

H. B. 2794

(By Delegates Eldridge and Hicks)

[Introduced February 17, 2015; referred to the

Committee on Industry and Labor then Government Organization.]

A BILL to amend and reenact §21-11-3 of the Code of West Virginia, 1931, as amended, relating to making changes to the definition of contractor for purposes of the West Virginia Contractor Licensing Act.

Be it enacted by the Legislature of West Virginia:

That §21-11-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 11. WEST VIRGINIA CONTRACTOR LICENSING ACT.

§21-11-3. Definitions.

(a) "Commissioner" means the Commissioner of the Division of Labor.

(b) "Board" means the West Virginia Contractor Licensing Board.

(c) "Contractor" means a person who in any capacity for compensation, other than as an employee of another, undertakes, offers to undertake, purports to have the capacity to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any

1 building, highway, road, railroad, structure or excavation associated with a project, development or
2 improvement, or to do any part ~~thereof~~ of it, including the erection of scaffolding or other structures
3 or works in connection ~~therewith~~ with a project, development or improvement, where the cost of the
4 undertaking is ~~\$2,500~~ \$4,000 or more.

5 Contractor includes a construction manager who performs management and counseling
6 services for a construction project for a professional fee.

7 Contractor does not include:

8 (1) One who merely furnishes materials or supplies without fabricating or consuming them
9 in the construction project;

10 (2) A person who personally performs construction work on the site of real property which
11 the person owns or leases whether for commercial or residential purposes;

12 (3) A person who is licensed or registered as a professional and who functions under the
13 control of any other licensing or regulatory board, whose primary business is real estate sales,
14 appraisal, development, management and maintenance, who acting in his or her respective
15 professional capacity and any employee of such professional, acting in the course of his or her
16 employment, performs any work which may be considered to be performing contracting work;

17 (4) A pest control operator licensed under the provisions of section seven, article sixteen-a,
18 chapter nineteen of this code to engage in the application of pesticides for hire, unless the operator
19 also performs structural repairs exceeding \$1,000 on property treated for insect pests; or

20 (5) A corporation, partnership or sole proprietorship whose primary purpose is to prepare
21 construction plans and specifications used by the contractors defined in this subsection and who
22 employs full time a registered architect licensed to practice in this state or a registered professional

1 engineer licensed to practice in this state. Employees of such corporation, partnership or sole
2 proprietorship ~~shall also be~~ are also exempt from the requirements of this article.

3 (d) "Electrical contractor" means a person who engages in the business of contracting to
4 install, erect, repair or alter electrical equipment for the generation, transmission or utilization of
5 electrical energy.

6 (e) "General building contractor" means a person whose principal business is in connection
7 with any structures built, being built or to be built for the support, shelter and enclosure of persons,
8 animals, chattels or movable property of any kind, requiring in the construction the use of more than
9 two contractor classifications, or a person who supervises the whole or any part of such construction.

10 (f) "General engineering contractor" means a person whose principal business is in
11 connection with public or private works projects, including, but not limited to, one or more of the
12 following: Irrigation, drainage and water supply projects; electrical generation projects; swimming
13 pools; flood control; harbors; railroads; highways; tunnels; airports and airways; sewers and sewage
14 disposal systems; bridges; inland waterways; pipelines for transmission of petroleum and other liquid
15 or gaseous substances; refineries; chemical plants and other industrial plants requiring a specialized
16 engineering knowledge and skill; piers and foundations; and structures or work incidental ~~thereto~~
17 to a project.

18 (g) "Heating, ventilating and cooling contractor" means a person who engages in the business
19 of contracting to install, erect, repair, service or alter heating, ventilating and air conditioning
20 equipment or systems to heat, cool or ventilate residential and commercial structures.

21 (h) "License" means a license to engage in business in this state as a contractor in one of the
22 classifications set out in this article.

1 (i) "Multifamily contractor" means a person who is engaged in construction, repair or
2 improvement of a multifamily residential structure.

3 (j) "Person" includes an individual, firm, sole proprietorship, partnership, corporation,
4 association or other entity engaged in the undertaking of construction projects or any combination
5 ~~thereof~~ of the groups listed in this subsection.

6 (k) "Piping contractor" means a person whose principal business is the installation of process,
7 power plant, air, oil, gasoline, chemical or other kinds of piping; and boilers and pressure vessels
8 using joining methods of thread, weld, solvent weld or mechanical methods.

9 (l) "Plumbing contractor" means a person whose principal business is the installation,
10 maintenance, extension and alteration of piping, plumbing fixtures, plumbing appliances and
11 plumbing appurtenances, venting systems and public or private water supply systems within or
12 adjacent to any building or structure; included in this definition is installation of gas piping, chilled
13 water piping in connection with refrigeration processes and comfort cooling, hot water piping in
14 connection with building heating and piping for stand pipes.

15 (m) "Residential contractor" means a person whose principal business is in connection with
16 construction, repair or improvement of real property used as, or intended to be used for, residential
17 occupancy.

18 (n) "Specialty contractor" means a person who engages in specialty contracting services
19 ~~which~~ that do not substantially fall within the scope of any contractor classification as set out ~~herein~~
20 in this article.

21 (o) "Residential occupancy" means occupancy of a structure for residential purposes for
22 periods greater than thirty consecutive calendar days.

1 (p) "Residential structure" means a building or structure used or intended to be used for
2 residential occupancy, together with related facilities appurtenant to the premises as an adjunct of
3 residential occupancy, which contains not more than three distinct floors which are above grade in
4 any structural unit regardless of whether the building or structure is designed and constructed for one
5 or more living units. Dormitories, hotels, motels or other transient lodging units are not residential
6 structures.

7 (q) "Subcontractor" means a person who performs a portion of a project undertaken by a
8 principal or general contractor or another subcontractor.

9 (r) "Division" means the Division of Labor.

10 (s) "Cease and desist order" means an order issued by the commissioner pursuant to the
11 provisions of this article.

12 (t) The term "basic universal design" means the design of products and environments to be
13 useable by all people, to the greatest extent possible, without the need for adaptation or
14 specialization.

NOTE: The purpose of this bill is to raise the threshold amount required for a construction job to be performed by someone with a contractor's license from \$2,500 to \$4,000.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.