HB418

5SV5M33-1

By Representatives Kirkland, Underwood

RFD: Commerce and Small Business

First Read: 04-Apr-24

SYNOPSIS:

Under existing law, a person who, for a fixed price, commission, fee, or wager, undertakes to construct, superintend, or engage in the construction, alteration, maintenance, repair, rehabilitation, remediation, reclamation, or demolition of any building, highway, sewer, structure, site work, grading, or paving is deemed to have engaged in the business of general contracting if the cost of the undertaking is $50,000 or more.

Also under existing law, a person who engages in the business of general contracting is required to be licensed by the State Licensing Board for General Contractors.

This bill would increase the threshold cost of the undertaking amount to $100,000.

This bill would also exempt from the requirements of obtaining a license from the board a labor broker or other temporary labor provider that provides temporary workers to a licensed contractor to perform work under that licensed contractor.

A BILL

TO BE ENTITLED

AN ACT

Relating to the State Licensing Board for General Contractors; to amend Sections 34-8-1 and 34-8-7, Code of Alabama 1975, as last amended by Act 2023-99, 2023 Regular Session, to increase the threshold cost of undertaking where an individual is deemed to engage in the business of general contracting; and to exempt labor brokers and other temporary labor providers from certain licensing requirements.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-8-1 and 34-8-7, Code of Alabama 1975, as last amended by Act 2023-99, 2023 Regular Session, are amended to read as follows:

"§34-8-1

(a) For the purpose of this chapter, a "general contractor" is defined to be one who, for a fixed price, commission, fee, or wage, undertakes to construct or superintend or engage in the construction, alteration, maintenance, repair, rehabilitation, remediation, reclamation, or demolition of any building, highway, sewer, structure, site work, grading, paving, or project or any improvement in the State of Alabama where the cost of the undertaking is ~~fifty thousand dollars ($50,000)~~ one hundred thousand dollars ($100,000) or more~~,~~. A person who does any of the activities described in this subsection shall be deemed ~~and held~~ to have engaged in the business of general contracting in the State of Alabama.

(b) For the purpose of this chapter, a "general

contractor" is defined to include one who, for a fixed price, commission, fee, or wage exceeding five thousand dollars ($5,000), undertakes to construct, superintend the construction of, repair, or renovate, any swimming pool~~, and anyone~~. Anyone who ~~shall engage~~engages in the construction, superintending of the construction, repair, or renovation of any swimming pool in the State of Alabama, where the cost of the undertaking exceeds five thousand dollars ($5,000), shall be deemed ~~and held~~ to have engaged in the business of general contracting in the State of Alabama and shall be subject to this chapter.

(c) For the purpose of this chapter, a "subcontractor" is defined to be one who constructs, superintends, or engages in the construction, alteration, maintenance, repair, rehabilitation, remediation, reclamation, or demolition of any building, highway, sewer, structure, site work, grading, paving, or project or any improvement in the State of Alabama where the cost of the undertaking is ~~fifty thousand dollars ($50,000)~~ one hundred thousand dollars ($100,000) or more under contract to a general contractor, as defined in subsection (a), or another subcontractor."

"§34-8-7

(a) The following shall be exempted from this chapter:

(1) The practice of general contracting, as defined in Section 34-8-1, by an authorized representative ~~or representatives~~ of the United States Government, State of Alabama, incorporated town, city, or county in this state, which is under the supervision of a licensed architect or

engineer, provided any work contracted out by the authorized representative shall comply with the definition in this chapter for general contractor.

(2) The construction of any residence or private dwelling.

(3) A person, firm, or corporation constructing a building or other improvements on his, her, or its own property, provided that any of the work contracted out complies with the definition in this chapter for general contractor. A municipal governing body or municipal regulatory body may not enact any ordinance or law restricting or altering this exemption. Any municipal ordinance or regulation that conflicts with this exemption is repealed effective June 11, 2015.

(4) The installation, repair, maintenance, or removal of facilities, equipment, or systems used in or substantially related to the generation, transmission, or distribution of electric power, natural gas, or telecommunications in an emergency by a utility regulated by the Public Service Commission, or any entity engaged in the generation, transmission, or distribution of electric power, natural gas, or telecommunications, or any of their respective general contractors or subcontractors, provided the work is performed under the supervision of a licensed architect or engineer. For purposes of this subdivision, the term "emergency" is defined as a situation whereby service to the consumer has been interrupted or may be interrupted if work to remedy the emergency is not performed and completed within 60 days, and

such other situations that are determined to be an emergency in the discretion of the board.

(5) The repair, maintenance, replacement, reinstallation, or removal of facilities, equipment, or systems used in or substantially related to the generation, transmission, or distribution of electric power, natural gas, or telecommunications on a routine, regular, or recurring basis by a utility regulated by the Public Service Commission or any entity engaged in the generation, transmission, or distribution of electric power, natural gas, or telecommunications or any of their respective general contractors or subcontractors, provided the work is performed under the supervision of a licensed architect or engineer.

(6) Routine or regular maintenance, repair, replacement, reinstallation, or removal of equipment, specialized technological processes, or equipment facility systems as determined by the board with regard to scope, frequency, and specialty of the work to be performed.

(7) Routine landscape maintenance work that includes cutting grass; trimming, replacing, and removal of bushes, shrubs, and similar items; the placement and removal of pine straw, mulch, bark, and similar ground covers; and other routine ground maintenance.

(8) The provision of temporary labor by a labor broker or other temporary labor provider that provides workers to a general contractor to perform work under the supervision and control of that general contractor. For the purposes of licensing, temporary workers are deemed to fall under the

license of the general contractor to whom they are provided. This exemption does not allow labor brokers or other temporary labor providers to act as subcontractors or to assume a scope of work for a project as a subcontractor.

(b) The ~~aforementioned~~ exemptions provided in subsection (a) shall exclude a swimming pool contractor. Provided, however, a person, firm, or corporation constructing a swimming pool on his, her, or its own property shall be exempted from this chapter.

(c) A subcontractor, as defined in Section 34-8-1(c), is subject to and shall comply with this chapter as specified for a general contractor except as follows:

(1) A subcontractor shall pay one-half of the fees ~~as~~ required in this chapter for a general contractor.

(2) No bid limits shall be established for a subcontractor.

(3) A subcontractor shall submit with license application and renewals a statement of financial condition as prescribed by the board.

(4) A subcontractor shall furnish three references from any combination of the following: Licensed general contractors, registered professional engineers, or registered architects, or qualified person, as declared by the board, for whom they have worked. If a subcontractor has only been employed by one company, the subcontractor shall provide the following: Three or more jobs he or she has worked on, the amounts of the contracts, the time period of the contracts, the location of the contracts, and a statement of experience.

(5) A subcontractor is not required to be licensed at the time a project is bid, but must be licensed with the board prior to beginning work on the project.

(6) A general contractor license and license number issued by the board to subcontractors shall denote subcontractor status.

(7) A subcontractor is not required to sit for any examination before being licensed."

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