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H. B. 2195

(By Delegates Gearheart, Cooper, Householder, R. Smith,
Faircloth and Espinosa)

[Introduced January 21, 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 changes to the definition of electrical contractor.

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 building, highway, road, railroad, structure or excavation associated with a project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or

1 works in connection ~~therewith~~, where the cost of the undertaking is \$2,500 or more.

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

4 Contractor does not include:

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

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

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

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

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

22 (d) "Electrical contractor" means a person who engages in the business of contracting to

1 install, erect, repair or alter electrical equipment for the generation or transmission ~~or utilization~~ of
2 electrical energy.

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

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

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

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

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

1 (j) "Person" includes an individual, firm, sole proprietorship, partnership, corporation,
2 association or other entity engaged in the undertaking of construction projects or any combination
3 thereof.

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

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

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

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

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

21 (p) "Residential structure" means a building or structure used or intended to be used for
22 residential occupancy, together with related facilities appurtenant to the premises as an adjunct of

1 residential occupancy, which contains not more than three distinct floors which are above grade in
2 any structural unit regardless of whether the building or structure is designed and constructed for one
3 or more living units. Dormitories, hotels, motels or other transient lodging units are not residential
4 structures.

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

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

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

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