

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

### **ENGROSSED**

## **House Bill 4652**

(DELEGATES HOWELL, CADLE, ATKINSON, R. SMITH,  
STANSBURY, MOFFATT, P. WHITE, ARVON, FOSTER,  
HAMRICK AND MCGEEHAN)

[Introduced February 22, 2016;  
referred to the Committee on  
Government Organization.]



1 A BILL to amend and reenact §21-11-3 and §21-11-5 of the Code of West Virginia, 1931, as  
 2 amended, all relating to the creation of an intermediate contractor’s license; limiting the  
 3 maximum cost of the project that an intermediate contractor may undertake to \$10,000;  
 4 and exempting applicants for the intermediate contractor’s license from an examination.

*Be it enacted by the Legislature of West Virginia:*

1 That §21-11-3 and §21-11-5 of the Code of West Virginia, 1931, as amended, be amended  
 2 and reenacted, all to read as follows:

**ARTICLE 11. WEST VIRGINIA CONTRACTOR LICENSING ACT.**

**§21-11-3. Definitions.**

1 (a) “Commissioner” means the Commissioner of the Division of Labor.

2 (b) “Board” means the West Virginia Contractor Licensing Board.

3 (c) “Contractor” means a person who in any capacity for compensation, other than as an  
 4 employee of another, undertakes, offers to undertake, purports to have the capacity to undertake  
 5 or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish  
 6 any building, highway, road, railroad, structure or excavation associated with a project,  
 7 development or improvement, or to do any part thereof, including the erection of scaffolding or  
 8 other structures or works in connection therewith, where the cost of the undertaking is \$5,000 or  
 9 more.

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

12 Contractor does not include:

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

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

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

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

26 (5) A corporation, partnership or sole proprietorship whose primary purpose is to prepare  
27 construction plans and specifications used by the contractors defined in this subsection and who  
28 employs full time a registered architect licensed to practice in this state or a registered  
29 professional engineer licensed to practice in this state. Employees of such corporation,  
30 partnership or sole proprietorship shall also be exempt from the requirements of this article.

31 (d) "Intermediate contractor" means a person who in any capacity for compensation, other  
32 than as an employee of another, undertakes, offers to undertake, purports to have the capacity  
33 to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, move,  
34 wreck or demolish any building, highway, road, railroad, structure or excavation associated with  
35 a project, development or improvement, or to do any part thereof, including the erection of  
36 scaffolding or other structures or works in connection therewith, where the maximum cost of the  
37 undertaking is \$15,000.

38 ~~(d)~~ (e) "Electrical contractor" means a person who engages in the business of contracting  
39 to install, erect, repair or alter electrical equipment for the generation, transmission or utilization  
40 of electrical energy.

41 ~~(e)~~ (f) "General building contractor" means a person whose principal business is in  
42 connection with any structures built, being built or to be built for the support, shelter and enclosure

43 of persons, animals, chattels or movable property of any kind, requiring in the construction the  
44 use of more than two contractor classifications, or a person who supervises the whole or any part  
45 of such construction.

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

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

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

60 ~~(i)~~ (j) "Multifamily contractor" means a person who is engaged in construction, repair or  
61 improvement of a multifamily residential structure.

62 ~~(j)~~ (k) "Person" includes an individual, firm, sole proprietorship, partnership, corporation,  
63 association or other entity engaged in the undertaking of construction projects or any combination  
64 thereof.

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

68           ~~(f)~~ (m) "Plumbing contractor" means a person whose principal business is the installation,  
69 maintenance, extension and alteration of piping, plumbing fixtures, plumbing appliances and  
70 plumbing appurtenances, venting systems and public or private water supply systems within or  
71 adjacent to any building or structure; included in this definition is installation of gas piping, chilled  
72 water piping in connection with refrigeration processes and comfort cooling, hot water piping in  
73 connection with building heating and piping for stand pipes.

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

77           ~~(n)~~ (o) "Specialty contractor" means a person who engages in specialty contracting  
78 services which do not substantially fall within the scope of any contractor classification as set out  
79 herein.

80           ~~(o)~~ (p) "Residential occupancy" means occupancy of a structure for residential purposes  
81 for periods greater than thirty consecutive calendar days.

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

88           ~~(q)~~ (r) "Subcontractor" means a person who performs a portion of a project undertaken by  
89 a principal or general contractor or another subcontractor.

90           ~~(r)~~ (s) "Division" means the Division of Labor.

91           ~~(s)~~ (t) "Cease and desist order" means an order issued by the commissioner pursuant to  
92 the provisions of this article.

93           ~~(t)~~ (u) The term “basic universal design” means the design of products and environments  
 94 to be useable by all people, to the greatest extent possible, without the need for adaptation or  
 95 specialization.

**§21-11-5. Administrative duties of the board; regulations.**

1           (a) Pursuant to the provisions of chapter twenty-nine-a of this code, the board shall adopt  
 2 rules and regulations relating to the following:

3           (1) The minimum qualifications for applicants for examination and license in each of the  
 4 following specified classes of contractor:

- 5           (A) Electrical contractor;
- 6           (B) General building contractor;
- 7           (C) General engineering contractor;
- 8           (D) Heating, ventilating and cooling contractor;
- 9           (E) Intermediate contractor;
- 10          ~~(E)~~ (F) Multifamily contractor;
- 11          ~~(F)~~ (G) Piping contractor;
- 12          ~~(G)~~ (H) Plumbing contractor;
- 13          ~~(H)~~ (I) Residential contractor; or
- 14          ~~(I)~~ (J) Specialty contractor;

15           (2) The content of examinations for applicants in each class: Provided, That applicants for  
 16 the intermediate contractor class are not required to take an examination;

17           (3) Procedures for application, examination, if applicable, ~~and~~ license renewal, and the  
 18 manner in which the examination, if applicable, will be conducted;

19           (4) The continued competency of licensees for purposes of renewal and reinstatement of  
 20 licenses; and

21           (5) Procedures for disciplinary action before the board.

22           (b) The board shall:

23 (1) Hold at least one examination in each calendar quarter for each specific classification  
24 of contractor, if applicable, designate the time and place of such examinations, and notify  
25 applicants thereof;

26 (2) Request, through the division, investigation of any alleged violation of this article or of  
27 the regulations;

28 (3) Forward results of examinations to the division within twenty days following the  
29 examination;

30 (4) Notify the commissioner and board members of meeting dates and agenda items at  
31 least five days prior to such meetings; and

32 (5) Take minutes and records of all meetings and proceedings.

NOTE: The purpose of this bill is to allow contractors to obtain a limited contractor's license without the need for an examination.

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