addition to or in lieu of the criminal penalties and administrative sanctions provided in this chapter, the board may issue an order to any person~~, firm, or corporation~~ engaged in any activity, conduct, or practice ~~constituting~~ that is a violation of this chapter, directing the person~~, firm, or corporation~~ to cease and desist from the activity, conduct, practice, or performance of any work ~~then being done~~in progress or about to be commenced. The order shall be issued in the name of the ~~State of Alabama~~ this state under the authority of the board.

(2) If the person~~, firm, or corporation~~ fails to immediately comply with the ~~whom the board directs a~~ cease and desist order, ~~does not cease or desist the proscribed activity, conduct, practice, or performance of work immediately,~~ the board shall ~~cause to issue in~~ petition any court of competent jurisdiction ~~and proper venue,~~ to issue a writ of injunction enjoining the person~~, firm, or corporation~~ from engaging in any activity, conduct, practice, or performance of work prohibited by this chapter. Upon a sufficient showing by the board that the person~~, firm, or corporation~~ has engaged or is engaged in any activity, conduct, practice, or performance of work prohibited by this chapter, the ~~courts~~court ~~shall~~may issue a temporary restraining order ~~restraining~~to enjoin the person~~, firm, or corporation~~ from engaging in ~~such unlawful activity, conduct, practice, or~~ the performance of work pending the hearing on a

preliminary injunction~~, and in due course~~. After a hearing, the court may issue a permanent injunction~~ shall issue after the hearing,~~ commanding the cessation of the~~ unlawful activity, conduct, practice, or~~ performance of work complained of, all without the necessity of the board having to give bond. A temporary restraining order, preliminary injunction, or permanent injunction issued pursuant to this subsection shall not be subject to being released on bond.

(3) In the suit for an injunction, the board may~~ demand of the defendant~~ issue a fine of up to two thousand dollars ($2,000) plus costs for each offense. ~~Anyone violating this chapter who fails~~

(4) Any failure to cease work, after a hearing and notification from the board, shall ~~not be eligible~~render an individual ineligible to apply for a certified contractor's license for a period not to exceed one year from the date of official notification to cease work. The board may withhold approval, for up to six months, of any application from ~~anyone~~any individual who, prior to the application, has been found in violation of this chapter."

"§34-31-34

Any appeals to the chapter shall be as defined by the Alabama Administrative Procedure Act~~, Chapter 22 of Title 41~~. Any judicial review pursuant to the Alabama Administrative Procedure Act must be filed, commenced, and maintained in the Circuit Court of Montgomery County, Alabama."

Section 2. This act shall become effective on October 1, 2024.