

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4798**

BY DELEGATES FOSTER AND WAXMAN

[Introduced February 11, 2020; Referred to the  
Committee on Government Organization]

1 A BILL to amend and reenact §21-11-6 of the Code of West Virginia, 1931, as amended, relating  
 2 to creation of an exemption under the West Virginia Contractor Licensing Act for work  
 3 performed by a subcontracted specialty contractor that utilizes 10 percent or less in total  
 4 labor costs on a singular project

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

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

**§21-11-6. Necessity for license; exemptions.**

1 (a) No person may engage in this state in any act as a contractor, or submit a bid to  
 2 perform work as a contractor, as defined in this article, unless such person holds a license issued  
 3 under the provisions of this article. No firm, partnership, corporation, association, or other entity  
 4 shall engage in contracting in this state unless an officer thereof holds a license issued pursuant  
 5 to this article.

6 (b) Any person to whom a license has been issued under this article shall keep the license  
 7 or a copy thereof posted in a conspicuous position at every construction site where work is being  
 8 done by the contractor. The contractor's license number shall be included in all contracting  
 9 advertisements and all fully executed and binding contracts. Any person violating the provisions  
 10 of this subsection shall be subject, after hearing, to a warning, a reprimand, or a fine of not more  
 11 than \$200.

12 (c) Except as otherwise provided in this code, the following are exempt from licensure:

13 (1) Work done exclusively by employees of the United States Government, the State of  
 14 West Virginia, a county, municipality or municipal corporation, and any governmental subdivision  
 15 or agency thereof;

16 (2) The sale or installation of a finished product, material or article or merchandise which  
 17 is not actually fabricated into and does not become a permanent fixed part of the structure;

18 (3) Work performed personally by an owner or lessee of real property on property the  
 19 primary use of which is for agricultural or farming enterprise;

20 (4) A material supplier who renders advice concerning use of products sold and who does  
21 not provide construction or installation services;

22 (5) Work performed by a public utility company regulated by the West Virginia Public  
23 Service Commission and its employees;

24 (6) Repair work contracted for by the owner of the equipment on an emergency basis in  
25 order to maintain or restore the operation of such equipment;

26 (7) Work performed by an employer's regular employees, for which the employees are  
27 paid regular wages and not a contract price, on property owned or leased by the employer which  
28 is not intended for speculative sale or lease;

29 (8) Work personally performed on a structure by the owner or occupant thereof; ~~and~~

30 (9) Work performed when the specifications for such work have been developed or  
31 approved by engineering personnel employed by the owner of a facility by registered professional  
32 engineers licensed pursuant to the laws of this state when the work to be performed because of  
33 its specialized nature or process cannot be reasonably or timely contracted for within the general  
34 area of the facility; and

35 (10) Subcontracted work performed by a specialty contractor as defined by this article in  
36 which the labor costs are less than or equal to 10 percent of the total value of the subcontracted  
37 work on a singular project.

NOTE: The purpose of this bill is to create an exemption under the West Virginia Contractor Licensing Act that would allow for specialty contractors performing subcontracted work to not have to obtain a contractor's license if 10 percent or less of the value of the work performed on a singular project goes to the cost of labor.

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