



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0474

Introduced 2/1/2007, 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 06673 RAS 26783 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 "Secretary" means the Secretary of Financial and
4 Professional Regulation.

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

11 Section 10. Licensure requirement.

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

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

22 Section 15. General Building Contractor Licensing Board.

23 (a) There is created the General Building Contractor
24 Licensing Board, which shall be under the authority of the

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

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

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

26 (d) Within 90 days after a vacancy occurs, the Secretary

1 shall fill the vacancy for the unexpired portion of the term
2 with an appointee who meets the same qualifications as the
3 person whose position has become vacant. The Board shall meet
4 annually to elect one member as chairperson and one member as
5 vice-chairperson. No officer shall be elected more than twice
6 in succession to the same office.

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

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

13 (1) Prescribe forms of application for licensure.

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

17 (3) Develop specialty contracting classes of
18 licensure.

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

22 (5) Adopt rules necessary for the administration and
23 enforcement of this Act.

24 Section 25. Exemptions.

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

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

6 (1) A person who is solely constructing, altering,
7 improving, or repairing personal property that is not
8 commercial 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 (5) A person or entity operating or performing work
23 within the building construction field under the
24 supervision of a licensee under this Act as set forth in
25 Section 35 of this Act.

26 (c) This Section does not apply to a person who advertises

1 or puts out any sign or card or other device that might
2 indicate to the public that the person is a general building
3 contractor or specialty contractor.

4 Section 30. Application; qualifications.

5 (a) An applicant for licensure under this Act must submit
6 an application in writing to the Board on a form prescribed by
7 the Board and accompanied by the application fee determined by
8 the Board. The application shall include, but need not be
9 limited to, all of the following information:

10 (1) The name, principal place of business, address, and
11 telephone number of the applicant.

12 (2) Verification satisfactory to the Board that the
13 applicant is at least 18 years of age.

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

17 (4) Satisfactory evidence that the contractor has
18 obtained workers' compensation insurance covering his or
19 her employees or is approved as a self-insurer of workers'
20 compensation, in accordance with Illinois law.

21 (5) Satisfactory evidence that the applicant has
22 submitted a bond to the Department in an amount to be
23 determined by the Board by rule.

24 (6) Disclosure of all settlements and judgments
25 against the applicant.

1 (7) Disclosure of all civil claims and criminal charges
2 pending against the applicant.

3 (8) Disclosure of relevant credit history information,
4 as determined by the Board.

5 (b) The Board may credit years of experience based on
6 training, apprenticeship, and education as follows:

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

10 (2) A maximum of 2 years, upon the submission of proof
11 of any of the following:

12 (A) A 4-year degree from an accredited college or
13 university in a field related to the building
14 contracting trades.

15 (B) Substantial college or university work in
16 architecture, construction management, construction
17 technology, engineering, or a field related to the
18 construction industry.

19 (3) A maximum of 3 years, upon the submission of either
20 (i) a certificate of completion of apprenticeship from an
21 accredited apprenticeship program or (ii) proof of the
22 successful completion of a 4-year degree from an accredited
23 college or university in architecture, construction
24 technology, or any field of engineering that is directly
25 related to construction.

26 (c) The applicant must provide notice to the Board, in

1 writing, of any changes in the information required to be
2 provided on the application.

3 Section 35. Nontransferable license; individual licensure.

4 (a) Any license issued under this Act shall be
5 nontransferable.

6 (b) No company, organization, or other entity may be
7 permitted to operate within the building construction field
8 unless that company, organization, or other entity is under the
9 direct supervision of a person who is licensed under this Act
10 and provided that the work conducted is within the scope of the
11 licensee's license and that the supervised entity is not
12 engaged in construction work that would require licensure in
13 any field or category in which the supervising licensee is not
14 licensed.

15 (c) An individual who is not licensed under this Act may
16 perform work within the building construction field under the
17 supervision of a person who is licensed under this Act,
18 provided that the work performed is within the scope of the
19 licensee's license and that the supervised individual is not
20 engaged in construction work that would require licensure in
21 any field or category in which the supervising licensee is not
22 licensed.

23 Section 40. Social security number on license application.
24 In addition to any other information required to be contained

1 in the application, every application for an original, renewal,
2 or restored license under this Act shall include the
3 applicant's social security number.

4 Section 45. Criminal history records check. Each applicant
5 must submit to a fingerprint-based criminal history records
6 check conducted by the Department of State Police and the
7 Federal Bureau of Investigation. The criminal history records
8 check shall be performed and the required fingerprints shall be
9 submitted in the form and manner prescribed by the Department
10 of State Police. The Department of State Police shall furnish,
11 pursuant to positive identification, any criminal history
12 records of an applicant to the Board. The Department of State
13 Police shall charge the Department a fee for conducting the
14 criminal history records check, which shall be deposited in the
15 State Police Services Fund and shall not exceed the cost of the
16 inquiry.

17 Section 50. Joint venture license.

18 (a) Upon the meeting of qualifications and the submission
19 of a fee determined by the Board, a joint venture license may
20 be issued to any combination of individuals, each of which
21 holds a current, active, general building contractor or
22 specialty contractor license in good standing. A joint venture
23 license may be issued in any classification in which at least
24 one of the individuals is licensed. An active joint venture

1 license shall be automatically suspended by operation of law
2 during any period in which any member of the joint venture does
3 not hold a current, active license in good standing issued
4 under this Act.

5 (b) Two or more licensees, each of whom has been issued a
6 license to act separately in the capacity of a general building
7 contractor or specialty contractor under this Act, may not be
8 awarded a contract jointly or otherwise act as a general
9 building contractor or specialty contractor without first
10 having secured a joint venture license in accordance with the
11 provisions of this Act. Prior to obtaining a joint venture
12 license, however, contractors licensed in accordance with this
13 Act may jointly bid for the performance of work covered by this
14 Act. If a combination of licensees submit a bid for the
15 performance of work for which a joint venture license is
16 required, a failure to obtain that license shall not prevent
17 the imposition of any penalty specified by law for the failure
18 of a general building contractor or a specialty contractor who
19 submits a bid to enter into a contract pursuant to the bid.

20 Section 55. Bond. Before issuing or renewing a license,
21 the Board shall require each applicant or licensee to file and
22 maintain in force a surety bond, issued by an insurance company
23 authorized to transact fidelity and surety business in
24 Illinois. The bond shall be continuous in form, unless
25 terminated by the insurance company. An insurance company may

1 terminate a bond and avoid further liability by filing a 60-day
2 notice of termination with the Board and, at the same time,
3 sending the notice to the contractor. A license shall be
4 cancelled without hearing on the termination date of the
5 contractor's bond, unless a new bond is filed with the Board to
6 become effective at the termination date of the prior bond. If
7 a license has been cancelled without hearing under this
8 Section, the license shall be reinstated upon showing proof of
9 compliance with this Section.

10 Section 60. Licenses; renewal; restoration; person in
11 military service.

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

14 (b) Failure to renew a license before its date of
15 expiration shall cause the license to be non-renewed, and it
16 shall be unlawful thereafter for the holder of the expired
17 license to engage or offer to engage in a general building
18 contracting or specialty contracting business under the
19 license unless and until the license is restored.

20 (c) Any person who has permitted a license to expire or who
21 has a license on inactive status may have it restored by
22 submitting an application to the Board and filing proof of
23 fitness, as defined by rule, to have the license restored and
24 by paying the required fee.

25 (d) Any person whose license expired while on active duty

1 with the armed forces of the United States, while called into
2 service or training with the State Militia, or while in
3 training or education under the supervision of the United
4 States government prior to induction into military service may
5 have his or her license restored without paying any renewal
6 fees if, within 2 years after the termination of such service,
7 training, or education, except under conditions other than
8 honorable, the Department is furnished with satisfactory
9 evidence that the person has been so engaged and that such
10 service, training, or education has been so terminated.

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

24 Section 70. Licensure by endorsement. The Board may grant

1 a license to an applicant holding a license or certificate in
2 good standing in another state whose requirements for licensure
3 or certification are equal to or greater than those required by
4 this Act if the Board has authorized an exam waiver agreement
5 with that state. An applicant may be exempt from the technical
6 examination required for licensure if the applicant can verify
7 the successful completion of an examination in another state
8 that is essentially the same as the examination required by the
9 Board, regardless of the absence of a reciprocal agreement with
10 that state. An applicant for licensure under this Section may
11 be required to pass an examination on Illinois construction
12 codes and laws and must comply with all other licensing
13 requirements of this Act.

14 Section 75. Display and inclusion of license information.

15 (a) Any licensee under this Act who displays his or her
16 company name or contact information on his or her motor vehicle
17 must also display on each side of that motor vehicle his or her
18 contractor license number in letters and numerals not less than
19 one and one-half inches high.

20 (b) All licensees under this Act must post pertinent
21 license information, as determined by the Board, at each
22 project site in a conspicuous location. This information must
23 be a minimum of 2 inches in height and must be placed on a
24 contrasting background.

25 (c) Every licensee under this Act must include his or her

1 contractor license number on all contracting business-related
2 correspondence, including without limitation solicitations,
3 literature, and contracts.

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

8 "General building contractors and specialty
9 contractors are required by law to be licensed and
10 regulated by the General Building Contractors Licensing
11 Board, which has jurisdiction to investigate complaints
12 against general building contractors and specialty
13 contractors if a complaint regarding a patent act or
14 omission is filed within 4 years after the date of the
15 alleged violation. A complaint regarding a latent act or
16 omission pertaining to structural defects must be filed
17 within 10 years after the date of the alleged violation.
18 Any questions concerning a contractor may be referred to
19 the General Building Contractor Licensing Board.".

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

24 "Information about the General Building Contractor
25 Licensing Board: The General Building Contractor Licensing

1 Board is the entity responsible for licensing and
2 regulating general building contractors and specialty
3 contractors.

4 Contact the General Building Contractor Licensing
5 Board for information about the licensed general building
6 contractor or specialty contractor you are considering,
7 including information about disclosable complaints,
8 disciplinary actions, and civil judgments that are
9 reported to the General Building Contractor Licensing
10 Board.

11 Use only licensed general building contractors and
12 specialty contractors. If you file a complaint against a
13 licensed general building contractor or specialty
14 contractor within the legal deadline, the Board has the
15 authority to investigate the complaint. If you use an
16 unlicensed general building contractor or specialty
17 contractor, the Board may not be able to help you resolve
18 your complaint. Your only remedy may be in civil court, and
19 you may be liable for damages arising out of any injuries
20 to the unlicensed general building contractor or specialty
21 contractor or the unlicensed general building contractor's
22 or specialty contractor's employees."

23 Section 85. Public records; Board notification.

24 (a) Except for financial information, the information
25 required by the Department or the Board of any applicant for

1 licensure and any licensee under this Act shall be a public
2 record.

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

7 (c) A licensee must notify the Board of any civil claim or
8 criminal charge pending against the licensee within a
9 reasonable amount of time after he or she receives formal
10 notification of the claim or charge, as determined by the
11 Board, and of the final disposition of each claim or charge
12 within 30 days after that disposition occurs.

13 (d) All public records of the Department and the Board,
14 when duly certified by the Secretary, shall be received as
15 prima facie evidence in any State administrative or judicial
16 proceeding.

17 Section 87. Internet website. The Department shall
18 establish and maintain an Internet website dedicated to the
19 provision of information to the public concerning licensed
20 general building contractors and licensed specialty
21 contractors. The content of the website shall include, without
22 limitation each of the following:

23 (1) A description of any criminal conviction of a
24 licensee. For the purposes of this item (1), a person shall
25 be deemed to be convicted of a crime if he or she pled

1 guilty or if he or she was found or adjudged guilty by a
2 court of competent jurisdiction.

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

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

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

9 Section 90. Building permit; reporting violations.

10 (a) A building official or other authority charged with
11 issuing building or other similar permits of a county,
12 municipality, or subdivision of a county or municipality shall
13 refuse to issue a permit for an undertaking that would result
14 in the applicant acting as a general building contractor or a
15 specialty contractor under this Act unless the applicant has
16 furnished evidence that the applicant is either licensed as
17 required by this Act or exempt from the requirements of this
18 Act. A building official or other authority charged with
19 issuing building or other similar permits shall report to the
20 Board the name and address of any individual or entity believed
21 to have violated this Act by bidding or contracting for work
22 that is regulated under this Act.

23 (b) The Board shall distribute posters to each building
24 permit office in the State, requesting that the posters be
25 placed in a conspicuous location to be read by applicants.

1 These posters shall state the following: "The General Building
2 Contractor Licensing Act requires certain building
3 construction to be performed by licensed general building
4 contractors or licensed specialty contractors. Both the owner
5 and the contractor are subject to penalties for violations of
6 the law."

7 (c) Building construction contracting work covered by this
8 Act must be performed by properly licensed general building
9 contractors or licensed specialty contractors. All persons
10 directly employed by the owner to perform work on a project are
11 subject to all applicable State and federal laws concerning
12 occupational safety, family and medical leave, workers'
13 compensation, social security, income tax withholding, and
14 minimum wage requirements. Work performed must comply with all
15 applicable laws, ordinances, building codes, and zoning
16 regulations.

17 Section 95. Bankruptcy notification. A licensee who,
18 voluntarily or involuntarily, is subjected to any provision of
19 the laws of bankruptcy shall notify the Board within 15 days
20 after subjection and provide any and all information pertinent
21 to the bankruptcy proceedings that the Board may require.

22 Section 100. Returned checks; fines. Any person who
23 delivers a check or other payment to the Department pursuant to
24 this Act that is returned to the Department unpaid by the

1 financial institution upon which it is drawn shall pay to the
2 Department, in addition to the amount already owed to the
3 Department, a fine of \$50. The fines imposed by this Section
4 are in addition to any other discipline provided for under this
5 Act for unlicensed practice or practice on a nonrenewed
6 license. The Department shall notify the person that payment of
7 fees and fines shall be paid to the Department by certified
8 check or money order within 30 calendar days after the
9 notification. If, after the expiration of 30 days from the date
10 of the notification, the person has failed to submit the
11 necessary remittance, the Department shall automatically
12 terminate the license or deny the application, without hearing.
13 If, after termination or denial, the person seeks a license, he
14 or she shall apply to the Department for restoration or
15 issuance of the license and pay all of the application fees as
16 set by rule. The Department may establish a fee for the
17 processing of an application for restoration of a license to
18 pay all expenses of processing this application. The Secretary
19 may waive the fines due under this Section in individual cases
20 where the Secretary finds that the fines would be unreasonable
21 or unnecessarily burdensome.

22 Section 105. Deposit of fees. All fees and fines collected
23 under this Act shall be deposited into the General Professions
24 Dedicated Fund and shall be appropriated to the Department for
25 the purpose of administering and enforcing this Act.

1 Section 110. Grounds for disciplinary action.

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

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

10 (2) Conviction of any crime under the laws of any U.S.
11 jurisdiction that is a felony, a misdemeanor an essential
12 element of which is dishonesty, or a crime that directly
13 relates to the practice of the profession.

14 (3) Making any misrepresentation for the purpose of
15 obtaining a license.

16 (4) Professional incompetence or gross negligence in
17 the practice of building contracting.

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

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

23 (7) Failing, within 60 days, to provide information in
24 response to a written request made by the Department that
25 has been sent by certified or registered mail to the

1 licensee's last known address.

2 (8) Engaging in dishonorable, unethical, or
3 unprofessional conduct of a character likely to deceive,
4 defraud, or harm the public.

5 (9) Habitual or excessive use of or addiction to
6 alcohol, narcotics, stimulants, or any other chemical
7 agent or drug that results in the inability to practice
8 with reasonable judgment, skill, or safety.

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

13 (11) Directly or indirectly giving to or receiving from
14 any person, firm, corporation, partnership, or association
15 any fee, commission, rebate, or other form of compensation
16 for any professional services not actually or personally
17 rendered.

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

21 (13) Conviction by any court of competent
22 jurisdiction, either within or without this State, of any
23 violation of any law governing the practice of building
24 contracting if the Department determines, after
25 investigation, that such person has not been sufficiently
26 rehabilitated to warrant the public trust.

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

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

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

9 (17) Failure to file a tax return or to pay any final
10 assessment of tax, penalty, or interest, as required by any
11 tax Act administered by the Department of Revenue, until
12 such time as the requirements of any such tax Act are
13 satisfied.

14 (18) Failure to continue to meet the requirements of
15 this Act.

16 (19) Physical or mental disability, including
17 deterioration through the aging process or loss of
18 abilities and skills that result in an inability to
19 practice the profession with reasonable judgment, skill,
20 or safety.

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

23 (21) Advertising in any manner that is false,
24 misleading, or deceptive.

25 (22) The determination by a court that a licensee is
26 subject to involuntary admission or judicial admission as

1 provided in the Mental Health and Developmental
2 Disabilities Code. Such determination shall result in an
3 automatic suspension of a licensee's license. The
4 suspension shall end upon a finding by a court that the
5 licensee is no longer subject to involuntary admission or
6 judicial admission, the issuance of an order so finding and
7 discharging the patient, and the recommendation of the
8 Board to the Secretary that the licensee be allowed to
9 resume practice within the profession.

10 (b) The Department shall deny any license or renewal under
11 this Act to any person who has defaulted on an educational loan
12 guaranteed by the Illinois Student Assistance Commission;
13 however, the Department may issue a license or renewal if the
14 person in default has established a satisfactory repayment
15 record as determined by the Illinois Student Assistance
16 Commission.

17 Section 115. Disclosure of disciplinary action. A person
18 licensed under this Act who has had his or her license
19 suspended or revoked 2 or more times within an 8-year period
20 shall disclose either in capital letters in 10-point boldface
21 type or in contrasting red print in at least 8-point boldface
22 type, in a document provided prior to entering into a contract
23 to perform work on residential property with 4 or fewer units,
24 any disciplinary license suspension or license revocation
25 during the last 8 years resulting from any violation of this

1 Act by the contractor, whether or not the suspension or
2 revocation was stayed.

3 Section 120. Misrepresentation. If any person suffers
4 costs or damages as a result of an individual providing a false
5 or invalid license number or otherwise misleading a person with
6 respect to licensure by the Board, the injured person may bring
7 suit in a court of competent jurisdiction to recover damages.
8 The court may award reasonable attorney's fees to the
9 prevailing party in an action.

10 Section 125. Unlicensed practice; civil penalty.

11 (a) Any person who practices, attempts to practice, or
12 holds himself or herself out as a contractor without being
13 licensed under this Act shall, in addition to any other penalty
14 provided by law, pay a civil penalty to the Department in an
15 amount not to exceed \$5,000 for each offense, as determined by
16 the Department. The civil penalty shall be assessed by the
17 Department after a hearing is held in accordance with the
18 provisions set forth in this Act regarding the provision of a
19 hearing for the discipline of a licensee. Each day of violation
20 constitutes a separate offense.

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

23 (c) The civil penalty assessed under this Section shall be
24 paid within 60 days after the effective date of the order

1 imposing the civil penalty. The order shall constitute a
2 judgment and may be filed and executed in the same manner as
3 any judgment from any court of record.

4 Section 130. Enforcement; petition to court.

5 (a) If any person violates the provisions of this Act, the
6 Secretary, through the Attorney General of Illinois or the
7 State's Attorney of any county in which a violation is alleged
8 to exist, may, in the name of the People of the State of
9 Illinois, petition for an order enjoining such violation or for
10 an order enforcing compliance with this Act. Upon the filing of
11 a verified petition in such court, the court may issue a
12 temporary restraining order, without notice or bond, and may
13 preliminarily and permanently enjoin such violation, and if it
14 is established that such person has violated or is violating
15 the injunction, the Court may punish the offender for contempt
16 of court.

17 (b) If any person practices as a licensee or holds himself
18 or herself out as a licensee without being licensed under the
19 provisions of this Act, then any person licensed under this
20 Act, any interested party, or any person injured thereby may,
21 in addition to those officers identified in subsection (a) of
22 this Section, petition for relief as provided in subsection (a)
23 of this Section.

24 (c) Whenever the Department has reason to believe that any
25 person has violated the licensing requirements of this Act by

1 practicing, offering to practice, attempting to practice, or
2 holding himself or herself out as a contractor without being
3 licensed under this Act, the Department may issue a rule to
4 show cause why an order to cease and desist should not be
5 entered against that person. The rule shall clearly set forth
6 the grounds relied upon by the Department and shall provide a
7 period of 7 days from the date of the rule to file an answer to
8 the satisfaction of the Department. Failure to answer to the
9 satisfaction of the Department shall cause an order to cease
10 and desist to be issued immediately.

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

14 Section 135. Investigation; notice; default. The
15 Department may investigate the actions of any applicant or any
16 person or persons holding or claiming to hold a license. The
17 Department shall, before suspending, revoking, placing on
18 probationary status, or taking any other disciplinary action
19 that the Department may deem proper with regard to any license,
20 at least 30 days prior to the date set for the hearing, notify
21 the accused, in writing, of any charges made and the time and
22 place for a hearing on the charges before the hearing officer,
23 direct the accused to file a written answer with the hearing
24 officer, under oath, within 30 days after the service to the
25 accused, and inform the accused that the accused's license may

1 be suspended, revoked, or placed on probationary status or
2 other disciplinary action may be taken, including limiting the
3 scope, nature, or extent of the accused person's practice, as
4 the Department may deem proper. This written notice may be
5 served by personal delivery or certified or registered mail to
6 the accused. In case the person fails to file an answer after
7 receiving notice, that person's license may, in the discretion
8 of the Department, be suspended, revoked, or placed on
9 probationary status or the Department may take whatever
10 disciplinary action deemed proper, including limiting the
11 scope, nature, or extent of the person's practice or the
12 imposition of a fine, without a hearing, if the act or acts
13 charged constitute sufficient grounds for such action under
14 this Act. At the time and place fixed in the notice, the
15 Department shall proceed to hear the charges, and the parties
16 or their counsel shall be accorded ample opportunity to present
17 such statements, testimony, evidence, and arguments as may be
18 pertinent to the charges or to their defense. The Department
19 may continue such hearing from time to time. At the discretion
20 of the Secretary, after having first received the
21 recommendation of the hearing officer, the accused person's
22 license may be suspended, revoked, or placed on probationary
23 status or other disciplinary action may be taken as the
24 Secretary may deem proper, including limiting the scope,
25 nature, or extent of the person's practice without a hearing,
26 if the act or acts charged constitute sufficient grounds for

1 such action under this Act.

2 Section 140. Stenographer; record of proceedings. The
3 Department, at its expense, shall provide a stenographer to
4 take down the testimony and preserve a record of all
5 proceedings initiated pursuant to this Act, the rules for the
6 administration of this Act or any other Act or rules relating
7 to this Act, and proceedings for restoration of any license
8 issued under this Act. The notice of hearing, complaint, and
9 answer, all other documents in the nature of pleadings and
10 written motions and responses filed in the proceedings, the
11 transcript of the testimony, all exhibits admitted into
12 evidence, the report of the hearing officer, the Board's
13 findings of fact, conclusions of law, and recommendations to
14 the Secretary, and the order shall be the record of the
15 proceedings. The Department shall furnish a transcript of the
16 record to any person interested in the hearing upon payment of
17 the fee required under Section 2105-115 of the Department of
18 Professional Regulation Law (20 ILCS 2105/2105-115).

19 Section 145. Certification of record; costs. The
20 Department shall not be required to certify any record to the
21 court, to file an answer in court, or to otherwise appear in
22 any court in a judicial review proceeding, unless there is
23 filed in the court, with the complaint, a receipt from the
24 Department acknowledging payment of the costs of furnishing and

1 certifying the record. Failure on the part of the plaintiff to
2 file the receipt in court is grounds for dismissal of the
3 action.

4 Section 150. Subpoenas; oaths. The Department has the
5 power to subpoena and bring before it any person in this State
6 to take testimony either orally or by deposition or both or to
7 subpoena documents, exhibits, or other materials with the same
8 fees and mileage and in the same manner as prescribed by law in
9 judicial proceedings in civil cases in circuit courts of this
10 State.

11 The Secretary and any member of the Board have the power to
12 administer oaths to witnesses at any hearing that the
13 Department or Board is authorized by law to conduct. The
14 Secretary has the power to administer any other oaths required
15 or authorized to be administered by the Department under this
16 Act.

17 Section 155. Attendance of witnesses; production of
18 documents; contempt. Any circuit court may, upon application
19 of the Department or its designee or of the applicant or
20 licensee against whom proceedings are pending, enter an order
21 requiring the attendance of witnesses and their testimony and
22 the production of documents, papers, files, books, and records
23 in connection with any hearing or investigation. The court may
24 compel obedience to its order by proceedings for contempt.

1 Section 160. Findings of facts, conclusions of law, and
2 recommendations; order. Within 60 days after the Department's
3 receipt of the transcript of any hearing that is conducted
4 pursuant to this Act or the rules for its enforcement or any
5 other statute or rule requiring a hearing under this Act or the
6 rules for its enforcement or for any hearing related to
7 restoration of any license issued pursuant to this Act, the
8 hearing officer shall submit his or her written findings and
9 recommendations to the Board. The Board shall review the report
10 of the hearing officer and shall present its findings of fact,
11 conclusions of law, and recommendations to the Secretary by the
12 date of the Board's second meeting following the Board's
13 receipt of the hearing officer's report.

14 A copy of the findings of fact, conclusions of law, and
15 recommendations to the Secretary shall be served upon the
16 accused person, either personally or by registered or certified
17 mail. Within 20 days after service, the accused person may
18 present to the Department a written motion for a rehearing,
19 which shall state the particular grounds therefor. If the
20 accused person orders and pays for a transcript pursuant to
21 this Act, then the time elapsing thereafter and before the
22 transcript is ready for delivery to him or her shall not be
23 counted as part of the 20 days.

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

1 If the Secretary disagrees in any regard with the findings
2 of fact, conclusions of law, and recommendations to the
3 Secretary, he or she may issue an order in contravention of the
4 findings of fact, conclusions of law, and recommendations to
5 the Secretary. If the Secretary issues an order in
6 contravention of the findings of fact, conclusions of law, and
7 recommendations to the Secretary, the Secretary shall notify
8 the Board in writing with an explanation for any deviation from
9 the Board's findings of fact, conclusions of law, and
10 recommendations to the Secretary within 30 days after the
11 Secretary's entry of the order.

12 Section 165. Temporary suspension. The Secretary may
13 temporarily suspend the license of a contractor without a
14 hearing, simultaneously with the institution of proceedings
15 for a hearing provided for in this Act, if the Secretary finds
16 that evidence in his or her possession indicates that
17 continuation in practice would constitute an imminent danger to
18 the public. In the event that the Secretary temporarily
19 suspends a license without a hearing, a hearing by the
20 Department shall be held within 30 days after such suspension
21 has occurred.

22 Section 170. Hearing officers. The Secretary has the
23 authority to appoint any attorney duly licensed to practice law
24 in the State of Illinois to serve as the hearing officer for

1 any action for refusal to issue or renew a license, for
2 discipline of a licensee, for sanctions for unlicensed
3 practice, for restoration of a license, or for any other action
4 for which findings of fact, conclusions of law, and
5 recommendations are required pursuant to this Act. The hearing
6 officer shall have full authority to conduct the hearing and
7 shall issue his or her findings of fact and recommendations to
8 the Board pursuant to this Act.

9 Section 175. Review under Administrative Review Law. All
10 final administrative decisions of the Department are subject to
11 judicial review pursuant to the Administrative Review Law and
12 its rules. The term "administrative decision" is defined as in
13 Section 3-101 of the Code of Civil Procedure.

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

18 Section 185. Administrative Procedure Act. The Illinois
19 Administrative Procedure Act is hereby expressly adopted and
20 incorporated herein as if all of the provisions of that Act
21 were included in this Act, except that the provision of
22 subsection (d) of Section 10-65 of the Illinois Administrative
23 Procedure Act that provides that, at hearings, the licensee has

1 the right to show compliance with all lawful requirements for
2 retention, continuation, or renewal of the license is
3 specifically excluded. For the purpose of this Act the notice
4 required under Section 10-25 of the Illinois Administrative
5 Procedure Act is deemed sufficient when mailed to the last
6 known address of a party.

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

9 Section 998. The Regulatory Sunset Act is amended by adding
10 Section 4.28 as follows:

11 (5 ILCS 80/4.28 new)

12 Sec. 4.28. Act repealed on January 1, 2018. The following
13 Act is repealed on January 1, 2018:

14 The General Building Contractor Licensing Act.

15 Section 999. Effective date. This Act takes effect January
16 1, 2008.