



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0373

Introduced 1/26/2007, by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 80/4.28 new

Creates the General Building Contractor Licensing Act. Provides for the licensure and regulation of general building contractors and specialty contractors by the Department of Financial and Professional Regulation. Creates the General Building Contractor Licensing Board. Sets forth provisions concerning powers and duties of the Board, exemptions from the Act, application procedures and qualifications, license expiration, renewal, and restoration, grounds for disciplinary action, penalties for violation of the Act, administrative procedures, and other requirements. Amends the Regulatory Sunset Act to repeal the General Building Contractor Licensing Act on January 1, 2018. Effective January 1, 2008.

LRB095 05255 RAS 25332 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 General Building Contractor Licensing Act.

6 Section 5. Definitions. In this Act:

7 "Advertise" includes without limitation the issuance of
8 any card, sign, or device to any person or the causing,
9 permitting, or allowing of any sign or marking on or in any
10 building or structure, in any newspaper or magazine, by airwave
11 or any electronic transmission, or in any directory under a
12 listing for work covered by this Act, with or without any
13 limiting qualifications.

14 "Board" means the General Building Contractor Licensing
15 Board.

16 "Department" means the Department of Financial and
17 Professional Regulation.

18 "General building contractor" means any person who
19 undertakes to, offers to undertake to, purports to have the
20 capacity to undertake to, submits a bid to, or does himself or
21 herself or by or through others construct, alter, repair, add
22 to, subtract from, improve, move, wreck, or demolish any
23 structure built, being built, or to be built, for the support,

1 shelter, and enclosure of persons, animals, chattels, or
2 movable property of any kind.

3 "Person" means any individual, partnership, or corporation
4 or any combination thereof.

5 "Secretary" means the Secretary of Financial and
6 Professional Regulation.

7 "Specialty contractor" means any general building
8 contractor whose operations involve the performance of
9 construction work that requires special skill and whose
10 principal general building contracting business involves the
11 use of specialized building trades or crafts, as determined by
12 the Department.

13 Section 10. Licensure requirement.

14 (a) Beginning 12 months after the adoption of the final
15 administrative rules under this Act, no person may practice,
16 offer to practice, attempt to practice, or hold himself or
17 herself out to practice as a general building contractor or as
18 a specialty contractor without being licensed or exempt under
19 this Act.

20 (b) Beginning 12 months after the adoption of the final
21 administrative rules under this Act, no person may advertise as
22 a general building contractor or a specialty contractor without
23 being licensed or exempt under this Act.

24 Section 15. General Building Contractor Licensing Board.

1 (a) There is created the General Building Contractor
2 Licensing Board, which shall be under the authority of the
3 Department and shall consist of 7 persons appointed by the
4 Secretary. Six members shall be licensees under this Act,
5 except that in the case of initial appointments, the licensed
6 Board members shall meet the requirements for licensure under
7 this Act and shall have obtained licensure within 12 months
8 after the adoption of the final administrative rules under this
9 Act. Two members shall be general building contractors, 2
10 members shall be specialty contractors, 2 members shall be
11 representatives of a statewide association representing
12 general building contractors, and one member shall be a
13 knowledgeable public member who is not licensed under this Act
14 or any Act administered by the Department. Board membership
15 shall reasonably represent the different geographic areas of
16 the State.

17 (b) The persons appointed shall hold office for 4 years and
18 until a successor is appointed and has qualified. Of the
19 members of the Board first appointed, 2 shall be appointed to
20 serve for 2 years, 2 shall be appointed to serve for 3 years,
21 and 3 shall be appointed to serve for 4 years. No member may
22 serve more than 2 complete 4-year terms.

23 (c) Members of the Board shall be immune from suit in any
24 action based upon any disciplinary proceedings or other acts
25 performed in good faith as members of the Board, unless the
26 conduct that gave rise to the suit was willful or wanton

1 misconduct.

2 (d) Within 90 days after a vacancy occurs, the Secretary
3 shall fill the vacancy for the unexpired portion of the term
4 with an appointee who meets the same qualifications as the
5 person whose position has become vacant. The Board shall meet
6 annually to elect one member as chairperson and one member as
7 vice-chairperson. No officer shall be elected more than twice
8 in succession to the same office.

9 (e) The members of the Board shall receive reimbursement
10 for actual, necessary, and authorized expenses incurred in
11 attending the meetings of the Board.

12 Section 20. Powers and duties of the Board. The Board may
13 exercise each of the following powers and duties subject to the
14 provisions of this Act:

15 (1) Prescribe forms of application for licensure.

16 (2) Pass upon the qualifications of applicants for
17 licensure, including examination, and issue licenses to
18 those found to be fit and qualified.

19 (3) Develop specialty contracting classes of
20 licensure.

21 (4) Conduct hearings on proceedings to revoke,
22 suspend, or otherwise discipline or to refuse to issue or
23 renew licenses.

24 (5) Adopt rules necessary for the administration and
25 enforcement of this Act.

1 Section 25. Exemptions.

2 (a) The Board may adopt rules to make licensure optional
3 for persons who offer, bid, or undertake to perform work
4 peripheral to construction, as defined by the Board by rule.

5 (b) The following persons are exempt from licensure under
6 this Act:

7 (1) A person who is constructing, altering, improving,
8 or repairing personal property.

9 (2) A person who is constructing, altering, improving,
10 or repairing a structure located within the boundaries of
11 any site or reservation under the jurisdiction of the
12 federal government.

13 (3) A person who furnishes materials, supplies,
14 equipment, or finished products and does not fabricate them
15 into or consume them in the performance of the work of a
16 general building contractor or specialty contractor.

17 (4) A person working on one structure or project, under
18 one or more contracts, when the aggregate price of all of
19 that person's contracts for labor, materials, and all other
20 items is less than \$500 and such work is of a casual,
21 minor, or inconsequential nature.

22 (c) This Section does not apply to a person who advertises
23 or puts out any sign or card or other device that might
24 indicate to the public that the person is a general building
25 contractor or specialty contractor.

1 Section 30. Application; qualifications.

2 (a) To obtain a general building contractor license or
3 specialty contractor license, an applicant must indicate
4 whether the license is sought for an individual, corporation,
5 or partnership. If the license is sought for an individual, the
6 license shall be issued to the individual, who shall also be
7 designated as the qualifying party. If the license is sought
8 for a partnership or corporation, the license shall be issued
9 in the company name. A company must designate one individual
10 who will serve as the qualifying party. The qualifying party
11 must have had, within the 10 years immediately before the
12 filing of the application, at least 4 full years of experience
13 within the building contracting industry.

14 (b) An applicant for licensure under this Act must submit
15 an application in writing to the Board on a form prescribed by
16 the Board and accompanied by the application fee determined by
17 the Board. The application shall include, but need not be
18 limited to, all of the following information:

19 (1) The name, principal place of business, address, and
20 telephone number of the person designated as the qualifying
21 party.

22 (2) If a corporation, the name, address, telephone
23 number, and position of each officer.

24 (3) A description of the building contracting business
25 for which licensure is sought, including the principal

1 products and services provided.

2 (4) Satisfactory evidence of any experience within the
3 building contracting field, such as a certificate of
4 completion of apprenticeship or college transcript.

5 (5) Satisfactory evidence that the contractor has
6 obtained workers' compensation insurance covering his or
7 her employees or is approved as a self-insurer of workers'
8 compensation, in accordance with Illinois law.

9 (6) Satisfactory evidence that the applicant has
10 submitted a bond to the Department in an amount to be
11 determined by the Board by rule.

12 (7) Disclosure of all settlements and judgments
13 against the applicant.

14 (8) Disclosure of all civil claims and criminal charges
15 pending against the applicant.

16 (9) Disclosure of relevant credit history information,
17 as determined by the Board.

18 (c) The Board may credit years of experience based on
19 training, apprenticeship, and education as follows:

20 (1) A maximum of one and one-half years, upon the
21 submission of evidence of a degree from a school accredited
22 by the Bureau of Apprenticeship and Training.

23 (2) A maximum of 2 years, upon the submission of proof
24 of any of the following:

25 (A) A 4-year degree from an accredited college or
26 university in the field of accounting, business,

1 economics, mathematics, or physics or an area related
2 to the building contracting trades.

3 (B) A professional degree in law.

4 (C) Substantial college or university work in
5 accounting, architecture, business, construction
6 technology, drafting, economics, engineering,
7 mathematics, or physics.

8 (3) A maximum of 3 years, upon the submission of either
9 (i) a certificate of completion of apprenticeship from an
10 accredited apprenticeship program or (ii) proof of the
11 successful completion of a 4-year degree from an accredited
12 college or university in architecture, construction
13 technology, or any field of engineering that is directly
14 related to construction.

15 (d) The applicant must provide notice to the Board, in
16 writing, of any changes in the information required to be
17 provided on the application.

18 Section 35. Duties of a qualifying party.

19 (a) While engaged as or named as a qualifying party for a
20 general building contractor licensee or a specialty contractor
21 licensee, no person may be the named qualifying party for any
22 other licensee; however, the person may act in the capacity of
23 the qualifying party for one additional licensee of the same
24 type of licensure, if either of the following conditions
25 exists:

1 (1) there is a common ownership of at least 25% of each
2 licensed entity for which the person acts as a qualifying
3 party; or

4 (2) the same person acts as a qualifying party for one
5 licensed entity and its licensed subsidiary.

6 (b) In the event that a qualifying party is terminated or
7 elects to terminate his or her status as the qualifying party
8 of a licensee, the qualifying party and the licensee shall
9 notify the Board of that fact in writing. Thereafter, the
10 licensee shall notify the Board of the name and address of the
11 newly designated qualifying party. The requirements of this
12 subsection (b) must be met in a timely manner, as established
13 by the Board by rule.

14 (c) In this Section, "subsidiary" means a corporation that
15 is at least 25% owned by another licensee.

16 Section 40. Social security number on license application.
17 In addition to any other information required to be contained
18 in the application, every application for an original, renewal,
19 or restored license under this Act shall include the
20 applicant's social security number.

21 Section 45. Criminal history records check. Each applicant
22 must submit to a fingerprint-based criminal history records
23 check conducted by the Department of State Police and the
24 Federal Bureau of Investigation. The criminal history records

1 check shall be performed and the required fingerprints shall be
2 submitted in the form and manner prescribed by the Department
3 of State Police. The Department of State Police shall furnish,
4 pursuant to positive identification, any criminal history
5 records of an applicant to the Board. The Department of State
6 Police shall charge the Department a fee for conducting the
7 criminal history records check, which shall be deposited in the
8 State Police Services Fund and shall not exceed the cost of the
9 inquiry.

10 Section 50. Joint venture license.

11 (a) Upon the meeting of qualifications and the submission
12 of a fee determined by the Board, a joint venture license may
13 be issued to any combination of individuals, corporations,
14 partnerships, or other joint ventures, each of which holds a
15 current, active, general building contractor or specialty
16 contractor license in good standing. A joint venture license
17 may be issued in any classification in which at least one of
18 the entities is licensed. An active joint venture license shall
19 be automatically suspended by operation of law during any
20 period in which any member of the entity does not hold a
21 current, active license in good standing issued under this Act.

22 (b) Two or more licensees, each of whom has been issued a
23 license to act separately in the capacity of a general building
24 contractor or specialty contractor under this Act, may not be
25 awarded a contract jointly or otherwise act as a general

1 building contractor or specialty contractor without first
2 having secured a joint venture license in accordance with the
3 provisions of this Act. Prior to obtaining a joint venture
4 license, however, contractors licensed in accordance with this
5 Act may jointly bid for the performance of work covered by this
6 Act. If a combination of licensees submit a bid for the
7 performance of work for which a joint venture license is
8 required, a failure to obtain that license shall not prevent
9 the imposition of any penalty specified by law for the failure
10 of a general building contractor or a specialty contractor who
11 submits a bid to enter into a contract pursuant to the bid.

12 Section 55. Bond. Before issuing or renewing a license,
13 the Board shall require each applicant or licensee to file and
14 maintain in force a surety bond, issued by an insurance company
15 authorized to transact fidelity and surety business in
16 Illinois. The bond shall be continuous in form, unless
17 terminated by the insurance company. An insurance company may
18 terminate a bond and avoid further liability by filing a 60-day
19 notice of termination with the Board and, at the same time,
20 sending the notice to the contractor. A license shall be
21 cancelled without hearing on the termination date of the
22 contractor's bond, unless a new bond is filed with the Board to
23 become effective at the termination date of the prior bond. If
24 a license has been cancelled without hearing under this
25 Section, the license shall be reinstated upon showing proof of

1 compliance with this Section.

2 Section 60. Licenses; renewal; restoration; person in
3 military service.

4 (a) A license issued under this Act shall expire 2 years
5 from the last day of the month in which it was issued.

6 (b) Failure to renew a license before its date of
7 expiration shall cause the license to be non-renewed, and it
8 shall be unlawful thereafter for the holder of the expired
9 license to engage or offer to engage in a general building
10 contracting or specialty contracting business under the
11 license unless and until the license is restored.

12 (c) Any person who has permitted a license to expire or who
13 has a license on inactive status may have it restored by
14 submitting an application to the Board and filing proof of
15 fitness, as defined by rule, to have the license restored and
16 by paying the required fee.

17 (d) Any person whose license expired while on active duty
18 with the armed forces of the United States, while called into
19 service or training with the State Militia, or while in
20 training or education under the supervision of the United
21 States government prior to induction into military service may
22 have his or her license restored without paying any renewal
23 fees if, within 2 years after the termination of such service,
24 training, or education, except under conditions other than
25 honorable, the Department is furnished with satisfactory

1 evidence that the person has been so engaged and that such
2 service, training, or education has been so terminated.

3 Section 65. Inactive status. A person who notifies the
4 Board in writing, on forms prescribed by the Board, may elect
5 to place his or her license on inactive status and shall,
6 subject to rule of the Board, be excused from payment of
7 renewal fees until he or she notifies the Board, in writing, of
8 his or her desire to resume active status. A person requesting
9 restoration from inactive status shall be required to pay the
10 current renewal fee and shall be required to restore his or her
11 license, pursuant to this Act. Practice by an individual whose
12 license is on inactive status shall be considered to be
13 unlicensed practice as a general building contractor or
14 specialty contractor and shall be grounds for discipline under
15 this Act.

16 Section 70. Licensure by endorsement. The Board may grant
17 a license to an applicant holding a license or certificate in
18 good standing in another state whose requirements for licensure
19 or certification are equal to or greater than those required by
20 this Act if the Board has authorized an exam waiver agreement
21 with that state. An applicant may be exempt from the technical
22 examination required for licensure if the applicant can verify
23 the successful completion of an examination in another state
24 that is essentially the same as the examination required by the

1 Board, regardless of the absence of a reciprocal agreement with
2 that state. An applicant for licensure under this Section may
3 be required to pass an examination on Illinois construction
4 codes and laws and must comply with all other licensing
5 requirements of this Act.

6 Section 75. Vehicle displays. Any general building
7 contractor or specialty contractor licensed under this Act must
8 have displayed on each side of each motor vehicle used in his
9 or her business for which a commercial vehicle registration fee
10 has been paid pursuant to the Illinois Vehicle Code his or her
11 name, permanent business address, and contractor's license
12 number, all in letters and numerals not less than one and
13 one-half inches high.

14 Section 80. Contracts. Any person licensed under this Act
15 shall include the following statement in at least 10-point type
16 on all written contracts with respect to which the person is
17 the prime general building contractor or specialty contractor:

18 "General building contractors and specialty
19 contractors are required by law to be licensed and
20 regulated by the General Building Contractors Licensing
21 Board, which has jurisdiction to investigate complaints
22 against general building contractors and specialty
23 contractors if a complaint regarding a patent act or
24 omission is filed within 4 years after the date of the

1 alleged violation. A complaint regarding a latent act or
2 omission pertaining to structural defects must be filed
3 within 10 years after the date of the alleged violation.
4 Any questions concerning a contractor may be referred to
5 the General Building Contractor Licensing Board.".

6 (b) Any person licensed under this Act shall include the
7 following statement in at least 12-point type in all home
8 improvement contracts and service and repair contracts for work
9 covered by this Act:

10 "Information about the General Building Contractor
11 Licensing Board: The General Building Contractor Licensing
12 Board is the entity responsible for licensing and
13 regulating general building contractors and specialty
14 contractors.

15 Contact the General Building Contractor Licensing
16 Board for information about the licensed general building
17 contractor or specialty contractor you are considering,
18 including information about disclosable complaints,
19 disciplinary actions, and civil judgments that are
20 reported to the General Building Contractor Licensing
21 Board.

22 Use only licensed general building contractors and
23 specialty contractors. If you file a complaint against a
24 licensed general building contractor or specialty
25 contractor within the legal deadline, the Board has the
26 authority to investigate the complaint. If you use an

1 unlicensed general building contractor or specialty
2 contractor, the Board may not be able to help you resolve
3 your complaint. Your only remedy may be in civil court, and
4 you may be liable for damages arising out of any injuries
5 to the unlicensed general building contractor or specialty
6 contractor or the unlicensed general building contractor's
7 or specialty contractor's employees.".

8 Section 85. Public records; Board notification.

9 (a) Except for financial information, the information
10 required by the Department or the Board of any applicant for
11 licensure and any licensee under this Act shall be a public
12 record.

13 (b) If a licensee changes the name, address, or employment
14 from that which appears on the current license, the licensee
15 shall notify the Board of the change within 30 days after it
16 occurs.

17 (c) A licensee must notify the Board of any civil claim or
18 criminal charge pending against the licensee within a
19 reasonable amount of time after he or she receives formal
20 notification of the claim or charge, as determined by the
21 Board, and of the final disposition of each claim or charge
22 within 30 days after that disposition occurs.

23 (d) All public records of the Department and the Board,
24 when duly certified by the Secretary, shall be received as
25 prima facie evidence in any State administrative or judicial

1 proceeding.

2 Section 87. Internet website. The Department shall
3 establish and maintain an Internet website dedicated to the
4 provision of information to the public concerning licensed
5 general building contractors and licensed specialty
6 contractors. The content of the website shall include, without
7 limitation each of the following:

8 (1) A description of any criminal conviction of a
9 licensee. For the purposes of this item (1), a person shall
10 be deemed to be convicted of a crime if he or she pled
11 guilty or if he or she was found or adjudged guilty by a
12 court of competent jurisdiction.

13 (2) A description of any civil claim or criminal charge
14 pending or previously pending against a licensee.

15 (3) A description of any civil settlement or judgment
16 entered against a licensee.

17 (4) A description of any final disciplinary action
18 taken against a licensee by the Board.

19 Section 90. Building permit; reporting violations.

20 (a) A building official or other authority charged with
21 issuing building or other similar permits of a county,
22 municipality, or subdivision of a county or municipality shall
23 refuse to issue a permit for an undertaking that would result
24 in the applicant acting as a general building contractor or a

1 specialty contractor under this Act unless the applicant has
2 furnished evidence that the applicant is either licensed as
3 required by this Act or exempt from the requirements of this
4 Act. A building official or other authority charged with
5 issuing building or other similar permits shall report to the
6 Board the name and address of an entity believed to have
7 violated this Act by bidding or contracting for work that is
8 regulated under this Act.

9 (b) The Board shall distribute posters to each building
10 permit office in the State, requesting that the posters be
11 placed in a conspicuous location to be read by applicants.
12 These posters shall state the following: "The General Building
13 Contractor Licensing Act requires certain building
14 construction to be performed by licensed general building
15 contractors or licensed specialty contractors. Both the owner
16 and the contractor are subject to penalties for violations of
17 the law."

18 (c) Building construction contracting work covered by this
19 Act must be performed by properly licensed general building
20 contractors or licensed specialty contractors. All persons
21 directly employed by the owner to perform work on a project are
22 subject to all applicable State and federal laws concerning
23 occupational safety, family and medical leave, workers'
24 compensation, social security, income tax withholding, and
25 minimum wage requirements. Work performed must comply with all
26 applicable laws, ordinances, building codes, and zoning

1 regulations.

2 Section 95. Bankruptcy notification. A licensee who,
3 voluntarily or involuntarily, is subjected to any provision of
4 the laws of bankruptcy shall notify the Board within 15 days
5 after subjection and provide any and all information pertinent
6 to the bankruptcy proceedings that the Board may require.

7 Section 100. Returned checks; fines. Any person who
8 delivers a check or other payment to the Department pursuant to
9 this Act that is returned to the Department unpaid by the
10 financial institution upon which it is drawn shall pay to the
11 Department, in addition to the amount already owed to the
12 Department, a fine of \$50. The fines imposed by this Section
13 are in addition to any other discipline provided for under this
14 Act for unlicensed practice or practice on a nonrenewed
15 license. The Department shall notify the person that payment of
16 fees and fines shall be paid to the Department by certified
17 check or money order within 30 calendar days after the
18 notification. If, after the expiration of 30 days from the date
19 of the notification, the person has failed to submit the
20 necessary remittance, the Department shall automatically
21 terminate the license or deny the application, without hearing.
22 If, after termination or denial, the person seeks a license, he
23 or she shall apply to the Department for restoration or
24 issuance of the license and pay all of the application fees as

1 set by rule. The Department may establish a fee for the
2 processing of an application for restoration of a license to
3 pay all expenses of processing this application. The Secretary
4 may waive the fines due under this Section in individual cases
5 where the Secretary finds that the fines would be unreasonable
6 or unnecessarily burdensome.

7 Section 105. Deposit of fees. All fees and fines collected
8 under this Act shall be deposited into the General Professions
9 Dedicated Fund and shall be appropriated to the Department for
10 the purpose of administering and enforcing this Act.

11 Section 110. Grounds for disciplinary action.

12 (a) The Department may refuse to issue or to renew or may
13 revoke, suspend, place on probation, reprimand, or take other
14 disciplinary action as the Department may deem proper,
15 including fines, which shall be non-dischargeable in
16 bankruptcy and may not exceed \$5,000 for each violation, with
17 regard to any license or licensee for one or any combination of
18 the following causes:

19 (1) Violation of this Act or its rules.

20 (2) Conviction of any crime under the laws of any U.S.
21 jurisdiction that is a felony, a misdemeanor an essential
22 element of which is dishonesty, or a crime that directly
23 relates to the practice of the profession.

24 (3) Making any misrepresentation for the purpose of

1 obtaining a license.

2 (4) Professional incompetence or gross negligence in
3 the practice of building contracting.

4 (5) Gross malpractice, prima facie evidence of which
5 may be a conviction or judgment of malpractice in any court
6 of competent jurisdiction.

7 (6) Aiding or assisting another person in violating any
8 provision of this Act or rules adopted under this Act.

9 (7) Failing, within 60 days, to provide information in
10 response to a written request made by the Department that
11 has been sent by certified or registered mail to the
12 licensee's last known address.

13 (8) Engaging in dishonorable, unethical, or
14 unprofessional conduct of a character likely to deceive,
15 defraud, or harm the public.

16 (9) Habitual or excessive use of or addiction to
17 alcohol, narcotics, stimulants, or any other chemical
18 agent or drug that results in the inability to practice
19 with reasonable judgment, skill, or safety.

20 (10) Discipline by another U.S. jurisdiction or
21 foreign nation if at least one of the grounds for the
22 discipline is the same or substantially equivalent to those
23 set forth in this Section.

24 (11) Directly or indirectly giving to or receiving from
25 any person, firm, corporation, partnership, or association
26 any fee, commission, rebate, or other form of compensation

1 for any professional services not actually or personally
2 rendered.

3 (12) A finding by the Department that a licensee, after
4 having his or her license placed on probationary status,
5 has violated the terms of probation.

6 (13) Conviction by any court of competent
7 jurisdiction, either within or without this State, of any
8 violation of any law governing the practice of building
9 contracting if the Department determines, after
10 investigation, that such person has not been sufficiently
11 rehabilitated to warrant the public trust.

12 (14) A finding that licensure has been applied for or
13 obtained by fraudulent means.

14 (15) Practicing, attempting to practice, or
15 advertising under a name other than the full name as shown
16 on the license or any other legally authorized name.

17 (16) Gross and willful overcharging for professional
18 services, including filing false statements for collection
19 of fees or moneys for which services are not rendered.

20 (17) Failure to file a tax return or to pay any final
21 assessment of tax, penalty, or interest, as required by any
22 tax Act administered by the Department of Revenue, until
23 such time as the requirements of any such tax Act are
24 satisfied.

25 (18) Failure to continue to meet the requirements of
26 this Act.

1 (19) Physical or mental disability, including
2 deterioration through the aging process or loss of
3 abilities and skills that result in an inability to
4 practice the profession with reasonable judgment, skill,
5 or safety.

6 (20) Material misstatement in furnishing information
7 to the Department or to any other State agency.

8 (21) Advertising in any manner that is false,
9 misleading, or deceptive.

10 (22) The determination by a court that a licensee is
11 subject to involuntary admission or judicial admission as
12 provided in the Mental Health and Developmental
13 Disabilities Code. Such determination shall result in an
14 automatic suspension of a licensee's license. The
15 suspension shall end upon a finding by a court that the
16 licensee is no longer subject to involuntary admission or
17 judicial admission, the issuance of an order so finding and
18 discharging the patient, and the recommendation of the
19 Board to the Secretary that the licensee be allowed to
20 resume practice within the profession.

21 (b) The Department shall deny any license or renewal under
22 this Act to any person who has defaulted on an educational loan
23 guaranteed by the Illinois Student Assistance Commission;
24 however, the Department may issue a license or renewal if the
25 person in default has established a satisfactory repayment
26 record as determined by the Illinois Student Assistance

1 Commission.

2 Section 115. Disclosure of disciplinary action. A person
3 licensed under this Act who has had his or her license
4 suspended or revoked 2 or more times within an 8-year period
5 shall disclose either in capital letters in 10-point boldface
6 type or in contrasting red print in at least 8-point boldface
7 type, in a document provided prior to entering into a contract
8 to perform work on residential property with 4 or fewer units,
9 any disciplinary license suspension or license revocation
10 during the last 8 years resulting from any violation of this
11 Act by the contractor, whether or not the suspension or
12 revocation was stayed.

13 Section 120. Misrepresentation. If any person suffers
14 costs or damages as a result of an individual providing a false
15 or invalid license number or otherwise misleading a person with
16 respect to licensure by the Board, the injured person may bring
17 suit in a court of competent jurisdiction to recover damages.
18 The court may award reasonable attorney's fees to the
19 prevailing party in an action.

20 Section 125. Unlicensed practice; civil penalty.

21 (a) Any person who practices, attempts to practice, or
22 holds himself or herself out as a contractor without being
23 licensed under this Act shall, in addition to any other penalty

1 provided by law, pay a civil penalty to the Department in an
2 amount not to exceed \$5,000 for each offense, as determined by
3 the Department. The civil penalty shall be assessed by the
4 Department after a hearing is held in accordance with the
5 provisions set forth in this Act regarding the provision of a
6 hearing for the discipline of a licensee. Each day of violation
7 constitutes a separate offense.

8 (b) The Department has the authority and power to
9 investigate any and all unlicensed activity.

10 (c) The civil penalty assessed under this Section shall be
11 paid within 60 days after the effective date of the order
12 imposing the civil penalty. The order shall constitute a
13 judgment and may be filed and executed in the same manner as
14 any judgment from any court of record.

15 Section 130. Enforcement; petition to court.

16 (a) If any person violates the provisions of this Act, the
17 Secretary, through the Attorney General of Illinois or the
18 State's Attorney of any county in which a violation is alleged
19 to exist, may, in the name of the People of the State of
20 Illinois, petition for an order enjoining such violation or for
21 an order enforcing compliance with this Act. Upon the filing of
22 a verified petition in such court, the court may issue a
23 temporary restraining order, without notice or bond, and may
24 preliminarily and permanently enjoin such violation, and if it
25 is established that such person has violated or is violating

1 the injunction, the Court may punish the offender for contempt
2 of court.

3 (b) If any person practices as a licensee or holds himself
4 or herself out as a licensee without being licensed under the
5 provisions of this Act, then any person licensed under this
6 Act, any interested party, or any person injured thereby may,
7 in addition to those officers identified in subsection (a) of
8 this Section, petition for relief as provided in subsection (a)
9 of this Section.

10 (c) Whenever the Department has reason to believe that any
11 person has violated the licensing requirements of this Act by
12 practicing, offering to practice, attempting to practice, or
13 holding himself or herself out as a contractor without being
14 licensed under this Act, the Department may issue a rule to
15 show cause why an order to cease and desist should not be
16 entered against that person. The rule shall clearly set forth
17 the grounds relied upon by the Department and shall provide a
18 period of 7 days from the date of the rule to file an answer to
19 the satisfaction of the Department. Failure to answer to the
20 satisfaction of the Department shall cause an order to cease
21 and desist to be issued immediately.

22 (d) Proceedings under this Section shall be in addition to
23 and not in lieu of all other remedies and penalties that may be
24 provided by law.

25 Section 135. Investigation; notice; default. The

1 Department may investigate the actions of any applicant or any
2 person or persons holding or claiming to hold a license. The
3 Department shall, before suspending, revoking, placing on
4 probationary status, or taking any other disciplinary action
5 that the Department may deem proper with regard to any license,
6 at least 30 days prior to the date set for the hearing, notify
7 the accused, in writing, of any charges made and the time and
8 place for a hearing on the charges before the hearing officer,
9 direct the accused to file a written answer with the hearing
10 officer, under oath, within 30 days after the service to the
11 accused, and inform the accused that the accused's license may
12 be suspended, revoked, or placed on probationary status or
13 other disciplinary action may be taken, including limiting the
14 scope, nature, or extent of the accused person's practice, as
15 the Department may deem proper. This written notice may be
16 served by personal delivery or certified or registered mail to
17 the accused. In case the person fails to file an answer after
18 receiving notice, that person's license may, in the discretion
19 of the Department, be suspended, revoked, or placed on
20 probationary status or the Department may take whatever
21 disciplinary action deemed proper, including limiting the
22 scope, nature, or extent of the person's practice or the
23 imposition of a fine, without a hearing, if the act or acts
24 charged constitute sufficient grounds for such action under
25 this Act. At the time and place fixed in the notice, the
26 Department shall proceed to hear the charges, and the parties

1 or their counsel shall be accorded ample opportunity to present
2 such statements, testimony, evidence, and arguments as may be
3 pertinent to the charges or to their defense. The Department
4 may continue such hearing from time to time. At the discretion
5 of the Secretary, after having first received the
6 recommendation of the hearing officer, the accused person's
7 license may be suspended, revoked, or placed on probationary
8 status or other disciplinary action may be taken as the
9 Secretary may deem proper, including limiting the scope,
10 nature, or extent of the person's practice without a hearing,
11 if the act or acts charged constitute sufficient grounds for
12 such action under this Act.

13 Section 140. Stenographer; record of proceedings. The
14 Department, at its expense, shall provide a stenographer to
15 take down the testimony and preserve a record of all
16 proceedings initiated pursuant to this Act, the rules for the
17 administration of this Act or any other Act or rules relating
18 to this Act, and proceedings for restoration of any license
19 issued under this Act. The notice of hearing, complaint, and
20 answer, all other documents in the nature of pleadings and
21 written motions and responses filed in the proceedings, the
22 transcript of the testimony, all exhibits admitted into
23 evidence, the report of the hearing officer, the Board's
24 findings of fact, conclusions of law, and recommendations to
25 the Secretary, and the order shall be the record of the

1 proceedings. The Department shall furnish a transcript of the
2 record to any person interested in the hearing upon payment of
3 the fee required under Section 2105-115 of the Department of
4 Professional Regulation Law (20 ILCS 2105/2105-115).

5 Section 145. Certification of record; costs. The
6 Department shall not be required to certify any record to the
7 court, to file an answer in court, or to otherwise appear in
8 any court in a judicial review proceeding, unless there is
9 filed in the court, with the complaint, a receipt from the
10 Department acknowledging payment of the costs of furnishing and
11 certifying the record. Failure on the part of the plaintiff to
12 file the receipt in court is grounds for dismissal of the
13 action.

14 Section 150. Subpoenas; oaths. The Department has the
15 power to subpoena and bring before it any person in this State
16 to take testimony either orally or by deposition or both or to
17 subpoena documents, exhibits, or other materials with the same
18 fees and mileage and in the same manner as prescribed by law in
19 judicial proceedings in civil cases in circuit courts of this
20 State.

21 The Secretary and any member of the Board have the power to
22 administer oaths to witnesses at any hearing that the
23 Department or Board is authorized by law to conduct. The
24 Secretary has the power to administer any other oaths required

1 or authorized to be administered by the Department under this
2 Act.

3 Section 155. Attendance of witnesses; production of
4 documents; contempt. Any circuit court may, upon application
5 of the Department or its designee or of the applicant or
6 licensee against whom proceedings are pending, enter an order
7 requiring the attendance of witnesses and their testimony and
8 the production of documents, papers, files, books, and records
9 in connection with any hearing or investigation. The court may
10 compel obedience to its order by proceedings for contempt.

11 Section 160. Findings of facts, conclusions of law, and
12 recommendations; order. Within 60 days after the Department's
13 receipt of the transcript of any hearing that is conducted
14 pursuant to this Act or the rules for its enforcement or any
15 other statute or rule requiring a hearing under this Act or the
16 rules for its enforcement or for any hearing related to
17 restoration of any license issued pursuant to this Act, the
18 hearing officer shall submit his or her written findings and
19 recommendations to the Board. The Board shall review the report
20 of the hearing officer and shall present its findings of fact,
21 conclusions of law, and recommendations to the Secretary by the
22 date of the Board's second meeting following the Board's
23 receipt of the hearing officer's report.

24 A copy of the findings of fact, conclusions of law, and

1 recommendations to the Secretary shall be served upon the
2 accused person, either personally or by registered or certified
3 mail. Within 20 days after service, the accused person may
4 present to the Department a written motion for a rehearing,
5 which shall state the particular grounds therefor. If the
6 accused person orders and pays for a transcript pursuant to
7 this Act, then the time elapsing thereafter and before the
8 transcript is ready for delivery to him or her shall not be
9 counted as part of the 20 days.

10 The Secretary shall issue an order based on the findings of
11 fact, conclusions of law, and recommendations to the Secretary.

12 If the Secretary disagrees in any regard with the findings
13 of fact, conclusions of law, and recommendations to the
14 Secretary, he or she may issue an order in contravention of the
15 findings of fact, conclusions of law, and recommendations to
16 the Secretary. If the Secretary issues an order in
17 contravention of the findings of fact, conclusions of law, and
18 recommendations to the Secretary, the Secretary shall notify
19 the Board in writing with an explanation for any deviation from
20 the Board's findings of fact, conclusions of law, and
21 recommendations to the Secretary within 30 days after the
22 Secretary's entry of the order.

23 Section 165. Temporary suspension. The Secretary may
24 temporarily suspend the license of a contractor without a
25 hearing, simultaneously with the institution of proceedings

1 for a hearing provided for in this Act, if the Secretary finds
2 that evidence in his or her possession indicates that
3 continuation in practice would constitute an imminent danger to
4 the public. In the event that the Secretary temporarily
5 suspends a license without a hearing, a hearing by the
6 Department shall be held within 30 days after such suspension
7 has occurred.

8 Section 170. Hearing officers. The Secretary has the
9 authority to appoint any attorney duly licensed to practice law
10 in the State of Illinois to serve as the hearing officer for
11 any action for refusal to issue or renew a license, for
12 discipline of a licensee, for sanctions for unlicensed
13 practice, for restoration of a license, or for any other action
14 for which findings of fact, conclusions of law, and
15 recommendations are required pursuant to this Act. The hearing
16 officer shall have full authority to conduct the hearing and
17 shall issue his or her findings of fact and recommendations to
18 the Board pursuant to this Act.

19 Section 175. Review under Administrative Review Law. All
20 final administrative decisions of the Department are subject to
21 judicial review pursuant to the Administrative Review Law and
22 its rules. The term "administrative decision" is defined as in
23 Section 3-101 of the Code of Civil Procedure.

1 Section 180. Violations. Any person who is found to have
2 knowingly violated any provision of this Act is guilty of a
3 Class A misdemeanor. On conviction of a second or subsequent
4 offense, the violator is guilty of a Class 4 felony.

5 Section 185. Administrative Procedure Act. The Illinois
6 Administrative Procedure Act is hereby expressly adopted and
7 incorporated herein as if all of the provisions of that Act
8 were included in this Act, except that the provision of
9 subsection (d) of Section 10-65 of the Illinois Administrative
10 Procedure Act that provides that, at hearings, the licensee has
11 the right to show compliance with all lawful requirements for
12 retention, continuation, or renewal of the license is
13 specifically excluded. For the purpose of this Act the notice
14 required under Section 10-25 of the Illinois Administrative
15 Procedure Act is deemed sufficient when mailed to the last
16 known address of a party.

17 Section 997. Severability. The provisions of this Act are
18 severable under Section 1.31 of the Statute on Statutes.

19 Section 998. The Regulatory Sunset Act is amended by adding
20 Section 4.28 as follows:

21 (5 ILCS 80/4.28 new)

22 Sec. 4.28. Act repealed on January 1, 2018. The following

1 Act is repealed on January 1, 2018:

2 The General Building Contractor Licensing Act.

3 Section 999. Effective date. This Act takes effect January
4 1, 2008.