HB231

165024-3

By Representative Williams (JD)

RFD: Boards, Agencies and Commissions

First Read: 11-MAR-15

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

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

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

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

A BILL

TO BE ENTITLED

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.

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

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

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

"(7) DUCT AIR TIGHTNESS TESTING CONTRACTOR. Any individual who engages 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.

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

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

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

"~~(9)~~(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.

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

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

"~~(12)~~(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.

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

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

"§34-31-20.

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

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

Governor for an initial term of two years, and shall be a representative from county or local inspection services department; and one member shall be appointed by the Speaker of the House of Representatives for an initial term of three years, and shall be a consumer from the general public. Three additional members shall be appointed to serve four-year terms beginning on January 1, 2001. Each of these three additional members shall be heating and air conditioning <u>or refrigeration</u> contractors. One of these additional members shall be appointed by the Governor, one of these additional members shall be appointed by the Lieutenant Governor, and one of these additional members shall be appointed by the President Pro Tempore of the Senate. An additional two members, who shall be heating and air conditioning contractors, shall be appointed by the Speaker of the House of Representatives for initial terms of three years. Their successors, who shall be appointed by the same respective appointing authorities, and shall possess the same respective occupational qualifications, shall each serve not more than two consecutive terms of office of four years each and until their successors are appointed and qualified. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

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

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

"§34-31-21.

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

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

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

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

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

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

"(4) Receive and deposit all fees.

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

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

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

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

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

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

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

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

"§34-31-24.

"(a)(1) No individual, partnership, or corporation shall advertise, solicit, bid, obtain permit, 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~~(12)~~, are certified contractors.

"~~(b)~~(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.

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

"~~(d)~~(4) No official charged with the duty of issuing licenses to any individual, partnership, or corporation to operate a business as a certified contractor shall issue such 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 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 individuals shall not be 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 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, of CE's 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 ~~by applicants for certificates~~ 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 dollars ($200)~~ 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 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) All penalties collected by the board shall be used in the same manner and for the same purpose as fees.

"~~(d) Renewal fees shall be established by the board as to insure adequate funding to support the board. Fees shall not exceed two hundred dollars ($200) 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.~~

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

"§34-31-26.

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

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

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

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

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

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