

1 **H. B. 4224**

2  
3 (By Delegates Gearheart, Shott, Ellington,  
4 Border, R. Phillips, Kump, Householder,  
5 Westfall and Espinosa)  
6

7 [Introduced January 17, 2014; referred to the  
8 Committee on Industry and Labor then Government  
9 Organization.]

10 A BILL to amend and reenact §21-11-3 of the Code of West Virginia,  
11 1931, as amended, relating to changes to the definition of  
12 electrical contractor.

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

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

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

17 **§21-11-3. Definitions.**

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

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

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

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

7 Contractor includes a construction manager who performs  
8 management and counseling services for a construction project for  
9 a professional fee.

10 Contractor does not include:

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

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

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

24 (4) A pest control operator licensed under the provisions of

1 section seven, article sixteen-a, chapter nineteen of this code to  
2 engage in the application of pesticides for hire, unless the  
3 operator also performs structural repairs exceeding \$1,000 on  
4 property treated for insect pests; or

5 (5) A corporation, partnership or sole proprietorship, ~~whose~~  
6 primary purpose of which is to prepare construction plans and  
7 specifications used by the contractors defined in this subsection  
8 and who employs full time a registered architect licensed to  
9 practice in this state or a registered professional engineer  
10 licensed to practice in this state. Employees of ~~such a~~  
11 corporation, partnership or sole proprietorship ~~shall~~ is also be  
12 exempt from the requirements of this article.

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

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

24 (f) "General engineering contractor" means a person whose

1 principal business is in connection with public or private works  
2 projects, including, but not limited to, one or more of the  
3 following: Irrigation, drainage and water supply projects;  
4 electrical generation projects; swimming pools; flood control;  
5 harbors; railroads; highways; tunnels; airports and airways; sewers  
6 and sewage disposal systems; bridges; inland waterways; pipelines  
7 for transmission of petroleum and other liquid or gaseous  
8 substances; refineries; chemical plants and other industrial plants  
9 requiring a specialized engineering knowledge and skill; piers and  
10 foundations; and structures or ~~work incidental thereto~~ incidental  
11 work.

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

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

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

23 (j) "Person" includes an individual, firm, sole  
24 proprietorship, partnership, corporation, association or other

1 entity engaged in the undertaking of construction projects or any  
2 combination thereof.

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

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

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

21 (n) "Specialty contractor" means a person who engages in  
22 specialty contracting services which do not substantially fall  
23 within the scope of any contractor classification as set out herein  
24 in this article.

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

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

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

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

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

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

NOTE: The purpose of this bill is to make changes to the  
definition of electrical contractor in this article.

Strike-throughs indicate language that would be stricken from

the present law, and underscoring indicates new language that would be added.