

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2009

BY DELEGATES GEARHEART AND COOPER

[Introduced February 8, 2017; Referred
to the Committee on Industry and Labor then Government
Organization]

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

Be it enacted by the Legislature of West Virginia:

1 That §21-11-3 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted 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 \$2,500 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 are ~~shall~~ also be exempt from the requirements of this article.

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

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

39 (f) "General engineering contractor" means a person whose principal business is in
40 connection with public or private works projects, including, but not limited to, one or more of the
41 following: Irrigation, drainage and water supply projects; electrical generation projects; swimming
42 pools; flood control; harbors; railroads; highways; tunnels; airports and airways; sewers and
43 sewage disposal systems; bridges; inland waterways; pipelines for transmission of petroleum and
44 other liquid or gaseous substances; refineries; chemical plants and other industrial plants
45 requiring a specialized engineering knowledge and skill; piers and foundations; and structures or

46 work incidental thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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