

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4012**

BY DELEGATES PORTERFIELD, HOWELL, LITTLE, MANDT,

HIGGINBOTHAM, FOSTER, COWLES, ELLINGTON AND

JENNINGS

[Introduced January 09, 2020; Referred to the  
Committee on Government Organization]

1 A BILL to repeal §21-11-1, §21-11-2, §21-11-3, §21-11-4, §21-11-5, §21-11-6, §21-11-7, §21-11-  
2 8, §21-11-9, §21-11-10, §21-11-10a, §21-11-11, §21-11-12, §21-11-13, §21-11-14, §21-  
3 11-15, §21-11-16, §21-11-17, §21-11-18, and §21-11-20 of the Code of West  
4 Virginia, 1931, as amended; and to amend said code by adding thereto a new article,  
5 designated §30-11-1, §30-11-2, §30-11-3, §30-11-4, §30-11-5, §30-11-6, §30-11-7, §30-  
6 11-8, §30-11-9, §30-11-10, §30-11-11, §30-11-12, §30-11-13, §30-11-14, §30-11-15, §30-  
7 11-16, §30-11-17, §30-11-18, §30-11-19, §30-11-20, §30-11-21, §30-11-22, §30-11-23,  
8 §30-11-24, §30-11-25, §30-11-26, §30-11-27, §30-11-28, §30-11-29, §30-11-30, §30-11-  
9 31, §30-11-32, §30-11-33, §30-11-34, §30-11-35, §30-11-36, §30-11-37, and §30-11-38,  
10 all relating to the West Virginia Contractor Act; providing a short title and declaration of  
11 policy with definitions; continuing the West Virginia Contractor Licensing Board,  
12 composition, terms, qualifications and appointment; administrative duties of board and  
13 legislative rules; necessity for contractor license and exemptions; establishing a procedure  
14 for licensing; providing for expiration date, fees and renewal of license; providing for  
15 revocation for unlawful use, assignment or transfer of license; prerequisites to obtaining  
16 building permit and mandatory written contracts; requiring informational list for basic  
17 universal design features; providing injunction and criminal penalties for violation of article;  
18 specific administrative duties of board and record keeping by the board; authorizing the  
19 board to hire, or contract for, qualified investigators; specifying grounds for investigations;  
20 authorizing to grant reciprocity and to provide training to students who desire to obtain a  
21 West Virginia contractor license; and establishing misdemeanor criminal penalties for  
22 violations of article.

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

## **CHAPTER 21. LABOR**

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

**§21-11-1. Short title.**

1 [Repealed]

**§21-11-2. Policy Declared.**

1 [Repealed]

**§21-11-3. Definitions.**

1 [Repealed]

**§21-11-4. West Virginia Contractor Licensing Board created; members; appointment; terms; vacancies; qualifications; quorum.**

1 [Repealed]

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

1 [Repealed]

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

1 [Repealed]

**§21-11-7. Application for and issuance of license.**

1 [Repealed]

**§21-11-8. Licenses; expiration date; fees; renewal.**

1 [Repealed]

**§21-11-9. Unlawful use, assignment, transfer of license; revocation.**

1 [Repealed]

**§21-11-10. Prerequisites to obtaining building permit; mandatory written contracts.**

1 [Repealed]

**§21-11-10a. Informational list for basic universal design features; penalties.**

1 [Repealed]

**§21-11-11. Notice included with invitations to bid and specifications.**

1 [Repealed]

**§21-11-12. License renewal, lapse and reinstatement.**

1 [Repealed]

**§21-11-13. Violation of article; injunction; criminal penalties.**

1 [Repealed]

**§21-11-14. Disciplinary powers of the board.**

1 [Repealed]

**§21-11-15. Administrative duties of Division.**

1 [Repealed]

**§21-11-16. Rules.**

1 [Repealed]

**§21-11-17. Record keeping.**

1 [Repealed]

**§21-11-18. Reciprocity.**

1 [Repealed]

**§21-11-20. Board authorized to provide training.**

1 [Repealed]

**CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

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

**§30-11-1. License required to practice.**

1 The practice of contractor work requires education, training, skilled craftsmanship, and  
2 experience to safely and fairly conduct and complete public and private construction projects. In  
3 order to provide protection of the public from unfair, unsafe and unscrupulous bidding and  
4 construction practices, to provide for fair bidding practices between competing contractors  
5 through uniform compliance with the laws of this State, to provide for the protection of the health,  
6 safety, interest, and welfare of the public, and to provide for the regulation of construction in this  
7 State, the Legislature finds that a person must have a license, as provided in this article.

**§30-11-2. Unlawful Acts.**

1           (a) It is unlawful for any person to practice or offer to work in his State as a contractor, as  
2 defined herein, without a license issued under the provisions of this article, or advertise or use  
3 any title or description tending to convey the impression that the person is a licensed contractor  
4 or subcontractor, as defined herein, unless such person has been duly licensed under the  
5 provisions of this article.

6           (b) It is unlawful for any firm to practice or offer to practice as a contractor defined herein  
7 without a license issued under the provisions of this article, or advertise or use any title or  
8 description tending to convey the impression that the person is a licensed contractor or  
9 subcontractor, as defined herein, unless such person has been duly licensed under the provisions  
10 of this article.

**§30-11-3. Applicable law.**

1           The practice as a contractor and the West Virginia Contractor Licensing Board is subject  
2 to the provisions of §30-1-1 et seq. of this article and any rules promulgated thereunder.

**§30-11-4. Definitions.**

1           (a) "Basic universal design" means the design of products and environments to be useable  
2 by all people, to the greatest extent possible, without the need for adaptation or specialization.

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

4           (c) "Cease and desist order" means an order issued by the board pursuant to the  
5 provisions of this article.

6           (d) "Contractor" means a person who in any capacity for compensation, other than as an  
7 employee of another, undertakes, offers to undertake, purports to have the capacity to undertake,  
8 or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck, or  
9 demolish any building, highway, road, railroad, structure or excavation associated with a project,  
10 development or improvement, or to do any part thereof, including the erection of scaffolding or  
11 other structures or works in connection therewith, where the cost of the undertaking is \$2,500 or

12 more. Contractor includes a construction manager who performs management and counseling  
13 services for a construction project for a professional fee. Contractor does not include:

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

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

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

23 (4) A pest control operator licensed under the provisions of §19-16A-7 of this code to  
24 engage in the application of pesticides for hire, unless the operator also performs structural  
25 repairs exceeding \$1,000 on property treated for insect pests; 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 the corporation, partnership,  
30 or sole proprietorship shall also be exempt from the requirements of this article.

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

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

38 construction.

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

55 (k) "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 (l) "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 (m) "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 standpipes.

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

70 (o) "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 (p) "Residential occupancy" means occupancy of a structure for residential purposes for  
73 periods greater than 30 consecutive calendar days.

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

**§30-11-5. The West Virginia Contractor Licensing Board.**

1 (a) The West Virginia Contractor Licensing Board is hereby continued. The board shall  
2 consist of eleven members appointed by the Governor by and with the advice and consent of the  
3 Senate for terms of four years.

4 (b) Each licensed member of the board, at the time of his or her appointment, must have  
5 held a contractor's license in this State for a period of not less than three years and must have  
6 been a resident of this State for not less than one year immediately preceding the appointment.

7 (c) Each member of the board must be a resident of this State during the appointment



8 term. At least three members of the board shall reside at the time of their appointment in each  
9 congressional district as existing on January 1, 2018.

10 (d) Members of the board first appointed shall be two members for one year, two members  
11 for two years, two members for three years and three members for four years, as designated by  
12 the Governor at the time of appointment. Thereafter, terms shall be for four years. A member who  
13 has served all or part of two consecutive terms shall not be subject to reappointment unless four  
14 years have elapsed since the member last served. Vacancies shall be filled by appointment by  
15 the Governor for the unexpired term of any member whose office is vacant and shall be made  
16 within 60 days of the vacancy. A vacancy on the board does not impair the right of the remaining  
17 members to exercise all the powers of the board.

18 (e) No member may serve more than three consecutive terms and any member having  
19 served three consecutive full terms may not be appointed for one year after completion of their  
20 third term. A member shall continue to serve until their successor has been appointed and  
21 qualified. Any member currently serving on the board on the effective date of this article may be  
22 reappointed in accordance with the provisions of this section.

23 (f) Eight of the appointed members shall be owners of businesses engaged in the various  
24 contracting industries, with at least one member appointed from each of the following contractor  
25 classes: one electrical contractor, one general building contractor, one general engineering  
26 contractor, one heating, ventilating and cooling contractor, one multifamily contractor, one piping  
27 contractor, one plumbing contractor and one residential contractor, as defined in §30-11-4 of this  
28 code. Three appointed members shall be building code officials who are not members of any  
29 contracting industry. The Secretary of the Department of Tax and Revenue or designee, and the  
30 Commissioner of the Bureau of Employment Programs or designee shall be ex-officio nonvoting  
31 members of the board.

32 (g) The Governor may remove any member of the board for neglect of duty, incompetency  
33 or official misconduct.

34 (h) Any member of the board immediately and automatically forfeits his or her membership  
35 if his or her license to practice is suspended or revoked by the board, he or she is convicted of a  
36 felony under the laws of any state or the United States, or he or she becomes a nonresident of  
37 this State.

38 (i) The board shall designate one of its members as chairperson and one member as  
39 secretary-treasurer who shall serve at the will of the board.

40 (j) Each member of the board is entitled to receive compensation and expense  
41 reimbursement in accordance with §30-1-1 et seq. of this code.

42 (k) A majority of the members appointed shall constitute a quorum of the board.

43 (l) The board shall meet at least once annually and at other times as called by the  
44 chairperson or upon written request of a majority of the board, at the time and place designated  
45 in the call or request.

**§30-11-6. Duties and powers of the board.**

1 (a) The board has all the powers and duties set forth in this article, by rule, in §30-1-1 et  
2 seq. of this code, and elsewhere in law.

3 (b) The board's powers and duties include:

4 (1) Holding meetings, conducting hearings, and administering examinations and  
5 reexaminations;

6 (2) Setting the requirements for a license, temporary permit, and certificate of  
7 authorization;

8 (3) Establishing procedures for submitting, approving and rejecting applications for a  
9 license, temporary permit, and certificate of authorization;

10 (4) Determining the qualifications of any applicant for a license, temporary permit, and  
11 certificate of authorization;

12 (5) Preparing, conducting, administering, and grading written, oral, or written and oral  
13 examinations and reexaminations for a license;

14 (6) Contracting with third parties to prepare and/or administer the examinations and  
15 reexaminations required under the provisions of this article;

16 (7) Determining the passing grade for the examinations;

17 (8) Maintaining records of the examinations and reexaminations the board or a third party  
18 administers, including the number of persons taking the examination or reexamination and the  
19 pass and fail rate;

20 (9) Maintaining an accurate registry of names and addresses of all persons and firms  
21 regulated by the board;

22 (10) Defining, by legislative rule, the fees charged under the provisions of this article;

23 (11) Issuing, renewing, denying, suspending, revoking or reinstating licenses, temporary  
24 permits and certificates of authorization;

25 (12) Establishing, by legislative rule, the continuing education requirements for licensees;

26 (13) Suing and being sued in its official name as an agency of this state;

27 (14) Maintaining an office, and hiring, discharging, setting the job requirements and fixing  
28 the compensation of employees and investigators necessary to enforce the provisions of this  
29 article;

30 (15) Entering into a written agreement, contract, or memorandum of understanding with  
31 the state Division of Labor or other entity to utilize the services of experienced investigators  
32 employed by such entity at reasonable rates of reimbursement for such services;

33 (16) Investigating alleged violations of the provisions of this article, of the rules  
34 promulgated hereunder, and of orders and final decisions of the board;

35 (17) Conducting disciplinary hearings of all persons and business entities regulated by  
36 the board;

37 (18) Setting disciplinary action and issuing orders;

38 (19) Instituting appropriate legal action for the enforcement of the provisions of this article;

39 (20) Keeping accurate and complete records of its proceedings, and certifying the same

40 as may be appropriate;

41 (21) Proposing rules for legislative approval in accordance with the provisions of §29A-3-  
42 1 et seq. of this code to implement the provisions of this article;

43 (22) Establishing by legislative rule the minimum qualifications for applicants for  
44 examination and license in each of the following specified classes of contractor:

45 (A) Electrical contractor;

46 (B) General building contractor;

47 (C) General engineering contractor;

48 (D) Heating, ventilating and cooling contractor;

49 (E) Multifamily contractor;

50 (F) Piping contractor;

51 (G) Plumbing contractor;

52 (H) Residential contractor; or

53 (I) Specialty contractor;

54 (23) Establishing by legislative rule the content of examinations for applicants in each  
55 class;

56 (24) Establishing by legislative rule the procedures for application, examination and  
57 license renewal, and the way the examination will be conducted;

58 (25) Establishing by legislative rule the continued competency of licensees for purposes  
59 of renewal and reinstatement of licenses;

60 (26) Establishing by legislative rule procedures for disciplinary action before the board;  
61 and

62 (27) Taking all other actions necessary and proper to effectuate the purposes of this  
63 article.

64 (c) The board shall:

65 (1) Hold at least one examination in each calendar quarter for each specific classification

66 of contractor, designate the time and place of the examinations and notify applicants thereof;

67 (2) Investigate alleged violations of this article, legislative rules, orders and final decisions  
68 of the board;

69 (3) Notify the board members of meeting dates and agenda items at least five days prior  
70 to the meetings; and

71 (4) Take minutes and records of all meetings and proceedings.

72 (d) The board shall perform the following administrative duties:

73 (1) Collect and record all fees;

74 (2) Maintain records and files;

75 (3) Issue and receive application forms;

76 (4) Notify applicants of the results of the board examination;

77 (5) Arrange space for holding examinations and other proceedings;

78 (6) Issue licenses and temporary licenses as authorized by this article;

79 (7) Issue duplicate licenses upon submission of a written request by the licensee attesting  
80 to loss of or the failure to receive the original and payment by the licensee of a fee established by  
81 regulation adopted by the board;

82 (8) Notify licensees of renewal dates at least 30 days before the expiration date of their  
83 license;

84 (9) Answer routine inquiries;

85 (10) Maintain files relating to individual licensees;

86 (11) Arrange for printing and advertising;

87 (12) Purchase supplies;

88 (13) Employ additional help when needed;

89 (14) Perform other services that may be requested by the board;

90 (15) Provide inspection, enforcement and investigative services to the board utilizing  
91 inspectors from the Division of Labor; and

92 (16) Issue cease and desist orders to persons engaging in contracting within the state  
93 without a valid license.

94 (e) Any authority not specifically delegated is the responsibility of the board.

95 (f) Following successful completion of the examination, and prior to the issuance of the  
96 license, the applicant shall certify by affidavit that the applicant:

97 (1) Is in compliance with the business franchise tax provisions of Chapter 11 of this code;

98 (2) Has registered, and is in compliance, with the Workers' Compensation Fund and the  
99 Employment Security Fund, as required by Chapter 23 and Chapter 21A of this code; and

100 (3) Is in compliance with the applicable wage bond requirements of §21-5-14 of this code.

101 In the case of an out-of-state contractor not doing business in this state and seeking licensure for  
102 bidding purposes only, the applicant may be granted a conditional license for bid purposes only.

103 (g) The board may disseminate educational or any other material designed to improve  
104 performance standards of any contractor group to contractors within the state.

105 (h) The board may adopt and use a seal with the words "State Contractor Licensing Board  
106 of West Virginia".

107 (i) In addition to the powers and duties set forth in this article, the board may confer with  
108 the Office of the West Virginia Attorney General in connection with legal matters and questions.

**§30-11-7. Rule-making authority.**

1 (a) The board shall propose rules for legislative approval, in accordance with the  
2 provisions of §29A-3-1 et seq. to implement the provisions of this article, including the  
3 establishment of:

4 (2) Procedures for examinations and reexaminations;

5 (3) Requirements for third parties to prepare and/or administer examinations and  
6 reexaminations;

7 (4) Educational and experience requirements, and the passing grade on the examination  
8 for licensure;

9 (5) Procedures for the issuance and renewal of a license, temporary permit, and certificate  
10 of authorization;

11 (6) A fee schedule; any fee schedule in effect will remain in effect until amended, modified,  
12 repealed, or replaced by legislative rule promulgated pursuant to this subsection;

13 (7) Continuing education requirements for licensees;

14 (8) The procedures for denying, suspending, revoking, reinstating or limiting the practice  
15 of a licensee, permittee, or certificate of authorization holder;

16 (9) Requirements for inactive or revoked licenses, temporary permits, or certificates of  
17 authorization; and

18 (10) Any other rules necessary to effectuate the provisions of this article.

19 (b) All rules in effect on the effective date of this article shall remain in effect until they are  
20 amended, modified, repealed, or replaced.

**§30-11-8. Board authorized to provide training.**

1 (a) The board may enter into work-sharing agreements with state vocational and technical  
2 training schools to provide classroom training to students who desire to obtain a West Virginia  
3 contractor license. The purpose of the training is limited to instruction applicable to the contractor  
4 license examinations required by the board. The terms of the work-sharing agreements shall be  
5 determined by the West Virginia Contractor Licensing Board and county boards of education.

6 (b) For the purposes of this section, the board may expend funds from its special revenue  
7 account, known as the Contractor Licensing Fund, to support this activity.

**§30-11-9. Recordkeeping; moneys received.**

1 (a) The board shall keep a record of all actions taken and account for moneys received.  
2 All moneys shall be deposited in a special account in the State Treasury to be known as the “West  
3 Virginia Contractor Licensing Board Fund.” Expenditures from this fund shall be for the purposes  
4 set forth in this article and are not authorized from collections, but are to be made only in  
5 accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-

6 1 et seq. of this code and upon the fulfillment of the provisions set forth in §5A-2-1 et seq. of this  
7 code. Amounts collected which are found from time to time to exceed the funds needed for  
8 purposes set forth in this article may be transferred to other accounts or funds and redesignated  
9 for other purposes by appropriation of the Legislature.

10 (b) The board shall maintain at the principal office, open for public inspection during office  
11 hours, a complete indexed record of all applications, licenses issued, licenses renewed and all  
12 revocations, cancellations and suspensions of licenses. Applications shall show the date of  
13 application, name, qualifications, place of business and place of residence of each applicant; and  
14 whether the application was approved or refused.

15 (c) (1) All investigations, complaints, reports, records, proceedings and other information  
16 received by the board and related to complaints made to the board or investigations conducted  
17 by the board pursuant to this article, including the identity of the complainant or respondent, are  
18 confidential and may not be knowingly and improperly disclosed by any member or former  
19 member of the board or staff, except as follows:

20 (A) Upon a finding that probable cause exists to believe that a respondent has violated  
21 the provisions of this article, the complaint and all reports, records, nonprivileged and  
22 nondeliberative materials introduced at any probable cause hearing held pursuant to the  
23 complaint are thereafter not confidential. Confidentiality of the information shall remain in full force  
24 and effect until the respondent has been served with a copy of the statement of charges.

25 (B) Any subsequent hearing held in the matter for the purpose of receiving evidence or  
26 the arguments of the parties or their representatives is open to the public, and all reports, records  
27 and nondeliberative materials introduced into evidence at the subsequent hearing, as well as the  
28 board's orders, are not confidential.

29 (C) The board may release any information relating to an investigation at any time if the  
30 release has been agreed to in writing by the respondent.

31 (D) The complaint and identity of the complainant shall be disclosed to respondent



32 immediately upon the respondent's request.

33 (E) Where the board is otherwise required by the provisions of this article to disclose the  
34 information or to proceed in such a manner that disclosure is necessary and required to fulfill  
35 these requirements.

36 (2) If, in a specific case, the board finds there is a reasonable likelihood that the  
37 dissemination of information or opinion in connection with a pending or imminent proceeding will  
38 interfere with a fair hearing or otherwise prejudice the due administration of justice, the board shall  
39 order that all or a portion of the information communicated to the board to cause an investigation  
40 and all allegations of violations or misconduct contained in a complaint are confidential, and the  
41 person providing this information or filing a complaint shall be bound to confidentiality until further  
42 order of the board.

43 (d) If any person violates the provisions of subsection (c) of this section by knowingly and  
44 willfully disclosing any information made confidential by this section or by the board, that person  
45 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor  
46 more than \$5,000, or confined in jail not more than one month, or both fined and confined.

47 (e) The board shall certify to the State Auditor a detailed statement of all moneys received  
48 and spent during the preceding fiscal year.

**§30-11-10. Fees; special revenue account; administrative fines.**

1 (a) All fees and other moneys, except administrative fines, received by the board shall be  
2 deposited in a separate special revenue fund in the state Treasury designated the "West Virginia  
3 Contracting Licensing Fund," which fund is hereby continued. The fund shall be used by the board  
4 for the administration of this article. Except as may be provided in §30-1-1 et seq. of this code,  
5 the board shall retain the amounts in the special revenue account from year to year. No  
6 compensation or expense incurred under this article is a charge against the General Revenue  
7 Fund.

8 (b) Any amounts received as fines imposed pursuant to this article shall be deposited into

9 the General Revenue Fund of the state Treasury.

**§30-11-11. Education, experience and examination requirements for licensure.**

1 (a) An applicant for licensure under this article must have completed one of the following  
2 educational and/or experience requirements:

3 (1) Has a bachelor’s degree in contracting from an accredited college or university and at  
4 least two years of experience in contracting under the supervision of a contractor or a person  
5 having qualifications acceptable to the board and similar to the qualifications of a contractor;

6 (2) Has a graduate degree in contracting from an accredited college or university and at  
7 least one year of experience in contracting under the supervision of a contractor or a person  
8 having qualifications acceptable to the board and similar to the qualifications of a contractor; or

9 (3) (A) Prior to December 31, 2006, has completed at least 10 years of experience in  
10 contracting, including at least six years of experience in contracting under the supervision of a  
11 contractor or a person having qualifications acceptable to the board and similar to the  
12 qualifications of a contractor; or

13 (B) Prior to December 31, 2006, has begun the 10 years of experience in contracting set  
14 out in subdivision (3) (A) of this subsection, and has not completed the experience requirements  
15 prior to December 31, 2006, then the person must notify the board that he or she will be making  
16 application under this subdivision and comply with the procedures prescribed by the board; or

17 (C) On and after January 1, 2007, has completed at least 10 years of experience in  
18 contracting under the supervision of a contractor or a person having qualifications acceptable to  
19 the board and similar to the qualifications of a contractor.

20 (b) An applicant for licensure under this article must pass the examination prescribed by  
21 the board.

**§30-11-12. Necessity for license; exemptions.**

1 (a) No person may engage in this state in any activity as a contractor or submit a bid to  
2 perform work as a contractor, as defined in this article, unless that person holds a license issued

3 under the provisions of this article. No firm, partnership, corporation, association or other entity  
4 may 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 is subject, after hearing, to a warning, a reprimand, or a fine of not more than  
11 \$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 by the owner of the equipment on an emergency basis in order  
25 to maintain or restore the operation of the 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 the 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.

**§30-11-13. Application for and issuance of license.**

- 1 (a) A person desiring to be licensed as a contractor under this article shall submit to the  
2 board a written application requesting licensure, providing the applicant's social security number  
3 and such other information as the board may require on forms supplied by the board. The  
4 applicant shall pay a license fee not to exceed \$150. Electrical contractors already licensed under  
5 §29-3B-4 of this code shall pay no more than \$20.

- 6 (b) No license may be issued without examination pursuant to this subsection. Any person  
7 issued a contractor's license by the board pursuant to this subsection may apply to the board for  
8 transfer of the license to a new business entity in which the license holder is the principal owner,  
9 partner or corporate officer. A license holder may hold a license on behalf of only one business  
10 entity during a given time period. The board may transfer the license issued pursuant to this  
11 subsection to the new business entity without requiring examination of the license holder.

**§30-11-14. Licenses; expiration date; fees; renewal.**

- 1 (a) A license issued under the provisions of this article expires one year from the date on  
2 which it is issued. The board shall establish application and annual license fees not to exceed  
3 \$150.

- 4 (b) The board may propose rules for legislative approval in accordance with §29A-3-1 et  
5 seq. of this code, to establish license and renewal fees.

**§30-11-15. Unlawful use, assignment, transfer of license; revocation.**

- 1 No license may be used for any purpose by any person other than the person to whom

2 the license is issued. No license may be assigned, transferred, or otherwise disposed of so as to  
3 permit the unauthorized use thereof. No license issued pursuant to the provisions of §30-11-13  
4 of this code may be assigned, transferred, or otherwise disposed of except as provided in said  
5 subsection. Any person who violates this section is subject to the penalties specified in §30-11-  
6 35 of this code.

**§30-11-16. Prerequisites to obtaining building permit; mandatory written contracts.**

1 (a) Any person making application to the building inspector or other authority of any  
2 incorporated municipality or other political subdivision in this state charged with the duty of issuing  
3 building or other permits for the construction of any building, highway, sewer, or structure, or for  
4 any removal of materials or earth, grading, or improvement, shall, before issuance of the permit,  
5 either furnish satisfactory proof to the inspector or authority that the person is duly licensed under  
6 the provisions of this article to carry out or superintend the construction, or file a written affidavit  
7 that the person is not subject to licensure as a contractor or subcontractor as defined in this article.  
8 The inspector or authority may not issue a building permit to any person who does not possess a  
9 valid contractor's license when required by this article.

10 (b) No person licensed under the provisions of this article may perform contracting work  
11 of an aggregate value of \$10,000 or more, including materials and labor, without a written contract,  
12 setting forth a description and cost of the work to be performed, signed by the licensee and the  
13 person for whom the work is to be performed.

14 (c) The board shall file a procedural rule setting forth a standard contract form which meets  
15 the minimum requirements of this subsection for use by licensees. The board shall post the  
16 contract form on its website and shall assist licensees in the correct completion of the form. The  
17 board shall mail a written notice of the requirements imposed by the rule to each licensed  
18 contractor at the address provided to the board by the contractor on his or her last application for  
19 licensure or renewal.

**§30-11-17. License requirements.**

1           (a) The board shall issue a license to practice under the provisions of this article to an  
2 applicant who meets the following requirements:

3           (1) Is of good moral character;

4           (2) Is at least 18 years of age;

5           (3) Is a citizen of the United States or is eligible for employment in the United States;

6           (4) Has not been convicted of a crime involving moral turpitude;

7           (5) Has not had his or her application for a license to practice as a contractor refused in  
8 any state of the United States;

9           (6) Has not had his or her license to practice contracting suspended or revoked in any  
10 state of the United States; and

11           (7) Has completed the licensure requirements set out in this article and the rules  
12 promulgated hereunder.

13           (b) The board may issue a license to practice under the provisions of this article to an  
14 applicant who does not meet the licensure requirements set out in subdivisions (4), (5) or (6) of  
15 subsection (a) of this section, but who does meet the licensure requirements established by rule  
16 by the board.

17           (c) An application for a license shall be made on forms prescribed by the board.

18           (d) An applicant shall pay all the applicable fees.

19           (e) A license to practice contracting issued by the board prior to July 1, 2006, shall for all  
20 purposes be considered a license issued under this article: *Provided*, That a person holding a  
21 license to practice contracting issued prior to July 1, 2006, must renew the license pursuant to  
22 the provisions of this article.

**§30-11-18. License from another jurisdiction; license to practice in this state.**

1           (a) The board may issue a license to practice contracting in this state, without requiring an  
2 examination, to an applicant of good moral character who holds a valid license or other  
3 authorization to practice contracting from another jurisdiction, if the applicant:

4 (1) Holds a license or other authorization to practice contracting in another jurisdiction and  
5 meets requirements which are substantially equivalent to the licensure requirements set forth in  
6 this article;

7 (2) Is not currently being investigated by a disciplinary authority of this state or another  
8 jurisdiction, does not have charges pending against his or her license or other authorization to  
9 practice contracting, and has never had a license or other authorization to practice contracting  
10 revoked;

11 (3) Has not previously failed an examination for licensure in this state;

12 (4) Has paid all the applicable fees; and

13 (5) Has completed such other action as required by the board.

**§30-11-19. License renewal requirements.**

1 (a) A licensee shall, annually or biennially upon or before July 1, renew his or her license  
2 by completing a form prescribed by the board and paying a renewal fee.

3 (b) At least 30 days prior to July 1, either annually or biennially, the secretary-treasurer  
4 of the board shall mail to every licensee a notice of renewal, an application for renewal, and a  
5 statement for the renewal fee.

6 (c) The board shall charge a fee for each renewal of a license and a late fee for any  
7 renewal not paid in a timely manner.

8 (d) The board shall require as a condition for the renewal of a license that each licensee  
9 complete continuing education requirements.

10 (e) The board may deny an application for renewal for any reason which would justify the  
11 denial of an original application for a license.

**§30-11-20. License renewal, lapse and reinstatement.**

1 (a) A license which is not renewed on or before the renewal date shall lapse. The board  
2 may establish by rule on a delayed renewal fee to be paid for issuance of any license which has  
3 lapsed. No license which has lapsed for a period of 90 days or more may be renewed. If a

4 licensee is in a dispute with a state agency, and it is determined that the licensee is not at fault,  
5 the board shall renew the license.

6 (b) If continuing education or other requirements are made a condition of license  
7 reinstatement after lapse, suspension, or revocation, these requirements must be satisfied before  
8 the license is reissued.

**§30-11-21. Inactive license requirements.**

1 (a) A licensee who chooses not to continue in active practice and notifies the board in  
2 writing, may be granted inactive status.

3 (b) A person granted inactive status shall pay an inactive fee, is exempt from the  
4 continuing education requirements and cannot practice in this state.

5 (c) When an inactive licensee wants to return to active practice, he or she must complete  
6 all the continuing education requirements, pay all the applicable fees and meet all the other  
7 requirements prescribed by the board.

**§30-11-22. Retired license requirements.**

1 (a) A licensee who chooses to retire and notifies the board in writing, may be granted  
2 retired status.

3 (b) A person granted retired status cannot practice contracting in this state.

**§30-11-23. Reinstatement of license.**

1 The board may reinstate a license upon a showing that the applicant is qualified to resume  
2 practice. The applicant shall pay all applicable fees and shall meet all the requirements prescribed  
3 by the board.

**§30-11-24. Temporary permits.**

1 (a) Upon proper application and payment of the applicable fees, the board may issue a  
2 temporary permit, for a period of time not to exceed one year, to an applicant who has completed  
3 the educational and/or experience requirements set out in this article, but who has not taken the  
4 examination.



5 (b) The temporary permit expires 30 days after the board gives written notice to the  
6 permittee of the results of the first examination held following the issuance of the temporary  
7 permit.

8 (c) The temporary permit may not be renewed, nor another temporary permit be issued to  
9 the same person.

10 (d) The temporary permit may be revoked for any reason which would justify the  
11 suspension, revocation, limitation, or denial of a license.

**§30-11-25. Display of license.**

1 (a) The board shall prescribe the form for a license and may issue a duplicate license,  
2 upon payment of a fee.

3 (b) A licensee shall conspicuously display his or her license at his or her principal place of  
4 practice.

**§30-11-26. Seal requirements.**

1 (a) Each licensee must have a seal, authorized by the board, which seal shall include the  
2 licensee's name and the words: "Professional Contractor, State of West Virginia," and any other  
3 words or figures prescribed by the board.

4 (b) All working drawings and specifications prepared by a licensee shall be signed and  
5 stamped with the licensee's seal. Nothing contained in this article shall be construed to permit the  
6 seal of a contractor to serve as a substitute for the seal of an architect, an engineer, or a  
7 professional surveyor whenever the seal of such architect, engineer, or professional surveyor is  
8 required by law.

9 (c) It is unlawful for a person who is not licensed under the provisions of this article to affix  
10 a contractor's seal on a document.

**§30-11-27. Certificate of authorization requirements.**

1 (a) After July 1, 2019, a contractor in West Virginia shall have a certificate of authorization.

2 (b) The board shall issue a certificate of authorization to a firm that:

- 3           (1) Wants to practice contracting in West Virginia;  
4           (2) Provides proof that the firm employs a West Virginia licensed contractor;  
5           (3) Has paid all applicable fees; and  
6           (4) Completes such other requirements as specified by the board.  
7           (c) The name of the employed licensee in direct control or having personal supervision of  
8 the practice of the firm shall appear as the contractor on all plans, drawings, specifications, reports  
9 or other instruments of service rendered or submitted by the firm.

**§30-11-28. Certificate of authorization renewal requirements.**

- 1           (a) A firm wanting to continue in active practice shall, annually or biennially upon or before  
2 July 1, renew its certificate of authorization and pay a renewal fee.  
3           (b) At least 30 days prior to July 1, either annually or biennially, the secretary-treasurer of  
4 the board shall mail to every certificate of authorization holder a notice of renewal, an application  
5 for renewal and a statement for the renewal fee.  
6           (c) The board shall charge a fee for each renewal of a certificate of authorization and a  
7 late fee for any renewal not paid in a timely manner.

**§30-11-29. Display of certificate of authorization.**

- 1           (a) The board shall prescribe the form for a certificate of authorization and may issue a  
2 duplicate certificate of authorization upon payment of a fee.  
3           (b) A contractor shall conspicuously display its certificate of authorization at its principal  
4 place of practice.

**§30-11-30. Refusal to issue or renew, suspension or revocation.**

- 1           (a) The board may refuse to issue, refuse to renew, suspend, revoke, or limit any license,  
2 temporary permit, certificate of authorization, or practice privilege and may take disciplinary action  
3 against a licensee, permittee, or certificate of authorization holder who, after notice and a hearing,  
4 has been adjudged by the board as unqualified for any of the following reasons:  
5           (1) Fraud, misrepresentation, or deceit in obtaining or maintaining a license, temporary

6 permit, or certificate of authorization;

7 (2) Failure by any licensee, permittee, or certificate of authorization holder to maintain  
8 compliance with the requirements for the issuance or renewal of a license, temporary permit, or  
9 certificate of authorization;

10 (3) Dishonesty, fraud, professional negligence in the performance of contractor services,  
11 or a willful departure from the accepted standards of contracting and the professional conduct of  
12 contractors;

13 (4) Violation of any provision of this article or any rule promulgated hereunder;

14 (5) Violation of any professional standard or rule of professional conduct;

15 (6) Failure to comply with the provisions of this article or any rule promulgated hereunder;

16 (7) Failure to comply with any order or final decision of the board;

17 (8) Failure to respond to a request or action of the board;

18 (9) Conviction of a crime involving moral turpitude;

19 (10) Conviction of a felony or a crime involving dishonesty or fraud or any similar crime  
20 under the laws of the United States, this state or another jurisdiction, if the underlying act or  
21 omission involved would have constituted a crime under the laws of this state;

22 (11) Any conduct adversely affecting the licensee's, permittee's, or certificate of  
23 authorization holder's fitness to perform contractor services; or

24 (12) Knowingly using any false or deceptive statements in advertising.

25 (b) If the board suspends, revokes, refuses to issue, refuses to renew, or limits any license,  
26 temporary permit, certificate of authorization, or practice privilege, the board shall make and enter  
27 an order to that effect and give written notice of the order to the person by certified mail, return  
28 receipt requested, which order shall include a statement of the charges setting forth the reasons  
29 for the action, and notice of the date, time and place of the hearing. If a license, temporary permit,  
30 or certificate of authorization is ordered suspended or revoked, then the licensee, permittee, or  
31 certificate of authorization holder shall, within 20 days after receipt of the order, return the license,

32 temporary permit, certificate of authorization to the board. The hearing shall be held in accordance  
33 with the provisions of this article.

34 (c) Disciplinary action includes, but is not limited to, a reprimand, censure, probation,  
35 administrative fines, and mandatory attendance at continuing education seminars.

**§30-11-31. Informational list for basic universal design features.**

1 (a) Ninety days after the Contractor Licensing Board certifies and makes available to the  
2 general public the standard form informational list of basic universal design features pursuant to  
3 this section, a licensed contractor of any proposed residential housing in the state shall provide  
4 to the buyer an informational list of basic universal design features that would make the home  
5 entrance, interior routes of travel, the kitchen and the bathroom or bathrooms universally  
6 accessible. Basic universal design features are to include, but not be limited to, the following:

7 (1) At least one nonstep entrance into the dwelling;

8 (2) All doors on the entry-level floor, including bathrooms, have a minimum of 36 inches;

9 (3) At least one accessible bathroom on the entry-level floor with ample maneuvering  
10 space;

11 (4) Kitchen, general living space and one room capable of conversion into a bedroom, all  
12 with ample maneuvering space, on the entry-level floor; and

13 (5) Any other external or internal feature requested at a reasonable time by the buyer and  
14 agreed to by the seller.

15 (b) If a buyer is interested in a specific informational feature on the list established by  
16 subsection (a) of this section, the seller or builder upon request of the buyer shall indicate whether  
17 the feature is standard, limited, optional, or not available and, if available, shall further indicate  
18 the cost of such a feature to the buyer.

19 (c) The standard form informational list of basic universal design features shall be certified  
20 and made available for reproduction by the board, in accordance with the provisions of subsection  
21 (a) of this section, based on mutual recommendation of the board, the American Institute of

22 Architects-West Virginia, the Home Builders Association of West Virginia and the West Virginia  
23 Center for Excellence in Disabilities.

**§30-11-32. Notice included with invitations to bid and specifications.**

1 Any architect or engineer preparing any plan and specification for contracting work to be  
2 performed in this state shall include in the plan, specification, and invitation to bid a reference to  
3 this article informing any prospective bidder that the person's contractor's license number shall  
4 be included on any bid submission. A subcontractor shall furnish his or her contractor's license  
5 number to the contractor prior to the award of the contract. If an apparent low bidder for a public  
6 improvement contract as defined in §21-1D-1 et seq. of this code, fails to submit a license number  
7 in accordance with this section, the public authority, as defined in §21-1D-1 et seq., of this code,  
8 shall promptly request by telephone and electronic mail that the low bidder and the second low  
9 bidder provide the license number within one day of the request. Failure of the bidder to provide  
10 the license number within one business day of receiving the request shall result in disqualification  
11 of the bid.

**§30-11-33. Complaints; investigations; notice.**

1 (a) The board may, on its own motion, conduct an investigation to determine whether there  
2 are any grounds for disciplinary action against a licensee, permittee, or certificate of authorization  
3 holder. The board shall, upon the verified written complaint of any person, conduct an  
4 investigation to determine whether there are any grounds for disciplinary action against a  
5 licensee, permittee, or certificate of authorization holder.

6 (b) Upon receipt of a written complaint filed against any licensee, permittee, or certificate  
7 of authorization holder, the board shall provide a copy of the complaint to the licensee, permittee  
8 or certificate of authorization holder.

9 (c) Investigators employed or authorized by the board shall have the authority to enter  
10 onto any construction site or into any facility to ascertain whether workers engaged in contracting  
11 services at that location are duly licensed as contractors.

12 (d) If the board finds, upon investigation, that probable cause exists that the licensee,  
13 permittee, or certificate of authorization holder has violated any provision of this article or the rules  
14 promulgated hereunder, then the board shall serve the licensee, permittee, or certificate of  
15 authorization holder with a written statement of charges and a notice specifying the date, time,  
16 and place of the hearing. The hearing shall be held in accordance with the provisions of this  
17 article.

**§30-11-34. Hearing and judicial review.**

1 (a) Any person adversely affected by an order entered by the board is entitled to a hearing.  
2 A hearing on a statement of the charges shall be held in accordance with the provisions for  
3 hearings set forth in §30-1-1 et seq. of this code and the procedures specified by the board by  
4 rule.

5 (b) Any licensee, permittee, or certificate of authorization holder, adversely affected by  
6 any decision of the board entered after a hearing, may obtain judicial review of the decision in  
7 accordance with §29A-4-5 of this code, and may appeal any ruling resulting from judicial review  
8 in accordance with §29A-6-1 of this code.

**§30-11-35. Violation of article; injunction; criminal penalties.**

1 (a) (1) Upon a determination that a person is engaged in contracting business in the state  
2 without a valid license, the board shall issue a cease and desist order requiring the person to  
3 immediately cease all operations in the state. The order shall be withdrawn upon issuance of a  
4 license to that person.

5 (2) After affording an opportunity for a hearing, the board may impose a penalty of not less  
6 than \$200 nor more than \$1,000 upon any person engaging in contracting business in the state  
7 without a valid license. The board may accept payment of the penalty in lieu of a hearing.

8 (3) Within 30 days after receipt of the final order issued pursuant to this section, any party  
9 adversely affected by the order may appeal the order to the circuit court of Kanawha County,  
10 West Virginia, or to the circuit court of the county in which the petitioner resides or does business.

11 (b) Any person continuing to engage in contracting business in the state without a valid  
12 license after service of a cease and desist order is guilty of a misdemeanor and, upon conviction,  
13 is subject to the following penalties:

14 (1) For a first offense, a fine of not less than \$200 nor more than \$1,000;

15 (2) For a second offense, a fine of not less than \$500 nor more than \$5,000, or confined  
16 in jail for not more than six months, or both fined and confined;

17 (3) For a third or subsequent offense, a fine of not less than \$1,000 nor more than \$5,000  
18 and confined in jail for not less than 30 days nor more than one year.

19 (c) The board may institute proceedings in the circuit court of the county in which the  
20 alleged violations of the provisions of this article occurred or are occurring to enjoin any violation  
21 of any provision of this article.

22 (d) Any person who undertakes any construction work without a valid license when a  
23 license is required by this article, when the total cost of the contractor's construction contract on  
24 any project upon which the work is undertaken is \$25,000 or more, shall, in addition to any other  
25 penalty herein provided, be assessed by the board an administrative penalty not to exceed \$200  
26 per day for each day the person is in violation.

27 (e) When, by reason of an investigation under this article or otherwise, the board or any  
28 other interested person believes that a person has violated or is about to violate any provision of  
29 this article, any rule promulgated hereunder, any order of the board or any final decision of the  
30 board, the board or any other interested person may apply to any court of competent jurisdiction  
31 for an injunction against such person enjoining such person from the violation. Upon a showing  
32 that the person has engaged in or is about to engage in any prohibited act or practice, an  
33 injunction, restraining order, or other appropriate order may be granted by the court without bond.

**§30-11-36. Disciplinary powers of the board.**

1 (a) The board may impose the following disciplinary actions:

2 (1) Permanently revoke a license;

3 (2) Suspend a license for a specified period;

4 (3) Censure or reprimand a licensee;

5 (4) Impose limitations or conditions on the professional practice of a licensee;

6 (5) Impose requirements for remedial professional education to correct deficiencies in the  
7 education, training and skill of a licensee;

8 (6) Impose a probationary period requiring a licensee to report regularly to the board on  
9 matters related to the grounds for probation; the board may withdraw probationary status if the  
10 deficiencies that require the sanction are remedied;

11 (7) Order a contractor who has been found, after hearing, to have violated any provision  
12 of this article or the rules of the board to provide, as a condition of licensure, assurance of financial  
13 responsibility. The form of financial assurance may include, but is not limited to, a surety bond, a  
14 cash bond, a certificate of deposit, an irrevocable letter of credit, or performance insurance. The  
15 amount of financial assurance required under this subdivision may not exceed the total of the  
16 aggregate amount of the judgments or liens levied against the contractor or the aggregate value  
17 of any corrective work ordered by the board or both. The board may remove this requirement for  
18 licensees against whom no complaints have been filed for a period of five continuous years; and

19 (8) A fine not to exceed \$1,000.

20 (b) No license issued under the provisions of this article may be suspended or revoked  
21 without a prior hearing before the board. The board may summarily suspend a licensee pending  
22 a hearing or pending an appeal after hearing upon a determination that the licensee poses a clear,  
23 significant, and immediate danger to the public health and safety.

24 (c) The board may reinstate the suspended or revoked license of a person if, upon a  
25 hearing, the board finds and determines that the person is able to practice with skill and safety.

26 (d) The board may accept the voluntary surrender of a license. The license may not be  
27 reissued unless the board determines that the licensee is competent to resume practice and the  
28 licensee pays the appropriate renewal fee.



29 (e) A person or contractor adversely affected by disciplinary action may appeal to the  
30 board within 60 days of the date the disciplinary action is taken. The board shall hear the appeal  
31 within 30 days from receipt of notice of appeal in accordance with the provisions of Chapter 29A  
32 of this code. Hearings shall be held in Charleston. The board may retain a hearing examiner to  
33 conduct the hearings and present proposed findings of fact and conclusions of law to the board  
34 for its action.

35 (f) Any party adversely affected by any action of the board may appeal that action in either  
36 the circuit court of Kanawha County, West Virginia, or in the circuit court of the county in which  
37 the petitioner resides or does business, within 30 days after the date upon which the petitioner  
38 received notice of the final order or decision of the board.

39 (g) The following are causes for disciplinary action:

40 (1) Abandonment, without legal excuse, of any construction project or operation engaged  
41 in or undertaken by the licensee;

42 (2) Willful failure or refusal to complete a construction project or operation with reasonable  
43 diligence, thereby causing material injury to another;

44 (3) Willful departure from or disregard of plans or specifications in any material respect  
45 without the consent of the parties to the contract;

46 (4) Willful or deliberate violation of the building laws or regulations of the state or of any  
47 political subdivision thereof;

48 (5) Willful or deliberate failure to pay any moneys when due for any materials free from  
49 defect, or services rendered in connection with the person's operations as a contractor when the  
50 person has the capacity to pay or when the person has received sufficient funds under the contract  
51 as payment for the particular construction work for which the services or materials were rendered  
52 or purchased, or the fraudulent denial of any amount with intent to injure, delay or defraud the  
53 person to whom the debt is owed;

54 (6) Willful or deliberate misrepresentation of a material fact by an applicant or licensee in

55 obtaining a license or in connection with official licensing matters;

56 (7) Willful or deliberate failure to comply in any material respect with the provisions of this  
57 article or the rules of the board;

58 (8) Willfully or deliberately acting in the capacity of a contractor when not licensed or as a  
59 contractor by a person other than the person to whom the license is issued except as an employee  
60 of the licensee;

61 (9) Willfully or deliberately acting with the intent to evade the provisions of this article by:

62 (A) Aiding or abetting an unlicensed person to evade the provisions of this article;

63 (B) Combining or conspiring with an unlicensed person to perform an unauthorized act;

64 (C) Allowing a license to be used by an unlicensed person; or

65 (D) Attempting to assign, transfer or otherwise dispose of a license or permitting the  
66 unauthorized use thereof;

67 (10) Engaging in any willful, fraudulent, or deceitful act in the capacity as a contractor  
68 whereby substantial injury is sustained by another;

69 (11) Performing work which is not commensurate with a general standard of the specific  
70 classification of contractor or which is below a building or construction code adopted by the  
71 municipality or county in which the work is performed;

72 (12) Knowingly employing a person who does not have the legal right to be employed in  
73 the United States;

74 (13) Failing to execute written contracts prior to performing contracting work in accordance  
75 with §30-11-16 of this code;

76 (14) Failing to abide by an order of the board; or

77 (15) Failing to satisfy a judgment or execution ordered by a magistrate court, circuit court  
78 or arbitration board.

79 (h) In all disciplinary hearings the board has the burden of proof as to all matters in  
80 contention. No disciplinary action may be taken by the board except on the affirmative vote of at

81 least six members thereof. Other than as specifically set out herein, the board has no power or  
82 authority to impose or assess damages.

**§30-11-37. Single act evidence of practice.**

1 In any action brought or in any proceeding initiated under this article, evidence of the  
2 commission of a single act prohibited by this article is sufficient to justify a penalty, injunction,  
3 restraining order or conviction without evidence of a general course of conduct.

**§30-11-38. Reciprocity.**

1 To the extent that other states which provide for the licensing of contractors provide for  
2 similar action, the board may grant licenses of the same or equivalent classification to contractors  
3 licensed by other states, without written examination upon satisfactory proof furnished to the  
4 board that the qualifications of the applicants are equal to the qualifications of holders of similar  
5 licenses in this state, and upon certification to the board as required by §30-11-18 of this code,  
6 and upon payment of the required fee.

NOTE: The purpose of this bill is to transfer the West Virginia Contractor Act from administration and oversight by the Division of Labor to regulation under the provisions of professions and occupations in Chapter 30 of this code. The bill retains the short title and declaration of policy with definitions of the existing act. It continues the West Virginia Contractor Licensing Board, composition, terms, qualifications and appointment, together with administrative duties of board and legislative rules, without the Division of Labor. The bill retains the necessity for contractor license and exemptions, procedure for licensing, expiration date, fees and renewal of license. It continues procedure for revocation for unlawful use, assignment or transfer of license. Also the prerequisites to obtaining building permit and mandatory written contracts. The requirement of informational list for basic universal design features is retained, as is the provision for injunction and criminal penalties for violation of article. Specific administrative duties of board and record keeping by the board are provided without the Division of Labor. The board is authorized to grant reciprocity and to provide training to students who desire to obtain a West Virginia contractor license. Misdemeanor criminal penalties for violations of article are retained.

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